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Beneficiaries of
International Protection
Travelling to their Country
of Origin: Challenges,
Policies and Practices in
Lithuania

2018/4

EMN STUDY



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Summary

In order to ensure that asylum is granted to aliens who are in need of it, the Migration Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter – the Migration Department) implements asylum procedures, i.e. examines applications for asylum, makes decisions on granting or refusing asylum (refugee status or subsidiary protection), and makes decisions on revocation of (refusal to renew, cessation, withdrawal, hereinafter – withdrawing) granted asylum (refugee status or subsidiary protection) on granted asylum (refugee status or subsidiary protection).

In Lithuania, the grounds and procedure for granting asylum and withdrawing asylum are regulated in the Republic of Lithuania Law on the Legal Status of Aliens (hereinafter – the Law) and the Description of the Procedure for Granting and Withdrawing Asylum in the Republic of Lithuania approved by Order No 1V-131 of the Minister of the Interior of the Republic of Lithuania of 24 February 2016 'On Approval of the Description of the Procedure for Granting and Withdrawing Asylum in the Republic of Lithuania' (hereinafter – the Description of the Procedure).

In 2016, 425 applications for asylum¹ were submitted in Lithuania and 354 decisions were taken (181 on granting refugee status; 14 on granting subsidiary protection; 87 on refusing asylum (refugee status or subsidiary protection); 60 on the termination of examination of an application for asylum; four on non-examination of an application for asylum; eight on transfer to another European Union member state under the Dublin Regulation). In 2016, 13 decisions were made on withdrawing asylum (refugee status or subsidiary protection).

¹<http://migracija.lrv.lt/uploads/migracija/documents/files/Statistika/Prieglobstis/Statistika%202016-2018/Kopija2016METIN%C3%84%E2%80%93.pdf>

In 2017, 599 applications for asylum² were submitted in Lithuania and 496 decisions were taken (280 on granting refugee status; 13 on granting subsidiary protection; 83 on refusing asylum (refugee status or subsidiary protection); 89 on the termination of examination of an application for asylum; 15 on non-examination of an application for asylum; 16 on transfer to another European Union member state under the Dublin Regulation). In 2017, seven decisions were made on withdrawing asylum (refugee status or subsidiary protection).

In accordance with Article 90(1) of the Law, the refugee status granted to an alien shall be withdrawn if the alien: 1) has voluntarily re-availed himself of the protection of the country of his citizenship; 2) has voluntarily re-acquired his lost citizenship or renounced refugee status in the Republic of Lithuania; 3) has acquired citizenship of another country and enjoys the protection of the country of his new citizenship; 4) has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; 5) can no longer continue to refuse to avail himself of the protection of the country of his citizenship because the circumstances in connection with which refugee status was granted have ceased to exist; 6) being a person who has no nationality, he is able to return to the country of his former habitual residence because the circumstances in connection with which he was granted refugee status have ceased to exist; 7) acquired refugee status by fraud, except for cases where the personal information submitted by him did not have a decisive effect on the decision to grant him refugee status; 8) received refugee status even though the status should not have been granted to him due to the circumstances provided for in the Law; 9) has been convicted of a grave crime and poses a threat to society, or there are serious grounds to believe that his presence in the Republic of Lithuania poses a threat to national security.

In accordance with Article 90(2) of the Law, subsidiary protection granted to an alien shall be withdrawn if the alien: 1) is able to return to his country of origin because the circumstances in connection with which subsidiary protection was granted have ceased to exist; 2) acquired subsidiary protection by fraud, except for cases where the personal information submitted by him did not have a decisive effect on the decision to grant him this protection; 3) acquired subsidiary protection even though it should not have been granted to him.

In the Republic of Lithuania, the monitoring of persons who have been granted refugee status or subsidiary protection is not considered a national policy priority. There is no regulation that a person who has been granted refugee status or subsidiary protection and who is travelling to the country of origin, or – if said does not have foreign citizenship – the country of his or her former habitual residence, must inform state institutions of the Republic of Lithuania thereof.

The fact that a person who has been granted refugee status or subsidiary protection travels to the country of origin (applies to the authorities or otherwise establishes contact with the country of origin), or – if said does not have foreign citizenship – the country of his or her former habitual residence, does not constitute a legal basis to withdraw the protection granted. Upon information coming to light that an alien who has been granted refugee status or subsidiary protection is travelling to or contacting the country of origin, or – if said does not have foreign citizenship – the country of his or her former habitual residence, the Migration Department may ask the alien to provide a written/oral explanation of the reasons for which the alien travelled to the country of origin, or – if said person does not have foreign citizenship – the country of his or her former habitual residence. Upon assessment of the information provided by the alien, the reasons for which the alien was granted refugee status or subsidiary protection, and other information related to the granting of asylum, the Migration Department may commence the procedure for withdrawing asylum, which may result in the adoption of a decision on the withdrawal of refugee status or subsidiary protection.

Any alien for whom a decision was taken on withdrawing refugee status or subsidiary protection has the right to appeal against the decision in court. In cases where an alien appeals against a decision of the Migration Department on the withdrawal of refugee status or subsidiary protection, the decision only comes into force when the court examines the alien's appeal.

Where a decision is taken on the withdrawal of an alien's refugee status or subsidiary protection, the Republic of Lithuania residence permit that was issued to the alien due to the fact that the alien was granted asylum is revoked once the decision on the withdrawal of asylum comes into force. The legal status of such an alien in the Republic of Lithuania is resolved in accordance with the Law.

²<http://migracija.lrv.lt/uploads/migracija/documents/files/Statistika/Prieglobstis/Statistika%202016-2018/Kopija2017METIN%C3%84%E2%80%9393N.pdf>

1.

Overview of National Policy
Context

Question (further – Q) 1. Is the topic of beneficiaries of international protection travelling to their country of origin a national policy priority in Lithuania?

No.

Q2. If available, please provide (estimated) statistics on the number of beneficiaries of international protection (allegedly) travelling to their country of origin registered from 2012 to 2018 (until 30 June 2018, if available).

N/A.

2.

Travels to or Contacts with
National Authorities of the
Country of Origin and
Possible Cessation of
International Protection

2.1. REFUGEES CONTACTING AUTHORITIES OF COUNTRY OF ORIGIN AND RE-AVAILMENT OF THE PROTECTION OF THE COUNTRY OF NATIONALITY

Q3. If a refugee in Lithuania contacts official authorities of their country of origin (e.g. consulates, embassies, or other official representations of the country of origin in the State that granted protection), can this possibly lead to the cessation of his/her refugee status?

Yes, but the fact that refugee contacts official authorities of the country of origin per se does not constitute a legal basis for the cessation of his or her refugee status. If information comes to light that a refugee contacted official authorities of his or her country of origin, this is taken as a factor that requires the collection of additional information (e.g. for what purpose the refugee contacted authorities of the country of origin) and which may help to establish the legal basis, i.e. whether an alien who has been granted refugee status may be subject to the provisions of Article 90(1) of the Law according to which the refugee status granted to the alien is withdrawn (e.g. it is established in Article 90(1)(2) of the Law that refugee status shall be withdrawn if the alien has voluntarily re-acquired his or her lost citizenship), and in the presence of which the procedure for withdrawing refugee status is commenced, which may result in the cessation of refugee status.

Q3a. If a refugee in Lithuania contacts official authorities of their country of origin, can this have other consequences on his/her refugee status?

Yes. See answer to Q3.

Q4. If yes to Q3, is it specified:

- In national legislation
- In case law
- In practice: Yes

The Law does not establish that contact of an alien who has been granted refugee status with official authorities of the country of origin is ground for the cessation of his or her refugee status. The Law and other legislation regulating asylum do not establish that aliens who have been granted refugee status must inform the Migration Department about the fact that they have contacted authorities of their country of origin.

It is noted that Article 90 of the Law establishes the grounds for the withdrawal of asylum. Item 135 of the Description of the Procedure establishes that if, in light of the information collected by the Migration Department about the alien's country of origin or other reliable information received by the Migration Department, and it is found that the 'Withdrawal of Asylum' provisions of Article 90 of the Law may be applied to said alien, the Migration Department carries out the procedure for withdrawing asylum.

For example, one of the grounds for withdrawing refugee status established in Article 90 of the Law is the fact that the alien has voluntarily re-acquired his or her lost citizenship. If information comes to light that an alien who has been granted refugee status has contacted official authorities of the country of origin, the alien may be asked to provide an explanation of the reasons for which he or she contacted authorities of the country of origin. After evaluating the explanations provided by the alien, it is assessed whether the grounds for the withdrawal of asylum established in Article 90 of the Law exist, and whether there is a basis to commence the procedure for withdrawing refugee status.

Q5. If yes to Q3, which of the following acts (by the refugee) can lead to re-availment of protection of the country of origin:

- Frequency of contacts with national authorities over a certain period of time: Yes
- Obtaining the issuance or renewal of a passport: Yes

- Requesting administrative documents: Yes
- Marriage in the country of origin: Yes
- Other (please specify)

All of the actions ticked above are based on administrative practice. They are not established as a legal basis for the withdrawal of asylum, but are taken into account when assessing the issue of initiating the procedure for withdrawing asylum, as well as when assessing whether the asylum granted to a person can be withdrawn.

Q6. If yes to Q3, are exceptions or derogations possible (e.g. if the fear of persecution emanates from non-State actors)?

Yes.

Q6a. If yes to Q6, is it specified:

- In national legislation: Yes
- In case law
- In practice: Yes

As stated above, the mere fact that an alien who has been granted refugee status has contacted official authorities of the country of origin is not legal basis³ for the withdrawal the granted refugee status. In all cases, the circumstances are assessed as a whole. Item 139 of the Description of the Procedure establishes that in carrying out the procedure for withdrawing asylum, not only are the circumstances for which the alien was granted asylum assessed, but also the circumstances that arose or came to light after the alien was granted asylum if said are related to the criteria for the granting of refugee status established in part 1 of Article 86 ('Granting of Refugee Status') or part 1 of Article 87 ('Granting of Subsidiary Protection') of the Law.

When the procedure for withdrawing refugee status is commenced, after taking the alien's explanations about travels to the country of origin into account, assessment is carried out in all case of both the circumstances for which the alien was granted refugee status and newly discovered circumstances related to the criteria for granting asylum (refugee status or subsidiary protection).

Q6b. If yes to Q6, please specify which circumstances are taken into account.

See answer to Q3. It is also noted that each case is assessed on an individual basis, taking into account the reasons for which the person contacted official authorities of his or her country of origin as well as the reasons for which the person was granted refugee status.

Q7. If yes to Q3, what challenges do national authorities encounter in practice when assessing such circumstances and cessation ground?

Since there are few such cases in Lithuania and each case is assessed on an individual basis, it is difficult to single out the general challenges that national authorities face.

Q8. Is guidance or any other form of established practice on cessation on the grounds of 'voluntary re-availment of the protection of the country of nationality' available to national authorities in Lithuania? If yes, please elaborate whether it takes the form of:

- Internal guidelines
- UNHCR guidelines(e.g. guidelines on cessation): Yes
- Other

³ The grounds for the withdrawal of asylum are established in Article 90 of the Law.

2.2. REFUGEES TRAVELLING TO AND 'VOLUNTARY RE-ESTABLISHMENT' IN THE COUNTRY OF ORIGIN

Q9. Please describe national legislation applicable to refugees regarding their right to travel (i.e. outside the State that granted them protection).

A person who has been granted refugee status is issued a permanent residence permit in the Republic of Lithuania. The permit to reside permanently in the Republic of Lithuania gives the refugee the same rights as other third country nationals who have been issued a permanent residence permit in Lithuania. Persons who have been issued a permanent residence permit and who hold a valid travel document in accordance with European Union law (Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code) with subsequent amendments) may travel without a visa to other Schengen countries for a duration of no more than 90 days in any 180-day period.

Pursuant to Article 89(1) of the Law, an alien who has been granted refugee status is entitled to be issued a 'Refugee Travel Document' which is valid in all countries except the country/countries of which the refugee is a citizen or – if said does not have foreign citizenship – the country of his or her former habitual residence.⁴

National legislation does not provide for any other specific restrictions regarding persons who have been granted refugee status travelling to foreign countries.

Q10a. Is a travel limitation to the country of origin (or country of habitual residence) specified in the travel document issued to refugees in Lithuania? If yes, please elaborate whether this limitation stems from:

- National legislation: Yes

The procedure for issuing a refugee travel document is established in sub-item 25.4.1. of the Description of the Procedure for Issuing a Refugee Travel Document approved by Order No 1V-408 of the Minister of the Interior of the Republic of Lithuania of 7 December 2004.⁵

- Practice developed by competent authorities
- Case law
- Other sources

Q10b. Is a travel limitation to neighbouring countries of the country of origin (or country of habitual residence) specified in the travel document issued to refugees in Lithuania?

No.

Q11. If refugees travel to their country of origin:

- a) Do they need to notify in advance national authorities of the State of protection?

No, this is not regulated.

- b) Do they need to request a specific permission or authorisation to do so to a designated national authority in the State that granted protection?

⁴ In part IV ('Consideration of Applications to Issue/Renew a Travel Document, Decision Making and Formation of Orders for the Identity Documents Personalisation Centre') of the Description of the Procedure for Issuing a Refugee Travel Document approved by Order No 1V-408 of the Minister of the Interior of the Republic of Lithuania of 7 December 2004 'On Approval of the Description of the Procedure for Issuing a Refugee Travel Document', it is specified that the civil servant authorised by the Migration Service, having received the issued travel document from the Identity Documents Personalisation Centre, must (item 25): enter the name/names of the country/countries of which the refugee is a citizen or – if said does not have foreign citizenship – the country of his former habitual residence in line 25.4.1. 'DOCUMENT VALID IN ALL COUNTRIES EXCEPT' (sub-item 25.4.1).

⁵ Ibid.

No, this is not regulated.

Q12. Can refugees request their original passport from authorities of the State that granted protection?

Yes, according to item 5 of the Description of the Procedure: 'The documents of the asylum seeker stored in the personal file are returned to the asylum seeker when <...> the final decision is made on his or her application for asylum in accordance with the procedure established in the Description.'

Upon the decision of the Migration Department to grant refugee status, the personal identity documents that the person submitted during examination of the asylum application are returned.

Q13. What are the most common reasons for travel to their country of origin stated by refugees to authorities in Lithuania?

- Visits for family reasons (please specify): Yes
- Marriage in the country of origin
- Business reasons
- Other reasons (please specify)

Q13a. Please specify if this information is recorded by national authorities (e.g. in a database).

If information comes to light that a person who has been granted refugee status travelled to the country of origin, that person is usually asked to provide an explanation of the purpose for which he or she travelled to the country of origin. The information received is stored in the refugee's personal file.

Q14. If a refugee travelled to his/her country of origin, can this possibly lead to the cessation of his/her refugee status?

Yes, but the fact that a refugee travelled to the country of origin per se does not constitute a legal basis for the cessation of his or her refugee status.

If information comes to light that a refugee travelled to his or her country of origin, this is taken as a factor that requires the collection of additional information (e.g. for what purpose the refugee travelled to the country of origin, how long the trip was, etc.) and which may help to establish the legal basis, i.e. whether an alien who has been granted refugee status may be subject to the provisions of Article 90(1) of the Law according to which the refugee status granted to the alien is withdrawn (e.g. it is established in Article 90(1)(1) of the Law that refugee status shall be withdrawn if the alien has voluntarily re-availed himself of the protection of the country of his citizenship), and in the presence of which the procedure for withdrawing refugee status is commenced, which may result in the cessation of refugee status.

Q14a. If a refugee travelled to his/her country of origin, can this have other consequences on his/her refugee status?

Yes. See answer to Q14. As is stipulated in item 135 of the Description of the Procedure, the procedure for withdrawing asylum is commenced if, in light of the information collected by the Migration Department about the alien's country of origin or reliable information received by the Migration Department, it is established that the 'Withdrawal of Asylum' provisions of Article 90 of the Law may be applied to an alien who has been granted asylum in the Republic of Lithuania.

If the procedure for withdrawing asylum is initiated against an alien who has been granted refugee status, pursuant to Item 139 of the Description of the Procedure, not only are the circumstances for which the alien was granted asylum assessed, but also the circumstances that arose or came to light after the alien was granted asylum if said are related to the criteria for the granting of refugee status established in part 1 of Article 86 ('Granting of Refugee Status') or part 1 of Article 87 ('Granting of Subsidiary Protection') of the Law.

Q15. If travelling to the country of origin may lead to cessation of protection (see question 14), is it specified:

- In national legislation
- In case law
- In practice: Yes, see answer to Q14

The Law does not establish that an alien's travels to the country of origin are grounds for the cessation of refugee status. The Law and other legislation regulating asylum also do not establish that aliens who have been granted refugee status must inform the Migration Department about the fact that they have travelled to their country of origin.

Article 90 of the Law establishes the grounds for the withdrawal of asylum. Item 135 of the Description of the Procedure establishes that if, in light of the information collected by the Migration Department about the alien's country of origin or reliable information received by the Migration Department, it is established that the 'Withdrawal of Asylum' provisions of Article 90 of the Law may be applied to an alien who has been granted asylum in the Republic of Lithuania, the Migration Department carries out the procedure for withdrawing asylum. For example, one of the grounds for withdrawing refugee status established in Article 90 of the Law is the fact that the alien has voluntarily re-availed himself of the protection of the country of his citizenship.

The fact that a refugee travelled to his or her country of origin may mean (it should be noted that each case is assessed on an individual basis) that he or she may once again be able to enjoy the protection of his or her country of origin. If information comes to light that an alien who has been granted refugee status has travelled to his or her country of origin, the alien may be asked to provide an explanation about the trip to the country of origin. After evaluating the explanations provided by the alien, it is assessed whether the grounds for the withdrawal of asylum established in Article 90 of the Law exist, and whether there is a basis to commence the procedure for withdrawing asylum. In all cases, it is the circumstances as a whole that is assessed rather than individual facts, so the fact that an alien travelled to the country of origin per se does not mean that he or she is once again able to enjoy the protection of the country of origin.

Q16. Which of the following circumstances are taken into account when assessing cessation of protection (e.g. re-establishment in the country of origin):

- Frequency of travels to the country of origin: Yes

Administrative practice

- Length of stay in the country of origin: Yes

Administrative practice

- Specific place of stay in the country of origin

- Reasons to travel to the country of origin: Yes

Administrative practice

- Other

Q17. If travelling to the country of origin could lead to cessation of refugee protection, are there any criteria to assess the voluntariness and/or refugee's intent to re-establish himself/herself in the country of origin?

There are no specific criteria described in national law on the basis of which this should be assessed. Each case is examined on an individual basis.

Q18. Do national authorities encounter any challenges when assessing such cases of cessation?

Yes, because there are no specific criteria established in national law on how to assess the alien's voluntariness and intent to re-establish him or herself in the country of origin.

Q19. Is guidance or any other form of established practice on cessation on the grounds of 'voluntary re-establishment in the country of origin' available to authorities in Lithuania? If yes, do these take the form of:

- Internal guidelines
- UNHCR guidelines on cessation: Yes
- Other

2.3. BENEFICIARIES OF SUBSIDIARY PROTECTION TRAVELLING TO AND/OR CONTACTING AUTHORITIES OF THE COUNTRY OF ORIGIN

Contacting official authorities of the country of origin

Q20. If a beneficiary of subsidiary protection in Lithuania contacts official authorities of his/her country of origin (e.g. consulates, embassies, other official representations of the country of origin), can this possibly lead to the cessation of the subsidiary protection status?

Yes, but the fact that a person who has been granted subsidiary protection contacts official authorities of their country of origin per se does not constitute a legal basis for the cessation of his or her subsidiary protection. If information comes to light that a person who has been granted subsidiary protection contacted official authorities of his or her country of origin, this is taken as a factor that requires the collection of additional information (e.g. for what purpose the person who has been granted subsidiary protection contacted official authorities of the country of origin) and which may help to establish the legal basis, i.e. whether an alien who has been granted subsidiary protection may be subject to the provisions of Article 90(2) of the Law according to which the subsidiary protection granted to the alien is withdrawn (e.g. it is established in Article 90(2)(1) of the Law that subsidiary protection shall be withdrawn if the alien is able to return to his country of origin because the circumstances in connection with which subsidiary protection was granted have ceased to exist), in the presence of which the procedure for withdrawing asylum is commenced, which may result in the cessation of subsidiary protection.

Q20a. If a beneficiary of subsidiary protection in Lithuania contacts official authorities of his/her country of origin, can this have other consequences.

See answer to Q20.

Q21. If a beneficiary of subsidiary protection contacting official authorities of their country of origin may lead to cessation of subsidiary protection, is it specified:

- In national legislation
- In case law
- In practice: Yes

Q22. If a beneficiary of subsidiary protection contacts official authorities of his/her country of origin, which of the following circumstances can lead to cessation of subsidiary protection:

- Frequency of contacts with national authorities of the country of origin: Yes

Administrative practice

- Obtaining the issuance or renewal of a passport: Yes

Administrative practice

- Requesting administrative documents: Yes

Administrative practice

- Marriage: Yes

Administrative practice

- Other

The circumstances marked above are not established in the Law as a legal basis for the cessation of subsidiary protection, but are taken into account when assessing the issue of initiating the procedure for withdrawing subsidiary protection, as well as, when assessing whether the subsidiary protection granted to a person can be withdrawn.

Travelling to the country of origin

Q23. Please briefly describe national legislation on the right to travel (i.e. outside the State that granted subsidiary protection) of beneficiaries of subsidiary protection in Lithuania?

A person who has been granted subsidiary protection is issued a temporary residence permit in the Republic of Lithuania. The permit to reside temporarily in the Republic of Lithuania gives the person who has been granted subsidiary protection the same rights as other third country nationals who have been issued a temporary residence permit. Persons who have been issued a temporary residence permit and who hold a valid travel document in accordance with European Union law (Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code) with subsequent amendments) may travel without a visa to other Schengen countries for a duration of no more than 90 days in any 180-day period.

Pursuant to Article 89(2) of the Law, if an alien who has been granted subsidiary protection does not hold a valid travel document issued by the country of origin, said person may be issued an 'Alien's Passport' which is valid in all countries.⁶

National legislation does not provide for any other specific restrictions regarding the travel of persons who have been granted subsidiary protection to foreign countries.

Q24. Can a beneficiary of subsidiary protection request a travel document in Lithuania?

Yes. Pursuant to Article 89(2) of the Law, an alien who has been granted subsidiary protection and who resides in the Republic of Lithuania may be issued an alien's passport according to the provisions of Article 37 of the Law.⁷

Period of validity: An alien's passport is issued and renewed for the period of validity of the residence permit held by the foreign national but for no less than three months and no more than five years; if it is temporarily impossible to scan any of the foreign national's fingerprints, then for no more than one year.

Area of validity: An alien's passport is valid in all countries.

Q25. What are the most common reasons for travel to their country of origin stated by beneficiaries of subsidiary protection to national authorities:

⁶ In part V ('Passport Issue and Renewal') of the Description of the Procedure for the Issue, Renewal, Annulment and Cancellation of an Alien's Passport approved by Order No 1V-357 of the Minister of the Interior of the Republic of Lithuania of 10 November 2004 'On Approval of the Description of the Procedure for the Issue, Renewal, Annulment and Cancellation of an Alien's Passport', it is specified in sub-item 33.2.1. that a dash is made in line 1 'ALIEN'S PASSPORT VALID IN ALL COUNTRIES EXCEPT' on page 1 of the alien's passport.

⁷ It is established in Article 37 of the Law 'Alien's Passport' that 1. A foreign national who is entitled to temporary or permanent residence in the Republic of Lithuania but is not in possession of a valid foreign national passport or equivalent travel document, or if it has been lost or destroyed, and cannot get one from the competent authorities of his country of origin for objective reasons may be issued an alien's passport in accordance with the procedure established by the Minister of the Interior. 2. The alien's biometric identifiers (facial image and two fingerprints) shall be electronically embedded into the alien's passport to confirm his identity, with the exception of the cases provided for in Regulation (EC) No 2252/2004.

- Visits for family reasons: Yes
- Marriage in the country of origin
- Business reasons
- Other reasons

Q25a. Please specify if this information is recorded by national authorities (e.g. in a database).

If information comes to light that a person who has been granted subsidiary protection travelled to the country of origin, that person is usually asked to provide an explanation of the purpose for which he or she travelled to the country of origin. The information received is stored in the personal file of the person who has been granted subsidiary protection.

Q26. If a beneficiary of subsidiary protection in Lithuania travels to his/her country of origin, can his/her protection status be ceased (e.g. re-establishment in the country of origin)?

Yes, but the fact that a person who has been granted subsidiary protection travelled to their country of origin per se does not constitute a legal basis for the cessation of his or her subsidiary protection.

If information comes to light that a person who has been granted subsidiary protection travelled to his or her country of origin, this is taken as a factor that requires the collection of additional information (e.g. for what purpose the person who has been granted subsidiary protection travelled to the country of origin, how long the trip was, etc.) and which may help to establish the legal basis, i.e. whether an alien who has been granted subsidiary protection may be subject to the provisions of Article 90(2) of the Law according to which the subsidiary protection granted to the alien is withdrawn (e.g. it is established in Article 90(2)(1) of the Law that subsidiary protection granted to an alien shall be withdrawn if the alien is able to return to his country of origin because the circumstances in connection with which subsidiary protection was granted have ceased to exist), in the presence of which the procedure for withdrawing subsidiary protection is commenced, which may result in the cessation of subsidiary protection.

Q26a. If yes to Q26, is it specified:

- In national legislation
- In case law
- In practice: Yes, see answer to Q26.

Q26b. If yes to Q26, which of the following circumstances are taken into account when assessing cessation of protection:

- Frequency of travels to the country of origin: Yes

Administrative practice

- Duration of stay in the country of origin: Yes

Administrative practice

- Specific place of the stay in the country of origin

- Reason for travel to the country of origin: Yes

Administrative practice

- Other

Guidance and challenges in assessing cases of cessation of subsidiary protection

Q27. Is guidance or any other form of established practice on cessation of subsidiary protection available to national authorities? If yes, please indicate whether they take the form of:

- Internal guidelines
- UNHCR guidelines on cessation: Yes
- Other

Q28. Based on previous answers to questions in this sub-section 2.3., what challenges do national authorities encounter when assessing cases of cessation of subsidiary protection?

Yes, because there are no specific criteria established in national law on how to assess the factual circumstances covered above.

3.

Adoption of a Decision on
Cessation of International
Protection and Implications
in the Right of Residence in
the (former) State of
Protection

3.1. INFORMING BENEFICIARIES OF INTERNATIONAL PROTECTION

Q29. Are beneficiaries of international protection informed about possible consequences on their protection status if they contact authorities or travel to their country of origin?

No.

Table 1. Informing beneficiaries of international protection

Means used to inform beneficiaries of international protection	Contacting authorities of the country of origin	Traveling to the country of origin (or country of habitual residence)
It is indicated on beneficiaries' travel document	N/A	N/A
Beneficiaries are informed in writing by national authorities	N/A	N/A
Beneficiaries are informed orally by competent authorities	N/A	N/A
Beneficiaries are informed at their request	N/A	N/A
Other means	N/A	N/A

3.2. REVIEW OF PROTECTION STATUS

Q30. Is the status of beneficiaries of international protection that travelled to and/or contacted authorities of their country of origin reviewed in Lithuania?

If information comes to light that an alien who has been granted international protection has travelled to the country of origin/contacted authorities of the country of origin, the alien may be asked to provide an explanation about the trip to the country of origin/contact with the authorities of the country of origin in order to evaluate if the alien who has been granted international protection may be subject to the provisions of Article 90 of the Law. Also see answers to Q3, Q14, Q25 and Q26.

Q30a. If yes to Q30, please briefly elaborate on the framework of the review in Lithuania:

- There is a systematic review of all international protection statuses.
- There is a possibility to review the international protection status upon renewal of residence permit accompanying status. Yes

At least two months before the expiry of the temporary residence permit, the alien who has been granted subsidiary protection applies for renewal of the temporary residence permit in accordance with the established procedure⁸ at the County Police Headquarters (CPH) that services the territory where the alien has declared his or her place of residence.

After examining the application submitted by the alien who has been granted subsidiary protection to renew the temporary residence permit and other documents in his or her personal file, the Migration Department takes one of the following decisions:

⁸ The procedure is established in the Description of the Procedure for the Issue, Renewal and Cancellation of Temporary Residence Permits.

- to renew the temporary residence permit for an alien who has been granted subsidiary protection for the period specified in Article 48(2) of the Law, provided that the alien meets the conditions that are established for obtaining a temporary residence permit on the basis established in Article 40(1)(9) of the Law;
- to refuse to renew the temporary residence permit for an alien if said alien no longer meets the conditions that are established for obtaining a temporary residence permit on the basis established in Article 40(1)(9) of the Law.
- If, during examination of an application submitted by an alien who has been granted subsidiary protection to renew a temporary residence permit, it is established that said alien may be subject to the provisions of Article 90(2) of the Law, the Migration Department commences the procedure for withdrawing asylum in accordance with the procedure established in section VII of the Description.

Every time the renewal of a permit to temporarily reside in the Republic of Lithuania is being decided for a person who has been granted subsidiary protection, it is assessed whether the alien still meets the conditions for which he or she was granted subsidiary protection.

- A review can be triggered *ex officio* by national authorities. Yes

If it is determined that there are grounds established in the Law on the basis of which the person may be deprived of the form of international protection granted to him or her, the Migration Department may commence the procedure for withdrawing international protection. Also see answers to Q14 and Q26.

Q30b. If yes to Q30, please briefly elaborate on (i) authorities involved and procedure followed (e.g. same authorities involved in the review and adoption of a decision to cease international protection), and (ii) whether a beneficiary of international protection is informed of the review.

In accordance with its competence, the Migration Department decides on the granting of asylum in the Republic of Lithuania, the review and withdrawal of protection granted, and other issues related to asylum in the Republic of Lithuania; it also organises the execution of these decisions.

If the procedure for withdrawing asylum is initiated for a person who has been granted asylum (refugee status or subsidiary protection), said is informed thereof.

Q31. Can a review of international protection status lead to a decision to cease international protection in Lithuania?

Yes. It is worth nothing that each case is assessed on an individual basis, and the commencement of the procedure for withdrawing asylum (refugee status or subsidiary protection) does not always result in the cessation of the asylum or subsidiary protection granted to the person.

In each case, assessment is carried out of newly discovered circumstances (e.g. the fact that the person often goes back/had gone back to the country of origin), the circumstances for which the alien was granted asylum, and circumstances that arose or came to light after the alien was granted asylum if said are related to the criteria for granting of asylum established in part 1 of Article 86 ('Granting of Refugee Status') or part 1 of Article 87 ('Granting of Subsidiary Protection') of the Law.

Only after carrying out an investigation, i.e. after assessing the information in the alien's file, and establishing that there are legal grounds established in the Law due to which the asylum granted to the person can be withdrawn does the Migration Department make a decision on the withdrawal of asylum (refugee status or subsidiary protection).

3.3. CESSATION PROCEDURE

Q32. Based on circumstances that can trigger cessation grounds explored in section 2, which authorities are involved in the decision to cease international protection status in Lithuania?

In the Republic of Lithuania, the decision on the cessation of asylum (refugee status or subsidiary protection) is made by the Migration Department.

Q33. Can the beneficiary of international protection present contrary evidence or elements during the procedure to cease his/her protection status?

Yes.

Q33a. If yes to Q33, can s/he present defence:

- In writing to the competent authority?
- Orally?
- Both? Yes
- Other?

Upon the Migration Department initiating the procedure for withdrawing asylum (refugee status or subsidiary protection), the beneficiary of international protection is immediately informed by written notification of the reasons why this procedure was commenced and about the opportunity to provide a written or oral explanation to the Migration Department within 14 working days of the reasons why a decision to withdraw his or her asylum should not be taken or, when the procedure for withdrawing asylum is commenced in the cases specified in Article 4(6) of the Law⁹ (when an alien: poses a threat to national security; poses a threat to the public; has been found guilty of a grave crime and poses a threat to the public) – within five working days of the day the Migration Department's notification was sent to him or her.

If the alien gives the reasons orally, an audio or audio-visual recording is made during the interview which is transferred to the corresponding storage media and attached to the alien's personal file. Based on this audio or audio-visual recording, a transcription of the interview is made which is signed by the authorised Migration Department civil servant who was given the explanation and the authorised Migration Department civil servant who transcribed the interview and which is attached to the asylum seeker's personal file.

If necessary, an interpreter participates in the interview. If the alien wishes, an authorised representative providing state-guaranteed legal aid participates in the interview. Interviews with unaccompanied minor aliens are conducted in the presence of an authorised representative providing state-guaranteed legal aid and the representative specified in Article 2(21) of the Law.

Participation in the interview of an interpreter and (if requested) an authorised representative providing state-guaranteed legal aid is ensured by the Migration Department. The procedure for withdrawing asylum (refugee status or subsidiary protection) is described in detail section VII of the Description of the Procedure.

Q34. Is there a specific deadline set to issue the decision to (possibly) cease international protection?

Yes. The decision on the cessation of asylum (refugee status or subsidiary protection) is made:

- within three months of receipt of the explanation (written or oral) submitted by the alien in accordance with the procedure;
- if the alien does not submit an explanation within the established 14-day period – within three months of the day the written notification by which the alien was informed that the procedure for withdrawing asylum (refugee status or subsidiary protection) has been initiated against him or her was sent out to the alien.

⁹Article 4(6) of the Law: 'The State Security Department, having obtained information that an alien who has been granted refugee status or subsidiary or temporary protection poses a threat to national security, or the Police Department or State Border Guard Service, having established that an alien who has been granted subsidiary protection poses a threat to society, or that an alien who has been granted refugee status or temporary protection has been convicted of a grave crime and poses a threat to society, shall immediately notify the Migration Department thereof. The Migration Department shall come to a decision on the withdrawal of refugee status or supplementary or temporary protection within 14 calendar days of receipt of the information, having received the alien's oral or written explanations. If the Migration Department decides to withdraw refugee status or supplementary or temporary protection, the alien must be explained the procedure for appeal against this decision.'

Q34a. If yes to Q34, how is the decision notified to the (former) beneficiary of international protection? Is it done:

- In writing. Yes
- Orally. Yes
- Other means?

The written decision is drawn up in Lithuanian. The alien is acquainted with the decision on asylum orally, in a language that he or she understands or in his or her native language. After becoming acquainted with the decision on the withdrawal of asylum, the alien has to sign it. The fact that the alien signs the decision on the withdrawal of asylum does not in itself mean that the alien agrees with the decision made in respect to him or her; the alien has the right to appeal against the decision to the court within 14 days of it being served.

Q34b. If yes to Q34, does the decision include the reason(s) for cessation?

On the basis of the reasoned conclusion drawn up by the authorised Migration Department civil servant regarding the cessation of refugee status or subsidiary protection, the Migration Department takes the decision to cease refugee status or subsidiary protection.

The alien is acquainted with the decision on the cessation of refugee status or subsidiary protection. In the decision, the reasons for the cessation of asylum are not described in detail – only essential elements are given: the facts established and the legal basis according to which the decision to cease the asylum granted was made.

Q35. In case a decision to cease the international protection status is adopted:

a) What are the timeframes for appealing the decision?

An alien who does not agree with the decision of the Migration Department on the cessation of refugee status or subsidiary protection has the right to appeal against the said decision within 14 days of the decision being served.

b) Which authority examines the appeal application?

An alien who does not agree with the decision has the right to appeal against the said decision to the Vilnius Regional Administrative Court.

The decision adopted by the Vilnius Regional Administrative Court may be appealed against within 14 days of the date of publication to the Supreme Administrative Court of Lithuania (SACL) in accordance with the appeal procedure.

The Supreme Administrative Court of Lithuania (SACL) makes the final and binding decision that comes into force from the date of its adoption.

Q36. When a competent authority assesses elements to cease (or not) an international protection status, does it also assess the proportionality of a removal from national territory?

Yes. However, each case is assessed on an individual basis. If, after assessing the individual case, it is established that the asylum granted to the alien must be withdrawn, it is also assessed whether a decision on expulsion (forced return) or voluntary return must and can be taken.

Q37. Have there been any court decisions on appeals against a (first instance) decision of cessation of a protection status due to travels to the country of origin in Lithuania? If yes, please briefly summarise:

- a) The result of the appeal (e.g. was the initial decision to cease international protection reverted?): N/A
- b) The main justifications given by the Court (e.g. reasons to uphold or quash the first instance decision): N/A

3.4. CONSEQUENCES OF A CESSATION DECISION

Right to stay, possible change of status or return

Q38. In Lithuania, is the decision to cease international protection issued together with the decision to end the residence permit?

No. An alien whose asylum has been withdrawn by decision of the Migration Department has the right to appeal against the decision to the court; if the alien exercises this right, the decision of the Migration Department is deemed not to have entered into force until the court reaches the final decision.

So in this case, while the court is evaluating the legality of the decision of the Migration Department regarding the cessation of asylum, it is considered that the asylum has not been withdrawn and the alien continues to enjoy the asylum granted as well as the residence permit that was issued to him or her due to the grant of asylum.

If an alien whose asylum has been withdrawn is using a residence permit for the Republic of Lithuania that was issued in light of the fact that the alien was granted asylum, once the decision on the cessation of asylum enters into force, a decision is made on revoking the Republic of Lithuania residence permit and forced return or voluntary return to the country of origin if, after assessing the legal status of the alien, it is established that there are no legal grounds on the basis of which the alien may remain in the Republic of Lithuania.

Q39. What are the consequences of a decision to cease international protection in Lithuania on the right to stay of the (former) beneficiary of international protection:

a) Automatic loss of the right to stay (in the State that granted protection).

No, because the right to be in the territory of the country is linked with a residence permit.

An alien whose refugee status or subsidiary protection has been withdrawn will lose the right to be in the territory of the country when a decision is made on revoking the residence permit issued thereto.

b) Individual circumstances of the (former) beneficiary of international protection are taken into account (e.g. the person has a right to stay on other grounds).

Yes. There is cooperation with the alien. The alien is consulted on whether he or she may remain in the Republic of Lithuania on other grounds provided for in the Law and whether this is basis for a Republic of Lithuania residence permit to be granted.

Q40. Can a (former) beneficiary of international protection be granted another status? If yes, this can be:

- A subsidiary protection status: Yes

An alien who has not been granted refugee status or subsidiary protection and who had previously been granted refugee status or subsidiary protection may submit an application for asylum in the Republic of Lithuania.

If it is determined that the person meets the provisions established in the Law for the granting of refugee status or subsidiary protection and no reasons are established for refusing to grant him or her asylum, then he or she is granted asylum, despite the fact that the previously granted refugee status or subsidiary protection was withdrawn.

- A national protection status
- A legal migration status: Yes

An alien whose refugee status or subsidiary protection may apply for a Republic of Lithuania residence permit on other grounds (e.g. family reunification, work, studies).

- Other

Right to stay of family members and dependents

Q41. In case of a (final) decision to cease international protection status, what are the consequences on family members and dependents included in the initial application for international protection:

- Keep their international protection status
- Lose their international protection status and lose their right to stay
- Lose international protection status and keep their right to stay on other grounds
- Case by case decision if they keep or lose their international protection status and their right to stay: Yes

Each case is assessed on an individual basis, taking into account both the reasons for which the individuals were granted refugee status or subsidiary protection, and the reasons for which refugee status or subsidiary protection was withdrawn for one (or several) family members.

- Other consequences

Q42. In case of a (final) decision to cease international protection status, what are the consequences on family members and dependents not included in the initial application for international protection, and who got a residence permit through family reunification with the former beneficiary of international protection.

- Keep their right to stay
- Lose their right to stay: Yes

If members of a family were granted Republic of Lithuania residence permits due to the fact that their family member had been granted refugee status or subsidiary protection, then when the beneficiary of international protection is deprived of refugee status or subsidiary protection, the Republic of Lithuania residence permits of his or her family members are also revoked, since the grounds for which they were issued these permits has ceased to exist.

- Case by case decision if they keep or lose their right to stay
- Other consequences

Summarising chart and case study(-ies)

Q43. Summarising chart and illustrative examples on the adoption of a decision on cessation of international protection and implications on the right of residence in the (former) State of protection

- Mr Ahmadzai¹⁰ from Afghanistan was granted refugee status in Belgium in March 2012 based on his fear of the Taliban. On 7 October 2016, upon arrival in Belgium at the airport from Kabul, he was subjected to a check by the border police, where he presented his travel document for refugees. The entry and exit stamps on this document showed that he stayed in Afghanistan for over a month. The border police transmitted a copy of the travel document to the Immigration Office (to the International Protection Follow-up Unit) on 9 October 2016. As a result, the Immigration Office requested the Office of the Commissioner General for Refugees and Stateless persons to cease his refugee status.

A few months later, in January 2017, Mr Ahmadzai was invited for an interview by the Office of the Commissioner General for Refugees to explain the reasons of his visit to his country of origin and provide him with the opportunity to present evidence showing that he was still in need of refugee protection. Based on these statements, the length of stay in Afghanistan and the extensive family ties there, the Office of the Commissioner General for Refugees established that his behaviour did not show a fear of persecution in the country of origin. It took the decision to cease his refugee status on 28 April 2017. Mr Ahmadzai filed a suspensive appeal before the Council for Alien Law litigation against this decision on 31 May 2017. The Council confirmed the decision of cessation on 15 February 2018.

¹⁰ Names used in these examples are fictional.

As a consequence of the end of his refugee status, the Immigration Office examined on 28 February 2018 whether his right to stay in Belgium should be ended or not. The Immigration Office first sent Mr Ahmadzaia registered letter asking him to submit any evidence and elements deemed necessary in favour of keeping a residence right. He didn't reply to this letter. After analysing all the elements in his file, and taking into account his length of stay, medical situation, family life and cultural and social links in Belgium, the Immigration Office took on 18 March 2018 a decision to end Mr Ahmadzai's right to stay in Belgium and issued a decision to return within 30 days.

- Mr Al-Nourifrom Syria was granted refugee status in Belgium in April 2010. On 15 November 2017, he arrived at Brussels airport returning from Syria and was subjected to a border check. The entry and exit stamps in his travel document for refugees showed that he went back to Syria for three weeks. The border police transferred its report and a copy of the travel documents to the Belgian Immigration Office (International Protection Follow-up Unit). On 18 November 2017, the Immigration Office asked the Office of the Commissioner General for Refugees and Stateless Persons to cease his status.

Mr Al-Nouri was interviewed at the Office of the Commissioner General on 10 March 2018 to enable him to present evidence in favour of maintaining his protection status. Based on this and past behaviour, the Commissioner General assessed that he failed to establish a real fear of persecution in Syria. Hence, on 28 March 2018, a decision to end his refugee status was adopted. Mr Al-Nouri did not bring an appeal against it.

After analysing Mr Al-Nouri file, the Immigration Office established that his wife and three underage children were staying in Belgium through family reunification. From a legal point of view, the residence right of Mr Al-Nouri and his family could be ended. On 15 May 2018, a questionnaire was sent to both him and his wife asking them to fill this in and to submit all documents and provide all elements deemed necessary for reviewing their residence rights. Based on all these elements (employment status of Mr Al-Nouri and his wife, school-aged children, integration courses followed), the Immigration Office decided on 25 June 2018 not to end Mr Al-Nouri's and his family's right to stay in Belgium.

In 2013, Mr X was granted subsidiary protection in the Republic of Lithuania in light of the fact that after assessing the alien's application for asylum in the Republic of Lithuania, it was established that if he was to return to the country of origin, he would be exposed to a serious and individual threat to his life, health, safety or freedom by reason of indiscriminate violence in situations of international or internal armed conflict.

In 2015, the Migration Department received a request from Mr X to renew his residence permit. The application submitted indicated that in 2014, the alien had gotten married in his country of origin and that he had visited the mission of his country of origin four times over the past year. In light of the fact that the Migration Department did not have any data that the person had a travel document issued by his country of origin, as well as the fact that the person had not been issued an Alien's Passport and the fact that the alien indicated that he had gotten married in his country of origin, a notice was sent to the alien in November 2015 about initiation of the procedure for withdrawing subsidiary protection.

An interview was conducted with Mr X in February 2016 during which the alien had the opportunity to provide the reasons for which the subsidiary protection granted to him should not be withdrawn. During the interview, the alien said that he had gone back to his country of origin and spent more than one month there. Mr X said that while he was in the country of origin, he got married and stayed with his wife's family members, and that he was safe when he was in the country of origin. Mr X also stated that while he was in the country of origin, he received a visa from another state with which (during the same trip to the country of origin) he went to a neighbouring country of the country of origin, where he visited relatives living there and then returned to his country of origin. During the procedure for withdrawing subsidiary protection, Mr X presented documents confirming that he had gotten married in the country of origin, and also presented a passport issued by the authorities of his country of origin containing stamps which confirmed his story of when he had returned to his country of origin and how much time he had spent in his country of origin.

Upon assessing the information given by Mr X, having regard to the period that Mr X spent in the country of origin as well as the fact that he had gotten married and restored/created social relations in the country of origin, and taking into account information on the country of origin as well as the fact that the alien did not indicate any other reasons for which the subsidiary protection granted to him should not be withdrawn (subsidiary protection was granted to the alien due to the security situation in the country of origin), the Migration Department took the decision to withdraw the supplementary protection granted to alien X, since it was not established that Mr X would be exposed to a serious and individual threat to his life, health, safety or freedom by reason of indiscriminate violence in situations of international or internal armed conflict if he were to return to his country of origin.

Conclusions

Q44. With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policy-makers?

1. In the Republic of Lithuania, the withdrawal of asylum is regulated in Article 90 of the Republic of Lithuania Law on the Legal Status of Aliens, which specifies the cases in which asylum is withdrawn. The procedure for the withdrawal of asylum is established in section VII of the Description of the Procedure¹¹: in which cases the procedure for withdrawing asylum is commenced, how the procedure for withdrawing asylum is conducted, how the alien is informed about the procedure for withdrawing asylum, what is assessed in conducting the procedure for withdrawing asylum, etc.
2. It is worth noting that in the Republic of Lithuania, the monitoring of persons who have been granted refugee status or subsidiary protection is not considered a national policy priority; there are also not many cases in practice where refugee status or subsidiary protection was withdrawn due to the fact that the alien contacted the authorities of the country of origin or returned to the country of origin.
3. The mere fact that an alien communicates/collaborates with the authorities of the country of origin and/or goes back to the country of origin does not constitute a legal basis to withdraw the asylum granted to the person. In assessing whether the asylum granted to an alien may be withdrawn, full assessment must be carried out of: the reasons for which the alien was granted asylum, the information provided by the alien on why the asylum should not be withdrawn, and any other information available in the alien's file which is related to the granting/cessation of asylum.
4. The procedure for withdrawing asylum may be commenced at any time upon receiving reliable information or having regard to the information the Migration Department has about the country of origin of the alien, i.e. not only when the alien him or herself applies to the Migration Department by submitting new information or applications (e.g. when the issue of travel documents to an alien is being decided at the Migration Department or during renewal of a Republic of Lithuania residence permit).
5. If an alien, whose asylum has been withdrawn, can be issued a residence permit on other grounds provided for in the Law, he or she is consulted about this possibility by the Migration Department.
6. Once a decision on the cessation of asylum enters into force, a decision is made on revoking the residence permit and (forced return) or voluntary return to the country of origin if, after assessing the legal status of the alien, it is established that there are no legal grounds on the basis of which the alien may remain in the Republic of Lithuania.

¹¹ Approved by Order No 1V-131 of the Minister of the Interior of the Republic of Lithuania of 24 February 2016.

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

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