

Visa policy and migration flows in the Republic of Lithuania



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EUROPEAN MIGRATION NETWORK

NATIONAL CONTACT POINT
FOR THE REPUBLIC OF LITHUANIA

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EMN is a network composed of migration and asylum experts from EU Member States, Norway and the European Commission. Its main objective is to meet the information needs of Community institutions and of Member States' authorities by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas.

More information about EMN can be found at www.europa.emn.eu.

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Table of contents

Summary	6
1. Introduction and methodology	10
1.1. Methodology	11
1.2. Definitions	13
2. Policy and legal grounds	17
2.1 National visa policy	19
2.2. Agreements with third countries	26
2.3. Recent changes to visa policy and legislation	28
3. Practical implementation of visa policy	33
3.1 Visa issuance procedures	33
3.2 Visa issuance procedure for the purpose of legal (long-term) immigration	43
3.3. Challenges and success factors for preventing irregular migration	57
4. Co-operation with third countries: case studies	63
4.1. Facilitation of legal immigration: Russian Federation	63
4.2. Prevention of irregular migration: Republic of India	75
5. Effects of EU policy and legislation	84
6. Data on visas issued and immigration	90
Conclusions	96
Sources	101

Summary

This study pursues the aim of presenting Lithuania's visa policy and the latest developments in this field, analysing links between visa policy and immigration flows, with a particular attention devoted to prevention of illegal immigration, and pointing out some problems of visa issuance.

Context. Lithuania issues two types of visas – short-stay Schengen (a person may enter and stay for a period of up to three months) and long-term national visas (a person may enter and stay for a period exceeding three months (up to one year) under certain grounds stipulated by the Law). Until accession to the Schengen Area, Lithuania used to issue approximately 300 000 – 350 000 short-term visas. Following accession, the number of such visas considerably decreased, and in 2008-2010 the number of short-term visas issued per year was on average 200 000. Basically, this happened due to the fact that Lithuania denounced the previously effective agreements with the neighbouring states concerning privileges in the field of visa issuance procedures and prices. The number of long-term national visas fluctuates and depends on the economic situation and the need for workers (in 2007 and 2008, approximately 6000 visas (D) were issued, in 2009 – 2800, and in 2010 – 2000 national visas (D)). The majority of national visas are issued to aliens arriving for work purposes (in 2010 – 1142) and for study purposes (in 2010 – 439 visas). The number of refusals to issue visa ranges from 1-2% (short-term visas) up to 5-7% (long-term national visas).

Visa policy and vision. The Immigration Policy Guidelines stipulate the goal of immigration policy as well as visa policy – to meet the economic and labour market needs of the country. Until accession to the Schengen Area, Lithuania's visa policy was dominated by the geographical priority. The Republic of Lithuania implemented a more favourable visa policy in respect of citizens of the neighbouring states, such as the Russian Federation, Belarus, Ukraine and Moldova. On accession to the Schengen Area, these agreements were denounced. Over the short term, the effect was manifested by a sharp decrease in the number of issued visas. However, over the long term the situation has changed, as new agreements with Lithuania's neighbours are concluded at the EU level. They facilitate the travels of citizens of those countries, and the number of issued visas is growing. New agreements with Ukraine (2009) and a unilateral agreement with Belarus (2011) show that visa policy is employed to enhance democratisation and interpersonal contacts.

Agreements with third countries. Lithuania has so far entered into 2 agreements with third countries on privileges in issuing visas. The agreements have been concluded with the Republic of Ukraine and the Republic of Belarus.

Practical issues of the issuance of national visas. The study identifies three stages of the process of issuance of visas, namely, application for the issuance of a visa, examination of the application, entry, stay and exit. Lithuania applies 3 entry scenarios: 1) an alien applies for the issuance of a residence permit and is waiting for the decision in a third country (the conditions of entry are verified while the alien is staying in the third country); 2) an alien lodges an application for the issuance of a residence permit and concurrently applies for the issuance of a national visa (D), which permits to enter Lithuania and obtain a residence permit already in Lithuania; 3) an alien enters lawfully and lodges an application for the issuance of a residence permit in Lithuania (change of status). Most problems arise when assessing the applications for the issuance of visas lodged for the purpose of studies or work. The students admitted to studies at a higher education establishment registered and operating in the Republic

of Lithuania may enter holding a national visa (D) (the 2011 Description lists all types of studies). Such a procedure is a simplified one and speeds up the entry of aliens wishing to study in Lithuania. However, the procedure currently in force has few shortcomings. Thus, national visas are basically issued on the basis of a university's letter of mediation. Visa issuing officers verify only the authenticity of documents, but do not carry out other checks, e.g., whether a foreign student possesses the knowledge of the language of instruction, whether (s)he holds the required qualification. These requirements are evaluated by schools of higher education. The officers issuing visas for the purpose of studies must rely on assessment by an educational establishment, which is not always objective, because the staff of educational establishments usually do not meet the student in person. Doubts are raised over the selection criteria applied by some schools of higher education, because they are interested in the number of students, rather than prevention of illegal immigration. The risk of illegal immigration on this ground is the highest in the Far East (India, Pakistan). Alien workers may also enter the country holding a national visa (D). Prior to applying for a visa, workers must obtain a work permit issued by the Lithuanian Labour Exchange (the first line evaluation and check). Problems still arise with regards to heads of enterprises, as they are exempt from the requirement to have a work permit (one segment of the check chain is left out). The law does not define how authorities should evaluate the pursuit of commercial and economic activities, hence there are cases when enterprises do not actually carry out any economic activities and are established for the sole purpose of an alien obtaining a residence permit. However, in practice national visas are not issued to them, and they must wait for a decision to be adopted on the issuance of a residence permit.

Challenges and success factors for preventing irregular migration.

With a view to ensuring the control and prevention of illegal immigration, several measures are employed in the course of the visa issuance process – consultations over the issuance of visas (co-ordinated by the Migration Department), control upon the issuance of visas, e.g. when boarding a

flight by liaison officers, checks at external borders (co-ordinated by the State Border Guard Service), and control within the country.

Case studies of the Russian Federation and India. The study presents case studies of 2 countries. The Russian Federation has been selected as an example demonstrating the way in which mechanisms facilitating legal entry are developed. A brief mention is made of the Kaliningrad transit issue and the newly introduced system of issuance of visas in Moscow. India has been selected as the state in which Lithuania has encountered the challenges of illegal immigration. This is the state with the highest percentage of refusals to issue a visa. The study discusses the ways in which close co-operation with other EU Member States allows to address the rising problems.

Effects of EU policy and legislation. On entry into force of the Community Code on Visas and Regulation No 265/2010, the value of national visas has considerably increased. Although each Member State issues them under national legal acts, these visas entitle aliens to enter the entire Schengen Area. Therefore, each state is under the obligation to ensure that the visas issued by it do not provide entry to the EU for illegal immigrants. In issuing Schengen visas, of utmost importance is co-operation with other EU Member States. Lithuania has concluded agreements on representation in issuing Schengen visas with 7 EU Member States and is represented in 49 third countries (data of 2011) as well as participates in a common application centre (in Podgorodica). Although national visa issue procedures remain within the remit of competence of the Member States, harmonisation is likely to begin in this field too. Presently, Lithuania must focus on improvement of procedures of issuance of national visas in line to the changing tendencies of irregular migration.

1. Introduction and methodology

Each state decides who and under what conditions may enter and stay in its territory. Visa policy is an instrument for governments to regulate the flows of persons arriving in its territory.

The present-day visa policy concurrently pursues two seemingly opposite goals: firstly, to facilitate entry for the third-country nationals entering a country legally and, secondly, to prevent irregular migration and ensure the security of the Member States.

After Schengen Area was created, the need arose to regulate and harmonise the visa policies of Schengen states. The possibility of free movement in the Schengen Area itself requires that the states ensure uniform regulation of the entry of third-country nationals, because gaining entry to one state means gaining entry to the Schengen Area as a whole.

Within the remit of competence of the European Union, a number of strategic documents, such as the Hague Programme and the Stockholm Programme adopted respectively by the 2004 European Council and the 2009 European Council, have been drafted with a number of regulatory acts adopted on their basis, and agreements have been concluded on behalf of the Community with third countries regulating the issuance of short-stay (Schengen) visas.

Lithuania, while being a part of the EU and Schengen, co-ordinates its visa policy with EU requirements. When issuing Schengen visas, the

Community Code on Visas¹ is applied to the full extent. It is only in the field of national long-stay visas that Lithuania is given more powers. However, harmonisation of the visa policies of the EU Member States is likely to be continued in the future in order to ensure that all entries are subject to identical requirements.

This study pursues the aim of presenting Lithuania's visa policy and the latest developments in the field, analysing a link between visa policy and immigration flows, with a particular emphasis placed on the prevention of illegal immigration and pointing out certain problems relating to the issuance of visas.

1.1. Methodology

This study is conducted on the initiative of the European Migration Network (EMN) according to the specifications prepared and co-ordinated in advance. The study is under preparation simultaneously by 26 EU Member States and Norway according to the same methodology. The studies prepared by the Member States will be consequently presented in a common European study. For this reason, the present study will focus on the analysis of the policy of issuance of long-stay national visas, because short-stay Schengen visas are issued under the Community Visa Code. The analysis of Schengen visas will be presented in a generalised study to be published at the end of 2011.

In preparing this study, the following **research methods** have been employed:

Analysis of legislation of Lithuania and the EU. The main law regulating the issuance of national visas is the *Law on the Legal Status of Aliens* and other secondary legal acts (for more information, see Section 2.1). Issuance of short-stay Schengen visas is governed by the Community Visa Code (for more information, see Section 2.3).

1 OJ L 243, 15-09-2009

Analysis of statistical data (visas and residence permits). Preparation of the study has encountered a number of problems concerning statistical data, because Lithuania does not accumulate all the data indicated in the specifications. Data on the Schengen and national visas issued abroad are collected, accumulated and analysed by the Ministry of Foreign Affairs of the Republic of Lithuania. Data are accumulated and stored in a digital format in the Consular Procedures Management System (CPMS). Until 2008, the CPMS contained only general data on the visas issued, without grouping them by the type of a visa, term of validity, etc. The system made it possible to conduct a search for visas only according to:

- a) a visa service which had issued a visa;
- b) the citizenship of visa applicants;
- c) when necessary, it was possible to search by the applicant's personal data and/or visa number in order to establish whether a specific individual had been issued a visa.

Therefore, provision of data on issued visas (also refusals to issue a visa) by the visa type for the period of 2000-2008 is not possible. Only data of the number of visas issued by the service concerned can be presented.

Since 2008, after Lithuania acceded to the Schengen Area and began to directly apply the Schengen *acquis*, the CPMS has been provided with new modules, which have enabled to group the collected statistical data by a larger number of criteria. Therefore, since 2008 it has been possible to determine not only the total number of issued visas, but also their type, the number of rejected applications for the issuance of a visa.

Problems remain in respect of grouping of data by the reason for entry. Thus, part 9 of Annex VII of the Visa Code provides for only two mandatory entries in the comments section of the visa sticker – in the cases when a person passes in transit and in the cases when a short-stay visa is issued by another Member State (under representation agreements). There has so far been no possibility of presenting statistics by age group, reason for entry and other detailed criteria.

Expert survey. In the course of the research, co-operation was established with the consular officers of the Ministry of Foreign Affairs of the Republic of Lithuania, in particular with those working in the Russian Federation and the Republic of India, experts of the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the “Ministry of the Interior”) and the Migration Department and consultations were held with experts of the State Border Guard Service at the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the “State Border Guard Service”) as well as experts of the Lithuanian Labour Exchange, the State Labour Inspectorate and the State Tax Inspectorate.

Case studies. The study provides the case studies of 2 countries, namely, the Russian Federation and India. The purpose of the case studies is to show, by using the example of specific states, what problems arise in the field of issuance of visas and how they are resolved.

The Russian Federation has been selected for the reason that it is connected with Lithuania by close historical, economic and, certainly, migration links. In this country, Lithuania has the largest number of its visa services and issues the majority of its visas; moreover, the situation of Kaliningrad Oblast is highly specific and of considerable interest.

India has been selected as a state hosting one of the ‘youngest’ Lithuania's visa services and facing the problems of control of irregular migration. The first year of operation of this visa service allowed to identify some shortcomings of Lithuania's regulatory acts regulating the issuance of visas and residence permits and to initiate their amendments.

The research was conducted in March-September 2011.

1.2. Definitions

Definitions of the main concepts used in the study are presented below.

Immigration – arrival of persons (with the exception of the persons exercising the right to free movement of persons) for residence to a foreign state relating to a variety of reasons (for instance, for work, taking up of

business, family reunification, seeking asylum, etc.) and determining the person's settlement in the territory of the foreign state.²

Provider of external services means an undertaking, agency or organisation to which the Member State grants, on a contractual basis and for an additional charge, the right to organise one or several stages of admission of an application for the issuance of a visa. The consular post alone is entitled to examine applications, conduct interviews in appropriate cases and, when necessary, take decisions regarding the applications and print and attach visa stickers.³

Consulate means a Member State's diplomatic mission or a Member State's consular post authorised to issue visas and headed by a career consular officer as defined by the Vienna Convention on Consular Relations of 24 April 1963.⁴

Letter of invitation means a document confirming the commitment of a natural or legal person of the Republic of Lithuania to ensure that an alien arriving to the Republic of Lithuania is properly accommodated throughout the period of his stay in the Republic of Lithuania under a visa and that, where necessary, the costs of the alien's return to the country of origin or a foreign country to which he has the right to depart are covered.⁵

Work permit in the Republic of Lithuania means a document granting an alien the right to work in the Republic of Lithuania for a period specified in it.⁶

Temporary residence permit in the Republic of Lithuania (hereinafter referred to as the "temporary residence permit") means a document granting an alien the right for a temporary residence in the Republic of Lithuania for a period specified in it.⁷

2 Official Gazette, No 143-5706, 2008

3 Official Gazette, No 136-4961, 2004

4 OJ L 243, 15-09-2009

5 Official Gazette, No 73-2539, 2004

6 Official Gazette, No 73-2539, 2004

7 Official Gazette, No 73-2539, 2004

National visa means a visa authorising entry to the Republic of Lithuania and stay in it for a period longer than 3 months.⁸

Single-entry national visa means a visa issued to an alien who has been granted a temporary or permanent residence permit in the Republic of Lithuania.⁹

Multiple-entry national visa means a visa issued to an alien whose purpose of entry into the Republic of Lithuania is long term stay in the Republic of Lithuania.¹⁰

Schengen acquis means the totality of legal acts consisting of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, the Schengen Convention, protocols and agreements of Member States on the accession to the Convention implementing the Schengen Agreement, the decisions and declarations of the Schengen executive committee, other legal acts adopted on the basis of the Schengen Agreement and the Schengen Convention.¹¹

Schengen visa means the visa valid in the Schengen States and issued in accordance with the Schengen *acquis*.¹²

Third country means a state other than a Member State of the European Union, also other than an associated state.¹³

Member State means a Member State of the European Union applying the Schengen *acquis* in full and the associated states.¹⁴

Visa service means a state institution or agency of the Republic of Lithuania which issues visas to aliens.¹⁵ Visas may be issued in Lithuania by the Ministry of Foreign Affairs of the Republic of Lithuania, the Mi-

8 Official Gazette, No 73-2539, 2004

9 Official Gazette, No 73-2539, 2004

10 Official Gazette, No 73-2539, 2004

11 Official Gazette, No 73-2539, 2004

12 Official Gazette, No 73-2539, 2004

13 Commission decision 19.03.2010 C(2010)1620 final

14 Commission decision 19.03.2010 C(2010)1620 final

15 Official Gazette, No 140-5130, 2004

gration Department under the Ministry of the Interior of the Republic of Lithuania, the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania and border crossing points, as well as the Public Police of the Police Headquarters.

2. Policy and legal grounds

The third-country nationals entering Lithuania and subject to the visa regime must comply with the entry conditions provided for by Article 5 of the Schengen Borders Code¹⁶.

Lithuania, just as other Member States, currently issues two types of visas – short-stay Schengen and long-term national visas – as well as temporary residence permits.

The issuance of short-stay Schengen visas is regulated by the Visa Code jointly adopted by the EU Parliament and the Council. It regulates all issues of issuance of visas, refusal to issue them and other issues. A short-stay Schengen visa is issued to the third-country nationals who must hold a visa in order to enter a country of the Schengen Area or several Member States and who enter for a period not exceeding 3 months over each half a year. Two types of Schengen visas are singled out: airport transit (A) and short-stay (C). Moreover, Schengen visas may be single-entry, double-entry and multiple-entry.

A long-stay national visa (D) is issued to the third-country nationals who wish to enter and stay in Lithuania for a period exceeding 3 months. A national visa is issued in compliance with national regulatory acts and grants third-country nationals the right to stay in the Republic of Lithuania for a period exceeding 3 months. The national visa may be single-entry and multiple-entry. A single-entry visa is issued to the third-country nationals in respect of whom the Migration Department took a decision to issue temporary or permanent residence permits. A multiple-entry visa,

¹⁶ OJ L 105, 2006 4 13

which is valid for a period of up to 1 year, is issued to a third-country national whose goal is long stay (for a period exceeding 3 months) and who enters the country on a periodical basis for the purposes of work or carrying out of other lawful activities.

A *temporary residence permit* grants to a third-country national the right to reside in Lithuania (for a period exceeding 3 months) and is issued in compliance with national regulatory acts.

Table 1: Comparative analysis of Schengen and national visas and residence permits

	Schengen visa	National visa	Residence permit
Purpose	Entry and stay in the Schengen Area for up to 3 months per half a year	Entry and stay in the Republic of Lithuania for a period exceeding 3 months on certain grounds provided for in the law, when the purpose of entry is long stay	Temporary/permanent settlement on the grounds stipulated in the law of the Republic of Lithuania
Types	Single-entry visa grants the right to enter once. Double-entry visa grants the right to enter twice. Multiple-entry visa grants the right to enter on multiple occasions, on the condition that the period of 3 months per half a year is not exceeded	Single-entry visa, when an alien enters the country under a valid decision of the Migration Department permitting temporary residence in the Republic of Lithuania. Multiple-entry visa, when a person enters Lithuania on a periodical basis, for a period of up to one year, for the purpose of taking up lawful activities	Temporary residence permit Permanent residence permit
Period	Validity period up to 5 years	From 3 up to 12 months	Temporary residence permit – 1 year with possibility of extension. Permanent residence permit – 5 years with possibility of extension.

	Schengen visa	National visa	Residence permit
Institution	Ministry of Foreign Affairs, Ministry of the Interior, State Border Guard Service, Border Crossing Point (BCP), migration units of the Public Police of the Police Headquarters, Migration Department	Consular Department of the Ministry of Foreign Affairs, visa services abroad, Migration Department, migration units of the Police Headquarters (in Lithuania)	Migration Department, migration units of the Police Headquarters

2.1 National visa policy

Lithuania observes the common policy of the EU in the field of visas. Prior to accession to the Schengen Area, Lithuania's visa policy was dominated by the *geographical priority*, that is, privileges were granted to citizens of the neighbouring countries – the Russian Federation, Belarus, Ukraine, Moldova. For instance:

Until 2003, the residents of Kaliningrad Oblast of the Russian Federation were able to enter Lithuania without visas (up to 30 days), and from 2003 until 2007 the residents of Kaliningrad Oblast received visas free of charge;

Ukraine's citizens (since 2004¹⁷) and Moldova's citizens (from 2005¹⁸ until 2007¹⁹) were issued visas of the Republic of Lithuania²⁰ valid for up to one year by visa services of the Republic of Lithuania without paying any consular fees and not subject to presentation of a letter of invitation;

In 2003, the agreement with Belarus²¹ established a rather long list of persons not subject to presentation of a letter of invitation, and the citizens of Belarus and Lithuania permanently residing in the territory

17 Official Gazette, No 92 -3351, 2004

18 Official Gazette, No 85-3145, 2005

19 Official Gazette, No 119-4546, 2006; Official Gazette No 119-4547, 2006

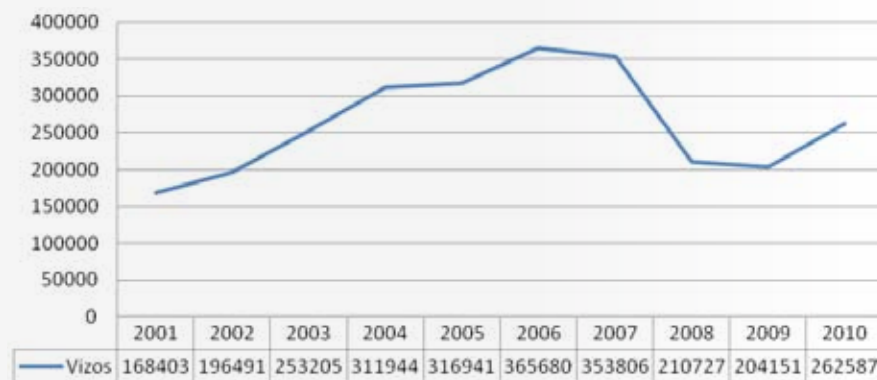
20 Visas authorizing stay in the Republic of Lithuania for a period of up to 180 days per year, but not longer than 90 days per 6 months,

21 Official Gazette, No 1-1,04-01-2003

of municipalities, directly bordering on the state border of the Republic of Lithuania and the Republic of Belarus were to be issued visas without a letter of invitation under preferential conditions on a reciprocal basis, with the visa fee reduced by 70 per cent.

On accession to the Schengen Area, Lithuania began to implement Schengen *aquis*, hence it had to denounce the previously enacted treaties providing for tax privileges and other privileges. Nevertheless, the rise of visa fee rates for Lithuania's neighbours in the majority of cases was not dramatic, because EU initiatives within the geographic dimension of the Eastern Partnership led to signature of bilateral agreements on facilitation of the procedure for issuing short-stay visas between the EU and Moldova, the Russian Federation, Ukraine. Hence, in the case of a Russia's visa the price increased only for the residents of Kaliningrad Oblast, whereas the residents of Moldova and Ukraine were issued visas at a preferential price – EUR 35, rather than the common charge of EUR 60 specified by Schengen *aquis*. Moreover, the latter agreements stipulated a broad range of persons to whom visas were to be issued for no consular fee. Nevertheless, on Lithuania's accession to the Schengen Area the total number of issued short term (C) visas decreased by 40 percent.

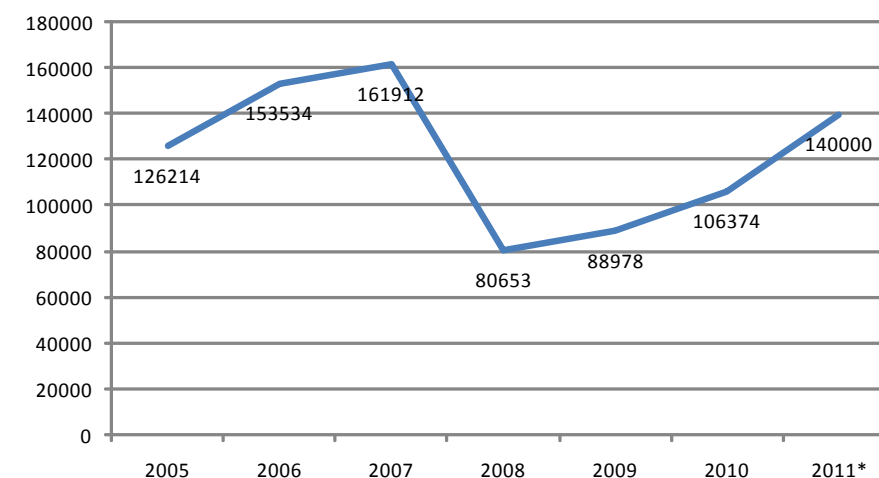
Graph 1: Total number of C visas issued by Lithuania's visa services in 2001-2010



Source: Ministry of Foreign Affairs

The rate of the visa fee grew the most for citizens of Belarus – from EUR 5 up to EUR 60, which, in addition to the economic crisis, affected to a large extent the general decrease of the number of issued visas (Graph 2). From 2007 until 2008, the number of visas issued to citizens of Belarus decreased more than twofold. However, a rather fast growth of the number of visas can be observed over the past two years.

Graph 2: Total number of visas issued by Lithuania's visa services to citizens of Belarus in 2005-2011



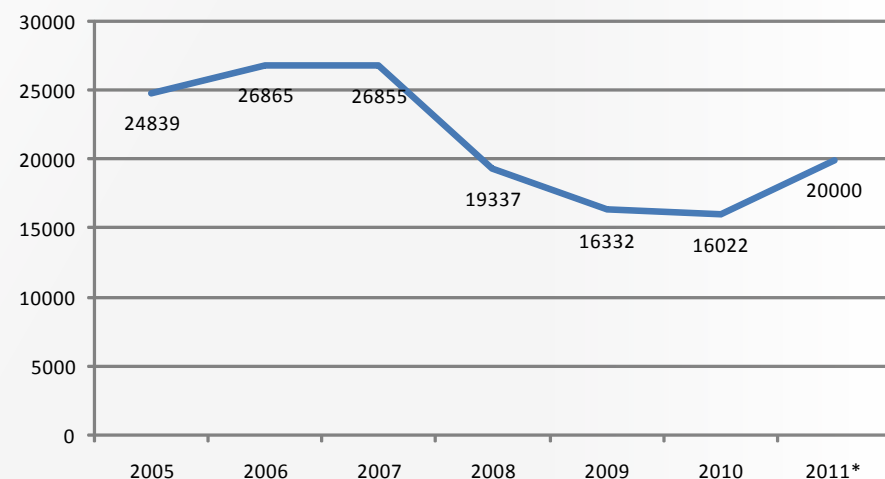
Source: Ministry of Foreign Affairs. *The graph contains the expected number of visas to be issued in 2011 (140000).

In 2010 Minsk agreed to commence preliminary negotiations with representatives of the European Commission regarding the expediency of conclusion of such an agreement.

Visa fees for Ukrainian citizens also increased after Lithuania's accession to the Schengen Area and the number of issued visas decreased by 30 percent (graph 3). Interestingly enough, the tendency of decrease in the number of issued visas could be observed also in the countries for the citizens of which the price of visas did not change on Lithuania's ac-

cession to the Schengen Area, although this decrease was less prominent than in the case of Belarus or Ukraine.

Graph 3: Total number of visas issued by Lithuania's visa services to citizens of Ukraine in 2005-2011



Source: Ministry of Foreign Affairs. * The graph contains the expected number of visas to be issued in 2011.

In respect of the number of visas issued by Lithuania's visa services to the citizens of Ukraine, account must be taken of two highly important factors. Firstly, the agreement between the European Union and Ukraine on facilitation of issuance of short-stay visas, which provides that the persons who have properly used several single-entry visas may and must be issued a short-stay visa valid for a longer period of time. Another important issue is the number of visas (both Schengen and national visas) issued by Ukraine's neighbours, namely, Poland and Hungary, which also belong to the Schengen Area, because the citizens of Ukraine in possession of the visas issued by these states may, when necessary, legally enter the Republic of Lithuania and are not under the obligation to apply to Lithuania's visa services.

To sum up, it may be claimed that since Lithuania acceded to the Schengen Area and began to apply common visa policy, the number of issued visas (in particular to the citizens of the neighbouring states) has sharply decreased. However, the agreements signed between the EU and Lithuania's neighbours have allowed to cushion the situation and apply privileges to the citizens of the neighbouring states.

In order to identify a common vision regarding the visa policy of the Republic of Lithuania, it is necessary to review the key strategic documents of the Government of the Republic of Lithuania dealing with migration issues:

■ **Economic Migration Regulation Strategy (Strategy)**, approved on 25 April 2007 by a resolution of the Government of the Republic of Lithuania.²² The Strategy pursues the aim of (1) preventing shortage of workforce in Lithuania under conditions of fast economic growth and (2) preventing the harmful effects of the migration process. In addition to other tasks, the Strategy provides for involvement of workers from third countries taking account of the flows of local and returning workforce and solely in the sectors facing shortage of workforce. The Strategy also provides for facilitation of procedures for entry of workers from third countries. Although the Strategy contains no direct mention of visa policy, it indirectly seeks to establish the measures which would allow to flexibly address the needs of the labour market.

■ **Lithuania's Immigration Policy Guidelines** (hereinafter – the "Guidelines"), approved on 3 December 2008.²³ This is currently the main document stipulating Lithuania's immigration priorities. The Guidelines establish the following key goals: to seek to ensure that Lithuania does not experience shortage of workforce and to avoid the detrimental effect of emigration on the economic development of the state, to ensure the efficient management of immigration flows

²² Official Gazette, No 49-1897, 05-05-2007

²³ Official Gazette, No 143-5706, 13-12-2008

and to prevent illegal immigration as well as to expand dialogue and practical co-operation with third countries, with a particular attention devoted to the states of the Eastern Partnership. The Guidelines also identify the main principles on the basis of which Lithuania's immigration policy would be built: (1) the principle of *compensation* for workforce shortage – workers from third countries are attracted only when the shortage cannot be compensated by local workforce, returning emigrants and EU citizens; (2) the principle of *selectivity and flexibility* – immigration policy must be capable of flexibly responding to the needs of the labour market, implement the policy of attraction of highly qualified workers and establish the geographical priority for workers from Belarus, Ukraine, Moldova and the South Caucasus; (3) the principle of *compatibility* – the entry of third-country nationals must be time-restricted bearing in mind the possible return of Lithuanian emigrants; (4) the principle of *integration* – to ensure the process of integration of the third-country nationals who have been granted the right to permanent residence in Lithuania. The Guidelines provide that in implementing a selective immigration policy, it is expedient to create a more simplified scheme of issuance of work permits and national visas or temporary residence permits in the Republic of Lithuania to the workers who are on the Lithuanian shortage occupations list and conform to the principle of geographic priority.

■ **Programme on Internationalisation of Higher Education of Lithuania 2011-2012**, approved by the order of the Minister of Education and Science of 2 February 2011.²⁴ The Programme pursues the aim of promoting the internationalisation of Lithuania's higher education and making Lithuania an international centre of scientific research and study services. In addition to other measures, the Programme provides for development of internationalisation through bilateral and multilateral co-operation, academic mobility of students

24 Official Gazette, No 16-785, 2011

and teachers, international projects of study development, etc. The Programme also provides for reduction of obstacles to entry of students and teachers (e.g., in obtaining visas, residence permits). The Programme seeks to examine the migration problems encountered by foreign students and teachers and provide proposals concerning improvement of legislation. The Programme preserves the geographic priority and aims at developing international relations with the former Soviet republics in the field of education.

An analysis of these documents allows to claim that Lithuania aims at flexibly responding to the economic situation of the country and making use of visa policy to attain the country's economic goals. All the strategic documents also emphasise the geographic priority.

The goals defined in strategic documents are implemented by a number of laws and secondary legal acts, also treaties.

The main **law** regulating the entry of aliens and their stay in the Republic of Lithuania is the *Law on the Legal Status of Aliens*²⁵, which lays down the procedure of entry and exit, stay and residence in the Republic of Lithuania, granting of asylum, the procedure of integration and the procedure for lodging appeals against the decisions on the legal status of aliens and regulate other issues of the legal status of aliens in the Republic of Lithuania. The Law on the Legal Status of Aliens passed on 29 April 2004 with later amendments is currently in force.

The main **secondary** legal acts are the Minister of the Interior of the Republic of Lithuania and Minister of Foreign Affairs of the Republic of Lithuania *Order on Approval of Description of the Procedure for Submitting Documents for the Issuance of Visas, Issuing and Revoking Visas, Consultation, Accrediting Tour Operators and Travel Agencies and Verifying Letters of Invitation for Temporary Entry of Aliens to the Republic of Lithuania*²⁶ (hereafter referred to as the "Description"); Minister of the

25 Official Gazette, No 73-2539, 2004

26 Order No 1V-280/V-109 of 2 September 2004

Interior of the Republic of Lithuania *Order on Approval of Description of the Procedure for Submitting Documents to Obtain Temporary Residence Permits in the Republic of Lithuania and Issuing to Aliens, Replacing and Revoking Temporary Residence Permits in the Republic of Lithuania, as well as Determining Whether Marriage or Registered Partnership has been Contracted or a Child has been Adopted for an Alien to Obtain a Temporary Residence Permit in the Republic of Lithuania*²⁷; the *Rules for Compiling and Managing the National List of Aliens Refused Entry to the Republic of Lithuania*²⁸ approved by a resolution of the Government of the Republic of Lithuania; the *Shortage Occupations List of the Republic of Lithuania*, approved by an order of the Minister of Social Security and Labour of the Republic of Lithuania and updated on a semi-annual basis.

Lithuania pursues the common goals of migration policy stipulated in strategic documents by implementing the common EU visa policy. Nevertheless, the key measure in implementing the goals set forth in national strategies is currently national visas, which are still within the remit of competence of each EU Member State.

2.2. Agreements with third countries

Since Lithuania's accession to the Schengen Agreement on 21 December 2007, the bilateral treaties with third countries (Russian Federation²⁹, Belarus³⁰, Ukraine³¹, Moldova³²) on travels of their nationals which were previously in force and which regulated the issuance of short-stay visas to the nationals of the respective third countries have been amended

27 Official Gazette, No 126-4509, 2005

28 Official Gazette, No 52-1747, 2005

29 Official Gazette, No 1-2, 2003. Agreement between the Republic of Lithuania and the Russian Federation on the Visa Issuance Procedure was denounced earlier, in connection with the agreement between the European Community and the Russian Federation on short-stay visas

30 Official Gazette, No 1-1, 2003

31 Official Gazette, No 92-3351, 2004

32 Official Gazette, No 85-3145, 2005

or denounced, and Lithuania has begun to directly apply the Schengen *acquis*.

In terms of national visas, there have so far been only two regulatory acts waiving the fee for examination of an application for the issuance of a national visa:

1) the Agreement on Consular Fee Tariffs³³, signed on 26 November 2009 in Kiev between the Government of the Republic of Lithuania and the Cabinet of Ministers of the Republic of Ukraine. This Agreement provides solely for waiving of the consular fee for examination of applications for the issuance of national visas, but does not provide for any facilitation of the procedure for issuance of visas;

2) the unilateral Government of the Republic of Lithuania *Resolution on Waiving of the Consular Fee for Examination of Applications for Issuance of National Visas to Citizens of the Republic of Belarus*.³⁴

The enacted agreement with Ukraine did not affect the number of issued visas. On the contrary, the opposite process may be observed – the number of applications for the issuance of national visas following the entry into force of the agreement with the Republic of Ukraine not only did not increase, but even decreased. Thus, 501 aliens applied in 2009 to the visa service of the Republic of Lithuania in Ukraine for the issuance of national visas, and in 2010 – as few as 361 aliens. The reason could be the fact that the persons applying for the issuance of visas were not exempted from the obligation to present the documents supporting long stay and the ground for such stay. The situation was also affected by a fall in demand for workforce in Lithuania during the crisis. It may be predicted that with the growth of demand for workforce, the number of issued national visas will increase too.

The aim of the mentioned agreements is certainly to promote regular migration with a view to accelerating democratisation processes, sup-

33 Official Gazette, No 67-3351, 2010

34 Official Gazette, No 115-5411, 2011

porting human interrelations and meeting the needs of Lithuania's labour market.

2.3. Recent changes to visa policy and legislation

The main grounds for amending national legislation in the field of issuance of visas were accession of the Republic of Lithuania to the Schengen Area on 21 December 2007, adoption of Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across the borders (Schengen Borders Code), Regulation (EC) No 810/2009 of the European parliament and of the Council establishing a Community Code on Visas (Visa Code), which entered into force on 5 April 2010, and Regulation No 265/2010 amending Regulation No 562/2006.

Within the Schengen Area and when issuing Schengen visas, the Schengen *acquis* is directly applicable, and national legislation applies only to the extent that it does not contravene the norms of the Schengen *acquis*. For this reason, it is necessary to amend the national regulatory acts currently in force by distributing new administrative functions among the institutions implementing national visa policy in order to ensure the proper implementation of the Schengen *acquis*.

Major changes on entry into force of the Schengen *acquis*:

- introduction of mobile guard patrols in the territory of Lithuania, with respective amendments done to the *Law on the Legal Status of Aliens* supplementing it with the provision that the lawful stay and residence of aliens in the Republic of Lithuania shall be controlled not only by the police, but also by the Migration Department and the State Border Guard Service (SBGS). The SBGS has set up divisions and subdivisions for prevention and control of irregular migration and charged them with carrying out of control of aliens and prevention of irregular migration within the areas of the country's territory assigned to them as well as accumulation and analysis of the information relating to migration processes inside the country;

- changes in the field of accumulation of statistical data according to common criteria: introduction of the requirement to specify the type of a visa, its validity, separation of the number of applications for the issuance of a visa from the number of issued visas, identification of refusals, singling out of the visas issued by representation on behalf of another Member State;
- reorganisation of the mechanism of prior consultations in issuing visas through creation of technical possibilities for holding consultations with other Member States in order to ensure representation in issuing visas as well as participation in establishing common application centres provided for in the Schengen *acquis*. Until Lithuania joined the Schengen Area, the National Entry Ban List was managed by the Migration Department. Since accession to the Schengen Area, the duty to hold consultations in specific cases not only with national competent authorities, but also with other Member States over the issuance of Schengen visas has been established, which was not done previously. Therefore, the Migration Department has become the central authority of the Republic of Lithuania for holding prior consultations at the national level and consultations with other Member States. In Lithuania, consultations and practical checks over the issuance of national visas are conducted by the SBGS;
- provision of legal preconditions for conclusion of relevant inter-governmental and interdepartmental agreements. For instance, the Ministry of Foreign Affairs has been granted powers to enter into interdepartmental agreements with competent authorities of other Member States over representation in issuing Schengen visas. The procedure for concluding an interdepartmental agreement is simpler than that for concluding an intergovernmental one and allows the states to more promptly respond to representation needs and, when necessary, amend agreements. Therefore, agreements on representation in issuing visas are usually concluded between departments of institutions, unless the law of another Member State provides for the obligation to conclude such agreements between governments.

The majority of EU legal acts are implemented by the *Law on the Legal Status of Aliens*. Lithuania aims at providing as favourable as possible entry conditions for specific groups of persons whose entry is regulated by EU directives:

- the third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Council Directive 2004/114/EC³⁵) and the third-country nationals admitted for the purposes of scientific research (Council Directive 2005/71/EC³⁶) are subject to issuance of temporary residence permits in the Republic of Lithuania. The persons admitted on the same ground for a period of up to one year or intending to commence work immediately upon entry may also be issued a national multiple-entry visa.³⁷ These persons are not charged any consular fee for the issuance of a visa.
- Citizens of the European Union and their family members who are not Union citizens are entitled to an EU residence permit, provided they enter for residence in the Republic of Lithuania for a period exceeding 3 months together with a citizen of an EU Member State. The permit is issued for the term of 5 years. Entry and stay for a period of up to three months for family members other than citizens of an EU Member State is subject to issuance of short-stay visas.

However, even after the adoption of the Visa Code, certain parts of the process of issuance of Schengen visas which are most closely related to the specific features of national law, namely, the invitation verification procedure, the consultations mechanism, and the appeal procedure, remain non-harmonised.

35 OJ L 375, 23 12 2004

36 OJ L 289, 03 11 2005

37 Grounds and procedure for issuing national multiple entry visas and residence permits are described in detail in the next section.

The procedure for verifying letters of invitation to enter the Republic of Lithuania is defined in detail by the Description.³⁸ The letter of invitation confirms the commitments assumed by a natural³⁹ or legal person:

- to ensure that an alien arriving in the Republic of Lithuania is properly accommodated (in the residential premises in which each adult person who has declared therein his place of residence, including the invited alien (aliens), is provided with at least 14 square metres of useful floor area, or in a hotel, motel or other premises offered by the provider of accommodation services) throughout the period of his stay in the Republic of Lithuania under a Schengen visa;
- when necessary, to cover the costs of the alien's voluntary return, expulsion or forced return to the country of origin or to a foreign country to which he has the right to depart.

Invitation can be submitted by natural or legal person.

The following shortcomings of the invitations module have so far been identified:

- 1) there is no possibility of verifying the reliability of inviting persons. Migration divisions must evaluate the reliability of the inviting person within three working days. It is impossible to perform this task within such a short period of time, and in the majority of cases verification of an invitation is merely a formality. Hence, no verifications are carried out as to whether the inviting person actually possesses sufficient resources or living floor space to be able to provide with accommodation the appropriate number of invited persons. This is especially prominent in the cases when one person issues letters of invitation for several aliens or their groups, sometimes on different days;
- 2) ensuring the liability of the inviting persons. The practice of ensuring recovery of the expenses suffered by the State in each case from the inviting persons is not widely applied;

38 Official Gazette, No 136-4961, 2004

39 Lithuanian citizen or an alien holding long-term residence permit.

3) lack of awareness of the commitments assumed under a letter of invitation on part of the inviting persons can be observed – this is often the case of elderly natural persons, sometimes also non-profit organisations;

Taking into consideration the abovementioned shortcomings, it would be expedient to consider the possibility of laying down a legal and technical basis for setting up of a centralised list of unreliable inviting persons, which could be used by local migration units in the process of verification of a letter of invitation. Moreover, the invitations schema could be supplemented with the function of checking the number of valid commitments assumed by a specific inviting person. For the purposes of prevention of verification of false letters of invitation, it would be expedient to ensure compensation, in each case, for the expenses suffered by the State in the event of violation of the conditions of stay by the invited alien. Finally, it is necessary to disseminate information about the importance and possible consequences of the commitments assumed under the letter of invitation.

3. Practical implementation of visa policy

3.1 Visa issuance procedures

A. Place of application and examination of applications

In respect of admission of applications for the issuance of visas (both national and Schengen visas), documents for the issuance of a visa must be submitted to a visa service according to the applicant's consular district. A visa to a citizen of the state in which the Republic of Lithuania does not have its diplomatic mission or consular post or to an alien in possession of a residence permit in that state may be issued by any Lithuanian visa service abroad.

Schengen visas. The Visa Code stipulates that an application for the issuance of a Schengen visa shall be considered by the Member State which constitutes the main destination of the visit. The aim is to restrict the possibilities of applicants to apply to any consulate of the Member State located in their country of residence.

The Visa Code also specifies the forms of co-operation between the Member States which should, in part, soften the abovementioned restriction and, without detriment to the quality of examination of visa applications, permit applicants to apply for Schengen visas at the shortest possible distance from their place of residence.

Lithuania currently has legal base for the following forms of co-operation:

- Limited representation in issuing Schengen visas. Under an international agreement, the Member States may delegate to each other a part of, or all, visa issuance functions, i.e., ranging from admission of applications to adoption of decisions on the issuance of visas. In compliance with the objective of representation of the largest possible number of third countries stipulated by the Visa Code, the Republic of Lithuania has already concluded representation agreements with 7 states (Hungary, Slovenia, Austria, Denmark, Latvia, Germany and Belgium) on representation in issuing Schengen visas in 49 third countries. Moreover, negotiations are being held with other Member States in respect of conclusion of new agreements on representation in issuing Schengen visas.

- Co-operation with external service providers. An external service provider may be assigned the performance of one or several functions, for instance, provision of general information on visa requirements, collecting data and applications (including collection of biometrical data) and transmitting the application to the consulate, collecting the visa fee, etc. Annex X of the Visa Code stipulates in detail the provisions which must be included in the agreement of a Member State with the external service provider, with a particular focus on the protection of personal data. Lithuania does not use this form of co-operation even though it has a legal framework for it, and the Ministry of Foreign Affairs is planning to resort, as from 2012, to the assistance of providers of external services in the countries characterised by large migration flows (Russia, Belarus, Kazakhstan).

- Establishment of common application centres, where staff of the consulates of two or more Member States are pooled in one building in order for applicants to lodge applications (including biometric identifiers). Applicants are directed to the Member State competent for examining and deciding on the application. Member States agree on the duration of and conditions for the termination of such coop-

eration as well as the cost-sharing among the participating Member States. Lithuania participates in the centre established by Slovenia in Podgorodica.

Thus, Lithuania is implementing or at least has created legal pre-conditions for implementing all forms of organisation of admission of applications for the issuance of visas indicated in the Visa Code, with the exception of recourse to honorary consuls. However, other Member States are also cautious in using the services of the latter due to limited possibilities of controlling the transparency of the process.

National visas. An alien may lodge an application for a national visa at any visa service of the Republic of Lithuania abroad, whereas an alien exempt from the requirement to be in possession of a visa when crossing the external borders⁴⁰ may submit documents to a visa service in the country. There are currently 71 visa services authorised to issue visas which have been approved by an order of the Minister of the Interior of the Republic of Lithuania⁴¹ and are in operation, of them 50 are located abroad.

The network of Lithuania's visa services is not extensive, and in some regions representation is particularly poor. For instance, the citizens of African countries wishing to enter the Republic of Lithuania must hold a visa. However, the only Lithuanian visa service on that continent is in Egypt (Cairo), in South America – only in Argentina (Buenos Aires), in the Far East – in China (Beijing), India (Delhi), Japan (Tokyo). This causes inconveniences for potential applicants, because the cost of the travel to Lithuania considerably increases when the persons wishing to enter the country need to visit the visa services of the Republic of Lithuania in foreign states.

40 Council Regulation No 539/2001 lists the countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from this requirement (OJ L 81, 21 3 2001).

41 Official Gazette, No 140-5130, 2004

An alien lodging his first application for the issuance of a national visa must arrive in person. He provides 10 fingerprints,⁴² with the exception of the cases corresponding to the exemptions stipulated by the Visa Code.⁴³ The Register of Aliens makes electronic records of the biometric identifiers of aliens. Notwithstanding the new forms of organisation of the procedures relating to admission of applications stipulated by the Visa Code, the specific character of national visas (completely different grounds and procedures for issuing various national visas) currently does not permit taking advantage of the form of co-operation which is most popular among the Member States when admitting applications for the issuance of Schengen visas, namely, conclusion and implementation of an agreement on representation in issuing visas. Moreover, Lithuania's experience shows that an application for the issuance of a multiple-entry national visa is often lodged together with other documents for the issuance of a temporary residence permit in the Republic of Lithuania, which even more complicates representation of one Member State by another, because in such a case it is necessary to have knowledge of the legislation of the other Member State not only directly regulating visas, but also the regulatory acts relating to establishment of undertakings, taking up employment, studies, etc., and it is also necessary to have command of the language of that state.

B. Examination of applications

When an alien applies to a visa service for the issuance of a visa, a decision is taken by an officer of the visa service. He determines whether the application for the issuance of the visa and the submitted documents

⁴² Fingerprints will be taken on commencement of application of Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 2008), with the latest amendments done by the Visa Code.

⁴³ The requirement to give fingerprints does not apply to children under the age of 12, the persons missing a finger (in this case, the maximum number of fingerprints is taken), the persons for whom fingerprinting is temporarily impossible for medical reasons (in this case, the alien must submit proof of the grounds for temporary impossibility of giving fingerprints).

are authentic and whether the declared purpose of the journey is true. If necessary, the officer may call the alien for an interview. In the event of doubt, the officer of the visa service may consult, by electronic means, the State Border Guard Service and the State Security Department. Divisions of the SBGS most often perform assessment of the inviting persons or organisations in Lithuania, as they are not in possession of practical means of checking aliens entering the country, with the exception of checking whether (s)he is on the list of aliens refused entry. Where necessary, officers of the SBGS also carry out inspections (e.g., visit an educational establishment inviting the large number of aliens and assess the risk of illegal immigration). The Ministry of Foreign Affairs does not participate in either the actual process of examination of applications or consultations. The technical side of consultations is co-ordinated by the Migration Department under the Ministry of the Interior of the Republic of Lithuania.

The means of verifying the authenticity of submitted documents are highly limited. Officers of visa services are usually able to attend trainings during which the specialists of the State Border Guard Services teach how to identify forged travel documents, but it is difficult to verify the authenticity of the documents accompanying the application. In practice, an attempt is most often made to contact the issuing authority of the document. When the authorities of the host country are unwilling to co-operate or when a document has been issued by a private entity, it is almost impossible to establish the authenticity of the document. Some third countries also make use of the assistance of liaison officers of other Member States who specialise in determining the authenticity of documents. For instance, in India Lithuania's embassy is sometimes assisted by colleagues from Austrian or German visa services. Moreover, examination of each application cannot be given much attention due to the unfavourable ratio of the amount of human resources to the number of applications lodged for the issuance of visas.

C. Entry, stay and exit

The conditions of entry and departure of aliens are specified by the *Law on the Legal Status of Aliens*. For the purpose of gaining entry to the Republic of Lithuania, an alien must be in possession of a valid travel document. The alien must present the valid travel document at a border crossing point.

The conditions of refusal of entry to the Republic of Lithuania are determined in compliance with the Schengen Borders Code. A decision on refusal of entry to the Republic of Lithuania is taken by the SBGS, except for the cases when an alien lodges an application for asylum in the Republic of Lithuania.⁴⁴ In order to permit entry to the Republic of Lithuania, the officers of the SBGS must establish whether an alien conforms to the specified conditions and whether there are grounds for refusal of entry. The entry conditions for third-country nationals are stipulated in Article 5 of the Schengen Borders Code:

- a) they are in possession of a valid travel document or documents authorising them to cross the border;
- b) they are in possession of a valid visa, if required, except where they hold a valid residence permit;
- c) they justify the purpose and conditions of the intended stay, and they have sufficient means of subsistence, both for the duration of the intended stay and for the return to their country of origin or transit to a third country into which they are certain to be admitted, or are in a position to acquire such means lawfully;
- d) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry;
- e) they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member

⁴⁴ In such a case, a decision on entry/refusal of entry to the Republic of Lithuania is adopted by the Migration Department.

States' national data bases for the purposes of refusing entry on the same grounds.

Under national law, the entry of an alien to the Republic of Lithuania is considered unlawful if the alien:

- 1) enters the Republic of Lithuania despite having been entered in the national list of aliens prohibited from entering the Republic of Lithuania or for whom an alert has been issued in the Central Schengen Information System for the purposes of refusing entry;
- 2) enters the Republic of Lithuania crossing an external border of the European Union, not through the border crossing points;
- 3) when entering the Republic of Lithuania produces another person's document or a forged travel document;
- 4) enters the Republic of Lithuania without a valid travel document and without an appropriate document entitling him to enter the Republic of Lithuania;
- 5) enters the Republic of Lithuania possessing a visa issued upon producing false data or forged documents.

An alien must depart from the Republic of Lithuania prior to the expiry of validity of a visa or a temporary residence permit. If visa-free travel regime is applied to the alien, his period of stay in the Republic of Lithuania may not exceed 3 months within each half a year, unless he is issued a document confirming his right to stay or reside in the Republic of Lithuania.

Alien is obliged to depart when his/her	An alien is expelled when s(he)
<ul style="list-style-type: none"> - visa has been annulled; - temporary residence permit or permanent residence permit has been withdrawn; - stays in the Republic of Lithuania after the expiry of his visa; - stays in the Republic of Lithuania after the expiry of the temporary residence permit; - entered the Republic of Lithuania lawfully, but stays in the Republic of Lithuania without possessing a temporary or permanent residence permit, where he is obliged to possess one; - has been staying in the Republic of Lithuania for a period exceeding the period of visa-free stay set for aliens; 	<ul style="list-style-type: none"> - has failed to comply with the obligation to depart from the Republic of Lithuania within a set time period; - has entered or stays in the Republic of Lithuania unlawfully; - stay in the Republic of Lithuania constitutes a threat to national security or public policy; - a decision has been made to expel the alien from another state to which the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies

The institutions deciding on the issuance or refusal to issue a visa and its annulment:

- Consular Department of the Ministry of Foreign Affairs of the Republic of Lithuania – on the issues of issuance or refusal to issue of short-stay and national visas, annulment of all types of visas;
- Diplomatic missions and consular posts of the Republic of Lithuania – on the issues of issuance or refusal to issue all types of visas, annulment of all types of visas;
- State Border Guard Service – on the issues of issuance or refusal to issue of short-stay and transit visas, annulment of all types of visas;
- Migration Department – on the issues of issuance or refusal to issue of short-stay and national visas, annulment of all types of visas.

An alien shall be refused a visa if:

- 1) he does not comply with the conditions of entry established in the Schengen Borders Code;
- 2) applying for a visa, the alien refused to provide the required information about the purpose and conditions of the journey, the avail-

able means of subsistence during the period of his stay in the Republic of Lithuania or made statements of substantive fact which are untrue;

3) applying for a visa, the alien presented documents with elements of forgery;

4) there are serious grounds to believe that the alien may engage in illegal activities in the Republic of Lithuania which incur liability under the laws of the Republic of Lithuania;

5) he is entered in the national list of aliens prohibited from entering the Republic of Lithuania;

6) it has been decided to oblige him to depart from or to expel him from the Schengen State;

7) he has humiliated by an action, word of mouth or in writing the visa issuing officers and civil servants regarding their activities or the State of the Republic of Lithuania;

8) where there are serious grounds to believe that he has committed a crime against humanity or a war crime or committed genocide within the meaning defined in the laws of the Republic of Lithuania, international treaties or other sources of international law;

9) he has not submitted documents evidencing health insurance coverage, when such documents are required during the journey.

A visa issued to an alien shall be annulled if:

1) applying for a visa, the alien made statements of substantive fact which are untrue;

2) upon issuing the visa, the grounds for refusing its issue to the alien transpire.

Upon the annulment of a visa, the alien must depart from the Republic of Lithuania.

Depending on the institution with which an alien lodges documents for the issuance of a visa – a diplomatic mission or consular post of the Republic of Lithuania, or in the absence of the diplomatic mission or consular post – to a diplomatic mission or consular post of the Schengen State representing the Republic of Lithuania, or in individual cases – at a

border crossing point, to the Migration Department and a visa service of a migration division or to the Ministry of Foreign Affairs of the Republic of Lithuania, that institution takes a decision on the issuance or refusal to issue the visa having regard to the outcome of consultations, if applied.

A decision on annulment of a national visa may be taken by the abovementioned authorities at their own discretion or on receipt of a recommendation. The recommendation may be submitted by:

- Police Department, local police branches and special police institutions;
- VIP Protection Department under the Ministry of the Interior of the Republic of Lithuania;
- Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania;
- State Security Department;
- Second Department of Operational Services under the Ministry of National Defence of the Republic of Lithuania;
- Customs Department under the Ministry of Finance of the Republic of Lithuania;
- Special Investigation Service of the Republic of Lithuania; courts of the Republic of Lithuania.

A decision on annulment of a national visa is taken forthwith, in any case not later than within 5 working days from submission of the recommendation for annulment and/or receipt of all required documents.

Just as with other decisions unfavourable for an alien and taken under the Law on the Legal Status of Aliens, the alien may file an appeal with the appropriate regional administrative court within 14 days from delivery of the decision.

Until Lithuania's accession to the Schengen Area, Lithuania's State Border Guard Service used an advanced electronic entry-exit system, which allowed border guard officers to monitor whether a person who had entered Lithuania departed from the Lithuanian territory in a timely manner. However, on accession to the Schengen Area the use of this sys-

tem has become impossible in a large number of cases, because a person may enter and/or exit at the border crossing points of another Member State. Moreover, he may change his status of stay from visa to residence permit.

3.2 Visa issuance procedure for the purpose of legal (long-term) immigration

In Lithuania two typical scenarios of application for long-term residence may be identified:

Scenario No 1 Admission/residence conditions are checked in the country of origin	Scenario No 2 Admission/residence conditions are checked upon arrival
A person applies for the issuance of a residence permit in his country of residence or, where in his country of residence there are no Lithuania's visa services, in any other third country having a Lithuania's visa service, and waits for a period of up to 6 months until the Migration Department takes a decision in his respect. Upon receipt of a positive decision, the person is issued a <u>single-entry national visa</u> . The visa entitles the person to enter Lithuania, where he is issued a residence permit.	A person submits an application for the issuance of a residence permit in Lithuania and also applies for the issuance of a <u>multiple-entry national visa</u> . In such a case, the person may be issued a multiple-entry national visa valid for a period of up to 6 months, i.e., for the duration of examination of the application for the issuance of the residence permit, and the person may enter Lithuania and wait for a decision on the issuance of a residence permit while staying in Lithuania. A decision to issue or refuse to issue a national visa is taken by the officer of the visa service.

One more option is available too - a person applies for the issuance of a visa and upon legally entering Lithuania decides to apply for the issuance of a residence permit in the Republic of Lithuania (change of status).

Grounds for issuance of national visas

A multiple-entry national visa may be issued to:

1) **student** arriving in the Republic of Lithuania for studies according to international student exchange programmes or the student exchange

programmes drawn up by a higher education establishment and a foreign higher education establishment registered and operating in the Republic of Lithuania;

2) **student** who has been admitted to studies at a higher education establishment registered and operating in the Republic of Lithuania;

3) alien coming to the Republic of Lithuania **for pedagogical work and/or for research** and/or experimental development at research and higher education institutions, also to a family member accompanying the alien;

4) **professional sportsman** or coach entering the Republic of Lithuania to take up sports-related activities;

5) **artist** entering the Republic of Lithuania to take up professional activities;

6) alien entering the Republic of Lithuania for work and holding a **work permit** in the Republic of Lithuania issued by the Lithuanian Labour Exchange under the Ministry of Social Security and Labour of the Republic of Lithuania, subject to submission of documents for the issuance of a temporary residence permit in the Republic of Lithuania;

7) **seafarer** arriving to a ship flying the flag of the Republic of Lithuania;

8) **seafarer**, where a ship, a member of the crew whereof the alien is, is undergoing repairs in the Republic of Lithuania;

9) **journalist** accredited with the Ministry of Foreign Affairs of the Republic of Lithuania;

10) alien who enters the Republic of Lithuania on a periodical basis to **work or to engage in any other lawful activity** and whose main place of residence is in a foreign state;

11) alien whose Schengen visa expires during the period of stay in the Republic of Lithuania and cannot be extended or whose period of visa-free **stay expires and who is not able to depart from** the Republic of Lithuania for one of the following reasons:

- an illness, another acute health disorder or physical condition;
- a personal circumstance which the alien was not able to foresee;

■ *force majeure*.

12) in other cases, when his purpose of entry to the Republic of Lithuania is a long stay in the Republic of Lithuania.

Documents

When applying for a national visa (irrespective of the ground), an alien must submit to a visa service:

- 1) Travel document.
- 2) Completed application.
- 3) Photo.

4) Document confirming possession of medical insurance. The minimum amount of medical insurance coverage for a single alien applying for the issuance of a national visa, also for the issuance of a temporary residence permit, is less than in the case of a Schengen visa – LTL 20 000.⁴⁵

In addition, an alien applying for the issuance of a national visa must submit:

5) **Document confirming possession of sufficient funds** (e.g., bank account statement) and/or earning regular income (e.g., employment contract), which is equal to or exceeds the specified amount of funds sufficient to subsist on in the Republic of Lithuania (currently LTL 800). The aliens arriving as students, school students, trainees, participants of in-service or vocational training courses must provide evidence of a half of this amount⁴⁶;

6) **Application** of the inviting establishment, undertaking or organisation of the Republic of Lithuania for the issuance of a multiple-entry national visa to the alien. Under the application, the inviting entity assumes the commitment to provide the invited alien with proper accommodation

45 EUR 1 = LTL 3.45. The draft Law on the Legal Status of Aliens provides for EUR 30 000, unless treaties of the Republic of Lithuania or legal acts of the European Union establish otherwise.

46 Minister of Social Security and Labour of the Republic of Lithuania Order No A1-22 of 29 January 2007 on the Establishment of an Amount of Subsistence Funds Which May be Considered to be Sufficient to Subsist on in the Republic of Lithuania for an Alien Requesting to Issue a Residence Permit in the Republic of Lithuania (Official Gazette, No 15-570, 2007)

throughout the period of his stay in the Republic of Lithuania under the national visa and, when necessary, to cover the costs of the alien's living, accommodation throughout the period of his stay in the Republic of Lithuania under the national visa, voluntary return, expulsion or forced return to the country of origin or to a foreign country to which he has the right to depart.

7) **Fee.** The fee rate for the issuance of a multiple-entry national visa amounts to **EUR 60**⁴⁷, but the Law on Consular Fees⁴⁸ provides for the cases when visa applicants are exempted from the payment of the fee. The following persons are exempt from the payment of the fee for examination of visa applications:

- family members of a citizen of the European Union or a citizen of a Member State of the European Free Trade Association, where such family members are nationals of third countries, as well as the family members of citizens of the Republic of Lithuania;
- children under the age of 6 years;
- school pupils, students and accompanying teachers or lecturers who undertake trips for the purpose of study or educational training, on production of the documents attesting to this effect;
- researchers travelling within the European Union and the Member States of the European Free Trade Association for the purpose of carrying out scientific research, on production of the documents attesting to this effect.

Aliens may be exempted from the payment of the fee for applications for the issuance of a multiple-entry national visa also under treaties. Such a provision is included in Lithuania's treaties with Ukraine and Belarus.

47 Or the equivalent of this amount in Litas, when an application for the issuance of a multiple-entry national visa is lodged with a visa service inside the country (the Litas/Euro exchange rate in Lithuania is fixed).

48 Official Gazette, No 51-2482, 2010

3.2.1 Specific grounds for the issuance of multiple-entry national visas

As it has already been mentioned, national visas are issued on a variety of grounds provided for by law. In terms of control of irregular migration, the visas issued on certain groups tend to be more problem-prone, because there exists the likelihood of their abuse for the purpose of entering the Schengen Area. The following sections will discuss the main purposes of entry and the rising problems.

Entry for the purpose of studies

National visas may be issued to students participating in **student exchange programmes** organised under the Lifelong Learning Programme⁴⁹ of the European Commission. Whereas the previous version of the Description provided for the issuance of national visas solely to students of the sequential, i.e., full-time, study form, the later version expanded the group by including students of the non-sequential study form,⁵⁰ and the currently valid version provides for all types of studies. An exchange programme usually covers one semester, less frequently two semesters, hence the national visas issued for this purpose are most often valid for a period of up to 6 months, unless the terms and conditions of a specific exchange programme make it clear immediately that a person is going to study for several semesters.

From the perspective of irregular migration, the students arriving under exchange programmes cause little concern, because exchanges usually take place between the universities participating in appropriate international exchange programmes, or on the basis of bilateral agreements between schools of higher education. The students selected to

49 Lifelong Learning Programme is a programme of the European Commission intended to support learning opportunities for people at different stages of their lives and covers all levels of education.

50 Non-sequential study form is a form of studies when separate subjects or their cycles are studied and are intended to improve or change a person's qualification, also to develop his professional or general education.

participate in an exchange programme already are students at a specific school of higher education, i.e., they have already been admitted to studies and study at the sending school of higher education, and are sent to improve their knowledge abroad only temporarily.

National visas may also be issued to a **student admitted to studies at a school of higher education registered and operating in the Republic of Lithuania**. The previous version of the Description stipulated that an alien wishing to apply for the issue of a national visa must first lodge an application for the issuance of a temporary residence permit in Lithuania. In the latest (2011) version of the Description, this restriction is lifted. These aliens are allowed to enter under national visas. A decision on the issuance of a national visa is taken not later than within 15 calendar days from lodging of the application.⁵¹ Not accidentally, then, national visas have become a highly attractive alternative to Schengen visas, the grounds of whose issuance are stricter, or to temporary residence permits, which require quite a long time to be issued. Moreover, upon entry into force of Regulation No 265/2010 national visas allow aliens to move freely for up to three months in any six-month period within the entire Schengen Area.

The largest shortcoming of the abovementioned reason for entry is the absence of a mechanism which would allow to determine whether an alien is able to study at a specific school of higher education according to his level of education. When lodging an application for the issuance of a multiple-entry national visa, also when submitting documents for the issuance of a temporary residence permit for the purpose of studies, the alien is not subject to submission to a visa service of the documents evidencing his education, no other mechanism has been specified to check the knowledge of the alien. Additionally, the alien is even not under the obligation to have good command of the language in which lectures will be held (for instance, Lithuanian, English or Russian). The only document to be submitted by the aliens applying for the issue of visas on this ground is

⁵¹ Due to the complicated nature of examination of the application, the time limit may be extended for up to 30 calendar days, and in exceptional cases, up to 60 calendar days, however the practice shows that the time required is less than a week.

a letter of mediation issued by a school of higher education indicating that the person has been admitted to the relevant school of higher education, with a reference to study field. All the documents relating to education and current knowledge are verified by the school of higher education according to the system presently in force. Different higher education establishments make use of various criteria.

Meanwhile, the students arriving for study on their own are most often not students of any school of higher education when applying for the issuance of a national visa in their country of residence. Such aliens are sometimes right after completion of their secondary or higher education and are looking for the possibility to begin or continue studies in higher education abroad. Their decision to study in Lithuania is usually determined by relatively lower costs of tuition and living, good quality of studies, which is especially emphasised by foreign students of medicine, technical sciences and engineering, and, finally, the opportunity of finding a job in the EU without much bureaucratic trouble after getting a diploma.

In some third countries, there operate agents offering to come to Lithuania for the purpose of studies. However, the agents, even those working under appropriate contracts with Lithuania's higher education establishments, are the persons who pursue commercial activities and are paid by their customers, hence it would be naïve to expect that they would rigorously check the knowledge and skills of the customers. The agents are most active in the region of the Far East – in India, Pakistan, Sri Lanka. It is often the case that in the announcements concerning studies in Lithuania published in the regional press, they advertise the possibility of obtaining an authorisation to legally enter and settle in the EU, rather than the studies themselves. Bearing in mind that the black-market price of a Schengen visa in those countries amounts to EUR 7 000, the possibility of legally entering an EU Member State holding a national visa, which also authorises to legally move within the Schengen Area, subject

to payment of the annual tuition fee⁵² is highly attractive. This fact creates certain loopholes for illegal entry.

The largest shortcoming is the omission of assessment of a student's knowledge – a school of higher education is unable to fully assess the depth of a student's knowledge, because the staff of the school most often does not even see the future student until his arrival. It is very rarely that representatives of schools of higher education visit a third country in order to meet the future students in person, because it is expensive and difficult to implement in large third countries (transportation problems). Initial documents are usually submitted and an interview is held by electronic means of communication whose reliability is relative, as there is no possibility of checking the authenticity of submitted documents or the identity of the person being interviewed. Meanwhile, a visa service receives no educational documents according to the legislation currently in force; it receives only a letter of mediation issued by a school of higher education indicating that the person has been admitted to the relevant studies.

These loopholes create opportunities for abuse on this ground by both unfair aliens having as the main goal gaining entry to Lithuania, and subsequently moving to other EU Member States, and unfair schools of higher education focusing on the collection of the annual tuition fee rather than on the quality of the developed study programme. Recently, the strange practice of enrolment of students who do not speak any language in which studies are organised has become popular at schools of higher education. Special study programmes have been developed for such students, with preparatory language courses organised at the beginning. For instance, on arrival to Lithuania the students who are citizens of Pakistan or India first learn the English language. The English language knowledge of the future students often makes it impossible to conduct even a basic interview with them at a visa service, hence the selection criteria applied by some schools of higher education are rather doubtful.

⁵² The annual tuition fee for foreign students' studies at Lithuanian schools of higher education ranges from EUR 2 000 to EUR 5 000.

Entry for work purposes

Entry for work purposes is one of the most widely used grounds when applying for the issuance of a national visa. The visa is issued to a person entering the Republic of Lithuania for work purposes and being in possession of a work permit in the Republic of Lithuania issued by the Lithuanian Labour Exchange under the Ministry of Social Security and Labour of the Republic of Lithuania (if necessary). The Lithuanian Labour Exchange verifies whether the alien entering Lithuania holds the required qualification (the first line check). According to the version of the Description in force until April 2011, national visas were issued only to workers in possession of a work permit issued by the Lithuanian Labour Exchange and having a profession included in the Lithuanian Shortage Occupations List. National visas allowed such workers to enter Lithuania and obtain a residence permit already when staying in Lithuania. The new version of the Description has broadened the group of workers who may be issued visas. Therefore, all workers in possession of a work permit may currently apply for the issue of a national visa. A decision on the issuance of the visa is taken by the consular official. Such legal regulation enables to offer prompt response to the needs of the labour market and issue a temporary residence permit when staying in Lithuania.

A rather flexible procedure for admitting workers is sometimes subjected to public criticism, because, in the opinion of critics, third-country workers possibly seize jobs from the Lithuanian residents holding an equivalent qualification by agreeing to work for a lower remuneration. Such complaints are most often made by the Lithuanians working in the transportation sector.

One of the most frequent challenges for visa services in examining applications for the issue of visas on this ground is the fact that officials of visa services often need to verify whether the main purpose of entry of an alien is actually work in an enterprise. Although primary verification is carried out by the Lithuanian Labour Exchange, its staff merely examines documents and does not see the alien in person. Experts note

that the workers arriving under employment contracts do not pose any major problems.

Most problems arise in verifying the aliens who arrive as heads of enterprises registered in Lithuania. As a rule, these aliens are not issued a multiple-entry national visa (D). They must lodge an application for the issuance of a residence permit and wait for the decision in their country of origin or in Lithuania, provided they are entitled to lawfully stay in the country. There are cases when an alien establishes an enterprise, appoints himself the head of the enterprise with the minimum wage rate, and lodges an application for the issuance of a residence permit and/or a visa for work purposes taking advantage of the statutory exemption permitting chief executives to not submit a work permit. Experts of migration divisions point out that most problems arise in verifying whether an enterprise headed by an alien actually carries out economic activities. Legal acts fail to stipulate clear criteria which would allow for determining whether the alien carries out activities or establishes the enterprise and becomes the head of the enterprise solely for the purpose of obtaining (extending) a residence permit. The loophole in legal regulation permits existence of non-operating enterprises whose sole purpose of establishment is obtaining of a temporary residence permit in the EU for its head. In practice, a very inventive scheme of action has become popular among such enterprises: after the lapse of a certain time period, the director already in possession of a residence permit is dismissed, and another person is recruited to the position of the director in the same enterprise and accordingly lodges an application for the issuance of a national visa.

Experts agree that it is necessary to form a working group and determine the reasonable criteria on the basis of which it would be possible to verify the enterprises established in Lithuania and headed by aliens.

Entry for other purposes

The Description also provides for the possibility of applying for the issuance a multiple-entry national visa to the persons arriving to lecture or conduct scientific research, sportsmen, artists, journalists – these are

the persons entering under clearly defined employment contracts, usually fixed-term ones, and posing no threat of irregular migration. Applications for the issuance of national visas are usually managed by legal representatives and, where the persons enter for a period exceeding one year, documents are concurrently submitted for the issuance of a temporary residence permit.

A separate category of grounds has been provided for seafarers. This is a highly specific group of persons whose working skills determine the success of shipping, and shipping companies usually take the greatest interest in the proper qualification and experience of arriving seafarers, hence the cases of misunderstanding in respect of this category of visa applicants are rare.

Residence permits in the Republic of Lithuania

A single-entry national visa is issued to third-country nationals in respect of whom a decision of the Migration Department on the issuance of a residence permit has been taken and who are subject to the requirement to be in possession of a visa to enter the Republic of Lithuania. These visas are issued 'automatically', because the required checks are carried out when issuing a residence permit. This study will not consider residence permits in detail, because they are not the object of research of the study. A brief mention will only be made of the grounds which give rise to problems.

Residence permit based on family reunification. Where an application for the issuance of a permanent residence permit is lodged for the purposes of family reunification, in the cases when a family member is an alien's spouse, a duly authorised civil servant must assess and establish whether there is a valid ground for believing that a contract marriage is a marriage of convenience. The assessment must focus on the marriages contracted within the period of 5 years prior to lodging of an application of the issuance of a permanent residence permit and raising well-founded suspicions.

The criteria which may indicate that a contracted marriage is in fact a marriage of convenience are similar to those provided for by Communication from the Commission COM (2009) 313:⁵³ on contracting marriage, the couple does not have a common domicile, marital duties are not fulfilled, the couple does not have a common household, the couple have never met before their marriage, the couple are inconsistent about their respective personal details, about the circumstances of their first meeting, or about other personal information concerning them, the couple do not speak a language understood by both, etc. If the mentioned circumstances transpire, information is verified by interviewing the spouses in writing, interviewing their neighbours, other persons who may provide information. Upon evaluating the collected information and where there is a serious ground for believing that the contracted marriage is a marriage of convenience, the issuance or replacement of a temporary or permanent residence permit will be refused, or the current temporary or permanent residence permit will be annulled.

Recently, few cases were detected of aliens attempting to obtain a residence permit in Lithuania under the cover of a marriage of convenience. The users of some Internet forums⁵⁴ even share information on the rights granted by a marriage with a Lithuanian citizen (the reference is made both to Lithuania in particular, the 'Eastern Bloc' of Europe and the EU in general).

Some cases were reported when the persons detained as illegally staying in the country lodge an application for asylum seeking to extend the period of stay in the EU for as long as possible. In the course of examination of the asylum application, they contract marriages and subsequently submit documents for the issuance of a residence permit in Lithuania.

Residence permit based on work or other lawful activity. A person who intends to work in the Republic of Lithuania and applies for the

issuance of a residence permit for work purposes usually is under the obligation to obtain a work permit, except for the specified cases when he is exempted from this duty.

The following two cases raise the most concern from the point of view of irregular migration:

- an alien registers an enterprise, establishment or organisation in the Republic of Lithuania as its owner, and his presence in the Republic of Lithuania is required to achieve the objectives of the enterprise, establishment or organisation and to carry out its activities, and is the head of the enterprise, establishment or organisation registered in the Republic of Lithuania, where his main purpose of entry is work in the enterprise, establishment or organisation;
- an alien registers an enterprise, agency or organisation in the Republic of Lithuania as the owner or co-owner, in which the nominal value of his proportion of the authorised capital held in the enterprise must comprise not less than LTL 50 000, and his stay in the Republic of Lithuania is necessary seeking to attain the aims of the enterprise, agency, or organisation and carrying out the activities.

It is not uncommon that the purpose of establishment of an enterprise is obtaining of a temporary residence permit rather than pursuit of economic and commercial activities. A special scheme for illegal immigration to the EU has even been designed according to which an enterprise is established in Lithuania with the help of Lithuanian legal mediators,⁵⁵ with the owner/head being a person wishing to enter the EU, an employment contract is concluded with the person appointing him the head of the enterprise with the minimum wage rate, and such a person immediately lodges to a Lithuania's visa service abroad an application for the issuance of a residence permit in the Republic of Lithuania without even visiting Lithuania. The amount of funds spent on establishment of

53 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0313:FIN:EN:PDF>

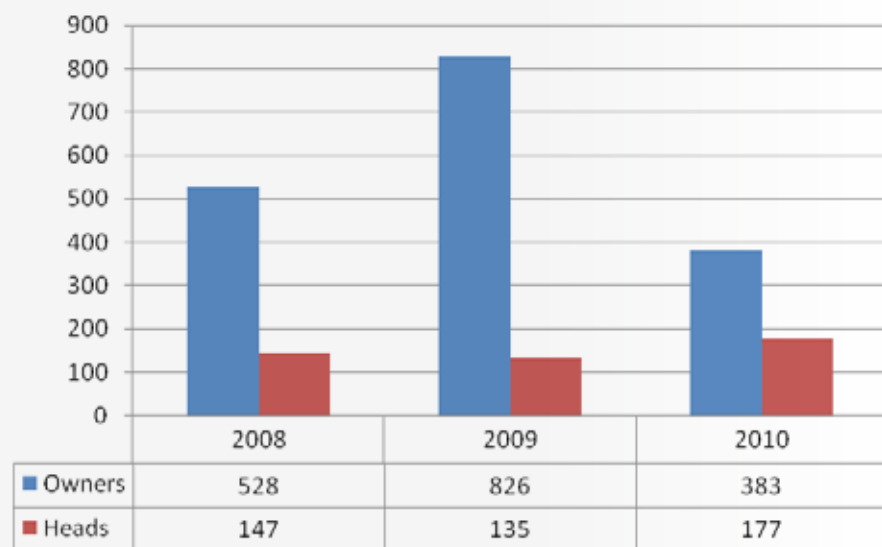
54 http://www.trust7.com/de/foren/integration/aufenthaltsurlaubnis-eu_residence_permit-eu

55 The Law of the Republic of Lithuania on Companies provides that the authorised capital of a private limited liability company may not be less than LTL 10 000 (Official Gazette, No 64-1914, 2000)

the enterprise – LTL 10 000 – to gain a legal and reliable entry to the EU is a highly attractive alternative in the countries where the black-market price of a Schengen visa amounts to EUR 5 000 – 7 000.

The provision of the Law regulating the entry of owners and co-owners has been tightened due to cases of abuse. The version of the Law currently in force stipulates that the nominal value of the proportion of the authorised capital held by an alien who is the owner or co-owner of an enterprise registered in Lithuania must comprise not less than LTL 50 000. The tightening of the provision has reduced, to a considerable extent, the number of cases of abuse of the procedure for issuing residence permits in Lithuania, hence it is not clear whether the tightening of the requirement has frightened off the entrepreneurs wishing to legally enter the country. Moreover, the authorised capital requirement does not apply to heads of enterprises,

Graph 4: Decisions to issue/replace residence permit for aliens who are (co)-owners or heads of enterprises registered in Lithuania



Source: Migration department

3.3. Challenges and success factors for preventing irregular migration

Consultations over the issuance of visas. In order to ensure the security of the Member States, the nationals of specific countries or categories of such nationals may be subject to consultation prior to issuance of visas. The requirement of prior consultation may apply prior to issuance of both Schengen and national visas. In respect of the issuance of Schengen visas, a list of third countries or categories of their nationals is compiled according to the notifications given by the Member States and is managed by the European Commission. National list is based on entries from the State Security Department and State Border Guard agency and managed by the Migration department.

In consultations over the issuance of visas, the Migration Department acts as the central authority of Lithuania. In the course of examination of applications for the issuance of visas lodged by nationals of the countries included in the lists approved by the State Security Department and the State Border Guard Service or the categories of the nationals stipulated in these lists, visa services consult by electronic means the central authority, namely, the Migration Department, in order to establish whether there are grounds for refusal of the visa and whether entry conditions are fulfilled.⁵⁶

Even though consultation over the issuance of visas is not mandatory, i.e., when a specific applicant for the issue of a visa is not on the abovementioned lists, but a visa service decides on the necessity to additionally verify the provided data, consultation may be conducted on own initiative.

On receipt of a query from a visa service, the Migration Department consults respectively the State Security Department and/or the State

⁵⁶ Article 21(1) and (3) of the Visa Code.

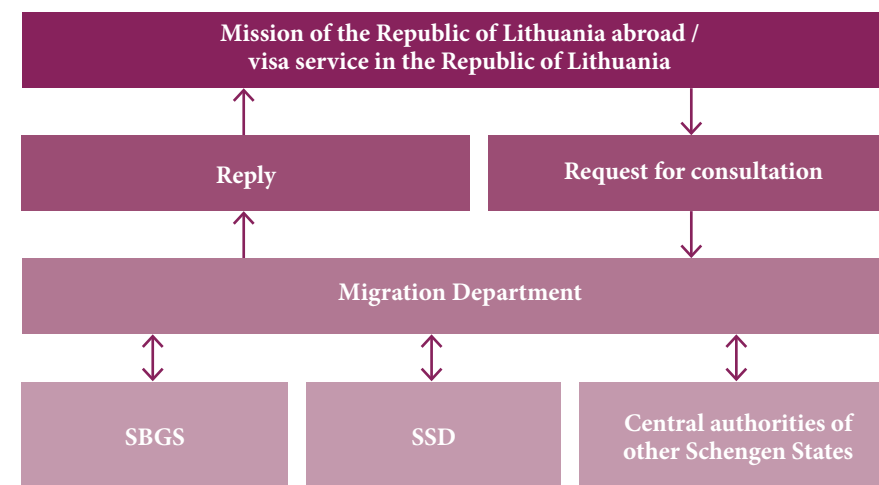
Border Guard Service and central authorities of other Member States.⁵⁷ On verifying data on the alien and assessing the available information within the remit of their competence, the authorities submit a summary assessment to the Migration Department not later than within 5 calendar days from the receipt of an electronic query for the issuance of a visa. In individual cases, visa services may request to provide a reply to the query according to the urgent procedure, that is, within 24 hours.

The Migration Department does not present any conclusion regarding the presence of the grounds for refusal of the visa and fulfilment of entry conditions, it only provides a summary of the information received from the State Border Guard Service and the State Security Department (SSD).

The Migration Department forwards the summary assessment to the visa service. If at least one of the authorities concerned, i.e., the State Security Department or the SBGS, provides a negative assessment regarding the issuance of a visa, the visa service may not issue the visa. However, even if the abovementioned authorities do not possess any information precluding the issuance of the visa, the visa service may take a decision to refuse a visa on assessing the circumstances of a specific application and interview of the visa applicant.

⁵⁷ The State Security Department verifies whether a person fulfils the entry conditions specified by the Schengen Borders Code, whether he has provided untrue information, whether there are grounds to suspect that he is engaged in illegal activities, whether he has humiliated a visa-issuing officer, whether he is charged with commission of crimes against humanity and war crimes and whether he complies with the requirements of Article 21(1) and (3)(d) of the Visa Code. The State Border Guard Service verifies whether there are grounds referred to in subparagraphs 1, 2 and 4 of the Law on the Legal Status of Aliens and whether the entry conditions indicated in Article 21(1) and (3) of the Visa Code are fulfilled. In the case of Schengen visas, the central authorities of other Member States are consulted.

Scheme of consultation by visa services of the Republic of Lithuania over the issue of visas



Source: Migration Department

Appeal. A decision refusing the issue of a visa, irrespective of its type, or annulling or revoking it may be appealed against to the Vilnius Regional Administrative Court of the Republic of Lithuania within 14 days from the delivery of the decision.

Measures / stages of control of irregular migration

The initial stage of control of irregular migration is **assessment of the documents submitted for the issuance of a visa or a temporary residence permit**. When assessing the documents submitted together with an application for the issuance of a visa, the authorities most often limit themselves to verifying, if possible, their authenticity and reliability, also their conformity to the specific requirements set forth by regulatory acts to the documents accompanying the application for the issuance of the visa. For instance, if possible it is verified whether a bank's statement concerning the accounts held has actually been issued by the bank in question, whether the accounts contain an amount of funds sufficient to cover the alien's expenses throughout his stay in Lithuania.

A less frequent measure is control of aliens **prior to airport check-in**. Lithuania does not have its own migration liaison officers in third countries, but it has developed sound co-operation with the liaison officers of other Member States – in the Russian Federation, the Republic of Belarus and the Republic of Georgia all the three Baltic States are represented by liaison officers of the Republic of Latvia, good contacts have been established with liaison officers working at embassies of other Member States (e.g., with an Austrian liaison officer in Delhi), and with Finnish and German liaison officers at international airports of third countries (e.g., a Finnish migration liaison officer at Delhi Airport or a German officer – at Cairo Airport). Such liaison officers are usually delegated to the third countries whose nationals frequently lodge applications for visas containing elements of fraud, untrue information, also the countries whose nationals are often detained in the EU countries upon expiry of the validity of their visas. At consulates, such officers are usually responsible for expert examination of submitted documents. The liaison officers working at airports usually focus on a second line check, namely, organise an additional interview at an airport and verify whether the submitted travel documents and visas are authentic, whether a person is following the same route as indicated when applying for the visa, etc. Therefore, if a person who has obtained a visa from a Lithuanian visa service uses the air carrier of another Member State, it may be subject to further checks by the liaison officer of that Member State. Experts of the SBGS agree that the work of these officers is of utmost importance in respect of determining new illegal immigration schemes and must be maintained.

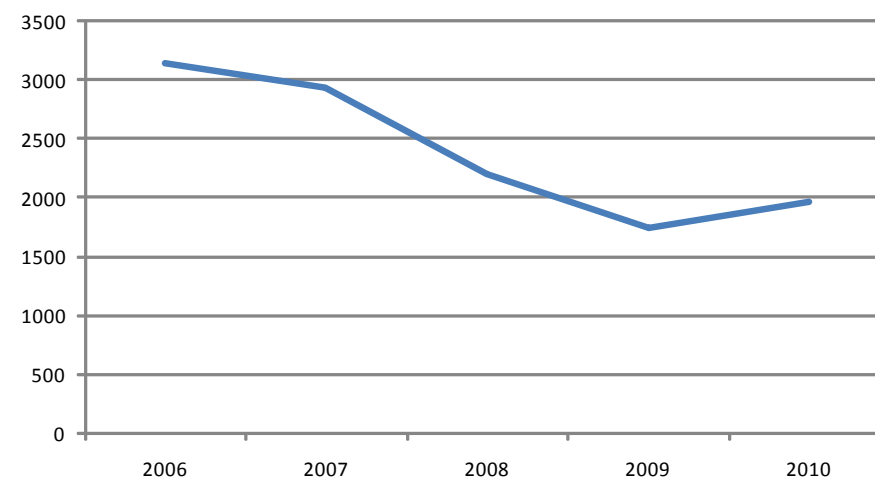
The third measure is **control of aliens at the external borders**. In Lithuania, this function is performed by the SBGS at the external borders with the Republic of Belarus and the Russian Federation, also at international airports. Control measures are sometimes performed at random also at internal EU borders (e.g., at the Lithuanian-Polish and the Lithuanian-Latvian borders).

The stay and residence of aliens in the Republic of Lithuania are also controlled by the police, the Migration Department, the SBGS in

co-operation with state and municipal institutions and agencies of the Republic of Lithuania.

The number of aliens refused entry is small and has not increased over the past years. The most frequently occurring reason for refusal of entry is a person's failure to present a valid visa or a residence permit or a failure to submit documents supporting the purpose of his stay.

Graph 5: Number of aliens refused entry to the Republic of Lithuania



Source: Migration Yearbook 2010

To sum up, the largest problem may be claimed to be the lack of criteria on the basis of which it would be possible to evaluate the activities of enterprises established by aliens. Lithuania organises joint trainings of visa issuing officers and officers of the SBGS, but there are not enough specialised trainings. Lithuania does not have at its disposal any detailed guidelines for specific third-country regions taking account of flows of illegal immigrants from the regions. Experts note that such instructions and trainings in regions with the large number of illegal immigrants could be organized by the European Commission and involve all officers of EU visa services residing in the country concerned.

However, the latest developments allow for a prompt response to the cases of illegal immigration. For instance, the visa model of the Consular Procedures Management System is programmed so that there is a possibility of verifying, upon registering and entering the data of a specific visa applicant, whether (s)he applied for the visa previously, also whether an application for the issuance of the visa to this person is already being processed by another visa service. Moreover, the system permits scanning the documents submitted together with the application, hence, if a person lodges a repeated application it is possible to verify whether the newly submitted information is relevant, whether the application contains any contradictory information, etc.

4. Co-operation with third countries: case studies

4.1. Facilitation of legal immigration: Russian Federation

The Russian Federation is one of the states whose citizens are issued the largest number of visas by Lithuanian visa services. In the Russian Federation, the Republic of Lithuania has the largest number of its visa services as compared with other third countries – the embassy in Moscow, consulates general in St Petersburg and Kaliningrad Oblast and a consulate in Sovetsk. The citizens



of the Russian Federation are the first among asylum seekers.

The citizens of Lithuania are connected with the citizens of the Russian Federation by close historical, economic and family links. The geographical position of Lithuania in respect of the Russian Federation is unique: on the one hand, Lithuania has the external border with the enclave of the Russian Federation, that is, Kaliningrad Oblast, on the other hand – with the Republic of Belarus, which forms the 'Eastern Schengen' with the Russian Federation, with no border checks carried out at the border

between these states and the Russian citizens being able to freely enter the territory of Belarus or pass in transit.

The enclave of Kaliningrad does not have a border with the rest of Russia. This geopolitical feature has led to application of a separate legal regulation of travels to and from Kaliningrad Oblast – both until Lithuania's accession to the European Union and following the accession. As railway remains the main means of communication between Kaliningrad Oblast and the rest of Russia, and the railway line crossing the territory of Lithuania is the shortest and the most convenient route due to the same type of gauge, the movement of Russian citizens across the Republic of Lithuania is considerable.

Historical background

On proclaiming its independence on 11 March 1990, Lithuania gradually took over the control of its borders. On 24 February 1995, the Government of the Republic of Lithuania and the Government of the Russian Federation signed in Moscow the Agreement concerning the Crossing Posts of the State Border between the Republic of Lithuania and the Russian Federation.⁵⁸ The Treaty between the Republic of Lithuania and the Russian Federation concerning the State Border between Lithuania and Russia⁵⁹ was signed on 24 October 1997. These treaties created preconditions for clearly outlining the boundaries of Lithuania and commencing checks at border crossing points.

On 30 December 2002, the Agreement on Travels of Nationals of Both States⁶⁰ was concluded in Moscow between the Government of the Republic of Lithuania and the Government of the Russian Federation. This agreement:

- provided for the issuance of visas of the Republic of Lithuania by visa services of the Republic of Lithuania without a letter of invitation

58 Official Gazette, No 22-510, 1995

59 Official Gazette, No 100-2891, 1999

60 Official Gazette, No 1-2, 2003

and for no fee to the citizens of the Russian Federation permanently residing in Kaliningrad Oblast of the Russian Federation. The same terms and conditions applied to multiple-entry visas valid for a period of up to a year entitling to stay in the Republic of Lithuania for a period of up to 180 days per year, but not exceeding 90 days per half a year. On a parity basis, Lithuanian residents were also able to travel to Kaliningrad Oblast without visas;

- expanded the scope of persons exempted from payment of the consular fee (e.g., children under the age of 16 years, irrespective of the purpose of travel, and persons over the age of 60 years were not subject to payment of the consular fee);
- stipulated a number of cases of exemption from the requirement to present a letter of invitation to obtain a visa.

These agreements embedded a very liberal travel regime for Russian citizens.

Kaliningrad transit question

On Lithuania's accession to the EU and in the course of preparation for accession to the Schengen Area, the issue of Kaliningrad transit arose. A decision had to be taken at the EU level on how to ensure the application of Schengen *acquis* and resolve the issue of transit of Russian citizens across the territory of the Republic of Lithuania and Schengen. The *Joint statement on transit between the Kaliningrad region and the rest of the Russian Federation* of 11 November 2002 by the European Union and the Russian Federation and the *Agreement on Travels of Nationals of Both States*⁶¹ of 30 December 2002 between the Government of the Republic of Lithuania and the Government of the Russian Federation pursued the aim of resolving the Kaliningrad transit issue. On implementing the agreements, a special regime for passing in transit between Kaliningrad Oblast and the remaining territory of Russia has entered into force since

61 Official Gazette, No 1-2, 04-01-2003

1 July 2003. This regime has introduced two types of documents required to cross the territory of the Member States, namely, a Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD), and enabling the third country nationals who travel between two parts of their own country which are not geographically contiguous to travel and facilitating their journey.

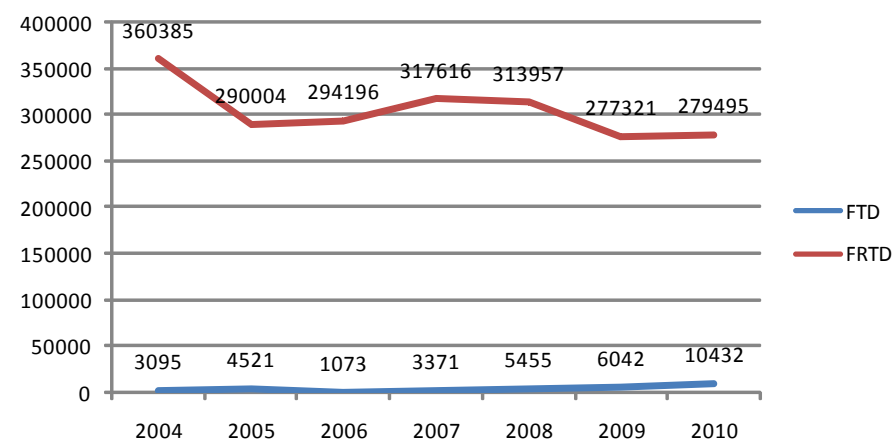
The FTD is issued for multiple entries crossing the territory of Lithuania in transit by whatever means of land transport. It is issued by Lithuania's visa services abroad and is valid for a maximum period of up to three years. A transit based on the FTD may not exceed 24 hours.

In the case of the FRTD, a special issuing procedure has been developed having the aim of minimising administrative formalities for rail passengers. When purchasing a ticket at a ticket office, a person presents his document, the staff of the ticket office transmits the traveller's data electronically to a Lithuanian visa service abroad, which performs administrative procedures – data are entered, national and Schengen refused entry lists are checked, and the FRTD is printed out.

Table No 4: Comparative table of facilitated travel documents

	FTD	FRTD
To whom?	Russian citizens for crossing the territory of the Republic of Lithuania in transit from/ to Kaliningrad Oblast	Russian citizens for crossing the territory of the Republic of Lithuania in transit from/ to Kaliningrad Oblast
Maximum duration of transit	24 hours	6 hours
Who issues and the time required for the document to be issued	Lithuania's consulates in Russia within 7 working days	When purchasing a railway ticket within 24 hours (issued at a ticket office)
Period of validity	3 years	3 months (for a single entry and return)
Price	5 EUR	Free of charge

Graph 6: Total number of issued FTD and FRTD during 2004-2010



Source: Ministry of Foreign Affairs

It should be noted that the regulation stipulating the use of FTD and FRTD does not apply to nationals of other third countries passing in transit from the main part of the Russian Federation to Kaliningrad Oblast and back. Such persons must apply for the issuance of a Schengen visa.

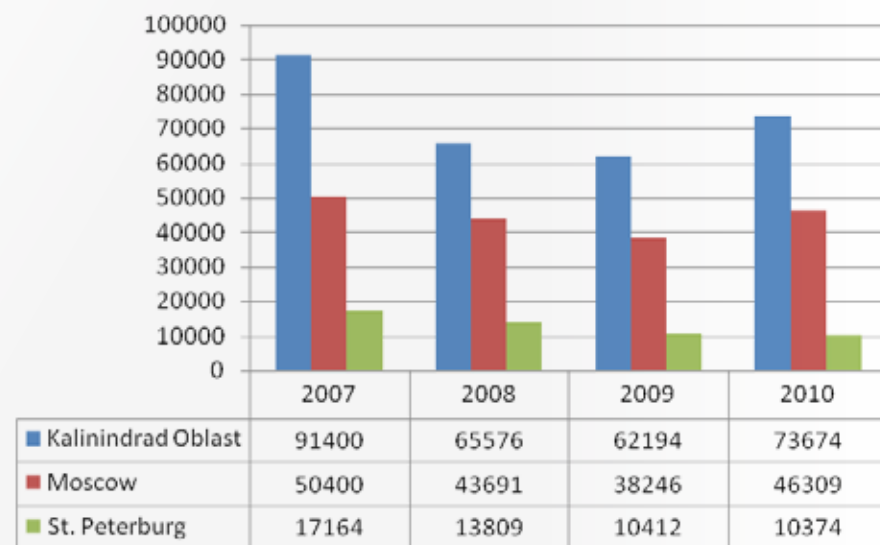
Statistical analysis

On 1 June 2007, the Agreement between the European Community and the Russian Federation on the facilitation of issuance of short-stay visas⁶² entered into force. It did not largely affect the price of visas for the Russian citizens living in the main part of the Russian Federation, but the price of a visa for residents of Kaliningrad wishing to enter Lithuania jumped up to EUR 35 as compared to zero price, which led to a significant

62 OJ L 129, 17.5.2007

fall in the number of issued short-stay visas by Lithuanian visa services in Kaliningrad Oblast (Graph 7⁶³).

Graph 7: Number of visas issued by Lithuania's visa services in Russia during 2007-2010



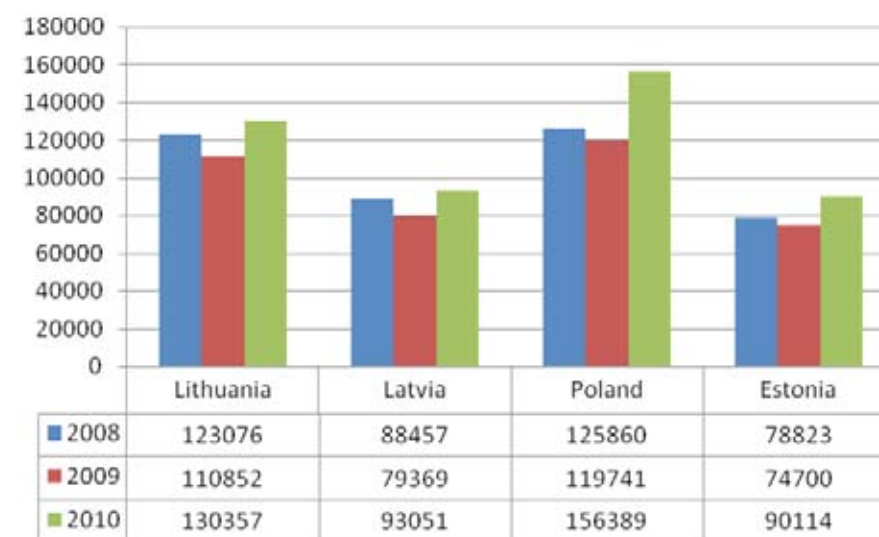
Source: Ministry of Foreign Affairs

The fall in the number of visas at other Lithuania's visa services in the Russian Federation could have been determined by the fact that since 21 December 2007, the Russian citizens who were in possession of Schengen visas issued by other Member States could have entered Lithuania. Such a situation is highly probable, especially in St Petersburg, where the

63 Taking account of the fact that there have been slight changes in annual statistical data, the graph is based on the total number of issued short-stay A, B and C visas, which since 2007 has always been present in visa statistics. The graph does not include the number of national visas. However, having regard to the fact that the number of national visas issued in the Russian Federation is very small as compared against the number of issued short-stay visas (for comparison, in 2007 as few as 543 out of 159 507 issued visas were national visas, in 2008 – as few as 395 out of 123 493) their omission from the graph does not affect the general change in the number of visas.

absolute leader in respect of issuance of Schengen visas is the consulate of Finland. In 2007, it issued 426 276 Schengen visas, in 2008 – 519 174, and in 2009 – 542 513. The decrease of the number of issued visas in 2009 was also affected by the global economic crisis. In fact, the fall in the number of visas issued in 2009 was observed not only at Lithuania's visa services (Graph 8).

Graph 8: Number of visas issued at visa services of Lithuania, Latvia, Estonia and Poland in Russia in 2008 and 2010



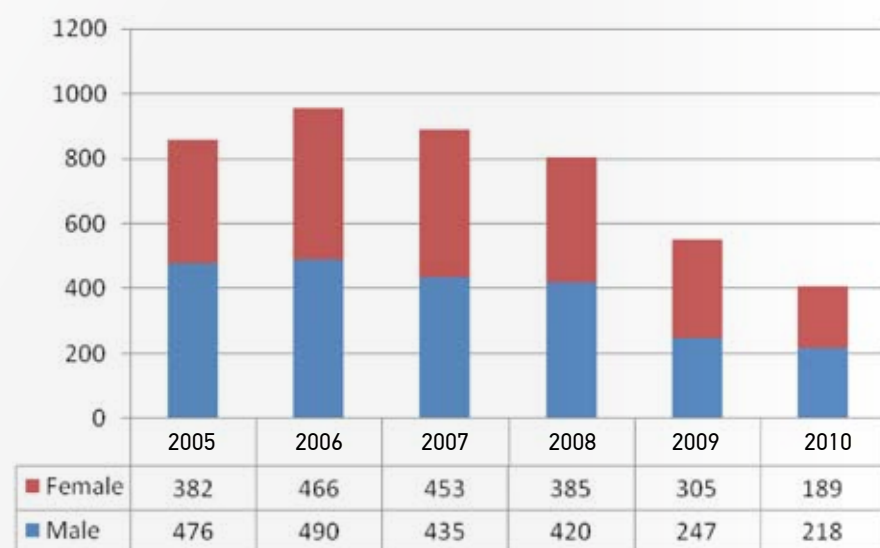
Source: Ministry of Foreign Affairs

A considerable increase of the number of visas issued to citizens of the Russian Federation could hardly be expected in the future, even in the event of recovery of the economy to the pre-crisis level. Account must be taken of the fact that the Agreement between the European Union and the Russian Federation provides for a very broad scope of persons who may be issued long-stay Schengen visas (with the period of validity of up to 5 years) even when applying for the issuance of Schengen visas for the first time. Moreover, the Agreement provides that the persons who have

made appropriate use of a multiple-entry visa valid for a year may also be issued Schengen visa valid for a period from 2 to 5 years.

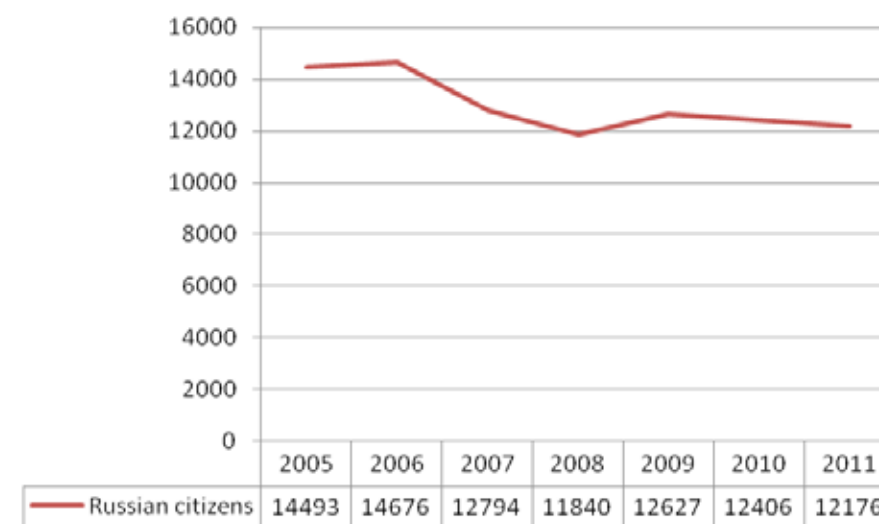
Even though the biggest number of visas is issued to Russian citizens Immigration flows of Russian nationals are small.

Graph 9: Immigration of Russian citizens to Lithuania by gender, 2005-2010



Source: Statistics Lithuania

Graph 10: Number of Russian citizens in Lithuania (beginning of a year)



Source: Migration department

Majority of Russian citizens arrive for family reunification. The number of rejected resident permits is rather low.

Table 5: Residence permits according to reasons and revoked residence permits

	2005	2006	2007	2008	2009	2010
Family reunification	949	1180	1514	1734	1733	1736
Work	122	91	111	229	164	80
Engagement in lawful activities	87	122	152	205	277	369
Study	63	44	62	80	81	80
Family members of an alien	178	172	56	4	0	0
Other	360	365	388	370	252	114
TOTAL	1759	1974	2283	2622	2507	2379
Revoked permits	12	21	14	36	59	12

	2005	2006	2007	2008	2009	2010
% from total	0.7	1.1	0.6	1.4	2.4	0.5

Source: Migration department

Analysis of change in residence status does not demonstrate any clear trends.

Table 6: Change of residence status (according to Eurostat methodology)

Ground that is changed	New ground	2010	2009	2008	2007	2006	2005
Family reunification	Total	15	14	24	8	8	2
	Study	4	1	4	1		
	Work	7	9	9	6	2	1
	Other	4	4	11	1	6	1
Study	Total	5	7	8	8	2	1
	Family	2	6	3	2		1
	Work	1	1	1	3		
	Other	2		4	3	2	
Work	Total	16	15	13	11	7	2
	Family	15	13	13	8	6	2
	Study	1	2		2		
	Other				1	1	
Other	Total	5	12	4	20	3	7
	Family	4	11	4	19	2	6
	Study		1		1		1
	Work	1				1	
Total		41	48	49	47	20	12

Source: Migration department

Other measures

As it has already been mentioned above, until Lithuania's accession to the Schengen Area, Lithuania's State Border Guard Service used an electronic entry-exit system. This system was particularly useful for the purpose of monitoring the use of FTD. However, accession to the Schengen Area has made the use of the system more complicated, because an alien may cross the Schengen external border both at a Lithuanian border crossing point, and a border crossing point of another Member State. Therefore, although it is still possible to monitor the use of FTD and FRTD, as these documents authorise persons to pass in transit only across the territory of Lithuania, it is no longer possible to control the movement of the persons holding Schengen visas issued for the purpose of transit. For instance, a tendency of considerable interest was observed in 2009 – Armenian nationals most often entered Kaliningrad Oblast by air, and subsequently applied for the issuance of a transit visa, mostly on the grounds of purchasing a vehicle and returning home by land. In 2008, as few as 8 Armenia's citizens applied to Lithuania's visa service in Kaliningrad for the issuance of a transit Schengen visa, whereas in 2009 – as many as 55, meanwhile such an application was lodged with Lithuania's visa service in Yerevan in 2009 only on a single occasion. The suspicions of officers monitoring irregular migration were raised by the fact that, firstly, the buyers would arrive with a large escort, often accompanied by several minor children. Secondly, they persistently expressed unwillingness to apply for the issuance of a transit visa to Lithuania's visa service in Armenia, which was the state of the place of their permanent residence. Thirdly, it must be kept in mind that until the entry into force, in 2010, of the Visa Code annulling the type (B) of a transit Schengen visa, it was considerably easier to obtain a transit Schengen visa than an ordinary short-stay Schengen visa. For this reason, more stringent checks were initiated in respect of all third-country nationals applying for transit Schengen visas and arriving by air. On entry into force of the Visa Code in 2010, this problem was partially solved, because the requirements for

the Schengen visas issued for the purpose of transit and on other grounds were harmonised.

With a view to optimising the technical part of processing of applications for the issuance of visas thus providing for the possibility of servicing a larger number of applicants and devoting more attention to examination of applications for the issuance of visas, Lithuania's mission in Moscow was the first to introduce, in 2008, a programme enabling applicants to fill out an application for the issuance of a visa online. When printing this form, the system would generate a special code which could be read by means of a special equipment of the visa service, and data would be automatically transferred to the consular procedures management system. In this manner, the technical staff of the visa service did not have to manually enter most of the information. The use of this system was first offered to tourism agencies accredited with the visa service, and special trainings were even organised for the staff of the agencies. Individual applicants were encouraged to use the electronic application form, and the applications filled out by electronic means were admitted out of turn. The system proved to be effective, and respective modules were introduced also at other Lithuanian visa services issuing a large number of visas – in the Russian Federation, Belarus, Ukraine, Georgia.

Signature of an agreement between the Russian Federation and the Republic of Lithuania on local border traffic, based on Regulation (EC) No 1931/2006 of the European Parliament and of the Council, is also likely to take place in the future. However, signature of this agreement between Lithuania and Russia could take a while, because Poland has recently proposed to adopt amendments to Regulation No 1931/2006 taking account of the specific geographic position of Kaliningrad Oblast, its historical links and importance for the region and shifting the permitted border area of 50 km so that it would cover the entire territory of Kaliningrad Oblast and allow all residents of Kaliningrad to enter the border territories of the neighbouring EU Member States. Currently the Agreement between the European Community and the Russian Federation on the facilitation of issuance of short-stay visas is progressing step by step as well as the

Visa Liberalisation Dialogue initiated in 2007. The local border traffic agreement is likely to be outrivaled by the agreements which will affect the entire Russian Federation.

4.2. Prevention of irregular migration: Republic of India

In the present study, India has been selected first and foremost for the reason that India is the country where one of the few Lithuania's visa services in the Asian region which is facing a high risk of irregular migration is located. Previously, the countries with the highest risk of irregular migration in which Lithuania had its visa services were China, Egypt, Georgia, Turkey. Nevertheless, the statistical data of 2009 show that among the mentioned countries, the highest percentage of refusals to issue visas was in Georgia (as much as 19.16 per cent), whereas in India the indicator was 42.44 per cent. Moreover, Lithuania was the absolute leader among other Member States in respect of the proportion of refusals, following Cyprus with the highest percentage of refusals (over 44 per cent) (data of 2009). However, Cyprus has not acceded to the Schengen Area yet and does not issue Schengen visas.

Historical overview

Lithuania has concluded four agreements with the Republic of India, though all of them are related to co-operation in the fields of economy, transportation, culture and education. Lithuania and India have not concluded any specific agreements on visas. Although diplomatic relations between Lithuania and India were established on 27 April 1992, the embassy in Delhi as well as Lithuania's visa service in Delhi are among the youngest.⁶⁴ The visa service was opened on 2 July 2008 and commenced the issuance of visas as late as in April 2009, but already in the first year

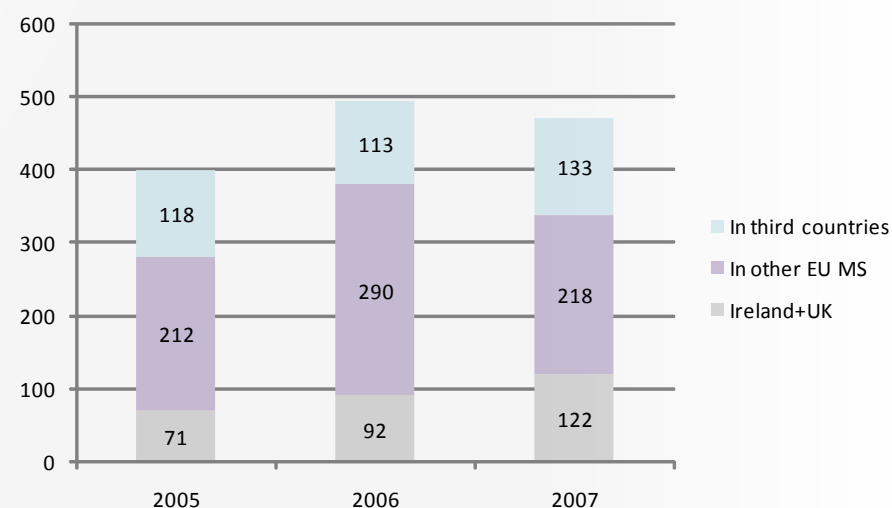
64 After the opening of a visa service in India, only one Lithuania's visa service in a third country was opened, namely, a visa service in Yerevan (Armenia).

of its operation it became the visa service with the largest percentage of refusals to issue a visa.⁶⁵

Statistical analysis

Until Lithuania's accession to the Schengen Area, Lithuania's visa services annually issued approximately 500 visas to citizens of India, but the absolute majority of the visas were issued in the EU Member States (Graph 11).

Graph 11: Total number of visas issued to citizens of India by visa services of the Republic of Lithuania in 2005-2007



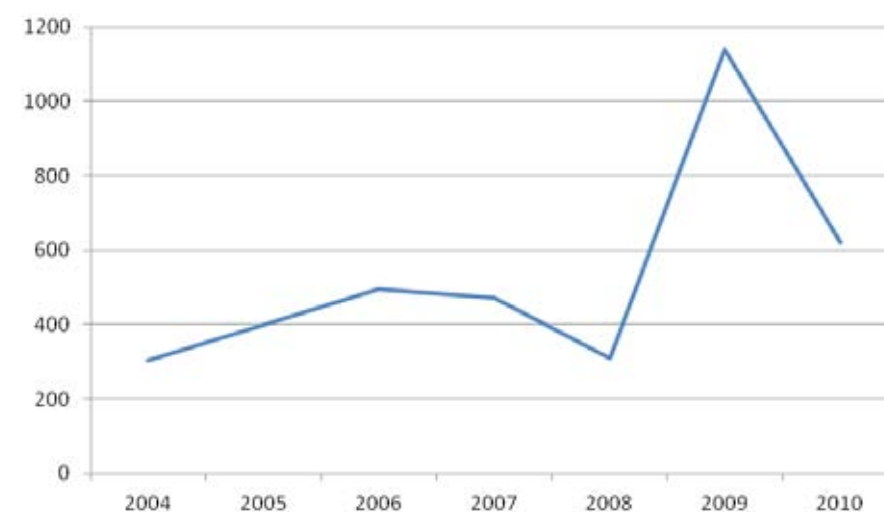
Source: Ministry of Foreign Affairs

In 2008, Lithuania was already a part of the Schengen Area, but Lithuania's embassy in India did not commence the issuance of visas yet. Therefore, the number of visas issued to citizens of India decreased, as the

⁶⁵ No mention has been made of the visa service in Argentina, where the percentage of refusals is very high, but the small number of issued visas does not permit making any generalisations. Moreover, the citizens of the latter state are subject to a visa-free travel regime for short stays, and the majority of refused visa applications have been lodged by citizens of Dominica and Columbia.

citizens of India legally staying in Schengen States were no longer under the obligation to apply to Lithuania's visa services, because they were able to enter Lithuania being in possession of a visa issued by another Schengen State. Meanwhile, on commencing in 2009 the issuance of visas at Lithuania's visa service in Delhi, the number of visas issued to citizens of India sharply increased (Graph 12⁶⁶).

Graph 12: Total number of visas issued to citizens of India by the visa service of the Republic of Lithuania



Source: Ministry of Foreign Affairs

After the issuance of visas commenced in 2009, it started to transpire that the methods of irregular migration activity in India were of a considerably broader profile and scope than encountered by other Lithuanian visa services abroad. The Finnish migration liaison officers working at the Delhi Airport noticed that citizens of India, Pakistan and Bangladesh holding the visas issued by Lithuania's visa service and arriving by air from Delhi to Helsinki often failed to turn up for the flight to Vilnius. It was

⁶⁶ The graph presents a comparison of the total number of visas (both national and short-stay) issued to India's citizens, because data by the type of visa are available only since 2008.

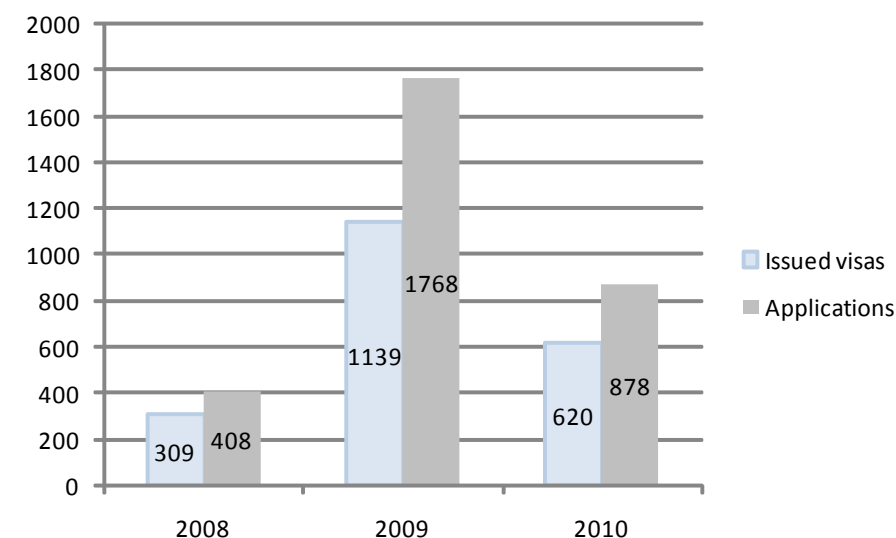
recommended to devote particular attention to Bollywood movie maker groups coming to Lithuania for the purpose of movie making. It turned out that a popular *modus operandi* of irregular migration which was well-known to the Member States already issuing Schengen visas was formation of groups of movie makers consisting of a couple of actors, with the rest being the service staff, who usually would never return to India.

Among the cases most worthy of note, a mention could be made of members of a group of movie makers detained in the territory of Belgium and, under the Dublin Convention stipulating the state responsible for examination of the application for asylum lodged in one of the Member States, transferred to Lithuania as the country which had issued visas to the persons. Those were the persons in possession of Indian passports bearing Schengen visas issued by Lithuania's visa office.

Good working contacts have been developed with the liaison officers of the Austrian and German embassies, who have extensive experience and equipment in order to verify the authenticity of submitted documents. Counterfeit documents supporting an application, for instance, bank statements, employer's certificates, diplomas, are submitted more often than identity documents.

Taking advantage of the experience of counterparts has enabled to bring the situation under control and silence the Internet rumours that at Lithuania's visa services, Schengen visas can be obtained very easily. This is shown by the decreased number of applicants and refusals to issue visas in 2010 (Graph 13).

Graph 13: Total number of applications for the issuance of visas lodged by citizens of India and the number of issued visas



Source: Ministry of Foreign Affairs

Following the entry into force of amendments in the field of territorial validity of national visas in 2010, a tendency concerning the issuance of national visas is becoming increasingly prominent. This is witnessed not only by figures (Graph 14 shows not only the absolute increase in the number of applications for the issuance of national visas, but also a significant relative increase compared with the total number of applications for the issuance of visas to citizens of India), but also by the increasing activity of agents:⁶⁷

Amandeep Singh Bhangu

FRI, 6 MAY 2011 03:42 EDT

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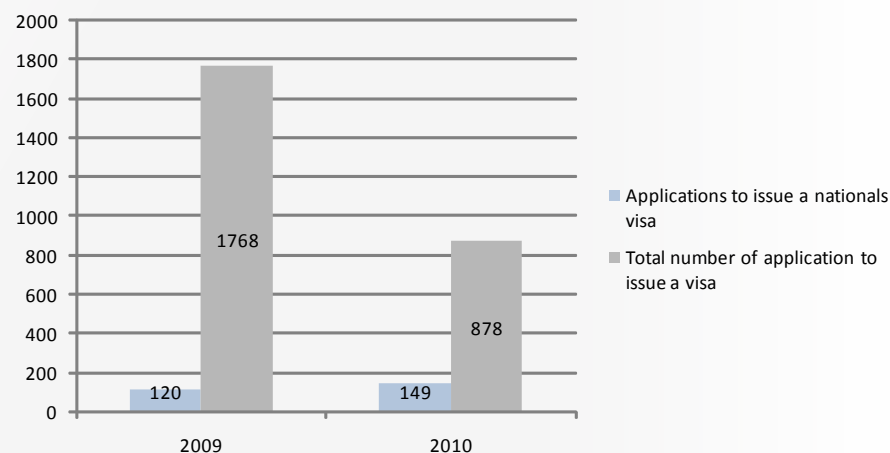
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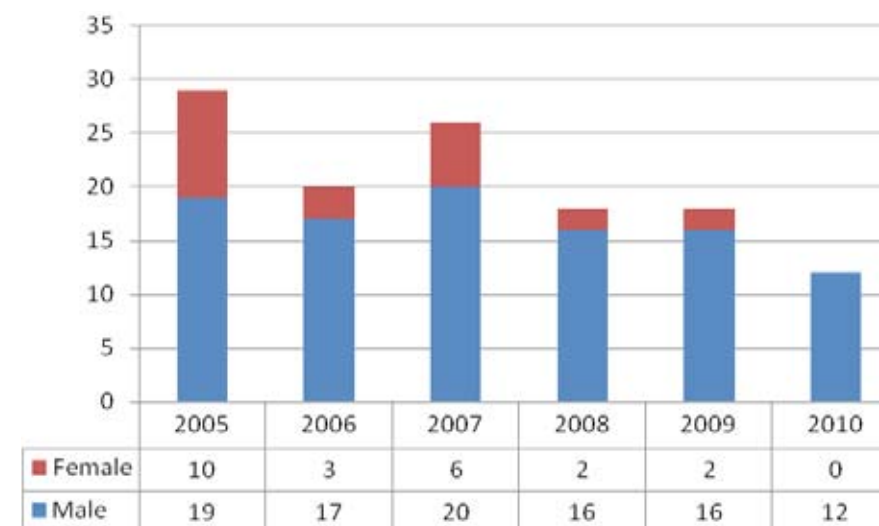
Graph 14: Number of applications for the issuance of national visas lodged by citizens of India and total number of applications for the issuance of visas in 2009-2010



Source: Ministry of Foreign Affairs

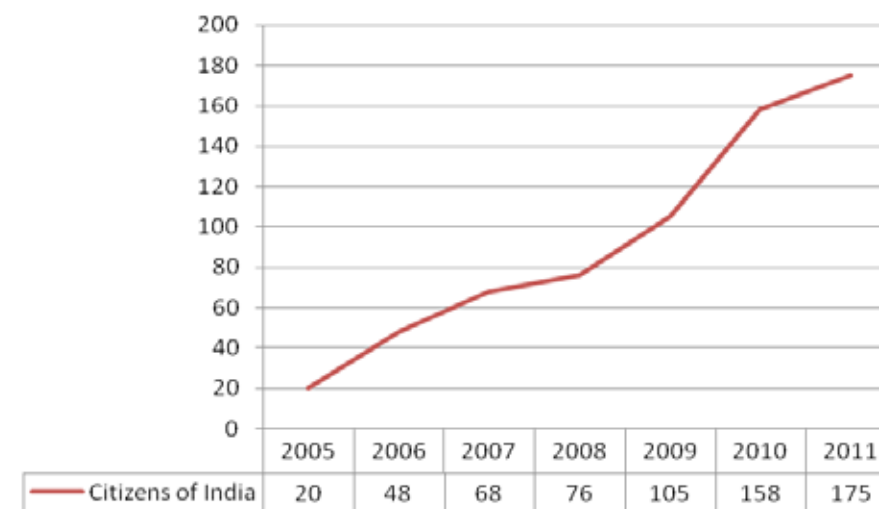
The number of immigration citizens of India is low (flow) but the stock of Indian nationals in Lithuania is rising.

Graph 15: Immigration of Indian citizens to Lithuania by gender, 2005-2010



Source: Statistics Lithuania

Graph 16: Number of citizens of India in the beginning of year



Source: Migration department

Citizens of India usually arrive for work or engagement in lawful activities. The share of revoked residence permits is rather high and in 2007 1/3 of all issued residence permits were revoked.

Table 7: Residence permits according to reasons and revoked residence permits

	2005	2006	2007	2008	2009	2010
Family reunification	6	8	24	21	23	42
Work	20	19	26	51	84	79
Engagement in lawful activities	7	5	7	16	25	23
Study	8	24	33	40	25	23
Family members of an alien	12	15	-	-	-	-
Other	-	-	-	-	5	3
TOTAL	53	71	90	128	162	201
Revoked permits	3	4	29	4	8	17
% from total	5.7	2.8	32.2	3.1	4.9	8.5

Source: Migration department

The number of changes in residence status is low. However, there is a tendency to change a residence permits issued on the ground of studies to residence permits on the ground of work.

Table 8: Change of status (according to Eurostat methodology)

Ground that is changed	New ground	2007	2008	2009	2010
Family reunification	Total	1			
	Study				
	Work	1			
	Other				

Ground that is changed	New ground	2007	2008	2009	2010
Studies	Total	2	6	6	2
	Family	1	2	1	1
	Work	1	4	5	1
	Other				
Work	Total			2	6
	Family			2	6
	Work				
	Other				
Other	Total				
	Family				
	Other				
	Work				
Total		3	6	8	8

Source: Migration department

The EU's immigration and asylum systems place each Member State under the obligation to strictly control visa applicants and to develop co-operation with other Member States. India's example shows that even a small state is able, in co-operation with other Member States, to control and eliminate the hazards of irregular migration in the countries with a high risk of irregular migration.

5. Effects of EU policy and legislation

The most clearly visible impact of EU legislation on Lithuania's national visa policy is, certainly, the fact that, on accession to the Schengen Area, the possibilities of shaping an independent national visa policy have been reduced substantially. This is clearly demonstrated by a number of denounced agreements on travels of citizens concluded with the neighbouring states, namely, with the Russian Federation, Belarus, Ukraine, Moldova. These agreements had stipulated considerably more favourable conditions for the issuance of visas to the citizens of those countries entering Lithuania.⁶⁸ Although, as it had already been mentioned above, relevant agreements on facilitation of issuance of short-stay visas have been concluded with the majority of these states on behalf of the European Union, such agreements have actually facilitated the travels of citizens of those states to the old Schengen States, which earlier applied stricter procedures, but obtaining of a visa for the citizens of the mentioned states wishing to enter the territory of the majority of new Schengen States, for instance, Poland, Hungary, Latvia and Lithuania, has become a much more complicated issue.

Accession to the Schengen Area has not only limited the possibilities of implementing a separate national visa policy, but also, upon harmonising the procedures of admission of applications and adoption of decisions on visas, has modified the national regulatory acts previously in force

⁶⁸ In-depth analysis is presented in Section 2.2.

and the national procedures applied. Thus, it has introduced new forms of co-operation among the Member States, new consultation procedures, has authorised consulates to compile, at the local level, harmonised lists of documents supporting applications for the issuance of visas, has laid down the general principles of exemption from the charge for examination of an application for the issue of a visa, etc.

Joining the area without borders has also revealed new challenges in the field of irregular migration. Accession to the Schengen area has increased the value of visas issued by Lithuania's visa services from the point of view of irregular migration. This might be the reason why, on accession to the Schengen Area, the number of issued short-stay visas slightly decreased, but later even increased, although in respect of nationals of some countries the commencement of application of the Schengen *acquis* has led to a substantial rise in the price of visas, e.g., the residents of Kaliningrad Oblast earlier obtained visas free of charge, later – at the price of EUR 35, while the consular fee for examination of an application for the issuance of a visa to a citizen of Belarus earlier amounted to EUR 5, later increased up to EUR 60.

Why some aliens apply to Lithuania's visa services even in the cases when travelling to other Member States? The motivation of aliens is different in each case and depends to a significant extent on the third country whose nationals they are, also on their activities and other circumstances. The most frequent reasons are the following:

1. Habit. In some third countries, such as Belarus, Russia, Georgia, Kazakhstan, Ukraine, it is a usual practice for citizens to apply to a mission of the neighbouring country. These persons, just as their parents, travelled to Lithuania while it was the neighbour within the Soviet Union, also travelled after it re-established its independence, and still travel upon its accession to the EU and Schengen, are able to speak Russian with officers of visa services and hence even when planning to travel to another Schengen state they apply for the issuance of a visa at the place which they are used to;

2. Belief that obtaining of a Schengen visa at Lithuania's visa services is easier. Experts note that such an attitude of aliens may take shape in the third countries in which Lithuania has not developed a long-standing practice of issuance of visa and does not know the peculiarities of the region. Such cases can be well illustrated in practice. For instance, even after conclusion of an agreement with Hungary on representation in issuing Schengen visas, under which Hungary represented Lithuania in Nigeria (Abuja) for the issuance of visas and irrespective of much lower costs of lodging of applications in their own country, the citizens of Nigeria used to travel to the only visa service of Lithuania in Africa, which is located in Egypt (Cairo). Aliens often went there even in the cases when they were explicitly told that applications for the issuance of visas must be lodged with Schengen partners in Abuja, and that in Cairo no applications for the issuance of visas will be admitted. Unfortunately, a favourable situation when officers of the visa service do not have sufficient resources to properly verify the authenticity of documents issued in another country, the reliability of the applicant, links with the country of residence, etc. continues to be abused as regards national and/or Schengen visas, when applications are lodged by nationals of the third countries on representation of which Lithuania has not yet entered into agreements with Schengen partners. However, in such countries as Russia and Belarus, where Lithuania has a long-standing practice of issuing visas, there is the opposite belief, that is, the belief that it is more difficult to obtain visas from Lithuanian visa services;

3. Prior registration. In some third countries, Lithuania's visa services are likely to have a possibility of admitting applicants more promptly. For instance, in Turkey some Member States having large Turkish communities and issuing a very large number of visas use a prior registration system and appoint a specific time for lodging an application for the issuance of a visa two (or during high season several) weeks in advance. Meanwhile, the visa services of other Member States, including Lithuania, which issue a smaller number of visas are capable of admitting applications from all

applicants lodging their applications on a specific day. Therefore, aliens believe that it is better to lodge applications with such visa services.

The entry into force of Regulation No 265/2010, which stipulates that aliens who hold national visas may move freely within the Schengen Area for up to three months in any six-month period within the territories of the other Member States, has given rise also to other schemes of action. For example, the number of cases when the aliens intending to illegally stay in the EU do not apply for the issuance of a Schengen visa has substantially increased. The practice has shown to them that it is much more difficult to get a Schengen visa. Such a situation is determined by a host of factors. Firstly, the issuance of Schengen visas is regulated in detail at the Community level, not only by the new Visa Code, but also by a highly detailed practical guide summing up the best practice and experience of all the Member States, some of them having a longer record of issuance of Schengen visa than Lithuania. Moreover, the representatives of consulates of the Member States located in third countries and of the European Commission regularly meet for discussion of the situation relating to the issuance of visas in a specific region and share experience. Secondly, the Visa Code empowers to enter into agreements on representation in issuing Schengen visas, hence unfair aliens should lodge applications for the issuance of Schengen visas to an experienced consulate of a Member State in their country of citizenship, rather than to Lithuania's visa service having no practice in that state and located in yet another state. For example, this tendency is prominent in Pakistan. In order to avoid application to the Hungarian consulate representing Lithuania for the issuance of a Schengen visa, applicants from Pakistan prefer to undertake a risk-prone travel to India and lodge applications for the issuance of national visas, usually for the purpose of studies or acting as the founders or heads of a company. Thirdly, the process of examination of an application for the issuance of a national visa is largely affected by other institutions, also establishments, undertakings and organisations, which contribute to assessment of the reliability of an alien, although they often have not seen the alien in person. For example, a university admitting an alien to studies upon assessing, at a

distance, his knowledge and education completion documents submitted by him; a local labour exchange when assessing whether a person may be issued a work permit; or even law firms, which often represent their clients who are aliens in establishing undertakings, taking up employment and submitting documents for the issuance of national visas and residence permits. Finally, the price of a national visa is equal to that of a Schengen visa (in the case of students – free of charge), its issuance takes the same amount of time as that of a Schengen visa, while holding of such visa authorises its holder to move within the entire Schengen Area, hence it is not accidental that its popularity among unfair aliens has grown.

Prompt response to the increasingly frequent misuse of national visas is sometimes precluded by legal uncertainties – as opposed to a sufficiently precisely define procedure for lodging and examining applications for the issuance of Schengen visas,⁶⁹ examination of applications for the issuance of national visas is given only episodic mention in general clarifications provided by directors of the Consular Department of the Ministry of Foreign Affairs of the Republic of Lithuania and the Migration Department. However, they are inconsistent due to frequently changing definitions given in regulatory acts.

There is a lack of legal clarity, explanations and case law as regards some provisions of the *Law on the Legal Status of Aliens*. For instance, the *Law on the Legal Status of Aliens* stipulates that an alien may be refused the issue of a residence permit if the data which he submitted in order to receive a residence permit are implausible or the submitted documents have been unlawfully obtained or forged. However, it is no longer clear what actions must be taken by a visa service if submitted documents are not counterfeit, but there are serious doubts whether the alien possesses sufficient knowledge and skills to perform work on the basis of which an

⁶⁹ The handbook to the Visa Code is a 120-page-long 'step-by-step' instruction. This is a 'living' document whose regular review and updating are the responsibility of the Visa Committee established by the Visa Code and consisting of experts of the Member States and the European Commission.

application for the issuance of a visa or a residence permit is lodged, or to study.

Certainly, the harmonisation process in the field of visa police at the Community level has just begun and is currently gaining momentum. This process has already not only revealed certain shortcomings in national procedures, but also pooled together the efforts of the Member States towards further harmonisation and combating possible abuses of the system the main objective of which is the widest possible opening of Europe's door to honest and well-wishing guests.

6. Data on visas issued and immigration

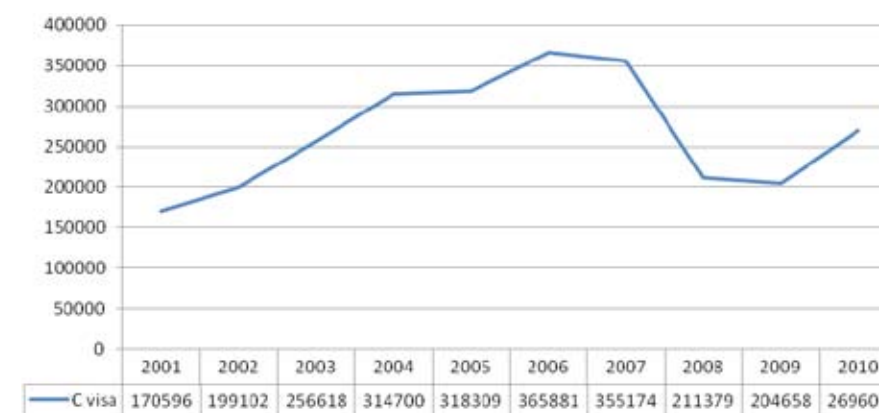
After Lithuania's accession to the Schengen area in 2007 the number of C visas dropped by 40 percent. However, in the last year the number is steadily resuming.

Table 9: Number of visas of the Republic of Lithuania issued to aliens, by type

Visa type	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Airport transit (A)									1	
Transit (B)	15945	13776	28413	27148	54320	56804	55210	34659	33468	5185*
Short-term (C)	170596	199102	256618	314700	318309	365881	355174	211379	204658	269606
Long-term (D)	369	305	300	674	2213	3724	6207	6649	3327	2520
TOTAL	186910	213183	285331	342522	374842	426409	416591	252687	241481	277311

Source: Migration Yearbook

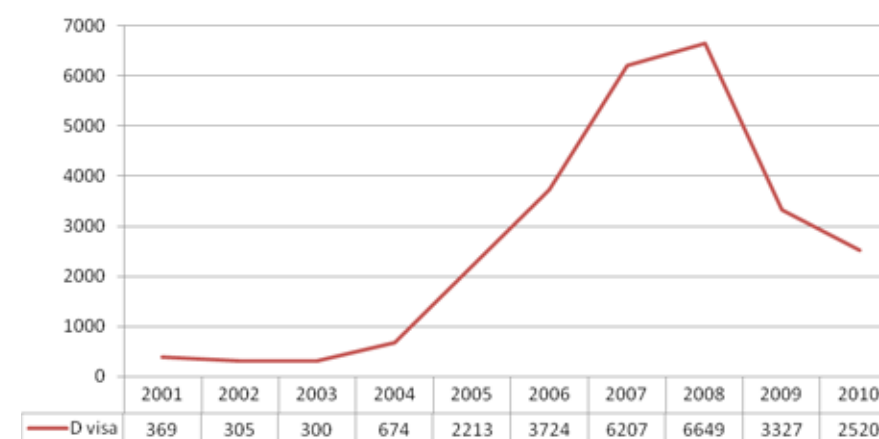
Graph 16: Short-term (C) visas 2001-2010



Source: Migration Yearbook

Main countries: Russian Federation, Belarus, Ukraine, Kazakhstan, Armenia, Moldova.

Graph 18: National D visas 2001-2010

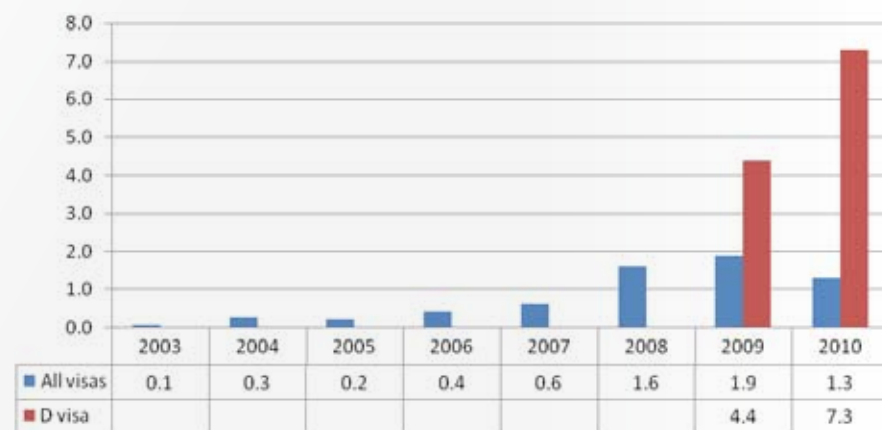


Source: Migration Yearbook

Issuance of national long-term visas depends on the economic situation since majority (over 60 percent) of national visas are issued for the purpose of work.

Main countries: Belarus, Turkey, Ukraine, Russian Federation.

Graph 19: Visa rejection rate (%)



Source: Migration Yearbook, Ministry of Foreign Affairs

Visa rejection rate is rather low and does not reach 2 percent. The graph shows that after the accession to the Schengen area visa rejection rate visibly increased. For national D visas the rejection rate is higher if compared to rejection rate for all visas.

Table 10: Visa rejection rate by countries (%)

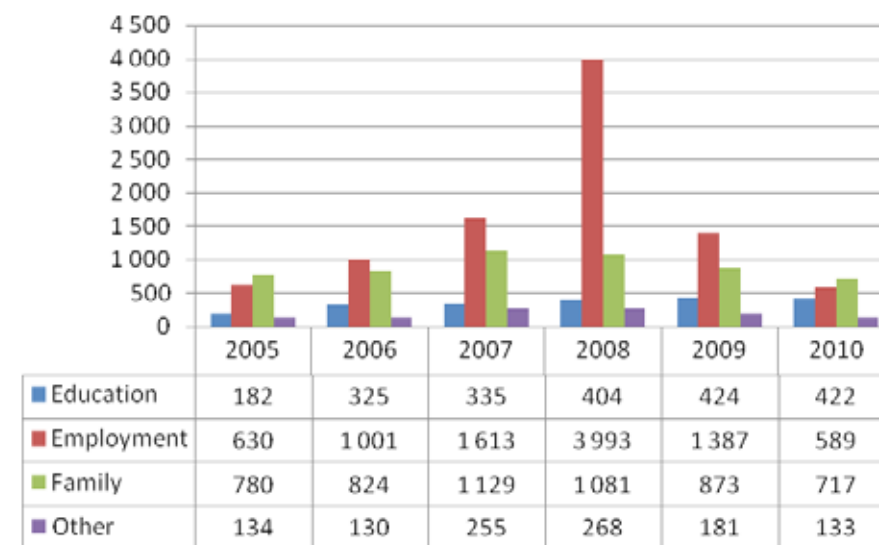
Country	2008	2009	2010
Argentina	67	71	77
Armenia	10	13	15
China	26	11	13
Georgia	31	19	29
India	-	42	42
Moldova	10	16	16

Country	2008	2009	2010
Turkey	7	8	15
Egypt	16	19	14

Source: http://ec.europa.eu/home-affairs/policies/borders/borders_visa_en.htm

Visa rejection rates vary between different countries. The highest rejection rates are reported by Lithuanian consular post in Argentina and India. However, visa rejection rates in the countries where majority of visas are issued (Russian Federation, Belarus, Ukraine, and Kazakhstan) are rather low (2-5 percent).

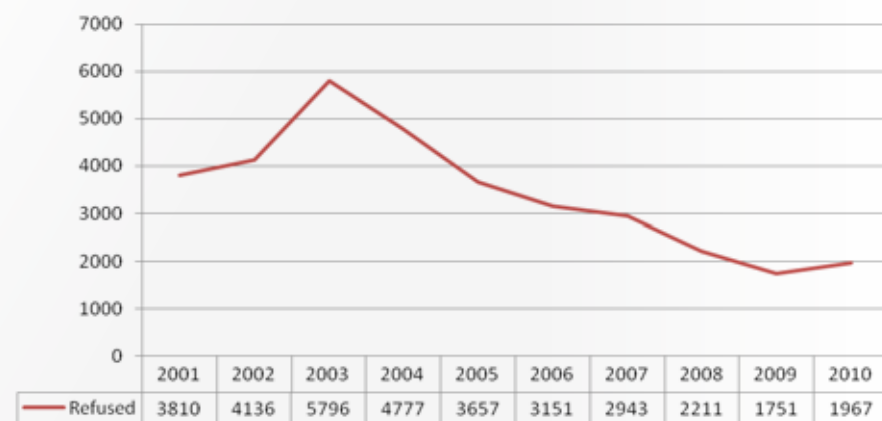
Graph 20: Purpose of stay: temporary residence permits by reason 2005-2010



Source: Migration department

The number of refusals at external borders is steadily decreasing. The main reason of refusal is that a foreigner does not have a valid visa or residence permit. Russian federation, Belarus and Ukraine are the main nationalities to whom entry is refused.

Graph 21: Refused entry at external borders 2001-2010



Source: Migration Yearbook

Table 11: Refused entry at external borders by reasons 2005-2010

Grounds for refusing admission	2005	2006	2007	2008	2009	2010
A) Does not have a valid travel document	179	190	93	25	22	15
B) has untrue/fake/false travel document	159	20	16	22	12	3
C) Does not have a valid visa or a residence permit	2594	2452	2434	1627	1321	1455
D) has untrue/fake/false visa or a residence permit	-	2	-	5	21	55
E) does not have appropriate documents justifying the aim and conditions of stay	-	120	149	303	191	169
F) has already stayed in the EU Member States' territory for 3 months	-	-	-	9	19	24

Grounds for refusing admission	2005	2006	2007	2008	2009	2010
G) does not have sufficient means of subsistence for the period and manner of stay or sufficient means for return to the country of origin or transit country		227	133	51	47	39
H) is a person subject to notice on refusal to allow arrival entered into:		12	33	122	63	87
SIS						
National Register						
I) is treated as causing threat to the public order, public health or international relations of one or several EU Member States		128	85	47	55	120
Other	725					
Total:	3657	3151	2943	2211	1751	1967

Source: Migration Yearbook

Table 12: Refused entry at external borders, main countries by nationality 2005-2010

Nationality	2005	2006	2007	2008	2009	2010
Russia	1493	1465	1346	1048	835	800
Belarus	765	856	707	732	533	703
Ukraine	334	312	352	120	104	100
Georgia	NA	NA	NA	16	74	145
Kyrgyzstan	NA	40	64	55	30	60
Moldova	31	33	59	30	41	30
India	51	51	74	33	16	15
Kazakhstan	49	72	100	54	30	26
Tajikistan	NA	NA	NA	NA	25	27

Source: State border guard service

Conclusions

Policy, vision, priorities. Lithuania does not have a single strategic document defining the principles and vision of visa policy. The main principle is established by Lithuania's Immigration Policy Guidelines stipulating that immigration and visa policy must reflect economic and labour market interests. Prior to accession to the Schengen Area, Lithuania's visa policy was dominated by the geographical priority (granting of privileges to neighbouring countries, facilitation of entry of citizens of those countries, and reduction of the price of visas). Since Lithuania began to apply the Schengen *aquis*, changes have occurred in national visa policy. Thus, Lithuania had to denounce international agreements with the Russian Federation, Belarus, Ukraine and Moldova, and the price of visas for third-country nationals has increased. Although the total number of issued visas has sharply decreased (by 40 per cent) since accession to the Schengen Area, the content of visa policy has not undergone significant changes. The agreements concluded with third countries at the EU level have allowed to cushion the situation. The agreements with third countries (with Ukraine and particularly the unilateral agreement with Belarus) show that visa policy is used as an instrument to attain political goals, namely, to enhance democratisation and interpersonal contacts.

Legal immigration facilitation measures. The study identifies four measures aimed at facilitating legal immigration of aliens.

- Broadening of the range of groups which are permitted entry holding national visas (D). Since 2011, all workers and students may enter holding national visas.

- Possibility of filling-in a visa application online (began to be used at the embassy in Moscow). This possibility is currently applied in the Russian Federation, Belarus, Ukraine and Georgia. It is convenient for a visa issuing officer and saves his time. More time is left for assessment of the risk of illegal immigration.

- Co-operation with other EU Member States in issuing Schengen visas (Lithuania is represented in 49 third countries). However, this mode of co-operation cannot apply to issuance of national visas owing to the peculiarities of their issuance.

- Co-operation with third countries (agreements on reduction of the visa fee and facilitation of procedures signed with Ukraine (2009) and Belarus (2011)).

Problem-prone areas and groups. The study identified two areas which should be improved with a view to consolidating prevention of illegal immigration:

- Legal uncertainty. Schengen visa issuance procedures are defined in detail by the Code. Meanwhile, national visa issuance procedures are not consistently described. There is lack of legal clarifications and case law as regards interpretation of the provisions of the Law (e.g., it is not clear what actions must be taken by a visa service if submitted documents are not counterfeit, but there are serious doubts whether the alien possesses sufficient knowledge and skills to perform work or to study). There is also a lack of specific instructions (guidelines) dealing with the issues to which attention should be devoted when issuing national visas on various grounds, especially in the regions where the risk of illegal immigration is high.

- The invitations module is not fully operable, because there are no possibilities to verify the reliability of inviting persons. Moreover, there is no practice of ensuring recovery of the expenses relating to the alien's illegal stay and expulsion from the inviting person. It is recommended to set up a national list of unreliable inviting persons.

The study also identified two most problem-prone grounds for the issuance of visas, namely, entry for the purpose of studies and taking up

of lawful activities. Since 2011, all students admitted to a school of higher education registered and operating in the Republic of Lithuania have been permitted to enter under a national visa (D). This procedure simplifies and speeds up the entry of aliens wishing to study in Lithuania and conforms to the provisions of the Programme on Internationalisation of Higher Education of Lithuania. However, the procedure currently in force has a number of shortcomings. Thus, national visas are in fact issued on the basis of a university's letter of mediation. Visa issuing officers verify only the authenticity of documents, but even this task is not always possible to be performed (especially if the authorities of the host country are unwilling to co-operate). The visa issuing officers do not carry out other checks, e.g., whether a foreign student possesses the knowledge of the language, whether (s)he holds the required qualification. This is left for schools of higher education to decide. Doubts are raised also over the selection criteria applied by some schools of higher education, because they may be interested in the number of students, rather than prevention of illegal immigration. The risk of illegal immigration on this ground is the highest in the Far East (India, Pakistan), because there are agents active there and offering assistance in entering the Schengen Area for study purposes.

Problems arise also with the aliens whose purpose of entry is taking up of lawful activities, especially when they enter the country as owners, co-owners of an enterprise or heads of the enterprise. Although, as a rule, visas (D) are not issued to these aliens, but both visa issuing officers, and migration officers in the country point out that they are facing the problems concerning evaluation of the purposes of entry of these aliens. The main shortcoming is the fact that there are no clear criteria on the basis of which the enterprises established by aliens in Lithuania would be assessed – whether they carry out specific economic activities or have been established solely for the purpose of obtaining a residence permit for their executives. It is recommended to form a working group and stipulate the criteria which would allow to assess the economic activities of the enterprises established by aliens and determine whether residence permits could be issued/extended to them.

Case studies. The study presents case studies of two states – the Russian Federation and the Republic of India. Co-operation with the Russian Federation in the field of visas and travels of citizens is an example of harmonious co-operation. Resolution of the issue of Kaliningrad transit prior to Lithuania's accession to the Schengen Area shows that Lithuania, the EU and Russia flexibly addressed the situation and applied new methods to solve the problem. The example of India reveals the challenges posed by irregular migration and encountered by the new Lithuanian diplomatic mission in Delhi. In 2009, Lithuania's mission refused as much as 42 per cent of applications for the issuance of visas. The mission encountered new challenges of illegal immigration and attempted to resolve them by developing co-operation with the missions and liaison officers of other EU Member States.

EU influence. In directing national visa policy towards meeting of their domestic needs, the Member States currently have most levers in the field of national visas. Although certain elements are being harmonised at the EU level, this is so far related to technical elements of the process. The respective working groups of the Council discussed in detail also the necessity of further harmonisation of requirements in connection with the issuance of national visas. For instance, some Member States are strongly in favour of the necessity of introducing the requirement to check, prior to issuing national visas, not only national alert lists, but also joint lists of persons on whom alerts have been created in the SIS. The possibility of creation of legal and technical preconditions for accumulation of data on issued national visas in the VIS⁷⁰ or equivalent system was also considered. All these factors show that the integration of visa policies at the EU level

70 VIS – the Visa Information System established by Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (OJ L 218, 13 8 2008) and intended for exchanging data between the Member States on applications for the issuance of short-stay visas and the decisions taken in their respect, including decisions on annulment, revocation or extension of visas, the terms and procedures facilitating the examination of such applications and adoption of related decisions.

has just commenced and will certainly not stop at adoption of the Community Code on Visas regulating the issuance of short-stay visas.

Sources

Legal acts:

- 1) Stockholm Programme, OJ C 115, 4 5 2010
- 2) Community Code on Visas, OJ L 243, 15 09 2009
- 3) Schengen Borders Code, OJ L 105, 13 4 2006
- 4) Convention Implementing the Schengen Agreement of 14 June 1985 on the Gradual Abolition of Checks at Common Borders, OL L 239, 22 9 2000
- 5) Council Regulation (EC) No 693/2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual, OJ L 99, 17 4 2003
- 6) Regulation (EC) No 767/2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJ L 218, 13 8 2008
- 7) Commission decision C(2010)1620 final of 19.3.2010 establishing the Handbook for the processing of visa applications and the modification of issued visas
- 8) Communication from the Commission COM(2009)313 to the European Parliament and the Council on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

9) Provisional Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Belarus on Travels of Nationals of Both States, Official Gazette, No 1-1, 2003

10) Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Moldova on Travels of Citizens, Official Gazette, No 85-3145, 2005

11) Agreement between the Government of the Republic of Lithuania and the Government of the Russian Federation on Travels of Nationals of Both States, Official Gazette, No 12, 2003

12) Agreement between the Government of the Republic of Lithuania and the Cabinet of Ministers of the Republic of Ukraine on Travels of Citizens, Official Gazette, No 92 -3351, 2004

13) Government of the Republic of Lithuania Resolution on Approval of the Economic Migration Regulation Strategy and the Plan for Implementing Measures of the Programme for 2007-2008, Official Gazette, No 49-1897, 05-05-2007

14) Government of the Republic of Lithuania Resolution on Approval of Lithuania's Immigration Policy Guidelines, Official Gazette, No 143-5706, 13-12-2008

15) Order of the Minister of Education and Science on Approval of the Programme on Internationalisation of Higher Education of Lithuania 2011-2012, Official Gazette, 2011, Nr. 16-785

16) Law of the Republic of Lithuania on the Legal Status of Aliens, Official Gazette, No 73-2539, 2004

17) Law of the Republic of Lithuania on Companies, Official Gazette, No 64-1914, 2000

18) Minister of the Interior of the Republic of Lithuania and Minister of Foreign Affairs of the Republic of Lithuania Order on Approval of Description of the Procedure for Submitting Documents for the Issuance of Visas, Issuing and Revoking Visas, Consultation, Accrediting Tour Operators and Travel Agencies and Verifying Letters of Invitation for Temporary Entry of Aliens to the Republic of Lithuania, Official Gazette, No 136-4961, 2004

19) Minister of the Interior of the Republic of Lithuania Order on Approval of Description of the Procedure for Submitting Documents to Obtain Temporary Residence Permits in the Republic of Lithuania and Issuing to Aliens, Replacing and Revoking Temporary Residence Permits in the Republic of Lithuania, as well as Determining Whether Marriage or Registered Partnership has been Contracted or a Child has been Adopted for an Alien to Obtain a Temporary Residence Permit in the Republic of Lithuania, Official Gazette, No 126-4509, 2005

20) Minister of the Interior of the Republic of Lithuania Order on Approval of the List of State Institutions and Agencies of the Republic of Lithuania Issuing Visas to Aliens, Official Gazette, No 140-5130, 2004

21) Minister of Social Security and Labour of the Republic of Lithuania Order on the Establishment of an Amount of Subsistence Funds Which May be Considered to be Sufficient to Subsist on in the Republic of Lithuania for an Alien Requesting to Issue a Residence Permit in the Republic of Lithuania, Official Gazette, No 15-570, 2007

22) Minister of Social Security and Labour of the Republic of Lithuania Order on Approval of Conditions of and Description of the Procedure for Issuing Work Permits to Aliens, Official Gazette, No 98-4134, 2009

23) Annual visa statistics of the Minister of Foreign Affairs of the Republic of Lithuania