**Answers to the questionnaire ON UNACCOMPANIED MIGRANT CHILDREN AND ADOLESCENTS**

1. ***General Situation***

***1.1*** *What is the situation of unaccompanied migrant children[[1]](#footnote-1) and adolescents in your country? Please provide available statistics and relevant information.*

We hereby inform you that the legal situation of unaccompanied minor migrants and unaccompanied minor asylum seekers is regulated by the law “On the Legal Situation of Aliens” No. IX-2206 of the Republic of Lithuania (hereinafter referred to as the Law), the description of the procedure of determining the age of unaccompanied minor aliens identified in the Republic of Lithuania, who are not asylum seekers, the procedure of providing them with accommodation, other procedural actions, and the procedure of providing services to them, which was approved by order No. A1-229/1V-289/V-491 of 23 April 2014 of the Minister of Social Security and Labour of the Republic of Lithuania, the Minister of the Interior of the Republic of Lithuania and the Minister of Health of the Republic of Lithuania “On Confirming the Description of the Procedure of Determining the Age of Unaccompanied Minor Aliens Identified in the Republic of Lithuania, who are not Asylum Seekers, the Procedure of Providing them with Accommodation, other Procedural Actions, and the Procedure of Providing Services to Them” (hereinafter referred to as the Description), in the rules of providing unaccompanied minors who are asylum seekers with accommodation in the Reception Centre for Refugees, which were confirmed by order No. 1V-31/A1-28 of 2 February 2005 of the Minister of the Interior of the Republic of Lithuania and the Minister of Social Security and Labour of the Republic of Lithuania “On Confirming the Rules of Providing Unaccompanied Minors who are Asylum Seekers with Accommodation in the Reception Centre for Refugees”, and other legal acts.

Article 32(1) of the Law stipulates that unaccompanied minor aliens, irrespective of the legality of their stay in the territory of the Republic of Lithuania, must be provided with temporary custody (care) during their stay according to the procedure stipulated in the legal acts of the Republic of Lithuania. The temporary guardian (carer) of an unaccompanied minor alien represents the interests of the unaccompanied minor alien.

Parts 3 and 4 of the same article stipulate that the Migration Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the Migration Department), upon receiving information about an unaccompanied minor alien, is obligated to immediately organise a search for the family members of the unaccompanied minor alien in cooperation with non-governmental or international organisations of the Republic of Lithuania and the temporary guardian (carer) of the unaccompanied minor alien.

As per the provisions of the Description, the officers of territorial police authorities or State Border Guard Services under the MI (hereinafter referred to as the State Border Guard Service), upon identifying an unaccompanied minor alien in the Republic of Lithuania, shall immediately inform the following authorities about this by phone or electronic means of communication (e-mail or fax):

– The child rights protection division (hereinafter referred to as the Division) of the municipality where the unaccompanied minor alien was identified;

– The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour (hereinafter referred to as the Service).

During the questioning of the unaccompanied minor alien, a person providing legal assistance guaranteed by the state and, if necessary, a representative of the Division and an interpreter must be present. The Division makes an independent decision on the necessity of the presence of their representative during questioning and informs the State Border Guard Service about it. During questioning, the unaccompanied minor alien is informed about the rights provided for in Article 32(2) of the Law, i.e. unaccompanied minors, irrespective of the legality of their presence in the territory of the Republic of Lithuania, have the following rights:

1) To be provided with free accommodation and to be supported in the Republic of Lithuania according to the procedure established by the Minister of Social Security and Labour;

2) To study according to general education or vocational training programme (programmes) according to the procedure established by the Minister of Education and Science;

3) To receive necessary medical assistance free of charge according to the procedure established by the Minister of Health;

4) To receive social services free of charge according to the procedure established by the Minister of Social Security and Labour;

5) To use legal assistance guaranteed by the state, unless the laws of the Republic of Lithuania provide otherwise;

6) To contact the representatives of non-governmental or international organisations of the Republic of Lithuania.

The officers of the territorial police authority or State Border Guard Service, upon completing all necessary actions, immediately apply to the court to provide the unaccompanied minor alien with an alternative to detention and to entrust the unaccompanied minor alien to a respective social institution for care. When the application for providing the unaccompanied minor alien with an alternative to detention is considered by the court, a person providing legal assistance guaranteed by the state and a representative of the Division must be present.

In accordance with the procedure stipulated in the Description, the officers of the territorial police authority or State Border Guard Service create a personal file of the unaccompanied minor alien, which is transferred to the Reception Centre for Refugees with the unaccompanied minor alien, while a copy of the file is sent to the Migration Department. During the search for the family members of the unaccompanied minor alien, the issue of the legal status of the unaccompanied minor alien in the Republic of Lithuania is discussed. As per 68(3) of the Law, during the search for the family members of the unaccompanied minor alien, the confidentiality of information collection and processing is ensured.

Article 67(4) of the Law stipulates that if an unaccompanied minor alien submit an application for asylum, temporary custody (care) is provided according to the procedure stipulated by the laws of the Republic of Lithuania, while Article 67(5) stipulates that the best interests of the child are considered while making decisions according to the provisions of the Law.

As per Article 79(3) of the Law, unaccompanied minor asylum seekers, according to the procedure established by the Minister of the Interior and the Minister of Social Security and Labour, are provided with accommodation by adult relatives, a temporary guardian (carer), or by the Reception Centre for Refugees (hereinafter referred to as the Centre), if the temporary guardian (carer) or other lawful representative has no objections. The number of unaccompanied minor asylum seekers in the Republic of Lithuania: Nine in 2010, ten in 2011, four in 2012, two in 2013, five in 2014, and three in 2015 (till the 27th of October).

From the moment when the Description came into force to the end of 2014, 54 unaccompanied minor aliens were provided with accommodation at the Centre, including 2 citizens of the Islamic Republic of Afghanistan (later, after an investigation into their age, they were declared adults and detained in the Registration Centre for Aliens (hereinafter referred to as the RCA); the others were citizens of the Socialist Republic of Vietnam, and two of them asked for asylum. All the others arbitrarily left the Centre. In 2015, 27 unaccompanied minors were offered accommodation at the Centre, including one citizen of Libya (later declared adult and detained at the RCA); the others were citizens of the Socialist Republic of Vietnam. Two Vietnamese citizens were transferred to a competent authority of the Republic of Estonia in accordance with the agreement of the Governments of the Republic of Lithuania, the Republic of Estonia, and the Republic of Latvia on returning illegal residents. According to the data of the Migration Department, the Centre currently houses one unaccompanied minor because all the others have left arbitrarily.

The description of the procedure of considering aliens’ asylum requests, making decisions and implementing them, which was approved by order No. 1V-361 of 15 November 2004 “On Confirming the Description of the Procedure of Considering Aliens’ Asylum Requests, Making Decisions and Implementing Them” of the Minister of the Interior of the Republic of Lithuania (hereinafter referred to as the Description of the Asylum Procedure) stipulates that during questioning and other actions related to considering the asylum requests of unaccompanied minors, the guardian (carer) and an authorised representative of the child are obligated to participate, except cases when the authorised representative is unable to take part in the questioning due to objective reasons (reasons beyond the representative’s control). Asylum requests of unaccompanied minors are examined as soon as possible. Civil servants who examine the asylum requests of unaccompanied minors are obligated to apply to various institutions of the Republic of Lithuania or foreign states, except institutions of the country of origin of persons asking for asylum in order to ascertain the location of parents or close relatives of unaccompanied minors asking for asylum, if doing so is not against the child’s interest.

***2. Cross-Cutting Issues***

***2.1*** *In connection with article 12 of the Convention on the Rights of the Child, in your country, are there specific mechanisms or procedures to ensure that migrant children and adolescents’ views are heard and fully taken into account in all matters affecting them? If yes, please describe.*

The Description stipulates that if an unaccompanied minor alien is identified in the territory of the Republic of Lithuania, a questioning is organised which gives the right to the unaccompanied minor alien to express his or her opinion.

If there is reasonable doubt as to the age of the unaccompanied minor alien, an investigation into his or her age may be carried out. This investigation may be conducted only with the approval of the unaccompanied minor alien.

Article 79(3) of the Law stipulates that the decision on the accommodation of the unaccompanied minor who asks for asylum, the opinion of the minor is taken into consideration in accordance with his or her age and maturity.

Clause 65 of the Description of the Asylum Procedure stipulates that the asylum request of each alien is examined individually, regardless of whether the request was made by an adult or an unaccompanied minor. The unaccompanied minor who asks for asylum is questioned during the procedure, which must be attended by the guardian (carer) and an authorised representative of the child. On the basis of the information provided by the person as well as the collected information, a decision is made on the asylum request.

***2.2*** *If your answer to question 2.1 is positive, what have unaccompanied children or adolescents expressed as their main reasons for migrating? And what did they describe as their reception and living conditions in transit and destination countries?*

Unaccompanied minors who asked for asylum stated that they had left as a result of war in the country of origin. In all cases, other unaccompanied minor aliens gave economic reasons for migration.

***2.3*** *Based on your institution’s experience, do you think the human rights violations inflicted on unaccompanied migrant children and adolescents are motivated by gender considerations?*

There is no data regarding gender-related human rights violations.

***2.4*** *In your country, what is the legal definition of a child / an adolescent?*

In Article 2(16) of the Law, an unaccompanied minor alien is defined as a minor alien who came to the Republic of Lithuania without parents or other lawful representatives or who, after arriving to the Republic of Lithuania, lost them before those persons could start effectively taking care of the minor alien.

***3. Laws, policies and coordination mechanisms***

***3.1*** *Do you consider that your country’s migration policies take into account the protection of the rights of migrant children and adolescents in general, and of unaccompanied migrant children and adolescents in particular? Is the migrant child/adolescent considered as a distinct right-holder? Are there any specific measures implemented to protect the rights of unaccompanied migrant children and adolescents? If yes, please provide details.*

Information on the rights of unaccompanied minor aliens and their protection is provided in clause 1.1. It should also be noted that in order to protect an unaccompanied minor, Article 129 of the Law stipulates that an unaccompanied minor alien, who stays or lives in the territory of the Republic of Lithuania unlawfully, is returned only if in the foreign state to which the unaccompanied minor alien is returned he or she will be properly cared for in accordance with his or her needs, age, and level of independence. If the unaccompanied minor is not returned to a foreign state, he or she is provided with a temporary residence permit valid for no longer than one year.

***3.2*** *In your country, are there specialized authorities/personnel/services trained to specifically deal with migrant children and adolescents (such as migration or border officers, psychosocial support, etc.)?*

The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, Child Rights Protection Divisions in municipalities.

***3.3*** *What are the main challenges and barriers (legal, political, financial, administrative, economic, social and cultural) that impede the effective protection of unaccompanied migrant children and adolescents in your country/from your country?*

There is a lack of specific training intended for officers of institutions and public servants for working with unaccompanied minors.

***3.4*** *As a national human rights institution, do you participate and collaborate with governmental and other organizations to elaborate effective measures to protect the rights of migrant children and adolescents, and monitor and evaluate their implementation?*

In order to discuss the refugee resettlement issues and to elaborate effective measures to protect their rights, the Seimas Ombudsmen collaborate with the Ministry of the Interior. In addition, the Seimas Ombudsmen’s Office has initiated a number of meetings with the representatives of the United Nations High Commissioner for Refugees (UNHCR) in Lithuania. During the meetings a particular attention was drawn to an increasing number of people forced to flee homes, among them the unaccompanied minor aliens, and their problems.

It also should be noted that subordinate bodies of the MI and non-governmental or international organisations of the Republic of Lithuania as well as the temporary guardian (carer) of the unaccompanied minor alien organise a search for the family members of the unaccompanied minor alien to address the issue of returning the unaccompanied minor alien, cooperate with foreign states and international organisations in accordance with international treaties.

***4. Others***

***4.1*** *What is the role of your institution in the protection of unaccompanied migrant children and adolescents? And what is the role of civil society organizations in that regard?*

The Seimas Ombudsmen’s Office is not in direct charge of the protection of unaccompanied migrant children and adolescents; however, it can monitor implementation of their rights by performing functions under the OPCAT.

Protection of unaccompanied children and adolescents is performed by the subordinate bodies of the MI, that take into consideration the best interests of the child while dealing with the issues of the legal status of unaccompanied minor aliens; they are responsible for searching for the parents of an unaccompanied minor alien; they ensure that the unaccompanied minor alien is returned to a foreign state (the country of origin) only if in the foreign state to which the unaccompanied minor alien is returned he or she will be properly cared for in accordance with his or her needs, age, and level of independence; if an unaccompanied minor alien submits an asylum request, the aforementioned bodies are responsible for examining the request, making a decision, and implementing it.

As far as we know, non-governmental organisations actively cooperate with Lithuanian institutions to create, organise, and implement effective measures of protecting the rights of unaccompanied minor aliens, to search for the family members of an unaccompanied minor alien, and to address other issues of the legal status of unaccompanied minor aliens.

1. According to CRC General Comment No.6 (2005), “Unaccompanied children” (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. [↑](#footnote-ref-1)