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Searching for family life: family reunification in Lithuania

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EMN STUDY



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Content

SUMMARY.....	5
1. OVERVIEW OF THE SITUATION ON FAMILY REUNIFICATION.....	8
2. DEFINITION OF SPONSOR AND FAMILY MEMBERS.....	13
3. REQUIREMENTS FOR EXERCISING THE RIGHT TO FAMILY REUNIFICATION.....	16
4. SUBMISSION AND EXAMINATION OF THE APPLICATION FOR FAMILY REUNIFICATION.....	24
5. ACCESS TO RIGHTS FOLLOWING FAMILY REUNIFICATION.....	31
6. NATIONAL AND INTERNATIONAL CASE LAW.....	36
ANNEX.....	39

Summary

Statistical information. In Lithuania, on average 5 000 temporary residence permits (hereinafter - TRPs) are issued and renewed per year on the ground of family reunification, which makes up approximately 30-35 per cent of all TRPs. This figure includes all aliens who enter Lithuania by virtue of family reunification to join an alien lawfully residing in Lithuania or a citizen of the Republic of Lithuania. In 2015, 5 704 TRPs were issued on the ground of family reunification, including:

- 56 per cent for the aliens who entered Lithuania as spouses of an alien lawfully residing in Lithuania or of a citizen of the Republic of Lithuania. The aliens entering on this ground are mostly citizens of Russia, Belarus, and Ukraine. 65 percent of spouses from these countries are female.
- 26 per cent for minor aliens who enter Lithuania to join their parents who are aliens lawfully residing in Lithuania (the majority of them entered on the ground of lawful activity) or citizens of the Republic of Lithuania. These aliens are mostly citizens of Russia, Ukraine and Belarus. From 2014 the number of Ukrainians increase almost 3 times.
- Number of applications of family members of persons under international protection is so far very small (few cases per year).

The number of negative decisions on family reunification is not large. In 2016, negative decisions were issued to 39 aliens, including those who had made statements of substantive fact which were untrue, who did not meet the conditions laid down for the issue of a residence permit, whose residence in the Republic of Lithuania could represent a threat to public policy or it was found that there were serious grounds for believing that a marriage of convenience had been contracted. Negative decisions were taken mostly in respect of citizens of Russia, Ukraine, Georgia, and Iran.

Family members. In Lithuania, family members of an alien are the spouse or the person with whom a registered partnership has been contracted (spouses must be over the age of 21), minor children/adopted children, including minor children of the spouse or of the person with whom the registered partnership has been contracted, if they are unmarried and are dependent on their parents, as well as the first-degree relatives in the direct ascending line (parents) who have been dependent at least for one year and are unable to use the support of other family members residing in a foreign state. Adult children and the persons of the same sex who have registered a partnership or have contracted a marriage are not considered to be family members (this issue will be addressed by the Constitutional Court).

General and simplified procedures. The Law of the Republic of Lithuania on the Legal Status of Aliens (hereinafter - the LLSA) provides that an alien who wishes to be reunited with his family must have resided in the Republic of Lithuania for the last 2 years, hold a temporary residence permit valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania (general procedure). Under the simplified procedure, above mentioned requirements do not apply to the aliens being admitted, and they may bring their families straight away. The following aliens may, under the simplified procedure, be reunited with their families straight away: the aliens who have been granted asylum; highly qualified workers; scientists and researchers; the aliens who are in possession of a temporary residence permit issued in another European Union Member State; the aliens who enter to participate in traineeships under EU exchange programmes; the aliens who are involved in projects of importance for the State; the aliens who are engaged in lawful activities (since 2017); the aliens who set up startups (since 2017); intra-corporate transferees whose monthly salary is not less than two amounts of average monthly earnings in the whole economy. The asylum applicants who received temporary protection and the aliens whose family members represent a threat to public policy and security are not entitled to family reunification.

Legal situation and developments. Family reunification is regulated by the Law of the Republic of Lithuania on the Legal Status of Aliens. Since 2011, provisions on family reunification have been amended several times:

- The amendments adopted in 2012 have facilitated conditions for family reunification for the aliens who have acquired the status of a long-term resident in another European Union Member State and for family members of highly qualified workers. Their family members may enter to join them straight away under the simplified procedure;
- The amendments adopted in 2014 have simplified conditions for family reunification (simplified procedure) for the aliens entering to teach, the entrepreneurs who have invested at least EUR 260 000 and have created in an enterprise workplaces for at least five employees and the intra-corporate transferees whose monthly salary is not less than two amounts of average monthly earnings in the whole economy; the amendments also stipulate that beneficiaries of subsidiary protection may be reunited with their families under the same conditions as the aliens who have been granted refugee status; it is also specified that a TRP is issued for a period of one year and may be subsequently replaced for a period of two years;
- The amendments adopted in 2016 have introduced a new ground for entry for the aliens who enter to engage in innovative activities (startups) and provide that they may enter together with their families under the simplified procedure (effective from 2017). The amendments also provide for a simplified family reunification procedure for all entrepreneurs who enter to engage in lawful activities.

Requirements. Just as other aliens, those entering by virtue of family reunification are subject to general requirements regarding possession of the place of residence (7 sq. meters per person), means of subsistence (the amount being equal to the minimum monthly wage, which currently makes up EUR 380 per month), health insurance coverage, etc. These requirements do not apply to family members of the aliens who have been granted asylum in Lithuania if their family reunification took place within three months from the granting of asylum in the Republic of Lithuania. Lithuania does not apply the criteria of integration or language knowledge to family reunification.

Challenges and good practices. In fact, no major legal challenges in implementing family reunification have been identified in Lithuania. In practice, however, there arise issues over the lack of awareness among aliens (for aliens, it is difficult to understand all the legal requirements) and submission of some documents (regarding the place of residence, past convictions). Family reunification is also complicated by a small network of embassies of the Republic of Lithuania worldwide. Non-governmental organisations working with the persons who have been granted asylum indicate that the time limit of three months within which the families of the aliens

who have been granted asylum may enter the country without being subject to general requirements for the place of residence, means of subsistence and health insurance coverage may, in certain cases, be too short, because it takes time to collect documents in the country of origin, to legalise, forward and translate them into Lithuanian language. It is also pointed out that it is not always possible to provide documentary proof of family ties and that certain documents are redundant, hence the requirement to submit them could be waived. Asylum seekers encounter difficulties submitting documents indicating subsistence funds (after 3 months period has passed and facilitated conditions for family reunification do not apply). The lawyers working with family reunification cases point out that officials of migration units under the Police department strictly follow the Law and rarely take account of individual circumstances, hence there are cases when the applications lodged by the aliens who are not able to submit all the documents are not accepted. Since 1 December 2016, the groups of aliens creating high added value and their family members may lodge applications for family reunification with the Migration Department which will assess them in an efficient manner.

As regards good practices, it is possible to refer to the opportunity for the sponsor to submit documents on family reunification in Lithuania. In this case, a family member residing abroad does not need to go to a diplomatic mission of Lithuania in order to submit documents. Officials of the Migration Department also note that there is room for greater flexibility in examining aliens' applications for the issue of a TRP and taking into account individual circumstances. For example, migration officials have been granted more discretion in evaluating an alien's means of subsistence (account is taken of his assets and income, not only of available funds in a bank account). In certain cases, when clear reasons are given and there is no doubt, the applications are examined in the absence of all the required documents. For example, a possibility is provided for presenting a reasoned explanation in the cases when it is not possible to submit certain documents (e.g., a certificate of no criminal conviction). Thus, effort is made to ensure that each case is examined individually and all the circumstances are taken into account.

1.

Overview of the situation on
family reunification

Question (further – Q) 1. Please briefly describe the basis for developing legislation/ policy on family reunification in Lithuania (e.g. Directive 2003/86/EC, Art. 8, ECHR on the right to respect private and family life, etc.). If Lithuania distinguishes between family formation and family reunification, please provide further information here and if applicable, make such a distinction in the subsequent questions.

Under Resolution of 24 January 2014 on the Lithuanian Migration Policy Guidelines, the Government of the Republic of Lithuania drew up strategic guidelines for migration policy for a period of four years. The Guidelines stipulate general strategic objectives of migration policy. The Guidelines identify *the priority categories of aliens which may be subject to facilitated procedures and the categories which, according to their specific characteristics or norms of international law, are granted specific rights* (point 19.3.). One of them comprises *the aliens who enter by virtue of family reunification* (sub-point 19.3.9.). The Guidelines also provide that *the categories of aliens which are of priority to the State should be subject to more favourable entry conditions (considering the possibility of bringing together of family members) and simplified and facilitated administrative procedures related to the issue of work permits and residence permits in the Republic of Lithuania.*

Family reunification provisions are regulated by the Law of the Republic of Lithuania on the Legal Status of Aliens. Provisions of Directive 2003/86/EC have been transposed into Lithuanian law by the amendments introduced by Law No X-924 of 28 November 2006, which entered into force on 16 December 2006 (with later changes).

A detailed description of the procedure for examination of applications and issue of residence permits is provided in Order No 1V-329 of the Minister of the Interior of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effected or an Enterprise is Fictitious (hereinafter: the 'Procedure').

Q2. Please provide an overview of recent (since 2011) changes to law, policy and/ or practice in the field of family reunification in Lithuania, covering the following:

- Current public debate on family reunification in Lithuania (e.g. on requirements for exercising the right to family reunification or other issues);
- Whether family reunification is a national policy priority currently;
- Any planned changes to law, policy and/ or practice on family reunification;
- Any changes to policy and/ or practice as a result of the Commission Communication COM(2014)2010's guidance for application of Directive 2003/86/EC? If no, please specify why not;
- If Lithuania has introduced a private sponsorship programme, which requires the beneficiary to be a family member of the sponsor. If yes, briefly elaborate in what ways the requirements, eligibility and access to rights differ.

As it has already been mentioned, the underlying law regulating conditions for family reunification is the Law of the Republic of Lithuania on the Legal Status of Aliens. Over the period in question, that is, since 2011, provisions of the Law on family reunification have been modified by the amendments adopted on 30 June 2012, 26 June 2014, 9 December 2014, and 14 September 2016.

The amendment of 30 June 2012 stipulates that some of requirements for family reunification (i.e., to have resided in Lithuania for the last two years, hold a temporary residence permit in the Republic of Lithuania valid for at least one year, and have reasonable prospects of obtaining the right of permanent residence in the Republic of Lithuania) do not apply when an alien has acquired the status of a long-term resident in another European Union Member State and is in possession of a residence permit issued by that state, provided that the family had already been created in the European Union Member State in which the alien has acquired the status of a long-term resident¹. It is also established that the mentioned requirements will not apply to highly qualified aliens wishing to bring together their families.

¹ Law No XI-2189 Amending Articles 1, 2, 6, 9, 10, 11, 121, 17, 19, 21, 22, 24, 26, 33, 37, 38, 40, 43, 49¹, 50, 53, 54, 55, 57, 58, 89, 97, 98, 99, 100, 101, 102, 104, 106, 113, 128, 131, 133, 139, 140¹, and 141¹ and the Annex of the Law of the Republic of Lithuania on the Legal Status of Aliens of 30 June 2012, Supplementing the Law with Articles 44¹, 49³, 98¹, 99¹, 103¹, 105, 105¹, 105³, 105⁴, and 106¹ and Repealing Articles 12², 13, 14, 15, 16, 18, 20, and 145

The amendments adopted on 26 June 2014 have:

- introduced the concept of suitable residential premises and detailed requirements for residential premises for all the aliens who apply for the issue of a temporary residence permit. The Law stipulates that an alien who applies for a TRP must possess suitable residential premises (not less than 7 sq. meters)²;
- established that if a minor alien has been adopted, it must be assessed whether there are serious grounds for believing that a fake adoption has been effected. Meanwhile, the previous regulation merely provided for a possibility of assessing solely whether a marriage or partnership of convenience has been contracted
- specified that an alien who enters, by virtue of family reunification, to join an alien who is in possession of a residence permit or a citizen of the Republic of Lithuania, a temporary residence permit is issued for a period of one year and is renewed for a period of two years (previously, TRPs were issued or renewed for a period of one year);
- expanded the list of persons who are not subject to the requirement of the length of residence in the Republic of Lithuania in order to be reunited with their family members. A simplified procedure for family reunification has been introduced for the aliens who (1) enter to teach under an employment contract concluded with a higher education and research institution registered in the Republic of Lithuania; (2) enter on grounds of lawful activity (business), provided that they have invested in an enterprise's equity capital/assets not less than EUR 260 000 and have created in the enterprise workplaces for at least five employees; (3) are intra-corporate transferees³ paid not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania.

The amendments adopted on 9 December 2014 stipulate that beneficiaries of subsidiary protection may be reunited with family members under the same conditions as those who have been granted refugee status⁴.

The amendments adopted on 14 September 2016⁵, which entered into force on 1 January 2017, have:

- established a ground for the issue of a temporary residence permit to an alien who enters to engage in innovative activities (startups). Such aliens may bring together their families;
- stipulated the possibility of entering together with family members for all the aliens who enter on grounds of lawful activity (business) (according to the amendments adopted on 26 June 2014, such a possibility was granted only to those who invest more, namely, EUR 260 000).

In 2016, a draft amendment to the Law establishing a scheme for intra-corporate transfers was submitted to the Government for consideration. These aliens will be able to enter together with family members (presently, in compliance with the amendments adopted on 26 June 2014, intra-corporate transferees are subject to additional conditions regarding the amount of their remuneration; these requirements have been waived).

In 2016, amendments were introduced also to the secondary legislation regulating the procedure for issuing temporary residence permits to all aliens, including family members⁶. The amendments provide for greater discretion to migration officials in evaluating the means of subsistence available to an alien. The amount of the means of subsistence available to the alien is determined based on the amount of means of subsistence in the Republic of Lithuania as prescribed by the Minister of Social Security and Labour of the Republic of Lithuania, however migration officials evaluate not only whether the alien

² Article 26(1)(4) of the LLSA: [an alien] possesses by the right of ownership the suitable residential premises in the Republic of Lithuania in which he intends to declare his place of residence, provided that the residential area per each adult person who has declared the place of residence at it would not be less than seven square metres, or uses the said residential premises under a lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the temporary residence permit and has been registered in accordance with the established procedure, or presents a letter of commitment of a natural or legal person, verified in accordance with the procedure laid down in legal acts, to provide him with suitable residential premises at which he will declare his place of residence and which will meet the requirements for residential area per person for the period of validity of the temporary residence permit

³ An alien enters the Republic of Lithuania for a period not exceeding three years to take up employment at a representative office or branch of a foreign enterprise or at an enterprise which belongs to the same group of enterprises established in the Republic of Lithuania, where the alien is employed as the manager or as a professional, provided that before his entry into the Republic of Lithuania the alien was employed at that foreign enterprise not less than for the last one year, his expertise or high professional qualification is necessary for activities of the enterprise, representative office or branch established in the Republic of Lithuania.

⁴ Law of 9 December 2014 Amending Republic of Lithuania Law No IX-2206 on the Legal Status of Aliens

⁵ Law of 14 September 2016 Amending Republic of Lithuania Law No IX-2206 on the Legal Status of Aliens

⁶ Order No 1V-329 of the Minister of the Interior of the Republic of Lithuania of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effected or an Enterprise is Fictitious

has sufficient funds in a bank account, but may also take account of other assets and income of the alien (point 17.6). It is also stipulated that if the alien incurred manifestly disproportionate burden in terms of time and/or money in order to meet the requirement to submit a certificate of no criminal conviction, he may, together with an application, submit a reasoned explanation setting out the factual circumstances due to which he cannot meet the requirement to submit the certificate of no criminal conviction. A decision to waive the requirement is taken by the director of the Migration Department or a civil servant authorised by him (sub-point 17.9.4).

In the public sphere, debate on family reunification has taken place on a number of occasions and considered different aspects.

Some insights are provided in the Strategic Document for Integration of Third-Country Nationals, which was prepared by the NGO Diversity Development Group and was presented on 25 May 2015. It states that Lithuania applies strict requirements due to which certain families of third-country nationals (such as labour migrants) cannot be reunited for a long time. The document also contains certain recommendations: to consider more liberal rules regulating family migration in respect of the third-country nationals entering the country for lawful activity, which would ensure a person's right to reunification with his family, increase Lithuania's entrepreneurial potential, and promote job creation; to consider more liberal rules regulating family migration in respect of the immigrants holding lower and low level qualifications, which would ensure the long-term meeting of labour market needs; to perform a needs analysis, to inform the aliens who have entered by virtue of family reunification about the services provided by the public and non-governmental sectors in the areas of employment, reconciliation of family life and work, and enhancement of state language skills, and to systematically provide these services with a special focus on women's access to these integration measures.

In the publication "Investment environment: priorities and necessary changes" published in March 2016, Invest Lithuania proposed to facilitate conditions for highly qualified professionals and the aliens seeking to receive a temporary residence permit on grounds of lawful activity or family reunification, to reduce the minimum wage threshold, to waive the requirement for an enterprise to carry out activities for six months, and to modify the requirement with a view to stipulating that an enterprise must create workplaces for not less than three employees (replacing the requirement according to which an enterprise must provide employment to three citizens of the Republic of Lithuania or aliens permanently residing in the Republic of Lithuania). The publication of the public establishment Invest Lithuania also indicates that the right to family reunification could, in all cases, be granted from the commencement of residence in Lithuania (waiving the requirement of two-year length of residence in Lithuania)⁷.

The Lithuanian Confederation of Industrialists, while annually drawing up proposals for political parties, also considers the issue of entry of labour migrants. In 2016, it presented proposals to liberalise the issuance of temporary residence permits and simplify conditions for entry of workers⁸. In 2014, the Lithuanian Confederation of Industrialists proposed 'providing simplified conditions for entry into Lithuania of qualified workers in the areas in which, based on official statistics, Lithuania experiences labour shortages'⁹. Thus, even though the organisation did not directly propose any regulatory changes in the area of family reunification, it can be concluded that the proposals to facilitate the entry of workers in general would also affect family reunification cases.

It should be noted that the amendments adopted in 2016 introduced some of the recommendations, namely, a salary threshold for highly qualified workers was lowered; possibility business persons who enter to engage in lawful activities to enter together with family members was introduced (previously, the right was granted only to the aliens who invested substantial amount of funds into an enterprise); facilitated conditions to receive a temporary residence permit on the ground of lawful activities (business) were established eliminating the condition of number of workplaces to be created; new ground for entry for heads of enterprises and startups, who can enter together with family members was also established.

⁷ For more information, see p. 15: <http://www.investlithuania.com/wp-content/uploads/2016/03/Investicine-aplinka.-Prioritetai-ir-butini-pokyciai.pdf>.

⁸ For more information, see p. 21: http://lpk.lt/wp-content/uploads/2016/01/LPK-pasiulymai_partijoms.pdf.

⁹ For more information, see p. 15, p. 17: <http://lpk.lt/wp-content/uploads/2016/01/LPK-pasi%C5%ABlymai-politin%C4%97ms-partijoms-2014.pdf>.

The study “Experience of non-EU students in Lithuania: social survey” conducted by the European Migration Network (EMN) indicates that only a small percentage of students from third countries choose doctoral studies in Lithuania (1 per cent). One of the possible reasons being unfavourable conditions for family reunification. These persons are not able to benefit from a simplified procedure for family reunification without applying the requirement of two years of residence in the country.

On 27 March 2015, the Lithuanian Red Cross Society initiated a discussion on the topic “Family reunification of beneficiaries of international protection in Lithuania: how to ensure the effective implementation of this right?” Representatives of the authorities concerned identified the major areas of concern (the three-month time limit, obstacles to legalisation of documents, difficulties in producing documentary evidence of the place of residence, sufficient income and health insurance coverage) and recommended that the Migration Department take account of the difficulties encountered in practice when submitting legislative proposals¹⁰.

Q3a. Please complete the Excel document in Annex 1 below if you have national statistics on:

- The total number of applications for family reunification in 2011-2015 and, where available, the first half of 2016, disaggregated by the ground of residence of the sponsor (beneficiaries of international protection (i.e. refugees, BSPs, UAMs), persons admitted for remunerated activities, persons admitted for study purposes, etc.) and sex;
- The total number of accepted/ rejected applications for family reunification in 2011-2015, and where available, the first half of 2016, if available disaggregated by the grounds for rejection of applications.

Q3b. Please supplement the data provided above with a narrative on the profiles of TCNs residing Lithuania and asking for family reunification, i.e. are the sponsors mostly beneficiaries of international protection and/ or other TCNs, e.g. workers, students, etc.?

According to the Migration Department, family reunification is most often applied for in the cases when an alien's spouse, who is an alien in possession of a residence permit or a citizen of the Republic of Lithuania, resides in Lithuania. Another large group consists of children who enter to join the aliens who usually reside in Lithuania on grounds of lawful activity.

The number of cases of family reunification among the aliens who have been granted asylum is small, with just a few cases per year. According to data of the Refugee Reception Centre, in 2016 integration measures were applied to six family members, however these data are indicative, as they do not cover the family members who have entered the Republic of Lithuania, but have not applied for state support for integration).

¹⁰ For more information, see: <http://redcross.lt/lt/dokumentai/advokacija>.

2.

Definition of sponsor and family members

Q4. a. Who can be a sponsor¹¹ to an application for family reunification in Lithuania (e.g. UAMs, students, workers, etc.)?

The Law of the Republic of Lithuania on the Legal Status of Aliens defines family reunification as the entry into and residence in the Republic of Lithuania by family members of an alien who is not a citizen of the European Union but **lawfully resides** in the Republic of Lithuania in order to preserve the family unit, irrespective of whether the family relationship arose before or after the alien's entry (Article 2(27) of the LLSA).

The persons with whom **family members may be reunited** in the Republic of Lithuania are:

1. the aliens who have been granted refugee status;
2. beneficiaries of subsidiary protection;
3. the aliens who intend to take up highly qualified employment in the Republic of Lithuania (Article 40(1)(4¹) of the LLSA);
4. the aliens who enter Lithuania to take up employment (they may be reunited with their families only after having resided in Lithuania for 2 years, provided that they hold a TRP valid for at least one year and have reasonable prospects of obtaining the right of permanent residence in Lithuania);
5. the aliens who intend to take up employment as teachers and/or conduct research and/or experimental (social, cultural) development as researchers under an employment contract concluded with a higher education and research institution registered in the Republic of Lithuania (Article 40(1)(13) of the LLSA);
6. the aliens who have acquired the long-term resident status in another EU Member State and are in possession of a residence permit issued by that state (Article 40(1)(14) of the LLSA);
7. the aliens who engage, and intend to continue engaging, in lawful activity in the Republic of Lithuania (Article 45(1)(1) to (22) of the LLSA);
8. the aliens who intend to engage in the lawful activity related to the introduction of new technologies or other innovations of importance for the economic and social development of the Republic of Lithuania (startups) (Article 451 of the LLSA as from 1 January 2017);
9. the aliens who have arrived to participate in a traineeship at higher education and research institutions of the Republic of Lithuania under international treaties of the Republic of Lithuania or under the European Union academic exchange programmes with third countries (Article 43(6)(4) of the LLSA);
10. the aliens who, being directly involved in projects of importance to the State, have invested in the Republic of Lithuania any property owned, borrowed or managed and used by the right of trust (Article 43(6)(5) of the LLSA);
11. the aliens who have entered the Republic of Lithuania for a period not exceeding three years to take up employment at a representative office or branch of a foreign enterprise or at an enterprise which belongs to the same group of enterprises established in the Republic of Lithuania, where the alien is employed as the manager or as a professional, provided that before his entry into the Republic of Lithuania the alien was employed at that foreign enterprise not less than for the last one year, his expertise or high professional qualification is necessary for activities of the enterprise, representative office or branch established in the Republic of Lithuania and during his employment in the Republic of Lithuania he is paid a wage not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania (Article 43(6)(7) of the LLSA).

The Law also clearly identifies the categories of aliens who **do not have the right to family reunification** (Article 43(8) of the LLSA):

1. the aliens who have submitted applications for asylum in the Republic of Lithuania - until a final decision to grant asylum is taken;
2. aliens who have been granted temporary protection in the Republic of Lithuania;
3. aliens who have been granted asylum in the Republic of Lithuania, if their family members would not be granted asylum in the Republic of Lithuania due to committing a serious non-political crime, a crime against humanity or a war crime or due to representing a threat to security (pursuant to Article 88(2)(3) to (5) or Article 88(3) of this Law);

¹¹ Art. 2 and 3 in Chapter I of 2003/86/EC define who can be a sponsor to an application for family reunification in the EU.

4. aliens may not be reunited with the family members of those who fall outside the scope of the definition of family members as stipulated in legal acts of the Republic of Lithuania, for example, they may not be reunited with their brothers or sisters, nephews, nieces, uncles, aunts, same-sex persons with whom they have registered a partnership or have contracted a marriage.

Q4b. Does the national law of Lithuania allow beneficiaries of subsidiary protection (BSPs)¹² to apply for family reunification? If yes, please elaborate below. If no application procedure is made available to BSPs, how does Lithuania ensure that the right to family life (Art. 8, ECHR) of BSPs is respected?

Yes. The amendments to the Law of the Republic of Lithuania on the Legal Status of Aliens, which entered into force on 1 March 2015, stipulate that beneficiaries of subsidiary protection are guaranteed the right to family reunification under the same conditions as the persons who have been granted refugee status, that is, it is provided that they enjoy a three-month period during which certain general requirements for the issue of a temporary residence permit (regarding the place of residence, insurance coverage, means of subsistence) do not apply (Article 26(3) of the LLSA). Moreover, the beneficiaries of subsidiary protection have been removed from the list of the aliens who do not have the right to family reunification (Article 43(8) of the LLSA).

Q5. Does Lithuania extend the scope of family reunification beyond nuclear/ core members of the family,¹³ i.e. parents, adult children, non-married partners, etc.?

Yes, to a certain extent:

- **Parents.** Yes. The concept of family members covers first-degree relatives in the direct ascending line (parents) who have been dependent at least for one year and are unable to use the support of other family members residing in a foreign state (Article 2(26) of the LLSA).
- **Adult children.** Yes, the Law provides for family reunification in the cases when an alien's parents, who have incapacity for work due to the old-age retirement age or disability and are in possession of a permanent residence permit, reside in the Republic of Lithuania. Thus, in such cases adult children may be reunited with their parents, who are in possession of a permanent residence permit.
- **Same-sex partners who are married.** No.
- **Same-sex partners who are registered.** No.
- **Non-married partners.** Yes. The concept of family members also includes a person with whom a registered partnership has been contracted (Article 2(26) of the LLSA), but the concept of family members does not cover the family members who are not married or have not registered partnership, despite the fact that in foreign states they would be regarded as a family.
- **'Dependent' persons, i.e. persons receiving legal, financial, emotional or material support by the sponsor or by his/her spouse/ partner (other than those mentioned above¹⁴)?** No.
- **Other (please specify, e.g. foster children, applicants in polygamous and/ or proxy marriages, etc.)?** Yes. The concept of family members covers minor children/adopted children, including the minor children of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent on their parents (Article 2(26) of the LLSA).

¹² Currently, BSPs are not covered by Directive 2003/86/EC.

¹³ Art. 4 in Chapter II of Directive 2003/86/EC stipulates that (Member) States shall authorise the entry and residence of certain family members, including the sponsor's spouse and minor (including adopted) children of the sponsor and/ or his/ her spouse.

¹⁴ I.e. other than those referred to in Art. 4 of Directive 2003/86/EC

3.

Requirements for exercising
the right to family
reunification

Q6. Does Lithuania (plan to) impose the following requirements¹⁵ for exercising the right to family reunification (please also indicate if exemptions can be made in individual cases based on e.g. hardship clauses):

- Accommodation suitable for the size of the family, as well as meeting health and safety standards?

Yes. The Law defines suitable residential premises as residential premises which meet construction, hygiene, and fire safety requirements (Article 2(28¹) of the LLSA).

A residence permit may be issued to an alien if the alien possesses by the right of ownership the suitable residential premises in the Republic of Lithuania in which he intends to declare his place of residence, provided that the residential area per each adult person who has declared the place of residence at it would not be less than **seven square metres**, or uses the said residential premises under a lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the temporary residence permit and has been registered in accordance with the established procedure, or presents a letter of commitment of a natural or legal person, verified in accordance with the procedure laid down in legal acts, to provide him with suitable residential premises at which he will declare his place of residence and which will meet the requirements for residential area per person for the period of validity of the temporary residence permit (Article 26(1)(4) of the LLSA).

This condition does not apply to family members of the persons who have been granted asylum (refugee status or subsidiary protection) where they apply for family reunification within three months after the granting of asylum in the Republic of Lithuania (Article 26(3) of the LLSA).

- Healthcare insurance?

Yes. A residence permit may be issued to an alien if the alien is in possession of a valid document evidencing health insurance coverage when, in the cases established by laws of the Republic of Lithuania, he is not covered by compulsory health insurance or, in the cases and in accordance with the procedure laid down by the Government of the Republic of Lithuania, he holds a verified letter of commitment of a citizen of the Republic of Lithuania or an alien residing in the Republic of Lithuania to cover the costs of the health care services provided to him during the period of his residence in the Republic of Lithuania (Article 26(1)(2) of the LLSA).

The amendment to the Law, which is to enter into force on 1 January 2017, provides that in the cases when, in accordance with the provisions of the Law, an alien entering the Republic of Lithuania or seeking to take up residence in it must be covered by health insurance, the alien's health insurance must guarantee the payment of costs of the necessary medical treatment, within the meaning of the Law of the Republic of Lithuania on the Health System, and the expenses that may arise due to the alien's return to a foreign state for health reasons (transportation, including escort by a personal health care practitioner/practitioners) and be valid over the entire period of the alien's or residence in the Republic of Lithuania (future Article 6¹ of the LLSA).

A document evidencing health insurance coverage may be submitted upon adoption of a decision on the issue of a temporary residence permit and lodging of an application for personalisation of a the residence permit, that is, at the time of issue of a temporary residence card (Procedure, point 17.8).

This condition does not apply to family members of the persons who have been granted asylum (refugee status or subsidiary protection) where they apply for family reunification within three months after the granting of asylum in the Republic of Lithuania (Article 26(3) of the LLSA).

- Sufficient financial resources to provide for the sponsor and his/ her family?

¹⁵ Art. 7(1) of Directive 2003/86/EC stipulates that Member States may require the person who has submitted the application to provide evidence that the sponsor has: accommodation suitable for the size of the family, as well as meeting health and safety standards; sickness insurance; and sufficient resources to provide for himself/ herself and his/ her family.

Yes. A residence permit may be issued to an alien if he has sufficient means of subsistence and/or receives regular income which is sufficient for his stay in the Republic of Lithuania (Article 26(1)(3) of the LLSA).

The amount of means of subsistence in the Republic of Lithuania that may be considered sufficient for an alien applying for the issue of a residence permit in the Republic of Lithuania is determined by the Minister of Social Security and Labour (Article 27 of the LLSA). It is stipulated that the sufficient amount of means of subsistence per one calendar month for adults is equal to the minimum monthly wage (currently EUR 380) and for minors – to half the minimum monthly wage (currently EUR 190)¹⁶.

The amendments to the Procedure adopted in 2016¹⁷ provide for greater discretion of migration officials in evaluating available means of subsistence. It is evaluated not only whether an alien has sufficient funds in his bank account, but also other income or assets may be taken into consideration (point 17.6). These amendments are in line with the interpretation given by the Court of Justice in Case C-578/08 Chakroun that the Member States may indicate a certain sum as a reference amount to evaluate stable and regular resources, but may not impose a minimum income level without an actual examination of the situation of each applicant.

This condition does not apply to family members of the persons who have been granted asylum (refugee status or subsidiary protection) where they apply for family reunification within three months after the granting of asylum in the Republic of Lithuania (Article 26(3) of the LLSA).

Q7. a. Does the national law of Lithuania require TCNs to comply with any integration measures before and/or after admission?¹⁸ If yes, are TCNs required to comply with the following integration measures:

- Civic integration exams? If yes, please specify:
 - When the civic integration exam(s) takes place (i.e. before admission, after admission, before and after admission)?
 - What knowledge and skills are required from applicants in order to pass the exam(s)?
 - If any support is provided to them during preparation (e.g. preparatory classes)?
 - If/ What costs are incurred by applicants?
- Language tests? If yes, please specify:
 - When the language test(s) takes place (i.e. before admission, after admission, before and after admission)?
 - What knowledge and skills are required from applicants in order to pass the test(s)?
 - If any support is provided to them during preparation (e.g. preparatory classes)?
 - If/ What costs are incurred by applicants?
- Other integration measures (please specify)? If yes, please specify what these measures entail and when they take place.
- If the national law of Lithuania does not currently require TCNs to comply with any of the above measures – any planned changes?

The national law of Lithuania does not require TCNs to comply with any integration measures before and/or after admission. There are no major changes foreseen in the near future.

¹⁶ Points 1.2 and 1.3 of Order No A1-22 of the Minister of Social Security and Labour of the Republic of Lithuania of 29 January 2007 on Determination of the Amount of Means of Subsistence in the Republic of Lithuania Considered to be Sufficient for an Alien Applying for the Issue of a Residence Permit in the Republic of Lithuania

¹⁷ Point 17.8 of Order No 1V-329 of the Minister of the Interior of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effectuated or an Enterprise is Fictitious

¹⁸ Art. 7(2) of Directive 2003/86/EC stipulates that Member States may require TCNs to comply with integration measures, in accordance with national law.

Q7b. Please specify if any negative consequences (e.g. refusal to issue a permit or withdrawal of the existing permit) are foreseen for family members not complying with the above-mentioned integration measures – both according to law, as well as how this is applied in practice.

Not applicable.

Q8. Does Lithuania set a waiting period¹⁹ before a sponsor's family members can reunite with him/ her? If yes, how long is the waiting period? Can an application be submitted before the period has expired? Are there any exemptions granted in individual cases?

Yes, in some cases. The parents of a minor alien or one of them (or the spouse of one of the parents who is a guardian of the minor alien), an alien's spouse or the person with whom a partnership agreement has been contracted, or an alien who intends to reunite with first-degree relatives in the direct ascending line whose family members enter by virtue of family reunification **must have resided in the Republic of Lithuania for the last two years**, hold a temporary residence permit valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania (Article 43(6) of the LLSA).

This requirement **does not apply** when family members join an alien (Article 43(6) of the LLSA):

1. who has been granted asylum in the Republic of Lithuania;
2. who holds a temporary residence permit issued to a person who intends to take up highly qualified employment in the Republic of Lithuania (Article 40(1)(4¹) of the LLSA);
3. who holds a temporary residence permit issued to a person who intends to take up employment as a teacher, conduct research and/or experimental (social, cultural) development as a researcher under the employment contract concluded with a higher education and research institution registered in the Republic of Lithuania (Article 40(1)(13));
4. who holds a temporary residence permit issued to a person who has acquired the long-term resident status in another EU Member State and is in possession of the residence permit issued by that state (Article 40(1)(14)). The alien may exercise this right if the family has already been concluded in the EU Member State in which the alien has acquired the long-term resident status;
5. who has arrived to participate in a traineeship at higher education and research institutions of the Republic of Lithuania under international treaties of the Republic of Lithuania or under the European Union academic exchange programmes with third countries;
6. who, being directly involved in projects of importance to the State, has invested in the Republic of Lithuania any property owned, borrowed or managed and used by the right of trust;
7. who holds a temporary residence permit as a person who engages, and intends to continue engaging, in lawful activity/business in the Republic of Lithuania according to Article 45(1)(1) and (2) (since 1 January 2017);
8. who intends to engage in the lawful activity related to the introduction of new technologies or other innovations of importance for the economic and social development of the Republic of Lithuania (according to provisions of Article 45¹ of the LLSA) (since 1 January 2017);
9. who has entered the Republic of Lithuania for a period not exceeding three years to take up employment at a representative office or branch of a foreign enterprise or at an enterprise which belongs to the same group of enterprises established in the Republic of Lithuania, where the alien is employed as the manager or as a professional, provided that before his entry into the Republic of Lithuania the alien was employed at that foreign enterprise not less than for the last one year, his expertise or high professional qualification is necessary for activities of the enterprise, representative office or branch established in the Republic of Lithuania and during his employment in the Republic of Lithuania he is paid a wage not less than two amounts of average gross monthly earnings in the whole economy most recently published by the Department of Statistics of Lithuania.

Legal acts do not provide for other exceptions when it would be possible to apply for the issue of a residence permit before the completion of the required period of residence.

¹⁹ Art. 8 of Directive 2003/86/EC stipulates that Member States may require the sponsor to have stayed lawfully on the territory for a period not exceeding two years (or three years by derogation in specific circumstances) before having his/her family members join him/her.

Q9. Does the national law of Lithuania provide for a rejection of an application for entry and residence of family members on grounds of public policy, public security or public health?²⁰ If yes, please provide data (if available) on the number of times Lithuania has invoked this provision(s) since 2011.

Yes. In 2016, negative decisions were taken in respect of 39 aliens, among whom there were the persons who had made statements of substantive fact which were untrue, who did not meet the conditions laid down for the issue of a residence permit, whose residence in the Republic of Lithuania could represent a threat to public policy, or it was found that there were serious grounds to believe that a marriage of convenience had been contracted. The negative decisions were mostly taken in respect of citizens of Russia, Ukraine, Georgia, and Iran. Article 35(1)(1) of the LLSA as one of the grounds for refusal to issue or to renew a residence permit applies when an alien's residence in the Republic of Lithuania may represent a threat to national security, public policy or public health, whereas Article 50(1)(2) as one of the grounds for withdrawal of a temporary residence permit applies when the grounds provided for in Article 35(1) of the LLSA transpire.

Q10a. In addition to any information you have already provided above, does Lithuania apply the following provisions concerning the more favourable family reunification rules for refugees:²¹

- Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?²² If yes, is this grace period of (minimum) three months extended and if so, for how long?²³

Each application is examined individually. In practice, an application of an alien who has been granted asylum in Lithuania for the issue of a temporary residence permit by virtue of family reunification is, in certain cases and subject to provision of a reasoned explanation, accepted without submitting all the required documents. For example, where due to a threat it is not possible for a refugee or his family members to legalise the documents issued in a foreign state an explanation is to be submitted to the Migration Department as to why it is not possible to produce legalised documents or the refugee and his family members do not have sufficient means of subsistence. In such a case, a reasoned explanation may also be submitted to the Migration Department with a request to accept documents for examination without producing documentary evidence of sufficient funds. Following the introduction, in 2016, of an additional requirement to submit a certificate of no criminal conviction, some aliens and their families experienced difficulties with submission of this certificate. In 2016, the Procedure was supplemented with exceptions as to when it is possible not to submit a certificate of no criminal conviction, that is, if an alien would incur manifestly disproportionate burden in terms of time and/or money in order to meet the requirement to submit the certificate of no criminal conviction, he must, together with an application for the issue of a permit, submit a reasoned explanation setting out the factual circumstances due to which he cannot meet the requirement to submit the certificate of no criminal conviction. A decision to waive the requirement to submit a certificate of no criminal conviction in the case referred to in this sub-point is taken by the director of the Migration Department or a civil servant authorised by him.

- Restriction to relationships established before entry into Lithuania?²⁴

No.

- Application of a wider definition of family members (going beyond parents) when it comes to UAMs?²⁵

No.

- Have any of these family reunification rules for refugees been changed recently?

No.

²⁰ Art. 6 of Directive 2003/86/EC stipulates that Member States may reject an application for entry and residence of family members on grounds of public policy, public security or public health.

²¹ Art. 9-12 in Chapter V of Directive 2003/86/EC set out more favourable conditions for family reunification of refugees.

²² Art. 7(1) of Directive 2003/86/EC.

²³ Art. 7(1) of Directive 2003/86/EC.

²⁴ Art. 9(2) of Directive 2003/86/EC

²⁵ Art. 10(3)(b) of Directive 2003/86/EC

Q10b. If applicable, does Lithuania apply similar rules for the family reunification of BSPs as refugees, i.e. in relation to eligible family members, waiting period and requirements for family reunification? If yes, please cross-refer to the information you have provided previously on the more favourable rules applicable to refugees, stating that similar rules apply to BSPs. If no, please explain how the rules differ for BSPs referring to the different topics covered previously (e.g. eligible family members, waiting period and requirements for family reunification).

Yes. The amendments to the Law of the Republic of Lithuania on the Legal Status of Aliens, which entered into force on 1 March 2015, stipulate that beneficiaries of subsidiary protection are guaranteed the right to family reunification under the same conditions as the persons who have been granted refugee status, that is, it is provided that they enjoy a three-month period during which certain requirements for the issue of a temporary residence permit do not apply (Article 26(3) of the LLSA). Moreover, the beneficiaries of subsidiary protection have been removed from the list of the aliens who do not have the right to family reunification (Article 43(8) of the LLSA).

Family members of both the persons who have been granted refugee status and beneficiaries of subsidiary protection are not subject to the requirement of the length of residence for an alien to be reunited with his family members (Article 43(6) of the LLSA). The family members eligible for reunification are defined using the same definition²⁶ (Article 2(26) of the LLSA). When applying for family reunification within the period of three months, it is not required to produce a document evidencing health insurance coverage, a document certifying that the person possesses suitable residential premises, and a document confirming that he has sufficient means of subsistence (Article 26(3) of the LLSA).

Q11. Are there any differences in the requirements to be met for exercising the right to family reunification (under Directive 2003/86/EC or national law in some cases) in comparison to a similar request governed by national law by a Lithuanian national who has not exercised his/ her free movement rights (non-mobile EU nationals)? Overall, to what extent are these requirements for exercising the right to family reunification under national law more or less favourable than those covered by Directive 2003/86/EC?

No differences have been identified. However, family members of a non-mobile citizen of the Republic of Lithuania, in addition to the above, also comprise children (regardless of their age or other conditions) and parents (regardless of whether they are dependent on the Lithuanian citizen or not) (Article 43 of the LLSA).

Q12a. Please indicate any challenges experienced by i) sponsors and/ or family members associated with accessing the right to family reunification, and/ or ii) Lithuania in the implementation of any of the above requirements for family reunification (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders) and how these can be overcome.

Lithuania does not experience major challenges with regards to family reunification cases. Experts mention only the lack of awareness of applicable procedures, hence there are cases when aliens cannot complete the relevant procedures in due time (when a migration specialist fails to accept the application due to lack of some documents). The exceeding of the time limit may also be caused by the absence of a document of declaration of the place of residence, refusal of the owner of the premises for rent to allow an alien to declare the place of residence. Aliens often have difficulty in providing documentary evidence of sufficient means of subsistence, as the regular income earned by a person is insufficient to meet the specified requirements (EUR 380/month) or the person has no savings (in order to be admitted, an adult family member needs to submit documentary evidence of available savings in the amount of at least EUR 4 560, a minor child - half the indicated amount).

²⁶ In Lithuania, family members of an alien are the spouse or the person with whom a registered partnership agreement has been contracted (other than persons under the age of 21), minor children/adopted children, including minor children of the spouse or of the person with whom the registered partnership agreement has been contracted, if they are unmarried and are dependent on their parents, as well as the first-degree relatives in the direct ascending line who have been dependent at least for one year and are unable to use the support of other family members residing in a foreign state.

Non-governmental organisations working with the persons who have been granted asylum claim that family reunification of the persons who have been granted asylum poses more challenges compared to the difficulties experienced by other groups of aliens.

On 27 March 2015, the Lithuanian Red Cross Society, whose lawyers provide legal aid to the persons who have been granted asylum wishing to be reunited with their family members, initiated a discussion intended for the authorities concerned (the Migration Department, migration units, the Ministry of Foreign Affairs, UNHCR, NGOs) on the topic "Family reunification of beneficiaries of international protection in Lithuania: how to ensure the effective implementation of this right?" During the discussion, the following challenges usually faced by the persons who have been granted asylum wishing to be reunited with their family members were mentioned:

- *It is not always possible to provide documentary evidence of family ties.* The documents proving family ties must be translated into the Lithuanian language and legalised. However, it may be difficult for the persons who have been granted asylum to produce such documents, because they may have been destroyed in the country of origin or lost during the journey, and referral to representative missions of their country of origin may pose a threat to the persons who have been granted asylum.
- *The specified three-month time limit is too short.* Legal acts stipulate that family members may take advantage of a simplified family reunification procedure (which does not require to produce documentary evidence of health insurance cover, suitable residential premises and sufficient means of subsistence) within three months from the granting of asylum, but given the fact that the states which refugees leave are very often ransacked by war, they are not necessarily characterised by stable institutional performance, and corruption is widespread, hence it may take longer to obtain the necessary documents, to forward, legalise and translate them into the Lithuanian language.
- *Asylum seekers face difficulties in meeting some of the general requirements for family reunification.* When applying for family reunification after the lapse of three months from the granting of asylum, general requirements for the issue of a TRP apply, and it is usually rather difficult for family members of the persons who have been granted asylum to meet them. They are required to submit the documents showing that they have sufficient means of subsistence, while during the examination of an application for asylum a person does not have the right to take up employment and to earn and, having been granted asylum, becomes a participant of the integration program and is provided support, hence during the first three months his income is certainly not sufficient to meet the requirements. In addition, upon obtaining a permit by virtue of family reunification a family member is also entitled to receive the benefits paid during the period of integration, because the State has provided for such possibilities in its legislation, thus it is not logical to require a document about what the family member will later be provided by the State (the same situation is in the area of health insurance, as during the period of integration persons are insured by state funds). Such requirements complicate the reunification of the persons who have been granted asylum with their families.
- *Absence of representative missions.* Another challenge for family members of the persons who have been granted asylum is application for the issue of a visa, when a person who has been granted asylum submits documents for the issue of a residence permit. It is most often the case that there is no representative mission of Lithuania in countries of origin, thus a person needs to travel to another state in which there is a representative mission of Lithuania. There are cases where a state in which the representative mission is located does not permit the entry of such persons (for example, Turkey does not permit the entry of the Syrian citizens travelling to the representative mission of Lithuania in Turkey for the purpose of issue of a visa).

Q12b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

Lithuania has not conducted any research or studies which would be directly devoted to issues of family reunification.

Q13. Is any research (conducted by relevant authorities, academics, NGOs etc.) on the following available in Lithuania:

- Effects of the requirements for family reunification as applied in Lithuania on the right to family reunification and integration of TCNs?

No.

- Effects of the integration measures as applied in Lithuania on the right to family reunification and integration of TCNs?

No.

- Effects of the minimum age requirement²⁷ as applied in Lithuania on the prevention of forced marriages or any misuse of family reunification (e.g. marriages of convenience)?

No.

If yes to any of the above, please briefly describe the main findings and conclusions of this research and provide a full reference to the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

The study “Experience of non-EU students in Lithuania: social survey” conducted by the European Migration Network (EMN) indicates that family members of students from third countries may come to Lithuania only in exceptional cases (when minor children join their parents). Approximately 40 per cent of the students surveyed in the study indicated that it is a problem for them, especially for students of the third cycle, because they are older and usually already have a family. Therefore, when choosing where to study the aspect of family reunification may be very important, especially for doctoral students. Only a small percentage of students from third countries choose doctoral studies in Lithuania (1 per cent), one of the possible reasons being unfavourable conditions for family reunification. These persons are not able to benefit from a simplified procedure for family reunification without applying the requirement of two years of residence in the country.

²⁷ Art. 4(5) of Directive 2003/86/EC stipulates that Member States may require the sponsor and his/ her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/ her, in order to ensure better integration and to prevent forced marriages.

4.

Submission and examination
of the application for family
reunification

Q14. Please describe the procedure(s) that apply to the sponsor or his/ her family members when an application for entry and residence for the purpose of family reunification is submitted, as follows:

a. Who is the formal party to an application for family reunification in Lithuania: the sponsor or his/ her family members?²⁸

A request for the issue of a temporary residence permit may be lodged by an alien whose family members enter by virtue of family reunification or by one of the adult family members (Article 43(2) of the LLSA). This is seen as a good practice, because consideration of the issue of a residence permit to a family member may be initiated before he enters. Moreover, submission of documents constitutes a ground for the family member to receive a national visa (D) and to be admitted into Lithuania.

b. If the sponsor's family members must submit an application for family reunification, where can this application be submitted (e.g. consulate of Lithuania abroad, possibility to submit the application in Lithuania, etc.)?

An alien who applies for the issue of a temporary residence permit for the first time lodges an application for the issue of the permit with a diplomatic mission or consular post of the Republic of Lithuania abroad, while an alien who is legally staying in the Republic of Lithuania – with a migration service in the territory of which he intends to declare his place of residence (Article 28 of the LLSA).

Since 1 December 2016, the aliens who are entrepreneurs (including those admitted on the ground of innovative activity) and highly qualified workers and their family members may lodge applications for the issue of a temporary residence permit directly to the Migration Department (if an application is lodged while they are legally staying in the Republic of Lithuania) or with diplomatic missions or consular posts of Lithuania abroad.

c. What documentary evidence is required from the applicant to confirm i) his/ her identity and ii) the family relationship?

An alien who wishes to obtain a temporary residence permit must, together with an application for the issue of the permit, present a valid travel document (passport)²⁹. The temporary residence permit is personalised after the alien produces a valid travel document whose validity must exceed by three months the period for which the temporary residence permit is issued. If the validity of the travel document produced by the alien does not exceed the period of validity of the temporary residence permit issued or renewed for him or exceeds it by less than three months, the temporary residence permit is personalised for the period of validity which is by three months shorter than the period of validity of the travel document and, after the alien produces a new valid travel document, may be re-personalised for the remaining period of validity of the temporary residence permit (Article 40(4) of the LLSA).

Documentary evidence of a family relationship consists of a document confirming the contraction of a marriage, a registered partnership agreement, the documents confirming that an alien is a first-degree relative in the direct ascending line (parents), a birth certificate³⁰. These documents must be legalised, that is, certified by the responsible authority as issued in the country in question and subsequently by the Document Legalisation Division of the Ministry of Foreign Affairs (with certain exceptions under separate interstate agreements). All the documents must be translated into the Lithuanian language.

d. What methods of investigation are employed by the competent authorities in Lithuania in the absence of (reliable) documentation?

If an alien applies for the issue of a residence permit in order to reside with his family, the Migration Department may oblige the alien and the person with whom the alien is related by kinship to perform a DNA test to confirm the kinship relationship.

²⁸ Art. 5 of Directive 2003/86/EC specifies that Member States determine whether, in order to exercise the right to family reunification, an application for entry and residence must be submitted to the competent authorities by the sponsor or his/ her (family) members.

²⁹ Point 17.1 of Order No 1V-329 of the Minister of the Interior of the Republic of Lithuania of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effectuated or an Enterprise is Fictitious

³⁰ Ibid.

The alien may be requested to perform such a test only in the case when he is unable to prove the existing kinship relationship otherwise. The costs of the performance of the test are covered by the alien (Article 122 of the LLSA).

Q15. Please describe the procedure(s) that apply to family members when an application for entry and residence for the purpose of family reunification is submitted, as follows:

a. What is the procedure in place in Lithuania to verify that any extended family members have fulfilled the requirements for family reunification (e.g. dependency)? At what stage(s) of the examination procedure is this verified? Are there any exemptions from fulfilling these conditions and if yes, on what grounds are they granted?

The only ground for family reunification when the family members not included in the definition of family members may be admitted into the country is provided for in Article 43(1)(7) of the Law, that is, an alien's parents, who have incapacity for work due to the old-age retirement age or disability and are in possession of a permanent residence permit, reside in the Republic of Lithuania. At this point, it is important to mention that only adult children are admitted and only if their parents, who are incapable for work, are in possession of a permanent residence permit.

b. Please describe the procedure in place in Lithuania to verify that the following requirements for family reunification have been fulfilled:

- Please specify how the health and safety standards, as well as the size of the accommodation are determined as suitable in practice:

The size of residential premises may be confirmed by an extract from the Register of Immovable Property attesting to the right of ownership, a lease contract or a contract of loan for use and a certificate issued by the Residents' Register and presented by the owner of the residential premises regarding the persons who have declared their place of residence in these premises. It may also be confirmed by a commitment of a natural or legal person, as approved in accordance with the procedure laid down by legal acts, to provide an alien with suitable residential premises in which he will declare his place of residence and which meet the requirements set forth for residential premises during the period of validity of a temporary residence permit³¹. In addition, the official examining the case has the possibility of checking these data himself in the Register of Immovable Property, the Register of Aliens and the Residents' Register³².

When renewing temporary residence permits on grounds of family reunification there often arises the problem that the owner of the premises for rent does not agree to allow a person to declare the place of residence in the premises, and the person must present such a document when applying for renewal of a residence permit, in which case the documents are not accepted, and the person may miss a time limit for submission of the documents, which may subsequently lead to a gap between residence permits and may, after five years, become an obstacle in applying for the issue of a permanent residence permit. Moreover, if there is a gap between residence permits the person may become illegally staying in Lithuania for a certain period of time and therefore be subject to administrative liability.

- Please specify the conditions under which sponsors have access to healthcare insurance (e.g. by having employment/self-employment or is this access automatic)?

All aliens who are issued a TRP must provide proof of health insurance. A person employed under an employment contract is covered with compulsory health insurance (health insurance contributions are paid by the employer). A person engaged in individual activity or working under a business certificate must pay compulsory health insurance contributions on his own. The aliens who have been granted asylum are insured by state funds during the period of their integration (3-month integration at the Refugee Reception Centre, 12-month integration in a selected municipality, with the possibility of extending the duration of integration for vulnerable persons, but not more than for a total of 36 months).

³¹ Point 17.7 of Order No 1V-329 of the Minister of the Interior of the Republic of Lithuania of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effected or an Enterprise is Fictitious

³² Ibid, points 70.2 and 70.3

- Please specify the following in relation to the minimum income requirement sponsors must meet in Lithuania:

- The amount of the minimum income requirement in the relevant currency and year:

The amount of means of subsistence in the Republic of Lithuania that can be regarded as sufficient for an alien applying for the issue of a residence permit in the Republic of Lithuania is determined by the Minister of Social Security and Labour (Article 27 of the LLSA). It is stipulated that the sufficient amount of means of subsistence per one calendar month for adult persons is equal to the minimum monthly wage (currently EUR 380)³³. The requirement to provide documentary evidence of sufficient income for a family member to subsist during the validity period of a temporary residence permit is often difficult for an alien to meet, because his own regular income needs to be significantly higher than the minimum monthly wage (depending on the number of family members entering the country) or the alien must have a significant amount of savings. For example, in the event of entry of the spouse the alien or his spouse must show that he has savings in the amount of EUR 4 560 (EUR 38 * 12 months) in his account.

- If Lithuania sets a different income requirement depending on the type of family member being reunited (e.g. minor children):

It is stipulated that the sufficient amount of means of subsistence per one calendar month for minors is half the minimum monthly wage (currently EUR 190)³⁴.

- The reference period over which this requirement is considered:

Over the period of validity of a temporary residence permit, that is, one year

- How any past/ future income of the sponsor is evaluated in practice:

In practice, the savings available in a person's account (a statement from a bank account is presented) or regular income is evaluated depending on the duration of an employment contract and the agreed remuneration (the employment contract and the employer's statement of the remuneration paid for the last 3-6 months).

It is important to note that the amendments to the Procedure introduced in 2016 stipulate that the amount of the means of subsistence is evaluated in relation to each alien's financial situation individually considering the entire available income and assets and the amount of the means of subsistence in the Republic of Lithuania, as specified by the Minister of Social Security and Labour of the Republic of Lithuania, that can be considered sufficient for an alien applying for the issue of a residence permit in the Republic of Lithuania.

- Whether any exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification:

Legal acts do not provide for exceptions, though in practice there may be the cases when a person is unable to submit all the required documents (for example, he does not receive regular income and does not have savings). In this case, the person may refer to the Migration Department with a request to submit an incomplete set of the required documents stating the objective reasons (the reasons why the person cannot provide the documentary proof that a family member has sufficient means of subsistence may be the person's incapacity for work or, vice versa, the person works in several jobs, but the income earned does not meet the requirement regarding sufficient means of subsistence) why he is unable to submit the documents and also provide a written commitment to take care of a family member being admitted.

- At what stage(s) of the examination procedure are the above requirements verified?

A person lodging an application for the issue of a temporary residence permit must submit all the documents confirming that he meets the requirements provided for by the Law. The presence of shortcomings in the submitted documents is checked already in the initial stage, that is, when submitting the application and the documents to a migration service (since 1

³³ Point 1.3 of Order No A1-22 of the Minister of Social Security and Labour of the Republic of Lithuania of 29 January 2007 on Determination of the Amount of Means of Subsistence in the Republic of Lithuania Considered to be Sufficient for an Alien Applying for the Issue of a Residence Permit in the Republic of Lithuania

³⁴ Ibid, point 1.2

December 2016, the aliens creating high added value and their family members may submit the documents to the Migration Department). In the absence of the required documents, the migration service may refuse to accept the documents.

Later after issuing a residence permit the family's financial situation (whether family members have sufficient means of subsistence) is not verified.

c. Please describe the procedure in place in Lithuania to ensure integration measures have been complied with, for example, if an application form for civic integration exam(s)/ language test(s) must be submitted to the authorities, etc. Please specify what exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.

Legal acts do not provide for any integration requirements.

d. If the above conditions are not (completely) fulfilled, how does Lithuania guarantee that individual circumstances are taken into account (e.g. nature and solidity of the person's family relationship)?³⁵

Legal acts do not provide for any integration requirements.

e. What is the procedure in place in Lithuania to verify whether or not the family member(s) constitute a threat to public policy, public security or public health?

Regarding a threat to public security and public policy. When examining an application for the issue of a permit lodged by an alien over the age of 14, the Migration Department sends by e-mail to the Police Department, within five working days from the receipt of the application, an enquiry as to whether the alien represents a threat to public security or public policy. The Police Department presents its conclusion no later than within 14 calendar days.

Regarding a threat to public security, public policy and the threat of irregular migration. Within five working days from the receipt of an application, the Migration Department sends by e-mail to the State Border Guard Service an enquiry as to whether an alien represents a threat to public security and public policy and whether there is a serious ground to believe that a threat of the alien's irregular migration may emerge. Upon verifying data, the State Border Guard Service presents its conclusion no later than within 14 calendar days.

Regarding national security. Within five working days from the receipt of an application, the Migration Department sends by e-mail to the State Security Department of the Republic of Lithuania an enquiry as to whether an alien represents a threat to national security. The State Security Department presents, no later than 14 calendar days from the receipt of the enquiry, a digital conclusion on whether the alien represents a threat to national security.

If an alien indicates in his application for the issue of a residence permit that he suffers from a disease that may pose a threat to human health, it is verified whether to under the legislation of the Republic of Lithuania the disease as indicated by the alien is a disease that may pose a threat to human health³⁶.

If it is established that the person represents a threat to public security and public policy or there is a threat of irregular migration, the issue or renewal of a residence permit is refused.

f. How does Lithuania define the term 'minor child' and how are the best interests of the child taken into account during the examination of the application for family reunification?³⁷

In the Republic of Lithuania, a minor child is a child under the age of 14 years³⁸.

³⁵ This is laid down in Article 17 of Directive 2003/86/EC, as well as the principles of effectiveness and proportionality (as interpreted by the CJEU in K. and A., paragraph 60 and O.S and L, paragraph 81) and the EU Charter of Fundamental Rights (O.S. and L, paragraphs 77, 78 and 80).

³⁶ Point 71.6 of Order No 1V-329 of the Minister of the Interior of the Republic of Lithuania of 12 October 2005 on Approval of the Description of the Procedure for Issuing to Aliens, Renewing and Withdrawing Temporary Residence Permits in the Republic of Lithuania, Also Assessing Whether a Marriage or a Registered Partnership of Convenience has been Contracted or a Fake Adoption has been Effected or an Enterprise is Fictitious

³⁷ Art. 5 of Directive 2003/86/EC

³⁸ Civil Code of the Republic of Lithuania, Book Two, Article 2.7

g. Please describe what is involved in an assessment for family reunification where children are concerned, for example, DNA testing, etc. At what stage(s) of the examination procedure is this assessed?

If an alien applies for the issue of a residence permit in order to reside with his family, the Migration Department may oblige the alien and the person with whom the alien has family ties to perform a DNA test to confirm the family ties. The alien may be requested to perform such a test only in the case where he is unable to prove the existing kinship relationship otherwise. The costs of the performance of the test are covered by the alien (Article 122 of the LLSA). As the alien may be requested to perform a DNA test only in the case where he is unable to prove the existing kinship relationship otherwise, his refusal to undergo DNA testing will leave his kinship unproven, and the Migration Department will have a ground to refuse him a residence permit, since the documents proving the kinship/family relationship have not been provided.

Q16. Taking the different steps above into account, what is the duration of the procedure deciding on an application for family reunification in Lithuania – both according to law and in practice:

- Legal time limit for deciding upon an application (if any)?
- An application for the issue of a residence permit in the Republic of Lithuania must be examined not later than within four months or, at an alien's request as a matter of urgency, within two months (Article 33 and Article 34¹ of the LLSA). TRP for family reunification is issued within 1 month if sponsor belongs to the group of aliens considered as creating added value to the economy (Article 33 of the LLSA). Average duration of the procedure in practice?

In practice, the procedure on average takes the length of time provided for by the Law (four or two months).

- Have any specific measures been taken by Lithuania to shorten processing times?

It is stipulated that, at an alien's request, the procedure for examining applications may be carried out as a matter of urgency and take up to two months. In such a case, the alien pays a double fee.

Q17a. Please indicate any challenges experienced by i) sponsors and/ or family members throughout the above-mentioned procedure(s), and/ or ii) Lithuania in the implementation of the examination procedure (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

According to representatives of the non-governmental organisations representing aliens, one of the challenges is that documents are submitted to migration services (since 1 December 2016, this procedure has slightly changed), which checks the documents submitted and, in the event of identifying shortcomings in the documentation, refuses to accept them, thus it is considered that the person has not submitted the documents, while the person is not provided with any written document as to the reasons why the documents have not been accepted. Even though there is a requirement to issue a form signed by an officer which would indicate shortcomings in the documentation, however, according to lawyers, in practice not in all cases the mentioned form is issued. In the event of a dispute, the person is not able to provide in court any evidence of the reasons why the documents have not been accepted and of the very fact that he has applied, but the documents have not been accepted. In addition, since the fact of lodging an application is not recorded the person submitting all the required documents at a later stage is considered to have exceeded time limits (for example, when renewing a temporary residence permit), which may lead to a gap between the periods of validity of permits subsequently affecting the issue of a permit of a long-term resident. Secondly, the requirement to submit the documentation evidencing sufficient means available for a family member to subsist for a period of one year is often difficult for aliens to meet, because either regular income is not high, or an alien does not have in his account the required amount of savings.

Thirdly, when renewing temporary residence permits on grounds of family reunification there often arises the problem that the owner of the premises for rent does not agree to allow a person to declare the place of residence in the premises, and the person must present such a document when applying for renewal of a residence permit, in which case the documents are not accepted, the person may exceed a time limit for submission of the documents, then this may lead to a gap between residence permits, which after five years may become an obstacle in applying for the issue of a permanent residence permit. Moreover, if there is a gap between residence permits the person may become illegally staying in Lithuania for a certain period of time and therefore be subject to administrative liability.

O17b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

An example of good practices could be the provision that in assessing an alien's means of subsistence a migration officer considers the entire income and assets of the alien and evaluates each situation individually. It is not necessary to substantiate the means of subsistence solely by the funds held with a bank.

Another positive development is that each application is evaluated on an individual basis taking into account all the circumstances. In the cases when an alien submits a reasoned explanation of individual circumstances and there is no doubt as to his explanation, it is possible to lodge an application even if he does not submit all the required documents. The Migration Department decides on the possibility of permitting to submit an incomplete set of the required documents.

In view of the difficulties encountered by some aliens in submitting a certificate of no criminal conviction, amendments to the Procedure were introduced in 2016. The amendments provide that if an alien incurred manifestly disproportionate burden in terms of time and/or money in order to meet the requirement to submit the certificate of no criminal conviction, he may, together with an application, submit a reasoned explanation setting out the factual circumstances due to which he cannot meet the requirement to submit the certificate of no criminal conviction. A decision to waive the requirement is taken by the director of the Migration Department or a civil servant authorised by him (sub-point 17.9.4).

5.

Access to rights following
family reunification

Q18. Are family members entitled (in the same way as the sponsor) to access the following rights³⁹ in Lithuania (please also comment on any planned changes in the national legislation/ policy/ practice):

a. Access to education? If yes, please indicate whether any special measures to support access to education are available specifically to family members, e.g. language assistance, guidance regarding the national education system, etc.

Yes. The general educational plans of elementary and secondary education programmes as approved by the Minister of Education and Science of the Republic of Lithuania for the 2015-2016 and 2016-2017 school years provide for certain special measures developed for minor aliens at schools: provide for an indicative time frame of the adaptation period, offer non-formal education activities for children that help to speed up integration of pupils, determine the needs of learning the Lithuanian language and organise individual learning of the Lithuanian language if a student is capable of reaching a satisfactory level of achievement over the adaptation period or, if this level is not reached, propose to study in a compensatory class or group (for a school year or for a shorter period).

Moreover, non-governmental organisations are establishing centres, funded with European Union funds, at which aliens can learn the Lithuanian language, obtain information from both the staff of a centre and the lawyers who provide legal advice about the Lithuanian education system and opportunities offered by it (in Vilnius, there is the Centre PLUS and the Caritas Centre for Asylum Seekers, in Klaipėda – the Infocentre for Migrants, and in Kaunas – the InLT Centre for Refugees and Migrants).

Differently to family members of all other aliens admitted by virtue of family reunification, family members of the persons who have been granted asylum, just as those who have been granted asylum, have access to the following governmental support for integration: they may also reside at the Refugee Reception Centre, learn the Lithuanian language, obtain information on the issues of concern to them, etc. If family members are admitted when a person who has been granted asylum already resides and continues his integration in a municipality, the family members reside together with him and the integration measures are provided to them in the municipality.

In the near future, no changes have been planned.

b. Access to employment and self-employed activity?⁴⁰ If yes, please specify whether the access available to family members is limited in any way, for example, if such access is restricted for up to 1 year and/ or limited to a maximum number of days per year, if this right is automatic or conditional upon obtaining a work permit, etc.

Yes. A person who has entered for family reunification and has been issued a temporary residence permit does not require a separate work permit. Upon receiving a temporary residence permit in Lithuania, he automatically becomes entitled to take up employment, carry out individual activity or business under a business certificate, or to establish an enterprise.

c. Access to vocational guidance and training? If yes, please describe what the access to vocational guidance and training entails, for example, whether special guidance and training programmes are provided to family members or whether they have access to the general measures.

No. Only family members of the persons who have been granted asylum have access to governmental support for integration: at the Refugee Reception Centre, the family members' professional skills and personal characteristics are assessed, and proactive labour market policy measures organised by the Labour Exchange are implemented. In addition, the persons are

³⁹ Art. 14 of Directive 2003/86/EC in your (Member) State stipulates that family members are entitled (the same way as the sponsor) to access education, employment and self-employed activity, as well as vocational guidance and training. Art. 15 of Directive 2003/86/EC additionally specifies that family members are entitled to apply for autonomous right of residence after no later than five years, independent of that of the sponsor (also in case of dissolution of family ties).

⁴⁰ In addition to Directive 2003/86/EC, there are further Legal Migration Directives containing specific provisions on access to employment of family members of certain sponsors, for example, family members of Blue Card holders or ICTs. Please elaborate on such specificities in the above answer.

familiarised with the Lithuanian labour market, are assisted in acquiring and improving their qualifications, and are provided with information about business and employment opportunities⁴¹.

d. Right to apply for autonomous right of residence independent of that of the sponsor (also in case of dissolution of family ties)? If yes, please specify if the access to this right differs depending on the kind of permit the family member receives.

Yes. In the event of a change in the circumstances which are determinants of a ground for the issue of a temporary residence permit, an alien who is in possession of such a permit must obtain a new temporary residence permit (Article 40(5) of the LLSA). If the person is going to obtain a new residence permit, the ground on which the previous residence permit was issued is not relevant. Certainly, the alien may apply for and obtain a residence permit on other grounds, provided that he meets the requirements set forth for the issue of another residence permit.

e. Any other rights granted to family members in Lithuania, for example, healthcare, recourse to public funds, possibility for family members to apply for long-term residence status or naturalisation, etc.? If yes, please specify what such access entails in practice in Lithuania.

Yes. The persons who have resided in Lithuania for a period of five years and meet other requirements stipulated in the Law have the right to apply for the issue of a permit of a long-term resident of the Republic of Lithuania to reside in the EU. It is these persons alone who enjoy the same social guarantees as other residents.

The persons who are in possession of a temporary residence permit do not have access to some social guarantees, that is, they do not enjoy all the guarantees granted under the Law of the Republic of Lithuania on Benefits for Children, the Law of the Republic of Lithuania on State Social Assistance Benefits, the Law of the Republic of Lithuania on Assistance in the Case of Death, and the Law of the Republic of Lithuania on the Social Integration of the Disabled, however they enjoy all other social guarantees granted to citizens of the Republic of Lithuania and to the aliens holding permanent residence permits.

Acquisition of citizenship through naturalisation is possible if specified requirements are met and a person has resided in the Republic of Lithuania for a period of ten years or, in the event of contracting a marriage with a citizen of the Republic of Lithuania, for a period of seven years.

Q19. Are family members of refugees and/ or BSPs granted refugee/ BSP status in their own right or a 'derived' permit (from that of the sponsor)? Please clarify how the type of permit issued differs in terms of its validity and rights attached to it. If possible, please also provide information on the cost of the permit.

Family members of the persons who have been granted asylum are issued temporary residence permits in Lithuania by virtue of family reunification. A person who has obtained refugee status is issued a permanent residence permit valid for a period of five years, while a beneficiary of subsidiary protection is issued a temporary residence permit valid for a period of two years. Family members of the persons who have been granted asylum, when admitted by virtue of family reunification are issued residence permits for family reunification. In the event of termination of the family relationship, the family members should apply for asylum or the issue of a residence permit on other admission grounds (business, study, etc.). It is only after a family member has resided in Lithuania uninterruptedly for five years and has received a permanent residence permit that termination of the family relationship would not affect the validity of his residence permit, and in a sense it would become autonomous, as the ground for the residence permit would be long-term residence in Lithuania, rather than family reunification.

The persons who have been issued a permanent residence permit enjoy the same rights as citizens of the Republic of Lithuania (with the exception of the right to vote in presidential and parliamentary elections and the right to participate in referendums).

⁴¹ Point 23.5 of Resolution No 998 of the Government of the Republic of Lithuania of 5 October 2016 on Approval of the Description of the Procedure for Providing State Support for the Integration of the Persons Granted Asylum, p. 36.

The persons who are in possession of a temporary residence permit do not have access to some social guarantees, that is, they do not enjoy all the guarantees granted under the Law of the Republic of Lithuania on Benefits for Children, the Law of the Republic of Lithuania on State Social Assistance Benefits, the Law of the Republic of Lithuania on Assistance in the Case of Death, and the Law of the Republic of Lithuania on the Social Integration of the Disabled (amendments to the aforementioned legislation have been initiated for such rights to be granted to the persons who have been granted asylum, however their family members have not been included in the proposed legislative amendments).

The state fee when applying for the issue of a temporary residence permit by virtue of family reunification amounts to EUR 86 (for examination of the application) and EUR 28 (for personalisation of the residence permit) for each person aged 16 and over.

Q20. Do any conditions apply to sponsors and/ or family members after admission for the purpose of family reunification in Lithuania? If yes:

- At which stage(s) after admission is examined whether these conditions have been fulfilled?

No, there is no general procedure for checking a family. However, if there is a suspicion that a marriage of convenience or a partnership of convenience has been contracted or a fake adoption has been effected an investigation may be carried out and serve as a basis for withdrawal of a residence permit.

- Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?⁴² If yes, how are individual circumstances and interests⁴³ taken into account?

No.

- If no, what are the consequences of not fulfilling the conditions (e.g. obligation to pay a fine, exclusion from more favourable residence permits)?

Following the issue of a temporary residence permit to a family member, no additional requirements apply either to an alien or to his family members. Whenever renewing the temporary residence permit, the family members must submit all the required documents. In the event of a failure to submit the required documents, a migration service may refuse to accept the documents. In this case, upon the expiry of the validity of the temporary residence permit the family members will become persons illegally staying in Lithuania and may be expelled to the country of origin.

A residence permit may also be withdrawn in the following cases (with a reference to the grounds related to family reunification):

- the permit has been obtained by fraud;
- grounds for refusal to issue or renew the permit transpire;
- there are serious grounds to believe that a marriage of convenience or a registered partnership of convenience has been contracted or a fake adoption has been effected;
- a marriage has been dissolved.

Q21. a. Please indicate any challenges experienced by family members in Lithuania with regard to accessing the above-mentioned rights (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

According to the non-governmental organisations working with aliens, the biggest challenge is the fact that for a long time, Lithuania failed to focus on the integration of aliens (except for the integration of the aliens who have been granted asylum). Currently, there is discussion over strategic guidelines for the state policy of integration of all aliens.

Q21b. Please provide any examples of proven (e.g. through studies/ evaluations) good practices with regard to the provision of education/ access to the labour market and vocational guidance and training/ right to

⁴² Article 16 of Directive 2003/86/EC

⁴³ Article 17 and Article 24 of the Charter

autonomous residence for family members in Lithuania. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

An example of good practices should be the provision of access to measures of state support for integration to family members of the persons who have been granted asylum.

Another example of good practices is the integration centres of non-governmental organisations operating in main cities and financed with AMIF funds, at which aliens can obtain the necessary information, learn the Lithuanian language, participate in various events together with local communities, get employment advice, and attend lectures on development of individual competencies.

6.

National and international
case law

Q22. Has the following CJEU/ ECtHR case law led to any changes in policy and/ or practice in family reunification in Lithuania:

- CJEU - C-540/03 European Parliament v Council of the European Union;
- CJEU - C-558/14 Khachab v Subdelegación del Gobierno en Álava;
- CJEU - C-153/14, Minister van Buitenlandse Zaken v K and A;
- CJEU - C-338/13, Marjan Noorzia v Bundesministerin für Inneres;
- CJEU - C-578/08, Rhimou Chakroun v Minister van Buitenlandse Zaken;
- CJEU - C-356/11 and C-357/11, O. S. and L;
- ECtHR - Mugenzi v. France, Application No. 51701/09, 10 July 2014;
- ECtHR - Tuquabo-Tekle And Others v The Netherlands, Application no. 60665/00, 1 March 2006;
- ECtHR - Hode and Abdi v. the United Kingdom, Application No. 22341/09, 6 February 2013;
- ECtHR – Biao v. Denmark, Application No. 38590/10, 24 May 2016;
- Any other relevant case law (please specify)?

If yes, please briefly describe the changes brought about by this case law.

Decisions of the Migration Department in cases of family reunification are usually not subject to appeal, hence there is no case law affecting legislation.

Q23. Has any national case law led to changes in policy and/ or practice in family reunification in Lithuania since 2011 onwards? If yes, please briefly describe the changes brought about by this case law.

No. In the national case law, family reunification cases are almost non-existent, hence it cannot be claimed that few decisions would lead to legislative amendments.

At the same time, a mention should be made of an administrative case in which the Supreme Administrative Court of Lithuania referred to the Constitutional Court of the Republic of Lithuania. In fact, in this case the refusal of the Migration Department to issue a residence permit by virtue of family reunification was appealed against by an alien seeking to be reunited with a citizen of the Republic of Lithuania.

The panel of judges of the Supreme Administrative Court of Lithuania heard an administrative case in which an alien who had contracted in Denmark a same-sex marriage with a citizen of the Republic of Lithuania challenged a decision of the Migration Department to refuse to issue to him a temporary residence permit in the Republic of Lithuania. The refusal to issue a temporary residence permit in the Republic of Lithuania was based on the fact that, in compliance with national legislation, a marriage of a same-sex couple may not be contracted in Lithuania and recognised, therefore there is no family reunification as a ground for the issue of a temporary residence permit in the Republic of Lithuania to an alien. In the aforesaid case, the claimant emphasised that he does not seek civil legal consequences of recognition of the marriage, but seeks to exercise the right to family reunification with a person with whom he claimed to have created a family.

The panel of judges of the Supreme Administrative Court of Lithuania questioned whether the differences between the persons who had contracted a marriage or registered a partnership conforming to norms of national law and the persons who had developed relationships corresponding in their content to the concept of family, but whose marriage, as contracted abroad, was not recognised in the Republic of Lithuania due to prohibition of same-sex marriages were of such nature and scope that such unequal treatment, having regard to mandatory prohibition of discrimination against persons on grounds of their sexual orientation, was objectively justified. According to the panel of judges, the failure to stipulate the right of such persons to family reunification in applicable regulation potentially constituted a disproportionate restriction of these persons' right to protection of family and private life.

On 5 December 2016, the Supreme Administrative Court of Lithuania issued an order to suspend administrative proceedings and to refer to the Constitutional Court of the Republic of Lithuania with a request to consider whether Article 43(1)(5) of the

LLSA, to the extent that it did not stipulate that a temporary residence permit may be issued to an alien by virtue of family reunification also in the case when the alien had contracted a marriage with a person who resided in the Republic of Lithuania and was a citizen the Republic of Lithuania, and the marriage was not recognised in the Republic of Lithuania due to mandatory prohibition of same-sex marriages, but with whom he had developed relationships corresponding in their content to the concept of the family, was not in conflict with the Constitution and the constitutional principle of the rule of law.

The Constitutional Court of the Republic of Lithuania has accepted the referral for hearing.

Annex

Q24. With reference to Question 3a. above, please complete the following table with national statistics on the (estimated) number of applications for family reunification, if available.

Please provide here a brief explanation of the metadata, describing for example the population covered, the method used to reach the estimates, any caveats as to their likely accuracy etc. It should be noted, given the differences in methods used to make the estimates, that it will not be possible to synthesise this information to produce a ‘total EU estimate’ for the Study.

All statistical data related to aliens in Lithuania are accumulated in the Register of Aliens. The Register contains statistical information on the issue of TRPs by grounds and citizenship. The information is accumulated on newly issued and renewed TRPs. The present study has found that there is no possibility of obtaining from the Register of Aliens summary data on whether an alien enters Lithuania by virtue of family reunification to join a sponsor who is a citizen of the Republic of Lithuania or an alien. Available key statistics are provided below.

Table 1. Number of applications for the issue of a TRP and main citizenships

Ground	2013	2014	2015
Alien joins his parents, who are citizens of the Republic of Lithuania (LLSA 43.1)	243	277	232
Minor alien joins his parents, who are citizens of the Republic of Lithuania or aliens (LLSA 43.2)	911	1462	1464
Parents, who are aliens, join their child, who is a citizen of the Republic of Lithuania (LLSA 43.3)	730	716	592
Alien joins his child, who has been granted asylum in the Republic of Lithuania (LLSA 43.4)	1	3	3
Alien joins his spouse, who is a citizen of the Republic of Lithuania or an alien (LLSA 43.5)	2839	3044	2876
Parents, who are aliens, join their child, who is an alien and is in possession of a TRP (LLSA 43.6)	39	50	40
Children, who are aliens, join their parents, who are aliens, have incapacity for work and are in possession of a PRP (LLSA 43.7)	17	13	18
TOTAL	4780	5565	5225

Source: Register of aliens

Table 2. Applications for temporary residence permit by grounds, citizenship and gender (2013-2015)

Ground (LLSA) / citizenship	Female			Male			TOTAL		
	2013	2014	2015	2013	2014	2015	2013	2014	2015
LLSA 43.1.1.									
Russia	64	66	44	72	86	73	136	152	117

Belarus	28	29	25	33	34	33	61	63	58
Ukraine	12	14	20	15	19	18	27	33	38
Israel	4	6	3	7	10	7	11	16	10
Other	2	5	3	6	8	6	8	13	9
In total	110	120	95	133	157	137	243	277	232
LLSA 43.1.2.									
Russia	222	371	338	219	353	326	441	724	664
Belarus	100	127	110	91	106	113	191	233	223
Ukraine	40	121	143	55	147	165	95	268	308
USA	14	14	18	22	17	28	36	31	46
Kazakhstan	15	11	12	13	7	9	28	18	21
Uzbekistan	7	13	10	6	6	9	13	19	19
Iran	1	17	14	4	16	19	5	33	33
China	6	9	9	4	8	9	10	17	18
Armenia	2	9	10	9	8	5	11	17	15
Turkey	5	6	5	5	10	6	10	16	11
Other	34	40	47	37	49	59	71	89	106
In total	446	738	716	465	727	748	911	1465	1464
LLSA 43.1.3.									
Russia	225	202	166	75	69	60	300	271	226
Belarus	203	202	154	42	43	39	245	245	193
Ukraine	66	75	61	19	25	21	85	100	82
Armenia	9	4	5	2	2	4	11	6	9
Other	32	35	21	57	59	61	89	94	82
In total	535	518	407	195	198	185	730	716	592
LLSA 43.1.4.									
Belarus	0	2	1	1	1	1	1	3	2
Ukraine	0	0	0	0	0	1	0	0	1

In total	0	2	1	1	1	2	1	3	3
LLSA 43.1.5.									
Russia	594	643	595	336	363	327	930	1006	922
Belarus	485	525	478	263	246	232	748	771	710
Ukraine	243	291	349	205	207	185	448	498	534
Armenia	23	21	21	19	16	18	42	37	39
Azerbaijan	22	16	17	27	30	16	49	46	33
USA	16	17	20	46	57	47	62	74	67
Turkey	5	7	5	55	60	50	60	67	55
Georgia	12	11	17	40	49	43	52	60	60
Israel	14	12	16	34	24	22	48	36	38
Moldova	12	12	10	16	15	11	28	27	21
Other	100	116	109	272	305	289	372	421	398
In total	1526	1671	1637	1313	1372	1240	2839	3043	2877
LLSA 43.1.6.									
Russia	17	24	19	4	3	2	21	27	21
Belarus	3	4	2	1	3		4	7	2
Ukraine	7	7	8	2	1	2	9	8	10
Armenia	2	3	2		2	1	2	5	3
Other	1	2	3	2	1	1	3	3	4
In total	30	40	34	9	10	6	39	50	40
LLSA 43.1.7.									
Russia	7	6	8	3	2	3	10	8	11
Ukraine	2	2	2	3	1	2	5	3	4
Other	1	1	2	1	1	1	2	2	3
In total	10	9	12	7	4	6	17	13	18
Grand TOTAL	2657	3098	2902	2123	2469	2324	4780	5567	5226

European Migration Network (EMN) is a network composed of migration and asylum experts from EU Member States, Norway and the European Commission. Its main objective is to collect, analyse and provide up-to-date, objective, reliable and comparable information on migration and asylum to policy makers at EU and Member State level and the general public.

The EMN National Contact Point (NCP) in Lithuania is composed of representatives from the Ministry of the Interior, the Migration Department, the State border guard service as well as the International Organization for Migration (IOM) Vilnius office which acts the national co-ordinator for the EMN activities in Lithuania. EMN NCP in Lithuania also collaborates with other entities from governmental as well as non-governmental institutions working in the area of migration. .
