



FRA
Thematic Study on Child Trafficking
Lithuania

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Executive Summary

- [1]. Although Lithuania is among countries that are often mentioned in trafficking in human beings context, trafficking in children is not as widespread in Lithuania. It is mainly related to trafficking in young women and underage girls (16-17 years old) for prostitution purposes. Since 2005 there have been only 4 officially registered victims of sale or purchase of child (Article 157 of the Penal Code)¹. The IOM Vilnius bureau's depersonalised database of victims of trafficking that are returning to Lithuania counts for 70 underage girls in 2004-2007.² Although in general Lithuania is origin, transit and destination country for trafficking in human beings, the prevalent part of victims are those that were trafficked from Lithuania to other countries and are returning home.
- [2]. Accordingly prevention and control strategies that are taken by the governmental institutions and relevant NGOs usually do not distinguish between the phenomenon of trafficking in adult persons and trafficking in underage children.

General anti-child trafficking framework

- [3]. Trafficking in human beings as a separate criminal offence is criminalized since 1998. Since 01/05/2003 a new Penal Code is in force and its article 157 ("Sale or purchase of a child") is devoted to trafficking in children. Its current wording in general is in line with conventional definition of trafficking in human beings (in children). However there are some doubts expressed whether it covers, e.g. trafficking for illegal adoption purposes.
- [4]. There were several national action plans adopted. Noteworthy that programmes on prevention and control of trafficking in human beings provide for substantial budgetary allocations to tackle trafficking, in particular, support of NGOs activities for return, protection and reintegration of victims of trafficking.

¹ Data of the IT and Communications department under Ministry of Interior (<http://www.nplc.lt/stat/atas/ird/1ga/1ga.htm>).

² This number includes as well persons that do not wish to cooperate with pre-trial investigation services, persons whose cases were investigated abroad and persons where trafficking is only suspected.

- [5]. Legal and institutional framework to fight trafficking is generally corresponding to the latest recommendations of relevant international institutions. Nonetheless an issue is a lack of qualified personnel and their persistent turnover, especially in local governmental bodies (police, social workers, etc.).

Prevention of child trafficking

- [6]. There were plenty of awareness-raising campaigns in Lithuania to inform society and relevant target groups of dangers of trafficking. They were implemented with support of state or international funds and in partnership of relevant NGOs. However, the general public (especially in local communities) desires more advice on the issue.

Appointment of legal guardian

- [7]. All unaccompanied minor aliens are provided with a temporary guardianship (curatorship) from their identification moment to their return or inclusion into Lithuanian society.
- [8]. Free legal aid is provided to victims of child trafficking in accordance with Law on the Legal Status of Aliens and Law on the State-Guaranteed Legal Aid.

Coordination and cooperation

- [9]. National and international activities of governmental bodies and NGOs are fairly coordinated. Bi-annual meetings of relevant actors provide for a great opportunity to evaluate the preventive and control efforts to fight trafficking.

Care and protection

- [10]. There are no any special provisions for child victims of trafficking that are alien. However children aliens are entitled to general protection measures.
- [11]. Unaccompanied minor aliens receive all necessities from their identification moment: full health care, free dwelling-place and

support, free legal aid, etc. As a rule all unaccompanied minors are accommodated at the Refugee Reception Centre.

Best interests determination and durable solutions, including social inclusion/return

- [12]. The Law on the Legal Status of Aliens establishes that an unaccompanied minor alien can be returned to another state only provided that he will be duly taken care of in the foreign country to which the minor alien is returned, having regard to his needs, age and level of independence. In case an unaccompanied minor alien cannot be returned to the country of origin or any other country, he is granted the right to reside in the Republic of Lithuania.
- [13]. A decision on minor asylum-seeker concerning his/her application is taken after thorough examination. A child is questioned with participation of his legal representative or guardian (curator) and state-guaranteed legal aid, as well as interpretation services, is provided.

Prosecution

- [14]. The Code of Criminal Procedure offers child sensitive procedures within criminal proceedings. More and more often the use of special child questioning rooms is made. However, lack of qualified personnel (especially in police) and old fashioned working methods still do not fully guarantee a child friendly procedures and adequate protection from secondary victimisation.
- [15]. Laws establish a right of victims of crime to claim for compensation for bodily, property and non-pecuniary damage done by the criminal act from the liable person. Legislation is proposed to entitle victims of trafficking to get compensation from state funds in cases it is impossible to recover it from a liable person.

Good practice

- [16]. Although the phenomenon of trafficking in human beings (underage girls in particular) takes place in Lithuania, governmental and NGOs activities to tackle it are positively assessed by many international bodies. Some good practices are indicated in the part I of the report.

A. General anti-child trafficking framework

A.1. Legal framework

[17]. Lithuania has ratified these international legal instruments:

- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) was ratified on 10/06/2004 and has entered into force on 05/09/2004.
- UN Convention against transnational organised crime/Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) was ratified 22/04/2003 and has entered into force on 25/12/2003.
- ILO Convention Nr. 182 on the worst forms of child labour (1999) was ratified on 25/03/2003 (entered into force: 29/09/2004).
- Convention on the Civil Aspects of International Child Abduction (1980) was ratified 19/03/2002 (entered into force: 01/09/2002).

CoE Convention on Action against trafficking in human beings (2005) was signed on 12/2/2008 and is expected to be ratified in the nearest future.

CoE Convention on the protection of children against sexual exploitation and sexual abuse (2007) was signed on 25/10/2007 and is expected to be ratified in the nearest future.

[18]. Criminal liability for all criminal offences is provided for in the Penal Code of the Republic of Lithuania that has entered into force from 01/05/2003. The general offence for trafficking in children is established in the Article 157:

“Article 157. Purchase or sale of a child

1. Any person who offers to buy or otherwise acquire a child, or who sells, purchases or in any other way transfers or acquires a child, or who recruits, transports or keeps a person in captivity, if the offender is aware of or seeks the child to be involved in prostitution or to gain profit from prostitution of that child, or seeks the child to be exploited in pornography or forced labour,

shall be punished by imprisonment for a term from three to twelve years.

2. Any person who commits the act specified in Paragraph 1 of this Article against two or more children or against a minor, or while participating in an organised group, or seeking to obtain organ, tissue or cells of the victim,

shall be punished by imprisonment for term from four to twelve years.

3. Legal entity shall also be held liable for the acts specified in this Article.”³

Such wording is valid from 30/06/2005, after Seimas (the Parliament) has amended the former definition⁴.

Although terms “child” and “minor” are not defined in the Penal Code, but according to the other legal acts and a consistent court practice, a term “child” means a person under 18 years old and a term “minor” means a person under 14 years old.

In general Article 157 of the Penal Code corresponds to the internationally recognised definition of trafficking in children, in particular, provisions of Palermo protocol. However some aspects of its wording and quite constrictive legal interpretation of it in court practice⁵ (what results in a factual contraction of its scope) may raise certain questions on its conformity to international legal standards. For instance, there is a doubt expressed in the legal literature that Article 157 does not cover sale of child for illegal adoption or for begging purposes.⁶ It also seems that prosecution or courts still differentiate situations with and without child consent; in former case they simply qualify a less serious offence – transporting a child with his consent to or from Lithuania for prostitution purposes (Paragraph 3 Article 307).⁷

There are other articles in the Penal Code that are also related to trafficking in children. Article 147¹ provides for criminal liability for

³ Unofficial translation.

⁴ The former wording of Article 157 (was valid until 29/06/2005):

„Article 157. Purchase or sale of a child

1. Any person who sells, buys or in any other way transfers or acquires a minor, shall be punished by imprisonment for a term of up to eight years.

2. Any person who is engaged in trafficking in minors,

shall be punished by imprisonment for a term from two to ten years.“

⁵ Lithuanian Supreme Court in one of its decisions has stated that “(...) 23/06/2005 amendments (...) introduced additional objective elements to the definition of a crime, thus possibilities to qualify acts under article 147 of the Penal Code have become narrower (...)” (Unofficial translation, 28/03/2006 Lithuanian Supreme Court decision in criminal case No. 2K-332/2006, see: <http://www.lat.lt/getdocument.aspx?id=6c8cd4eb-7e2d-4b94-ae6c-01c2ee2bdac1>).

⁶ Fedosiukas, O. Prekybos žmonėmis nusikaltimo normos naujosios redakcijos (2005 m. birželio 23 d.) aiškinimo ir taikymo problemos // Jurisprudencija, 2007, Nr. 8(98), p. 56.

⁷ In authors view, after 2005 amendments of Article 157 the provisions of Para 3 Article 307 (at least for transporting a child with his consent to or from Lithuania for prostitution purposes) in most cases cannot be applied as they are covered by stricter provisions of Article 157 (transporting a child where the offender is aware of or seeks the child to be involved in prostitution or to gain profit from prostitution of that child). However, examples of court practice show that (at least some) courts do not share this point of view (e. g. judgement of Siauliai region court in case 1-19-210/2007).

exploitation of person in forced labour. Article 156 provides for criminal liability for abduction of a minor. Article 162 provides for criminal liability for exploitation of child in pornography. The abovementioned Paragraph 3 of Article 307 provides for criminal liability for profiting from child prostitution, for organisation or direction of child prostitution and for transporting a child with his consent to or from Lithuania for prostitution purposes. Paragraph 2 of Article 308 provides for criminal liability for involvement in any manner of a child into prostitution. Although these offences do not constitute trafficking in children offence, nonetheless they still provide relatively strict criminal penalties for conduct not covered by Article 157.

Article 157 is much related to the general offence of trafficking in human beings that is established in Article 147 of the Penal Code. The latter covers only trafficking in adult persons and includes the “means” by which a freedom of a victim is suppressed. The “means” issue is not included into Article 157 definition as relevant international treaties and EU legislation provide for that trafficking in children occurs even if abovementioned means were not used⁸.

- [19]. Relationship between international law and national law in Lithuania is grounded on monistic principle. According to the Article 138 of the Constitution, international agreements which are ratified by the Seimas shall be the constituent part of the legal system of the Republic of Lithuania. Paragraph 2 of Article 11 of the Law on International Treaties states that if the ratified international agreement provides for other rules than national laws or other legal acts, provisions of international agreement shall prevail. The same principle applies to the European Union secondary legislation⁹.

This allows courts applying directly the norms of most international legal treaties or relevant EU legal instruments (e. g. regulations, decisions, etc.).

⁸ For instance, Article 3 (c) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime states that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article”.

⁹ Article 2 of Constitutional Act of the Republic of Lithuania on the Lithuanian membership in the European Union states that “(w)here it comes out of the treaties upon which the European Union is founded, legal acts of the European Union are applied directly, and in the case of the collision they have supremacy over Lithuanian laws or other legal acts”.

However, legal nature of certain international legal treaties or EU legal instruments (e. g. directives, framework decisions, etc.) do not allow direct application of them, as they only oblige member states to transpose their provisions to national law. For instance, legal norms that oblige member states to criminalize trafficking in children cannot be a basis for qualification of criminal offence, as only the Penal Code is the sole ground to prohibit and punish certain conduct. Courts may only substantiate their interpretation of the Penal Code norms on the provisions of international legal instrument which were transposed to national law.

Lithuanian courts (especially higher courts) quite often ground their decisions or at least cite the provisions of international legal treaties or EU legal instruments. For example, Lithuanian Supreme Court practice search engine has found 90 cases (mostly civil cases) where UN Convention on the Rights of the Child or its provisions were mentioned in a motivation part of the Court's decision.

- [20]. The principle of best interests of the child is embedded in the UN Convention on the Rights of the Child, which, as stated above, is a constituent part of the legal system of the Republic of Lithuania and can be applied directly by national courts.¹⁰

The principle of priority of protecting and safeguarding the rights and interests of children is established in Article 3.3 of the Civil Code which speaks about the principles of the legal regulation of family relationships in the Republic of Lithuania.

This principle is also established in Article 4 of the Law on Fundamentals of Protection of the Rights of the Child:

"Parents, other legal representatives of the child, state, municipal government and public institutions and other natural and legal persons must abide by the following provisions and principles:

1) legal interests of the child must always and everywhere be given priority consideration; (..)"

Consequently the principle of best interests of the child is one of the core principles of legal regulation, in particular, on victims of child trafficking. It is well-known and often applied in court practice (especially in civil cases), however, not yet in child trafficking cases due to poor court practice on Article 157 of the Penal Code.

¹⁰ As an illustration, the legal practice search engine "Infolex.Praktika", which covers only decisions of the Lithuanian Supreme Court and the Lithuanian Court of Appeal, found 104 cases (mostly civil) where UN Convention on the Rights of the Child was mentioned in a motivation part of the court's decision. The search engine is accessible only on the base of contract.

A.2. National Plans of Action

- [21]. There were several national plans of actions that were related to trafficking in children, e.g. National Programme against Child Commercial Sexual Exploitation and Sexual Abuse (2000-2004), 2002-2004 Programme on Prevention and Control of Trafficking in Human Beings and Prostitution, 2005-2007 National Programme on Prevention of Violence against Children and on Support for Children, etc. Later on some of these programmes were prolonged (Government adopted secondary programmes).

The 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings is a general action plan and provides for only few special measures for children¹¹. However bearing in mind that trafficking in persons in Lithuania is mostly related to trafficking of young women (including juveniles) for sexual exploitation purposes it seems that at the moment there is no need for specialised programmes or measures for trafficked children alone. The objectives of the 2005-2008 Programme are mainly these: strengthening of information-analytical work, establishment of specialised police unit, sponsorship of NGO's activities in support and reintegration of victims of trafficking, strengthening of governmental and NGO's cooperation, improvement of national legislation. This Programme is finishing its term this year but the new 2009-2012 Programme is already under preparation. It is anticipated that the new programme will focus more on child and youth trafficking issues.

The 2008-2010 National Programme on Prevention of Violence against Children and on Support for Children is mostly devoted to prevention of violence against children in schools and families.

- [22]. Main achievements of these programmes (especially both programmes on prevention and control of trafficking in human beings) were these:
- public attention to the problem of trafficking was drawn¹²;
 - some amendments in legislation were made (in particular, 2005 amendments of Articles 147 and 157 of the Penal Code);

¹¹ These measures were: a) work out a specialised rehabilitation programme for victims of child trafficking; b) work out recommendations for border police and migration officers to prevent sale of children abroad. The former was somehow transformed during its implementation and only a framework of possible national rehabilitation programme for trafficked children was proposed (See: Apibendrinta 2006 m. ataskaita apie prekybos žmonėmis situaciją Lietuvoje, 2007, p. 27).

¹² See more in section B.1.

- formation of a system of institutions and organizations that are working in the sphere of trafficking in human beings. These include Coordination Commission under Ministry of Interior, specialised police unit, IOM Lithuanian bureau, were established some NGO's (Lietuvos Caritas, Centre for Support of Families of Missing Persons, etc.), etc.
- annual governmental sponsorship of activities of up to 13 NGO's;
- better information on situation in Lithuania was gathered;
- international cooperation in action against trafficking in human beings was enhanced, including cooperation of governmental agencies, police cooperation and NGO's cooperation.

[23]. IT and Communications Department under Ministry of Interior is responsible for gathering, processing and publication of official registered crime statistics, I

National Court Administration is gathering official statistics on court decisions, in particular, on convictions for each category of crimes.

In 2006 a joint de-personalised data base on victims of trafficking was established among institutions and organisations that are providing social support to them.¹³

There were several researches accomplished that indirectly tried to estimate the situation of trafficking in human beings in Lithuania. For instance, NGO "Vaiko namas" in 2003 conducted a survey evaluating the situation of violence in children institutions¹⁴.

A.3. Budgetary allocations

[24]. The 2002-2004 Programme on Prevention and Control of Trafficking in Human Beings and Prostitution foresaw a budget of 3.2 millions Litas (around 0.9 million euro). According to the data of National Audit Office of Lithuania, only 1.3 millions Litas (around 0.4 million euro), i.e. 42%, were used.¹⁵

The 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings foresees a budget of 6.2 millions Litas (around 1.8

¹³ Apibendrinta 2006 m. ataskaita apie prekybos žmonėmis situaciją Lietuvoje, 2007, p. 69.

¹⁴ See: http://www.children.lt/?_nm_shot=files.1.1-62&_nm_nosession=1 (in Lithuanian).

¹⁵ Lietuvos Respublikos valstybės kontrolė. Valstybinė audito ataskaita. Prekybos žmonėmis ir prostitucijos prevencijos ir kontrolės 2002-2004 metų programa. Vilnius, 2005 m. balandžio 29 d., Nr. 2040-4-42, p. 16.

million euro). Among them 160 thousand Litas (around 45 thousand euro) are foreseen for information gathering and analysis measures. Data on factual allocations and their usage is not yet available.

A.4. Coordination and control

- [25]. There is no special monitoring mechanism (e. g. National Rapporteur) on the issue of trafficking. Nonetheless it is important to note some important actors in the field.

Children's rights ombudsman has a right to investigate all complaints on the violation of children rights. He is also in charge to control how the legal acts and international instruments on children rights are implemented, to control the activities of institutions that protect children rights and interests. The ombudsman is appointed for 4 years term by the Seimas (the Parliament). The ombudsman has his office. Till the moment the ombudsman has not been very active in the sphere of human trafficking. However his latest annual report to Seimas signalizes the problem of trafficking and urges Government, General Prosecutor's Office, other institutions to take on certain measures.¹⁶ Regretfully, not all of its conclusions and proposals are well grounded¹⁷ and they mostly reflect a political will to demonstrate activeness in the field.

It is important to note the annual Trafficking in Persons Reports that are published by the US State Department. Their rapporteurs regularly pay visits to Lithuania to meet with responsible persons and collect necessary information.

- [26]. In 2005 the Minister of Interior set up a multi-institutional working group to coordinate the implementation of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings. In 2007 the Minister of Interior has appointed the Secretary of the ministry as a national coordinator on the prevention and fight against human trafficking.¹⁸ The same year the multi-institutional group was expanded with introduction of various governmental actors that are working in the sphere.¹⁹ Since then two times a year joined meetings

¹⁶ Lietuvos Respublikos vaiko teisių apsaugos kontrolieriaus veiklos 2007 m. ataskaita, p. 42-48 (<http://www3.lrs.lt/docs2/UOJHQQDX.DOC>, last accessed on 14/07/2008).

¹⁷ For instance, Ombudsmen deems that abduction of a minor, profiting from child prostitution and involvement should be punishable by heavier penalties, however the report provides for no arguments why current sanctions (up to 7/8 years of imprisonment) are not satisfactory.

¹⁸ 30/3/2007 order of the minister of Interior No. 1V-109.

¹⁹ 8/5/2007 order of the minister of Interior No. 1V-173.

of the national coordinator, multi-institutional group, responsible police officers and NGO's are held to improve coordination and information work in the field. Its latest meetings were devoted to adopt common criterions on how to identify victims of trafficking (mainly for statistical purposes) and introduce recent changes in the police system (there were 10 responsible police officers in the regional departments appointed to coordinate fight against human trafficking).

In 2004 the Police Department under Ministry of Interior signed an agreement with NGO "Dingusių žmonių šeimų paramos centras" [the Centre for Support for Families of Missing People] on exchange of information and support of victims. In 2006 another agreement was signed with NGO "Lietuvos Caritas".²⁰

A.5. Training

[27]. Training of professionals is mainly dealt within a framework of national plans. For instance, the 8th special measure of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings foresees training of these professionals: police officers, border police, migration officers, prosecutors (in 2006), social workers and teachers (in 2005-2007), doctors and other medics (in 2007), journalists (in 2008). The 2.3th special measure of the 2008-2010 National Programme on Prevention of Violence against Children and on Support for Children foresees training (in 2008-2010) for officials of municipal children right protection services and for municipal social workers that are working with social risk families. This training would be devoted to the issues of prevention and control of violence against children, trafficking in children, sexual violence against children, as well as to the questions of support to victims. In fact, almost all programmes foresee training of professionals. For all these trainings necessary budgetary recourses are allocated. There were trainings of specialists within international projects as well, for instance, within the Council of the Baltic Sea States²¹.

In addition to the training seminars, there were also plenty of manuals for professionals, e. g. for policemen, for social workers, for teachers, for prosecutors and judges, released.

However, a major problem is not an absence of training or education programmes, but a lack of personnel and their persistent turnover due

²⁰ Apibendrinta 2006 m. ataskaita apie prekybos žmonėmis situaciją Lietuvoje, 2007, p. 70.

²¹ The Council has established the Working Group for Cooperation on Children at Risk and the Task Force against Trafficking in Human Beings with focus on adults.

to low pay, bad working conditions, huge workload, shortage of young qualified specialists that want to work in the provinces and other reasons.

A.6. Policy of non-criminalisation

[28]. Prostitution is illegal in Lithuania and it is punishable by administrative sanctions (only persons who are 16 years or older).

In 2005, on the initiative of Ministry of Interior, the Seimas (the Parliament) amended the Article 182-1 of the Administrative Offences Code. Since then administrative liability is applied not only to the persons who prostitute themselves but also to their clients. The same amendments have also introduced an exception that administrative liability for prostitution is not applied to a person who: a) was involved into prostitution by means of physical or psychical violence or deception, or due to material dependence or subordination; or by any means if he was a child; or was a victim of human trafficking²²; – and b) he was recognised as a victim within criminal proceedings.

It is noteworthy that in 2006 the Seimas (the Parliament) has criminalized any sexual intercourse with a child where money or other forms of remuneration or consideration is offered, is promised or is given as payment in exchange for the child engaging in sexual activities (Paragraph 1 of the Article 151¹ of the Penal Code)²³.

²² These conditions exactly correspond to the definitions of criminal offences of involvement into prostitution (Article 308 of the Penal Code) and trafficking in human beings (Articles 147 and 157 of the Penal Code).

²³ Following the requirements of the Article 2 (c) (ii) of the Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography.

B. Prevention of child trafficking

B.1. Awareness-raising campaigns

[29]. There were plenty of various awareness-raising campaigns on the issue of human trafficking in Lithuania since the end of the nineties. They were directed to general audience, to children and youth (in schools, universities, etc.) and to special target groups (members of social risk families, persons who prostitute themselves, unemployed, homeless people, rural youth, etc.). They were of various forms – TV, radio advertisement clips, special websites²⁴, posters²⁵, flyers, demonstrations of documentary videos and movies²⁶, etc.²⁷ Almost all of these awareness raising campaigns were targeted to possible victims of human and children trafficking. There were some public awareness campaigns that were directed against possible customers of sexual services.²⁸

Surprisingly, public opinion polls still show that many people think that there is not enough information about the dangers of human

²⁴ For instance, a website www.darbaz.lt for children and youth prompting not to follow promises to be granted a job/income in another state; a website www.neparduodamas.lt (“not for sale”) that is devoted to integration and reintegration of victims of human trafficking into working society, etc.

²⁵ For instance, a very well-known poster „Tave parduos kaip lėlę“ („You will be sold as a doll“). See: <http://www.focus-on-trafficking.org/inside.php?ln=en&page=about:campaign>.

²⁶ E. g. “Lilia 4-ever” (2002), directed by Lukas Moodysson.

²⁷ See more: <http://www.iom.lt/en.php/> (website of the IOM Vilnius bureau that is a very active actor in prevention of trafficking and support to victims, see the list of their completed and ongoing projects), see also annual reports of the Programme on Prevention and Control of Trafficking in Human Beings, etc.

²⁸ In 2005 two NGO organized the campaign of billboards “It is shameful to buy a woman!” („PIRKTI MOTERĮ – GĖDINGA!“). The campaign covered 13 towns in Lithuania and it aims to prevent the increasing numbers of trafficked women from Lithuania and highlight the visibility of the facilitators of the prostitution (see more: <http://www.lygus.lt/ITC/news.php?id=773>; http://www.advista.lt/en/works/works_made_for_social_clients/ksppc_kartu_su_mic/).

trafficking.²⁹ On the other hand, this phenomenon is mostly known to them from TV/radio and from awareness-raising campaigns.³⁰

- [30]. Many of the awareness-raising campaigns were done with the participation of relevant NGO's³¹ or on their initiative. The evaluation of these campaigns was a part of a more general context, e.g. bi-annual evaluations of the Programme on Prevention and Control of Trafficking in Human Beings, which is performed with the participation of the representatives of relevant NGO's.

Young people are part of teams of some NGO's. However, level of participation of children and youth in anti-trafficking campaigns, as well as in any other voluntary (NGOs) sectors, is quite low in Lithuania.

B.2. Prevention within local communities and minority groups

- [31]. Prevention of trafficking is a part of work of most of the relevant NGOs. There national and regional NGOs. The latter are either independent organisations or local subdivisions of national NGOs. NGOs that focus on trafficking in human beings or their subdivisions are working in Vilnius, Kaunas, Klaipeda, Siauliai, Panevezys, Alytus, Marijampole, Anyksciai, Telsiai.

Governmental actions are also directed to regions, e.g. awareness-raising campaigns in local schools, or to professionals that are working in regions, e. g. training of servants of Municipal Services of Children's Rights Protection, local teachers, policemen, social workers, etc., or to support local initiatives (via financing of NGOs activities).

Minority groups in Lithuania are not considered more vulnerable to threat of trafficking than any other groups. Thus there were no special anti-trafficking campaigns that were directed to concrete ethnic minorities. However, governmental activities in much broader context (e.g. efforts in integration of Roma minority to social and cultural life,

²⁹ During public opinion poll (2006, UAB "Revanda") 81% of respondents said that there is not enough information provided in Lithuania on the scope and dangers of the human trafficking (Apibendrinta 2006 m. ataskaita apie prekybos žmonėmis situaciją Lietuvoje, 2007, p. 23).

³⁰ Accordingly 46% and 26%. (Ibid, p. 23)

³¹ For instance, a website www.neparduodamas.lt is a joint effort of Ministry of Social Affairs and 3 NGOs, which is supported by the EU and the Republic of Lithuania.

labour-market)³² contribute to the prevention of trafficking in human beings as well.

B.3. Protection of unaccompanied minor aliens from their identification moment

[32]. Article 32 of the Law on the Legal Status of Aliens provides for certain protection measures to unaccompanied alien minors. The article states:

“Article 32. Unaccompanied Minor Aliens

1. Unaccompanied minor aliens, regardless of the lawfulness of their stay in the territory of the Republic of Lithuania, shall be taken into temporary guardianship/curatorship for the period of the child's stay in the Republic of Lithuania. The temporary guardian/curator of an unaccompanied minor alien shall represent the interests of the unaccompanied minor alien.

2. The unaccompanied minor aliens, regardless of the lawfulness of their stay in the territory of the Republic of Lithuania, shall have the following rights:

1) to be supplied with free accommodation and be supported in the manner established by the Minister of Social Security and Labour of the Republic of Lithuania;

2) to study at general education schools and vocational schools according to the procedure laid down by the Minister of Education and Science;

3) to receive free immediate medical aid in the manner prescribed by the Health Minister;

4) to be provided with free social services in the manner prescribed by the Minister of Social Security and Labour;

5) to receive legal assistance guaranteed by the State, if the laws do not prescribe otherwise;

6) to contact with the representatives of non-governmental or international organisations of the Republic of Lithuania.

3. Having received information about an unaccompanied minor alien, the Migration Department must together with the organisations indicated in subparagraph 6 of paragraph 2 of this Article and the temporary guardian/curator of the minor alien immediately organise search for the minor's family members.

4. The issue of the legal status in the Republic of Lithuania of the unaccompanied minor alien shall be addressed when conducting the search for the family members.”

Paragraph 16 of Article 2 states that unaccompanied minor alien means “an alien below the age of 18 years who arrives on the territory of the Republic of Lithuania unaccompanied by parents or any other adult responsible for him by law or who is left unaccompanied by any

³² For instance, in 26/03/2008 Government adopted the 2008-2010 Programme for Roma integration to Lithuanian society which foresees such measures as organising supplementary primary, secondary and informal education for Roma children, training for teachers of Roma children, organising summer-camps for Roma children, financial support of Roma youth that is studying in higher education institutions, etc.

of the above-mentioned persons after he has entered the territory of the Republic of Lithuania”.

This means that when an unaccompanied minor alien is identified he is provided with accommodation and other services. A legal guardian/curator is appointed and he is responsible for a child during his stay in Lithuania until his return to other country or integration into Lithuanian society. As a rule, an unaccompanied minor that is seeking asylum is accommodated at the Refugee Reception Centre.

C. Appointment of legal guardian³³

[33]. As it was stated above, Article 32 of the Law on the Legal Status of Aliens provides for that temporary guardianship/curatorship for the period of the child's stay in the Republic of Lithuania is provided to all unaccompanied minor aliens, regardless of the lawfulness of their stay in the territory of the Republic of Lithuania and regardless of the fact whether he/she was or was not identified as a victim of trafficking.

As for the nationals and legal residents the provisions of children guardianship and curatorship are established in the Book III of the Civil Code. Article 3.254 states that a child shall be placed under temporary child guardianship/curatorship "if the child's: 1) parents or single parent are missing and attempts are made to trace them (pending the court judgement declaring them missing or dead); or 2) parents or single parent are temporarily incapable of taking care of the child because of the parents' (the father's or the mother's) illness, arrest, imposed sentence, or due to other compelling reasons; or 3) parents or single parent do not take care of the child, neglect him, do not look after him, do not bring him up properly, use physical or psychological violence thereby endangering the child's physical, mental, spiritual or moral development and safety (pending the court order separating the child from the parents)".

As for appointment of attorney, the Law on the Legal Status of Aliens specifies that the following groups of aliens have a right to receive free legal aid (unless the laws of the Republic of Lithuania provide otherwise):

- unaccompanied minor aliens;
- asylum applicants;
- aliens whose refugee status or provisional protection in the Republic of Lithuania is withdrawn.

Article 82 of the law provides for that a minor asylum applicant must be questioned in the presence of his lawful representative or

³³ It is unclear whether a term "legal guardian" was invoked to signify a guardian or an attorney. The report tries to address both meanings.

temporary guardian (curator) and his right to legal assistance guaranteed by the state must be safeguarded.

On the other hand, at the moment legal acts do not specify clearly the procedures how the state-guaranteed legal aid is provided. Paragraph 3 of Article 1 of the Law on State-Guaranteed Legal Aid establishes that in the cases established by the Republic of Lithuania Law on the Legal Status of Aliens, the procedure for exercising the rights of asylum applicants and other aliens to State-guaranteed legal aid shall be laid down by the Republic of Lithuania Law on the Legal Status of Aliens (in other words, these cases are not covered by the Law on State-Guaranteed Legal Aid). The expenses for the state-guaranteed legal aid are granted on the basis of Paragraph 4³⁴ of Article 71 and Paragraph 6 of Article 95³⁵ of the Law on the Legal Status of Aliens, which covers only asylum-seekers and persons under subsidiary protection. Thus it is not clear enough how the state-guaranteed legal aid is provided to unaccompanied minors or other minors that do not fall into these categories³⁶.

- [34]. Articles 3.238 and 3.239 of the Civil Code state that guardianship is established with the aim of exercising, protecting and defending the rights and interests of a *legally incapable person* and curatorship shall be established with the aim of protecting and defending the rights and interests of a person of *limited active capacity*. According to the rules the Book II of the Civil Code, persons below 14 years of age are legally incapable and persons between the age of 14 to 18 (with exception of emancipation or marriage cases) are of limited active capacity.

³⁴ „State funds of the Republic of Lithuania shall be allocated for implementing the rights of the asylum applicants specified in paragraphs 1 and 2 of this Article (e. g. right to make use of legal aid guaranteed by the state – remark of the author); resources of international organisations, EU structural funds, resources of humanitarian assistance funds established by natural and legal persons of the Republic of Lithuania may also be used to the extent the asylum applicant is unable to guarantee them by the resources and property subject to declaration.“

³⁵ „State funds of the Republic of Lithuania shall be allocated for implementing the rights of the aliens specified in paragraphs 1 and 2 of this Article; resources of international organisations, EU structural funds, resources of humanitarian assistance funds established by natural and legal persons of the Republic of Lithuania may also be used to the extent the alien is unable to guarantee them by the resources and property subject to declaration.“

³⁶ On the other hand, the author received oral explanations from several officials that this is a temporary situation and it does not pose practical problems, as at the moment there are no unaccompanied minors that are not asylum-seekers, as well as, due to the fact that responsible bodies exhaust all other possibilities to provide the alien with necessary legal aid.

- [35]. Article 123 of the Law on the Legal Status of Aliens provides for that if there are reasonable grounds to doubt the alien's age, the Migration Department may oblige the alien who is applying for the issue of a residence permit or for the granting of asylum to undergo an age determination test. The age determination test is accomplished by court experts. The age determination test must be performed with the consent of the alien whose age has to be determined. Determining the age of an alien who is a minor the test shall be performed only with the consent of the alien's parents, other legal representatives or temporary guardian (curator). Principle of benefit of doubt is applicable³⁷. On the other hand, the law prescribes that if the alien refuses to undergo an age determination test, he shall be considered as not meeting the conditions set by this law.
- [36]. The Rules on the Organisation of the Child Guardianship (Curatorship)³⁸ determines the general requirements for persons that wish to be guardians (curators), the initial selection of them, the requirement to undergo a preparation programme, taking of the final decision on his eligibility to be appointed a guardian/curator. In 2007 Lithuania has received a licence for PRIDE programme from Child Welfare League of America. Under this programme 4 qualified tutors were prepared that started training of persons that wish to become guardians (curators) or wish to adopt a child. In 2007 31 families were prepared.³⁹

Paragraph 97 of the Rules on the Examination of the Applications of the Asylum-Seekers, on the Decision Taking and on the Execution of Them⁴⁰ provides for that questioning and other actions with an asylum-seeker of the vulnerable group (all children are included) must be performed by the civil servants that are trained to work with such vulnerable groups. The rules also provide for possibilities to bring in physician or psychologist to the questioning or to ask for medical expertise.

According to the law all civil servants and other personnel working in state or municipality financed institutions are obliged to improve their qualification regularly on the costs of the employers.

³⁷ It means that if a result of the age determination test result is an interval of possible minimum and maximum age, it is legally presumed that person's age is the possible minimum. However, the author for the purposes of this report could not find any legal provisions evidencing the application of this principle in practice.

³⁸ Adopted by the 27/03/2002 order of the minister of Social Affairs and Labour No. 405.

³⁹ The 2007 report of the State Child Rights Protection and Adoption Service under the Ministry of Social Affairs and Labour, p. 32 (see: http://www.ivaikinimas.lt/document_db/tfiles/529.pdf).

⁴⁰ Adopted by the 15/11/2004 order of the minister of Interior No. 1V-361.

This means that there is a legal and institutional framework for adequate training of personnel working with vulnerable children. However, as it was noted above, a major problem is not an absence of training or education programmes, but a lack of personnel and their persistent turnover, as well as a lack of volunteers wishing to be guardians or curators.

- [37]. The Law on the Legal Status of the Aliens provides for that application of asylum-seeker must be examined within 3 months⁴¹. This term can be prolonged up to 6 months. Hence it seems that the law provides for appropriate timing and possibilities for attorney to meet the client. It must be noted that Article 45 of the Law on the Bar establishes that it is prohibited to hinder the advocate from meeting with the client in private. Any information of the meeting between the advocate and his client may not be used as evidence.

⁴¹ In case of a safe third country, an application is not examined and the decision to expel an alien is taken within 48 hours (this term may be prolonged to 7 days). However, these provisions are not applicable to unaccompanied minor aliens and all their applications must be examined as to substance (See Articles 77 and 81 of the law)..

D. Coordination and cooperation

- [38]. In 2005 a minister of Interior set up a multi-institutional working group to coordinate the implementation of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings. In 2007 a minister of Interior has appointed one of the secretaries of the ministry as a national coordinator on the prevention and fight against human trafficking.⁴² The same year the multi-institutional group was expanded with introduction of various governmental actors that are working in the sphere.⁴³ Since then two times a year joint meetings of the national coordinator, multi-institutional group, responsible police officers and relevant NGO's are held to improve coordination and information work in the field. Its latest meetings were devoted to adopt common criterions on how to identify victims of trafficking (mainly for statistical purposes) and introduce recent changes in the police system (there were 10 responsible police officers in the regional departments appointed to coordinate fight against human trafficking).
- [39]. There are no formal agreements between relevant ministries on the issue of human/child trafficking. Nonetheless, the ministries and other governmental bodies cooperate within the framework of national plans (e. g. Programme on Prevention and Control of Trafficking in Human Beings), the coordination commissions or working groups, etc.
- [40]. The Law on Legal Protection of Personal Data that aims at the protection of an individual's right to privacy with regard to the processing of personal data. The implementation of the law is supervised and monitored by the State Data Protection Inspectorate. The major objectives of the State Data Protection Inspectorate are supervision of the activities of data controllers when processing personal data, monitoring the legality of processing of personal data, prevention of breaches in data processing and ensuring protection of the rights of the data subject.

The Law on the Protection of Minors against Detrimental Effect of Public Information establishes the criteria of public information, which might cause physical, mental or moral detriment to the development of minors⁴⁴, the procedure of making available to the public and dissemination thereof and also, the rights, obligations and liability of the producers, disseminators and their owners, journalists

⁴² 30/3/2007 order of the minister of Interior No. 1V-109.

⁴³ 8/5/2007 order of the minister of Interior No. 1V-173.

⁴⁴ Para 1 of Article 2 of the law establishes that minor means a person under 18 years of age.

and institutions regulating their activities. Article 5 of this law provides for that the personal data of a minor who has been the victim of a criminal offence or other violations of the law, on the basis of which, his personal identity could be established, are considered as causing detrimental effect to the development of minor and thus it is prohibited to openly communicate it to the public. Article 9 provides that the supervision of the implementation of the provisions of this law is exercised by the Inspector of Journalist Ethics who has a right to punish in accordance with administrative procedure the producers, disseminators of public information and the owners thereof and journalists and other persons for violations of this law. Mass media usually abide the provisions of this law. Nevertheless, some major newspapers from time to time neglect the provisions of this law, especially in cases that draw much public attention, but mostly when media disclose minor's personal data, who is suspected in criminal act or is victim of a criminal act.

- [41]. Government of the Republic of Lithuania has cooperation agreements on fight against organized crime, terrorism and other transnational crimes with Governments of these non-EU states: Kazakhstan, Uzbekistan, Byelorussia, Ukraine and Turkey. Most of these agreements (except of agreement with Turkey) mention, in particular, cooperation in fight against trafficking in human beings.⁴⁵
- [42]. Lithuania and its competent authorities are active members of working groups or task forces within the Council of the Baltic Sea States⁴⁶, the OSCE⁴⁷, the Europol, the Interpol, etc. Lithuanian authorities are participating in projects that are financed by the EU Agis, Equal, Daphne and other programmes.

It must be noted that Lithuanian NGOs are no less active participants of international fight against trafficking in human beings. They are keeping contacts with similar foreign organisations⁴⁸ and they take

⁴⁵ www.urm.lt

⁴⁶ The Council has established the Working Group for Cooperation on Children at Risk and the Task Force against Trafficking in Human Beings with focus on adults.

⁴⁷ For instance, the OSCE and the Republic of Lithuania in 2007 has organised a high-level international conference "Preventing Trafficking in Human Beings: Challenges and Solutions". It had 140 participants from more than 30 countries (the Report of the Ministry of Interior on the implementation of measures of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings in 2007).

⁴⁸ For instance, NGO "Centre for Support of Families of Missing People" cooperates with National Missing Persons Helpline (UK), Itaka Foundation (Poland), Child Focus (Belgium), Salvation Army, Doe Network (USA); NGO "Vaiko namas" cooperates with NGO "Ponimanie" (Byelorussia); etc.

advantage of possible support of international foundations⁴⁹ or, e.g., EU programmes. They also participate in the international projects or in the activities of international networks⁵⁰.

⁴⁹ For instance, NGO “Centre for Support of Families of Missing People” is, in particular, sponsored by the Carnegie Social Initiative, the Aland Islands Peace Institute, the Radda Barnen; NGO „Vaiko namas“ is, in particular sponsored by the World Childhood Foundation; etc.

⁵⁰ For instance, NGO Women’s Issues Information Centre and NGO Klaipeda social and psychological support centre are participating in the Nordic -Baltic pilot project Support, protection, safe return, and rehabilitation of women victims of trafficking for sexual exploitation.

E. Care and protection

E.1. Reflexion period

[43]. Paragraph 4 of Article 130 of the Law on the Legal Status of Aliens provides for that “the alien shall not be expelled from the Republic of Lithuania or returned to a foreign state if he has been granted the reflexion period according to the procedure established by the Government of the Republic of Lithuania, during which he, as the present or former victim of human trafficking, has to pass a decision on cooperation with the pre-trial investigation body or the court.” However, Government has not yet adopted legal act specifying the aforementioned procedure and the duration of the reflexion period.

E.2. Right to a (temporary) residence in Lithuania to victims of trafficking

[44]. There are no special provisions ensuring a right to residence to child victims of trafficking. Such a provision is only entitled to adult victims of crime and if they do cooperate with pre-trial investigation body or court, as Lithuania has opted out the application of the provisions of 2004/81/EC Directive to minors⁵¹. Article 49¹ of the of the Law on the Legal Status of Aliens:

“Article 49¹ Issue of a Temporary Residence Permit to an Alien who Cooperates with the Pre-trial Investigation Body or the Court, Combating Trafficking in Human Beings or Crimes Linked to Trafficking in Human Beings

1. The temporary residence permit may be issued to an adult alien who is or has been a victim of human trafficking and cooperates with pre-trial investigation body or the court, combating trafficking in human beings or crimes concerning human trafficking, if the pre-trial investigation body or the court mediates in issuing the temporary residence permit for such an alien.

2. The alien for whom the pre-trial investigation body or the court mediates in issuing the temporary residence permit, the temporary residence permit shall be issued for six months.

3. The temporary residence permit indicated in paragraph 1 of this Article may be replaced for an alien if the pre-trial investigation body or the court mediates for issuing it.

⁵¹ See the correlation table of the provisions of Directive and implementing draft-legislation:

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=269506&p_query=%222004%2F81%2FEB%22&p_tr2=2 (in Lithuanian).

4. After the alien specified in paragraph 1 of this Article has been issued a temporary residence permit, the alien shall be permitted, on the decision of the mediating institution or the court to find residence in the place of his choice or the place indicated by the said institution.

5. The alien who has been issued the temporary residence permit on the ground provided for by subparagraph 12⁵² of paragraph 1 of Article 40 of this Law and who is not in the possession of sufficient means of subsistence shall be entitled to receive immediate medical aid and social services according to the procedure established by the legal acts of Republic of Lithuania.

6. The alien, issued the temporary residence permit on the ground provided for by subparagraph 12 of paragraph 1 of Article 40 of this Law, having received the permit to work shall be entitled to work during the validity of the residence permit.”

On the other hand, children aliens (especially, unaccompanied minor aliens) in general are receiving a better status than adult aliens, in relation to the principle of the best interests of a child. For instance, an unaccompanied minor alien can be returned only provided that he will be duly taken care of in the foreign country to which the minor alien is returned, having regard to his needs, age and level of independence. In case an unaccompanied minor alien cannot be returned to the country of origin or any other country, he must be granted the right to reside in the Republic of Lithuania (Article 129 of the Law on the Legal Status of Aliens).

[45]. There is no statistical data on number of children being granted temporary stay on grounds of trafficking as there are no special legal provisions for them and, accordingly, there is no such statistical category.

E.3. Detention of alien minor

[46]. Legal framework concerning administrative detention of alien minor is established in Articles 112-119 of the Law on the Legal Status of Aliens. It provides for that the alien’s freedom of movement in the Republic of Lithuania may be restricted only in order to ensure the interests of state security, public policy, protect public health or morals, prevent crime or safeguard the rights and freedoms of other persons.

An alien may be detained on the following grounds:

⁵² “A temporary residence permit may be issued or replaced to an alien if: (...) 12) he shall be allowed to remain in the Republic of Lithuania as he is or has been a victim of human trafficking and cooperates with the pre-trial investigation body or with the court in the fight against trafficking in human beings or in combating the offences of trafficking in human beings. The provision shall be applied only to adult aliens.”

- in order to prevent the alien from entering the Republic of Lithuania without a permit;
- if the alien has illegally entered or stays in the Republic of Lithuania, with the exception of cases when he has filed an application for refuge in the Republic of Lithuania;
- when it is attempted to return the alien who has been refused entry in the Republic of Lithuania to the country from whence he has come;
- when the alien is suspected of using forged documents;
- when a decision has been taken to expel the alien from the Republic of Lithuania or another state to which the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies;
- in order to stop the spread of dangerous and especially dangerous communicable diseases;
- when the alien's stay in the Republic of Lithuania constitutes a threat to state security, public policy or public health.

An alien may be detained by the police or any other law enforcement institution officer for a period not exceeding 48 hours. For a period of over 48 hours an alien can be detained at the Foreigners' Registration Centre⁵³ on court order.

In view of the fact that the alien's identity has been established, he constitutes no threat to state security and public policy, provides assistance to the court in determining the alien's legal status in the Republic of Lithuania as well as other circumstances, the court may take a decision not to detain the alien and to grant him a measure alternative to detention. Measures alternative to detention are as follows:

- requiring that the alien regularly at the fixed time report at the appropriate territorial police agency;
- requiring that the alien communicate his whereabouts at the fixed time by communication means to the appropriate territorial police agency;

⁵³ Para 4 of Article 79 of the on the Legal Status of Aliens defines the Foreigners' Registration Centre as "an agency intended for keeping the aliens detained on the grounds specified in this Law and for accommodating the asylum applicants, carrying out investigation as regards personal identity of aliens detained or accommodated at the Centre, the circumstances of their entry in the Republic of Lithuania, managing record-keeping of aliens, carrying out expulsion of aliens from the Republic of Lithuania. The Foreigners' Registration Centre shall be set up, re-organised and liquidated by the Minister of the Interior."

- entrusting the guardianship of the alien, pending the resolution of the issue of his detention, to a citizen of the Republic of Lithuania or an alien legally resident in the Republic of Lithuania who is related to the alien, provided that the person undertakes to take guardianship of and to support the alien.

If there are grounds for detaining an alien established by this law, an officer of the police or any other law enforcement institution must apply to the district court of the location of the alien's stay with a motion to detain the alien for a period of over 48 hours or to grant the alien a measure alternative to detention within 48 hours from the moment of detention of the alien. The alien's presence at the court hearing is mandatory. During the court hearing of the motion for detention of the alien or for granting him a measure alternative to detention the alien is entitled legal assistance guaranteed by the State of Lithuania.

The court hears the motion under the procedure prescribed by the Law on Administrative Proceedings and this Law. The court's decision to detain the alien or to grant him a measure alternative to detention must be forthwith announced in a language which the alien understands, indicating the reasons of his detention or of granting of measures alternative to detention. The court's decision to detain the alien or to grant him a measure alternative to detention becomes effective from the moment of its announcement. An alien has a right to appeal to the Supreme Administrative Court of Lithuania, according to the procedure established by the Law on Administrative Proceedings, the decision of the court to detain him or to extend the detention period or to apply measures alternative to detention with respect to the alien.

Upon the disappearance of the grounds for the alien's detention the alien is immediately released based on the effective court's decision. If the alien's detention period expires, he must be promptly released from the place of detention.

- [47]. Rules on the Conditions and Order of the Temporary Placement of Aliens at the Foreigners' Registration Centre⁵⁴ foresees that all detained aliens are segregated from other aliens, women – from men, asylum seekers – from detained asylum seekers. Families are usually placed together in a separate room. Aliens may be segregated into more groups depending on the country of origin, religion, dangerousness, etc. Although the Rules do not provide for rule that children are segregated from adults, but it seems that it is unnecessary, as children are usually accommodated with their

⁵⁴ Adopted by the decree No. 1V-340 of the Minister of Interior on 4/11/2007.

families. The Rules explicitly states that unaccompanied minor aliens cannot be placed at the Foreigners' Registration Centre⁵⁵.

The Rules provides for certain specific provisions for the minor aliens, in particular:

- minor aliens receive meal 4 times a day (adults – 3 times);
- minor aliens have a right to attend school and other activities for children outside the Foreigners' Registration Centre;
- minor aliens have a right to free consultations of psychologist.

E.4. Return and Family reunification

[48]. Paragraph 3 of Article 32 of the Law on the Legal Status of Aliens provides for that having received information about an unaccompanied minor alien, the Migration Department together with representatives of non-governmental or international organisations and the temporary guardian/curator of the minor alien immediately must organise search for the minor's family members. When conducting the search for the family members the issue of the legal status in the Republic of Lithuania of the unaccompanied minor alien is also addressed.

Although the Law on the Legal Status of Aliens does not grant asylum to aliens coming from safe third countries and they are obliged to depart from the Republic of Lithuania to a safe third country, are expelled or re-fouled to it, this provision does not apply to an unaccompanied minor asylum applicant (Paragraph 3 of Article 77 of the Law on the Legal Status of Aliens).

Aliens, including minor aliens under the age of 18 who stay unlawfully on the territory of the Republic of Lithuania may be returned voluntarily or by force to the country of origin or to a foreign country to which they have the right to depart. An unaccompanied minor alien can be returned "only provided that he will be duly taken care of in the foreign country to which the minor alien is returned, having regard to his needs, age and level of independence". Article 79

⁵⁵ All unaccompanied minor aliens, regardless of the lawfulness of their stay on the territory of the Republic of Lithuania, are taken into temporary guardianship/curatorship for the period of the child's stay in the Republic of Lithuania. Unaccompanied minor asylum applicant is provided with accommodation at the Refugee Reception Centre according to the procedure set by the Minister of the Interior and Minister of Social Security and Labour, unless this is objected to by his temporary guardian (curator) or other lawful representative.

allows taking into consideration possible dangers in that country. In case an unaccompanied minor alien cannot be returned to the country of origin or any other country, he must be granted the right to reside in the Republic of Lithuania.

A temporary residence permit may be also issued to an alien in the event of family reunification if, in particular, the parents of the minor alien or one of them or the spouse of one of them, who is a citizen of the Republic of Lithuania or is in possession of the residence permit, in whose guardianship the minor alien is, are residing in the Republic of Lithuania⁵⁶.

E.5. Shelters for victims of trafficking

[49]. The Civil Code provides for that until they attain majority or emancipation, children shall be cared for by their parents. The rights of children under 18 years old must be assured by the parents. The rights of children deprived of parental care must be assured by the guardian/curator according to the rules laid down in the Civil Code. A child has a right to live with his or her parents, be brought up and cared for in his or her parents' family, have contact with his or her parents no matter whether the parents live together or separately, have contact with his or her relatives, unless that is prejudicial to the child's interests. Thus, generally speaking, all child victims of trafficking should live with and be cared by their parents or by the guardian/curator. Unaccompanied minor asylum applicant is provided with accommodation at the Refugee Reception Centre according to the procedure set by the Minister of the Interior and Minister of Social Security and Labour.

As it was mentioned above, Article 32 of the Law on the Legal Status of Aliens provides for that temporary guardianship/curatorship for the period of the child's stay in the Republic of Lithuania is provided to all unaccompanied minor aliens, regardless of the lawfulness of their stay in the territory of the Republic of Lithuania and regardless of the fact whether he/she was or was not identified as a victim of trafficking. Unaccompanied minor aliens have a right "to be supplied with free accommodation and be supported in the manner established by the Minister of Social Security and Labour of the Republic of Lithuania". Usually unaccompanied minor asylum applicants are provided with accommodation at the Refugee Reception Centre according to the procedure set by the Minister of the Interior and

⁵⁶ Article 43 of the Law on the Legal Status of Aliens provides for some additional conditions and restrictions on this.

Minister of Social Security and Labour, unless this is objected to by his temporary guardian (curator) or other lawful representative.

Speaking about returning to the country of origin national victims of trafficking (mostly they are underage girls and young women) it is up to their and their parents' decision, where to live. Municipal Children Rights Protection Services are in charge to supervise whether a child is properly taken care-of and whether his rights are protected. If necessary a guardian/curator is appointed under rules of the Civil Code. On the other hand, the return of victims of trafficking, their support and reintegration is well coordinated by the IOM Vilnius bureau and relevant NGOs (these activities are supported by the Programme on Prevention and Control of Trafficking in Human Beings). If they need a (temporary) shelter or other services, they can use relevant governmental/municipal facilities (e. g. Motinos ir vaiko pensionas in Vilnius) or services of NGOs.

- [50]. The Programme on Prevention and Control of Trafficking in Human Beings provides for budgetary allocations to NGO's projects that do provide social care, protection and rehabilitation of victims of trafficking⁵⁷. Now there are up to 13 NGOs that regularly participate in this programme. From 2002 there were 78 projects supported. For instance, in 2007 within these projects 80 persons⁵⁸ were provided with shelter and other services, 358 persons were provided with support and services without shelter. 14.8% of these persons were underage girls (under 18 years old).⁵⁹ In 2006 83 persons were provided with shelter and 319 persons – with support and services without shelter. 20.6% of these persons were underage girls. In 2006 8 of 13 projects have provided shelter services.⁶⁰ Shelter services are provided only by few of these NGOs, as other NGOs provide services without shelter. As a rule, such a shelter is a rented or provided by the municipality free of charge flat where several victims of trafficking live together. The workers of NGOs regularly visit them, provide with necessary support, food, etc. The location of such flats is kept in secrecy in order not to reveal it to traffickers. Another option is

⁵⁷ As it was mentioned above, discussions still continue between relevant NGOs and government agencies, on the definition of victim of trafficking. Many NGOs treat (almost) every person that prostitutes himself as a victim of trafficking, irrespective of his will to cooperate with law enforcement institutions. For instance, "Caritas" renders assistance to "women that are victims of prostitution or trafficking in Lithuania or foreign states" (see: http://www.anti-trafficking.lt/index.php?s_id=22&lang=lt).

⁵⁸ Persons involved in prostitution, victims or possible victims of trafficking.

⁵⁹ Report of the Ministry of Interior on the implementation of measures of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings in 2007.

⁶⁰ Apibendrinta 2006 m. ataskaita apie prekybos žmonėmis situaciją Lietuvoje, [Situation Report on Trafficking in Human Beings in Lithuania 2006] 2007, p. 61-63.

sheltering women in NGOs centres for women and children at risk (e. g. victims of domestic violence).

In 2007 the Refugee Reception Centre received and accommodated 27 minor aliens: 23 children were with their families and 4 children were unaccompanied minors. In 2006 these numbers were accordingly: 31, 28, 3; in 2005: 25, 18, 7; in 2004: 24, 22, 2; in 2003: 86, 81, 5; in 2002: 59, 52, 7.⁶¹ No information is provided whether some of these children were victims of trafficking.

- [51]. The Refugee Reception Centre provides for official data about children that have run away from them. In 2002 3 children ran away, in 2003 – 11, in 2004 – 4, in 2005 – 2, in 2006 – 1, in 2007 – none.⁶² No information is provided whether these children were found, as well as whether they were victims of trafficking.

No aggregated information is available about persons (in particular, children) that have abandoned shelters of NGO's or/and fell back to trafficking. Of course, NGO's put lot of efforts to prevent it; however, it is not possible to evade this totally.

E.6. Health care

- [52]. Article 6 of the Law on Health Insurance establishes that these children are insured by the state:

- nationals under 18 years of age;
- persons having permanent residence permits under 18 years of age;
- persons having temporary residence permits and working legally in Lithuania and their children under 18 years of age;
- unaccompanied minor aliens;
- aliens under 18 years of age that have received provisional or temporary protection under the Law on the Legal Status of Aliens;
- other children – in cases provided by international treaties to which Lithuania is a party.

According to this law, these medical services are provided to insured children:

⁶¹ Data provided at the website of the Refugee Reception Centre (<http://www.rppc.lt/>).

⁶² Ibid.

- 100% of the base price of compensatory medicines included in the List of Diseases and Compensatory Medicines for Their Treatment and in the List of Compensatory Medicines is compensated for children aged below 18 years;
- Full base price of medical rehabilitation, including health restoration treatment, is compensated for children aged below 18 years;
- 90% of the base sanatorium (anti-recurrence) treatment price is compensated for children aged below 7 years and disabled children who have not reached the age of 18.

The law does not foresee any special legal provisions for victims of trafficking.

As it was mentioned above, Article 32 of the Law on the Legal Status of Aliens provides for that all unaccompanied minor aliens have a right to receive free immediate medical aid⁶³ in the manner prescribed by the Health Minister and a right to be provided with free social services in the manner prescribed by the Minister of Social Security and Labour.

There is no official data available for number of trafficked children that have received full health care services as there are no special legal provisions for them and, accordingly, there is no such statistical category.

However, reports on the implementation of measures Programme on Prevention and Control of Trafficking in Human Beings do provide certain numbers. For instance, in 2007 of 80 persons that received shelter services from NGO's 63 persons have also received medical aid, 52 – psychological care; and of 358 persons that received services from NGO's (without shelter) 84 received medical aid, 105 – psychological care. Exact number of minors is not provided, but it is stated that 14.8% of all participants were underage girls⁶⁴, there is not any information about underage boys.

E.7. Education

[53]. Article 41 of the Constitution establishes that education shall be compulsory for persons under the age of sixteen and that education at State and local government secondary, vocational, and higher schools shall be free of charge.

⁶³ It seems that the Law on Health Insurance provides for broader protection to unaccompanied minor aliens than it is prescribed by the Law on the Legal Status of Aliens which specifies only free immediate medical aid.

⁶⁴ Report of the Ministry of Interior on the implementation of measures of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings in 2007.

Article 25 of the Law on Education provides that each citizen of the Republic of Lithuania, also each alien having a permanent or provisional residence permit for the Republic of Lithuania, has the right to study, attain an education level and a qualification. The State must take measures so that each child in Lithuania studies according to primary, basic, secondary or special education curricula. The State guarantees each citizen of the Republic of Lithuania, also each alien having a permanent or provisional residence permit for the Republic of Lithuania: 1) primary, basic and secondary education; 2) access to special education, post-secondary and higher education study curricula or vocational training curricula that result in the acquisition of a primary qualification.

The Law on the Legal Status of Aliens specifies that the following groups of alien children have a right to study at general education schools and vocational schools:

- unaccompanied minor aliens;
- asylum applicants who are minors;
- minors enjoying temporary protection in the Republic of Lithuania.

However there is no official data available for number of trafficked children that have received access to education as there are no special legal provisions for them and, accordingly, there is no such statistical category.

E.8. Legal aid

[54]. The Article 11 of the Law on State-Guaranteed Legal Aid provides for that all citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union and other persons specified in international treaties of the Republic of Lithuania are eligible for primary legal aid⁶⁵. In other words, these person's can receive up to 1 hour of free legal consultations by civil servants of the municipality administration, where the job descriptions of their positions establish the functions of a legal nature, or lawyers or the public agencies with which municipalities have concluded an agreement.

⁶⁵ "Primary legal aid" means the provision of legal information in accordance with the procedure laid down by this law, legal advice and drafting of the documents to be submitted to state and municipal institutions, with the exception of procedural documents. This legal aid also covers advice on the out-of-court settlement of a dispute, actions for the amicable settlement of a dispute and drafting of a settlement agreement.

The following persons are eligible for secondary legal aid⁶⁶:

- citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union whose property and annual income do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under this Law;
- citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union as specified in Article 12 of this Law;
- other persons specified in international treaties of the Republic of Lithuania⁶⁷.

In addition, Article 12 of the Law on State-Guaranteed Legal Aid provides for that aggrieved parties in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal case, are eligible for secondary legal aid regardless of the property and income level.

The secondary legal aid is provided by lawyers that are selected on the basis of competition by the State-guaranteed legal aid services. A person wishing to receive secondary legal aid must submit to the service an application and the documents attesting to his eligibility for secondary legal aid.

On the other hand, Paragraph 3 of Article 1 of the Law on State-Guaranteed Legal Aid establishes that in the cases established by the Republic of Lithuania Law on the Legal Status of Aliens, the procedure for exercising the rights of asylum applicants and other aliens to State-guaranteed legal aid shall be laid down by the Republic of Lithuania Law on the Legal Status of Aliens (in other words, these cases are not covered by the Law on State-Guaranteed Legal Aid).

⁶⁶ “Secondary legal aid” means drafting of documents, defence and representation in court, including the process of execution, representation in the event of preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision. This legal aid also covers the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case.

⁶⁷This provision is very open and vague, thus it remains unclear how it should be applicable, e. g. to victims of trafficking. At the moment, however, it seems that none of the ratified international legal treaties obliges state to ensure free secondary legal aid.

The Law on the Legal Status of Aliens specifies that the following groups of aliens have a right to receive free legal aid (unless the laws of the Republic of Lithuania provide otherwise):

- unaccompanied minor aliens;
- asylum applicants;
- aliens whose refugee status or provisional protection in the Republic of Lithuania is withdrawn.

The expenses for the state-guaranteed legal aid are granted on the basis of Paragraph 4⁶⁸ of Article 71 and Paragraph 6 of Article 95⁶⁹ of the Law on the Legal Status of Aliens, which covers asylum-seekers and persons under subsidiary protection. Though it is not clear enough how the state-guaranteed legal aid is provided to unaccompanied minors or other minors that do not fall into these categories⁷⁰.

There is no official data available for number of trafficked children that have received state-guaranteed legal aid as there are no special legal provisions for them and, accordingly, there is no such statistical category.

However, reports on the implementation of measures Programme on Prevention and Control of Trafficking in Human Beings do provide certain numbers. For instance, in 2007 of 80 persons that received

⁶⁸ „State funds of the Republic of Lithuania shall be allocated for implementing the rights of the asylum applicants specified in paragraphs 1 and 2 of this Article (e. g. right to make use of legal aid guaranteed by the state – remark of the author); resources of international organisations, EU structural funds, resources of humanitarian assistance funds established by natural and legal persons of the Republic of Lithuania may also be used to the extent the asylum applicant is unable to guarantee them by the resources and property subject to declaration. “

⁶⁹ „State funds of the Republic of Lithuania shall be allocated for implementing the rights of the aliens specified in paragraphs 1 and 2 of this Article; resources of international organisations, EU structural funds, resources of humanitarian assistance funds established by natural and legal persons of the Republic of Lithuania may also be used to the extent the alien is unable to guarantee them by the resources and property subject to declaration.“

⁷⁰ On the other hand, the author received oral explanations from several officials that this is a temporary situation and it does not pose practical problems, as at the moment there are no unaccompanied minors that are not asylum-seekers, as well as, due to the fact that responsible bodies exhaust all other possibilities to provide the alien with necessary legal aid.

shelter services from NGO's 47 persons have also received legal aid⁷¹; and of 358 persons that received services from NGO's (without shelter) 36 received legal aid. Exact number of minors is not provided, but it is stated that 14.8% of all participants were underage girls.⁷²

It must be noted that Ministry of Foreign Affairs provides for consular and other support to victims of trafficking that are returning to Lithuania. For instance, in 2007 7 persons have received consular and other support (no information is provided whether these persons were underage).⁷³

E.9. Children with special needs

[55]. Most victims of trafficking in Lithuania are nationals of Lithuania or nationals of countries with similar social and historical background (Byelorussia, Ukraine, Moldova, etc.) thus the latter do not have any particular special needs comparing to Lithuanian victims. Most Lithuanians are speaking Russian language and there are no major communication problems.

Some national minorities (Roma, Chechen) are in a more vulnerable position in comparison to other minorities. However, there is no statistical data, what may confirm that children from these minorities are linked to trafficking in human beings. There is no statistical data on disabled children that could be also linked to trafficking.

[56]. It must be noted that in all legal proceedings (criminal process, civil process, administrative process, etc.) only official state language (Lithuanian) is used. Nevertheless, laws provide for that any person who does not speak or understand Lithuanian is provided by an interpreter free of charge. For instance, Article 71 of the Law on the Legal Status of Aliens establishes that during the examination of an asylum applicant's Asylum Application in the Republic of Lithuania the applicant has a right to make use of the interpreter's services free of charge. Article 82 provides for that if the asylum applicant so desires, during his questioning his right to legal assistance guaranteed by the state and the right to interpreter's services must be ensured. A minor asylum applicant must be questioned in the presence of his

⁷¹ It is not state-guaranteed legal aid, but legal consultations as part of services provided for by NGO's to persons involved into prostitution, victims or possible victims of trafficking.

⁷² Report of the Ministry of Interior on the implementation of measures of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings in 2007.

⁷³ Ibid.

lawful representative or temporary guardian (curator) and his right to legal assistance guaranteed by the state must be safeguarded. An asylum applicant must be notified of all decisions taken in respect of him in the language known to him and shall be provided with copies thereof.

E.10. Hotline and similar instruments

[57]. Since 01/01/2004 there is a Single Emergency Call Number 112 for cases of sudden real threat to life, health, safety, environment or property when emergency services are needed to arrive instantly to emergency location to provide immediate assistance.

The hotline number 116000 is reserved for the purposes of reporting missing and sexually-exploited children (following Commission Decision 2007/116/EC). However it is not working yet as question of its establishment is still pending at the relevant ministries.

[58]. There are several hotlines that are relevant to issues of sexual violence, trafficking in human beings, missing persons. For instance:

- “Vaikų linija” is psychological support line to small children and teenagers that is available via free telephone number 8-800-11111, via internet or via regular mail⁷⁴.
- Regional psychological support lines for children, youth or all people work in Vilnius, Kaunas, Klaipėda, Šiauliai, Marijampolė and some other cities. These telephone lines are also free of charge.
- NGO “Centre for Support of Families of Missing People” has a free telephone line 8-800-26161 to help people whose family member or relative is missing.
- The 2008-2010 National Programme on Prevention of Violence against Children and on Support for Children foresees a measure in 2008 to initiate and start a special free telephone help line for children.

⁷⁴ See: www.vaikulinija.lt . The website is only in Lithuanian and there is no information provided for in which languages the assistance is rendered. However, bearing in mind good language skills of Lithuanians, it seems that such assistance should be available in Lithuanian, English and Russian, and possibly in some other languages, depending on skills of working personnel.

F. Best interests determination and durable solutions, including social inclusion/return

[59]. Article 129 of the Law on the Legal Status of Aliens provides for that aliens, including minor aliens under the age of 18 who stay unlawfully on the territory of the Republic of Lithuania may be returned voluntarily or by force to the country of origin or to a foreign country to which they have the right to depart. An unaccompanied minor alien can be returned “only provided that he will be duly taken care of in the foreign country to which the minor alien is returned, having regard to his needs, age and level of independence”. This provision allows taking into consideration possible dangers in that country and take a decision with regard to the principle of the best interests of a child. The law also states that in case an unaccompanied minor alien cannot be returned to the country of origin or any other country, he is granted the right to reside in the Republic of Lithuania. The question of the alien’s return must be decided in cooperation with foreign countries and international organisations according to the concluded international treaties.

[60]. There are no special provisions for child victims of trafficking in regard of asylum/subsidiary provision.

[61]. Article 3.164 of the Civil Code provides for that in considering any question related to a child, the child, if capable of formulating his or her views, must be heard directly or, where that is impossible, through a representative. Any decisions on such a question must be taken with regard to the child’s wishes unless they are contrary to the child’s interests. In making a decision on the appointment of a child’s guardian/curator or on a child’s adoption, the child’s wishes shall be given paramount consideration. If a child considers that his or her rights are abused, the child has a right to apply to a state institution for the protection of the child’s rights or, on attaining the age of 14, to bring the matter before the court.

Article 82 of the Law on the Legal Status of Aliens provides for that a minor asylum applicant must be questioned in the presence of his lawful representative or temporary guardian (curator) and his right to legal assistance guaranteed by the state must be safeguarded. An asylum applicant must be notified of all decisions taken in respect of him in the language known to him and shall be provided with copies thereof.

- [62]. As it was mentioned, the Law on the Legal Status of Aliens does not foresee special status for child victims of trafficking. Minors asylum-seekers can be granted a refugee status, a subsidiary or a temporary protection on general grounds.

However, a proper care is taken of any unaccompanied minor alien from his identification to his return or inclusion to Lithuanian society. It was mentioned, that an unaccompanied minor alien can be returned “only provided that he will be duly taken care of in the foreign country to which the minor alien is returned, having regard to his needs, age and level of independence”. In case an unaccompanied minor alien cannot be returned to the country of origin or any other country, he is granted the right to reside in the Republic of Lithuania. In the latter case, he is appointed a guardian (curator) on general grounds and he has access to full health care, education and vocational training, accommodation, legal aid and any other services as any other child that is legal resident of Lithuania⁷⁵. In addition, he can start or continue benefiting from services of relevant NGOs whose efforts are partially supported by the state.

- [63]. At the moment, there are no special programmes for trafficked children who receive asylum or subsidiary protection in Lithuania. They all undergo general integration programmes. It must be noted that there have been almost no facts identified of trafficking occurrence among minor asylum-seekers in Lithuania⁷⁶.

- [64]. All disabled children receive an extended protection and care by virtue of law. Chapter IV of the Law on the Fundamentals of Protection of the Rights of the Child is devoted to rights of a disabled child. The law states that a disabled child shall have equal rights with normal children to lead an active life, develop and acquire an education befitting his physical and mental potential and desires, to be engaged in work that suits him and to participate in creative and social activity. Recognising his special needs, a disabled child must have the right to obtain special (extraordinary) care. The person, who cares for him, must be rendered social, medical and other assistance. A disabled child shall have the right to privileged services by treatment providing institutions, sanatoriums and resorts, as provided by laws and other legal acts. He shall be given qualified medical assistance based on early diagnosis, and provided appropriate corrective and rehabilitative

⁷⁵ See more in part 5 „Care and protection“.

⁷⁶ One of officials has told orally about one case of suspected child trafficking victim among minor aliens several years ago. At that moment an earlier version of legislation was in force and thus a child was offered an extended visa. During his stay he received necessary support from governmental bodies and relevant NGOs. The official did not elaborate on this further as it was just an example from a general context (Remark of the author).

treatment methods. This assistance shall be provided by physician specialists, prosthetics experts, rehabilitation experts and other medical specialists and, when dictated by necessity, treatment will be scheduled in institutions of specialised medicine. Teachers, educators and social workers shall receive special training for work with children having physical and mental disabilities. There are lot of legal acts and measures that are devoted to implement the provisions of this law⁷⁷.

Children belonging to ethnic minorities groups receive support of the state as a part of its general support to ethnic minorities. Roma minority is especially vulnerable in Lithuania⁷⁸. Lithuania has long been recommended to put more efforts to integrate them to Lithuanian society. In 26/03/2008 Government adopted the 2008-2010 Programme⁷⁹ for Roma integration to Lithuanian society which foresees such measures as organising supplementary primary, secondary and informal education for Roma children, training for teachers of Roma children, organising summer-camps for Roma children, financial support of Roma youth that is studying in higher education institutions, etc. Anticipated budgetary allocations for the implementation of measures of the programme are 4.4 millions Litas (approximately 1.3 millions euro).

⁷⁷ See more: the Second periodic report of Lithuania on the implementation of UN Convention on the Rights of the Child (<http://daccess-ods.un.org/access.nsf/Get?Open&DS=CRC/C/83/Add.14&Lang=E>), etc.

⁷⁸ See more: Section II of the Third report on Lithuania adopted by the European Commission against Racism and Intolerance (http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/lithuania/Lithuania%20third%20report%20-%20cri06-2.pdf), etc.

⁷⁹ This programme continues the work started by the 2000-2004 Programme. However, a 4 year gap between them cannot be unnoticed.

G. Prosecution

G.1. Child-sensitive procedures within criminal proceedings

[65]. The Code of Criminal Procedure provides for a number of measures aimed at protecting the rights and interests child victims of criminal acts during the criminal procedure. In general, a victim and a victim's representative have the right to give evidence; to file applications; to challenge; to acquaint oneself with the case in the pre-trial and trial stages; to be present during the trial; to appeal against actions of a pre-trial investigation officer, prosecutor, pre-trial investigation officer or court; to appeal against a court's judgment or ruling; to give a closing speech (Article 28 of the Code of Criminal Procedure). It should be noted that Article 45 of the Code of Criminal Procedure provides that the judge, prosecutor or pre-trial investigation officer must inform the parties of the proceedings of their rights and ensure that they can exercise such rights.

The Code of Criminal Procedure also has certain specific provisions concerning the status of child victims and/or witnesses in the proceedings. Article 186 of the Code of Criminal Procedure provides that a witness or a victim under 18 years of age may be questioned by a pre-trial investigation judge, at a request of the child's representative, prosecutor or defence lawyer acting in the interests of the child. A witness or a victim under 18 years of age is normally questioned no more than once during the pre-trial investigation. The questioning may be video/audio-recorded. If the suspect or the suspect's representative is present at the questioning of the witness or victim under 18 years of age, the pre-trial investigation judge must ensure that such witness or victim is not under undue pressure. Witnesses and victims under 18 years of age are called to the hearing only in exceptional situations. A representative of a witness or victim under 18 years of age has the right to be present at their questioning. At the request of the parties of the proceedings or on the initiative of the pre-trial investigation officer or prosecutor or pre-trial investigation judge, a staff-member of a state institution for the protection of the rights of the child or a psychologist may be invited to the questioning of a witness or victim under 18 years of age, to assist in the questioning taking account of his/her social and psychological maturity.

Article 280 of the Code of Criminal Procedure provides that a staff-member of a state institution for the protection of the rights of the child or a psychologist must be called to the questioning of a witness under 18 years of age during the hearing, in order to assist in the questioning taking account of his/her social and psychological maturity. Where necessary, parents or other legal representatives of the child witness may also be called to the questioning. The staff-member of a state institution for the protection of the rights of the child or the psychologist present at the questioning, also parents or other legal representatives of the child witness may, with the permission of the chairperson of the hearing, ask the witness questions. A witness under 16 years of age must leave the hearing room immediately after the questioning, unless the court deems it necessary for him/her to stay. If there is a risk that the questioning in the hearing may cause a mental trauma or have other grave consequences for a witness under 18 years of age, such witness shall not be called to the hearing; instead, his/her evidence given to the pre-trial investigation judge is read out.

Article 283 of the Code of Criminal Procedure provides that the victim shall be questioned in the hearing and his/her evidence shall be read out by complying with all rules applicable to the questioning of witnesses and to the reading of their evidence. A victim under 18 years of age must be questioned only in the presence of his/her representative. A victim of this age and his/her representative have the right, by a court order, to be present only in a part of the hearing. If there is a risk that the questioning in the hearing may cause a mental trauma or have other grave consequences for a victim under 18 years of age, such victim may be excluded from the questioning. In this case, evidence given by the victim to the pre-trial investigation judge must be read out loud.

It must also be noted that these provisions do not prevent from minors being questioned (both during pre-trial investigation and during hearing) in special child-questioning rooms⁸⁰. Until recently the use of these child-questioning rooms was up to the decision of a prosecutor or a judge, as there was no obligation for this. Usually such facilities were used only in most serious cases (e. g. child sexual abuse or trafficking in children). However, in 2007 the Seimas (the Parliament) adopted amendments of Article 186 of the Code of Criminal Procedure that will come into force from 2009. According to them, if a judge deems that a suspect or other participants of

⁸⁰ Recently there were only two working child-questioning rooms, which were established within the premises of NGO's. But since 2007 government provided for necessary budgetary allocations and child-questioning rooms are gradually being established within court and police facilities.

criminal proceedings can make undue pressure to a child victim or witness, a judge decides not allow them being present during the questioning. In such a case, a questioning is video-recorded and a suspect and other participants of the criminal proceedings are provided with a possibility to watch the questioning from the other room and give questions to a victim/witness via judge. If this is impossible, then the recorded questioning is later showed to a suspect and other participants of the criminal proceedings and they can give additional questions to child victims or witnesses which are again asked via judge.

Article 9 of the Code of Criminal Procedure allows in-camera hearing of cases, where the criminal act was committed by a person under 18 years of age, or for offences or misdemeanours against a freedom of sexual self-determination and privacy, also other cases, when efforts are made to prevent publication of information on a private life of the parties to the proceedings or where the witness or victim questioned has the right to anonymity.⁸¹

G.2. Conviction statistics

[66]. By the data of the National Courts Administration, during 2005-2007 in the first instance courts⁸² there were 2 convictions (both in 2007) for a child sale or purchase (Article 157 of the Penal Code).⁸³ The conviction statistics until 2005 was grouped into bigger categories, thus it is not possible to identify exacts statistics for child trafficking.

The convictions statistics for trafficking in human beings provided for in the situation analysis section of the 2005-2008 Programme on Prevention and Control of Trafficking in Human Beings is as following: in 1999 – 2 convictions, in 2000 – 3, in 2001 – 7, in 2002 – 6, in 2003 – 2, in 2004 – 14. It must be noted that prior 1/5/2003 trafficking in children fell under general offence of trafficking in human beings (Paragraph 2 of Article 131³ of the (old) Penal Code) and that prior 30/06/2005 trafficking in children from 14 to 18 years old also fell under general offence of trafficking in human beings (Paragraph 2 of Article 147 of the Penal Code).

⁸¹ See the Lithuanian Report on the Implementation of the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was adopted by the Resolution No. 208 of Government on 7/2/2007.

⁸² This means that possible changes after appeal or cassation procedures are not taken into account.

⁸³ <http://www.teismai.lt/teismai/ataskaitos/statistika.asp> (Only in Lithuanian)

G.3. Access to justice

[67]. Article 44 of the Code of Criminal Procedure states that every person recognised as a victim has the right to demand that the offender be identified and punished justly, as well as claim for compensation for the damage done by the criminal act. The latter provision derives from the norms of the Civil Code, in particular, Article 6.263, which states that any bodily or property damage caused to another person and, in the cases established by the law, non-pecuniary damage must be fully compensated by the liable person. Article 6.250 of the same code clears up that non-pecuniary damage shall be compensated in all cases where it is incurred due to crime.

Bodily, property or non-pecuniary damage caused by the crime may be claimed by the civil suit within the criminal proceedings, as well as by a separate civil suit in civil proceedings.

The Law on State-Guaranteed Legal Aid provides for that aggrieved parties in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal case, are eligible for state-guaranteed (free) legal aid regardless of the property and income level.

Trafficking in children, as well as general offence of trafficking in human beings, do not fall into the category of offences that are investigated only by the claim of the victim or his representative.

[68]. There is no available data on the total amount, average amount and range of amounts of compensation paid to trafficked children, per year.

H. Miscellaneous

- [69]. At the moment there are no special issues related to trafficking in children in public debate.
- [70]. No additional information is provided.

I. Good practices

[71]. Some issues could be presented as examples of “good practice”:

- Legal and institutional framework to fight trafficking is generally corresponding to the latest recommendations of relevant international institutions.
- An exclusive attention to the problem of trafficking is showed by the governmental bodies. The 2002-2004, the 2005-2008 and the forthcoming 2009-2012 Programmes on Prevention and Control of Trafficking in Human Beings provided a sizeable amount of budgetary allocations for the issue of trafficking. A considerable proportion of this sum was rendered for support of NGOs activities in protecting and reintegrating victims of trafficking.
- Active work of IOM Vilnius bureau and relevant NGOs in the prevention of trafficking, as well as the return, protection and reintegration of victims of trafficking.
- National and international activities of governmental bodies and NGOs are fairly coordinated. Bi-annual meetings of relevant actors provide for a great opportunity to evaluate the preventive and control efforts to fight trafficking.
- The new state-guaranteed legal aid system is considered as one of the best in Europe. The system guarantees a primary legal aid (provided for by municipality lawyers) to every national and most of other residents. A secondary legal aid is provided to every person whose income or property level is below set standard, as well as to any other persons, in cases provided by the law.⁸⁴ However, it does not cover the procedure for exercising the rights of asylum applicants and other aliens, where state-guaranteed legal aid is provided under provisions of the Law on the Legal Status of Aliens and related legislation.
- Establishment of special subdivision for investigation of trafficking within Lithuanian Criminal Police Bureau, appointment of specialised prosecutors and police officers in regions provides for good institutional opportunities for effective national and transnational investigation of trafficking cases.

⁸⁴ English translation of the Law on State-Guaranteed Legal Aid is found here: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=284130. However it is not up to date version as some amendments were adopted in 2008. Visit also the website of state-guaranteed legal aid: <http://www.teisinepagalba.lt/?top=en&item=en>.

Annex 1 - Tables and Statistics

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|---|------|------|------|------|------|------|------|------|
| Number of children being granted temporary stay on grounds of trafficking | N/A |
| Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment) | N/A |
| Number of trafficked children receiving education/training, in particular secondary education and vocational training | N/A |
| Number of trafficked children receiving legal assistance (e.g. for claiming compensation) | N/A |
| Number of final convictions based on child trafficking cases, per year | N/A | N/A | N/A | N/A | N/A | 0 | 0 | 2 |

| | | | | | | | | |
|--|-----|-----|-----|-----|-----|-----|-----|-----|
| Total of amount of compensation paid to trafficked children, per year | N/A |
| Average of amounts of compensation paid to trafficked children, per year | N/A |
| Range of amount of compensation paid to trafficked children, per year | N/A |

Any other tables or statistics relevant for child trafficking