REPORT
on the Free Movement of Workers in Lithuania in 2007

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Abbreviations

Certificate	document confirming the right of EU national to permanent residence in Lithuania
EC	European Commission
ECJ	European Court of Justice
EC Residence Permit	document issued to EU national or his/her family member
EEA	European Economic Area
EU	European Union
EU Residence Permit	document issued to a third country national, who is EU national's family member
FIFA	Federation of International Football Associations
LBF	Lithuanian Basketball Federation
LFF	Lithuanian Football Federation
LVF	Lithuanian Volleyball Federation
MOI	Ministry of Interior
MS	Member State
MSs	Member States
MSSL	Ministry of Social Security and Labour
SODRA	Social Insurance Fund
UK	the United Kingdom

Introduction

The Aliens' Law remains the main legal act regulating the legal status of foreigners in the country, including EU nationals. The law sets forth a privileged treatment to the EU/EEA Member States nationals (hereafter – EU nationals) as compared to all other foreigners in the country. Though the provisions of the Aliens' Law mention only the EU nationals, its final provisions envisage the application of the principle of free movement of persons also to nationals of the EEA and Switzerland and their family members.

Among the three major developments that could be observed for the year 2007 were: (1) adoption of a set of policies and structures to deal with economic migration; (2) amendment of implementing residence legislation to complete the transposition of Directive 2004/38/EC; (3) regulation of the situation of third country nationals' family members and students. These developments are outlined in more details below.

(1) 2007 was rich in policy development and establishment of administrative structures to deal with economic migration. Important development was the adoption on 25 April 2007 of the Economic Migration Management Strategy and the Measures of its Implementation for 2007-2008.[1] The main objective of the strategy in the context of rapid economic growth in Lithuania is to seek that Lithuania is not lacking labour force and prevent negative consequences of migration process. One of the tasks mentioned in the strategy is to resort to workers from third countries considering the flows of returning emigrant workers and providing a privilege to EU nationals. Also, the Immigration Policy Guidelines were under preparation during the year. The guidelines will seek to preserve national competency over the main migration questions as well as provide temporary migration solutions to the lack of workforce. Lithuania established Economic Migration Section in the Ministry of Social Security and Labour in 2007 and appointed Economic Migration Affairs' Commission on 14 August 2007. Furthermore, Migration Policy Department was established within the MOI on 18 October 2007. These developments reflect the very acute issue of the need for labour force due to it's' lack in the country.

(2) During the year, important legislative developments related to the legal status of EU nationals and other foreigners have taken place, in order to transpose the EU Directive 2004/38/EC to the national legislation. First of all, this work has resulted in adoption of Circular on issuance of permanent resident certificate for EU nationals on 25 October 2007. Also, amendments to the Order on Permanent residence permits of 14 June 2007 deleted the requirement to present a document confirming that the foreigner has a place to live under ownership or rent or use agreement, or the confirmed commitment of the natural or legal person to provide him with a place to stay for the period of permit validity. On the other hand, the amendments introduced stricter rules as concerns the issuance of a permanent residence permit after 5 years of residence in the country, which requires the foreigner to pass a state language and Constitution exam. Besides, transposition of the Directive 2004/38/EC concerning the rules on declaration of the place of residence was completed during the year with the approval of a new Order on Declaration of the place of residence and maintenance of declaration data. These rules now have specific references to EU nationals and their family members. Furthermore, draft amendments to the Aliens Law to align national legislation

[1] Resolution No. 416 of the Government of the Republic of Lithuania on adoption of the Plan on Approval Of Economic Migration Management Strategy and the Measures of its' Implementation for 2007-2008, 25 April 2007, *State News* No. 49-1897, 05.05.2007.

with requirements for entering the Schengen area were pending by the end of the year, while Lithuania joined Schengen in May 2007. Control of persons at airports is to be abolished as of 30 May 2008.

(3) Among the other important developments in Lithuania during the year, was the regulation of situation of third country national family members of EU nationals with the adoption of the Order on EU permanent residence permit for family members (of 25 October 2007, mentioned above). It mainly deals with issuance of Permanent Residence Certificate to EU nationals, but also regulates the conditions and procedure for issuance of EU residence permit for EU national family member who is a third country national.

In the area of recognition of professional qualifications, the draft law on Recognition of Professional Qualifications implementing Directive 2005/36/EC was finally submitted to the Parliament for adoption. This law will transpose the Directive 2005/36/EC on Recognition of Professional Qualifications and aims to ensure that EU nationals who are workers or self-employed persons could engage in the same regulated profession in Lithuania on the basis of the same rights as Lithuanian nationals. In addition, a number of new legal acts or their amendments were adopted during 2007 in the field of recognition of diplomas and professional qualifications with a view of transposing the Directive 2006/100/EC and Directive 2005/36/EC, many of these amendments were made mainly in connection with accession of Bulgaria and Romania and the rules involving documents issued by these countries. The Qualifications' Service to be established in Lithuania will be assigned to deal with the system of qualifications in Lithuania, its' quality, policy on qualifications, as well as preparation of legal acts in this field.

Also, the situation of students who are EU nationals improved during the year with the approval of the Order No. ISAK-52 of the Ministry of Education and Science on Admission of persons who acquired education abroad to fully or partially funded by the Lithuanian budget studies in higher establishments of Lithuania on 15 January 2007. The drawback however is that the Order still does not address the study grants issue for EU nationals' family members who are third country nationals.

Despite the positive developments during the year, there are also remaining concerns that pose or may create specific problems for EU nationals exercising their freedom of movement in the Republic of Lithuania. In particular, situation of job seekers after elimination of certain provisions in the Aliens' Law; as well as stay in Lithuania following the termination of employment relations or other lawful activities is no longer regulated; regulation of access to Lithuanian public service for persons performing technical and other functions falling out of strict definition of public service remains unclear; EU nationals are legally little protected from expulsion and detention as their situation is not made different from all other foreigners; language proficiency requirement continues to be applied in certain spheres of the private sector, including maritime sector; a number of restrictions exist in the sports' sector; problematic could be also the calculation of periods of pension insurance acquired abroad in assigning pension in Lithuania.

The political and public debate on extensive emigration from Lithuania continued also during 2007. Emigration from Lithuania is seen as a huge problem affecting directly the labour market in the country and raising the issue of the need to "import" workers from the neighbouring states. 13,853 persons emigrated from Lithuania in 2007, mostly to the European countries (11,422 of them Lithuanian citizens). This represents an increase again in comparison with 10,329 in 2006 when a decrease was noted if compared with 2005. The official statistics still reflects very limited number of Lithuanians leaving for other Member

States, because many Lithuanian citizens do not declare to the authorities the reason for departure from the country and many still continue to work abroad illegally.

At the same time, 8609 foreigners arrived for residence in Lithuania by the end of 2007 (6456 of them were EU/EEA nationals). This represents an increase if compared with 2006 when 7745 foreigners arrived for residence (5880 of them – EU nationals). The majority arrived from Germany (70), Latvia (48), Bulgaria (32), Spain (28). Most of them are returning Lithuanian citizens (6,141). Also a large number of immigrants were from non-EU/EEA countries (2149). Worthwhile noting that Lithuania issued almost double number of work permits for third country nationals if compared with 2006 (5686 issued and 235 extended in 2007; while 2,944 were issued and 38 extended during 2006).

Submission of applications for EC residence permits (temporary stay) continued to decrease. 1,123 applications were submitted during the year by EU/EEA nationals (in comparison with 1,248 received in 2006) and 1,141 decisions were adopted to issue/extend the permit. Almost half of the applications relate to employment or self-employment in Lithuania. However, the requests for issuance of EC permanent residence certificate increased almost in double (288) in comparison with 2006 (122 permanent residence permits).

Lithuania did not change its position during the year as concerns the application of equivalent restrictions in response to transition arrangements by the old Member States or newest members (Romania and Bulgaria). It does not apply restrictions on the access of EU nationals to its labour market. Generally, the labour migration to Lithuania for a number of years has been rather low and the annual quota established for labour permits has been hardly filled. Given the fact that a large number of Lithuanian workers have been seeking employment abroad and the labour force in Lithuania itself is lacking, it is unlikely that Lithuania would introduce any restrictions whatsoever as concerns access to the labour market.

Chapter I
Entry, Residence, Departure

A. ENTRY

Text(s) in force

The main provisions on conditions of entry, residence and departure of EU nationals are contained in the Aliens Law of 2004 as amended on 28 November 2006. According to the Aliens Law (Article 97(1)) EU national may be admitted to Lithuania and stay therein for a period of three months counting from the first day of entry into the country without any formalities. Given that EU nationals, entering or exiting Lithuania do not require any specific entry or exit authorisation and are not registered by the authorities while in the territory of Lithuania (unless they apply for a residence permit or declare their place of residence, or declare about their departure from the country), there is no data as to how many of them entered/exited Lithuania in 2007. They appear in the official statistics only if they stay for a longer period than 3 months, once a residence permit is issued and the obligation to declare the place of residence emerges (refer to Residence section below).

Refusal of entry of EU national to Lithuania is possible only on two grounds, which are related to lack of valid travel document (the Law does not specify which travel document, but it is understood to cover either ID card or passport) and threat to public security, public policy or public health (Art. 98 of the Aliens Law).

School pupils who are third country nationals legally resident in the EU can enter Lithuania and stay here up to 3 months within half a year, as well as transit Lithuania without a visa provided they fulfil certain requirements:

- participate in the excursion of a school legally operating in the EU MS;
- they are accompanied by the teacher working in such a school;
- the teacher has a list of all travellers participating in the excursion, where documents proving identity of pupils and the purpose/circumstances of travel are listed;
- they are in possession of valid travel documents.

The Government Resolution No. 436 of 20 April 2005 concerning the approval of rules for the establishment and management of a list of foreigners who are prohibited to enter the Republic of Lithuania (hereafter – Rules on Prohibition of Entry)[2] continues to apply to all foreigners with no specific reference to exclude EU nationals from the scope of its application. No amendments have been made to this document during 2007.

Draft legislation

Draft Law on Amendments to the Aliens Law (hereafter - Draft Law) was pending by the end of 2007, which was mostly related to introduction of provisions on Schengen regime and coordination of the law with a few EU legal acts related to foreigners. According to the Draft Law, Art. 7, regulating entry of foreigners of the Aliens Law, will be repealed. Also, the Draft Law provides that the rules concerning the refusal of entry of foreigners to Lithuania

[2] Published in *State News*, No. 52-1747, 2005.

will be determined according to Schengen Border Code. According to the Draft Law, family member of the EU MS national, who is not EU MS national, but holds the residence permit mentioned in the Directive 2004/38/EC, will have a right to enter Lithuania and reside for a period up to 3 months within half a year without a visa. Those foreigners who are not covered by this provision but have a residence permit issued by another Schengen state, will have a right to enter Lithuania during the period of its' validity and stay without a visa for up to 3 months within half a year (the period starts from first day of entry to Lithuania or another Schengen state). Draft Law of Amendments was approved by the Parliament on 1 February 2008 (more details will be provided in the Report for 2008).

Miscellaneous (administrative practices, etc.)

Though the Aliens' Law provides for grounds to refuse the entry of EU nationals to Lithuania in certain cases, in practice the administrative bodies see it difficult to apply at the point of entry (except for the possession of entry document, which is checked upon by the border police). Thus these grounds could only be applied (if necessary) at the point when EU national applies to the authorities for declaration of the place of residence (after 3 months of stay). According to the information of the State Border Guard Service at the MOI (of 5 March 2008), 108 EU/EEA nationals were refused entry to Lithuania in 2007 (123 were refused in 2006). The table below provides a breakdown according to nationality and the reasons for refusal.

Reasons for refusal	**Total**	**AUS**	**DEN**	**GRB**	**ITA**	**EST**	**LVA**	**FRA**	**FIN**	**GER**	**POL**
No valid travel document	87	1	1	1	4	3	66	1	1	7	2
False passport	2						1				1
Entered into national or SIS register	5						5				
Security concerns for one or several EU MSs, national security or public order	14						13			1	
TOTAL	**108**	1	1	1	4	3	85	1	1	8	3

B. RESIDENCE

Text(s) in force

According to current legislation, EU nationals can stay in Lithuania for three months without any formalities. Following this period they have to declare a place of residence and submit documents for EU residence permit. Later on, they can be granted permanent residence in Lithuania. Article 104 of the Aliens' Law provides for the grounds of permanent residence of EU nationals in Lithuania. According to this Article, "EU national, who has been lawfully resident in the Republic of Lithuania for the last 5 years or, who retains the right to Lithuanian citizenship or, who is a person of Lithuanian origin, or arrived to the Republic of Lithuania as a family member of a Lithuanian citizen, is entitled to reside permanently in the Republic of Lithuania" According to the Law, in exceptional cases to be determined by the Minister of Interior residence right may be granted earlier than after 5 years of residence (Art. 104(3) of the Law).

The period of EU residence permit validity is fixed at 5 years or shorter period if EU national intends to reside for less than 5 years. According to the Aliens' Law, application for EU residence permit must be processed within one month from the date of its receipt (Art. 100 of the Law) (in comparison with 6 months applied to all other foreigners). For students, EU residence permits are issued only for a period of one schooling year. Family members of EU citizens obtain residence permits for the same period as EU citizens.

Permanent residence is confirmed by a certificate, introduced in 2006, while the right of permanent residence of the EU national family member who is non-EU national is confirmed by the EU permanent residence permit, which is being issued for a period of 10 years and afterwards extended (Art. 104(5) of the Law).

The Order No. 1V-369 on issuance of the certificate confirming permanent residence and the issuance of EU permanent residence permit to a family member of EU national was approved by the Minister of Interior on 25 October 2007 (hereafter - Order on Permanent Residence Certificate).3 According to this Order, the periods of employment are calculated in the period of residence, as well as periods of unemployment that occurred without the will of the person (paragraph 7 of the Order). Request for certificate is submitted to the Migration Department through a local migration institution where EU national has declared or is intending to declare his/her place of residence. All supporting documents need to be translated to Lithuanian and officially confirmed. EU national needs to fill in the Foreigner's Data form, which should be filled in Lithuanian language (it is not clear how the foreigner can fill it in if he/she does not know Lithuanian). All requests submitted by EU nationals are registered in a special register. Decision on the basis of the request should be taken within one month from the date of receipt of application by the migration service. Decision on permanent residence granted is notified along with the certificate being sent to the EU national within 3 working days from its' issuance. The Order enlists also situations when the examination for request for permanent residence may be discontinued. These situations refer to circumstances when the EU national (paragraph 41):

a) withdraws the application;

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[3] Order of the Minister of Interior of the Republic of Lithuania No. 1V-369 of 25 October 2007 on approval of the Order on Issuance of Certificate confirming the right of the EU Member State national to permanent residence in the Republic of Lithuania and approval of the Order on Issuance, extension and termination of the permanent residence permit of a family member of EU Member State national who is non-EU national, *State News*, No. 113-4607, 31.10.2007.

b) dies;
c) terminates labour contract or legal activity in Lithuania;
d) is crossed out from the list of students, school pupils or terminates internship, qualification raising courses or vocational training courses;

Decision to grant permanent residence to EU national may be withdrawn if the circumstances leading to recognition of such a right have changed. In this case decision on withdrawal of the right shall be adopted within 10 days from receipt of materials by the Migration Department.

Worthwhile mentioning that, if the EU national is away from Lithuania for a period exceeding 6 months within one year, this may be a ground for refusing the permanent residence right (except when absence from Lithuania is related to serious reasons (including those required by the Directive 2004/38/EEC). Also, the Aliens' Law indicates that acquired right to permanent residence is lost in case of absence from the country for 2 consecutive years (Art. 104(7)).

Residence rights may be terminated to EU nationals and their family members in case of threat to state security or public order (Art. 106(1) of the Law). If EU national's right to residence is terminated, his family members also loose this right, unless they are entitled to reside on other grounds. After loosing the right to residence EU national and (or) his family member must depart from Lithuania or will be subject to expulsion.

More detailed regulation of the issuance of residence permits to foreigners, including EU nationals, is provided by the orders of the Minister of Interior, implementing the Aliens' Law, adopted in 2005 and amended in 2007:

1) The Order No.1V-329 on Approval of Rules for the Issuance of Temporary Residence Permits to Foreigners in the Republic of Lithuania and Assessment of Marriages of Convenience of 12 October 2005 (hereafter – Order on Temporary Residence Permits), as amended on 28 June 2007;
2) The Order No.1V-445 on Approval of Rules for the Issuance of Permanent Residence Permits to Foreigners in the Republic of Lithuania and Assessment of Marriages of Convenience of 21 December 2005 (hereafter – Order on Permanent Residence Permits). This Order was amended on 14 June 2007 (No. 1V-219) to include instead of "permanent residence permits", "the permit of a long-term resident". The title of the Order now reads as follows: "on Approval of the rules for issuance of long-term residents' permits to foreigners in the European Community and the assessment of marriages, registered partnerships and guardianship of convenience". Also, amendments to the Order on Permanent residence permits of 14 June 2007 deleted the requirement to present a document confirming that the foreigner has a place to live under ownership or rent or use agreement, or the confirmed commitment of the natural or legal person to provide him with a place to stay for the period of permit validity. Thus problematic provision was eliminated from the legislation. However, the amendments introduced stricter rules as concerns the issuance of a permanent residence permit after 5 years of residence in the country, which requires the foreigner to pass a state language and Constitution exam. Previously, it was not a mandatory, but rather encouraging rule, allowing foreigners who have passed such an exam to obtain permanent residence after 4 instead of 5 years. This is no longer the case and these developments represent retrogressive effect on the status of foreigners. Although the amendments to legislation of 2007 do not clarify whether this Order is still to be applied to EU nationals and their family

members, it is believed that it no longer be relevant after adoption of the Order on Permanent Residence Certificate in October 2007.

According to the Order on Temporary Residence Permits the following documents are also required in addition to the application (paragraph 13 of the Order):

a) valid travel document (its validity should be by three months longer than the residence permit requested);
b) documents confirming foreigner's right to obtain/extend a residence permit;
c) document confirming that the foreigner has sufficient resources to sustain his stay in Lithuania and (or) regular income that is sufficient (new Order of the MSSL was adopted on 29 January 2007, which establishes that the monthly amount that is considered sufficient for living within the context of residence permit is fixed at one minimal monthly salary, while for family members below 18 years of age the requirement is fixed at 50% of one minimal monthly salary, as well as for students and foreigners arriving for the purpose of participation in qualification raising or vocational training courses). The minimal salary in Lithuania constituted 700 Litas (approx. 202 euro) in December 2007 and will subsequently increase from January 2008);
d) accommodation;
e) health insurance;
f) paid state fee for processing of documents.

Amendments adopted to the Order on Temporary Residence Permits on 28 June 2007 introduced new requirement in case of workers – to submit a certificate issued by competent EU member state institution confirming that the foreigner is insured with social insurance.

The Order of the Commissar General of the Police of 29 May 2006 on verification of data and making conclusions on the foreigner who requests a residence permit in Lithuania, EC family member residence permit or granting of asylum as concerns his/her threat to public order of Lithuania or conclusion of marriage of convenience, sets the criteria for adoption of the conclusion on threat to public order, which include the following situations, when a foreigner:

a) was sentenced for serious and particularly serious crime;
b) was sentenced for a crime punishable with more than one year imprisonment;
c) received official warning or court obligations in accordance with the Law on Organised Crime prevention;
d) is reasonably suspected of committing serious or particularly serious crimes and there are evidences that he/she is intending to commit such crimes;
e) is subject to compulsory medical measures envisaged in the Penal Code of Lithuania;
f) is being sought by the foreign country for committing a crime for which Lithuanian Penal Code provides a punishment of more than one year imprisonment;

The officer of the Police Information Board preparing the conclusion on the threat of the foreigner to Lithuania's public order may take into account additional criteria, like: behaviour of the person, administrative offences committed during the recent 2 years and other.

Transposition of the Directive 2004/38/EC concerning the rules on declaration of the place of residence was completed during 2007 with the approval of a new Order on Declaration of the place of residence and maintenance of declaration data on 5 February 2007 by Order No. 1V-48 of the Minister of Interior (entered into force as of 1 July 2007; hereafter

Declaration Order).[4] It replaced the previous order of 2 December 2002. These rules will have specific references to EU nationals and their family members. According to the Declaration Order, EU/EEA nationals, who arrived to reside in Lithuania for a longer period than 3 months within half a year and obtained right of residence in Lithuania have the obligation to declare their place of residence. Also, when they change their place of residence or depart from Lithuania for a longer period than six months (paragraph 3.2. of the Order). A general rule is that declaration should be made within 7 days from arrival to Lithuania or change of residence place. The EU nationals who have residence rights in Lithuania are considered having declared their residence for the period of validity of the residence permit. If the later is extended, then the EU national has to inform the authorities in order to extend declaration. Declaration data may be deleted if the residence right of EU national is being terminated.

Concerning regression in situation of foreigners the following situations could be noted (having occurred as a result of amendments to the Aliens Law in 2006 with a view of transposing the Directive 2004/38/EEC):

- 4 years of residence as a requirement for obtaining permanent residence, which was more favourable rule than in the Directive, was abolished;
- the Aliens' Law no longer regulates the possibility for EU nationals and their family members to stay in Lithuania following the termination of employment relations or other lawful activities in Lithuania, which existed before the amendment. This is not reasonable, given that there is a need to provide for a possibility to remain following active employment in circumstances regulated by Article 17 of the Directive 2004/38/EC.
- the situation of job-seekers became unclear. Previously, they were not required to register for 6 months. After amendments, job seekers are not mentioned at all, while job seeking is not included among the grounds of residence. However, it can be interpreted from the Law that job seekers are covered only in so far as they can stay without a residence permit in the country for a period of up to 3 months and then they would likely need to register
- the grounds for residence are no longer related to intention, but rather to a factual situation and include only four grounds in comparison with seven previously (worker or self-employed person; has sufficient resources for himself and for his family members to reside in Lithuania and has a valid health insurance; student, school pupil, probationer, participant of qualification or vocational training courses and has sufficient resources for himself and for his family members to reside in Lithuania and has a valid health insurance; family member of the EU national).

Draft legislation, circulars, etc.

Draft Law on Amendments to the Aliens Law that was pending by the end of 2007, envisages that for EU national who arrives to reside in Lithuania for a longer period than 3 months within half a year and who complies with at least one of the grounds for residence (worker or self-employed person; has sufficient resources for living for him and his family members and health insurance; student; family member of EU national), his/her residence right will be confirmed by the certificate issued in accordance with the format established by the Minister of Interior. Decisions on issuance, extension and termination of such certificates will be taken by the institution authorised by the Minister of Interior.

[4] *State News*, No. 18-672, 10.02.2007.

Judicial practice

According to information provided by courts, no cases concerning free movement of EU nationals as concerns residence in Lithuania have been submitted or decided in the administrative courts during 2007.

Miscellaneous (administrative practices, etc.)

According to the Government Resolution No. 1458 of 15 December 2000 on State Fees, EU nationals enjoy better conditions than all other foreigners in the country. For instance, for issuance of EU permanent residence permit the fee to EU nationals or their family members is 10 Litas (approx. 3 euro), in comparison – issuance of ID card to Lithuanian national costs the same. However, all other foreigners have to pay 320 Litas (approx. 93 euro) for processing of documents and issuance of temporary residence permit. In comparison, national passports to the citizens of Lithuania are issued for a fee of 100 Litas (approx. 29 euro). Thus fees applied to EU nationals for issuance of residence documents may be considered proportional to those applied to nationals. According to the Law on Consular Tariffs the visa fee for the family members of EU nationals is reduced by 100% (regular fee for visa of category D – long term visa is 60 euro). Therefore fees are aligned with provisions of Article 25 (2) of the Directive 2004/38/EC.

The table below illustrates the general proportion of foreigners residing with residence permits in the population statistics of Lithuania for the period of 2003-2007 as of beginning of 2008 (in thousands):

	2003	2004	2005	2006	2007	2008
Foreigners,[5] including those with residence permits	30,5	30,2	32,6	35,3	33,1	33,4
Number of population[6]	3 462,6	3 445,9	3 425,5	3 403,2	3 384,9	3 366,2
Proportion of foreigners in the number of population, %	0,88	0,88	0,95	1,04	0.98	0,99

According to the data of the Migration Department, during the period of 1 January – 31 December 2007, 1123 applications for EC residence permits were received from EU/EEA nationals in Lithuania (slight decrease in comparison with 1248 in 2006). None of them was refused the issuance of residence permit. 1141 decisions were adopted to issue such permit. 288 requests for EC permanent residence permit were received in 2007 from the EU/EEA nationals, all decisions on them were positive (increase in comparison with 122 in 2006 noted). Detailed statistics on the residence permits is provided in Chapter IX. Statistics of this Report.

[5] Source: data of the Identification Documents Issuance Centre at the Ministry of Interior.

[6] Data of the Department of Statistics at the Government of the Republic of Lithuania.

C. DEPARTURE

Text(s) in force

No significant developments have taken place in this area during the year. There continues to be no special provisions in the aliens' legislation regulating departure of EU nationals (except different time lines applied). Under the Aliens' Law (Art. 125), departure of the foreigner (including EU national) may be ordered in case when:

1) Visa was cancelled (comment: as EU nationals are not required to obtain visas, this ground seems not to be applicable in their case, but might affect the family members, who are third country nationals);
2) temporary residence permit or permanent residence permit was revoked;
3) he is staying in the Republic of Lithuania after the expiry of validity of the visa (same comment applies as for point 1);
4) staying in the Republic of Lithuania after the expiry of the temporary residence permit;
5) entered into the Republic of Lithuania lawfully, but is staying without possessing a temporary or a permanent residence permit where he is obliged to possess one;
6) has been staying in the Republic of Lithuania for a period exceeding the period of visa-free stay in a state set by an international treaty of the Republic of Lithuania, an EU legal act or the Government of the Republic of Lithuania (same comment applies as for point 1).

Aliens' Law separately states grounds for expulsion (Art. 126), i.e. a foreigner can be expelled when:

1) he failed to comply with the requirement obliging him to depart from the Republic of Lithuania within a set time period;
2) he entered into or is staying in the Republic of Lithuania unlawfully;
3) his stay in the Republic of Lithuania constitutes a threat to public security or public policy.

The Law further provides that while taking a decision on expulsion of the foreigner, certain circumstances should be taken into account, including (Art. 128):

1) the period of his lawful stay in the Republic of Lithuania;
2) his family relationship with persons resident in the Republic of Lithuania;
3) his social, economic and other connections in the Republic of Lithuania;
4) type and extent of dangerousness of the committed violation of law.

The Order of the Minister of Interior No. IV-429 on Adoption of Decisions concerning Ordering Departure, Expulsion, Return or Transit through the Territory of Lithuania of a Foreigner and the Rules of Implementation of Such Decisions (hereafter – Order on Expulsion of Foreigners) of 24 December 2004, regulates expulsion of foreigners in detail and is also applied to EU nationals on the same conditions as to all other foreigners to be expelled from the country. The Order provides that a specific mark is stamped on the foreigners' document about the order to leave the country, while the foreigner should leave the country within 15 days from the handover of the decision to him (paragraphs 26 and 27.2). The time limits for EU national's departure from the country were made in line with the Directive 2004/38/EC (one month in comparison with earlier envisaged 15 days from receipt of decision in respect

of order of departure for EU national or his family member) by amendments to the Aliens' Law in 2006.

In case of expulsion, a mark is inserted on a travel document with or without a ban to enter (paragraph 52.2). If this would be applied in practice to the EU nationals, it would be in variance with the Directive 2004/38/EC, which prohibits imposing bans on entry in the context of expulsion decisions. The Rules on Prohibition of Entry of 20 April 2005 further state that the "data about the foreigner may be eliminated from the list on the basis of the decision of the Migration Department, if the later receives a motivated written request from the foreigner to eliminate his data from the list".

Decision on expulsion shall be executed immediately, unless the reasons for suspending expulsion exist. Lack of specific rules regulating departure and expulsion of EU nationals makes them vulnerable to expulsion under broader grounds than provided in the Directive 2004/38/EC, which allows expulsion of EU nationals and their family members who have a right to permanent residence only on account of serious grounds of public policy or public security. In 2006 the Order on Expulsion of Foreigners was amended in order to align its' provisions with the EU Directive 2003/110/EC on Transit Assistance.

Problematic could be the issue of detention of EU nationals, as no specific rules are provided and they would be detained under the same grounds/conditions as all other foreigners in the country. Article 113 of the Aliens' Law of 2004 mentions the following grounds for detention of foreigners (without any exceptions to EU nationals):

1) in order to prevent the alien from entering into the Republic of Lithuania without a permit;
2) if the alien has illegally entered into or stays in the Republic of Lithuania (except when applied for asylum);
3) when it is attempted to return the alien to the country from where he has come if the alien has been refused entry into the Republic of Lithuania;
4) when the alien is suspected of using forged documents;
5) if a decision on expulsion of the alien from the Republic of Lithuania has been taken;
6) in order to stop the spread of dangerous and especially dangerous communicable diseases;
7) when the alien's stay in the Republic of Lithuania constitutes a threat to public security, public policy or public health.

Draft legislation, circulars, etc.

Draft amendments to the Aliens Law were pending by the end of 2007, but these amendments will not significantly affect the EU nationals once adopted.

Judicial practice

According to information from courts, no cases concerning free movement of EU nationals as concerns departure/expulsion from Lithuania were submitted or decided by the courts during 2007.

Miscellaneous (administrative practices, etc.)

According to the data of the Migration Department, no decisions on expulsions were issued in respect of the EU nationals during 2007. The number of EU/EEA nationals (except Lithuanian citizens) who departed from Lithuania in order to take up residence in another country (for a period of more than 6 months was 481 during 2007 (in comparison with 583 during 2006). Table 8 within Chapter IX. Statistics of this Report provides a breakdown of data of persons who declared their departure from Lithuania in 2007 for the period over 6 months (according to the country and citizenship).

Migration Department had no data on any EU nationals detained for more than 48 hours for illegal stay in the country during 2007.

D. REMEDIES

Text(s) in force

Remedies are generally regulated by Section X of the Aliens Law. All decisions adopted in respect of foreigners under this Law, may be appealed under administrative proceeding procedure. Appeals may be submitted within 14 days from the receipt of decision. Administrative court has to take a decision within 2 months from acceptance of appeal.

Draft legislation, circulars, etc.

No draft legislation was pending by the end of 2007.

Judicial practice

According to the information available to the author of this Report, no cases concerning free movement of EU nationals were submitted or decided by the courts during 2007.

Chapter II
Access to Employment

1. EQUAL TREATMENT IN ACCESS TO EMPLOYMENT

No significant legislative developments have taken place in this field during the year.

The Labour Code of the Republic of Lithuania (hereafter – Labour Code)[7] of 22 June 2004 contains a general principle of non-discrimination in paragraph 1(4) of Article 2: "equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities". Furthermore, paragraph 1(1) of Article 96 contains a prohibition of refusing employment to a person on the grounds specified in Article 2, mentioned above.

However, Article 13 of the Labour Code provides for legal capacity to engage in employment only to citizens and permanent residents of Lithuania:

> "All citizens of the Republic of Lithuania shall have equal legal ability to exercise labour rights and undertake labour obligations (legal capacity in labour relations). Foreign nationals and stateless persons, who are permanently residing in the Republic of Lithuania, shall have the same legal capacity in labour relations in the Republic of Lithuania as citizens. Laws may establish cases of exception from the above provision."

This Article has not been specifically amended since Lithuania's entry to the EU, however, the EC Regulations (e.g. Regulation 1408/71/EEC and Regulation 1612/68/EEC) are directly applicable in Lithuanian legal system and the labour laws of the Republic of Lithuania are thus applied only in as much as they do not conflict with the Regulations. This allows ensuring the equal treatment of EU nationals with regard to concluding labour contracts and conditions of work.

The definition of the employee is set forth in Article 15 of the Labour Code:

> "a natural person possessing legal capacity in labour relations and employed under labour contract for remuneration". The concept of a labour contract is further contained in Article 93 of the Labour Code: "employee undertakes to perform work of a certain profession, speciality, qualification or to perform specific duties in accordance with the work regulations established at the workplace, whereas the employer undertakes to provide the employee with the work specified in the contract, to pay him the agreed wage and to ensure working conditions as set in labour laws, other regulatory acts, the collective agreement and by agreement between the parties".

Though the Code does not link the definition of those employed with the citizenship or permanent residence in Lithuania, it is likely that this definition covered only those mentioned.
EU nationals and their family members are exempted from the labour permit in accordance with Article 103 of the Aliens Law, thus they can engage in employment without restrictions.

The author of this Report did not observe any particular obstacles to accessing employment by the EU nationals. One possible obstacle concerning the language requirement is dealt with in the following section below.

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[7] Available in Lithuanian at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=169334.

Concerning assistance by employment agencies, EURES network operates since 2003 in ten regions in the country (Vilnius, Kaunas, Klaipeda, Siauliai, Panevezys, Alytus, Utena and Taurage cities, Pasvalys and Lazdijai border regions) with the purpose of facilitating the implementation of free movement of persons in Lithuania and outside it. EURES specialists are also placed at all 46 territorial labour offices throughout the country. They provide information and consultations to interested persons on the free movement of workers, conditions of employment, residence and studies within the EU, as well as to Lithuanian employers searching for workers in other EU MSs. During 2007, EURES advisors provided counselling and information about free movement of persons to 9413 persons individually and to 7789 persons during group meetings. 87 persons were employed through Lithuanian EURES network in France, Netherlands, Cyprus, Sweden, Denmark and Ireland, while 47 EU nationals were employed in Lithuania (Romanians, Bulgarians, Poles, French people). During the year EURES received 232 job offers from the UK (37), Cyprus (39), Norway (22), Italy (21), Sweden (17), Spain (14), Poland (10), Finland, Denmark, Czech Republic, etc. 37 Lithuanian employers were announcing job offers in Bulgaria, Romania, Poland, Latvia, Estonia and Slovakia during the year. There was a need for workers mostly in construction sector, long-distance drivers, rail workers, trade agents and others.

2. LANGUAGE REQUIREMENT

The Law on State Language of the Republic of Lithuania No. I-779 of 31 January 1995 establishes that apart from public officials, persons in the field of communications, transport, health care and other institutions providing services to the residents must be proficient in state language in accordance with the categories of state language proficiency, established by the Government (Art. 6). Furthermore, heads of commercial services must ensure that services to the residents are provided in state language (Art. 7).

Language proficiency requirement is further regulated by the Government Resolution No. 1688 on Approval and Implementation of State Language Proficiency Categories (further – Language Proficiency Resolution) of 24 December 2003. Language Proficiency Resolution establishes three categories of language proficiency and the list of positions to which each category applies:

1) First category (e.g. proficiency to fill in standard document forms, communication in short sentences, preparation of short non-official texts, etc.) is applied to persons employed in service provision, production, commercial and transport services, if they have to communicate with persons while executing their functions and/or fill in simple document forms (e.g. drivers, cloakroom attendants, sellers, waiters and other commercial employees or employees performing economy or technical functions);
2) Second category (characterised by for instance, ability to communicate and prepare documents on topics of daily life and work, describe events, experience and reasons, etc.) is applied to persons employed in education, culture, health care and other sectors, public, if they constantly communicate with persons and/or fill in the forms of documents while performing their functions (e.g. employees of educational and cultural establishments, teachers and others);
3) Third category (e.g. ability to formulate long and complex sentences and understand concrete and abstract texts, prepare official documents, explain positions, fluently communicate on various topics, etc.) is applied to the heads of companies and organisations, lecturers, aviation specialists and specialists controlling flight security, specialists

of maritime and internal waters' transport responsible for transportation of cargo and passengers (captain of the ship, port captain) and others. The list is not exhaustive, thus it is likely to be applied also in some other cases on discretionary basis, which may be of concern.

The lists provided above and other provisions of the Language Proficiency Resolution indicate that state language proficiency requirement is applied not only to persons employed at public service, but also in certain spheres of the private sector. Also, Lithuanian language proficiency requirement is applied in the maritime sector (see below for details). This may pose additional obstacles for employment of other EU nationals, who may not be proficient enough in Lithuanian language. No amendments were made to the resolution during 2007. There have been specific exceptions made in the past for certain professions (e.g. advocates, doctors). For instance, as concerns advocates, a new version of the Law of the Bar No IX-2066 of 18 March 2004[8] provided that advocates who are EU nationals are exempted from the language proficiency requirement (Art. 64(8)). Second example concerns language proficiency requirement in practicing doctor's profession. The Law on Medical Practice of Doctor, No. I-1555 of 25 September 1996, as amended on 18 December 2003 (entered into force on 1 May 2004) and following this amendment called the Law on Medical Practice, included a special article concerning doctors – EU, EEA and Swiss nationals. Article 5 of the Law establishes that doctors who are EU, EEA and Swiss nationals may provide temporary services in Lithuania even if they do not have a licence. Thus language requirement is no longer, at least explicitly, provided. It would be worthwhile though to include a special exemption concerning language proficiency requirement for doctors who are EU, EEA and Swiss nationals in the Order of the Minister of Health Care No. V-396 on Approval of Rules on Licensing of Medical Practice of 27 May 2004, as amended on 15 March 2005. This Order in its' paragraph 18.1 states that the State Service for Accreditation of Health Care Supervision at the Ministry of Health Care (responsible institution for issuing the licences) may request the applicant for a licence to provide documents, attesting Lithuanian language proficiency in accordance with the order established by the legal acts. If doctors, who are EU nationals, will indeed apply for a licence, they may also fall under this requirement.

3. RECOGNITION OF DIPLOMAS

Text(s) in force

There are a number of national legal acts that state rules applicable to recognition of diplomas and professional qualifications. These legal acts are largely in line with the EU general and sectoral directives for recognition of professional qualifications and diplomas. A list of Lithuanian legal acts transposing EC Directives of the General Recognition System and Sect oral directives is provided in Annex II to this Report (with indication on amendments made in 2007) and only those adopted or amended in 2007 are analysed below. A number of new legal acts or their amendments were adopted during 2007 in this field with a view of transposing the Directive 2006/100/EC. Among these, amendments have been made to:

[8] Available in Lithuanian at: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=260055&p_query=&p_tr2=.

- The Government Resolution No. 947 of 18 July 2007 on Approval of a list of lawyers' professional names in the EU Member States (25 April 20079), amendments related to transposition of Directives No. 77/249/EEC and 98/5/EB98/5/EC (as amended in 2006);
- The four Orders of the Minister of Health No. V-42, 40, 43, 41 of 2 February 2004 on Approval of Instructions for Recognition of professional qualification of a midwife,[10] doctor,[11] odontologist,[12] general practice nurse,[13] (23 March 2007, as well as 20, 29 December 2007), as well as Order No. V-39 of 2 February 2004 on Approval of Instructions for Recognition of professional qualification in pharmacy (22 January 2007[14])- these amendments were made mainly in connection with accession of Bulgaria and Romania and the rules involving documents issued by these countries.
- The Order of the Minister of Environment No. D1-131 of 25 March 2004 on Approval of Instructions for Recognition of professional qualification of an architect (15 February 2007[15]), amendments also made in relation to Romania and Bulgaria accession;
- The Government Resolution No. 535 of 3 May 2004 on Approval of rules on mutual recognition of diplomas (16 May 2007[16]), amendments related to approval of the new list of courses.

Also, the Order of the Minister of Health Care No. V-27 was adopted on 22 January 2007 concerning the qualification of professional requirements for masseur.[17] Adoption was related to transposition of Directive 2005/36/EC, but the act also deals with diplomas issued by the former Soviet Union.

Concerning the structures and process of recognition of professional qualifications for regulated professions, the coordinating body is the Ministry of Social Security and Labour, while there is also a list of designated competent institutions responsible for recognition of qualifications and diplomas. The functions of an information centre (Art. 9(3) of Directive 89/48/EEC) are assigned to the Lithuanian Centre for Quality Assessment in Higher Education. Lithuanian Labour Market Education Council among other functions related to recognition of professional qualifications is responsible for issuance of certificates for EU/EEA nationals departing to other countries when they are willing to engage in employment under regulated profession or practice certain profession as required by the Directive No. 1999/42/EC. These certificates are submitted for approval to the coordinating body. The Statute of the Qualifications' Service to the Government of Lithuania was adopted on 27 December 2007[18] (hereafter – Qualifications' Service). This Service will be assigned to deal with the system of qualifications in Lithuania, its' quality, policy on qualifications, as well as preparation of legal acts in this field.

With regard to the main rules in this area, there are several recognition systems established in Lithuania:

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9 *State News*, No. 49-1899, 2007.
10 *State News*, No. 37-1385, 2007.
11 *State News*, No. 37-1387, 2007.
12 *State News*, No. 37-1384, 2007.
13 *State News*, No. 40-1506, 2007.
14 *State News*, No. 11-458, 2007.
15 *State News*, No. 23-895, 2007.
16 *State News*, No. 60-2316, 2007.
17 *State News*, No. 11-452 , 2007.
18 Government Resolution No. 1431 of 27 December 2007 on Establishment of the Qualifications' Service to the Government of Lithuania and Approval of its' Statute, *State News*, No. 2-60, 05.01.2008.

a) recognition system for university diplomas;
b) recognition system for other diplomas;
c) recognition system for diplomas when the applicant is already a holder of a certificate or has received corresponding education and training;
d) recognition system for certificates;
e) special recognition system for other qualification documents.

Procedurally, decisions on recognition shall be adopted within 4 months from the date of receipt of all documents. Adaptation period for no longer than 3 years and an aptitude test is also envisaged. Derogation from the applicant's right to choose between an adaptation period and an aptitude test is possible with regard to professions whose practice requires precise knowledge of national legal system, where the provision of advice and/or assistance concerning the law of Lithuania is an essential and constant aspect of the professional activity. In this case an aptitude test shall be applied. All decisions concerning recognition of professional qualifications are motivated. There is a two-tier system of appeals envisaged in case of negative decision or the absence of decision:
a) appeal to a specially assigned Commission of Appeals (shall adopt decision within 1 month); and
b) administrative courts.

The qualifications acquired abroad are recognized as corresponding to the qualification provided in Lithuania, if the assessment of qualification shows no substantial differences with the requirements for acquisition of the same qualification in accordance with the laws of Lithuania. The assessment is carried out by the Lithuanian Centre for Quality Assessment in Higher Education, while academic recognition is carried out by the Ministry of Education and Science of Lithuania. Assessment process shall take no longer than 3 months from the date of submission of documents (may be extended in some cases for additional period of up to 3 months). Decision on recognition of qualification shall be taken within one month from the receipt of documents.

There are a few minor issues in the legislation vis-à-vis the general system directives, which have not been addressed during 2007 as the authorities do not consider them as problems:
a) as concerns conditions for recognition, there is a higher burden of proof on the applicant if compared with the one required by the Directive 92/51/EEC (Art. 3) (the person is required both to hold the diploma and also to have practiced the profession full time for two years during the previous 10 years – two requirements are applied cumulatively and not interchangeably); the same applies to special recognition system for other qualification documents: attestation of competence and proof of qualifications are applied cumulatively and not interchangeably.
b) as concerns recognition system for certificates it is in variance with procedural requirements for applying the derogations from the right to choose between the adaptation period and the aptitude test pursuant to the Directive 92/51/EEC (Art. 14) (in Lithuania, competent authority reserves the right to assign one or another, if the applicant fails to present appropriate document);

However, it should be noted that the provisions of this Directive concern only one regulated profession in Lithuania (masseur), thus should not really affect the practice a lot.

In the area of diploma recognition the following legal acts are important:

1) Order of the Director of the Centre for Quality Assessment in Higher Education No. 1-74 of 3 May 2006 concerning the Approval of a List of other additional documents for assessment of higher education qualifications acquired abroad, and the order of its submission (this order was amended during the year, on 23 May 2007);
2) Order of the Director of the Centre for Quality Assessment in Higher Education No. 1-24 of 3 February 2006 concerning the Approval of Instructions for assessment of qualifications acquired abroad, entitling to studies of higher education (this order was amended during the year, on 3 June 2007);
3) Order of the Director of the Centre for Quality Assessment in Higher Education No. 1-55 of 28 April 2005 concerning the Approval of Order for organisation of qualification examinations for persons seeking academic recognition of qualifications acquired abroad, entitling to studies of higher education or qualifications of high education (this order was amended during the year, on 18 September 2007);
4) Government Resolution No. 60 of 21 January 2005 concerning the Approval of the Order on Evaluation and Academic Recognition of Qualifications acquired abroad and providing access to higher education.

Also, during 2007, a new Order of the Director of the Centre for Quality Assessment in Higher Education No. 1-106 was approved on 16 July 2007. It concerns non-evaluation of qualifications acquired abroad in accelerated order.

During the year, no particular problems were experienced with regard to recognitions and the numbers of persons applying for recognition remain very low not only for EU nationals, but also for third country nationals.

Statistics below represents the volume of recognitions of professional qualifications during 2007. As can be seen from the data, there were applications for recognitions from 9 persons only in 2007 (2 were not recognised).

No.	Professional Qualification	Number of applicants	Citizenship of the applicant	Country of acquisition of professional qualification	Decision
1	Doctor	1	Lithuania	Estonia	Qualification recognised
2	Doctor cardiologist		Lithuania	Latvia	Qualification recognised
3	Doctor	1	Germany	Russia	Recognised
4	Doctor oncologist		Germany	Russia	Not recognised
5	Doctor	1	Russia (family member of German national)	Russia	Recognised
6	Doctor cardiologist		Russia (family member of German national)	Russia	Not recognised
7	Teacher	2	Lithuania	Poland	Recognised
8	Teacher	4	Lithuania	Latvia	Recognised
Total		**9**	**-**	**-**	**11 recognised, 2 refused**

Data of the Ministry of Social Security and Labour, 7 March 2008

For the purpose of comparison below is also statistics for EU and third country nationals who acquired qualifications in third countries.

No.	Professional Qualification	Number of appli-cants	Citizenship of the Applicant	Country of acquisition of professional qualification	Decision
1	Doctor	1	Russian	Russia	Recognised
2	Midwife-gynaecologist			Russia	
3	Doctor	1	Russian	Russia	Recognised
3	Midwife-gynaecologist			Russia	Not Recognised
4	Doctor	1	Russian	Russia	Recognised
5	Doctor odontologist	2	Russian	Russia	Recognised
6	General practice nurse	1	Russian	Russia	Recognised
7	Doctor neurologist	1	Russian	Russia	Not Recognised
8	Pharmacist	1	Lithuanian	Belarus	Recognised
9	Pharmacist	1	Lithuanian	Russia	Recognised
10	Pharmacist	1	Russian	Russia	Recognised
11	Assistant to pharmacist	1	Belarusian	Belarus	Recognised
12	Assistant to pharmacist	1	Lithuanian	Russia	Recognised
13	Pharmacist	1	Belarusian	Belarus	Postponed
14	Pharmacist	1	Lithuanian	Belarus	Postponed
15	Pharmacist	1	Lithuanian	Belarus	Postponed
16	Pharmacist	1	Lithuanian	Russia	Postponed
17	Teacher	1	Lithuanian	Russia	Recognised
18	Teacher	1	Lithuanian	Russia	Recognised
19	Teacher	1	Lithuanian	Russia	Recognised
20	Teacher	1	Lithuanian	Russia	Recognised
21	Teacher	1	Lithuanian	Russia	Recognised
22	Teacher	1	Russian	Russia	Recognised
23	Teacher	1	Belarusian	Belarus	Recognised
24	Teacher	1	Lithuanian	Belarus	Recognised
25	Teacher	1	Lithuanian	Belarus	Recognised
26	Teacher	1	Lithuanian	Belarus	Recognised
27	Teacher	1	Lithuanian	Belarus	Recognised
28	Teacher	1	Lithuanian	Ukraine	Recognised
29	Teacher	1	Lithuanian	Ukraine	Recognised
30	Teacher	1	Ukrainian	Ukraine	Recognised
31	Teacher	1	USA	USA	Recognised
Total		**31**	**-**	**-**	**25 recognised, 2 refused, 4 postponed**

Data of the Ministry of Social Security and Labour, 7 March 2008

During the year, no appeals were submitted by EU nationals to the Appeals' Commission at the MSSL. Concerning recognition of academic qualifications during 2007, twice more applications from third country nationals (84) were submitted in comparison with EU/EEA nationals (42). With regard to the fees for evaluation of professional qualifications acquired abroad, there is privileged treatment of ethnic Lithuanians. Regular fee is 70 Litas (approx. 20 euro) for this service, while fee for foreigners of Lithuanian origin and persons who retain right to Lithuanian citizenship is reduced by 100% (this provision was introduced on 19 June 2006 by Government Resolution No. 605).

Draft legislation, circulars, etc.

The most important development in the area of recognition of professional qualifications during the year was submission to the Parliament of the Draft Law on Recognition of Regulated Professional Qualifications on 16 August 2007. The Law transposes the Directive 2005/36/EC on Recognition of Professional Qualifications and aims to ensure that EU nationals who are workers or self-employed persons could engage in the same regulated profession in Lithuania on the basis of the same rights as Lithuanian nationals. According to the Law, freedom to provide services is applicable to all professions irrespective of whether there are minimal requirements for professions established. The Law also establishes minimum requirements for professional qualifications (e.g. for doctors, odontologists, pharmacists, architects, etc.). Professional qualifications are divided into 5 levels of qualifications based on equal treatment of qualifications in all EU MSs:

1) document certifying the competence
2) certificate confirming that secondary course has been successfully completed
3) diploma about successful completion of post-secondary course, which lasts for not less than 1 year, also vocational training, which may be compulsory after the secondary course
4) diploma about successful completion of post-secondary course, which lasts for not less than 3 years, but no longer than 4 years' course at university, institution of high education or another institution providing for the same level of education
5) diploma about successful completion of at least 4 years' course at university, institution of high education or another institution providing for the same level of education.

With a view of administrative coordination between all institutions involved in recognition of professional qualifications, the Draft Law envisages the establishment of a National Council for Recognition of Professional Qualifications. The Council would be tasked to assist the professional qualifications coordinator in formulating policies in this sphere and solving strategic issues of recognition of professional qualifications.

The draft law has not been adopted until the end of the year and Lithuania received notification from the European Commission concerning the deadline of transposition of the Directive that entered into force on 20 October 2007. The draft law is expected to be adopted in spring session of the Parliament (adopted on 3 April 2008) Worthwhile mentioning that the Draft Law has been already criticized by EU law specialists.

Miscellaneous (administrative practices, etc.)

Conference introducing a new Law on Professional Qualifications, called "Profesinių kvalifikacijų vertinimas ir pripažinimas mobilumui", took place on 23 October 2007.

Recent legal literature

Useful internet addresses (Lithuanian only): http://www.darborinka.lt/profesijos/; http://www.skvc.lt

Jonas Bartlingas, Gražina Dovydėnienė, Odeta Gurskienė, Birutė Kindurienė, Algirdas Tamulevičius, Darius Tamošiūnas, 2007 - „2005 m. rugsėjo 7 d. Europos Parlamento ir

Tarybos direktyva 2005/36/EB dėl profesinės kvalifikacijos pripažinimo ir jos komentarai“. Vilnius. Lietuvos darbo rinkos mokymo tarnyba.

During 2007, a study was carried out concerning awareness of the society and employers about the recognition of professional qualifications.

CHAPTER III
Equality of Treatment on the Basis of Nationality

1. WORKING CONDITIONS, SOCIAL AND TAX ADVANTAGES (DIRECT, INDIRECT DISCRIMINATION)

Concerning the payment for work, the legislative guarantee is Article 186(3) of the Labour Code stating that "the wage of an employee shall depend upon the amount and quality of work, the results of the activities by the enterprise, agency or organisation as well as the labour demand and supply on the labour market. Men and women shall get an equal pay for equal or equivalent work".

The Labour Code provides for a right to information and consultation for the employees of EU enterprises or groups of enterprises. According to Article 47 (6) they can receive information and consultations through the European Labour Councils.

In compliance with the Regulation 1612/68/EEC, EU nationals have equal access to trade unions with Lithuanian nationals according to the Law on Trade Unions No. I-2018 of 21 November 1991, as amended on 3 November 2003, to enable "all persons, legally working in the territory of the Republic of Lithuania under labour contract and on other grounds established by the laws to freely join trade unions and participate in their activities. Notwithstanding, the Civil Code of the Republic of Lithuania of 18 July 2000 (as amended in 2004), retains a provision that founders of a trade union may be Lithuanian citizens or permanent residents of Lithuania only (Art. 2.38(3) of the Code). EU nationals can also join the labour councils (bodies, representing employees and defending their professional, labour, economic and social rights, as well as representing their interest), as the Law on Labour Councils No. IX-2500 of 26 October 2004 does not place any restrictions on that. However, there is no statistics on how many EU nationals or other foreigners, if any, are members of trade unions or labour councils. The trade unions' organisations have not been gathering such information so far.

EU nationals may enter into labour relations on the same conditions as Lithuanian nationals and would be entitled to the same unemployment benefits, provided they comply with requirements for receiving such benefits. As concerns taxation, EU nationals working under labour contract are paying the same social insurance taxes, as Lithuanian citizens. In addition to that, there is an exemption under the Aliens' Law of 2004 from obtaining a work permit for EU nationals and their family members who intend to work under a labour contract in Lithuania.

No significant legislative developments occurred in this field during 2007.

2. OTHER OBSTACLES TO FREE MOVEMENT OF WORKERS

Nothing to report apart from what is already covered by other sections of the Report.

3. SPECIFIC ISSUES: FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES), SPORTSMEN/SPORTSWOMEN, MARITIME SECTOR, RESEARCHERS, ARTISTS

a) Frontier workers

Definition of a frontier worker is stipulated in the Order of the Minister of Social Security and Labour No. A1-288 of 27 December 2004 concerning the Order on Implementation of Council Regulation No. 1408/71/EEC and Regulation No. 574/72/EEC provisions relating to family benefits and benefits in case of death. Pursuant to paragraph 4 of the Order, frontier workers are defined as persons employed under labour contracts or self-employed persons, who work in one state and live in another state, whereto they usually return every day or at least once per week. A frontier worker, who is sent to the same or another state by a company where he usually works or provides services in the territory of the same or another state, retains the status of a frontier worker, but no longer than for 4 months even if during that period he is unable to return home every day or at least once per week. According to this Order, the benefits are payable to (paragraph 5):

- Persons who are insured with compulsory social insurance, as well as persons who engage in activity that is considered employment;
- Unemployed who receive the benefit of unemployed (unemployment insurance benefit from 2005);
- Persons receiving state social insurance pensions;
- Students.

In view of issues mentioned in *Hartmann case* at the ECJ, there should be no similar problems in Lithuania; because the family benefit may be paid to the person on the basis of work place and not residence (competent country is a country of work even if one of the parents is unemployed). If the allowance is bigger in the country of residence, then the later pays the difference. However, if the parents work in different countries and the child is living with one of the parents, then the competent state would be the state of child's residence. Another rule is applied when parents are working in different states but the child does not live in any of them. Then, the competent country will be the one that provides for largest allowance. The other state has to compensate the paying state half of the amount of the allowance (but not more than the amount of allowance in this state).

Miscellaneous (administrative practices, etc.)

Frontier workers are usually coming from border regions in Poland with which Lithuania has a common internal border and where a number of Lithuanian minorities is living in the border regions (e.g. in Seinai, Suvalkai, Punsk regions, where they form even almost 80% of the population). There is no available statistics of how may of such persons are working across both sides of the border, as they are not registered and frequently the only possible trace of these persons is through the labour contract concluded in Lithuania. Such persons do not generally face any problems in crossing the internal border, they are not required to re-register their vehicles, they are included in the social system through employment contract and paying of compulsory social taxes, they are not required to pay income tax if they prefer to pay it in their own country. However, according to amendments to the Aliens' Law in

2006, they may be required to declare their place of residence with the migration authorities after three months of stay in the country.

b) Sportsmen / sportswomen

In the area of sports, the impact of the *Bosman*, *Kolpak* and *Simutenkov* rulings is limited in Lithuania. In *football*, the Regulations for 2006 Competitions approved by the Lithuanian Football Federation on 17 March 2006 embody certain restrictions concerning foreigners. Paragraph 36 of the Regulations states that "the number of foreigners in the applications by teams is not limited, but not more than 6 foreign citizens can play at the same time within the composition of one team during the match". Further restriction is financial, stating that when a player who is a foreign citizen is being registered for competition, a registration fee of 6,000 Litas (approx. 1,740 EUR) shall be paid (except when registration is for participation in "A" league championship and Lithuanian Football Federation Cup competition). Fee collected according to the Regulations shall be used for development of youth football in Lithuania. Even though the purpose of using the funds may be good, such financial obligation limits the possibility of engaging foreign players and is discriminatory with regard to Lithuanian players. Moreover, special restrictions apply to youth players: player below 18 years of age from a foreign country may be registered only if his arrival to Lithuania was related to family reasons, not connected with football playing and upon the agreement by the Lithuanian Football Federation (paragraph 135 of the Regulations). Also, players below 18 years of age registered in Lithuania cannot transfer to a club of another country and be registered in a national football association of that country without the consent of the Lithuanian Football Federation (unless the player leaves Lithuania for family reasons unrelated to playing football). This provision is valid for professional as well as for amateur football players. On the other hand, there are other restrictions also for Lithuanian players who wish to engage in a foreign club. Pursuant to Regulations, a player may be registered in a foreign club only if he obtained International Transfer Registration Certificate (IRTC). According to international system related to IRTC there are fixed transfer fees to be paid. No legal developments in this field related to free movement of persons have been taking place during 2007. However, new Regulations will be adopted in 2008 (approved by the Executive Committee of the Federation on 11 January 2008): the rule of paragraph 36 above remains (now para. 41), registration fee for foreign players depending on the league is 6,000 – 10,000 Litas (approx. 1,740 – 2,900 euro) (para. 130-131 of the new Regulations), as well as other restrictions as reported above.

As concerns *basketball*, national federation is entitled to restrict the number of foreigners playing in national competitions. For instance, not more than two foreign citizens are allowed to register for each team for Lithuanian Basketball Federation Cup competition of I, II and III stage and not more than 5 foreigners in IV and V stage competitions (Paragraph 4 of the Regulations for Lithuanian Basketball Federation Cup competition) (in total 12 players can be registered for competition, thus not less than 7 should be of Lithuanian nationality). Previously, Latvians and Estonians did not fall under the definition of foreigner in this context, but now the rules clearly specify persons of non-Lithuanian citizenship. The Regulations of Lithuanian Women Basketball "A" League Championship, approved by the President of the League on 7 September 2006 also state that only two foreign players may be registered within a team and only when discharge certificate from the basketball federation of the foreign country is obtained and certain fees and 500 Litas are paid (approx. 145 euro) to

the LBF (Paragraph 3.7. of the Regulations). No further specification as to what "certain fees" mean is provided in the document. However, according to the information provided by the LBF, up to 4 players of foreign citizenship could be registered for Lithuania's Women basketball league. All these decisions are adopted by common agreement between teams in the league. However, the restrictions applied in basketball and football competitions concerning foreign players are not compatible with the Community law and the above mentioned judgments of the European Court of Justice (*Bosman*, *Simutenkov*). The Basketball Federation is motivating the restrictions by the rules of FIBA Europe, which allow national federations to apply such restrictions for foreigners, including the EU nationals, in the national championships.

Also, possible constrains to the freedom of movement in the sports' sector as concerns particularly basketball, can occur due to the requirement that the player must obtain a so called Letter of Clearance in order to move from one club to another. This rule is embodied in the Rules Regulating the Transfer of Players of 3 April 2003 (approved by the Conference of Lithuanian Basketball Federation). According to the rules, if the player wants to move from one club to another he should obtain a Letter of Clearance from his club. Before this Letter is obtained the player is not entitled to play in the other team by the end of the current season. The only reason for refusing the issuance of such a Letter is a valid contract between the club and the player. The Letter provides the confirmation that the player has fully repaid the organisation and has no valid contract. The scope of these payments is not clear because the author of this Report does not have access to the contracts concluded between the clubs and the players. However it may constitute a hindrance to the free movement of players. Furthermore, when the player moves from sports' school/club to the basketball club, the club has an obligation to compensate the school for the preparation of the player. This rule remains valid for up to four years from the graduation from sports' school. The same rule concerning the transfer of players applies in football sport. Even though this may be considered to represent an obstacle to the free movement of sportsman in the EU, the mentioned rules derive from the provisions of FIFA rules, thus unlikely to be changed in Lithuania. No particular changes have taken place in 2007.

No specific explicit restrictions follow from the Regulations for the *volleyball* competitions, but according to the information of Lithuanian Volleyball Federation foreign citizens willing to participate in the official competitions organised by the LVF must have Transfer Certificate of the International Volleyball Federation (this certificate involves fixed transfer fee to be paid by the foreign club).

Ice-hockey is not widely practiced in Lithuania; however, according to the information of the Lithuanian Ice-Hockey Federation (of 19 March 2008) there are limitations of five foreigners that could play in one team. Concerning the transfer fees, they are non-existent when transfer is from one Lithuanian club to another, however applied for international transfers. These transfers are applied in accordance with the rules of the International Ice-Hockey Federation (for foreign players arriving to Lithuania the transfer fee to the International Federation is 300 Swiss franks, plus 500 franks for national federation of the country where the player goes to). According to the Lithuanian federation, no foreign players were playing in the teams in Lithuania in 2007 and Lithuanian players have not faced any restrictions in other EU countries (except the international transfer mentioned above).

Concerning *cycling*, the Rules on Transfer of Lithuanian sportsman from one sport organisation to another were approved by the Executive Committee of Lithuanian Cycling Federation on 10 January 2007. According to these rules, a sportsman willing to transfer to

another sport organisation must implement all contractual obligations to previous sport organisation and obtain from it a Letter of Clearance (paragraph 5).

c) The Maritime sector

On the issue of sailors (mentioned in previous reports), Lithuania completed a notification to the European Commission back in 2005 concerning reduction of social insurance contributions for sailors working in ships with Lithuanian flags. Upon receipt of Commission's consent to state support in this case draft amendments have been prepared to the laws, but not finally adopted because in mid-2007 the President has vetoed the amendments as being in conflict with the principle of equality under the Constitution.

d) Researchers / artists

The Aliens' Law provides in Article 40(13) that a foreigner is entitled to temporary residence permit if he intends to engage in research and/or pilot development works as a researcher under labour contract with the research institution registered in Lithuania (this paragraph was introduced through supplement to the Aliens Law in February 2008, thus will be in more details discussed within Report for 2008). Furthermore, researches are falling under the grounds for issuance of EC residence permit under Article 101 of the Aliens Law. There are no specific regulations concerning the treatment of researchers from other EU countries. The National Researchers' Mobility Centre was established in 2007 as part of European Mobility Centres (ERA-MORE). This centre will provide information to researchers on various aspects of mobility to Lithuania.

Foreign artists in Lithuania can either enter into authorship agreement with an institution in Lithuania or provide services as self-employed artist submitting invoices for fees. Authorship honorariums are being taxed with 15% income tariff in Lithuania according to Paragraph 6 of Article 6(2) of the Law on Income Tax of Residents of 2 July 2002. Persons who provide services under the authorship agreements and exceed the annual turnover of 100,000 Litas (approx. 29,000 euro), must register as VAT payers and pay the VAT. Social insurance for persons entering into authorship agreements is not deducted within those 15%. The author of this Report could not obtain any information on the existence or non-existence of "withholding fees" for foreign artists in Lithuania.

If a Lithuanian artist provided services in another country, in Lithuania he would have to pay himself the income tax in the amount of 15% from earned income. If an authorship agreement is concluded in Lithuania for a foreign national (similarly as for a Lithuanian national), the 15% income tax will have to be automatically deducted by the body entering into agreement with the artist. According to Article 37 of the Law on Income Tax of Residents, the paid taxes abroad are being taken into account while calculating taxes for income received abroad. This is done with a view of avoiding double taxation of income. Lithuania also entered into a number of bilateral agreements on avoidance of double taxation.

The tax legislation was changed in 2006 (amendments entered into force on 27 July 2006) whereby the applicable VAT rate for live performance was lowered from 18% to 5%, thus helping Lithuanian venues to receive performing artists from abroad without excessive tax liability. For instance, if a company, which is VAT payer in Lithuania, invites German artists for the organised event and these artists are not registered in Lithuania for VAT, the Lithuanian company will have to pay 5% of VAT for services provided by the foreign artist.

Concerning the possibility of deductions before calculating the taxes, Lithuanian legislation provides that such deductions (factual expenses) are possible also for non-residents of Lithuania, thus foreigners seem to be not discriminated. However, expenses deriving from individual activity, sports or performance activity are not taken into account and cannot be deducted while calculating taxable income. This may be of concern with regard to situation of artists.

4. RELATIONSHIP BETWEEN REGULATION 1408/71 AND ARTICLE 39 AND REGULATION 1612/68

Apart from a few exceptions, social security system in Lithuania remains largely based on permanent residence requirement and enables temporary staying foreigners to access certain benefits largely in accordance with bilateral agreements only. Therefore, in most of the cases, only persons, who live in Lithuania permanently are entitled to social security benefits in accordance with national legislation. Lithuanian legislation regulates all types of social security benefits, which are provided in the Regulations 1408/71/EEC, 574/72/EEC, 3096/95/EC and others. Regulations are applied directly in Lithuanian legal system, thus national legal acts providing for different rules are applied to EU nationals only in as much as they do not conflict with the EC Regulations.

The State Patient Fund under the Ministry of Health of Lithuania is competent institution responsible for benefits in kind of sickness and maternity. Compulsory health insurance in Lithuania is implemented by State Patient Fund and 5 local Territorial Patient Funds. EU nationals travelling to Lithuania shall hold with them one of these documents confirming the entitlement to reimbursement of health care services: European Health Insurance Card (EHIC); Provisional Replacement Certificate (PRC); Certificate E 106 and E 109.

Family members of EU nationals have to hold their EHIC or the certificate E 106 or E 109. If EU nationals have EHIC, they are entitled to necessary medical care services which are free of charge in the health care institutions belonging to the Lithuanian National Health System. They do not need to register at territorial patient fund office if they or their family members hold EHIC. In case of holding E106 the foreigner must register at territorial patient fund office as soon as possible after arrival to Lithuania. Then he will be issued the Lithuanian health insurance certificate. The holders of such certificate can get free of charge all kind of medical care (not only the necessary medical care) at health care institutions belonging to Lithuanian National Health System. Those EU nationals that seek medical care at the institutions that do not belong to the Lithuanian National Health System, have to cover all the expenses of medical services and these expenses are not reimbursed. Lithuania issues EHIC for a period of not less than 3 months and not longer than 6 months. It is issued by the State Patient Fund. Lithuanian nationals who hold special compensatory medicine books may be prescribed compensatory medicine, however such books are not issued for foreigners. Such compensatory medicine may be still prescribed on the basis of certain exceptional form of prescription, but such forms can only be used for treatment duration of maximum 7 days. While purchasing such medicine, EU nationals have to submit personal identification document, European Health Insurance Card or E-form certificate.

With a view of implementing the Regulation 1408/71 the Minister of Social Security and Labour and the Minister of Health Care approved an Order No. A1-152/V-443 on Issuance of E104 LT form certificate for persons insured with social insurance and/or compulsory health insurance in the Republic of Lithuania on 4 June 2007. These rules were adopted

due to the fact that social insurance and health insurance systems are separated in Lithuania and two institutions are responsible for approving insurance periods for the Form E104, as well as there was a need to ensure the interests of the insured persons and facilitate the issuance of such forms. The certificate is issued on the basis of request of a person or institution of a foreign country within 10 days from receipt of all necessary documents.

Lithuania has finally signed the agreement with the Government of Estonia concerning calculation of the insurance periods acquired in the territory of former Soviet Union on 24 August 2007 in Tallinn. The purpose of this long awaited agreement is to avoid duplication of insurance periods, acquired in the territory of former Soviet Union, whereby this period could have been calculated both in Lithuania and also in Estonia. Agreement envisages that the period of insurance, acquired in the territory of former Soviet Union until 1 January 1991 is calculated only in the state in which the period of insurance is of longer duration. If the duration of the period acquired in the territory of Lithuania and in the territory of Estonia is equal, the period is calculated by the state which laws were applied lately to the person. While re-calculating the assigned pension, also while assigning pension anew or of a new form, or if the person has transferred his/her residence from one state to another, the competent state responsible for calculation of period acquired in another state, belonging formerly to the Soviet Union, does not change. In the beginning of 2008, the Government of Lithuania applied to the President of Lithuania with a request to submit the agreement for ratification to the Parliament. Similar agreement with Latvia was being coordinated during the year and signature is planned for 2008.

One specific problem in Lithuania in the field of social security similarly as in the other EU MSs is the definition of "residence" for the purpose of issuing family benefits or the benefits in the case of death. According to the Regulation 1408/71 and in coordination of social security systems, the "residence" is defined as a place of usual stay. However, Lithuanian legislation relates it to the place of declared place of residence. In practice problems occur, because frequently persons departing from Lithuania do not declare departure.

Secondly, the concern could be the calculation of insurance periods for pension. According to the Law on State Social Security Pensions (Article 8), the period of insurance is a period when the insurance payments are made. The same law defines in Article 54 the periods that are being equalled to the state social insurance pension periods. However, it seems that the periods of insurance in other EU MSs are not being calculated. However, if the person has not yet acquired the minimum period for pension (15 years) while working in Lithuania, the periods acquired in other MSs should be calculated. But this again is done only to determine the right to the benefit, but pension for these periods is not assigned. Therefore, the pension would be assigned proportionally to the acquired Lithuanian insurance period. Similarly, there could be concerns with regard to payment of social security benefits to persons who have been working for less than 12 months. Insurance is provided for at least one year and should the period of contribution is less than this period, no social security benefit will be paid.

Specific practical issue occurred during the year concerning migrant workers from third countries. Posted workers from third countries do not need to be compulsory insured in Lithuania if a labour contract is concluded with them in the foreign country from which they are posted to Lithuania. EU nationals, on the other hand should be compulsory insured with Lithuanian social security insurance if they are working on Lithuanian territory. This could be viewed as less favourable treatment of EU nationals vis-à-vis third country nationals.

From the statistical perspective, there were 46 EU nationals registered as unemployed in Lithuania in 2007 (increase if compared with 35 registered in 2006).[19]

[19] Information of Lithuanian Labour Exchange Office, 4 March 2008.

Chapter IV
Employment in the Public Sector

1. ACCESS TO PUBLIC SECTOR

1.1 Nationality condition for access to positions in the public sector

The employment in the public service in Lithuania remains restricted to Lithuanian citizens except a few jobs that are available to foreigners under labour contracts without performing the function of public administration. The Constitution of the Republic of Lithuania of 25 October 1992 (as last amended on 13 July 2004 No. IX-2343, No. IX-2344)[20] provides that:

> "All citizens shall have the right to take part in the conduct of public affairs, both directly and through democratically elected representatives, and the right to seek employment, on general terms of equality, in the public service of the Republic of Lithuania" (Art. 33).

It further states that the requirement of Lithuanian citizenship is applied for becoming a member of the Parliament (Art. 56), the President of the Republic of Lithuania (Art. 78), judge of the Constitutional Court (Art. 103) or any other court (Art. 112). As concerns the members of municipal councils, not only Lithuanian citizen, but also permanent residents of Lithuania are eligible (Art. 119).

Employment in the public sector is regulated by the Law on the Public Service No. VIII-1316 of 8 July 1999 (new version adopted on 1 July 2002) (hereafter – Law on Public Service).[21] It determines in its Article 9(1) that a person, entering the public service, must have a citizenship of Lithuania. The public servant is defined as a person performing the function of public administration, while the

> "Public service means a sum total of legal relations arising after the acquisition of the status of a public servant, the change or loss thereof, as well as those resulting from the public administrative activities of a public servant in a state or municipal institution or agency when implementing the policy of a particular sphere of state governance or ensuring the co-ordination of the implementation thereof, co-ordinating the activities of institutions of a particular sphere of state governance, managing and allocating financial resources and controlling their use, carrying out audits, adopting and implementing legal acts, decisions of state and municipal institutions or agencies in the sphere of public administration, preparing or co-ordinating draft legal acts, agreements or programmes and giving opinions on them, managing personnel, or having public administrative powers with respect to persons, who are not subordinate" (Art. 2(1)).

This definition in itself should not raise any issues of incompliance with Article 39 of the EC Treaty. However, it should be read in conjunction with uniform lists of positions of public servants, approved by the Parliament and the Government of Lithuania. These lists were approved with the intention to avoid institutional subjectivity and to determine appropriate number of state institutions and public servants. Resolution of the Parliament of the Republic of Lithuania No. IX-992 of 27 June 2002 establishes a list of positions of public servants in the Parliament, Chancery of the Parliament, institutions accountable to the Parliament, the President's Office and institutions accountable to the President, National Court Administra-

[20] Available in English at: http://www3.lrs.lt/home/Konstitucija/Constitution.htm.
[21] Available in Lithuanian at: http://www.lrs.lt.

tion, courts, Prosecutor's Office and municipal institutions. Among others, the list includes as public servants: head of Parliament Chairman's Secretariat and chief advisor, advisor, consultant and secretary to the President of the Republic, representative of the President for special assignments, public relations officers of the Parliament and of the President, secretary of the municipal council, advisor and assistant to the mayor, director and deputy director of department or section, director of commission or council administration, deputy inspector of municipality, chancellor of the Parliament Ombudsmen institution, chief state auditor, chief internal auditor and chief specialist, assistant to the prosecutor of Prosecutor's General Office or regional or county prosecutor, advisor and assistant to the chairman of the courts, assistant to the judge, court consultant, secretary of court sessions, secretary of the administration, chief and junior investigator or specialist.[22]

Another legal act - Resolution of the Government No. 684 of 20 May 2002 establishes a similar list of positions of public servants in the Prime Minister's Office, Chancery of the Government, ministries, government institutions and institutions at the ministries. Among others, the list includes as public servants: chief advisor, advisor and assistant of the Prime Minister, head of the Prime Minister's Secretariat, spokesperson for the Prime Minister and ministers, vice-minister, advisor and assistant to the minister, chief and deputy chief of the county, head and deputy head of government institution, state secretary, undersecretary, Government agent in the European Court of Human Rights, director and deputy director of department, commission, council administration or section, head of section, chief auditor of government institution, advisor in the Chancery of the Government, special attaché and his deputy, chief specialist and specialist in the government institution, diplomats: ambassadors, consul general and consul, vice-consul, advisor of the department/section, first/second/third secretary, attaché; chief of headquarters, chief commissar - Deputy Commissar General of the Police, head and deputy head of battalion/squadron/company/platoon, investigator of particularly important cases and chief investigator, master of the ship, pilot, chief bodyguard, deputy chief of cordon, chief instructor, head of fire-prevention post, chief border guard, police officer, fireman.23 It may be questionable though if positions of secretaries, pilots, body guards fall within the narrow understanding of the public service by the ECJ.

Each government/municipal institution approves its own list of public service posts on the basis of the mentioned uniform lists. However these lists, approved by the head of institution/body are internal and thus not open to the public. The criteria for approving the lists are indeed functional, taking into account the nature of the tasks and responsibilities inherent in the post, thus in this respect such practice should be in line with the ECJ jurisprudence on the matter.

In conclusion, public servants can only be Lithuanian nationals, which means that public service remains reserved for nationals only. The provisions of the Law on Public Service do not apply to persons providing public services and performing technical functions. Thus, as concerns engagement of foreigners, including EU nationals, in jobs in the government/municipal bodies under labour contracts (without performing public administration function), there are no restrictions provided in the laws.

No significant legislative developments took place in this field in 2007 and there has been no public debate or political discussion concerning possible opening of the public service to EU nationals.

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[22] Full list of positions available at: http://www.vtd.lt/index.php?731429193.

[23] Full list of positions available at: http://www.vtd.lt/index.php?731429193.

As concerns nationality condition for captains of ships, maritime issues are mainly regulated by the Law on Trade Navigation No. I-1513, adopted on 12 September 1996 (new version of the Law of 2005). By virtue of an amendment to the Law of 3 July 2003, a new provision concerning the composition of the crew was introduced. It states that "not less than 2/3 of the crew of the ship (including the master of the ship and chief assistant to the master) should be composed of nationals of the EU Member States or permanent residents of the Republic of Lithuania". However, according to Article 11(2) of the Law the post of the master of the ship and his chief assistant remain reserved to the citizens of Lithuania. No changes were introduced in this field during 2007.

1.2. Language requirement

There is an explicit Lithuanian language requirement following from paragraph 2 of Article 9(1) of the Law on Public Service, which mentions requirements for admission to public service. As concerns the language requirement in the maritime field, the Law on Safety of Navigation No. X-116 of 15 February 2005 (new version of the law)[24] requires that pilots of ships sailing by regular passage to ports of Lithuania shall know the Lithuanian language, if the captains have permission to sail without a locman. But this requirement would not be applied if the ship is lead by a locman (Art. 12(2)). No changes were introduced during 2007.

1.3. Recruitment procedures

Since the access to public service is restricted to Lithuanian nationals only, the *Burbaud* judgment of the ECJ had no impact in Lithuania so far.

1.4. Recognition of diplomas

Given that Lithuanian public service remains restricted to Lithuanian nationals only, the recruitment issue of EU nationals is not relevant in this respect.

1.5. Recognition of professional experience for access to the public sector

Given that Lithuanian public service remains restricted to Lithuanian nationals only, the recruitment issue of EU nationals is not relevant in this respect.

2. EQUALITY OF TREATMENT

2.1. Recognition of professional experience for the purpose of determining the professional advantages

In 2006, the Law on Public Service was amended in respect of length of service to include also time of transfer to service in international institutions or institutions of foreign states, time of participation in the projects in the institution of a foreign state, funded EU or international organisation. This serves for determination of extra pays and annual additional vacations (Article 42(1)). No substantial changes have taken place in 2007.

[24] Available in English at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=275300

Miscellaneous

In practice, as concerns employment of nationals under labour contracts, e.g. in the ministries, usually these contracts are concluded for persons performing technical functions. In this context, Lithuania applies the concept of restricted public service when public servants are only those persons who have been granted powers by public authorities or directly participate in the process of policy enforcement, drafting of legislation or implementation of other legal acts. In fact, it seems that Lithuanian legislation does not debar the nationals of other EU Member States from the totality of posts in the public service, but only from those posts that are mentioned in the uniform lists. Such practice seems to be in line with the ECJ jurisprudence.

However, a possibility for EU national to work under labour contract in functions other than the exercise of public administration is not separately and explicitly regulated, which makes it difficult to monitor the practical implementation.

Persons in the public service are divided into two groups: civil (public) servants and public employees. The Law on Public Service applies to some 60 000 public servants (of which to some 30 000 statutory public servants) in about 800 government and municipal institutions and bodies. The positions (posts) of the civil servants are grouped into categories (A, B, C) and divided into 20 grades. Usually, the advertisements for the posts in government/municipal bodies explicitly mention whether the post advertised is for the public servant or for so called "public employee".

26776 public servants (not including statutory ones) were registered in the Register of Public Servants during second quarter of 2007 (this represents an increase in comparison with 2006, when 24790 public servants were registered).

Concerning the work conditions and social guarantees, there are some differences between public servants and persons employed under labour contracts in the public service. First of all, the salaries of public servants are higher by virtue of qualification grade (the later is not granted to persons working under labour contracts) and length of service. Public servants are entitled to additions to their salaries, additional holiday days. Also, they may receive supplements for performing additional functions (not enlisted in the description of the post) for a period of one year.

CHAPTER V
Members of the Family

1. RESIDENCE RIGHTS AND SPECIFIC ISSUES

The Aliens' Law of 2004 provides that the family members could be admitted together with EU national or join him and stay in the Republic of Lithuania for the same period. The definition of EU national family member covers (Art. 2(4) of the Aliens' Law):

a) spouse or his unmarried partner with whom a registered partnership agreement is concluded;
b) direct descendants below the age of 21 or dependent, including those of the spouse or a person with whom partnership agreement is concluded;
c) dependent relatives according to direct ascending line of the national of the EU Member State, his spouse or a person with whom partnership agreement is concluded.

The draft amendments to the Aliens' Law in 2006 provided also that other persons could be recognised as family members if:

a) at the time of departure they are dependent on the EU national or live in the same household or due to serious health reasons require personal care of the EU national;
b) they are partners who have not concluded the partnership agreement, but are in a stable relationship.

However, this proposal to expand the definition of EU family member was not then adopted.

Family members of EU nationals can stay with them for the same period of 3 months without formalities and later on they have to obtain EU residence permit (in case they are not EU nationals). They are entitled to permanent residence if resided with EU national for the last 5 years or retain a right of residence (Art. 104(2) of the Law). Since 2006 family member of EU national, who is a third country national, receives EU residence card. This card entitles such family member to reside in Lithuania. According to the legislation, in case of EU national who is student, school pupil, intern or participant of vocational training, the only family members who are third country nationals who would be entitled to EC residence permit are spouse or registered partner, dependent children and relatives according to direct ascending line (Art. 101(3)). In case of permanent residence permit, family members of EU national who are third country nationals are issued EU residence permit for 10 years and extended once this period is over (Art. 104(5)). This differs from permanent residence for EU nationals, who are not issued a residence permit, but instead a special certificate confirming their right to permanent residence.

Among the most important legislative developments during 2007 as concerns the situation of family members who are third country nationals, was the approval by the Minister of Interior of the Order on issuance of EU permanent residence permit for family members (25 October 2007). This Order mainly deals with issuance of Permanent Residence Certificate to EU nationals, but also regulates the conditions and procedure for issuance of EU residence permit for EU national family member who is a third country national. Pursuant to the Order, the family member of EU national together with the request for residence permit has to submit to the local migration office the following supporting documents (paragraph 18 of the Order):

- valid travel document;
- documents confirming family relationship with the EU national;
- marriage certificate/registered partnership agreement or document confirming that he/she is a descendent of EU national below 21 years of age or relative;
- birth certificate;
- valid EU national passport or ID card or another document confirming that family member has EU citizenship;
- request of EU national to issue residence permit to his/her family member.

Depending on the ground of residence requested, other documents may be required. In case of children, residence permit is issued until the end of formal educational programme, but for not longer period than 10 years. Decision on request for residence permit shall be adopted by the Migration Department within 1 month from the receipt of application by the migration service. When a family member of EU national receives notification about issued decision on residence permit, he/she needs to formalise the decision by applying to a local migration service (Lithuania uses two-stage permission issuance procedure: firstly decision on the right of residence is adopted and secondly, a residence permit is physically issued). The following documents need to be submitted in addition:

- request filled in a special format;
- valid travel document;
- three pictures;
- document confirming about the fee paid;
- documents confirming the data in the request (e.g. marriage certificate, etc.).

EU residence permit is physically issued within 5 working days from the date of registration of the request in the system. Permits are issued by the Personalization of Identity Documents Centre.

All other conditions concerning the duration of the residence permits apply to the family members of the worker on the same conditions as for the worker himself.

The right of residence of the family member of EU national may be repealed on the ground of national security or public order, or if the right of residence of EU national is repealed, unless he has independent right of residence on other grounds. Decisions on repealing the right of residence are taken by Vilnius District Administrative Court.

Right of residence for family members of the EU national is retained in the following circumstances (Art. 101^1):

- when EU national dies or departs from Lithuania and his family member is a EU citizen and complies with conditions of residence (is a worker, self-employed or a student) (this is not fully in line with the Directive 2004/38/EC because it requires compliance with conditions in case of permanent residence only);
- when EU national dies and his family members are not EU citizens, if they have been residing in Lithuania for at least one year before the death of his family member (in this case they have to submit with the request for permanent residence permit, documents proving their right to reside in Lithuania);
- when marriage is invalidated, terminated or registered partnership is terminated, if the family member is EU citizen and complies with conditions of residence;
- when marriage is invalidated, terminated or registered partnership agreement is terminated and the family member is not EU citizen, if marriage or registered partnership

lasted for not less than 3 years, including one year in Lithuania, or if the family member has custody of the children of EU national or termination of marriage occurred due to fault of the other spouse (EU national) (in this case they have to submit with the request for permanent residence permit, documents proving their right to reside in Lithuania); this situation is more limited than that allowed by the Directive (Paragraphs c-d of Art. 13(2)).

- when EU national dies or departs from Lithuania, the right is retained to his children irrespective of citizenship and one of the parents taking care of them until completion of started formal education programme.

Draft amendments to the Aliens' Law that were pending by the end of 2007 envisage that: "the family members of EU national also acquire a right to permanent residence in the Republic of Lithuania, if they have resided here legally for the past 5 years with the EU national or they retain right to reside in Lithuania in accordance with paragraph 1 of Art. 101^1 of the Law, or are the family members of EU national who retained his right to Lithuanian citizenship pursuant to the Citizenship Law or are family members of person who has Lithuanian origin".

The Aliens' Law seems to provide for no specific distinction to the situation of family members of EU national who are EU nationals and those, who are nationals of third countries as concerns entry to the territory or e.g. as concerns work permits. However, from the legislation and in practice it is difficult to see how third country nationals (even though family members of EU national) could be exempted from the general requirements applied to other foreigners under aliens legislation (e.g. as concerns entry visas and in particular the situations when the third country national is a national of the country, included on the so called "black list"). It would be advisable to include a special reference to third country nationals who are family members of EU nationals in the aliens' legislation, to ensure that they face no problems while accompanying or joining the EU national in the Republic of Lithuania. Currently, family members of EU nationals, who are third country nationals, are issued multiple visas (D). In order to obtain it, they shall submit to the visa services additional documents, confirming his family relationship with the EU national, as well as documents, certifying that EU national is intending to seek employment or engage in any other lawful activity in Lithuania, also request of his family member – EU national to issue a visa, copy of his travel document. As a result of amendments in 2006, the condition of entry now explicitly mentions the possession of EU residence permit (which is issued to third country nationals family members of EU citizens). This was already an improvement, however did not address the situation of family members who do not yet have the permanent residence permit and are arriving for the first time with the EU national to the country. However, the draft amendments to the Aliens Law that were pending by the end of 2007, provide that the family member of EU national who is a third country national, but is in possession of EC residence permit, will be entitled to arrive to Lithuania and stay there up to three months within half a year without a visa (Art. 11(4), amendments adopted on 1 February 2008).

Also, as a result of amendment of the Law in 2006 the issue of the right of residence for children or the parent who has actual custody of the children, irrespective of nationality, if the children reside in the host Member State and are enrolled at an educational establishment, for the purpose of studying there, until the completion of their studies was resolved.

The Order on Temporary Residence Permits of 2005 (as amended in 2007) regulates the assessments of the marriages of convenience. It may also apply to the EU nationals. The Or-

der establishes the rule that the marriages concluded within the last five years before applying for the residence permit might be verified if there are serious grounds to believe that the marriage was concluded out of convenience. The Order establishes the situations that may raise serious grounds as concerns the marriage. If the foreigner is refused issuance/extension of the residence permit, repeated application can be submitted not earlier than after one year (paragraph 41 of the Order). The provisions of the Order stating among the factors to determine the convenience of the marriage the fact that the spouses have never met before the marriage (Section IV, paragraph 28.4), might be problematic in view of cultural traditions in some nations and contemporary ways of communication (via internet). If there are serious grounds to believe that the marriage is of convenience, the residence permit would be refused or annulled. Legislative amendments in 2006 introduced the definitions of fictitious adoption and registered partnership of convenience (Art. $2(6^1)$ and $2(6^2)$ respectively). Fictitious adoption is described as adoption procedure completed between a Lithuanian citizen or legally staying foreigner and a foreigner who is non-EU national, when it is performed with the objective of obtaining a residence permit in Lithuania without the aim to create the legal effect of adoption. Registered partnership of convenience is described as registered partnership between a Lithuanian citizen or legally staying foreigner and a foreigner who is non-EU national, when it is concluded with the objective of obtaining a residence permit in Lithuania without the aim to create the legal effect of registered partnership. Definition of the marriage of convenience was already earlier established by the law.

Concerning the applicability of *Akrich* judgment, the only evidence of implementation of this judgment in the legislation is Article 101(2) of the Aliens Law, which requires that third country national family member of Lithuanian citizen (only, does not apply to other EU nationals) who applies for EU residence permit has exercised the right to freedom of movement in the EU or has arrived from another EU Member State's territory. This indirectly implies the requirement of previous stay in another EU country.

Miscellaneous (administrative practices, etc.)

According to the data of the Migration Department (of 27 April 2008), from 1 January - 31 December 2007, 153 decisions were adopted concerning permission for EU and EEA nationals family members to arrive to Lithuania. Concerning family members who are third country nationals, 50 applications for EC residence permit were received and all decided positively; while 2 applications were received for issuance/extension of EU national family member residence permit during the year.

2. ACCESS TO WORK

Similarly, as the worker, his family members who intend to engage in employment are exempted from the work permit. Situation of family members who are third country nationals is not clear, as there is no specific reference to them in the rules for exemption from the work permit.

3. ACCESS TO EDUCATION AND STUDY GRANTS

Law on Higher Education of 21 March 2000 states that the order of studies of foreigners shall be established by the educational institution in accordance with Government resolutions

(Art. 3(2)). Article 47(3) further provides that students shall be accepted, by way of an open competition, to higher education establishments financed by the State in accordance with subject areas, stages and forms. The grounds of undergraduate study selection competition must consist of the results of secondary school graduation examinations of not more than four subjects taught. Not more than two examinations or tests may be organised by higher education establishments for identification of special abilities. If an institution authorised by the Ministry organises and administrates an examination of a subject taught, a higher education establishment shall not organise an examination or test of such subject. According to the Law, the Ministry of Education and Science may establish higher education establishment enrolment quotas and procedure for foreign citizens and persons without citizenship whose studies are fully or partly compensated from the State budget. In addition, upon the recommendation of the Ministry, the Government shall approve the minimum cost of studies for foreign nationals and persons without citizenship at Lithuanian State higher education establishments (Art. 59(3)). The access of foreign students to studies of higher education is further detailed by the Government Resolution No. 235 of 28 February 2001 (new version of resolution of 1 May 2004). Pursuant to the resolution, foreigners may be accepted to places funded by the state if they are:

1) persons of Lithuanian origin;
2) citizens of the country where Lithuanian citizens are studying on the same conditions as applied to nationals of that state (reciprocity clause);
3) students with permanent residence permit in Lithuania.

In addition, there are established quotas for admission of foreigners to state-funded places. The amendments to the resolution in 2004 introduced the provision that these rules do not apply to EU/EEA nationals from the entry to the EU. However, it did not say anything about their family members who are third country nationals. Thus EU national family members who are third country nationals might not get access to state funded study place automatically. Moreover, there might be obstacles for their studies until they obtain residence permit in the country (e.g. within 3 months of their stay), because only persons who already have residence permits are admitted for studies according to the resolution.

Important development took place in 2007 with the approval of the Order No. ISAK-52 of the Ministry of Education and Science on Admission of persons who acquired education abroad to fully or partially funded by the Lithuanian budget studies in higher establishments of Lithuania on 15 January 2007. According to the Order, persons entering Lithuanian establishments of high education shall have a document confirming the recognition of their education obtained abroad (paragraph 2). Persons who acquired education abroad may be enrolled though competition to studies fully or partially paid by the state budget if they belong to one of the mentioned groups:

- EU/EEA nationals;
- Nationals of foreign countries (non EU/EEA nationals) and stateless persons who have a permanent residence permit in Lithuania;
- Persons of Lithuanian origin who present a certificate on Lithuanian origin from a community in a country where he/she used to reside.

All other foreigners are enrolled through competition and have to pay for their own studies. Therefore, the Order still does not address the study grants issue for EU nationals' family members who are third country nationals.

When EU nationals are enrolled to educational establishment, they should obtain a residence permit (either EC residence permit or permanent residence permit). It is also provided by the Order that if the student is planning to study some subjects that are organised in Lithuanian language only, he/she may be required to pass a Lithuanian language credit. There are some privileges for ethnic Lithuanians concerning the enrolment fee – they may be exempted from enrolment fee (varying from 23-50 EUR) or it can be reduced if they can prove difficult financial situation (paragraph 33).

According to the information of the Department of Statistics, 796 EU students were studying in Lithuanian universities during the period of 2006-2007.

4. OTHER ISSUES CONCERNING EQUAL TREATMENT (SOCIAL AND TAX ADVANTAGES)

Family members of EU nationals are treated in the same way as EU nationals as concerns social and tax issues. Concerning third country national family members, e.g. the Law on Consular Fees of 23 June 1994 (as amended in 2005) provides in its Article 6(4) for an exception from the fee to the EU nationals as concerns the issue of visas to the family members of the EU/EEA nationals.

Chapter VI
Relevance/Influence/Follow-up of Recent Court of Justice Judgments

The practice of applying the European Court of Justice judgments in the courts of the Republic of Lithuania generally remains rather underdeveloped. There have been no cases submitted by EU nationals or decided concerning the freedom of movement of workers during 2007, as reported by the administrative courts. None of the administrative courts in Vilnius, Kaunas, Klaipeda, Siauliai and Panevezys cities or the Supreme Administrative Court has applied to the ECJ for a preliminary ruling during the year. Given that judgments of the ECJ do not really have a significant impact in Lithuania, the overview presented below analyses on a comparative basis the issues raised in those judgments through the perspective of whether similar issues would be or not of concern in Lithuania.

The issues mentioned in *Hartmann* case are dealt in Lithuanian legislation in a different manner than in Germany. Currently, family benefit may be paid to the person on the basis of work place and not residence (competent country is a country of work even if one of the parents is unemployed). If the allowance is bigger in the country of residence, then the later pays the difference. On the issues mentioned in another pending case under ECJ, *Hendrix,* the Lithuanian legislation may be problematic, because benefits for handicapped persons are related to the permanent residence in Lithuania (Article 1(4) of the Law on State Benefits of 29 November 1994, new version of the law of 19 May 2005). Concerning *Geven* judgment, frontier workers would be able to receive family social benefits. *Gattoussi* judgment has not had any effect in Lithuania so far. A third country national whose residence permit expired or was terminated are not able to extend their stay on the basis of work permit, because the precondition for issuance/extension of a work permit is valid residence permit (Article 63 of the Aliens Law). Work permit in Lithuania is being issued with two-year validity. With regard to issues of *Jia* judgment, there should be no similar problems in Lithuania as those analysed in this case, except that it may affect the family members of the Lithuanian national, because in case of a family member of Lithuanian national the Aliens Law requires residence in another Member State before joining the family member in Lithuania (Art. 101(2) of the Law). Concerning *ITC* judgment, where the national legislation limiting the payment of recruitment voucher to the private recruitment agency because the job found was in another Member State, was recognised as contrary to Article 39 of the EC Treaty, the impact of this judgment in Lithuania is not clear, because Lithuania does not apply the system of recruitment vouchers. However, it is believed if such system would exist, there would be no difference if the job was found within or outside the country.

Chapter VII
Policies, Texts and/or Practices of a General Nature with Repercussions on Free Movement of Workers

THIRD COUNTRY NATIONALS' IMMIGRATION FOR EMPLOYMENT

6542 requests to employ foreigners were received by Lithuanian Labour Office in 2007, out of those 431 requests were for temporary employment of foreigners in Lithuania for 2007. 5686 work permits were issued and 235 extended during 2007. The gender breakdown is 2927 males and 138 females. The main part of work permits during the year were issued to the citizens of following countries: Belarus (2154), Ukraine (2072), Turkey (393), Moldova (291), Russia (260), China (255), Uzbekistan (63), Georgia (37), USA (29), India (24), Kazakhstan (21), Armenia (19), Tajikistan (14), Israel (13), Kyrgyzstan (9), Korea (9), Ghana (4), stateless (2), Vietnam (2), Pakistan (2), Azerbaijan (1), Albania (1), Brazil (1), Japan (1), Lebanon (1), Macedonia (1), Nepal (1), Serbia (1), Canada (1), Australia (1), Croatia (1), Columbia (1). According to percentage, the majority of permits were issued to nationals of Belarus (38%), Ukraine (36%), Turkey (7%), Moldova (5%) and Russia (5%).

Most of the foreigners were working in construction (47%, 2693 workers) and transport (37%, 2059 workers) sectors. Others - service (10%, 563 workers), manufacturing (3%, 163 workers) and light industry (3%, 153 workers) sectors. 16 foreigners are working in education sector and 3 in health care sector.

During the year, 3673 work permits were issued in connection with employment under labour contracts, 1594 – for posted workers and 184 permits for sailors.[25] This statistics does not cover labour migration of EU citizens, because as of 2002 they are no longer required to obtain work permits.

Given that Lithuania is lacking labour force, there were some discussions emerging in the country on whether rules for employment related entry of third country nationals should be relaxed (this is particularly in the interests of industries that are willing to import workers from third countries). There have been several instances of expressed local resistance towards opening the labour market for third country nationals. At the same time, steps to deal with economic migration in a more consistent manner have been taken during the year (refer to policy developments and establishment of administrative structures mentioned in Introductory Chapter of this Report).

EMIGRATION FROM LITHUANIA

Lithuania continued to experience a decrease in population, though on smaller scale during the year. According to the Department of Statistics, during 2007, slightly more foreigners (including Lithuanian nationals) emigrated from Lithuania (13,853) mostly to the European countries (in comparison with 10,329 in 2006). The number of persons who arrived to Lithuania from other countries during the year was 8,609 in comparison with 7,745 in 2006. The majority arrived from Germany (70), Latvia (48), Bulgaria (32), Spain (28). Most of them are returning Lithuanian citizens (6,141). Also a large number of immigrants were from

[25] Information of Lithuanian Labour Exchange Office, 4 March 2008.

non-EU/EEA countries (2,149). Breakdown of statistics on departures and arrivals to Lithuania during 2007 is presented in Table 8 and 9 under Section IX. Statistics of this Report.

CITIZENSHIP RELATED ISSUES

In 2007, 370foreigners were granted the citizenship of Lithuania by the Presidential decree (in comparison with 467 persons in 2006). As concerns EU Member States' nationals, only 2EU nationals obtained Lithuanian citizenship during 2007.

Citizenship of applicants at the time of requesting Lithuanian citizenship	**Number of persons**							
	2001	2002	2003	2004	2005	2006	2007	**Total**
Armenia	8	5	10	18	5	3	9	58
Azerbaijan	-	-	-	2	1	-	2	5
Belarus	25	20	8	39	24	28	31	175
Stateless	385	363	252	314	214	238	184	1950
Bolivia	-	-	-	-	-	1	-	1
Bosnia and Herzegovina	-	-	1	-	-	-	-	1
Bulgaria	-	1	-	-	-	-	-	1
Egypt	-	-	-	-	1	-	-	1
Georgia	2	1	1	1	3	2	-	10
Iran	-	1	-	-	-	-	-	1
Israel	2	1	2	3	3	-	1	12
Kazakhstan	2	3	-	9	1	6	4	25
Kyrgyzstan	-	1	-	-	2	-	-	3
Latvia	-	3	1	1	1	-	-	6
Poland	1	-	1	1	1	1	2	7
Lebanon	3	2	-	1	3	2	-	11
Moldova	2	1	4	-	4	5	3	19
Pakistan	-	-	-	1	-	-	-	1
South African Republic	-	-	1	-	-	-	-	1
South Korea	-	-	-	-	-	-	1	1
Romania	-	1	-	-	-	-	-	1
Russian Federation	66	75	87	179	151	151	113	822
Syria	-	1	-	-	-	-	-	1
Tajikistan	-	-	1	-	-	-	-	1
Turkey	-	1	-	2	-	-	-	3
Turkmenistan	1	-	-	-	-	-	-	1
Ukraine	9	24	19	37	21	30	20	160
Uzbekistan	1	-	1	2	-		-	4
Total	**507**	**504**	**389**	**610**	**435**	**467**	**370**	**3282**

Source: Data of the President Office.

The table above provides a breakdown of numbers according to citizenship at the time of requesting Lithuanian citizenship, covering the period of 2001-2007.

Chapter VIII
EU Enlargement

1. INFORMATION ON TRANSITIONAL ARRANGEMENTS REGARDING MEMBER STATES WHO JOINED THE EU IN 2004

On 16 April 2003 Lithuania, together with other acceding states signed the Accession Treaty with the EU. Article 2 of Annex IX to the Accession Agreement provides that transitional arrangements apply only to the right to enter into employment. Lithuania can apply equivalent restrictions for those EU Member States that apply restrictions to Lithuanian citizens. However, it is unlikely that Lithuania would face an influx of workers from other Member States, which would necessitate the application of restrictive measures. Thus in practice, restrictions, if applied, would likely be a political reciprocal measure. There might be some legal issues though. As Lithuania granted the right to employment and opened its labour market to EU nationals already before signature of the Accession Treaty, it might be problematic to apply Article 2(10) of Annex IX to the Accession Treaty, providing for a right to apply equivalent restrictions to nationals of old Member States, who restrict the right of employment of Lithuanian citizens. It might be questionable therefore if Lithuania could reintroduce the labour quota and work permits to EU nationals, because it did not already exist at the moment of signing the Accession Treaty. The provision of Article 2(10) of Annex IX to the Accession Treaty mentions the phrase "may maintain in force equivalent measures", but not to "reintroduce or apply national measures".

In practice, Lithuania applies no equivalent restrictions for entry into its labour market either for old or new Member States of the European Union in response to transitional arrangements applied by them. This to a certain extent may be explained by the fact that labour migration to Lithuania has been rather low throughout the years, labour quota was frequently unfilled, while the situation in the labour market during 2007 due to massive emigration of workers has even raised the discussions about the need to bring over the workers from the neighbouring countries. Discussions also focus on introduction of positive measures encouraging the return of Lithuanian workers from abroad. In this situation, it is unlikely that Lithuania changes its position as concerns equivalent restrictions because it itself lacks labour force.

Since August 2006 Lithuanian nationals have free access to labour market in Ireland, Greece, Iceland, Spain, Italy, the United Kingdom, Portugal, Finland and Sweden, thus they can work without restrictions in 21 countries out of 30 EEA countries. Remaining 9 countries apply some restrictions, mainly with a view of protecting sensitive market sectors. Only Germany and Austria remain as countries applying strict restriction regimes for access to their labour market. New Member States, including Romania and Bulgaria as of 1 January 2007, do not apply restrictions for Lithuanian workers.

Looking at the statistical data of Lithuanian nationals working in the EU Member States (employed abroad through the private labour mediation offices) slightly less than for previous year - 1892 Lithuanian nationals were employed in 2007 (1087 or 57% males and 829 or 44% females), out of whom 1379 (73%) were previously unemployed, while 554 (29%) had a job in Lithuania. The majority of Lithuanian nationals were employed in the United Kingdom – 1416 and Norway – 138. Both these countries remain stable in the statistics if com-

pared to 2006. The distribution of persons employed in EU/EEA Member States and a few third countries looks as follows:[26]

United Kingdom	1416
Norway	138
Ireland	57
Finland	82
Greece	57
Netherlands	39
Cyprus	35
Sweden	17
Italy	20
USA	10
Germany	6
Estonia	5
France	4
Denmark	4
Spain	2

Most of Lithuanian nationals working abroad are based in service sector. Mainly they are involved in:

Packing	519
Service	572
Construction	112
Agriculture	522
Other sectors	167

However, this statistics reflects only those Lithuanian nationals who departed for employment in other EU countries through mediation of Lithuanian labour exchange offices or private labour offices (47 such organisations were operating in Lithuania in 2007). Significantly much higher numbers are working in other EU countries, but there is no official statistics on that.

The issue of restrictions to access labour markets in other Member States has not dominated the public debate in Lithuania in 2007.

Changes in position with regard to the second phase of the transitional arrangements

Lithuania does not apply transitional arrangements for other citizens of the EU and no changes in this policy have taken place during 2007.

2. INFORMATION ON TRANSITIONAL ARRANGEMENTS REGARDING MEMBER STATES WHO JOINED THE EU IN 2007

Lithuania's position concerning workers from Bulgaria and Romania does not differ from the one applied to all other EU nationals – no transitional arrangements are applied. No discussion on this issue has taken place during the year and according to the Lithuanian Labour Exchange Office there are no plans to introduce such restrictions.

[26] Information of Lithuanian Labour Exchange Office of 4 March 2008.

Chapter IX
Statistics

1. DURATION OF MOBILITY

This part represents the statistics on movements of EU nationals to Lithuania on the grounds of duration. The tables below represent the numbers of EU nationals who are staying in Lithuania on a temporary basis (Table 1 and 2 reflecting temporary residence permits, which are issued for a period less than 5 years) and on permanent basis (Table 4 and 5 reflecting EU residence permits issued after 5 years of residence in Lithuania). In total, 1123 requests for temporary residence were submitted during the year, while 1141 decisions to grant/extend residence permit was adopted. As could be seen from Table 3 below, 519 of these applications were related to employment or self-employment in Lithuania. In comparison, 288 applications for certificates for permanent residence were submitted and the same number was issued such certificates.

a) Temporary residence permits

Comment: The table does not include family members of EU/EEA nationals who are third country nationals.

Table 1. Requests of EU/EEA nationals to issue/extend EC residence permit, submitted in 2007 (according to citizenship)[27]

Citizenship	Requests submitted
Ireland	9
Austria	12
Belgium	8
Bulgaria	97
Czech Republic	27
Denmark	49
Great Britain	46
Estonia	15
Greece	4
Iceland	1
Spain	59
Italy	70
Cyprus	2
Latvia	111
Poland	164
Luxemburg	-
Malta	-
Netherlands	34
Norway	22
Portugal	13
France	50
Romania	21
Slovakia	52
Slovenia	14
Finland	40
Sweden	28
Switzerland	3
Hungary	8
Germany	164
Total	**1123**

[27] Information of the Migration Department to the Ministry of Interior of 27 February 2008.

Table 2. Decisions to issue/extend EC residence permit adopted in 2007 (according to citizenship)[28]

Citizenship	Permits Issued
Ireland	9
Austria	11
Belgium	9
Bulgaria	129
Czech Republic	27
Denmark	44
Great Britain	46
Estonia	13
Greece	3
Iceland	1
Spain	63
Italy	66
Cyprus	2
Latvia	113
Poland	154
Luxemburg	-
Malta	-
Netherlands	33
Norway	23
Portugal	15
France	52
Romania	21
Slovakia	52
Slovenia	13
Finland	41
Sweden	27
Switzerland	3
Hungary	8
Germany	163
Total	**1141**

Comment: The table does not include family members of EU/EEA nationals who are third country nationals.

[28] Information of the Migration Department to the Ministry of Interior of 27 February 2008.

Table 3. Decisions to issue/extend EC residence permits adopted in 2007 (according to grounds)[29]

Ground of arrival	Applications submitted	
	To issue/extend	**Refuse issue/extension**
Employment or self-employment in Lithuania;	519	-
Residing in Lithuania with sufficient resources and health insurance;	106	-
Obtaining education, studying at an educational establishment, taking in an internship programme, undergoing in-service training, taking part in vocational training;	363	-
Living with a family;	153	-
Third country nationals family member of the EU/EEA citizen;	37	-
Third country nationals family members of Lithuanian citizens	13	-
Total	**1191**	-

b) Permanent residence permits

Table 4. Requests of EU/EEA nationals to issue certificate confirming the right of permanent residence in Lithuania, submitted in 2007 (according to citizenship)

Citizenship	Requests submitted
Ireland	18
Austria	6
Belgium	2
Bulgaria	1
Czech Republic	1
Denmark	27
Great Britain	9
Estonia	5
Greece	2
Spain	7
Italy	15
Latvia	21
Poland	73
Netherlands	2
Norway	7
Portugal	2
France	8
Romania	1
Finland	15
Sweden	7
Switzerland	1
Hungary	1
Germany	57
Total	**288**

[29] Information of the Migration Department to the Ministry of Interior of 27 February 2008.

Table 5. Decisions to issue certificate confirming the right of permanent residence in Lithuania, submitted in 2007

Citizenship	Adopted decisions on EC permanent residence permit	
	To issue/extend	Refuse issuance/extension
Ireland	18	-
Austria	6	-
Belgium	2	-
Bulgaria	1	-
Czech Republic	1	-
Denmark	27	-
Great Britain	9	-
Estonia	5	-
Greece	2	-
Spain	7	-
Italy	15	-
Latvia	21	-
Poland	73	-
Netherlands	2	-
Norway	7	-
Portugal	2	-
France	8	-
Romania	1	-
Finland	15	-
Sweden	7	-
Switzerland	1	-
Hungary	1	-
Germany	57	-
Total	**288**	**-**

c) Other statistics

Table 6. Applications/decisions for issue/extension of EC residence permits to EU/EEA family members, who are third country nationals, received/adopted in 2007 (according to citizenship)

Citizenship	Applications	Decisions issued to issue/extend residence permit
Albania	1	1
Azerbaijan	1	-
Belarus	2	-
Stateless	31	31
Canada	3	3
Maroc	1	1
Moldova	1	1
Nigeria	1	-
Russia	3	4
Serbia	1	1
Ukraine	5	8
Total	**50**	**50**

Table 7. Applications/decisions to issue/extension of EU national family member residence permits in 2007 (according to citizenship)

Citizenship	**Applications**	**Decisions issued to issue/extend residence permit**
Belarus	1	1
Russia	1	1
Total	**2**	**2**

Table 8. Immigrants and emigrants according to citizenship in 2007[30]

Citizenship	Immigrated	Emigrated
Total	**8609**	**13853**
EU Member States	**6456**	**11898**
Ireland	2	4
Austria	0	8
Belgium	1	10
Bulgaria	32	57
Czech Republic	4	15
Denmark	14	28
Estonia	6	1
Greece	4	2
Spain	28	32
Italy	17	21
United Kingdom	12	26
Latvia	48	33
Poland	24	31
Lithuania	6141	11422
Netherlands	5	24
Portugal	7	7
France	17	47
Romania	4	7
Slovakia	3	5
Slovenia	2	6
Finland	4	28
Sweden	10	7
Hungary	1	2
Germany	70	75
EFTA countries	**4**	**5**
Iceland	0	0
Norway	4	5
Lichtenstein	0	0
Citizens of other countries	**2149**	**1950**

[30] Information of Statistics Department of Lithuania of March 2008.

Table 9. Lithuanian nationals who emigrated in 2007 according to country of destination[31]

	Lithuanian citizens
Total	**11422**
EU 27	**8570**
Ireland	1612
Austria	42
Belgium	95
Bulgaria	1
Czech Republic	34
Cyprus	8
Denmark	153
Estonia	33
Greece	33
Spain	808
Italy	195
United Kingdom	3624
Latvia	109
Poland	54
Luxemburg	28
Netherlands	110
Portugal	35
France	133
Slovakia	6
Slovenia	0
Finland	45
Sweden	229
Hungary	2
Germany	1179
EFTA countries	**283**
Iceland	27
Norway	256
Lichtenstein	0
Other countries	**2569**

[31] Information of Statistics Department of Lithuania of March 2008.

2. REPARTITION BY GENDER/BRANCH/SKILLS-QUALIFICATIONS/REGION

Breakdowns of statistical data according to these parameters were not available with Lithuanian authorities.

3. TRENDS

The general trend is that movement of EU nationals to Lithuania is increasing. Although a bit less temporary residence permits were requested in 2007 (1123 requested and 1141 issued or extended) in comparison with 2006 (1 248 requested and 1013 issued), the applications for permanent residence doubled in 2007 (122 were submitted and granted during 2006 and 288 in 2007). Immigration of EU nationals has also been increasing. If 5,880 EU nationals immigrated to Lithuania out of 7,745 in total during 2006, the 2007 represented 6456 EU nationals (majority of them are Lithuanians returning back) out of 8609 in total. Immigration to Lithuania has been increasing from other countries; however, emigration of Lithuanian citizens continues to be almost at the same level. Nationals of newly acceded Member States (Bulgaria and Romania) did not constitute big numbers in 2007 in Lithuania.

The following statistics is provided under other Chapters of this Report:

1) Information on EU nationals who were refused entry to Lithuania in 2007 (according to nationality and reasons for refusal) within Chapter I. Entry, Residence, Departure (sub-chapter A. Entry);
2) Recognitions of professional qualifications during 2007 for EU nationals and third country nationals (within Chapter II. Access to Employment; sub-chapter 3. Recognition of Diplomas);
3) Statistics on employment of third country nationals (within Chapter VII. Policies, Texts and/or Practices of General Nature with Repercussions on Free Movement of Workers; Sub-chapter 1. Third country nationals' immigration for employment);
4) Numbers of emigrating Lithuanians and other EU nationals (Within Chapter VII. Policies, Texts and/or Practices of General Nature with Repercussions on Free Movement of Workers; Sub-chapter 4. Emigration from Lithuania);
5) Numbers of persons granted Lithuanian citizenship during the period of 2001-2007, according to citizenship at the time of requesting Lithuanian citizenship (Within Chapter VII. Policies, Texts and/or Practices of General Nature with Repercussions on Free Movement of Workers; Sub-chapter 5. Citizenship related issues);
6) Numbers of Lithuanian nationals employed abroad (within Chapter VIII EU enlargement; Sub-chapter 1. Information on transitional arrangements regarding Member States who joined the EU in 2004).

Chapter X
Miscellaneous

STUDIES, SEMINARS, REPORTS, LEGAL LITERATURE (COPIES)

On 20 November 2007 the Ministry of Social Security and Labour approved Economic Migration Research Plan for 2008-2013.

Ingrida Mačernytė-Panomariovienė, Tarptautinių darbo laivuose standartų įtaka Lietuvos jūrininkų darbo santykiams, Jurisprudencija, Nr. 1(91), 2007.

Vida Petrylaitė, Socialinės apsaugos sistemų koordinavimo srities nustatymo problematika reglamentuojant kai kurias Lietuvos socialinės apsaugos išmokas, Jurisprudencija, Nr. 8(110), 2008.

Annexes

Annex I. Foreigners residing in Lithuania as of beginning of 2008 (according to nationality)

Nationality	**Holding a long tern residence permit of the Republic of Lithuania**	**Holding a permanent residence permit of the European Community**	**Holding a temporary residence permit**	**Holding a residence permit of the European Community**
European states, including:	**13 822**	**848**	**4 769**	**3 942**
- EU Member States, including:	-	830	-	3 699
- Latvia	-	197	-	577
- Poland	-	355	-	544
- Germany	-	110	-	692
- European Free Trade Association member states	-	13	-	209
- Other European states, including:	13 822	5	4 769	34
- Armenia	178	-	81	-
- Belarus	1 938	-	1 708	4
- Georgia	90	-	43	-
- Russia	10 235	3	1 586	16
- Ukraine	1 226	2	1 041	8
North American states, including:	203	-	223	9
- USA	195	-	193	6
Central & South American states	19	-	37	-
Australia & Oceania states	7	-	8	1
Asian states, including:	618	-	822	8
- Israel	136	-	208	2
- Kazakstan	191	-	53	-
- China	50	-	191	1
- Lebanon	30	-	102	-
African states	27	-	56	-
Stateless	4 533	-	105	51
Total:	**19 229**	**848**	**6 020**	**4 011**

Note: The table excludes foreigners holding invalid residence permits of long term resident of the Republic of Lithuania and of permanent residence permit of the European Community. As of beginning of 2008, nationals of 106 states were residing in the Republic of Lithuania. Information source: Residents' Register Service under the Ministry of Interior of the Republic of Lithuania.

Annex II. List of Lithuanian legal acts transposing EC Directives of the General Recognition System and Sectoral directives (with 2007 amendments indicated, mostly related to accession of Bulgaria and Romania to the EU)

No	***Acts transposing General System directives (89/48/EEC, 92/51/EEC, 99/42/EC, 2001/19/EC)***	***Acts transposing Sectoral directives***
1	Order of the Minister of Social Security and Labour No. A1-90 of 28 March 2006 concerning the Approval of a *working group* for the preparation of the Law on Recognition of Professional Qualifications	Order of the Minister of Health Care No. V-43 of 2 February 2004 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of diplomas, certificates and other official documents proving the professional qualification of a doctor acquired in the EU, EEA or Switzerland (as amended on 23 March and 29 December 2007)
2	Order of the Minister of Social Security and Labour No. A1-194 of 17 July 2006 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other official documents proving the professional qualification acquired in the EU, EEA or Switzerland with the purpose of employment in Lithuania as *social worker* in the Republic of Lithuania	Order of the Minister of Health Care No. V-41 of 2 February 2004 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of Diplomas and other official documents proving the professional qualification of a general practice *nurse* acquired in the EU, EEA or Switzerland (as amended on 23 March and 29 December 2007)
3	Order of the Minister of Education and Science No. ISAK-1695 of 22 August 2006 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other official documents proving the professional qualification acquired in the EU, EEA or Switzerland with the purpose of employment in Lithuania under regulated profession, falling within the competence of the *Ministry of Education and Science*	Order of the Minister of Health Care No. V-42 of 2 February 2004 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of Diplomas and other official documents proving the professional qualification of a *midwife* acquired in the EU, EEA or Switzerland (as amended on 23 March and 29 December 2007)
4	Order of the Minister of Culture No. IV-51 of 2 February 2006 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other official documents proving the professional qualification acquired in the EU, EEA or Switzerland with the purpose of employment in Lithuania as *restorer* or practising as restorer in the Republic of Lithuania	Order of the Minister of Health Care No. V-40 of 2 February 2004 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of Diplomas and other official documents proving the professional qualification of a doctor *odontologist* acquired in the EU, EEA or Switzerland (as amended on 23 March and 20 December 2007)
5	Order of the Minister of Social Security and Labour No. A1-71 of 10 March 2005 concerning the form of application for recognition of professional qualification documents obtained in the EU/EEA Member States and Swiss Confederation	Order of the Minister of Health Care No. B1-417 of 30 April 2004 concerning the Approval of the Requirements on the Assessment and Recognition of professional qualifications of a *veterinary doctor* acquired in third countries

6	Order of the Director of the State Tourism Department to the Ministry of Economy No. V-99 of 29 December 2005 concerning the Approval of the Statute of Professional Qualifications Evaluation and Recognition Commission	Order of the Minister of Health Care No. V-39 of 2 February 2004 concerning the Amendment of the Order No. V-655 of 5 November 2003 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other documents certifying professional qualification in *Pharmacy* acquired in the EU, EEA or Switzerland (as amended on 22 January 2007)
7	Order of the Director of the State Tourism Department to the Ministry of Economy No. V-95 of 23 December 2005 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other official documents proving the professional qualification of a *guide* acquired in the EU, EEA or Switzerland	Order of the Minister of Environment No. D1-131 of 25 March 2004 concerning the Approval of Instructions for Recognition in the Republic of Lithuania Diplomas, certificates and other official documents proving the professional qualification of an *architect* acquired in the EU, EEA or Switzerland (as amended on 15 February 2007)
8	Order of the Minister of Justice No. 1R-111 of 12 April 2005 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of documents proving the professional qualification of a *lawyer* acquired in the EU, EEA or Switzerland	Order of the Director of the State Food and Veterinary Service No. B1-989 of 23 December 2003 concerning the Approval of Instructions for the Requirements in Training of Veterinary Doctors and the Recognition in the Republic of Lithuania of Diplomas and other official documents proving the professional qualification of a *veterinary doctor* (as amended in 2006, amendment entered into force on 4 January 2007)
9	Government Resolution No. 535 of 3 May 2004 concerning the Approval of rules on mutual recognition of University diplomas, other diplomas, certificates and similar documents confirming the acquired qualification and issued in the EU, EEA or Switzerland, pursuing to work under the regulated profession or practice a regulated profession in the Republic of Lithuania and the approval of a list of courses of a certain structure (as amended on 16 May 2007 (by Government Resolution No. 499).	Order of the Minister of Health Care No. V-27 of 22 January 2007 concerning the qualification of professional requirements for masseur.
10	Order of the Minister of Health Care No. V-1003 of 21 December 2005 concerning the Approval of Instructions for Recognition in the Republic of Lithuania of diplomas, certificates and other official documents proving the professional qualification acquired in the EU, EEA or Switzerland with the purpose of employment in Lithuania under regulated profession, falling within the *competence of the Ministry of Health Care*	
11	Order of the Minister of Social Security and Labour No. A1-128 of 14 May 2004 concerning Coordination of recognition of documents confirming professional qualifications	

12	Order of the Minister of Social Security and Labour No. A1-186 of 16 July 2004 concerning the Approval of order for issuance of certificates about the professional experience and duration, as defined by the European Parliament and Council Directive No. 1999/42/EEB of 7 June 1999	
13	Order of the Minister of Social Security and Labour No. A1-229 of 6 October 2004 concerning the Approval of order for examination of appeals, submitted by persons disagreeing with the decisions of competent institutions responsible for recognition of documents certifying professional qualifications, and formation of the appeals' commission	