

j

REPORT
on the Free Movement of Workers
in Lithuania in 2010-2011

Rapporteur: Prof.dr. Lyra Jakuleviciene
Mykolas Romeris University

October 2011

Contents

Abbreviations

Introduction

Chapter I The Worker: Entry, residence, departure and remedies

Chapter II Members of the family

Chapter III Access to employment

Chapter IV Equality of treatment on the basis of nationality

Chapter V Other obstacles to free movement of workers

Chapter VI Specific issues

Chapter VII Application of transitional measures

Chapter VIII Miscellaneous

LITHUANIA

Abbreviations	
Certificate	document confirming the right of EU national to permanent residence in Lithuania
Draft new law	Draft new Aliens' Law of Lithuania of 2011
EC	European Commission
ECJ	European Court of Justice
EUCJ	European Union Court of Justice
EU Residence Certificate	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
EU Permanent Residence Permit	document confirming permanent residence right and 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
MES	Ministry of Education and Science
MS	Member State
MSs	Member States
MSSL	Ministry of Social Security and Labour
SODRA	Social Insurance Fund
UK	the United Kingdom

Introduction

Economic situation in Lithuania throughout 2010 was improving, though the consequences of the economic crisis were still felt in most affected sectors. The unemployment rate in Lithuania stood at 17.2 % in the first quarter of 2011 and was one of the highest in the EU. Among the most important developments that could be observed for the year 2010 and January-June 2011 the following could be mentioned:

- 1) *Reforms in legislation*: new version of the Aliens Law was drafted and submitted to the Parliament for approval, but it has been turned back to the Government on the basis that some proposed provisions were considered unconstitutional. The draft is to be submitted to the Parliament again by July 2011. The draft law clarified the status of unemployed EU nationals, re-defined family, introduced measures on marriages/partnerships/adoptions concluded out of convenience, clarified the arrival of family members of EU nationals, and transposed the Directive 2005/71. There have been a number of other legislative developments related to: a) submission of documents for issuance of EU residence certificates – bylaws implementing the Aliens' Law were amended; b) professional qualifications – draft resolution on recognition of professional qualifications of third country nationals was prepared, as well as a number of legislative changes concerning the transfer of competence between institutions; c) employment support measures and youth employment facilitation, though not specifically addressed to EU nationals; d) maritime sector (composition of the crew), coordination of social security schemes and transition from Regulations 1408/71 and 574/72 to Regulations 883/2004 and 987/2009, study loans and enrolment of foreign students of Lithuanian origin, etc.
- 2) Reforms in institutional setup for migration management and recognition of professional qualifications: Lithuania is implementing substantive institutional changes in the area of migration whereby the main institution – Migration Department to the Ministry of Interior is likely to be abolished, while its' functions are to be transferred to police and border service authorities. Considering that the latter are law enforcement institutions, these changes raise concern with regard to implementation of Lithuania's obligations under international and regional human rights instruments in the area of migration and show a tendency of focusing on control and law enforcement. The functions are transferred gradually and the first stage of it was already implemented in May 2011. During 2010, there were also changes in administrative structures related to recognition of professional qualifications. Coordination functions for recognition of regulated professional qualifications were transferred from the MSSL to the Ministry of Economy from 1 July 2010.

Major statistical trends:¹

- 1) *Number of requests for EU residence certificates* has dropped during 2010 (820 requests received and 808 were issued to EU nationals; 788 certificates in 2009). Among these requests, 337 requests were employment related, all of them were approved. The same trend can be noted with regard to requests for permanent residence certificates – only

1 Statistics based on information from *Migration Yearbook 2010* (2010 m. Migracijos metraštis), available at: <http://www.migracija.lt/index.php?-320502058> and information of the Department of Statistics of June 2011.

LITHUANIA

220 requests were received (270 in 2009), while 221 certificates were issued during the year (257 in 2009). 169 requests were received for EU residence permit to a family member of EU national (169 decisions adopted), 44 requests for residence permits for EU nationals' family members who are third country nationals were received in 2010.

- 2) *Trends in the labour market*: the number of requests for work permits was further decreasing, it dropped by 1.2 times in comparison with 2009 and by 4.3 times in comparison with 2008 (1808 permits were issued in 2010, 2239 in 2009, 7819 in 2008). Youth unemployment is one of the highest in the EU.
- 3) Emigration trends continue to be of concern: the number of emigrating persons from Lithuania has been increasing during 2010 and first half of 2011. 83,157 persons emigrated in 2010 (over three times more than in 2009 when 20,000 persons emigrated), while 18,400 persons have emigrated in the period of January-April 2011.

These developments are outlined in more details in the text of the Report. Despite mentioned positive and negative developments, 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: (a) situation of job seekers continues to be unclear; as well as status of EU nationals following the termination of employment relations or other lawful activities; (b) regulation of access to Lithuanian public service remains unclear for persons performing technical and other functions, who fall outside the strict definition of public service; (c) language proficiency requirement continues to be applied in certain spheres of the private sector, including maritime sector; (d) a number of restrictions exist in the sports' sector.

Lithuania does not apply transitional arrangements vis-à-vis the old or new Member States. 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. Therefore it is unlikely that Lithuania would introduce any restrictions whatsoever as concerns access to the labour market.

Chapter I: The worker: Entry, residence, departure and remedies

1. TRANSPOSITION OF PROVISIONS SPECIFIC FOR WORKERS

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* with subsequent amendments of 28 November 2006, 1 February 2008 and 22 July 2009.

According to the Aliens Law (Article 97(1)) EU national may be admitted to Lithuania and stay therein for a period of three months without any formalities counting from the first day of entry into the country. 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 certificate 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 2010. They appear in the official statistics only if they stay for a longer period than 3 months. 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).

After the expiration of three months of residence without formalities within half a year, EU nationals have to declare a place of residence and submit documents for residence certificate, if comply with at least one of the grounds for residence. The grounds of residence mentioned in Article 101 of the Aliens' Law transpose the provisions of *Art. 7(1) of the Directive 2004/38* and include:

- workers or self-employed persons;
- persons who have sufficient resources for themselves and their family members and sickness insurance;
- students, school pupils, interns or participants of vocational training or qualification raising courses and have for themselves and their family members sufficient resources and sickness insurance;
- family members of EU nationals.

The new version of the Aliens Law, which is to be submitted to the Parliament for approval provides specific details concerning the grounds of residence mentioned above: e.g. it explicitly includes unemployed persons (point 1 of Art. 100(1) of draft new law).

Article 7 (3 a-d) of the Directive 2004/38 is not directly transposed in Lithuania, because there are no explicit provisions allowing EU nationals and their family members to stay in Lithuania following the termination of employment relations or other lawful activities in the country. This is not in line with the obligation to provide for a possibility to remain following active employment in certain circumstances as required by the Directive. On the other hand, the author of this Report does not see clear violation of the Directive because even if concrete grounds are not provided, these persons are likely to fall under paragraph 2 of Arti-

LITHUANIA

cle 101(1) of the Aliens' Law, which provides that persons can stay in the country when they have sufficient resources for themselves and health insurance. However, according to the Migration Department to the Ministry of Interior, such persons would retain the status of worker or self-employed person, even if this is not explicitly provided in the legislation. Draft new law does not provide for this right explicitly either.

Right of residence is confirmed by the certificate issued in accordance with the Order approved by the Minister of Interior on 25 July 2008 on Issuance of Certificate confirming EU national's right of residence in the Republic of Lithuania and Order on Issuance, extension and withdrawal of EU residence permit to a family member of EU national (Order on Residence Certificate and EU residence permit). The Order provides that Certificate is valid for a period of 5 years or other period of EU national's residence if shorter than 5 years. Decision on application for residence certificate shall be adopted within 5 days (may be extended to 10 days in case of objective reasons). The Order on Residence Certificate and EU residence permit was amended on 14 January 2009, but amendments did not contain any significant changes. The Order was subsequently amended on 14 January 2010 and also 1 April 2011 with a view of complementing and clarifying it with some institutional changes and submission of documents for issuance of certificates (e.g. the requirement to submit a document confirming that Lithuanian national has exercised the right to free movement in the EU before bringing a family member to Lithuania, document confirming dependency, etc.), as well as actions in case when data does not correspond to each other.

With regard to implementation of *Article 8(3a) of Directive 2004/38*, Lithuanian legislation complies with requirements for presentation of documents along with request for issuance of certificate and does not require any additional documents that could serve as obstacles or unnecessary barriers to request the certificate. However, all documents presented need to be certified (or confirmed by Apostil) and officially translated into Lithuanian language, which may be a practical barrier.

After 5 years EU nationals become eligible for *permanent residence*, confirmed by a certificate (introduced in Lithuania since 2006). According to Article 104 of the Aliens' Law '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).

Issuance of the certificate confirming permanent residence and the issuance of EU permanent residence permit to a family member of EU national is regulated by the Order of the Minister of Interior of 25 October 2007 (hereafter: Order on Permanent Residence Certificate). Paragraph 3 of this Order transposes *Article 17 of the Directive 2004/38*. It provides for a possibility to obtain residence permit for EU nationals residing in Lithuania for less than 5 years in situations mentioned by Art. 17 (paragraphs 3-5 of the Order). Furthermore, 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). The Order was amended on 25 January 2010 and also 30 March 2011 with a view of clarifying the submission of documents for issuance of certificate.

Request for permanent residence certificate is submitted to the Migration Department through a local migration institution where EU national has declared or is intending to de-

LITHUANIA

clare 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.

With regard to *Article 14(4 a-b) of the Directive 2004/38*, no such safeguards against expulsion are provided in Lithuanian laws. Though there are no specific guarantees as mentioned in Art. 14(4a-b) of the Directive, the EU national can only be expelled if the right to residence is lost (Art. 114 of the Aliens Law). Concerning *Article 24(2) of the Directive 2004/38*, EU nationals who enjoy permanent residence enjoy the same treatment as nationals of Lithuania.

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 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)). 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). On 22 July 2009, Art. 106(1) was supplemented to provide that the right of residence of minor EU citizen, if this complies with his best interests, or the right of residence of EU national who has resided in Lithuania for the past 10 years without interruption, may be terminated only in the case of threat to national security. The objective of this amendment was to ensure that the right of residence of the EU citizens who are minors or who have been residing for the last 10 years in Lithuania is not subject to termination except in case of threat to national security.

Criteria for adoption of the conclusion on threat to public order are regulated by 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. Threat to state security and public order includes 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 in commission of serious or particularly serious crime 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 wanted by the foreign country for commission of a crime for which Lithuanian Penal Code provides a punishment of more than one year imprisonment.

LITHUANIA

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 past 2 years and other.

The Draft new law includes a general article on termination of residence right in Lithuania (Art. 110 (1)), which includes grounds such as:

- 1) state security or public order;
- 2) obtaining residence right by fraudulent means;
- 3) failure to continue meeting the requirements for residence grounds;
- 4) serious grounds to believe that the marriage, registered partnership or adoption is of convenience;
- 5) family member who is not an EU citizen discontinues family relations with EU citizen or these relations cease to exist (except when the right of residence is retained);
- 6) departure of from Lithuania for a period of more than 6 months (except when such an absence is related to serious reasons).

The Draft new law further states (Art. 110(2)) the grounds for termination of permanent residence right for EU citizens and their family members, including:

- 1) reasons of serious threat to state security or public order;
- 2) obtaining residence right by fraudulent means;
- 3) departure of from Lithuania for a period of more than 2 consecutive years.
- 4) right of a minor who has uninterruptedly stayed in Lithuania for a period of 10 years, if this corresponds to his/her best interests, may be terminated only in case of serious threat to state security.

After losing the right to residence EU national and (or) his family member (on the basis of Art. 106 (1)) must depart from Lithuania or will be subject to expulsion. No significant developments have taken place in the area of departure of EU nationals during the year. There continues to be no special provisions in the aliens' legislation regulating departure of EU nationals (except different time lines applied). The Draft new law (Art. 132(4) specifically states that the grounds for expulsion of foreigners apply to EU citizens and their family members who are not EU citizens as well.

While taking a decision on expulsion of the foreigner, certain circumstances should be taken into account, including (Art. 128 of the Aliens' Law): the period of lawful stay in Lithuania; his family relationship with persons resident in Lithuania; social, economic and other connections with Lithuania; 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. 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, which prohibits imposing bans on entry in the context of expulsion decisions. The time limits for EU national's departure from the country are in line with the Directive 2004/38 (one month from receipt of decision

LITHUANIA

in respect of order of departure for EU national or his family member, Art. 127(1) of the Aliens' Law).

Problematic could be the issue of detention of EU nationals, as no specific rules are established and they would be detained under the same grounds/conditions as all other foreigners in the country. Article 113 of the Aliens' Law 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 authorisation;
- 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 or another state (which applies the Directive 2001/40/EC) has been taken;
- 6) in order to prevent 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 new law was submitted to the Parliament on 1 September 2010, but has been returned to the Government for improvement since it was claimed that the law contains provisions which do not correspond to the Constitution and the principles of legal certainty and rule of law. New hearing at the Government of the draft is to take place still in June and it is likely to reach the Parliament before July.

Main provisions of the draft new law were reflected in the text above concerning residence rights of EU nationals.

Miscellaneous (administrative practices, etc.)

The table below illustrates the general proportion of foreigners residing with residence permits in the population statistics of Lithuania for the period of 2003-2010 as of beginning of 2011 (in thousands):²

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Foreigners, including those with residence permits	30,5	30,2	32,6	35,3	33,1	33,4	32,9	32,5	29,6
Number of population	3 462,6	3 445,9	3 425,5	3 403,2	3 384,9	3 366,2	3 350,1	3 329,0	3 244,5
Proportion of foreigners in the number of population, %	0,88	0,88	0,95	1,04	0,98	0,99	0,98	0,98	0,91

² Data of the Department of Statistics at the Government of the Republic of Lithuania.

LITHUANIA

According to the data of the Migration Department,³ during 2010, 820 requests for residence certificates were received and 808 were issued to EU nationals (788 certificates in 2009). 220 requests for EU permanent residence certificate were received (270 in 2009) and 221 certificates were issued during the year (257 in 2009). According to information of the Migration Department, no EU/EEA nationals were detained in 2010 in connection with illegal entry.⁴ It is more difficult with family members of EU/EEA nationals who are third country nationals, because they are not included in detention statistics on the basis of family status but rather on the basis of nationality, thus it is impossible to see if any have been detained.

According to information of the Department of Statistics, approximately 83,157 persons emigrated in 2010 (in comparison with 20,000 in 2009); out of whom 79,315 persons were the citizens of Lithuania, while 5213 immigrated to Lithuania during the same period of time (6,100 in 2009). According to preliminary data, approximately 18,400 persons have emigrated in the period of January-April 2011 and 3200 immigrated during the same period.

2. SITUATION OF JOBSEEKERS

Job seekers are not mentioned in the Lithuanian legislation and job seeking is not explicitly included among the grounds of residence. However, it can be interpreted from the Aliens' 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, which implies that Art. 6 of the Directive is taken into account. Following the period of 3 months they would likely need to obtain the certificate confirming the right of residence on the basis of paragraph 2 of Art. 101(1) of the Aliens' Law (possession of sufficient resources to stay in Lithuania plus valid health insurance). There are no more favourable conditions provided in the legislation, thus recital 9 of the Directive is not taken into account in any legal acts of Lithuania. However as regards Antonissen judgment there are no references to it in national legislative or administrative acts and the principles are not fully implemented; this applies also to implementation of Art. 14(4) of the Directive, where there are no explicit provisions transposed.

According to the information of Lithuanian Labour Exchange Office (of June 2011), 145 EU nationals were registered as job seekers in Lithuania during 2010 (165 were registered in 2009).

Given that situation of job-seekers is not regulated, they may have difficulties accessing social security benefits. In particular, there might be some obstacles to obtain certain benefits if the job seeker has not been contributing to social security or is not permanent resident in Lithuania. For instance, the Law on Sickness and Maternity Social Insurance requires previous 12 months employment (within last 24 months) before maternity benefit can be granted. (Art. 16(1) of the Law). Eligibility to sickness benefits requires at least three months of previous employment (within last 12 month period) or 6 months (within the last 24 months period) and contributions to social security fund (Paragraph 2 of Art. 8(1) of the law). Unemployment support is provided if the person before registration as unemployed has been contributing to unemployment insurance for at least 18 months within the last 36 months (para-

3 Data of the Migration Yearbook, pp. 44-45, 50-51.

4 Information of 17 June 2011.

LITHUANIA

graph 1 of Art. 5(1) of the Law on Unemployment Social Insurance). Employment support (counselling, employment mediation, active employment measures, etc.) is provided to nationals and legally resident foreigners only (since job-seeker would likely be considered as not yet residing foreigner, s/he would be excluded from this definition). Job seekers would have access to basic health services only.

3. OTHER ISSUES OF CONCERN

Nothing to report.

4. FREE MOVEMENT OF ROMA WORKERS

Lithuania does not experience the arrival of Roma people from other countries, while statistics of workers based on nationality is not gathered at all, thus it is not possible to distinguish if there were any workers coming to Lithuania who would be of Roma nationality. Generally, Roma people are rather marginalised in Lithuania, thus their employment is frequently problematic. As a result, Lithuania would hardly be attractive for Roma workers from other countries.

There have been some reports in 2006-2008 about temporary arrival of migrating Roma people from Romania who had stayed for a few days only near the capital Vilnius as their destination was Riga (Latvia) or Moscow (Russia). However they have not stayed in Lithuania longer.

Chapter II: Members of the family

1. THE DEFINITION OF FAMILY MEMBERS AND THE ISSUE OF REVERSE DISCRIMINATION

The definition of family members of EU nationals is provided in Art. 2(4) of the Aliens' Law and it includes: spouse or the person with whom a registered partnership has been contracted, direct descendants who are under the age of 21 or are dependants, including direct descendants of the spouse or person with whom the registered partnership has been contracted, who are under the age of 21 or those who are dependants, the dependent direct relatives in the ascending line of a citizen of an EU Member State, of the spouse or of the person with whom the person has contracted a registered partnership. This definition is in line with Art. 2(2) of the Directive 2004/38. The new draft law provides for a slightly different definition of a family by explicitly covering spouse and direct ascending and direct bottom line relatives below the age of 21 or dependent, including those of the spouse; as well as partner with whom the EU citizen maintains long-term relations (provided that their family relationship has been properly ascertained), and also other persons who were dependent on the EU citizen or maintained a joint household before leaving the EU Member State, or due to serious health reasons require personal care by the EU citizen. This definition would be broader than the one required by the Directive 2004/38.

2. ENTRY AND RESIDENCE RIGHTS

Text(s) in force

No significant developments have taken place in 2010 in this field. The amendments made to the legislation and by-laws mostly related to clarification for submission of various documents (e.g. in case of family member of Lithuanian national submission of document proving that Lithuanian national has exercised his right to free movement in the EU is required). Current version of the Aliens' Law provides that the family members could be admitted together with EU national or join him and stay with them for the same period of 3 months without formalities. Later on they have to obtain EU residence permit (in case they are not EU nationals). Family members are entitled to permanent residence if reside with EU national for the last 5 years or retain a right of residence (Art. 104(2) of the Law), or are family members of EU citizen who retained the right to Lithuanian citizenship or family members of persons of Lithuanian origin. 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). With regard to family members of EU nationals who are third country nationals, they can enter Lithuania and stay here without a visa for a period of three months within half a year (Art. 11(4)). However this provision is somewhat limited, as it applies to third country nationals who have residence permits in other EU member states already. While those who do not yet hold residence permits are subject to visa requirement as per list of countries for nationals of which visas are required.

LITHUANIA

The EU residence permits are regulated by the Order of the Minister of Interior on Issuance, extension and withdrawal of EU residence permits for family members of EU nationals of 25 July 2008. This Order deals with residence permits of family members who are third country nationals. According to the Order, the period of EU residence permit validity is fixed at 5 years or shorter period if the EU national's whose family member is issued permit intends to live in Lithuania shorter than for 5 year period. For children (foster children) the residence permit is issued until the end of formal education process, but no longer than for 5 years. The documents required for issuance of this residence permit are as follows (paragraph 13):

- valid travel document and document proving legal stay in Lithuania;
- 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;
- document confirming that he/she is dependent descendant;
- EU national residence certificate;
- document confirming health insurance.

Requirement of legal stay in Lithuania as well as requirement of health insurance may raise concerns with regard to compliance with the Directive 2004/38, which does not require these conditions to be met by the family member of EU citizen. Also, a document, confirming that family member is arriving from another Member State territory, is required (in case of family member of Lithuanian citizen). The authorities are of the opinion that Article 101(2) of the Aliens' Law restricts only Lithuanian national who has not yet used his/her right of free movement. However, if it concerns the family member of non-Lithuanian citizen, there is no requirement of this condition, thus in that the Lithuanian legislation is in line with Metock judgment of the ECJ.

Depending on the ground on which residence permit is being issued, additional documents may be required. Decision on residence permit shall be taken within a period of one month according to the Order. Lithuania maintains a so called 'double stage system' (firstly, decision on issuance of EU residence permit is taken and secondly, application to formalise the permit, i.e. to be physically issued, shall be submitted). Decision to issue residence permit is valid for 6 months and if the permit is not formalised within this period, then decision to grant it is repealed. Among the documents required for formalisation of residence permit granted, the third country national is required to submit document proving that he is legally in the country, which might be at variance with ECJ jurisprudence if this would be applied to EU nationals who exercised their freedom of movement. Furthermore, this 'double system' in view of the author of this Report is unnecessary and creates additional bureaucracy in dealing with the migration authorities.

The new draft law provides for a residence card to be issued for third country national family member of EU citizen. This card shall include the biometric data to confirm the identity of the person: face image and prints of two fingers (except in cases provided in Regulation (EC) 1030/2002), certificate for recognition of the person in electronic space and qualified certificate of an electronic signature (Art. 97(2) of draft new law).

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). This differs from permanent

LITHUANIA

residence for EU nationals, who are not issued a residence permit, but instead a special certificate confirming their right to permanent residence. Issuance of residence permits to family members of EU nationals is regulated by the Order of the Minister of Interior on issuance of EU permanent residence permit for family members of 25 October 2007. In case of children, residence permit is issued until the end of formal educational programme, but for no 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 ('double stage system' as already described above).

Family members who are EU nationals are issued residence certificate in the same manner as the EU national who arrives to Lithuania. 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. 1011):

- when EU national dies or departs from Lithuania and his family member is an EU citizen and complies with conditions of residence (is a worker, self-employed, student or has sufficient resources to reside);
- 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 2004/58 (Paragraphs c-d of Art. 13(2)). Furthermore, previous residence in another EU member state would be required, which might be in variance with ECJ jurisprudence if applied vis-à-vis persons who exercised their free movement.
- 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.

With regard to permanent residence, 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 EU national or they retain right to reside in Lithuania in accordance with paragraph 1 of Art. 1011 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.

LITHUANIA

There are no substantive changes in the new draft law concerning permanent residence of third country national family members of EU citizens.

3. IMPLICATIONS OF THE *METOCK* JUDGMENT

Concerning the implications of *Metock* judgment, Lithuania seems to follow the ECJ rule established in this judgment. There is certain unclarity as concerns third country nationals who are family members of Lithuanian citizens. The Aliens' Law (Article 101(2)) requires that third country national family member of Lithuanian citizen 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; however the authorities are motivating that this provision applies to Lithuanian citizens who did not yet exercise their freedom of movement. In this respect, the draft new aliens law clarifies in Art. 100(2) that family members of Lithuanian citizen who are not EU nationals are entitled to obtain EU temporary residence card if they arrive together with Lithuanian national who has exercised the right of free movement in the EU, arrive to live in the Republic of Lithuania from another EU Member State or arrive from such a country to reside with Lithuanian citizen for a period of more than 3 months.

4. ABUSE OF RIGHTS, I.E. MARRIAGES OF CONVENIENCES AND FRAUD

Legislation in force does not explicitly address the issue of marriages of convenience of EU/EEA nationals, only general foreigner's legislation provides for this concept, the same applies to fraud. However, draft new aliens law provides for a possibility to terminate residence of EU/EEA national or their family members in Lithuania if the right to reside has been obtained by fraud or there are serious reasons to believe that marriage, registered partnership or adoption is concluded out of convenience (Paragraphs 2 and 4 of Art. 110(1)). However, no implementing legislation addresses these two concepts, except general legislation on legal status of foreigners.

5. ACCESS TO WORK

Similarly, as the EU worker, his/her family members who intend to engage in employment are exempted from the work permit. Family members who are third country nationals may be exempted from work permits if they fall under specific categories of persons enlisted in the law. If they fall out of explicitly provided list, they have to obtain the work permit.

6. THE SITUATION OF FAMILY MEMBERS OF JOB-SEEKERS

Since job seekers are not explicitly mentioned in the Lithuanian legislation and job seeking is not included among the grounds of residence as such, the situation of their family members is unclear. However, it can be interpreted from the Aliens' Law that job seekers could

LITHUANIA

be covered firstly by the possibility of EU nationals to stay for 3 months without registration and, secondly, by the residence ground based on availability of sufficient resources and health insurance. In this case, the situation of their family members would be the same as of other EU nationals residing on the grounds of employment, self-employment or studies. Also, as there are no norms affirming to the contrary, it is presumed that the family members of jobseekers who are EU nationals would be also exempted from work permits. Third country nationals who are family members of job seekers could be exempted from requirement to obtain work permits if they fall under one of the categories of persons (arrived to Lithuania on the basis of family unity, or as intern or for vocational training for a period not exceeding 3 months within a year). In other cases they would have to obtain work permits.

With regard to jurisprudence on third country nationals who are family members of EU citizens, Higher Administrative Court reported that there was a situation when such a family member was included in the Schengen system, which would have disqualified him from residence under national law, however he was entitled to free movement rights under EU law.

Chapter III: Access to employment

1. ACCESS TO EMPLOYMENT IN THE PRIVATE SECTOR

1.1 Equal treatment in access to employment (e.g. assistance of employment agencies).

Text(s) in force

No significant legislative developments have taken place in this field during the year. The Labour Code of the Republic of Lithuania (hereafter – Labour Code) 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 to citizens and permanent residents of Lithuania only:

‘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.’

Though there are no specific provisions in the Labour Code concerning EU nationals 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.

EU nationals and their family members are exempted from the work permit in accordance with Article 103 of the Aliens Law, thus they can engage in employment without restrictions. However family members who are third country nationals are exempted from work permits in limited cases only (e.g. arrived to Lithuania on the basis of family unity, or as intern or for vocational training for a period not exceeding 3 months within a year), while in all other cases they are subject to work permits.

During 2010, there have been changes in administrative structures related to recognition of professional qualifications. Namely, the coordination functions for recognition of regulated professional qualifications were transferred from the MSSL to the Ministry of Economy from 1 July 2010. In this connection, there were several legislative developments during 2010 (including: amendments to the Law on Recognition of Regulated Professional Qualifications; appointment of the coordinator for recognition of qualifications; order on issuance of certificate on professional experience and its’ duration for EU/EEA nationals departing from Lithuania; approval of a list of regulated professions; approval of composition of the National Council for Recognition of Professional Qualifications). In addition, legal acts of

various institutions were amended as per comments of the European Commission concerning temporary provision of services under regulated professions, whereby verification of professional qualifications was eliminated, because certain professions are not related to public health and safety (architect, restaurateur, pedagogue, guide and social worker). Also, the list of regulated professions in Lithuania was complemented by profession of a construction engineer in 2010. Draft resolution of the Government on recognition of professional qualifications of third country nationals was prepared and coordinated with relevant institutions. It is due to be submitted to the Government for approval at the end of June this year.

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.

Miscellaneous (administrative practices, etc.)

Concerning assistance by employment agencies, the EURES network operates since 2003 in ten regions of 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 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 2010 the consultants of EURES provided consultations on free movement to 20,084 persons (24,619 in 2009) and to 10,256 persons during January-May 2011. EURES advisors provide counselling to EU nationals arriving to Lithuania as well. Employment support (counselling, employment mediation, active employment measures, etc.) is provided to nationals and legally resident foreigners, thus except job seekers, other EU nationals who reside in Lithuania, would be eligible for Lithuanian Labour Exchange services (state body).

Private employment agencies provided employment assistance to Lithuanian nationals in other EU member states. Overall, 40-42 private employment agencies having the licences of the MSSL to engage in mediation of employment abroad were operating. These employment agencies found employment to 2744 Lithuanian residents during 2010 (total number in 2009 was 1559 persons), including: 1806 males and 938 female⁶. The biggest number of employed was in UK (1071), Netherlands (757), Czech Republic (237), Norway (125), Denmark (118), Cyprus (88). In comparison with 2008-2009 there is an increase in the statistics of employment abroad (1892 persons were assisted with employment in 2007, while 1327 in 2008, 1559 in 2009). During 1st quarter of 2011, private agencies helped to employ 810 persons (583 male and 227 female). Most of them were employed in UK (280), Netherlands (220), Denmark (108), etc.

In the context of recognition of professional qualifications, 38 persons applied for recognition during 2010 (129 were in 2009). Among them:

1. EU nationals who acquired qualifications in EU MSs: 1 German national in Germany and 2 Lithuanian citizens in Germany. All of them were granted recognition;

⁵ Information of Eures of 16 June 2011.

⁶ Information of Lithuanian Labour Exchange of June 2011.

LITHUANIA

2. EU nationals who acquired qualifications in third countries:
9 EU citizens (Lithuanian, French) in Belarus, Russia and Ukraine. 4 of them were granted recognition and other 5 were refused recognition.
2 EU nationals in Russia and Ukraine (teachers) – recognised.
3. Third country nationals who acquired qualifications in third countries – out of 24 who asked for recognition, only 5 have been recognised.

No applications for recognition have been received so far in 2011 (information of 16 June 2011). 37 guides sought to provide temporary or one time services in 2010 and 40 guides and 2 veterinary doctors applied in 2011. There were no appeals during 2010.

1.2 Language requirements

Text(s) in force

The Law on the State Language of the Republic of Lithuania No. I-779 of 31 January 1995 (last amended on 13 June 2002) requires that apart from public officials, persons in the field of communications, transport, health and other establishments 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 (as amended on 8 April 2009). This 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.

LITHUANIA

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 in the 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. There have been specific exceptions made in the past for certain professions (e.g. for advocates under Art. 64(8) of the Law of the Bar of 18 March 2004; for doctors under the Law on Medical Practice of 18 December 2003). As concerns doctors, 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 not, 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. 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. No relevant amendments to the legislation were made in 2010 in this field.

2. ACCESS TO EMPLOYMENT IN THE PUBLIC SECTOR

2.1 *Nationality condition for access to positions in the public sector*

Generally, there have been no reforms of the national rules in 2010 in the field of employment of EU/EEA citizens in the public sector of Lithuania.

Text(s) in force

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. According to the Constitution of the Republic of Lithuania of 25 October 1992 (as last amended on 11 June 2009, No. XI-286)⁷, the right to seek employment in the public service of Lithuania is reserved for citizens only (Art. 33). Furthermore, 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 Ser-

7 Available in English at: <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>.

vice).⁸ It determines that a person, entering the public service, must have a citizenship of Lithuania (Art. 9(1)). 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 the lists of actual positions for 2010-2012, which are attached as Annex III to the Law on Public Service since 2009. Some positions mentioned in the list could be considered as a rather broad expansion of the public service (e.g. court secretary, chief pilot, chief fireman, rescuers, etc.).

In conclusion, public servants can be Lithuanian nationals only, which means that public service remains reserved for nationals only. Language requirement also applies. 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 2010 and there has been no public debate or political discussion concerning possible opening of the public service for EU nationals.

2.2 Language requirements

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. No changes were introduced during 2010. The law does not specify proficiency of language level, but reference could be made to Lithuanian language exam, which is mandatory when requesting citizenship of Lithuania or EU long-term residence permit. The level of proficiency for language exam is based on European Council A2 level, which means that the person understands short and clearly structured sentences, is able to speak about concrete known issues, able to fill simple forms of documents or write informal communication. The author of this Report is yet of the opinion that higher proficiency would be requested, e.g. for working in the ministry.

⁸ Available in Lithuanian at: <http://www.lrs.lt>.

2.3 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. However, should access for EU/EEA nationals to Lithuanian public services be given, according to the Public Service Department to the Ministry of Interior, there should be no problems to recognise professional experience acquired in another country, provided that there is an evidence of such experience which would have to be supplied. However, there would potentially be problems as concerns calculation of this experience for the purpose of grades and categories of public servants, because according to current legislation, service supplements are being paid on the basis of service for Lithuanian state only (paragraph 1 of Art. 25(1) of the Aliens' Law).

3. OTHER ASPECTS OF ACCESS TO EMPLOYMENT

Lithuanian public service as mentioned above remains closed for foreigners, including EU/EEA nationals, thus the situation is assessed only through modelling the situation of a Lithuanian national who obtained qualifications and experience abroad and is seeking access to public service in Lithuania. According to the information of State Service Department to the Ministry of Interior, diplomas/education, experience and professional qualifications obtained abroad and duly recognised in Lithuania would be evaluated in the same way as obtained in Lithuania in the recruitment procedure. It is worthwhile mentioning that during recruitment procedure of public servants, points for education or professional qualification are not being assigned, because only fulfilment of general and specific requirements for the post are being evaluated. The oral exam is used to verify the skills of the candidate to perform public service functions for which the person applies. Candidate's skills in foreign languages are also being checked during the oral exam. The legal acts regulating public service do not envisage any preferences for certain candidates during recruitment procedure. The level of grade and category (which is essential to determine the salary level) is established on the basis of criteria for evaluation of functions and the list of functions (enclosed in Annex 3 to the Law on Public Service). However the level of salary will very much depend on the level of post (there are different rates for managers, specialists, servants and workers) and education that the public servant possesses (rates differ for possession of high university education, high college education, special higher education, etc.). Generally, the experts who evaluated the payment conditions in public service in 2009,⁹ conclude that payment conditions within the public sector vary a lot and the most unfavourable conditions of payment are for persons who work under labour agreements in the public service (their work is regulated by the Labour Code in contrast to specific legislation of other public servants).

9 Valerija Gerikienė, Inga Blažienė, 'Problems of Regulating Remuneration for the Work of Public Sector Employees in Lithuania', *Jurisprudencija*, No. 4(118), 2009, p. 314.

Chapter IV: Equality of treatment on the basis of nationality

There is a general problem in Lithuania concerning equal treatment provisions - they are included in the Aliens' Law and not in the relevant legislation as per areas in which equal treatment has to be guaranteed - this results in lack of understanding and knowledge by the institutions and courts in applying this principle in concrete situations.

1. WORKING CONDITIONS – DIRECT AND INDIRECT DISCRIMINATION

Text(s) in force

Working conditions for EU nationals and their family members are the same as for Lithuanian workers. 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 (version of 3 November 2003 with subsequent amendments), 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 (Art. 1 of the law). 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.

Specific issue: Working conditions in the public sector:

- Recognition of professional experience for the purpose of determining the working conditions (e.g. salary; grade, career perspectives)
- Taking into account of diplomas for determining working conditions (salary, grade, career perspectives etc)
- Equal treatment in relation to issues like civil servant status, trade union rights etc.

LITHUANIA

Given that Lithuanian public service remains restricted to Lithuanian nationals only, the issue of working conditions of EU nationals is not relevant in this respect. However, should access for EU/EEA nationals to Lithuanian public services be given, there should be no problems to recognise professional experience acquired in another country, provided that there is an evidence of such experience which would have to be supplied. Methodology on description and evaluation of public servants' functions (approved by the Government on 20 May 2002) does not mention the place of acquiring professional experience, thus it can be inferred that professional experience acquired in other EU MSs would be recognised. However, there would potentially be problems as concerns calculation of years of service for the purpose of grades and categories of public servants, because according to current legislation, service supplements are being paid on the basis of service for Lithuanian state only (up to 30% supplement to the salary). As concerns diplomas, during recruitment procedure of public servants points for education or professional qualification are not being assigned, because only fulfilment of general and specific requirements for the post are being evaluated. With regard to equal treatment, current legislation provides for no restrictions to become trade union members, while public service legislation does not cover foreigners as mentioned above. Thus it can be expected that EU nationals (if admitted to public sector, which is not the case at the moment) would be treated equally with Lithuanian citizens with a view of joining trade unions.

2. SOCIAL AND TAX ADVANTAGES

Text(s) in force

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. There might be some obstacles to obtain certain benefits if the EU worker has not been contributing to social security or is not permanent resident in Lithuania.

As concerns taxation, EU nationals working under labour contract are paying the same social insurance taxes, as Lithuanian citizens. Lithuania drastically changed its national legislation concerning taxation during the period of economic crisis in 2009. Those amendments did not specifically relate to taxation of EU nationals, but they are equally applicable to them. As of 2009 social insurance and pension social insurance taxes are applicable also for artists, sportsman, authors and farmers. Self-employed persons are also subject to certain social insurance taxes on the basis of the amendments in 2009. The taxation is quite high and there are almost no exceptions to persons who already contribute to social security under labour contracts and are at the same time working under author's agreements. Changes to tax legislation in 2009 also abolished all reduced rates of VAT for authors, artists and sportsman. There was a transitional period, which ended by 2011 for reduced tariff of social security tax in case of: sportsman, artists or persons working under authorship agreements (16% rate instead of standard 21% rate).

Non-permanent residents have the obligation to pay income tax if the source of funds received is in Lithuania, thus e.g. this tax would have to be paid from income from employment relations, from sport activity (applicable also to foreign sportsmen playing in Lithuania), as well as from authors'/artistic activity. Differences as regards obligations to register

as VAT payer for foreign citizens and Lithuanian nationals continue to apply. Lithuanian nationals register as VAT payers only when their income reach 100 000 Litas (approx. 29 000 euro) limit within 12 consecutive months. Foreign nationals (legislation does not make any exception to EU nationals) are required to register as VAT payers immediately after commencement of economic activities in Lithuania. This may place self-employed EU nationals at fiscal disadvantage if compared with nationals and could discourage self-employment in Lithuania.

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 (version of the law of 1 January 2008 as subsequently amended) 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.

No significant developments took place in 2010, which would have influence on free movement of workers.

2.1 General situation as laid down in Art. 7 (2) Regulation 1612/68

Refer to response under point 2 (Social and Tax advantages) above.

2.2 Specific issue: the situation of jobseekers

The Law on Employment Support (version of 1 August 2009 with subsequent amendments) provides for equal treatment between Lithuanian nationals and foreigners legally residing in Lithuania (Art. 1(2)). This law provides for various services that are provided to job seekers: information, consultation and mediation in finding employment, public works, support to establishment of working place, subsidies, etc.). Foreigners legally residing in Lithuania and seeking employment have the same rights to participate in active labour market measures and employment support programmes managed by the Lithuanian Labour Exchange. On 30 September 2010 the Minister of Social Security and Labour approved a new Order on Conditions and Procedures for Provision of Labour Market Services, which regulates in more detail the provision of such employment support measures as information, consultation, mediation in finding employment and individual employment activity planning, than the Law on Employment support. The Law on Unemployment Social Insurance of 2003 with subsequent amendments envisages support to unemployed persons; however access of EU nationals who are unemployed and seeking employment in Lithuania may be limited by formal requirements (registration in Labour Exchange Office, previous unemployment insurance record of at least 18 months within the last 36 months). According to information of Lithuanian Labour Exchange, in practice, such work record would be calculated on the basis of records obtained not only in Lithuania, but also abroad. To prove the record abroad, the person concerned should submit the form E301 to the exchange office, or the later may inquire the other MSs on request of the person concerned. However, there is a requirement that the last place of employment was in the country that assigns unemployment benefit, i.e. in Lithuania (there are also a few exceptions, e.g. seasonal jobs, work in ships with state flag, etc.). There might be also situations when unemployed person already acquired unemployment benefit abroad

LITHUANIA

and arrives to Lithuania. In this case, the person may seek employment in Lithuania for 3 months based on form E303 submitted to territorial labour exchange office. During this period, the labour exchange would pay the assigned benefit (this benefit is later on compensated to Lithuanian institution by the other MSs that assigned the benefit).

With regard to implementation of ECJ decision in case of *Ioannidis*, the Law on Employment Support in fact provides for a special support for persons who are starting employment for the first time after they have acquired qualifications (paragraph 1 of Art. 4(1) of the law). Since the law applies also to foreigners legally staying in Lithuania, it is likely that this support would be accessible to nationals of other EU Member States also. However, there are some requirements for accessing such support, which are applicable, i.e. to apply to the territorial labour exchange office within 6 months since the acquisition of qualifications and provided that the labour office cannot provide them with appropriate work conditions. Thus EU nationals who completed their education earlier might be refused access to this support.

With regard to *Collins* and *Vatsouras* judgments, the Law on Unemployment Social Insurance of 2003 provides for unemployment benefit, which would be applicable also to nationals of other EU Member States. There might however be problems of access if the foreigner does not have a work record of 18 months within the last 36 months.

Chapter V: Other obstacles to free movement of workers

Miscellaneous (administrative practices, etc.)

Some practical constraints exist in the field of taxation for foreigners (EU nationals are not excluded) with regard to possibilities to exempt them from taxes of incomes received abroad if they reside in Lithuania. Tax inspection requires that while declaring income received abroad, permanent residents of Lithuania present documents confirming that foreign employer has deducted taxes to foreign state budget. Foreigners frequently face problems in obtaining proper documents, because usually documents issued in other countries (e.g. pay slips) are not being stamped or signed by the employer. Thus such documents are not always accepted by the Lithuanian Tax Inspection. If failed to provide for proper documentation, foreign worker permanently residing in Lithuania may be required to pay income tax in Lithuania, thus double taxation would not be avoided.

Chapter VI: Specific Issues

1. FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES),

Text(s) in force

Lithuanian legislation provides for a definition of frontier worker and explicitly regulates the payment of family benefits and benefits in case of death to these workers (regulated by the Order of the Minister of Social Security and Labour 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). 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 (paragraph 4). According to the interpretation of the Migration Department, since the frontier worker is not intending to stay in Lithuania for more than 3 months (as s/he is not residing in Lithuania) and is returning to home country every day, there is no obligation for them to register and request certificate proving their status.

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. Benefits are payable (paragraph 5) to:

- 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;
- Persons receiving state social insurance pensions;
- Students.

Persons who do not reside in Lithuania, but perform their main activity in Lithuania, are insured with social insurance in Lithuania. Concerning income tax, according to the State Tax Inspection, non-permanent residents who receive income from employment in Lithuania, have to pay income tax in Lithuania irrespective of whether they return daily to the country of residence or not. According to the opinion of the author of this Report, income tax for income received in Lithuania could be paid in the country of residence only when there is an agreement between the two countries on avoidance of double taxation. Considering that Lithuania is included in Annex III of Regulation 889/2009 family members of frontier workers are entitled to primary health care only (as per Art. 1(7)). This inclusion is valid until 2014.

There were no major developments in 2010 that would be relevant for frontier workers. Situation relevant to Hartmann case is reported below and in a separate section on jurisprudence of the EUCJ.

Miscellaneous (administrative practices, etc.)

In view of issues analysed by ECJ in Hartmann case 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 un-

employed). According to the MSSL, the frontier worker would be paid family benefits even for family members residing in another state. If the allowance is bigger in the country of residence, then the later pays the difference. However, if 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).

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. There is no available statistics of how many 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, and they are included in the social system through employment contract and payment of compulsory social taxes.

There are some cases of abuse detected by the State Patients' Fund institution concerning Polish frontier workers whereby they work in Lithuania for minimal wages and receive all relevant benefits in Poland. However, there is a comprehensive cooperation between Lithuanian and Polish social security institutions which aim is to detect such infringements.

2. SPORTSMEN/SPORTSWOMEN

Text(s) in force

In the area of sports, the impact of the Bosman, Kolpak and Simutenkov rulings is limited in Lithuania. Restrictions on foreign players and transfer fees have not been abolished in 2010.

Football

New Regulations for 2010 Competitions were approved by the Executive Committee of the Lithuanian Football Federation on 12 March 2010, have not eliminated important restrictions concerning foreigners, including limitations on foreign players, transfer certificates/fees. Paragraph 49 of the Regulations states that 'the number of foreigners (not having Lithuanian citizenship) in the applications by teams is not limited, but not more than 4 foreign citizens can play at the same time within the composition of one team during the match' (in 2009 this number was 5 players and in 2008 - 6 players). The Regulations of 9 March 2011 mention the quota of up to 5 foreign players in the match (paragraph 54).

Basketball

Several restrictions on registration of foreign players remained in 2010. National rules on limitations concerning registration of foreign players and training masters in basketball leagues (of 4 June 2008) continued to be applicable in 2010. These restrictions include:

1. Championship of 2009-2010:

1.1 Men championship: Highest League - 3 foreign players; First League - 1 player.

LITHUANIA

- 1.2 Women championship: Highest League - 3 players.
2. Championship of 2010-2011:
 - 2.1 Men championship: Highest League - 3 foreign players; Second League - 1 player; Third League - 1 player.
 - 2.2 Women championship: Highest League - 3 players; Second League - 1 player.

As regards foreign training masters, clubs that are willing to employ them are bound to pay a registration fee of 20,000 Litas (approx. 5,800 euro) for each training master to the Lithuanian Basketball Federation before issuance of training master certificate.

Furthermore, on 3 June 2010 the LBF approved a resolution concerning quota of basketball players while registering them for Lithuanian Basketball League Championship, which provides a limit of 6 foreign players that could be registered for a match. In case of a 6th player, the club has to pay the federation a substantial fee of 50,000 litas (approx. 14,500 euro) for registration of this player. Resolution of 19 April 2011 confirms the same rule. Restrictions in basketball also remained with regard to transfers of players between clubs. The Rules of 3 June 2010 envisage a Letter of Clearance. If 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 since the graduation from sports' school. In case of foreign players and their transfers the transfer fee is based on paragraph 94.1.4 (Section XI) of FIBA Europe Regulation and amounts to 100,000 euro for covering the costs of issuance of Letter of Clearance. Transfers of players below 18 years of age are forbidden and may be allowed in exceptional case only.

Existing restrictions applied in basketball and football competitions concerning foreign players may not be fully compatible with the Community law and the above mentioned judgments of the ECJ (*Bosman*, *Simutenkov*). Usually, these restrictions are motivated by the rules of FIBA Europe, which allow national federations to apply such restrictions for foreigners, including the EU nationals, in the national championships.

Volleyball

Restrictions concerning registration of foreign players who do not have EU citizenship (max 2) in Lithuanian League Championship follow from the Regulations for the volleyball competitions for 2010-2011 (Part V). However, the number of EU national players is not restricted.

Ice-hockey

Ice-hockey is not widely practiced in Lithuania; the regulations do not provide for any particular limitations on the number of foreign players (whether EU/EEA nationals or third country nationals) allowed to register or play in one match. 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 francs, plus 500 francs for national federation of the country where the player comes from). There are no transfer fees in case of transfer of player below 18 years of age.

Cycling

The Rules on Transfer of Lithuanian sportsman from one sport organisation to another of 10 January 2007 provide that 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). The rules on competitions (of 2011) do not provide for any restrictions on foreign cyclists.

Rugby

It was not possible for the author of this Report to ascertain of restrictions that existed under Regulations of Lithuanian championship of 2009 (not more than 3 foreign players (paragraph 9.5) may play in one team) continue to exist, because the Rugby federation has not responded to the inquiry on this issue, while the Regulations for 2010 are not publicly accessible to the author of the Report.

Handball

Restrictions on foreign players exist in Lithuanian handball championship where only two players with non-EU citizenship can be registered (Regulations for 2010/2011, Part V). However, the number of EU players is not restricted. Also, in handball, the Regulation on transfer of players from one club to another (of 27 June 2006) continues to apply. According to the Regulation, following expiry of the contract and when the player is over 24 years of age, the player may transfer to another club. However, in case of younger players the organization letting transfer may require compensation for the player. However such compensation requirement cannot serve as a barrier to issue a transfer certificate. The amount of compensation is indicated in the Letter of Clearance. In case of disagreement about the amount of compensation, this question is then decided by the Board of the Lithuanian Handball League, however its' decision is final and cannot be appealed. The maximum compensation is 3000 Litas (approx. 870 Euro). If the contract of the player is still valid, the club may refuse a letter of clearance. In case of disagreement between the clubs, the player remains in the old club or cannot play in any club for one year. This restriction clearly constitutes a barrier to free movement of players.

3. THE MARITIME SECTOR

Text(s) in force

There have been a few legislative amendments in the maritime sector as concerns free movement during 2010. There is a national language requirement in the maritime field. The Law on Safety of Navigation of 15 February 2005 requires that a captain or chief officer of liner ship sailing by regular passage to ports of Lithuania shall know the Lithuanian language, if a ship has proof permission and sails without a pilot assistance. This requirement does not apply to ships, who are taking in/out ports with assistance of a pilot (Art. 12(2)). With regard to crew composition on Lithuanian flagged ships Lithuanian maritime merchant law has been amended in a sense that EEA nationals and persons, who have free EU or EEA

LITHUANIA

movements' rights, would be equally treated as EU or Lithuanian citizens. Article 11(2) of the Law of Lithuanian Maritime Merchant of 12 September 1996 (with subsequent amendments) was amended on 21 April 2011 and provides that 'crew of the ship (including the master of the ship and chief officer e) shall be composed of not less than 2/3 of Lithuanian, other EU or EEA or Swiss (hereafter – member state) citizens or other natural persons who enjoy the free movement rights conferred to them by the EU legislation. Post of the master of the ship and the chief officer shall be held by citizens of the member state only. Captain of the ship or at least one of ship's officers shall know the Lithuanian language'. Permanent residents as such were excluded from the law based on these amendments.

In the context of seafarers' personal income taxation, there is different treatment of those who work on Lithuanian/EU/EEA and third countries flagged ships. From 1 January 2009 Lithuanian seafarers working on Lithuanian/EU/EEA flagged ships (for incomes earned during the voyage only) are not subject to personal income tax, while those sailors who work in ships of third countries have to pay income tax in the amount of 15% (Paragraph 1(45) of Art. 17 of the Law on Personal Income Tax). On 28 September 2010 the Lithuanian Parliament attempted to re-introduce no flag link for seafarers' personal incomes tax and apply '0' tariff for all seafarers. In addition, to get such taxation a limit of minimum 183 days per year while seafarers have to work in sea was set. However, these amendments were not signed by the President of Lithuania, because it would allegedly discriminate those sailors who work less than 183 days per year on ship's voyages. There are also opinions that any new type of aid (or an alteration of an existing aid) shall not be put into effect before the European Commission has taken, or is deemed to have taken a decision authorizing such aid. Respectively such amendment has to correspond to 2004 Guidelines on State aid to maritime transport. The law was returned to the Parliament on 8 October 2010 and no further actions have materialized in adoption of such legislation until June 2011. Currently, there are proposals from representatives of Lithuanian Seamen's Union on the option do not tax any seafarers by income tax, however this proposal is not supported by the Ministry of Finance, thus not likely to be accepted.

Also, all sailors have to be compulsory insured by health insurance since 2009. Health insurance of 6% shall be paid by seafarers working on Lithuanian flagged ships. For seafarers who work in Lithuania, this tax is deducted by the employer, the same happens in other EU states according to legislation of these states (however the seafarers' organizations were concerned that a number of Lithuanian sailors work in a semi-legal manner in many ships of other EU/EEA countries (refer to more detailed description of the problem below). The seafarer has to present documents from tax authorities in those countries to Lithuanian authorities about payment of such taxes. If done so they would be exempted from taxation in Lithuania, but if documents are not presented they would have to pay the tax again in Lithuania, which may lead double taxation problem. On the other hand, there is more favourable taxation for sailors working in third country ships, as they only have to pay a fixed amount of 72 Litas (approx. 21 euro/month) for health insurance, while those employed by EU/EEA ships – 6% from all income, which is a substantially higher amount.

Lithuania has no bilateral agreements on seafarers' working conditions and related issues. There are a number of problems that are indicated by sailors working in ships of EU/EEA countries, however complaints are rarely raised as the salaries are considered generally better in ships with flag of these countries than in ships of third countries.

In practice, there are concerns expressed by the seafarers' organisations indicating that a number of Lithuanian sailors work in a semi-legal manner in some ships of other EU/EEA countries. Sometimes, the owners of the ships registered in the EU/EEA do not pay social security taxes for Lithuanian sailors working on the ships or they are not interested to sign them on board because of the obligation to pay insurance. As a result, Lithuanian seafarers sometimes are being employed by EU/EEA member state ships through agencies in Russia and other countries and are de facto treated as non-EU nationals (e.g. in some Norwegian, German ships). Another concern that has been raised by seafarers' organizations, is that salaries of Lithuanian sailors in EU/EEA ships are sometimes lower than those paid to sailors of other member states on the same ship and the same position.

4. RESEARCHERS/ARTISTS

4.1 Researchers

Text(s) in force

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. The law does not specifically provide for EU researchers, but they would be covered by the worker category. Family members of researchers enjoy a privileged position in a sense that the requirement of two-years residence before asking for family reunification with researcher in Lithuania does not apply to them (Art. 43(6) of the Aliens Law).

There are no specific regulations concerning the treatment of researchers from other EU countries and there have been no specific legislative developments in the field of researchers – EU nationals during 2010. One piece of legislation that affects foreign researchers and which was adopted on 14 August 2009, was amendment to the Order of the Minister of Social Security and Labour on Issuance of Work Permits to Foreigners. However, this Order relates mostly to situation of researchers who are third country nationals, since EU nationals do not need work permits in Lithuania. This Order though provides the priority for Lithuanian and EU nationals in Lithuanian labour market, which is being taken into consideration before issuing work permit to third country national.

The new draft aliens law indicates that the provisions of the Directive 2005/71/EC had been taken into account. The new draft aliens law provides for the same possibility for foreign researchers as the current law to obtain temporary residence permit in paragraph 14 of Art. 33(1) of the law. Concerning the treatment of foreign researchers, the Law on Science and Studies of 30 April 2009 provides that Lithuanian institutions may invite researchers and lecturers for a period not exceeding 2 years to work in these institutions under temporary work contract (Art. 61 (1) of the law). Though it is logical to regulate the temporary work relations by temporary work contracts, in practice there are less guarantees for persons employed under temporary contracts (e.g. no maternity leave, possibility to terminate the agreement much easier, etc.). In this respect, Lithuanian researchers are in a better position, because their employment is not generally limited to temporary work contract.

Miscellaneous (administrative practices, etc.)

According to the Lithuanian Centre for Mobility of Researches, there are no formal obstacles to mobility of EU researchers. However in practise, there is still some reluctance and ‘fears’ to accept foreign researchers by the Lithuanian educational establishments. The majority of foreign researchers arriving to Lithuania come from EU MSs. They come usually for a very short stay (e.g. for a few days research visit). Another issue that may be of concern is informal ‘preferential’ treatment for local researchers in a way how positions at universities are being filled in. There is allegedly a practice that ‘previous work’ before the competition is required in the same institution. Thus it may be an obstacle for competition under equal conditions for researchers arriving from abroad.

4.2 Artists*Text(s) in force*

The main problem concerning foreign artists in Lithuania is taxation, which is quite high considering that reduced VAT rates were abolished and they are subject to standard VAT rate, which reduces possibility of Lithuanian companies to attract artists from abroad. Foreign artists in Lithuania can either enter into authorship agreement with an institution in Lithuania or provide services as self-employed artists submitting invoices for fees. Since 2009 persons receiving income from artistic activity had to pay 6 percent compulsory health insurance tax calculated from the whole amount of income, while employer of these persons – additional 3 percent tax. However, starting from 1 January 2010, the taxation has changed and the method of calculation of the taxable amount changed. From 2010, the tax is calculated not from all income, but from the amount taxable for social security taxes. This was a transitory arrangement, which ended by 2011. Starting from 2011, artists who have an employer are taxable from their full salary, those who are self-employed – from half of the salary (the same applies to sportsman, authors and farmers). Also, as of 2009 they have to pay social insurance on top of income tax. The author of this Report could not obtain any information on the existence or non-existence of ‘withholding fees’ for foreign artists in Lithuania, while generally such taxation is applicable in Lithuania.

Persons who provide services under the authorship agreements and exceed the annual turnover of 100,000 Litas (approx. 29,000 EUR), must register as VAT payers and pay the VAT (this is a general rule applied, however EU nationals differently from Lithuanians, have to register immediately without waiting for mentioned amount of income to be reached).

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, as well as health insurance (social insurance would not be applicable if payment comes from a foreign entity). If authorship agreement is concluded in Lithuania for foreign national (similarly as for 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, taxes paid by permanent Lithuanian resident 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 is a party to a number of bilateral agreements on avoidance of double taxation.

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 not to be discriminated.

In the beginning of 2010, a draft amendment to social legislation concerning artists was registered in the Parliament. The amendment proposed not to apply some formal requirements for granting social assistance to artists (e.g. previous employment record, registration in the labour exchange record, etc.). If adopted, it is however not clear at this stage if the privileged treatment will also affect EU nationals - artists. In June 2011 the author of the Report could not trace any information concerning the adoption of this proposed amendment.

5. ACCESS TO STUDY GRANTS

The information provided in this section does not repeat and is complimentary to the information in analytical note on study grants in Lithuania provided by the author of this Report in January 2011.

Text(s) in force

2010 was the first year after Lithuania has implemented a significant educational reform in 2009, as a result of which paid high education was introduced in Lithuania (previously it was state funded with some exceptions). The main legal act regulating studies is the Law on Higher Education and Research of 30 April 2009. Study grants in the form of loans from banks were introduced in 2009 and loan granting is regulated by the new version of the Order of the Director of the Lithuanian State Science and Study Fund on Approval of the Regulation on Granting Loans to Students (No. VI-43 of 18 August 2010). In comparison with the earlier system, whereby the Ministry of Education and Science could establish higher education establishment enrolment quotas and procedure for foreign citizens and persons without citizenship whose studies were fully or partly compensated from the State budget, current legislative framework is different. According to the new order, state funding (thus also access to study grants and compensations) is not accessible to foreigners. However, there is an exception to this rule concerning EU/EEA nationals (unless Lithuania's international agreements or other legal acts provide to the opposite) (Paragraph 3 of Art. 72(1) of the law), as well as foreigners of Lithuanian origin (refer for details below). Thus at least on legislative basis there is equal treatment between Lithuanian and EU/EEA nationals. However, it is not yet clear how this provision affects EU nationals' family members who are third country nationals. There might be some obstacles to them to access study grants based on this new legislation. According to the Order of the Minister of Education and Science of 22 May 2009 (No. ISAK-1086) on Approval of the Order on Competition while entering state funded study places by persons who acquired education in foreign institutions abroad, 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 paid by the state budget if they belong to one of the mentioned groups:

- Lithuanian, EU/EEA nationals;
- Nationals of foreign countries (non EU/EEA nationals) and stateless persons who have a permanent residence permit in Lithuania;

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. Another amendment to the Order on 24 February 2011 regulated the acceptance of grades for enrolment. According to the order, foreigners of Lithuanian origin or expatriates are treated in a privileged way in comparison with other foreigners as they are given two additional points to their graduation points.

Foreign nationals, enrolled in high educational establishments shall receive temporary residence permit or EC member state national residence permit or shall have permanent residence permit in Lithuania. The mentioned Order does not address the study grants issue for EU nationals' family members who are third country nationals.

The Order envisages that mentioned groups of persons compete among themselves for state funded studies in Lithuanian educational institutions, and not with all persons who are seeking enrolment. Annual quota for these foreigners is established and funded by the Lithuanian state budget. Access to study grants (state loans) is possible for persons meeting certain criteria, which does not depend on nationality. State supported loans (introduced since autumn 2009) are granted with state guarantee from credit institutions. These loans may be also granted for partial studies under international (interagency) agreements. EU/EEA nationals who are workers, self-employed persons, persons retaining the status of worker and their family members may receive state funded loans on equal basis with Lithuanian nationals and permanent residents. State supported loans may be granted to other EU/EEA nationals only after they acquire permanent residence status (i.e. after 5 years residence in Lithuania). Thus, according to information available to the author of this Report, there is no residence conditions for accessing study loans for EU nationals and their family members as long as they fall under mentioned groups of persons (except social loans which require residence).

There might be particular problem with access to one type of scholarships for EU students who are not permanent residents in Lithuania. So called social scholarships (allocated for students from families having no sufficient living resources or single persons eligible to such scholarship according to the Law on Financial Social Support to families and single persons having no sufficient resources of 2003 with subsequent amendments), would not be available to all EU/EEA students because the law poses a permanent residence requirement in order to be eligible for this type of state support.

In conclusion, study grants in Lithuania are closely linked to study loans, which should be repaid. Some of these grants are related to vulnerable situation of the person and some to results of studies. There are special privileges to foreigners of Lithuanian origin. Grants for studies abroad are limited. As concerns the residence requirement, residence/nationality requirement exists in Lithuanian legislation for access to study loans/grants, but EU/EEA nationals enjoy exception. However, difficulties to access social grants for studies may be encountered due to permanent residence requirement, which does not involve exception for EU/EEA students.

Miscellaneous (administrative practices, etc.)

According to the Order of the Minister of Education of 21 April 2011, the quota for foreigners eligible to state sponsored education in 2011 was 100 persons funded by the state (50 in

LITHUANIA

universities and 50 in colleges) in first cycle and integrated studies. Clearly, the number of places for Lithuanian students is bigger than for those who acquired education abroad.

According to the information of the Department of Statistics (of May 2011), 1020 EU/EEA nationals were studying in Lithuanian high educational establishments in the beginning of the study year of 2010-2011, which constitutes a slight increase since 2009-2010 study year. Previously, the tendency was that the number of foreign students in Lithuania has been constantly increasing for the previous two years, as illustrated below:

2004-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
1198	1872	2955	3844 (1131 EU/EEA nationals)	960 (EU/EEA nationals)	1020 (EU/EEA nationals)

In the beginning of 2010-2011 semester, 69 EU/EEA nationals were enrolled in state funded places in Lithuania (preliminary data of the Students' Register), out of a total number of 45,892 persons in state funded places. Furthermore, EU/EEA nationals may also be enrolled into Lithuanian educational establishments if they fund their own studies.

6. YOUNG WORKERS

The information provided in this section is an update to the information in analytical note on rules regulating the employment of children and young people in Lithuania provided by the author of this Report in August 2010.

According to the MSSL (information of 7 March 2011), youth (age 15-24 years) unemployment increased in 2010 by 5,9 percent in comparison with 2009 and stood at 35,1 percent. In 2010, the level of youth unemployment was twice higher than general level of unemployment in the country. As of 1 June 2011 there were 31,200 unemployed young people (12,8 percent of all unemployed). Lithuania is thus one of the most problematic countries as concerns youth unemployment in Europe.

There have been a number of legislative developments in the area of youth employment during 2010, including:

1. Adoption of amendments to state social insurance legislation providing that employers would not have to pay social insurance pension contribution for one year for persons who are employed for the first time under labour contract. These amendments entered into force on 1 August 2010. It will be now on more attractive for employers to employ young workers who do not yet have working experience.
2. Entry into force of amendments to employment support legislation whereby the employers are eligible for compensation of employee salary through a subsidy for a period of up to 6 months if they employ persons below 29 years of age (youth), while for persons who enter into employment for the first time after they acquired qualifications, such compensation can reach up to 12 months of salary subsidy.

Concerning the main situations that cause obstacles to free movement the following could be mentioned:

LITHUANIA

1. Access to work – language problem

According to information of Lithuanian Youth Council, young people from other EU MSs residing in Lithuania indicate local language barrier as access to employment. Young people claim that lack of local language skills significantly decrease the possibilities of employment. There are only very few jobs available where Lithuanian language is not required (usually these jobs are in very specialised areas and experience is required) and all of these are in major cities. Language barrier also prevents foreigners to obtain any kind of assistance from many institutions, since quite a number of employees of these institutions do not speak foreign languages. As a result, foreigners are not sure where they should apply for processing of documents or making arrangements concerning their matters in Lithuania.

2. Legal and other general problems

Lithuanian legislation (Law on Legal Status of Aliens) provides that EU nationals can stay in the country without any formalities for 90 days and afterwards they need to obtain a residence certificate. Certificate is issued if the person is employed, while employment is not possible without possessing such a certificate. It becomes like a vicious cycle and never ending story according to some young persons. Also, a place of registration is required, while foreigners usually rent apartments where landlords for taxation or other purposes are not willing to provide registration. Furthermore, foreigners indicate that their education and work experience is sometimes doubted by employers and they are treated as less reliable workers in this respect (this may not necessarily relate to youth as such). The working conditions are also indicated as of concern, since they are usually not prepared for foreigners or are generally rather poor, few employers invest in the working space.

3. Sports' sector

There are several national rules in the sport sector, which aim at protection of young professional sportsmen, however these rules may work against mobility of these young workers outside the country. Generally, the Law on Physical Education and Sport of 25 May 2010 provides for the sport activity contract of an under-age professional sportsman. According to Art. 36 of this law, under-age professional sportsmen from 14 to 18 years of age may conclude sport activity contracts only with the consent of their parents or guardians. In basketball, transfers of players below 18 years of age are forbidden and may be allowed in exceptional cases only (paragraph 5.1 of the Regulation of 3 June 2010). If 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. The scope of compensations for the transfer depends on the league. This rule remains valid for up to four years since the graduation from sports' school. In ice hockey, there are no transfer fees in case of transfer of player below 18 years of age.

4. Access to employment support measures

In principle there should be no legal obstacles for young foreigners to access these measures as the Law on Employment Support applies to Lithuanian citizens and foreigners legally staying in Lithuania. However, the author of this Report is not aware of any cases in practice that would concern this area.

LITHUANIA

5. Access to support for young farmers

According to the Government Programme concerning promotion of youth entrepreneurship of 2008, there are possibilities provided for supporting young farmers (18-40 years of age) with up to 138,112 Litas (or 40,000 euros). There are obstacles to accessing such support by young persons from other EU Member States because according to the Constitution, foreigners could not acquire agricultural land in Lithuania until 1 May 2011 (except those who have been living permanently in Lithuania for the past 3 years and have been engaged in agricultural activity, as well as legal entities and organizations of foreign origin who established representations in Lithuania). This is due to transition period of 7 years established from the entry of Lithuania to the EU (1 May 2004). Possession of certain amount of agricultural land is one of the requirements for accessing support for young farmers. There is a possibility to rent a plot of land, but such agreement should not be for shorter than 5 years' period and would still not be sufficient to fulfil the requirement for support. Lithuania has applied to the European Commission for extension of the ban period and extension for further 3 years has been approved in 2011.

Chapter VII: Application of transitional measures

- 1. TRANSITIONAL MEASURES IMPOSED ON EU-8 MEMBER STATES BY EU-15 MEMBER STATES AND SITUATION IN MALTA AND CYPRUS**

- 2. TRANSITIONAL MEASURES IMPOSED ON WORKERS FROM BULGARIA AND ROMANIA**

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. There were no significant developments in this area during 2010, as well as no individual cases have been brought to the attention of the author of this Report.

Chapter VIII: Miscellaneous

1. RELATIONSHIP BETWEEN REGULATION 1408/71-883/04 AND ART 45 TFUE AND REGULATION 1612/68

The information provided in this section does not repeat and is complementary to the information in thematic report on enforcement of Regulation 1612/68 in Lithuania provided by the author of this Report in August 2010.

Text(s) in force

Apart from a few exceptions, social security system in Lithuania remains largely based on permanent residence requirement. 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. Concerning social insurance benefits, they depend on contributions and level of previous income; therefore payment of these benefits does not depend on nationality of the person or residence condition (at least not directly). There were a number of legislative developments in 2010, which were related to coordination of social security schemes and transition from Regulations 1408/71 and 574/72 to Regulations 883/2004 and 987/2009, including implementation of provisions of regulations related to:

1. family benefits and benefits in case of death (23 April 2010);
2. determination of applicable law (8 June 2010);
3. retention of the right to unemployment social insurance benefit and calculation of insurance periods (6 May 2011);
4. assignment of institutions responsible for implementation of social security system coordination regulations (28 July 2010);
5. issuance of E104 LT form for persons insured with social and (or) compulsory health insurance (28 April 2010);
6. electronic data exchange system (10 September 2010).

Concerning sickness and maternity/paternity, as well as child raising benefits, the State Patient Fund under the Ministry of Health of Lithuania is competent institution responsible for these benefits. Compulsory health insurance in Lithuania is implemented by State Patient Fund and 5 local Territorial Patient Funds. In order to be eligible for sickness benefit in Lithuania, the person has to have a record of at least 3 months within the last 12 months or at least 6 months within the last 24 months for illness and maternity social insurance; for maternity benefit – at least 12 months within the last 24 months.

Professional rehabilitation social security benefit is applicable to persons working under labour and authorship contracts, provided that they participate in professional rehabilitation programme and do not receive income from employment; have a record of at least 3 months

LITHUANIA

within the last 12 months or at least 6 months within the last 24 months before the start of the rehabilitation programme.

Health insurance is applicable both for permanent and temporary residents of Lithuania who legally work in the country, as well as to their minor children; also schoolchildren and students of Lithuanian educational, professional establishments, studying in day-time departments, as well as students studying in high education establishments of other EU MSs. Compulsory health insurance in the tariff of 6 percent of income applies since 2009 to new categories of workers and self-employed persons (artists, sportsman, farmers and authors), also covering EU/EEA nationals in Lithuania. If they enter into labour or authorship agreement, insurance will be valid and thus benefits could be paid from the moment of entering into labour relations. The benefits however would be provided to self-employed persons after three months of contributions only. With regard to health insurance, some grounds of residence require to have a health insurance before confirming the right to residence. In this case, it may happen that EU/EEA national acquires voluntary insurance for this purpose and after he/she gets employed, additionally compulsory insurance will have to be acquired.

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) (issuance of this card in Lithuania is regulated by the Order of the Director of State Patients' Fund to the Ministry of Health of 28 December 2010); Provisional Replacement Certificate (PRC); Certificate E 106 (which will be replaced by SED) 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 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 with the Lithuanian health insurance certificate. E106 LT certificate is also issued to the following persons:

- a) frontier workers indicated in Art. 1(b) of Regulation 1408/71 and Art. 1(f) of Regulation 883/2004;
- b) workers in Lithuania who are residing in another EU Member State.

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. According to the Order of the Minister of Health Care No. 112 on Issuing Prescriptions of Medicine and Issuance of Medicine (of 8 March 2002 with most recent amendments), those persons who are insured with compulsory health insurance have the right to obtain a Compensatory Medicine Passport (CMP), which allows receiving partial or full compensations for medicine and medical supplies from Health Insurance Fund. If the person is insured but does not have such

LITHUANIA

a passport, while compensatory medicine is necessary for him (i.e. threat to life in case of non-prescription of this medicine), a prescription of form Nr. 3 (exceptional cases) shall be applied. Medicine according to such a prescription can be assigned for a period of no longer than 1 month. Issuance of E106 form certificates is regulated by the Order of the Director of State Patients' Fund to the Ministry of Health of 1 October 2009 (with subsequent amendments). The Order provides that such certificates are issued to persons who are insured and working in Lithuania, but residing in other EU MSs; persons who are insured in Lithuania, but are posted to work in other EU MSs, if they declare transferring their residence to another MSs; persons who work under labour contracts, self-employed persons and their family members, as well as frontier workers as per Regulation 1408/71 EC.

Certain provisions of Regulation 1408/71 are implemented by the Order of the Minister of Social Security and Labour and the Minister of Health Care 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 (of 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. This Order was amended on 28 April 2010 (amendments entered into force from 1 May 2010) with a view of coordinating it with Regulations 883/2004 and 987/2009. The Order was supplemented by a new section on transition arrangements concerning:

1. third country nationals who reside in EU MS territory who are issued certificates in accordance with Regulations 1408/71 and 574/72 until the amendment of Regulations 859/2003.
2. EEA/EU nationals residing or working in EU/EEA MSs and their family members who are issued certificates in accordance with Regulations 1408/71 and 574/72 until the amendment of Annex IV of EEA Agreement. Following amendments, the Regulations 883/2004 and 987/2009 will be applied.
3. Swiss nationals residing or working in EU MSs or Switzerland, EU nationals in Switzerland and their family members who are issued certificates in accordance with Regulations 1408/71 and 574/72 until the amendment of EC-Swiss Agreement on free movement of persons. Following amendments, the Regulations 883/2004 and 987/2009 will be applied.

Concerning the pension system in Lithuania, pension is provided to permanent nationals of Lithuania only, who have a social insurance record of at least 15 years. Social insurance records, acquired in other states are calculated on the basis of bilateral agreements or on the basis of EU legislation (for EU/EEA nationals). The situation of EU/EEA nationals as concerns payment of pensions is the same.

Lithuania has specific regulation with Estonia concerning calculation of the insurance periods acquired in the territory of former Soviet Union (Agreement with Estonia ratified in 2008; similar agreement with Latvia was pending signature in 2011). The purpose 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 one of the other Baltic States. According to the agreement with Estonia 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 a 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.

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, calculation of insurance periods for pension remains to be of concern. According to the Law on State Social Security Pensions, 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, this Article deals with periods before the adoption of this law and does not refer to periods of insurance in other EU MSs. 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.

With regard to transport advantages, EU/EEA nationals belonging to specific categories of persons (e.g. students of EU high educational establishments studying in day-time departments) enjoy the same treatment as Lithuanian citizens, as guaranteed by the Law on Transport Advantages of 30 March 2000 with subsequent amendments (Art. 1(2-3)).

1.2 General tendencies in the labour market in 2010¹⁰

The number of workers from third countries decreased in 2010. The number of work permits issued in 2010 was 1,2 times less than in 2009 and 4,3 times less than in 2008.

1. 1808 work permits were issued in 2010 (in comparison with 2239 permits issued in 2009). Among this number 1297 permits were work related; 136 permits were issued for posted workers and 13 permits for seasonal workers. 375 permits were extended (316 under labour contracts, 59 for posted workers).
2. By 1 June 2011, 1113 work permits were issued, among these: 830 (labour contracts), 49 for posted workers. 234 permits were extended (223 under labour contracts, 11 for posted workers).

¹⁰ Based on information of Lithuanian Labour Exchange of 17 June 2011.

3. Majority of labour permits issued in 2010 were issued in services sector: 82%, in manufacturing – 15% and only 3% in construction.
4. Work permits were issued to nationals of 35 countries in 2010, majority of them – to Belarus workers (50%), Ukrainians (23%), Chinese (6%), Russians (4%) and Indians (4%).

1.3 Legislative developments in 2010 relevant to workers who are third country nationals

In the beginning of June 2011, the Government approved the proposal of the MSSL to amend the state social insurance pension legislation whereby third country nationals arriving to Lithuania to perform highly skilled jobs would be guaranteed equal rights with Lithuanian nationals in the area of social security (pensions). According to the proposal, social security pension would be payable not only to permanent residents of Lithuania, but also persons with temporary residence permits who are third country nationals and work in Lithuania in highly skilled job. This would ensure that third country nationals arriving from countries which do not have social security agreements with Lithuania would be entitled to social security pensions provided that they acquire minimal work record in Lithuania. So far, third country nationals temporary working in Lithuania could obtain social security pension for work record in Lithuania only in case they resided in the EU Member State or in the country which has signed international agreement with Lithuania (e.g. Ukraine, Russia, Belarus, Canada), or if they left Lithuania already being pensioners and have acquired minimal record for pension before leaving the country. However, these amendments shall be yet approved by the Parliament and the President of Lithuania.

On 4 March 2011 new version of Visa Issuance Rules entered into force. According to the new rules all workers who are foreigners who received a work permit may arrive to Lithuania during the first year with national long-term visa (D), instead of a temporary residence permit. However visa D type is issued for a period of one year and cannot be renewed. Therefore, if foreigners would like to remain for working in Lithuania during the second year, they would have to apply for a temporary residence permit.

As of 2011 third country nationals legally staying in Lithuania will have more integration opportunities, as they will be provided with professional business, finance management, law and other consultations, also they will benefit from trainings on Lithuanian language, culture, entrepreneurship, etc. 11 projects have been started in 2011 in this respect under the European Fund for integration of third country nationals (total budget of these projects is 3.2 mln Litas (approx. 928,000 euro)).

Miscellaneous (administrative practice, etc.)

Specific practical issue continued to exist 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 123 EU nationals registered in employment of-

LITHUANIA

faces in Lithuania in 2010 (this constitutes a decrease if compared with 165 registered in 2009).¹¹ The table below presents a breakdown according to nationality:

Country	Number of job seekers in 2010	Number of persons registered as unemployed in 2010	Number of job seekers in 2011 (January-May)	Number of persons registered as unemployed in 2011 (January-May)
Austria	1	1		
Belgium	2	2		
Bulgaria	3	3	2	2
Denmark	3	2		
Estonia	5	3	1	1
Greece	1	1	1	1
Spain	1	1		
Italy	3	3		
Latvia	52	45	23	20
Poland	49	44	14	12
Germany	14	10	5	2
France	2	1	5	2
Romania	2	2	1	
Portugal				
Sweden	4	3		
Finland	1	1		
Slovak Republic	1			
Hungary	1	1		
<i>Total</i>	<i>145</i>	<i>123</i>	<i>52</i>	<i>40</i>

2. RELATIONSHIP BETWEEN THE RULES OF DIRECTIVE 2004/38 AND REGULATION 1612/68 FOR FRONTIER WORKERS

Refer to response under Chapter VI (Specific issues) above.

3. EXISTING POLICIES, LEGISLATION AND PRACTICES OF A GENERAL NATURE THAT HAVE A CLEAR IMPACT ON FREE MOVEMENT OF EU WORKERS

Nothing to report.

3.1 Integration measures

There are no special integration measures under national legislation or administrative practice in Lithuania for third country nationals or EU/EEA nationals, except persons granted

¹¹ Information of Lithuanian Labour Exchange Office, 17 June 2011.

asylum in Lithuania. The later are provided with language learning support, support in accessing labour market, social assistance, housing and other measures. The issue of integration support to foreigners living in the country has been an object of discussion for some time already, but no concrete actions/legislation materialised so far.

3.2 Immigration policies for third-country nationals and the Union preference principle

Lithuania generally promotes strict immigration policies, as well as strict naturalisation requirements for those immigrants who live in the country already for a long time. There are no special schemes to promote immigration and traditionally emigration has always been incomparable higher than immigration. During the economic growth period there have been vivid discussions about opening labour migration for third country nationals, as there was significant lack of labour force in certain sectors. However with consequences of the economic crisis and still high unemployment the issue of labour migration from abroad became less relevant.

With regard to application of Community preference principle, Lithuanian legislation gives preference to Community workers and residents who are family members of EU citizens by simplifying the entry and employment possibilities (e.g. no need to obtain work permit or entry visa).

3.3 Return of nationals to new EU Member States

Official statistics of the Department of Statistics mentions that 5213 persons immigrated to Lithuania in 2010, Lithuanian citizens constitute the majority of them, i.e. 4153 persons (4821 Lithuanian citizens re-emigrated in 2009). Based on preliminary data, approximately 3200 persons have immigrated to Lithuania in 2011 (January-April).

National organizations or non-judicial bodies to which complaints for violation of Community law can be launched

There are SOLVIT centres that examine the complaints for violations of Community law. The author of this Report was not aware of any other legal remedies (except judicial) for this purpose.

5. SEMINARS, REPORTS AND ARTICLES

1. In October 2010, the Network on Free Movement of Workers together with national reporters in Lithuania and Poland organised a joint seminar on the issues of free movement of workers. Agenda and materials (including presentations and conference report) of the seminar are available at: <http://www.ru.nl/law/cmr/free-movement/seminar-docs-fmw/sem-2010-vilnius/>
2. On 3 December 2010 a round table discussion on the legal and social problems of artists 'Legal Status of Artists in Lithuania' took place in Vilnius. However, the materials of the discussion are not available, thus more detailed information on this even cannot be provided.

LITHUANIA

3. On 18 May 2010 a seminar was held on 'Mobility of scientists and researchers: obstacles and opportunities. EURAXESS network activity'. The seminar focused on presentation of mobility problems for researchers based on a study carried in 2009-2010. The seminar was organised by the Lithuanian Centre for Mobility of Researchers and took place in Klaipeda city.
4. There were no significant analytical materials on free movement of workers published in Lithuania during the year, except a book published by Ignas Vėgėlė, *Europos Sąjungos teisė. Vidaus rinkos laisvės, konkurencija ir teisės derinimas*, 2010 (translation: *European Union Law. Freedoms of internal market, competition and law harmonisation*). The book addresses in one of the chapters the free movement of workers, specifically addressing the free movement of lawyers.