



**LIETUVOS RESPUBLIKOS NUOLATINĖ ATSTOVYBĖ PRIE  
JUNGTINIŲ TAUTŲ BIURO IR KITŲ TARPTAUTINIŲ  
ORGANIZACIJŲ ŽENEVOJE**

**MISSION PERMANENTE DE LA LITUANIE AUPRÈS DE  
L'OFFICE DES NATIONS UNIES ET DES AUTRES  
ORGANISATIONS INTERNATIONALES À GENÈVE**

No. SN-80-99 /2015

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and with reference to the latter's note of 22 October 2015, has the honour to submit the Replies of the Republic of Lithuania to the questions of the Office of the United Nations High Commissioner for Human Rights regarding the Human Rights Council Resolution A/HRC/29/2 on the Protection of the human rights of migrants: migrants in transit.

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 4 December 2015

**Office of the United Nations  
High Commissioner for Human Rights  
GENEVA**

## **Reply of Lithuania to the questions on migrants in transit**

### **Question A.a.**

#### *Rights of the patients*

According to the legal regulation in force, as a result of implementation of the patients' right to high quality health care each patient is provided with accessible and high quality health care services.

Article 1 paragraph 2 of the Republic of Lithuania Law on the Rights of Patients and Compensation for the Damage to their Health sets forth that the relations between the patient and health care professionals or health care institutions shall be built on the following principles:

- mutual respect, understanding and assistance;
- ensuring the patient's rights according to the health care conditions recognized by the state in the prescribed manner;
- prohibiting to restrict the patient's rights on the grounds of gender, age, race, citizenship, nationality, language, origin, social status, religion, belief, views, sexual orientation, genetic qualities, disability or on other grounds, except for the cases specified by laws, without prejudice to the general principles of human rights.

#### *Urgent medical aid*

The basic (first and urgency) medical aid in health care establishments is provided to all patients. When applying to a personal health care institution for emergency medical aid, a referral of the physician is not obligatory. The Republic of Lithuania Law on the Legal Status of Aliens provides for that unaccompanied minor aliens, regardless of the legitimacy of their stay in the territory of the Republic of Lithuania, shall have the right to receive free basic medical aid in accordance with the procedure established by the Minister of Health.

#### *Ensuring health care of refugees*

In pursuance of ensuring proper health care of refugees and coordination of actions with other departments, a working group was made up within the Ministry of Health. The group is tasked with analyzing the situation of health care of refugees in Lithuania on a regular basis and putting forward of proposals to the Minister of Health of the Republic of Lithuania.

### **Question A.b.**

Ministry of the Interior of the Republic of Lithuania (MoI), Police department under the MoI, Migration department under the MoI and State Border Guard Service under the MoI in compliance with the national and international laws and other legal acts, according to the assigned jurisdiction impartially protect all persons within the territory of the Republic of Lithuania, regardless of their nationality, race, sex, language, origin, social status, religious beliefs, convictions or views. Activities related to the Questionnaire are based on democracy, respect for human rights and freedom, humanism, morals of society, lawfulness, professional openness.

Vulnerable groups of foreigners (a minor, a disabled person or a person who is over 75 years of age, a pregnant woman, a single father or mother raising minor children or a person who has been subjected to torture, rape or other serious forms of psychological, physical or sexual violence) most commonly are being accommodated in the Refugee Reception Centre. Within the legal framework

there are specific guarantees for unaccompanied minor asylum seekers, aimed at ensuring that the best interests of the child are always taken into consideration, such as: an application lodged by an unaccompanied minor may neither be held inadmissible on the basis of safe third country principle nor be subject to an accelerated procedure as manifestly unfounded; unaccompanied minor asylum seekers are accommodated in a separate centre; a temporary guardian is appointed to all the unaccompanied minors; legal assistant's presence during the interview is compulsory; detention is an option in extreme cases only; all staff directly working with unaccompanied minors must receive proper training.

#### **Question A.c.**

##### *Unaccompanied minors (UAM)*

States Border Guard Service or Territorial police officers who have set an unaccompanied minor, verify his identity (by interviewing officers establish child's profile, locate the country of origin and family, and determine reasons that she or he is in Lithuania). If there is doubt about the age; officers have to apply to the State Forensic Medicine Service at the Ministry of Justice medical forensic laboratory or health care institution to carry out a study of age.; inform the State Child Rights Protection and Adoption Service and the relevant sections in municipalities, the National Health Fund; apply to the court for the appointment of alternatives to detention – entrust Refugee Reception Centre to take care of UAM. In order to assess the best interest of UAMs it is important to consider the possibility of reunification with the family. Migration department conducts a search of parents or other legal representatives. State Child Rights Protection and Adoption Service representatives are ensuring the best interests of the child and are involved in the procedures. They also organize temporary guardianship (care) setting or cancelling it. UAM according to the best interest of child are accommodated in the Refugee Reception Centre. They get the same integration benefits as the refugees. The Refugee Reception Centre is a trustee of UAM. UAM has full access to medical services on the same conditions and under the same procedure as nationals.

#### **Question A.d.**

State Border Guard Service under the Ministry of the Interior is collecting and storing all kind of information related to illegal crossing of the state border, including migration cases. All facts are being transferred to the European external border surveillance system (EUROSUR).

#### **Question A.e.**

Law on the Legal Status of Aliens of the Republic of Lithuania (hereinafter – Aliens Law) regulates the issues related to the legal status of aliens in the Republic of Lithuania (Article 1). Article 115 (Alternatives to Detention) states that in the view of the fact that the alien's identity has been established, he/she constitutes no threat to national security and public order, provides assistance to the court in determining his legal status in the Republic of Lithuania as well as other circumstances, the court may take the decision not to detain the alien but to impose a measure alternative to detention instead.

Alternatives to detention are as follows:

- 1) The alien must, regularly at the fixed time, report at the relevant territorial police agency;
- 2) The alien must, by means of communication, inform at the fixed time the relevant territorial police agency about his whereabouts;
- 3) Entrusting of the guardianship of an unaccompanied minor alien to the relevant social agency;

- 4) Entrusting of the guardianship of an alien, pending the resolution of the issue of his detention, to a citizen of the Republic of Lithuania or an alien lawfully residing in the Republic of Lithuania who is related to the alien, provided that the person undertakes to take care of and support the alien;
- 5) Accommodation of the alien at the Foreigners' Registration Centre of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania without restricting his freedom of movement (this measure may be imposed only to the asylum applicants).

#### **Question A.f.**

According to Article 130 of Law on the Legal Status of Aliens of the Republic of Lithuania, it is prohibited to expel or return an alien to a country where his life or freedom is in danger or where he/she may be subjected to persecution on grounds of race, religion, nationality, membership of a certain social group or political opinion or to a country from where he may later be expelled to such country, except when an alien, for serious reasons, represents a threat to the security of the Republic of Lithuania or has been convicted by an effective court judgment of a grave crime and constitutes a threat to the community. Provisions consolidated in Article 134 say that under an international treaty of the Republic of Lithuania or an EU legal act, an alien may be transferred from one foreign state to another foreign state in transit through the territory of the Republic of Lithuania where proof is submitted that he has the right to travel to the foreign state as well as evidence of the necessity of transit through the territory of the Republic of Lithuania. The transfer of an alien through the territory of the Republic of Lithuania shall be prohibited if the grounds specified in Article 130(1) and (2) of this Law are established in the country to which the alien is transferred.

#### **Question B.b.**

Article 29 of the Constitution of Lithuania establishes the principle of non-discrimination of all persons, while other current legal acts guarantee equal rights for all people regardless of gender, sexual orientation, race, nationality, disability, age, religion or convictions.

According to the Criminal Code the bias motivation ("to express hatred towards a group of persons or a person belonging thereto on grounds of age, sex, sexual orientation, disability, race, nationality, language, descent, social status, religion, convictions or views") is one of the aggravating circumstances that can lead to penalty enhancement for all criminal acts.

Moreover, second parts of Article 129 ("Murder"), Article 135 ("Severe Health Impairment"), Article 138 ("Non-Severe Health Impairment") and Article 312 ("Desecration of a Grave or Another Place of Public Respect") of the Criminal Code provide for the bias motivation as a qualifying feature that leads to penalty enhancement.

Article 170 ("Incitement against Any National, Racial, Ethnic, Religious or Other Group of Persons") provides for criminal liability for public ridicule, expressing of contempt, urging of hatred or incitement of discrimination, violence or a physical violent treatment on bias motive and support of such activities.

Article 170<sup>1</sup> ("Creation and activities of groups and organizations aiming at discriminating a group of persons or inciting against it") of the Criminal Code imposes criminal liability on a person who creates a group of accomplices or an organized group or organization aiming at discriminating a group of persons on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or inciting against it or participates in the activities of such a group or organization or finances or otherwise supports such a group or organization.

According to a new Code of Administrative Offences, that will come into force on 1 April 2016, if an administrative offence is made by expressing hatred towards a person (persons) or by discriminating against a person (persons) on grounds of sex, race, nationality, language, descent, social status, religion, convictions, views, or other grounds, this shall be recognized as an aggravating circumstance.

In 2009, Methodological recommendations on organization, management, and conducting of pretrial investigation of criminal acts committed on grounds of racial, nationalist, xenophobic, homophobic, or other motives of discriminatory nature (No. 12.14-40) were drafted by the Prosecutor General for prosecutors and pretrial officers. These recommendations on criminal procedure provide for the organization of pretrial investigation of criminal acts that could have been committed on grounds of the victim's race, nationality, ethnicity, language, religion, sex, sexual orientation, or other discriminatory or xenophobic grounds. Recommendations are used in the practice of the officers of prosecution service and pretrial investigation authorities and contribute significantly to efficient investigation of criminal acts.

In order to successfully implement the policies on equal rights, non-discrimination and tolerance in Lithuania, the Government, by its resolution No. 46 of 28 January 2015 approved the Inter-Institutional Action Plan for Promotion of Non-Discrimination. The Plan has envisaged various measures for conducting public awareness-raising and education campaigns on the topics of equal opportunities and promotion of non-discrimination and tolerance; for organizing seminars, training and other educational measures to promote non-discrimination, tolerance and respect for people; for stimulating the activities of non-governmental organizations that defend human rights.

In April 2015 the Police Department signed the Memorandum of Understanding with the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights. The abovementioned Memorandum of Understanding offers the Lithuanian police officers the possibility to deepen the knowledge on combating hate crime. A special Training Programme adjusted to Lithuanian police officers has been developed by OSCE Office for Democratic Institutions and Human Rights. During the training organized on 10-12 November 2015 30 instructors were trained and they have been obliged to communicate the acquired knowledge to other police officers.