

LEGAL INFORMATION CENTRE FOR HUMAN RIGHTS



**new immigrants
in ESTONIA, LATVIA
and LITHUANIA**

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NEW IMMIGRANTS IN ESTONIA, LATVIA AND LITHUANIA

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Foreword

The history of the Baltic region was quite troubled. All three countries were the provinces of the Russian Empire. Their independence was recognised by the Bolshevik government after the Civil War in Russia and then the recognition by the world community followed. However, in 1940 they were made parts of the Soviet Union and remained incorporated in it until 1991. After the Second World War, the three Baltic States were subjected to industrialisation projects accompanied by high migration flows from other territories of the Soviet Union. Their demographic make-up was also influenced by repressions and deportations during and after the Second World War. In poorly inhabited Estonia and Latvia all these factors combined and resulted in the drastic shrinking of the percentage of the indigenous population while the number of ethnic Russians (and other Russian-speakers) soared. Soviet era settlers in newly independent Estonia and Latvia were neither recognised as Estonian or Latvian citizens nor provided with easy access to local citizenship. Even today Estonia and Latvia face the problem of mass statelessness. In Lithuania, however, almost all permanent residents could receive local citizenship in the course of a relatively easy administrative procedure. In this country, minorities make up only 16% and the biggest ethnic minority group are Poles, not Russians.

In contrast to Lithuania, Estonia and Latvia can be described as «multi-legal». The legal framework of the existence of the predominantly Russian-speaking minorities, who make up 30%–40% of their populations, is a complicated mosaic. Some of the countries' permanent residents who belong to the minorities have the status of citizens, while others are divided into a variety of categories. For example, Estonia's current legislation treats all of the latter as «aliens». This category of people includes citizens of the Russian Federation (as well as Belorussia, Ukraine, etc) and stateless former citizens of the Soviet Union whom the Estonian authorities have euphemistically labelled as «persons with undefined citizenship». Uniquely in international practice, Latvia has in turn introduced the term «a non-citizen of Latvia» which is applied to Soviet-era residents of Latvia whom the local legislations recognise as legitimate residents but on whose civil and political rights they nevertheless impose serious restrictions.

According to the results of a special Eurobarometer survey on discrimination, in 2009 26% of Lithuanian respondents, 34% Latvian and 41% Estonian believed that ethnic discrimination is widespread in their countries. Furthermore, in the Baltic States there were an above-average of the EU proportion of citizens saying that discrimination on the grounds of ethnic origin is non-existent (10%, 11% and 12% respectively compared to the EU average of 3%).¹ The social scientists argue that these figures «should be interpreted in the context of the particular ethnic profiles of the given countries and the extent to which issues such as ethnicity, immigration and multiculturalism feature in public discourse.»² We can only add that in Estonia and Latvia some 1/6 of their population (and almost all of them are ethnic minorities) have not been surveyed by Eurobarometer being third country nationals.

The number of recent immigrants is relatively small, and they did not play an important role in local minority discourse dominated by traditional and old migrant groups. This makes it a difficult task for national governments to sue comprehensive policies to address specific needs of recent immigrants and to promote their integration.

¹ Discrimination in the EU in 2009, Special Eurobarometer 317/Wave 71.2. – TNS Opinion & Social, European Commission, 2009, pp. 8-9.

² *Ibid.*, p. 8.

In 2008-2009 the Legal Information Centre for Human Rights (LICHR) has been realising the project «Addressing the problems of ‘new immigrants’ in Estonia and in the Baltic States». The project was supported by the Network of European Foundations for Innovative Cooperation within the European Programme for Integration and Migration (EPIM). LICHR sought to improve the observation of fundamental rights of recent or new immigrants (including right of non-discrimination) in all three Baltic States and to guarantee their better integration in host societies. LICHR partners in this project were the Centre of Ethnic Studies of the Lithuanian Social Research Centre (Lithuania) and the association Afrolat (Latvia).

This brochure includes three shadow reports on the situation of recent immigrants in Estonia, Latvia and Lithuania which were drafted by the project’s partners (*cut-off date was January 2009*). Each report highlights general policy approach to migration in one of the Baltic States, national integration policies and measures, political and legal context of migration, migrants’ access to residence, their core economic and social rights, national equal treatment measures and migrants’ access to civil and political rights. The authors were also asked to address societal attitudes to immigrants and media assessment, patterns of intolerance and racist violence, and the problem of visibility of local migrant communities.

It will be interesting to compare the findings of the shadow reports with data of the Migrant Integration Policy Index (MIPEX) 2006-2007. MIPEX covered six policy areas which shaped a migrant’s journey to full citizenship: labour market access, family reunion, long-term residence, political participation, access to citizenship and anti-discrimination. Several years ago Latvia was qualified as having the less favourable integration policies among then 25 EU Member States and three selected non-EU countries – Canada, Norway and Switzerland. Lithuania occupied the 20th position and Estonia the 19th position:³

- Estonia’s integration policies varied widely from strand to strand. The strongest policy area was access to the labour market, the most favourable in the EU-10 members states (countries that joined the EU in 2004), followed by family reunion and long-term residence. Reunited family members and long-term residents enjoyed some of the most favourable rights in the EU-10. On the other hand, Estonia’s citizenship policies were the third worst in the 28, just before Latvia.
- Latvia was the lowest scoring country in two of the six areas of migrant integration policy measured by MIPEX: labour market access and political participation. Citizenship policies lay second from the bottom, and anti-discrimination laws third, before Estonia and the Czech Republic. Even in the highest-scoring areas of family reunion and long-term residence, Latvia’s policies reached just halfway to best practice. Of the 28 MIPEX countries, third country nationals in Latvia had the worst legal security as workers, family members, long-term residents, and naturalised citizens.
- As for Lithuania, family reunion was the strongest policy area of the six measured by MIPEX. Lithuania ranked second best in the EU-10, after Slovenia. However, it scored second worst of the 28 MIPEX countries on long-term residence, after Ireland, and on political participation policies, after Latvia. Policies on access to citizenship scored higher than in Estonia and Latvia. Anti-discrimination laws and access to the labour

³ Jan Niessen et al, Migrant Integration Policy Index, British Council and Migration Policy Group, Brussels, 2007, pp. 3, 56, 104 and 110.

market scored around halfway to best practice. Of the MIPEX 28, Lithuania left third country nationals with some of the greatest insecurity under the law as workers, family members, long-term residents, and naturalising citizens.

In recent years there were noticeable changes in law and practice of three Baltic States. However, some of the problems are still to be solved.

Ethnic Composition of the Population of the Baltic States, Most Recent National Censuses⁴

Estonia 2000		Latvia 2000		Lithuania 2001	
Ethnic origin	%	Ethnic origin	%	Ethnic origin	%
Estonians	68	Latvians	58	Lithuanians	84
Russians	26	Russians	30	Poles	7
Ukrainians	2	Byelorussians	4	Russians	6
Byelorussians	1	Ukrainians	3	Byelorussians	1
Others	3	Others	5	Others	2
	100		100		100

⁴ Official data of statistical services of Estonia, Latvia and Lithuania

Situation of new immigrants in ESTONIA

Julia KOVALENKO

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1. EXECUTIVE SUMMARY

The report addresses the problems of newly arriving migrants in Estonia by reviewing immigration data and identifying main developments in migration policy including: national context of immigration issues, legal system and policies that regulate migration, integration measures, rights of migrants (including access to residence as well as to economic, social, political, civil rights and equal treatment), and finally – societal attitudes towards migrants and migrant community representation in public discourse.

Current situation with regards to immigration is analysed along to the following topics:

National context of immigration issues and defining immigrants

The analysis of the current situation of immigration includes: identifying the patterns of immigration and numbers of immigrants. The analysis showed that while the immigration to Estonia is insignificant, in most cases people arriving are those from the former Soviet Union and the EU countries, and they are mostly «invisible» immigrants. One of the main problems is mass statelessness, but it is relevant primarily in the context of the so-called old migrants.

According to the place of origin, we may identify the following groups: EU nationals, third country nationals, and visible immigrants (i.e. those coming mostly from Africa and Asia).

Legal system and policies

Estonian policies are rather dependant on international law, especially EU law. In most cases, Estonia has a rather developed legal system which is well adapted for solving immigration-related problems.

General policy approach to migration

Recent history of Estonia still plays a rather important role in shaping national migration and integration policies and public attitudes of the society. In general, it can be argued that immigration is not welcomed in Estonia.

Integration policy approach and measures

Integration strategy was described and analysed, main gaps of current integration stream were identified. Estonia considers language proficiency as a key to the solution of the problems related to social exclusion, access to employment, social services etc. Starting from 2008 a new Integration Strategy 2008-2013 has being implemented, however, the new programme is quite similar with the previous one and it does not go much further beyond the language training. At the same time integration strategy fails to take into consideration the needs of those immigrants that come from the countries other than the former USSR republics and have different cultural background.

Official linguistic and naturalisation policies are to underline that such issues as admission to the country are among the main topics of public concern.

Political and legal context (admission, quotas, qualifications recognition, language)

Legal provisions with regards to immigration are analysed and described. It is possible to conclude that admission supported by quotas and clumsy procedures and requirements limit the possibilities for immigration to Estonia. Whereas no problems normally arise with regards to qualification recognition.

Core economic and social right (employment, housing, health and social benefits, social exclusion)

The report surveys the employment, housing, health and social benefits provisions as well as measures aiming to prevent social exclusion of migrants. Unfortunately, it is hard to assess the situation considering the lack of statistical data on application of equal treatment provisions. In general, these services are equally available to all those legally residing in Estonia. However, there are certain limitations based on language proficiency.

Equal treatment measures

The year of 2008 became an important for Estonia from the perspective of promotion of equal treatment. The Law on Equal Treatment had been finally adopted, and by this legal move Estonia has finally complied with the EU requirements in the area. However, it is too early to consider the added value of this development as public awareness of the issue is extremely limited and no progressive instruments of protection against unequal treatment have been introduced.

Civil and political rights (access to education, civil society and social partners, political rights)

Civil and political rights are being monitored through the prism of immigrants' rights. There are no serious limitations with regard to their involvement with civil society and social partners. However, recent migrants are not actively participating in the activities of NGOs or trade unions. This may undermine lobbying for the immigrants' rights.

Media assessment of immigrants

This report identifies the gaps with regards to the will of media to cover the issues related to immigration and life of migrants. It would be inappropriate to say that racist attitudes prevail in media, or they tuned anti-immigrant, but they are not to promote tolerance in the society, especially taking into consideration that media have always been a powerful instrument of shaping public opinion in Estonia. The media do not trust recent immigrants and do not consider them to be the reliable source of information or opinion.

Voice of immigrants and its importance

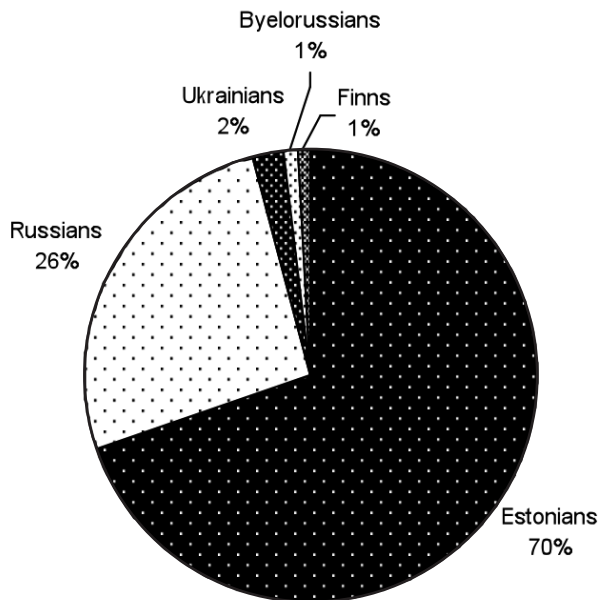
Analysis of the current situation shows that immigrants do not launch actively NGOs and therefore have difficulties with being heard. There is also no data available with regards to new migrants' participation in trade unions.

2. INTRODUCTION

2.1 NATIONAL CONTEXT OF IMMIGRATION ISSUES

Estonia is a rather small European country and the EU member state since May 1, 2004. As of January 1, 2008 its population is just 1,340,935 persons¹. Contemporary Estonia is a multi-ethnic country with a rather low number of recent immigrants and asylum seekers and even less of visible minorities. As of January 1, 2008 ethnic Estonians constitute 68.7% of the total population. Whereas there are more than 100 ethnic minority groups residing on the territory of Estonia, most of them are rather small in numbers. The biggest minority group are Russians – 25.6% of the total population, second biggest group are Ukrainians – 2.1% followed by Byelorussians – 1.2% and Finns – 0.8%.²

Chart 1. Ethnic composition of Estonian population, 2008



Source: Statistics Estonia³

Quite many Estonian permanent residents (8%) do not hold citizenship of any country and hold the status of «persons with undefined citizenship». Majority of these people are former citizens of the Soviet Union. Most of people belonging to this group were born on the territory of Estonia or have lived most of their lives there and have well established connections with the country. According to the data available on January 1, 2009, 223,321 Estonian residents were not

1 Statistical Office of Estonia; public database available at <http://www.stat.ee>, accessed 1 March 2010

2 Ibid

3 Ibid

citizens of Estonia, including 110,315 «persons with undefined citizenship», 96,690 citizens of the Russian Federation, 6,825 citizens of EU countries⁴.

The number of **immigrants** in Estonia is rather insignificant as immigration is a relatively new phenomenon. Estonia's net migration with respect of other countries has been constantly negative in 2000-2007. A total number of 10,326 persons, or 1,291 persons (0.1% of the population) per year came to Estonia in that period. The most important countries of origin for immigrants were neighbouring Finland (31%) and Russia (24%). A considerable number also came from Ukraine, Germany, Sweden, Latvia and UK.⁵ Thus, only few immigrants arrived in Estonia from the countries outside EU and CIS.

The number of **asylum seekers and refugees** in Estonia is also very small. According to the data available from the Citizenship and Migration Board in 2008, they have received 14 applications for asylum. Four persons have been granted refugee status, and unlike previous years no subsidiary protection was allocated. In 1997-2009 (1quarter) most of the asylum seekers came from Iraq (22), Russia (21), Turkey (17), Belarus (11), Georgia (10), Pakistan, Afghanistan (8), and Nigeria (6).⁶

Recent history of Estonia still plays a rather important role in shaping national migration and integration policies and attitudes of the society in general. It is worth mentioning that during the Soviet period there was considerable in-migration from other territories of the Soviet Union mostly based on the needs of industrialisation. For example, at the time of graduation specialists were assigned a place of employment and it was not possible to change such prescription.

One may argue that the Estonian society is rather intolerant towards newcomers, especially visible minorities, including Muslim. This applies equally to both natives and old migrants (predominantly Russian-speakers). Violent racist attacks are rare in Estonia; their number is not known from official sources. Most of the cases known to the public took place in Tallinn and in the university city of Tartu; they concerned either visible minorities or Russian-speakers. Most frequently intolerant behaviour takes the form of verbal insult.

2.2 DEFINING MIGRANT IN THE CONTEXT OF THE REPORT

In general Estonian legislation does not use a definition of «a migrant» or «a migrant worker», «a seasonal worker» as such. There exists the concept of a third country national, an EU citizen and an alien. In most cases no difference is made towards the reasons of immigration. What is important is that the person is legally entitled to stay on the territory of Estonia.⁷

When talking about immigrants in Estonia one should make a distinction between two groups. First, the so-called old migrants. They often do not like to be called migrants as they have been residing in Estonia for a long time and majority of them arrived during the Soviet period or even earlier. Second, the recent migrants or those who arrived in Estonia after 1991. Old migrants can be considered to be «invisible» (except those of Asiatic origin) and majority of them speak Russian as the first language. Recent migrants are a very heterogeneous group, which may in-

4 Police and Border Guard Board; Written communication no. 1-3-11/2820 of 25 January 2010

5 Statistics Estonia, *Migration*, Tallinn, 2009, p. 64

6 Citizenship and Migration Board, available at: <http://www.mig.ee/index.php/mg/est/statistika>, accessed 1 March 2009

7 Written communications of the Ministry of Internal Affairs no. 11-2-1/13483 of 11 January 2007 and the Ministry of Foreign Affairs no. 8.3/563 of 15 January 2007

clude visible immigrants originating from Africa and Asia. For many of them Russian is a foreign language and in practice they use mainly English or French. This group is not so big in number, however, they have significant problems with integration and employment in Estonia.⁸

This report focuses on new or recent migrants, i.e. those who arrived after 1991, and on asylum seekers rather than on the old migrants; furthermore, visible minorities were of special interest for us. However due to the fact that no segregated data or policies on new-immigrants exist, we often have to cover both new and old migrants.

It is worth emphasising that according to the national legislation only registered marriage is recognised. Civil cohabitation does not lead to legal rights, such as the possibility for family reunification, inheritance, certain economic rights, etc.

2.3 LEGAL SYSTEM AND POLICIES

Estonian legal system is influenced a lot by the German legal tradition. The main sources of normative legal rules are the Constitution, laws, and by-laws or secondary legislation. The legal acts are often supplemented with various programmes of action and developments and policies aimed at solving and regulating certain issues. Neither the legal norms nor the plans of action should be in conflict with the provisions of the Constitution and must be harmonised with it. The case law cannot be regarded as the source of legal norms. However, the decisions of the Supreme Court influence the legal practice to a considerable extent. According to Article 123 of the Constitution, Estonia cannot enter into international treaties which are in conflict with its Constitution. Furthermore, «[i]f laws or other legislation of Estonia are in conflict with international treaties ratified by the *Riigikogu*, the provisions of the international treaty shall apply.»

Estonia has become a party of the major international agreements initiated by various bodies (such as UN and CoE) among those CERD, CEDAW, Social Charter, ICCPR, ECHR, and others. In order to join the EU Estonia had also made significant steps aiming at harmonisation of its national legislation with the provisions of the EU. Characteristically, most of significant changes in the area of equal treatment have taken place either shortly before accessing the EU or upon initiated procedures of non-compliance with the EU law. For example the Law on Gender Equality and equal treatment provisions within the Law on Labour Contracts entered into force exactly on May 1, 2004. Whereas the comprehensive Law on Equal Treatment was adopted in December 2008 and after the European Commission started the infringement procedure regarding transposition of the Directives 2000/43 and 2000/78.

Public debates regarding the provisions in question as well as general discussion on immigration or equal treatment issues are rather rare; the topics are barely covered by the media in a comprehensive way.

8 Julia Kovalenko, Racism in Estonia 2008, ENAR, Brussels, 2009

3. GENERAL POLICY APPROACH TO MIGRATION

As mentioned above, the migration in Estonia is far from being huge. The numbers of new and especially visible immigrants are rather low.

There is no special programme aimed at migrants and especially new migrants (including refugees) other than the Integration Strategy (see below), and no changes or discussion were initiated in 2008-2009. Some semi-official bodies carry out very important projects aiming at integration of new immigrants. During several years the Integration Foundation is developing a system to assist children, who do not speak Estonian or Russian to be able to participate in education process at school and to integrate into the society. In recent years a wide range of activities, including study visits for school teachers, curriculum development and preparation of special materials took place.⁹ Special projects were also aimed at children of recent immigrants and refugees¹⁰ (e. g. «Local level support to integration into Estonian educational system of children of refugees and persons obtained international protection»).

An important project «Uus kodu» («New home») was carried by the Migration Foundation in April 2007 – August 2008. It was aimed at recent immigrants and provided Estonian language training and an orientation course on history, culture, and modern developments in Estonia, its legislation, etc. The project's target group were unemployed immigrants, and one of its objectives was to support them on labour market.¹¹ It is, however, extremely unfortunate that participation in such project was limited only to those who can speak and understand Russian. According to the head of the project, the initial plan was to have classes also in English, but then they gave up the idea as there were not so many participants; moreover, the classes turned out to be extremely expensive.

Unfortunately, the state does not provide any special information schemes to employers that are to hire migrant workers. In practice some NGOs may provide such services. However, neither the ministry officials nor the author of this report have any particular information about it. The reason for the absence of such schemes could be a relatively low number of migrant workers (those recently arrived as well as refugees).

Estonia does not have any bilateral agreements with other countries regarding the employment of third country nationals, except for the agreement with Australia with regards to visa provisions to regulate the right to work for young people.

4. INTEGRATION POLICIES AND MEASURES

One of the main policy documents to articulate State's will and activities aiming to improve the interference between the majority and minority communities and to provide for the joint sense of belonging and responsibility is the Estonian Integration Strategy 2008-2013.

The integration programme targeted at all migrants has been implemented in 2000-2007 and the new one was adopted in 2008. In practice, most of the measures aiming at integration of minorities involve language training. The new Integration Strategy 2008-2013 is believed to be more focused on socio-economic and legal-political issues, and not just linguistic and cultur-

9 Presentation made by Integration Foundation's representative at the LICHR international conference "Challenge or Resource? Recent Immigrants in Estonia, Latvia and Lithuania", 8-9 July 2009, Tallinn (on file with the author)

10 Mr. Tanel Mätlik (Director, Integration Foundation); written interview of 12 September 2006

11 Migration Foundation; Written communication of 07 July 2009

al ones. Focusing on these aspects is extremely needed in the society with the ethnically segregated labour market.

Similarly to the first programme, the Strategy is based on the constitutional principles including the respect for, and equal treatment of all people residing in Estonia regardless of their ethnic background and origin. Some social scientists argued that new programme activities are still too concentrated on language and culture promotion and lacks tools to involve Estonians to the process, i.e. to make it double-sided.

Indeed, the objective of Integration Strategy is to achieve by 2013 the situation where, compared to 2007:

- The level of command of Estonian among the people whose mother tongue is not Estonian has improved on all levels;
- Contacts and communication between people with different mother tongues have increased and differences in participation in civil society organisations and the public sphere between Estonian and Russian-speaking population have decreased;
- The percentage of people with «undetermined citizenship» among the residents of Estonia has been consistently decreasing;
- The majority of Estonian residents trust people of other nationalities living in Estonia and they trust the Estonian state;
- The majority of the people whose mother tongue is not Estonian regularly receive information from Estonian media sources and trust them;
- Differences in employment and income levels between employees of different ethnic groups have decreased.¹²

Thus, language is specifically addressed in the Integration Strategy' objectives. Poor proficiency in Estonian is considered to be a core problem for many minority members. Estonian is the only official language despite the large Russian linguistic minority (about 1/3 of all population) residing in Estonia. Language requirements, sometimes based on poor grounds, are applied for all those who work in the public domain and for many workers employed in private sectors. There is no obligation to speak any other languages. The use of language is being supervised by a specialised body, the Language Inspectorate, established in order to monitor public use of languages and inflict penalties for failure to use the official language in the public domain or lack of proficiency of the person under supervision.

The existing **language policies** seriously impact on the opportunities available for migrants arriving Estonia. These policies cover employment as well as access to services and goods, healthcare system and means of communication. In practice, Russian is widely used by public officials, health care and social workers, especially in places where Russian-speakers dominate or present in big numbers. New immigrants, whose mother tongue is not Russian, are more vulnerable. For instance, there are plenty of language courses organised for Russian-speakers also within the programmes of professional retraining; however, non-Russian speakers of minority origin have access to extremely limited number of language courses, or courses available are very expensive. New immigrants repeatedly reported that their pleas to cover their expenses for language training are refused by responsible authorities.¹³

As already mentioned above, a large group of permanent residents do not have Estonian citizenship. The majority of them do not hold citizenship of any state, i.e. they are (de facto) state-

12 Estonian Integration Strategy 2008-2013, Tallinn, 2008, Section 3.1

13 Mr.Samir Bounia (NGO Afro-Est), interview of 8 July 2009

less. This fact has been criticised by various international bodies, such as the UN committees, CoE (e.g. ECRI), and OSCE. Taking into consideration the recommendations of these bodies Estonia is trying to build up its **naturalisation policy** and support the process by various means. The activities are aimed not only at those who are stateless, but at all third country nationals, including new migrants who hold a long-term residence permit and have regular income in Estonia.

5. POLITICAL AND LEGAL CONTEXT

5.1 ACCESS TO RESIDENCE/ADMISSION

In general Estonian migration policies in 1990s – early 2000 appear to be rather rigid and they resulted in a very small number of newcomers. In recent years the situation has not changed a lot in spite of the shortage of skilled workforce in the Estonian labour market. Considering record level of unemployment in 2008-2009, which was a result of world economic crisis, any liberalisation in the field is hardly probable.

As already mentioned Estonia does not have a definition of «a migrant» or «a migrant worker» as such. The general terms «third country nationals» or «aliens» are being used by legislators and policymakers. Two groups of aliens shall be distinguished: those holding EU citizenship (including the EEA and Swiss nationals) and the rest, i.e. third country nationals, including stateless. Different rules and regulations upon arrival and residence are being used for these two categories of people.

Following the requirement of the EU to transpose its provisions into the national legislation of the member states, Estonia was bound to amend its Law on Aliens in order to comply with the provisions of the so-called Long-term Residence Directive providing for the additional rights to those who received the long-term residence status (Chapter IY-2 of the Law on Aliens). Following these amendments, in Estonia all persons with a permanent residence permit automatically received a long-term resident's residence permit¹⁴ (as of January 1, 2006, 85% of all residence permits valid in Estonia were permanent). A person has to live in Estonia for a period of 5 years (on the basis of a residence permit) in order to receive a long-term resident's residence permit. Furthermore, such a person has to fulfil the integration requirement – to pass the Estonian language test. However, this rule is not applicable to aliens younger than 15 or older than 65, and to those with restricted active legal capacity.

Provided the migrant received a residence permit in Estonia for the purpose other than employment, s/he should also apply for the work permit if s/he wants to engage in a remunerated activity. In case the migrant arrived in Estonia on the basis of a residence permit issued for the purpose of employment, no separate work permit is needed. However, his or her spouse arriving in Estonia needs a work permit (Article 13-1 of the Law on Aliens).

It is important to note that in order to be granted a residence permit for work the applicant should receive a permission to be employed from the employment agency. This is conditional on the following: the vacancy cannot be filled by a person already legally residing in Estonia; the vacancy was announced publicly for at least three weeks, with the use of the services of the employment agency (Article 13-3 of the Law on Aliens). An employer shall pay to such worker a salary which is higher than country's average. There are some exceptions to this rule. For exam-

14 RT I, 2006, 21, 159

ple, the permission is not needed for third country nationals, who possess the status of a EC permanent resident, etc.

Migrants who receive a residence permit that includes the provision of legal income are prohibited from taking up employment (Article 12-4 of the Law on Aliens).

In the case of family reunification, the treatment of non-citizens is less favourable as compared with Estonian citizens. Thus, third country nationals are required to «prove» that their family reunification in Estonia is justified (Article 12-1 of the Law on Aliens).

Since May 2003 the public officials have the right to enter (with the owner's permission) a person's dwelling for verification of the facts important for the issuance of a residence permit (now Article 16-9 of the Law on Aliens).

Migration quota

The Law on Aliens provides for annual migration quota. In 2000, the National Court recognised¹⁵ that this quota may, under certain circumstances, violate the right to private and family life. As a result the parliament had to make several changes to the text of the law. It excluded from the application of the quota the members of families and close relatives of Estonian citizens and aliens with residence permits. Additionally, the current version of Article 6 of the Law on Aliens established a preferential treatment for citizens of the US and Japan and ethnic Estonians: the annual migration quota will not be applied to them in any case. These preferences were preserved from the previous version of this provision that was rightfully challenged by the international community (see e. g. the CERD observations of 19 April 2000¹⁶). In 2008, the annual quota was 1,013.¹⁷ No quota system is foreseen for EU nationals and their family members.

Qualifications recognition

Estonia is a party of the Bologna Convention and therefore is bound to recognise professional qualifications of migrants coming from the states that are also parties of this agreement. However, in practice, certain difficulties do occur with the diplomas received from Russia's universities.¹⁸

Language regulations

The core legal act of Estonia's linguistic policies is the Law on Language.¹⁹ Article 1 (1) of the Law repeats Article 6 of the Constitution, stating that «Estonian is the State language of Estonia.» According to Article 4 (1) of the Law, « [e] veryone has the right to access public administration and to communicate in Estonian with state agencies, local self-governments, bureaus of notaries, bailiffs and certified interpreters and translators, cultural autonomy bodies and institutions, companies, non-profit associations and foundations». This rule is supported by numerous provisions that regulate the scope of and control over the use of Estonian in both the official and public domains. The use of other languages in the public domain is the sole responsibility or, better to say, desire of an individual on service as well as employer and employee in the private domain. No obligation to speak any other languages has been imposed.

15 Decision of the Administrative Law Chamber of the State Court of 18 May 2000 no. 3-3-1-11-00, published RT III 2000, 14, 149

16 Concluding Observations by the Committee on the Elimination of Racial Discrimination: Estonia, CERD/C/304/Add. 98, 19 April 2000, para. 11

17 RTL, 2008, 90, 1272

18 Decision of the Administrative Law Chamber of the State Court of 3 May 2004 no. 3-3-1-18-04, published RT III, 2004, 13, 162

19 RT I, 1995, 23, 334

The implementation of language policies is supervised by a special body – the Language Inspectorate. The institution is heavily criticised by non-Estonian population as disproportionately concentrated on the issues related to the public use of Russian.

5.2 CORE ECONOMIC AND SOCIAL RIGHTS

Employment

Employment relations in Estonia are regulated by the Law on Labour Contracts²⁰ and the Law on Public Service²¹. Employment in general is accessible to all persons legally residing on the territory of Estonia disregarding their ethnic background or religious affiliation. Certain issues can appear regarding citizenship, especially when it applies public service, and language proficiency.

Amendments to the Labour Contract Law that entered into force on May 1, 2004 provided for detailed rules as regards equal treatment on the grounds of race, ethnic origin, disability, age, religion, sexual orientation, etc. A new comprehensive Law on Equal Treatment was adopted in December 2008.

There is a lack of data and information (official or unofficial) on discrimination on the grounds of race, ethnicity and religion in the sphere of employment. During the year 2008 the Employment disputes commission (quasi-judicial body) reported to receive no complains regarding unequal treatment on the ground of ethnic background or race or religion²². The same year the Chancellor of Justice, which is the national equality body, reported to have received 3 applications to start conciliation procedures with regards to unequal treatment in private sphere, including one case of alleged discrimination due to citizenship and ethnic origin. None of them ended up with final decision on merits for various reasons²³.

However the situation witnessed by NGOs is different. Majority of cases that became known concern linguistic discrimination, i.e. language requirements, non-proportionality of such requirements, misunderstandings with regards to new language proficiency certificates, mother tongue of job seekers, different pay for equal work, harassment, etc.²⁴

In general, the level of unemployment among non-Estonians for a long period remains to be two times higher than among Estonians²⁵. In 2008, the Government continued the discussions regarding the new Law on Employment Contracts that would simplify the procedure of sacking people. This raised serious concerns among minority members who were more vulnerable on the labour market, especially at the time of economic crisis: In 2008, unemployment rate among non-Estonian males was increasing more rapidly than among ethnic Estonian males.²⁶ The new Law on Employment entered into force on July 1, 2009.²⁷

The Estonian labour market continues to be ethnically divided. For example, many non-Estonians are forced to work in unstable occupations and for less remuneration. Interestingly, the recent

20 RT, 1992, 15/16, 241; RT, I 2007, 44, 316

21 RT I, 1995, 16, 228

22 Labour Inspectorate; Written communications no. 1-05/4213-1 of 18 August 2008 and no. 1-05/234-1 of 11 February 2009

23 Chancellor of Justice; Written communication no. 5-3/0900838 of 5 March 2009

24 Database of the Legal Information Centre for Human Rights, accessed 1 December 2009

25 Kairi Kaseoru, Avo Trumm, Eesti- ja venekeelse elanikkonna aineolukord ja eluga rahulolu, 2008

26 Statistics Estonia, public database at: <http://pub.stat.ee>, accessed June 1, 2009

27 RT I 2009, 5, 35

research revealed a tendency that the level of income among Estonians and non-Estonians differs also with regards to the level of education. If among those who have basic or secondary education the difference of income is insignificant, then among those with higher education Estonians tend to earn significantly more. Such fact can probably be explained also by another finding of the same research which proved that Estonians are more likely to become top specialist and managers than non-Estonians.²⁸

The Language Inspectorate continued its practice of checks of various groups of employees whose mother tongue is not Estonian. In recent years, they have focused on Russian-language school and kindergarten teachers and personnel, taxi drivers and personnel at prisons and police officers.

Housing

The concept of social housing is not well developed in Estonia. The municipal housing is regulated by special decrees adopted by the city or rural councils.

For instance, in Tallinn the groups of people entitled to apply for social housing are:

1. persons whose legally used or obtained real estate became unsuitable because of force majeure situations such as floods, etc;
2. owners or tenants of houses or property that were expropriated by a City Council decision;
3. persons who are released from prison and who do not have a place to reside;
4. young people coming from the orphanages as well as those who have been under the supervision of relatives, tutors, etc and who do not have another place to live;
5. people who experience other social difficulties²⁹.

A special commission set up by the local authority will decide – on the basis of an application – if a person or family will be allocated social housing (the rental contract could be for several years). The number of so-called municipal flats being distributed annually among the above-mentioned groups is rather limited. The priority is normally given to the orphans.

Based on the above, it can be argued that municipal flats or social housing is basically unavailable for new migrants.

Renting living premises from private parties is commonplace in Estonia. There are a large number of real estate agencies, but it is also common to rent directly from the property owner. It is for the knowledge of the author of the report that it is exactly renting of the living premises where unequal or prejudiced treatment against visible immigrants are taking place very often.

There is a general lack of publicly available evidence on racism and discrimination in the housing sector in Estonia. State bodies, including the Statistics Estonia, do not collect data on housing disaggregated by ethnicity, race, religion, native language, legal status or nationality.

Mortgages for purchasing residential property are widely available however only for those with stable and rather high income rate. While there are no special provisions that would limit availability of such mortgages for minorities, their possibilities to receive such loans are often rather low due to the level of income. Secondly, mortgages are normally not available for those holding temporary residence permits.

28 Kairi Kaseoru, Avo Trumm, Eesti- ja venekeelse elanikkonna aineolukord ja eluga rahulolu, 2008

29 Tallinna Volikogu määrus, 17.10.2002, nr. 56»Tallinna linna omandis olevate eluruumide kasutamise, käsutamise ja valdamise kord»

Health and social benefits

Access to health care and medical services in Estonia is regulated by a number of legal acts: Law on Medical Insurance³⁰, Law on Psychological Support³¹, Law on Social Tax,³² etc. Free health services are guaranteed to all insured persons lawfully residing in Estonia, i.e. those people paying social contributions or being otherwise insured by the State.³³ This also includes people who fall under the jurisdiction of bilateral agreements between Estonia and other countries. It is worth mentioning that Estonia does have bilateral agreements covering medical services with the Russian Federation and Ukraine. Therefore, people with health insurance in any of those countries should be able to exercise the same right in Estonia, without any additional requirements. After joining the EU, residents of the member states also fall under the protection of the Health Insurance Fund and should be guaranteed equal protection to that of local citizens.

In all other cases, health insurance is guaranteed to all those people who are engaged in employment activities in Estonia and for whom the employer is paying the social contribution or who are insured otherwise. People registered as unemployed benefit from voluntary medical insurance only for a limited period of time, and on the condition that they can show proof of previous employment. The spouses of the insured persons, unfortunately, cannot normally exercise the same right, despite the fact that previously such a possibility was granted to them. Minors and other dependants of temporary migrants residing together with them legally benefit from the same rights with regard to medical services as Estonian nationals or permanent residents do.³⁴

In all other cases the medical services can be obtained on commercial basis and according to the generally accepted price list. Emergency medical services are available for free to everyone, also to those who do not have health insurance. There are in general no reasons or facts to assume that any difference is made on the ground of social status or ethnic background regarding access to health services.

However, one of the main problems that influence equal accessibility of the healthcare facilities for Estonians and non-Estonians is the language of communication and information. As the only state language is Estonian, the doctors and personnel are required to speak only this language and proficiency or even usability of other languages, including Russian, are upon their own wish or good will of the employer. Translation services regulated by the state do not exist in this sphere and in case are needed should be covered by the patient him(her)self.

Another issue with regards to equal access to health is the language of annotations to the medicaments. According to the existent regulations the annotation should be provided only in Estonian language and its translation into other languages is the good will of the provider. It means that a huge amount of population permanently residing in Estonia can be in danger of damaging their health seriously in case they do not understand the precautions and instructions available only in Estonian. This issue, in fact, had been numerously discussed also during previous years by human rights activists and media. In the city of Tallinn it was decided to provide pharmacies with Russian translation of annotations for the most widely used medicaments.³⁵

30 RT I 2002, 62, 377

31 RT I 1997, 16, 260

32 RT I 2000, 102, 675

33 Estonian Health Insurance Fund, information provided at: <http://www.haigekassa.ee>, accessed 1 March 2010

34 Ibid

35 Project «Availability of descriptive information on medicaments in Russian». By order of the Tallinn City Government the Tallinn Social and Health Care Board organised translation of descriptive notes attached to the most widely-used medicaments. These translations were made available to pharmacies (notes of retail medicines by 1 January 2009; notes of prescription medicines by 1 January 2010).

The social security system in Estonia is available to all people legally residing on its territory: Estonian nationals, EU, third country nationals, and those people who obtained a residence permit. There is no unequal treatment introduced based on a person's citizenship, ethnic origin or any other condition. Legally residing migrant workers should therefore be able to exercise the same rights as the Estonian nationals. The social security system consists of a number of benefits and social guarantees including social services such as child care facilities, parental benefits and retirement schemes, unemployment benefits and support services for the unemployed (e.g. re-training), etc. Nevertheless, there are some restrictions. In the case of unemployment benefits, for instance, eligibility is linked to the existence of a previous employment record. However, even in this case the migrant worker can be entitled to job counselling, retraining activities and to benefits regarding the remuneration of travel expenses, etc.

Social exclusion and protection of vulnerable groups

Estonia has been fulfilling the National Strategy for Social Protection and Social Inclusion 2006-2008. Unlike the previous years, ethnic minorities residing on the territory of Estonia are no more considered to be vulnerable in terms of socially exclusion. Therefore, the Strategy does not introduce any specific measures aiming at this group of people. Recent immigrants are not specifically mentioned in this strategy³⁶.

In the report with regards to the fulfilment of the Strategy for Social Protection and Social Inclusion, it is highlighted that the integration of non-Estonians is a very important objective, and therefore it is needed to use combined approach together with other bodies and other strategies (i.e. the Estonian Integration Strategy 2008-2013)³⁷. It is, however, insufficient to stress just the importance and need for language training. It is again to stress that situation of visible immigrants is absolutely unknown to the authorities and civil society; therefore it should be studied thoroughly and special measures aiming at their protection should follow.

Access to education

The right to education is equally guaranteed disregarding ethnic, religious or citizenship background. Basic education is obligatory for all those residing in Estonia. The school system of Estonia consists of Estonian-language and Russian-language public schools where the subjects are taught in the respective languages. There is also a small number of private schools where in some cases parts of the education programme is carried out in other foreign languages.

In 2007, there started the transition of Russian-language upper secondary schools into work in Estonian as a main language of instruction.³⁸ According to the Integration monitoring 2008, majority of non-Estonians believe that ethnic Estonians have better possibilities for higher education in Estonia, 60% of Estonians believe that there is no difference in this regard.³⁹

Certain projects aiming at setting the frame for provision of education for immigrant children who speak languages other than Estonian or Russian have been implemented by the Integration Foundation.

With regards to the public higher education, the situation at the moment is more complicated. Whilst before 1991 this was available in both Estonian and Russian, after the independence the opportunities for instruction in Russian language were constantly shrinking. Today, this

36 Julia Kovalenko, *Racism in Estonia 2008*, ENAR, Brussels, 2009

37 Written communication with the Ministry of Social Affairs of 16 July 2009 (e-mail)

38 Ministry of Education and Research, information available at: <http://www.hm.ee>, accessed March 1, 2010

39 Uuringu Eesti ühiskonna integratsiooni monitooring 2008 aruanne, Tallinn, 2008, p. 60.

type of education is almost exclusively available in Estonian language if publicly funded. Young people without good knowledge of Estonian can continue their education in private higher education institutions. However, in most of the cases such universities lack accreditation for Master and PhD programmes.

Civil society and social partners

The Law on Non-profit organisations⁴⁰ does not prohibit foreigners to be part of NGOs and also to launch NGOs. However, the new immigrants arriving in Estonia are not eager to form NGOs and participate in the life of civil society. Most often they tend to participate in national culture organisations aiming to preserve their traditions and to promote diversity. However, such activities do not have real power to influence policymakers, and voice of immigrants remains unheard by public officials in whose capacity is to shape integration policies, as well as by those members of civil society who have the power to lobby and influence the decision and policy-making and the general public.

Despite the fact that law does not prohibit immigrants to form trade unions they have not used such an opportunity. The data with regards to how many of new immigrants belong to the trade unions are not available (however, Russian-speakers are well represented among their members). Local trade unions are not focused on the immigrant workers issues or on equal treatment of ethnic minorities. Trade unions in Estonia prefer neither to deal with the cases of unequal treatment of ethnic minorities in employment, nor to be engaged in concrete cases or lobbying activities aimed at improvement of immigrants' access to employment, their integration and equal treatment.

5.3 EQUAL TREATMENT MEASURES

The concept of discrimination, disregarding the ground, is often neglected by Estonian researchers and politicians. It is common to hear that there is no such a problem in Estonia or that this issue should not be paid attention to. So-called «comparative discrimination» (i.e. discrimination based on someone's opinion) is usually what has been addressed, whilst the other forms of discrimination are in most cases neglected.

Most of the political discourse and attention with regards to non-discrimination was dedicated to the Law on Equal Treatment that was finally adopted in December 2008.⁴¹ Yet most of the discussion took place during the first half of the year. Being under serious time constraints and danger of being punished for not complying with the EU requirements the authorities had finally successfully pushed through adoption of the Law on Equal Treatment, which entered into force from January 1, 2009. The act aims, first of all, at full transposition of the EU Directives 2000/43 and 2000/78. The act introduces the concept of equal treatment on the grounds of race, ethnicity, disability, age, religion or belief, sexual orientation. The second equality body – the Commissioner for Gender Equality and Equal Treatment – shall deal with discrimination complaints and provide assistance to victims, advice on policies and legal developments, etc.

Unfortunately, no changes were made in the mandate of the first equality body, the Chancellor of Justice, who mostly deals with the so called conciliation procedures which have not proven effective in addressing cases of discrimination. This body also does not serve an aware-

40 RT I, 1996, 46, 811

41 RT I, 2009, 56, 315

ness raising with regards to equal treatment and carries out no special activities. The experts from this body, though, do participate in various events carried out by the civil society and present their expert view and opinion.

5.4 CIVIL AND POLITICAL RIGHTS

Third country nationals are not entitled to vote or to be elected during national or European elections. However, EU nationals can exercise the right to vote in European elections and to vote and to stand for office at municipal elections. Third country nationals (including stateless residents) can only vote at municipal elections. Only Estonian or EU citizens can be members of political parties; however, anyone can be a part of a NGO.

The naturalisation process is regulated by the Law on Citizenship⁴² that obliges the applicant to pass the language proficiency test and the civic exam (the exam on Constitution and Law on Citizenship). A simplified procedure is available for those minors, who were born after 1992 and whose both parents are stateless, as well as those under 15, whose parents are going to be naturalised or have obtained Estonian citizenship⁴³. Certain simplifications of procedures are available to people with disabilities and elderly ones (those born before January 1, 1930). However in recent years the numbers of naturalised people is rather low (in 2008 – 2,124, in 2009 – 1,670),⁴⁴ especially considering a huge stateless population resident in the country.

6. MEDIA ASSESSMENT TOWARDS MIGRANTS

Media traditionally play an extremely important role in shaping public opinion in Estonia, especially among older generations. In general media as such are rather indifferent towards minorities and immigrants and they very rarely use them as a source of information or opinion. Most of media domestic news sources are either Estonian or Russian-language, unfortunately almost no sources are known to be available in other languages (at least they are not publicly available).

Local Russian-language media can be considered to be keener to address the issues related to non-Estonians and reflect upon interethnic issues than Estonian-language. In most of the cases journalists are not judging but informing about an issue. It is rather unfortunate that Estonian-speaking journalists rarely address an immigrant community for comments or opinions even if covering the issue related to it.⁴⁵

Media, however, generally fulfil their task in identifying cases of racism and highlighting the attitudes of the society and authorities towards certain issues. Unfortunately, when reporting about immigration, Estonian media often use alarmist headlines, they are rather eager to draw a negative image of immigrants and highlight the «problems» associated with them. In most of the cases, however, media address these issues only in case of some incidents or on request from the civil society. The immigrant community itself has very limited access to media and has to make an effort to serve as a source of positive information.

42 RT I, 1995, 12, 122

43 RT I, 1998, 111, 1827

44 Police and Border Guard Board; Written communication no. 1-3-11/1623 of 15 January 2010

45 Julia Kovalenko, Racism in Estonia 2008, ENAR, Brussels, 2009

The main concerns regarding electronic media are related to commentaries on the news portals. The substance of such comments is often inappropriate and can be described as hate speech. Unfortunately, after the 2006 amendments into the Penal Code, it is very difficult to prosecute for hate speech as such. In particular in order to become a criminal offence the effect of hate speech should damage or endanger life, health or property of the victim (Article 151).

7. MIGRANT COMMUNITY VOICE AND ITS IMPORTANCE

As emphasised above, immigrants are not prohibited to participate in the life of the civil society. However at the moment there exists a clear lack of NGOs launched or run by new immigrants. In most of the cases, if launched, such organisations are involved in cultural activities, preservation of national culture of a particular ethnic group. They almost never deal with lobbying, advocacy, reporting, monitoring, defence of the rights violated, or provision of information even to the members of their own community.

It is also regretful that the support by the national or local governments is absolutely insignificant and there exist only limited possibilities for funding. Ironically, the funds available are predominantly for cultural events and similar developments.

There are also very few NGOs that are working on the issues relevant for recent immigrants, such as legal advice, monitoring and analysis of the situation. Few of such initiatives are initiated by public as well.

It remains a challenge for both the state and civil society to find the ways to be in contact with the recently arrived residents of the country, to be aware of their contribution and of their problems. So far, there is little awareness about the migrant community, and very few channels to hear their voice in Estonia.

8. CONCLUSION

The study carried out in Estonia brought the following conclusions:

Estonia imposed rather rigid immigration rules (also due to the recent past of the country). They have changed to a certain extent after Estonia became a part of the European Union; however, they continue to be rather strict. A great difference is made in law between the EU nationals and third country nationals. Immigration quotas continue to limit opportunities of third country nationals, as well as very strict rules regarding employment of migrant workers and self-employed foreigners.

Estonian legislation and policies can be described as insufficient to provide newcomers with the stable conditions of life and equip them with the knowledge and skills needed to integrate into the society. Policymakers underestimate the importance of such policies.

The legislative measures, although existing, are rather narrow in scope and are not sufficient for the successful integration and adequate protection of migrants. Therefore it is important for the legislator to envisage provisions applicable for *new migrants* and introduce amendments directed at the *historical or old migrants*, as referred to in the report.

Moreover, Estonian society itself is tuned to neglect the problems of the newly arriving people and is not eager to accept them. Language proficiency training of non-Estonians is seen to be the key remedy of integration and social inclusion. However such trainings continue to be practically unavailable for those who cannot follow the course with Russian as a language of instruction.

Special attention should be paid to the official linguistic policies and in particular to the mandate and practices of the Language Inspectorate, which often exercises unfounded and disproportionate control over the use of the state language. These policies often exclude migrants from taking up a number of employment positions in which the official language proficiency criteria are clearly too demanding. They also prevent migrants from contacting the public administration and hinder access to publicly available information.

The number of new immigrants and visible immigrants arriving in Estonia is small, and partially due to this fact immigrants have limited access to civil society institutions and are not actively involved into the dialogue and common planning of measures required to improve integration and to address their needs. It is possible to say that immigrant voice is not yet being heard in Estonia.

The Common Basic Principles (CBP) developed by the EU can be considered as an efficient measure to improve the integration of migrant workers in the member states, envisaging different types of actions and approaches. So far, Estonia has not actively implemented its provisions into relevant national policies. Many of the requirements are not even being a topic for public discussion. The local practices show that there is a preference to consider integration as a one-sided process whereas it is obvious that this position is erroneous. Much more attention should be paid to tackle the existing stereotypes with regards to migrants. Newcomers should be provided with support aimed at improving their civil participation and orientation in the local civil, political and cultural space.

Estonia managed to harmonise its legislation with the EU anti-discrimination requirements. It is not clear yet what will be the practical value of these provisions, especially taking into consideration the limited mandate of the Chancellor of Justice, the Commissioner for Gender Equality and Equal Treatment, and unwillingness of the authorities and even equality bodies to engage actively in awareness raising and to take commitment of equal treatment mainstreaming into all areas of life of the society. The level of awareness of anti-discrimination legal provisions and instruments of protection is still very low among ordinary people.

The level of tolerance of the society in general is also disappointing. Media, being an important source of information and public opinion shaper, are reluctant to fulfil its societal role and to make a step towards fighting the existing stereotypes. They also fail to become a bridge between new immigrants, old migrants and natives.

It remains to be a challenge for NGOs and state institutions to find ways to be in contact with the migrant community and to get known about the problems and to make necessary steps to improve their situation.

ANNEX**Table 1. Numbers of temporary residence permits issued on various bases in 2006 – June 2008**

Basis/year	2006	2007	2008 (January-June)
Family reunion	1,185	1,572	684
Employment	565	733	492
Enterprise	7	3	31
Study	207	286	87
Legal income	43	35	13
International agreements	2,363	1,436	544
Total	4,370	4,065	1,851

Source: Citizenship and Migration Board⁴⁶

Table 2. What are your concerns over neighbours? 2007, %

They do not speak Estonian	32
They are uneducated	24
A different cultural background	18
A different religion	17
A different skin colour	10
Other	6
Neither of the above is a cause for concern	38

Source: Faktum&Ariko⁴⁷

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⁴⁶ Vadim Poleshchuk (ed.), *Chance to Survive: Minority Rights in Estonia and Latvia*, Tallinn, 2009, p. 34

⁴⁷ Ibid, p. 116

Situation of new immigrants in Latvia

Peter Mensah, AFROLAT

1. EXECUTIVE SUMMARY

Introduction

Integration issues have been very important since Latvia became independent in 1991. Latvia re-established its original citizenship laws and policies that allowed former citizens, before 1940, and their descendants to restore their citizenship, regardless of ethnicity. However, approximately 700,000 permanent residents (former Soviet citizens) were denied automatic acquisition of citizenship at that time.

Defining migrant in the context of the report

Migrants could be defined as asylum seekers, refugees, persons with alternative status and persons holding a residence permit who migrated to Latvia after 1991. There are distinctions between migrants and their descendants of the Soviet period and those migrants who settled in Latvia after its independence was regained.

Legal system and policies

The Office of Citizenship and Migration Affairs (OCMA) is a state institution under the supervision of the Ministry of Interior which is a major one within the area of domestic affairs including migration. It is also responsible for the development and implementation of repatriation and asylum policy, defining the legal status of persons in the country, issue of identity documents and travel documents and maintenance of the Population Register. If a person wants to apply for a residence permit, s/he has to submit the necessary documents to the Office of Citizenship and Migration Affairs in Latvia, or any Latvian embassy and consular office abroad. The Latvian embassy or consular receives documents for residence permits and passes them to the Office of Citizenship and Migration Affairs which makes decisions on issuing and revoking residence permits.

General policy approach to migration

The common approach to migration in the EU was largely framed at the Tampere European Council in 1999, which granted to third country nationals rights comparable to those of EU citizens. The Common Basic Principles for immigrant integration policy in the European Union (hereinafter the Common Basic Principles) were adopted in 2004 to help Member States develop integration policies. The Common Basic Principles add to and provide synergy with Community legislative instruments on the admission and stay of third country nationals as regards family reunification and long-term residents.

Integration policies and measures

Institutions and projects dealing with integration have been allocated for 10 million euro, and Latvia also received international assistance that contributed significantly to its integration policy, especially funding from the European Union's PHARE program. The Integration policy in Latvia is divided into ten major areas. These include: social integration, culture, language, regional integration, civic participation, non-governmental organisations, repatriation and migration, mass media, education, and scientific support.

Political and Legal Context

In January 2006, the Directive 2003/109/EC on the status of permanent inhabitants from third countries was enforced in the EU. In July 2006, the directive was transposed into Latvian law implementing integration conditions. It provided that «after 5 years of legal residence a third country national is entitled to nearly the same free movement rights as an EU citizen, including equal treatment and the right to take up residence in any member state conditional on sufficient resources in order not to become a burden on the social assistance system, and on sickness insurance. The permanent resident has a right to equal treatment including access to employment, employment conditions, education (including study grants), tax benefits, social security, as well as access to public housing, public goods and services». These rights are also extended to family members.

Media Assessment towards Migrants

Xenophobia is not tolerated in the Latvian media but there are some radical leaflets, and racist organisations widely use the Internet to promote their intolerances.

There are divisions among the media's positions on issues of immigration in Latvia. For example, the national and conservative media argue that the state should only assist those migrants who «truly want to integrate» into the Latvian society, and that the number of immigrants should not exceed emigrants, while some other media support the immigration of highly skilled workers. On the other hand, there are media that encourage the liberalisation and they also emphasise that every migrant should be welcomed and treated equally in Latvia.

Migrant Community Voice and its Importance

As the recent immigration level is very low and immigrant workers are rotating, Latvia lacks recent immigrant groups that are actively preserving their identities. As a result, the voice of recent migrant community and its importance are not so visible. However, the identity of Soviet era settlers, especially Russian-speaking group, is very strong; they have their own radio stations and newspapers as well as two political parties in the parliament which associate themselves with the protection of interests of Russian-speakers in Latvia.

2. INTRODUCTION

2.1 NATIONAL CONTEXT OF IMMIGRATION ISSUES

Integration issues have been very important since Latvia became independent in 1991. Latvia re-established its original citizenship laws and policies that allowed former citizens, before 1940, and their descendants to restore their citizenship, regardless of ethnicity. However, approximately 700,000 permanent residents (former Soviet citizens) were denied automatic acquisition of citizenship at that time. Latvia became a member of the United Nations, the Council of Europe, the World Trade Organization, the Organization for Security and Co-operation in Europe (OSCE), and many other international organisations based on democratic values at the beginning of the 1990s.

In 1991, many former Soviet citizens remained in Latvia. As they were not qualified for an automatic Latvian citizenship, they had to naturalise or adopt the status of «a non-citizen of Latvia». Some of them took Russian citizenship. In 2007 there were almost 392,816 former USSR citizens with the status of a non-citizen. This status could be applied for by former USSR citizens and their children if they have permanent resident status. Non-citizens of Latvia lack the right to vote and to hold certain positions, but they possess special passports, enjoy diplomatic protection of Latvia and they do not have to apply for residence permits.

For historical reasons, immigration has always been a sensitive issue, and the national migration policy is quite hostile towards immigrants in Latvia: The fear of immigration still have a negative impact on political decision-making. The majority of Latvian population would prefer immigrants from neighbouring countries to immigrants from Africa and Asia; however, other social groups may be worried about the potential increase of the Russian-speaking population. Due to the restrictive immigration policies of the 1990s, recent immigrants make up some 1.6% of the total population in Latvia. «The number of immigrants in Latvia is quite small compared to its neighbours and the immigrants find themselves in unfavourable condition where they are neither visitors nor residents».¹

2.2 DEFINING MIGRANT IN THE CONTEXT OF THE REPORT

Migrants could be defined as asylum seekers, refugees, persons with alternative status and persons holding a residence permit who migrated to Latvia after 1991. There are distinctions between migrants and their descendants of the Soviet period and those migrants who settled in Latvia after its independence was regained.

According to the citizenship law in Latvia, a non-citizen (in Latvian, *nepilsonis*) is «a person who, in accordance with the law (on the status of those former USSR citizens who do not have the citizenship of Latvia or that of any other State), has the right to a non-citizen passport issued by the Republic of Latvia». Non-citizens of Latvia are not covered by the official definition of aliens or immigrants. The term «alien» (immigrant) is defined as a person who is neither citizen, nor non-citizen of Latvia.

The children of asylum seekers, refugees, persons with alternative status and persons holding a residence permit are officially classified as immigrants.

In accordance with the statistical data on long-term migration of population, 2008, the net migration² in Latvia was –2542.

Table 1. Long-term migration of population, 2008³

Year	Immigration	Emigration	Net migration
2008	3465	6007	-2542

1 Lauren Monsein Rhodes, Creating a “Space” for Identity: Immigration and the Performance of Ethnicity in Latvia (paper on file with the author)

2 Net migration is a difference between the total number who have declared place of permanent residence in Latvia and the number of persons who have departed from it during a specified period of time

3 Central Statistical Bureau of Latvia, Monthly bulletin of Latvian Statistics, 2(177)/2009, pp. 48-49

Due to the constantly increasing number of labour emigration from Latvia, there have been substantial shortages of qualified labour force in some sectors of the economy. As a result, the issue of guest labour force is becoming more and more important. International practice shows that labour import may lead to increased risk of illegal immigration. Latvia is characterised by a very strict policy regarding access of job seekers from third countries to the domestic labour market.

2.3 LEGAL SYSTEM AND POLICIES

The Office of Citizenship and Migration Affairs (OCMA) is a state institution under the supervision of the Ministry of Interior which is a major one within the area of domestic affairs including migration. It is also responsible for the development and implementation of repatriation and asylum policy, defining the legal status of persons in the country, issue of identity documents, travel documents and maintenance of the Population Register. The Office, State Border Guard, Diplomatic and Consular Representations and the Ministry of Foreign Affairs Consular Department supervise the entry and residence of foreigners in Latvia relevant to their scope of competence.

The OCMA is a Latvian contact point for the European Migration Network. In 2008, the OCMA presented the structure of migration and asylum policy in Latvia between 1991 and 2008 in the study organised within the work programme of the European Migration Network in 2008. The following regulations were adopted in Latvia in 2008:

Legal regulation on residence permits⁴

- Regulations on April 1, 2008 No. 222 «Application Fees for Processing Visa, Residence Permit or the Status of the Permanent Resident of the European Community in the Republic of Latvia Applications and related Services».
- Regulations on May 26, 2008 No. 365 «Procedures by which the Examination of the Information Available is Performed Examining the Documents of a Foreigner Submitted for an Application for a Visa or a Residence Permit».
- Regulations on July 28, 2008 No. 591 «Health Insurance Regulations for Foreign Nationals».

Legal regulation on asylum⁵

- Regulations on May 26, 2008 No. 360 «On the Procedure how the Expense of the Local Authorities are Reimbursed from the State Budget for Maintenance of Unaccompanied Minors in the Day-care Centre»

Legal regulation on return⁶

- Regulations on June 17, 2008 No. 435 «Regulations on Requirements for Arrangement and Equipment of the Reception Centre».
- Regulations on June 17, 2008 No. 434 «On the Subsistence Standards for the Foreigners Placed in the Reception Centre as well as on the Procedures of Reception and Amount of Health Care Services».
- Regulations on July 7, 2008 No. 502 «Maintenance and Utilization of the Illegal Immigration Register».

4 The Latvian contact point of the European Migration Network, Study «Organization of Migration and Asylum policy in Latvia, p. 59, available at: http://www.pmlp.gov.lv/Organisation%20of%20Asylum%20and%20Migration%20Policy%20in%20LV_ENG%20version.pdf, accessed April 10, 2010

5 Ibid., p. 63

6 Ibid., p. 62

The rights to family reunification and employment are considered to be the most important aspects of the immigration policy in Latvia although public safety and health are also taken into consideration.

If a person wants to apply for a residence permit, s/he has to submit the necessary documents to the Office of Citizenship and Migration Affairs in Latvia, or any Latvian embassy and consular office abroad. The Latvian embassy or consular receives documents for residence permit and passes them to the Office of Citizenship and Migration Affairs which makes decisions on issuing and revoking residence permits. If a person wants to be employed in Latvia, his or her invitation has to be confirmed by the State Employment Service.

The following enlists necessary documents and general conditions regarding applications for residence permits:

- Valid travel document, medical insurance, financial means, place of residence, no criminal conviction, does not suffer from contagious diseases;
- If there are family members entering Latvia together with their sponsors, their family ties must be proved;
- All copies and translations of the documents must be made official by a notary;
- Documents for residence permits must be handed in to the Office of Citizenship and Migration Affairs not less than 30 days before the expiry date of the person's visa.

There are three basic types of residence permits issued in Latvia:

- temporary residence permit – issued for a limited period of time;
 - permanent residence permit – issued for an unlimited period of time;
- Status of European community resident.

Table in Annex 2 shows the types of residence permit in Latvia.

A person has to undergo the following procedures in order to obtain residence permit:

- 1) A person submits documents in a Latvian embassy or a consular office abroad or in the Office of Citizenship and Migration Affairs;
- 2) The Office of Citizenship and Migration Affairs takes decision on issuing of the residence permit or refusal;
- 3) If documents were submitted abroad, the Latvian embassy or consular office issues the immigration visa to a person and after arrival in Latvia s/he can get the residence permit at the Office of Citizenship and Migration Affairs;
- 4) If documents were submitted in Latvia, the Office of Citizenship and Migration Affairs issue the residence permit;
- 5) In case of refusal, a person can appeal the decision made by the Office of Citizenship and Migration Affairs to its director; if the decision is still negative, s/he can then apply to the court.

3. GENERAL POLICY APPROACH TO MIGRATION

The common approach to migration in the EU was largely framed at the Tampere European Council in 1999, which granted to third country nationals rights comparable to those of EU citizens. The Common Basic Principles for immigrant integration policy in the European Union (hereinafter the Common Basic Principles) were adopted in 2004 to help Member States develop integration policies. The Common Basic Principles add to and provide synergy with

Community legislative instruments on the admission and stay of third country nationals as regards family reunification and long-term residents. The following common basic principles for immigrant integration policy in the European Union were then established:

1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States;
2. Integration implies respect for the basic values of the European Union;
3. Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible;
4. Basic knowledge of the host society's language, history, and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration;
5. Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society;
6. Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration;
7. Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, inter-cultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens;
8. The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law;
9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration;
10. Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public-policy formation and implementation;
11. Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective.

4. INTEGRATION POLICIES AND MEASURES

Institutions and projects dealing with integration have been allocated for ten million euro, and Latvia also received international assistance that contributed significantly to its integration policy, especially funding from the European Union's PHARE program. The Integration policy in Latvia is divided into ten main areas. These include: social integration, culture, language, regional integration, civic participation, non-governmental organisations, repatriation and migration, mass media, education, and scientific support.⁷ Some of them have been mentioned below.

⁷ Information adapted from Secretariat of Minister for Special Assignments for Society Integration Affairs (IUMSILS), at: <http://www.integracija.gov.lv/?id=461&adala=25&setl=2>, Accessed March 2, 2009

Minority policy:

Article 114 of the Constitution of Latvia (adopted in 1922) provides that «persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity.» In 1991, a law guaranteeing all nationalities and ethnic groups the rights to cultural autonomy and self-determination was adopted in Latvia. In practice, the most important issues tend to be those relating to language and schooling although each ethnic group has its own priorities. The National Action Plan Roma in Latvia 2007-2009⁸ is a good example, where three main areas of improvement and development have been chosen and implemented: combating discrimination of the Roma in education; combating discrimination and securing equal opportunities for Roma on the labour market; and involvement of Latvian society in the promotion of tolerance towards Roma.

Language policy

The Latvian language was made as the only official language; other languages are considered as unofficial and foreign (with the exception of Liv). Minority languages may be used under certain limited circumstances. In 1995, the government introduced the ‘National Agency for Latvian Language Training’ which offers free Latvian Languages courses.⁹ However, immigrants’ awareness about opportunity to obtain free courses of Latvian is rather limited.

Education policy

According to the information of the Ministry of Education and Science, this body has developed four model programs, which vary in terms of the proportion of classes taught in the national minority language. Each educational institution has had the chance to choose one of the four models offered by the state since 1999.¹⁰

Persons of ethnic minority origin who are at the age of compulsory schooling should have the opportunity to acquire basic education and to learn their native language at the same time. The bilingual approach used in the implementation of general basic and general secondary education programs for the acquisition of curriculum enhances competitiveness in the labour market, ensuring not only the knowledge, but also skills to use both languages in different situations.

The implementation of education policy for ethnic minorities facilitates the integration of the society of Latvia, providing guarantees for the rights of ethnic minorities and ensuring the requirements set by international documents. The Latvian government helps to educate ethnic minorities by motivating teachers, purchasing textbooks, regular monitoring of the process, provision of the National Program for Latvian Language Training, developing teacher in-service training system, and municipal support. Latvia has specific agreements on co-operation in culture, education and science with some countries (e.g. agreement between Latvia and Ukraine, 1995).

Immigration policy

As Latvia’s population is decreasing, there could be some difficulties to preserve social welfare model and sustainable economic growth in the long run. Therefore, a possible solution is immigration. Currently «foreigners» represent approximately 33,000 of the total population and the number of recent immigrants is small.

8 «First information of execution of the Framework Convention for the Protection of National Minorities» by IUMSILS
9 Ministry of Foreign Affairs, information at: www.am.gov.lv/en/policy/4641/4642/4649/, Accessed March 2, 2009
10 Ibid.

Some questions concerning national identity and security would be raised when the number of immigrants soars. As a result, three approaches to Latvian immigration policy can be observed, namely, conservative, liberal, and incremental liberal. They all have both advantages and disadvantages in terms of the development of the EU policies towards immigration and economic interests.

Citizenship policy

Applicants for citizenship in terms of ethnicity are mainly Russians (Feb 1995 – Jan 2008-68.2%), as well as Byelorussians, Poles, and Ukrainians.¹¹ Latvia's permanent residents (except for some categories, such as convicted criminals, some former communists or KGB agents, former USSR military servicemen) have to do this by taking a citizenship examination which includes the test of Latvian language, history and anthem of Latvia.

Cultural policy

The National Programme for Culture 2000-2010 is considered to be the most important national policy document dealing with culture in Latvia. This policy protects religious freedoms and supports the development of national culture communities, associations, and schools. The state also encourages all minority groups to apply for grants from state fund in order to promote integration and cultural projects in Latvia. The Law on Free Development and Rights for Cultural Autonomy of National and Ethnographic Groups (1991) aims to ensure rights pursuant to international norms for cultural autonomy and cultural self-governance for national and ethnic minority groups.

Other policies

The National Program for the Promotion of Tolerance is another important document approved by the government of Latvia in 2004. The program deals with intolerance and prevents the establishment and development of new forms on intolerance by promoting activities in public awareness, research which are monitored by both NGOs and the media. Furthermore, Latvia has recently augmented its support for the youths of the Jewish community that are interested and willing to participate in building a better, more tolerant, and better informed society in Latvia through seminars, training, public-awareness campaigns, and summer camps. NGOs also have other programs that discuss civic society role. These programs range from media campaigns to meetings with politicians. Thus, on the 28th May 2007, Latvia's Civic Alliance organised the first forum for NGOs and the Parliament addressed the 'evaluation of current collaboration and future cooperation options' in Latvia.

¹¹ Ibid.

5. POLITICAL AND LEGAL CONTEXT

5.1 ACCESS TO RESIDENCE/ADMISSION

In January 2006, the Directive 2003/109/EC on the status of permanent inhabitants from third countries was enforced in the EU. In July 2006, the directive was transposed into Latvian law implementing integration conditions. This directive stipulates that after 5 years of legal residence a third country national is entitled to nearly the same free movement rights as an EU citizen, including equal treatment and the right to take up residence in any member state conditional on sufficient resources in order not to become a burden on the social assistance system, and on sickness insurance. The permanent resident has a right to equal treatment including access to employment, employment conditions, and education (including study grants), tax benefits, social security, as well as access to public housing, public goods and services. These rights are also extended to family members. In order to receive a permanent inhabitant's residence permit a person has to pass test of Latvian and to prove that s/he has been living in Latvia for at least five years.

Table 1 in Annex 1 shows the number of people that have immigrated in Latvia since 1995.

Since the employment policy favours the employment of local and EU residents, there are restrictions in access to Latvia's labour market for third country nationals. Hence, after an advertised position has been vacant for one month, and if no qualified candidate who is a Latvian citizen, non-citizen, or EU citizen has applied, then a third country national can only be hired.

There are different formal conditions for immigrants to have access to the Latvian labour market which are based on the type of their residence permit, profession, as well as the length of their residence in the country. Furthermore, the spouses of foreigners holding temporary and permanent residence permits in Latvia enjoy relatively open access to the local labour market. A spouse, who is a temporary resident in Latvia, may receive a permit to work for any employer as long as the particular position has been locally advertised and vacant for one month.¹²

Another aspect that is very important in accessing the Latvian labour market is the knowledge of the Latvian language. As the government of Latvia is interested in reinforcing the Latvian language, it espoused a policy forbidding immigrants to work in some areas if they lack a certain level of the proficiency in Latvian. The knowledge and level of the Latvian language of the immigrant should meet with the government requirements before s/he could be employed in certain positions that are regulated by the government. These positions include sensitive public areas like health, public safety, virtue, etc. In the private sector, the employer makes the decision regarding the necessary level of the language before the immigrant can be employed.¹³

¹² The cabinet of Ministers regulations Nr. 116 Procedure for employing foreigners and stateless persons in Latvia, in effect since 01.04.2000, with amendments prior to 07.08.2001

¹³ Rita Kaša, Iveta Kešāne, "Learning to Welcome: Immigrant Integration in Latvia", in: Dace Akule (ed.) Learning to Welcome: Immigrant Integration in Latvia and Poland, Centre for public policy PROVIDUS, 2008, p. 53

5.2 CORE ECONOMIC AND SOCIAL RIGHTS

As the research “Learning to Welcome: Immigrant Integration in Latvia” reveals, third country nationals who have obtained long-term resident status of the European Community (EC) in Latvia, have the right to work and change employers in their respective fields if necessary. On the other hand, if a third country national obtained this status in another EU country, s/he must initially apply for a work permit and fulfil the same conditions that apply to those with a temporary residence permit, in order to be granted the right to work in Latvia.¹⁴

Immigrants with temporary residence permits have limited access to the labour market as they can only work for one employer in a particular position, and are therefore prohibited to change employers or positions. These immigrants have to leave the country if lose their job. If the immigrant finds another job, s/he still needs a new work permit which is not quite easy to obtain: the new employer is supposed to make a vacancy advertisement for a month and if there is no qualified local candidate to fulfil a particular position, then s/he may invite a foreign worker. The whole process takes approximately two months to accomplish which is quite uncomfortable for the immigrant as s/he can only stay in Latvia for not more than 45 days after the cancellation of his or her work permit. But, if the new employer submits the necessary documents on time and when the immigrant is still employed by the first employer, then it is possible for the immigrant not to leave the country. Provided the new employer can guarantee stable employment, the immigrant may receive a temporary residence permit for up to five years.¹⁵

Another way for an immigrant or a third country national to have access to the labour market in Latvia is to set up his or her own business and become self-employed. The immigrant can apply for the temporary residence permit either in Latvia or from a Latvian consulate abroad.¹⁶

5.3 EQUAL TREATMENT MEASURES

Third country nationals may be discriminated against because Latvia has only partially transposed into national legislation anti-discrimination standards of the EU and international law, in some cases resulting in contradictions that are hazardous to immigrants or third country nationals.¹⁷

There are two equality related EU directives compulsory for Latvia, namely the so-called Race Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC). These directives are partly transposed through different laws as there is no special anti-discrimination law in Latvia. Currently, the labour and social spheres have better legal protection against discrimination in Latvia; unequal treatment in access to publicly available goods and services are not comprehensively regulated. On the other hand, Latvian laws include certain conditions in order to foil the incitement of ethnic hatred and discriminatory assault.¹⁸

Other laws in Latvia include anti-discrimination provisions. However, in some occasions, third country nationals, including their family members, with a temporary residence permit may suffer from unequal treatment as compared with nationals, foreigners with a permanent residence permit and those with long-term resident status of the European Community. As the 2008 research “Learning

14 Ibid, p. 49

15 Ibid

16 Ibid

17 Ibid, p. 62

18 I. Püce, Capacity building of civil society dealing with anti-discrimination: Training manual, Brussels: Human European Consultancy in Partnership with the Migration Policy Group, 2005, p. 33

to Welcome: Immigrant Integration in Latvia” underlines, especially unfavourable is the situation of children whose parents hold temporary residence permits in Latvia, as they are not eligible to have access to publicly funded education. This contradicts both the Latvian legislation (Protection of the Rights of the Child Law) and international norms and standards (e.g. the UN Declaration of the Rights of the Child).¹⁹ This is quite controversial that children of immigrants with temporary residence permits are refused the right to publicly funded education whilst the children of non-citizens of Latvia, as well as EU and Latvian nationals enjoy equal access to publicly funded education.

The Government of Latvia came out with a national programme for promoting of tolerance which should be carried out from 2009 to 2013. The content of this program is still a topic of heated debates. Unfortunately, some ethnic groups would hardly be reached while the programme failed to name groups vulnerable in terms of prejudice.²⁰

Finally, very few complaints have been filed about discrimination regarding race, language, religion and ethnicity; this fact in reality does not portray the actual situation, as immigrants are not well informed about their rights and do not even know how to seek protection and what to do in case they become victims of discrimination. While the programme for promoting tolerance is being dragged, the possibilities to tackle issues of racism, prejudice and discrimination are quite limited and the rights of different ethnic groups could be ignored. «In 2006 there were 9 written complaints submitted and 40 verbal consultations provided related to discrimination on the basis of race or nationality. There were 14 written complaints submitted and 14 verbal consultations provided related to discrimination on the basis of language.»²¹

5.4 CIVIL AND POLITICAL RIGHTS

All third country nationals are not allowed to participate in parliamentary and local elections as they do not have the right to vote and cannot join or form political parties and associations in Latvia (except for EU nationals in local elections).

On the other hand, after receiving a residence and work permit which includes the declaration of place of residence, they can participate in non-governmental organisations, public associations and trade union activities if they have already been registered in the population registry. Nowadays in Latvia there are 227 registered NGOs working on ethnicity issues.²²

The Labour Law states that «every employee in order to stand for one’s rights to work as well as for fair safe work conditions and a fair wage can take part in or can form trade unions without any legal or non-legal discrimination». Trade unions are eligible to participate in economic and social development programmes and development of law on social insurance, health care, etc. The role of immigrants in trade unions could facilitate their inclusion into political and social processes. Nonetheless, immigrants have not been involved in trade unions and their activities in Latvia as yet. Hence, there are controversies between the way the Free Trade Union Confederation of Latvia (FTUCL) interprets law and the way experts involved in research state that immigrants do have the right to become members of a trade union.²³

19 Rita Kaša, Iveta Kešāne, “Learning to Welcome: Immigrant Integration in Latvia”, in: Dace Akule (ed.) Learning to Welcome: Immigrant Integration in Latvia and Poland, Centre for public policy PROVIDUS, 2008, p. 63

20 Ibid

21 European Commission against Racism and Intolerance (ECRI), Third report on Latvia, adopted on 29 June 2007, Strasbourg: ECRI, p. 15

22 «First information of execution of the Framework Convention for the Protection of National Minorities» by IUMSILS

23 Rita Kaša, Iveta Kešāne, “Learning to Welcome: Immigrant Integration in Latvia”, in: Dace Akule (ed.) Learning to Welcome: Immigrant Integration in Latvia and Poland, Centre for public policy PROVIDUS, 2008, p. 60

6. MEDIA ASSESSMENT TOWARDS MIGRANTS

Xenophobia is not tolerated in the Latvian media but there are some radical leaflets, and racist organisations widely use the Internet to promote their intolerances.

There are division among the media's positions on issues of immigration in Latvia. For example, the national and conservative media argue that the state should only assist those migrants who «truly want to integrate» into the Latvian society, and that the number of immigrants should not exceed emigrants, while some other media support the immigration of high skilled workers. On the other hand, there are media that encourage the liberalisation and they also emphasise that every migrant should be welcomed and treated equally in Latvia.

The overall concern is related to the impact of immigration on the proportion of ethnic Latvians in Latvia's population, on cultural values and national traditions. This goes in line with earlier studies proving that the majority of Latvians are not in support of multicultural society and still consider themselves as an ethnic nation.²⁴

Some reports have been made on issues of racist attacks by media in Latvia. The following are examples of media reports:²⁵

In 2006, LNT newscast enlightened the public about the sporadic outburst of racist attacks in Latvia; however, the Minister of Interior reported that such attacks are being carried out by «quite primitive, often intoxicated persons» and there is no organised racist group in Latvia.

On the 5th June 2006, the news agency LETA reported that the police detained four men for harassing an Egyptian citizen living in Latvia.

In July 2006, the U. S. State Department's Internet homepage warned travellers to Latvia about possible racist attacks following an attack on a family member of an employee at the US Embassy in Riga.

The media also reported incidents of racial and anti-Semitic slurs against an Indian restaurant chef, Afro-Latvian Association leader, musician Kristofers Ejugbo and Rabbi Mordehajs Glazmans on the streets of Riga.

24 Kristine Kruma and Ivars Indans, Latvia, at:

<http://www.idees.net/files/941-56-document/Latvia%20in%20English.pdf>, Accessed March 2, 2010

25 Ibid.

7. MIGRANT COMMUNITY VOICE AND ITS IMPORTANCE

As the recent immigration is very small and immigrant workers are rotating, Latvia lacks recent immigrant groups that are actively preserving their identities. As a result, the voice of recent migrant community and its importance are not so visible. However, the identity of Soviet era settlers, especially Russian-speaking group, is very strong; they have their own radio stations and newspapers as well as two political parties in the parliament which associate themselves with the protection of the interests of the Russian-speakers in Latvia.²⁶

8. CONCLUSION

Despite the fact that Latvia is trying to implement European law in the area of immigration, the total number of immigrants remains low. This is due to restrictive immigration policy of the government in order to safeguard the long term survival of the ethnic majority on the Latvian territory.

Another noticeable problem is the lack of common vision of immigration issues among 227 officially registered NGOs dealing with ethnicity issues, and the lack of organisation uniting all or most of these NGOs or immigrants.

A big number of institutions directly or indirectly working with immigrants in Latvia are to further complicate things because many immigrants still do not know where to find information necessary in terms of their accommodation and full social integration.

Importantly, the migration of immigrants to other European Union member States is in the increase while Latvia is still not able to integrate and support its ethnic minorities.

It is also worth pointing out that the mergence of the Secretariat of the Special Assignment Minister of Social Integration and the Ministry for Children and Family Affairs into a new Ministry called the Ministry of Children, Family and Integration Affairs in January 2009 will probably slow down the process of integration in Latvia. Tackling the high number of de facto stateless persons and comparatively low level of naturalisations, problems of political participation and socio-economic impact of restrictive language and citizenship policies remain an important challenge in Latvia and should be the main focus of the government for the coming years.

²⁶ Ibid.

ANNEX 1:**Table 1. First-time permanent residence permits and temporary residence permits, 1995-2007²⁷**

Year	Permanent residence permits	Temporary residence permits
1995	612	1859
1996	3545	1806
1997	7180	1821
1998	7634	1846
1999	4944	2631
2000	4496	2437
2001	7347	2212
2002	5764	2154
2003	5035	1896
2004	1914	2061
2005	3317	2396
2006	3238	2928
2007	2484	4831

Table 2: Long-term migration of inhabitants between countries, 1991-2007²⁸

Year	Immigration	Emigration	Net migration
1995	2799	16512	13713
1996	2747	12828	10081
1997	2913	12333	9420
1998	3123	8874	5751
1999	1813	5898	4085
2000	1627	7131	5504
2001	1443	6602	5159
2002	1428	3262	1834
2003	1364	2210	846
2004	1665	2774	1079
2005	1886	2450	564
2006	2801	5252	2451
2007	3541	4183	642
2008	3465	6007	2542

27 The Latvian contact point of the European Migration Network, Study «Organization of Migration and Asylum policy in Latvia, p. 58, available at: http://www.pmlp.gov.lv/Organisation%20of%20Asylum%20and%20Migration%20Policy%20in%20LV_ENG%20version.pdf, accessed April 10, 2010

28 Ibid, p. 57.

ANNEX 2:

Table 1. Types of residence permits in Latvia²⁹

	TYPES OF RESIDENCE PERMITS IN LATVIA		
	Temporary permit	Permanent permit	Status of European Community resident
Obtain a residence permit	In Latvia after entering with a visa	May obtain after at least five years of residence in Latvia with a temporary permit	May obtain after at least five years of residence in Latvia with a temporary residence permit
Duration of RP	Obtain for a maximum of five years. After expiration there is an option of extension. Exceptions: the case of the family reunification Self-employed	Obtain for five years. After it expires, there is an option of extension or naturalization	Obtain for five years. After it expires, there is an option of extension or naturalization
Latvian institutions involved in issuing RP	Office of Citizenship and Migration Affairs (OCMA) which deliver a residence permit. In case of working permit the State Employment Agency approves the invitation after verification of the vacancy	OCMA	OCMA
Latvian language test	No	Yes	Yes
Labour market access	Work permit needed	No work permit needed	No work permit needed
Labour market mobility	Tied to one employer	No restrictions	No restrictions
Social and health access	No	Yes	Yes
Public education access	No	Yes	Yes

²⁹ Centre of Public Policy Providus, Learning to Welcome, The integration of immigrants in Latvia and Poland, 2008

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Situation of new immigrants in Lithuania

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1. EXECUTIVE SUMMARY

The report addresses problems of newly arriving migrants in Lithuania by reviewing immigration data and identifying main developments in migration policy including: national context of immigration issues, legal system and policies that regulate migration, integration measures, rights of migrants (including access to residence as well as economic, social, political, civil rights and equal treatment), and finally – societal attitudes towards migrants and migrant community representation in public discourse.

Current situation of immigration and challenges that migrants face in Lithuania are analysed along the aforementioned topics:

National context of immigration issues

The analysis of current situation of immigration includes: patterns of migration flows prevailing after Lithuania joined the EU in 2004. The analysis showed that immigration is a new phenomenon in Lithuania that grew up after joining the EU. However Lithuania is still a country of emigration with increasing flows of labour immigration and the beginning process of return migration. The countries of origin of newly arriving immigrants are the CIS countries (Belarus, Russia and Ukraine). However, after Lithuania joined the EU new migration patterns (particularly labour related) from China, Turkey, and Moldova are identified.

Migrant's definition of the context of this report

According to the country of origin three types of migrants are identified: EU nationals, third country nationals and nationals of European Free Trade Association (EFTA). According to the grounds of arrival main categories such as labour migrants, asylum seekers, and those, who arrived in Lithuania through family reunion, etc, could be identified as well.

Description of legal system and policies of the Republic of Lithuania

The revision of the main legal acts that regulate migration policy showed that the main legal basis of migration policy is established. However, not all basic conditions for incoming immigrants are created.

General Policy approach to migration

Lithuanian migration policy is analysed considering legal basis of regulation of migration policy. The analysis showed that until 2007 (when *Strategy of Regulation of Economic Migration*¹ was approved by the Government of Lithuania) there was no long-term strategy of regulation of migration processes. Also, no integration measures for third country nationals were applied (contrary to situation of foreigners with refugee status and temporary protection as well as

¹ The decree of the Government of the Republic of Lithuania No. 416, 25 04 2007. (Nutarimas dėl ekonominės migracijos reguliavimo strategijos ir jos įgyvendinimo priemonių 2007-08 m. plano patvirtinimo). Available at: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=296517 (15.05.2009)

ethnic minorities). The Strategy concerned could be considered as the first document in Lithuania that forecasts long-term management of migration processes. However, there are no specific integration measures for third country nationals indicated in the aforementioned Strategy. Annual programme of the European Fund for the Integration of Third country Nationals (that was started in Lithuania in 2008) could be considered as strong background of creation of integration infrastructure for newly arriving migrants.

Description of integration measures

The integration policy was analysed considering main indicators of migrant integration: state (official) language courses, access to education, employment and housing; social protection and health care. Societal attitudes towards different ethnic groups (including labour immigrants and refugees) and provision of information to the public about the integration of foreigners were overviewed as well. The analysis of information concerned showed that all integration measures that should be applied for migrants are indicated in legal acts. However, the biggest attention is given to return migration or regulation of immigration process rather than to integration of migrants. Also, lack of migrant integration measures is identified regarding third country nationals living in Lithuania with different types of residence permits or coming to Lithuania annually (including those who are coming through channel of family reunification or labour related immigration).

Description of political and legal context

The analysis of conditions of admission of third country nationals, including migrant quotas, linguistic norms necessary to obtain Lithuanian citizenship, and possibilities of recognition of qualification showed that main legal conditions for migrant admission are established. The conditions for admission of third country nationals and EU nationals are different. Also, currently there are no quotas applied for newly arriving immigrants (despite labour market restrictions for issuance of work permits considering recent global economy crisis). Linguistic norms are very important in order to obtain Lithuanian citizenship. Also, there is an opportunities of qualification recognition for immigrants established by the Lithuanian Centre for Quality Assessment in Higher Education.

Description of economic and social rights

The analysis of Lithuanian legal acts reveals that economic and social rights for different categories of foreigners are similar: they have the same access to basic social protection (including insurance) as Lithuanian citizens. Apart from that, certain differences are noticeable in policy practice: on the one hand, the infrastructure of social integration of refugees is well developed (including social assistance, social benefits, social accommodation, etc.), but on the other hand, the practice of securing and ensuring the rights of the third country nationals is undeveloped.

The analysis of equal treatment measures

While legal provisions regarding equal treatment and anti-discrimination policies are in place, there is lack of practical arrangements for monitoring the problems that may emerge for immigrants and lack of assistance for the immigrants in case they would encounter discrimination.

Civil and Political Rights

Civil and political rights were analysed in the light of the access to Lithuania citizenship and political participation of newly arriving immigrants. The analysis of condition for third country and EU nationals to obtain Lithuanian citizenship and (actively/passively) participate in political life showed that migrants who possess Lithuanian citizenship are fully entitled with the rights to participate in political life. Those foreigners who live in Lithuania with temporary/permanent residence permits are restricted in terms of access to political participation (i.e. restrictions of active and in some cases passive suffrage, etc).

Societal attitudes, intolerance and racist violence

While negative attitudes towards migrants are changing over time and they were diminishing throughout 2005-2008, the categories such as Muslims, Refugees and Chechens are most disliked by the respondents in public opinion surveys. These categories are actually related to the types of the recent immigrant groups. In case of refugees from the Russian Federation who are Chechens by ethnic origin and Muslims by religion, there seems to be a multiple social distancing. Apart from general attitudes, there are occasional cases of direct attacks against foreigners.

Media assessment of the migrants

The analysis of media response to immigration issues showed that with regard to the fact that immigration processes are quite new phenomenon in Lithuania (comparing with West European countries) images of immigrants in Lithuanian mass media are not comprehensively constructed. Different types of migrants are presented in different ways. Media coverage on immigration issues is single-sided with articles, which titles remark negative impact of migration process (especially labour related).

Migrant community voice

The analysis of current situation shows that there are no registered trade unions of migrants, nor are any data of migrant participation in trade unions (except few cases). Also, there are no data or reports regarding working conditions of foreign workers as well as foreigners with refugee status and temporary protection.

2. INTRODUCTION

Since Lithuania joined the EU in 2004, there are important changes in immigration situation due to increasing immigration of foreigners, predominantly from the CIS, but also from more distant parts of the world, all of whom are currently labelled as third country nationals within the EU. A special attention in this report is given to labour immigration, because large emigration flows to Western European countries after Lithuania restored independence in 1990 raised new challenges such as demographic shortfall and labour force shortages. These new challenges triggered immigration as well as stimulated initiatives for new measures of migration policy.

In order to identify *the problems of newly arriving immigrants in Lithuania*, the characterisation of situation of immigration becomes necessary, including the description of current migration policy tools, migrant integration measures, and rights of migrants as well as public discourse towards migrants and immigration.

The analysis is based on resources² that include:

- Documents adopted by Lithuanian governmental institutions, such as: 1) Principles on Migration Policy proposed by Ministry of Foreign Affairs of the Republic of Lithuania; 2) Resolution on Confirmation of Landmarks of Lithuanian Migration Policy; 3) Strategy on Regulation of Economic Migration; 4) Law on the Legal Status of Aliens; 5) Law on Citizenship of the Republic of Lithuania; 6) Law on Election of City Municipality Council of the Republic of Lithuania; 7) Law on Seimas³ Election; 8) Law on President Election; 9) The Code of Administrative Offences; 10) The Labour Code; 11) The Penal Code; 12) Law on Associations; 13) Law on Trade Unions, etc.
- Data from governmental institutions, such as: 1) Lithuanian Labour Exchange; 2) Migration Department; 3) Ministry of Foreign Affairs; 4) Ministry of Social Security and Labour; 5) Statistics Lithuania, etc.
- Data from Lithuanian NGO's such as: 1) Alliance of Lithuanian Trade Unions; 2) Union of Social Wellness; 3) Solidarity (Vilnius Trade Union); 4) Association of Tolerant Youth; 5) Lithuanian Red Cross Society, etc.
- Data from international organisations 1) ENAR (European Network Against Racism); 2) CECOP (European Confederation of Workers' Cooperatives, Social Cooperatives and Social and Participative Enterprises); 3) ESN (European Social Network); 4) Migration Policy Group; 5) International Organisation for Migration, etc.
- Treaties, other documents and legal acts of the EU, such as: 1) Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Region; 2) EEC Treaty; 3) Law on Equal Treatment, etc.
- Articles in newspapers that illustrate media response towards immigration; researches and projects that illustrate societal attitudes towards migrants and various ethnic groups.

2.1 NATIONAL CONTEXT OF IMMIGRATION ISSUES

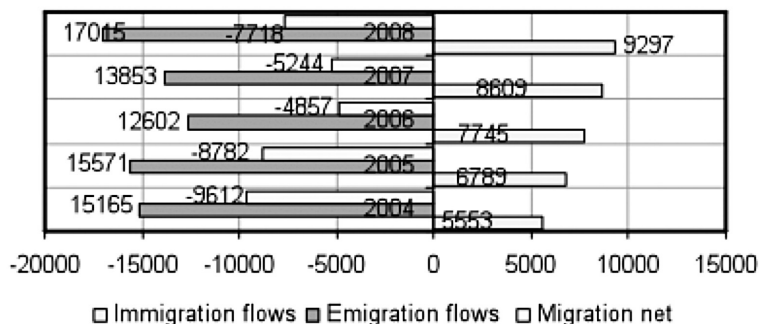
After Lithuania restored its independence, significant political, social and economical changes has led to new patterns of international migration. Since 1991, huge emigration flows made impact on demographic situation in Lithuania as well as on the structure of labour market. After Lithuania gained its independence migration net was negative and remained the same until now (see table below). If total immigration flows were increasing annually, emigration flows were changing with the peak in 2005: Lithuania had the biggest negative migration net (per 1,000 population) in the EU in 2005. Consequently, it has led to country's big demographic changes. According to the newest data from Lithuanian Statistics, 17,015 people have left the country in 2008 (compared with 15,571 in 2005). These numbers show that during the year 2008 economic emigration became even more acute than in 2005.

The trend of economic emigration has been prevailing in Lithuania for many years. Economic migration continues to be dominant migration pattern in Lithuania (with increase of emigration as well as labour immigration alongside with the beginning of process of return migration).

² In many international reports about migrants available Lithuania is not presented as a case study (for instance, in report on European Civic Citizenship and Inclusion Index, report of Human Rights Watch, etc.) or the case of Lithuania was reviewed in 2005 or 2006 (for instance, ECRI third report on Lithuania in 2006). In National Report of Lithuania on Social Protection and Social Inclusion Strategies only foreigners who have been granted refugee status or temporary protection were mentioned in the context of social integration (in this report social integration measures of refugees were mentioned in the general context of integration policies and measures)

³ Parliament

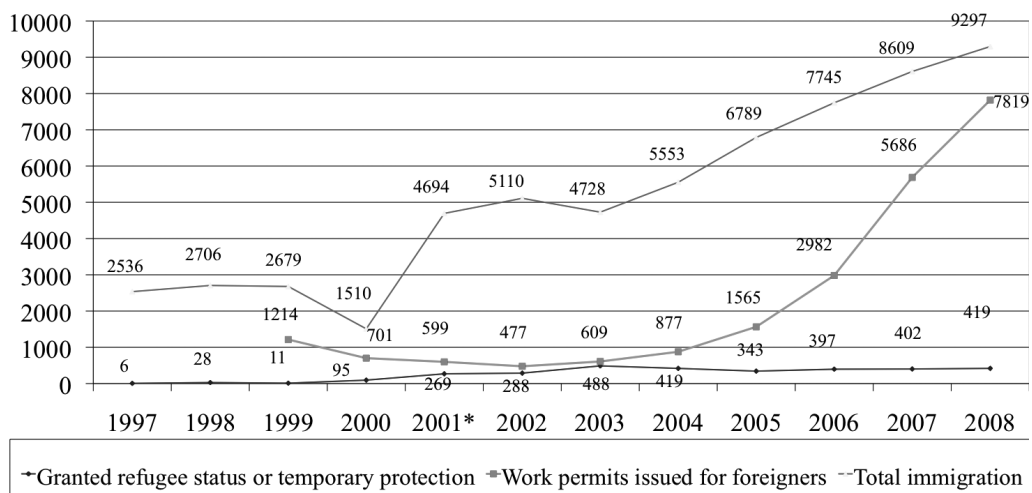
Registered Migration Trends in Lithuania, 2004-2008



Source: Graph prepared by authors on the basis of Statistics Lithuania.
Available at: <http://www.stat.gov.lt/en/>

Due to large emigration flows (with the negative migration net since 1991) immigration in Lithuania started to increase from 2000. Especially it became visible after Lithuania joined the EU in 2004. New trends of increasing immigration (especially labour related) triggered initiatives to establish new regulations of economic migration. As it is seen in chart below, labour immigration became significant, while flows of asylum seekers remained stable:

Immigration flows in Lithuania



Source: Graph prepared by authors based on statistical data from Lithuania Labour Exchange, Statistics Lithuania and Migration Department.

Notes: no data on total immigration in 2008 including granted refugee status and temporary protection are available.

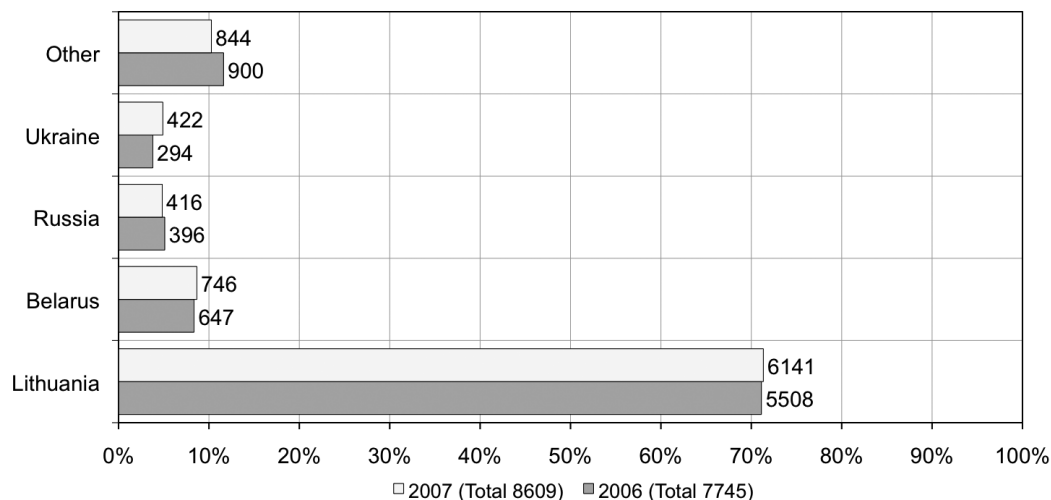
*Since 2001 foreigners who come to Lithuania for one year or longer are subsumed under definition of immigrant. Also, about 70% of immigrants are Lithuanians returnees. Therefore, real annual immigration volumes of foreigners are minor.

The comparison of statistical data shows that Lithuania experienced increase in immigration flows as well as in outflows of population (see charts above). However, volumes of emigration are changing, while volumes of immigration are increasing annually. Comparing the figures of the period from 2004 (when Lithuania joined the EU) to 2007, increase in immigration flows is identified: from 5,553 in 2004 to 8,609 in 2007. Along with the volumes of total immigration, labour immigration started to increase after 2004 when enlargement of the EU transformed Lithuania from a transit country to a country of destination for migrant workers. The number of issued work permits for foreigners sharply increased from 609 in 2003 to 7,819 in 2008.

Considering current global economic crisis, patterns of migration (especially labour related) can change. Statistics of Lithuanian Labour Exchange shows, that during the first quarter of 2009 the number of issued work permits for foreigners was 87% lower than during corresponding period of 2008.

The biggest groups of foreigners coming to Lithuania are citizens of Belarus, Russia and Ukraine (see chart below). Also, the beginning of return migration is identified: in 2006 and 2007 about 70% of incoming people were citizens of Lithuania.

Total immigration by citizenship in 2006-2007

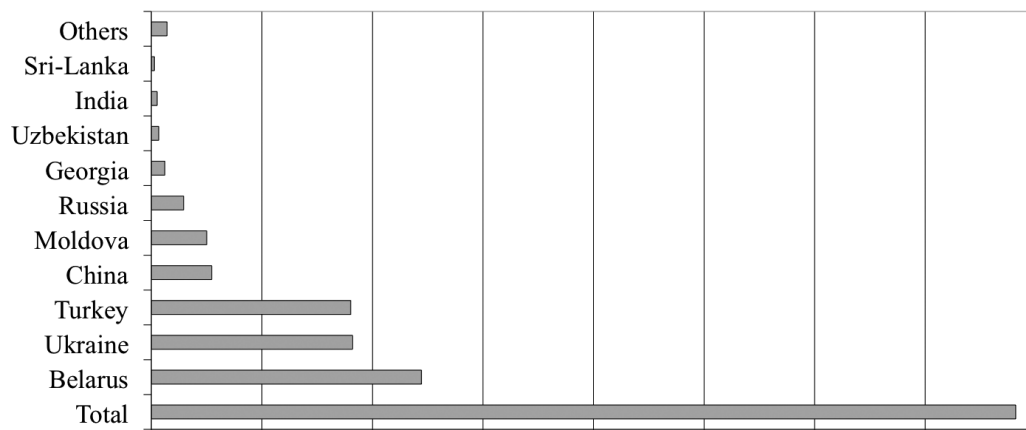


Source: Graph prepared by authors on the basis of Statistics Lithuania.

Available at: <http://www.stat.gov.lt/en/>

During the last years (2006-2008) immigrants arrived mostly from abovementioned countries. But with Lithuania’s accession to the EU (2004) migration flows have changed not only in quantitative way (i.e. increased), but also in terms of countries of origin. During the last years, increase in numbers of immigrants from Turkey, China, and Moldova was identified. The majority of foreigners from these countries could be considered as labour immigrants.

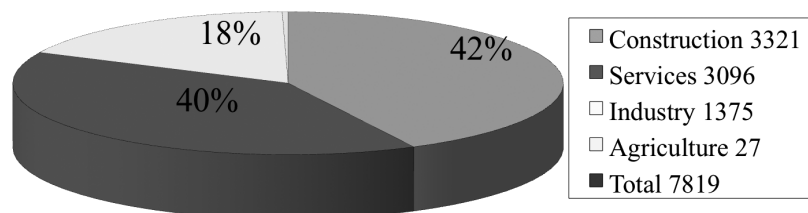
Labour immigration by citizenship in 2008



Source: Graph prepared by authors on the basis of Lithuanian Labour Exchange: <http://www.ldb.lt>

Currently, the majority of newly arriving migrants are coming as foreign workers. In 2008 foreigners were working in sectors of industry, transport, construction, services, and education:

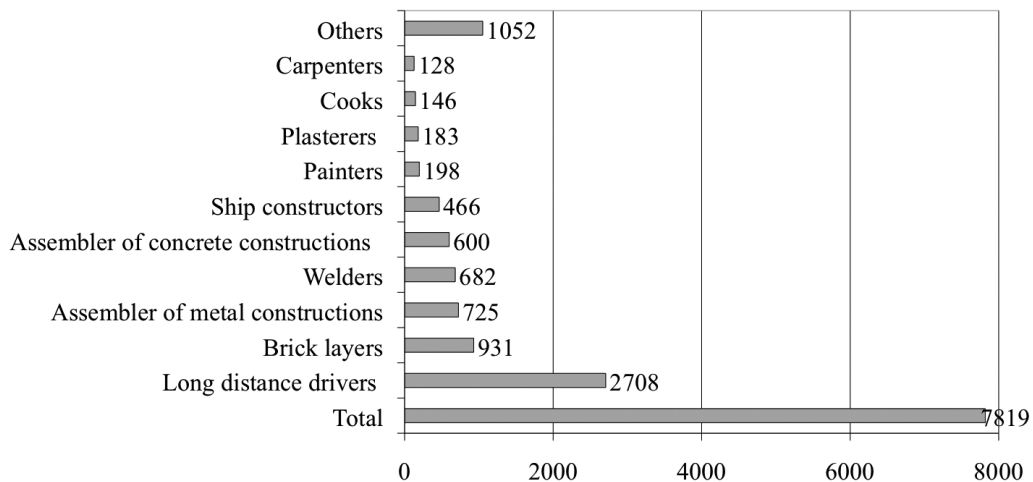
Labour immigration by citizenship in 2008



Source: Graph prepared by authors on the basis of Lithuanian Labour Exchange: <http://www.ldb.lt>

The majority of foreign workers in Lithuania occupy those professions that do not require high qualification, language, and other professional skills. For instance, newly arriving immigrants are working as long distance drivers, brick layers, assemblers, welders (including ship welders), electricians, painters, and cooks. The majority of labour immigrants are concentrated in districts of Vilnius (14,260) and Klaipėda.

Professions of foreigners with issued work permits in 2008

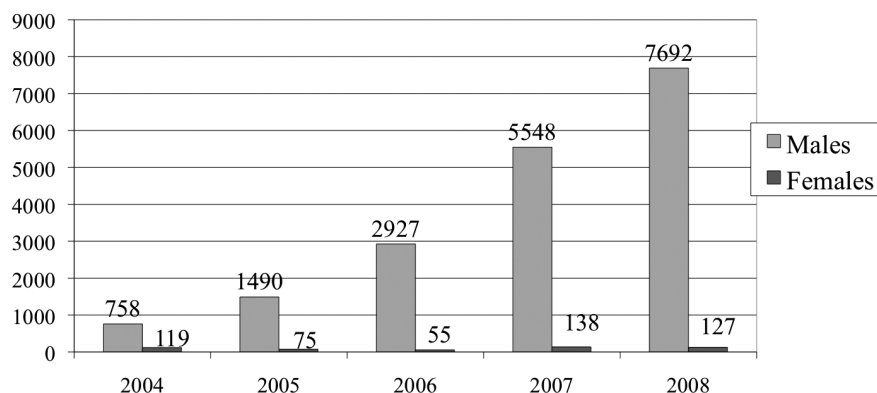


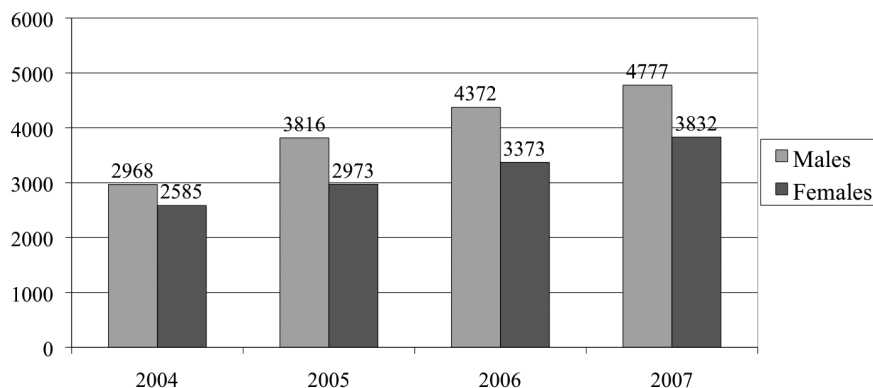
Source: Graph prepared by authors on the basis of Lithuanian Labour Exchange: <http://www.ldb.lt>

Gender and migration

Some specific trends were identified considering labour and total immigration by gender. Immigration of males is prevailing in labour related migration: in 2007 women consisted only 2% from total number of foreigners with issued work permits (5,548 men and 138 women from foreign countries were employed in Lithuania) comparing with almost 45% from total number of migrants arriving in Lithuania annually (2007). Similar trends were identified in 2005 and 2006. Female migration is especially low in labour related migration. This phenomenon could be explained by the fact that labour migrants are employed in areas traditionally occupied by men (construction sector, long distance driving, etc).

Labour immigration by gender 2004-2008

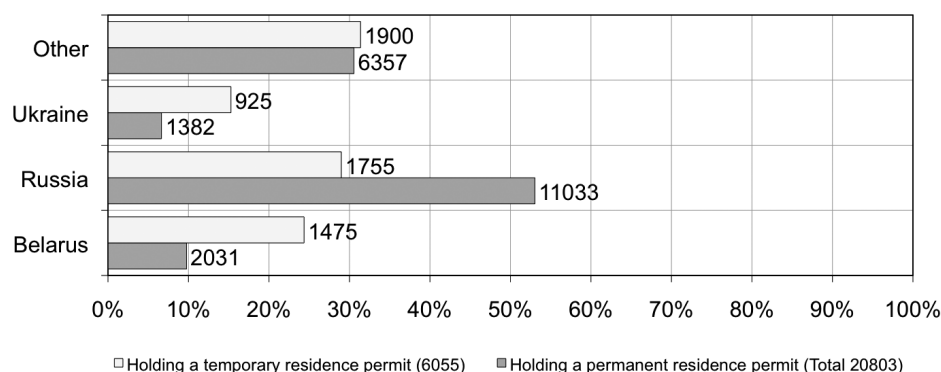


Total immigration by gender 2004-2007


Source: Graph prepared by authors on the basis of Lithuanian Labour Exchange and Statistics Lithuania.
Available at <http://www.ldb.lt>/<http://www.stat.gov.lt/en/>

Size of foreign population in Lithuania

Number of foreigners residing in Lithuania (with temporary and permanent residence permits) by the 1 of January 2007 was 33,100, while by the 1 of January 2008 – has increased to 33,400. Foreigners (by the 1 of January 2008) composed 0.99% of total foreign population residing in Lithuania. In 2007 the majority of foreigners residing in Lithuania with various kinds of residence permits were citizens of Russia, Belarus and Ukraine.

Number of foreigners residing in the Republic of Lithuania with permanent/temporary residence permits as of the beginning of 2007 by citizenship


Source: Graph prepared by authors on the basis of Migration Department of Lithuania:
<http://www.migracija.lt/index.php? - 484440258>

The number of temporary residence permits issued/replaced for foreigners in Lithuania increased from 7,369 in 2006 to 8,819 in 2007. The number of foreigners who have received permits of a long term resident increased as well from 397 in 2006 to 746 in 2007. The majority of those who received permits (issued or replaced; temporary or long term residence permits) in 2007 were also citizens of Belarus, Russia and Ukraine.

* * *

The analysis of the structure of immigration reveal that Ukrainians, Russians, and Belarusians (along with the Turks, Chinese and Moldovans as labour migrants) compose the majority of foreigners living and annually arriving in Lithuania. The structure of immigration evidences specific trends of Russian speaking migrants coming to Lithuania. This trend might be an important factor considering integration measures applied (or could be applied) for newly arriving immigrants in Lithuania.

On the one hand, the analysis of all information that has been collected from official sources⁴ regarding migration processes showed that migration is a quite new phenomenon for Lithuania. It became more visible after country joined the EU. The processes of EU integration (enlargement of the EU in 2004 and 2007 together with development of Schengen Agreement in late 2007) became main factors that have changed patterns of migration. Lithuania remained a country of large emigration flows with more visible process of return migration. On the other hand, at the same time Lithuania became a country of destination for migrants from third countries including migrant workers and country of transit for asylum seekers. These new migration patterns triggered new policy tools for better management of migration processes.

2.2 DEFINING MIGRANT IN THE CONTEXT OF THE REPORT

The Lithuanian Law on the Legal Status of Aliens identifies the definition of «an alien» (in this report we use a term «a foreigner» when we are not referring to the law), that means any person other than a national of the Republic of Lithuania irrespective of whether s/he is a foreign national or a stateless person.⁵ Also, Statistics Lithuania⁶ identifies definition of immigrant – a person who arrives in the country for a period not shorter than 6 months.

Also, the definition of third country resident is important since majority of foreigners coming to Lithuania are third country nationals. So, under the definition that is indicated in the European Commission Justice and Home Affairs Glossary, third country resident is a person who is not a national of the EU country but is legally residing in a Member State,⁷ while according to EEC treaty, third country national is a person who is not a citizen of the EU⁸ (there is no definition of third country national (or resident) in Lithuanian law).

According to the definition of European Commission for Democracy through Law, *Migrants in Europe: Definition, Rules of Admission, Legal Status*, migrant worker could be understood as a national of a Contracting Party who has been authorised by another Contracting Party to reside in its territory in order to take up an employment.⁹

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families defines migrant worker as a *person who is to be engaged, is engaged*

4 Lithuanian Labour Exchange. Available at: <http://www.ldb.lt/en/>, (27.04.2009); Statistical Yearbooks of Lithuania. Statistics Lithuania (2004-2008). Available at: <http://www.stat.gov.lt/en/>, (27.04.2009); Demographic Yearbooks (2004-2008). Migration Department. Available at: <http://www.migracija.lt/index.php?484440258>

5 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (17.04.2009)

6 Statistics Lithuania. Demographic Yearbook 2007. Available at: <http://www.stat.gov.lt/en/> (18.05.2009)

7 Freedom, Security and Justice. Glossary.

Available at: http://ec.europa.eu/justice_home/glossary/wai/glossary_t_en.htm, (15.04.2009)

8 EEC Treaty. Available at: http://europa.eu/scadplus/treaties/euratom_en.htm, (17.04.2009). Also, it is important to note that there is no definition of third country national indicated in Lithuanian legal basis

9 European Commission for Democracy Through Law, *Migrants in Europe: Definition, Rules of Admission, Legal Status*. Available at: [http://www.venice.coe.int/docs/2005/CDL-UDT\(2005\)021-e.pdf](http://www.venice.coe.int/docs/2005/CDL-UDT(2005)021-e.pdf), (15.04.2009)

*or has been engaged in a remunerated activity in a State of which he or she is not a national.*¹⁰ From this a broad definition *the term 'migrant' in article 1.1 (a) should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor.*¹¹

According to the definition in Lithuanian Law on the Legal Status of Aliens, migrant worker is a person who may pursue employment in the Republic of Lithuania under an employment contract or, if the foreigner's permanent place of employment is in a foreign country, the foreigner may be sent for temporary employment in the Republic of Lithuania.¹² Also, other definition of different type of migrant worker is specified in the Law concerned – a migrant intending to engage a lawful activity.

According to the country of origin three types of migrants are identified in Lithuanian legal basis: EU nationals, third country nationals and nationals of European Free Trade Association (EFTA). According to the grounds of arrival main categories could be identified as well: labour migrants, asylum seekers¹³, those, who arrived in Lithuania through channel of family reunion, etc.¹⁴

2.3 LEGAL SYSTEM AND POLICIES

According to the Migration Yearbook 2007,¹⁵ the main documents that regulate migration processes are:

- Law of the Republic of Lithuania on the Legal Status of Aliens (came into force on 30 April 2004; last amendment was made in February 2008 due to the development of the Schengen Agreement). This law is the most important document on national level that regulates legal status of foreigners: main rights and duties of foreigners from third countries and the EU as well as treats main aspects concerning migration processes in the Republic of Lithuania including entry, stay, residence, work conditions, asylum, protection, integration, freedom of movement and departure (Law of the Republic of Lithuania Implementing the Law on the Legal Status of Aliens, in force since 30 April 2004);
- Law of the Republic of Lithuania on Citizenship (as amended, in force since 15 July 2008 No X-1709) regulates aspects of acquiring citizenship of the Republic of Lithuania and sets out conditions for foreigners that seek to acquire Lithuanian citizenship (Law of the Republic of Lithuania Implementing the Law on Citizenship, as amended, in force since 1 January 2003);
- Law of the Republic of Lithuania on Personal Identity Card (in force since 1 January 2003) regulates such areas as identity card and its purpose, term of validity of identity

10 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Available at: <http://www.un.org/documents/ga/res/45/a45r158.htm>, (17.04.2009)

11 Measures to Improve the Situation and Ensure the Human Rights and Dignity of All Migrant Workers. 1998. Report of the working group of intergovernmental experts on the human rights of migrants submitted in accordance with Commission on Human Rights resolution 1997/15. Commission on Human Rights, Fifty-fourth session, Intergovernmental working group of experts on the human rights of migrants. Available at: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/7fba5363523b20cdc12565a800312a4b/e696166bf66373f3c12566180046b9c6?OpenDocument#IB3Def>, (15. 04. 2009)

12 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008. Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (17.04. 2009)

13 Foreigners who have been granted refugee status, subsidiary or temporary protection in the Republic of Lithuania

14 Also foreigners who intend to be engaged in lawful activities or to get access to education, etc

15 Migration Yearbook 2007. Migration Department under the Ministry of Interior of the Republic of Lithuania. Available at: <http://www.migracija.lt/index.php?-484440258> (19.05.2009)

- card, identity card entries, issuance and changing of identity card, invalidity of identity card, seizure of identity card, liability, etc. (Law of the Republic of Lithuania Implementing the Law on Personal Identity Card, in force since 21 November 2001);
- Law of the Republic of Lithuania on Passport (as amended, in force since 1 January 2003) regulates issuance of passports, period of validity of passport, passport records, replacement of passport, validity of passport, seizure of passport, liability, etc. (Law of the Republic of Lithuania Implementing the Law on Passport, in force since 28 November 2001);
 - Treaties of the Republic of Lithuania on travelling of citizens of both states (in force with 2 neighbouring countries: Belarus and Russia) regulates conditions for citizens of Belarus and Russian Federation crossing Lithuanian state borders;
 - Readmission treaties of the Republic of Lithuania (in force with 24 countries: Armenia, Austria, Belgium, Estonia, Greece, Iceland, Spain, Italy, Croatia, Latvia, Poland, Luxembourg, Moldova, the Netherlands, Portugal, France, Romania, Russia, Slovenia, Finland, Switzerland, Sweden, the Ukraine, Germany). Treaties regulate the readmission conditions of citizens of both cosignatory states and contribute in dealing with issues of undocumented immigration.
 - «Law on residence declaration» entered into force in 2003. According to law, all citizens coming in the Republic of Lithuania or leaving the country have to declare their residence. It covers foreigners with at least one-year residence indicated in residence permit.
 - Bilateral treaties on free visa regime are signed with 38 countries. It facilitates entrees of nationals of cosignatory countries.

Brief overview of legal acts that regulates migration processes shows that the main legal basis for migration policy is established. However, not all basic conditions for coming immigrants are created. Referring to these and other documents, chapter No. 2 and No. 3 identifies main trends, objectives and priorities of Lithuanian migration and integration policies.

3. GENERAL POLICY APPROACH TO MIGRATION

For a long time there was no uniting document regulating processes of economic migration. Management of migration was established in main 3 documents: (1) Law on the Legal Status of Aliens, (2) Strategy of Long-term Development and (3) Strategy of National Demographic Policy of Population. With the regards to the membership in the EU (2004) the Government of Lithuania has revised the main regulations of immigration regime. Also, the process of creation of new conception of migration policy tools has begun. However, Law on the Legal Status of Aliens remained the main piece of legislation that regulates legal status of non-EU nationals residing in Lithuania. The Law concerned has been substantially amended¹⁶ during the last few years.

The Law on the Legal Status of Aliens regulates rights of foreigners to take up residence in the Republic of Lithuania by the procedures and under the conditions indicated in the Law concerned. Also, it regulates arrival, departure, temporary and permanent residence, work, legal responsibilities, and other issues related to legal entrance, stay and departure of foreigners in Lithuania. The Law also defines the status of foreigners that have been granted refugees status or forms of temporary protection as well as the issues of family reunification.

¹⁶ The last amendment was made in 2008 considering the development of Schengen Agreement

In light of (1) the enlargement of the EU in 2004, (2) large outflows of population, and (3) labour force shortages, in April 2007 the Government adopted *Strategy of Regulation of Economic Migration*. This new policy tool forecasted long-term plan that will regulate economic migration for the period of 2007-2012. The strategy aims to (1) reduce negative migration net to zero by 2012, (2) focus on processes of return migration and, regarding structural changes in labour market, (3) regulate labour immigration from third countries (considering current global economic crisis, some changes were made in order to restrict labour related immigration from third countries: according to IOM Vilnius,¹⁷ in 2009 the list of professions for foreign workers was shortened from 60 to 7).

Other objectives of *Strategy of Regulation of Economic Migration* could be considered as measures to implement new management tools of migration processes, including establishment of (1) long-term regulation measures of economic migration; (2) factors, that stimulate economic migration (with the main objective to assure match between labour force demand and supply); (3) new admission rules that regulate admission of workers from third countries (giving priority to returnees (Lithuanian citizens) and EU nationals; (4) close relations with Lithuanian communities living abroad (i.e. economic emigrants), and finally, (5) effective institutional cooperation in terms of management of economic migration.

As «selection» of immigrants is a common factor of immigration policy in many countries, the *Strategy of Regulation of Economic Migration* also established preferences to attract (or select) foreign workers from countries with (1) similar social structure to Lithuanian, (2) slight cultural differences and (3) similar spoken languages. Consequently, Belarus, Ukraine, Moldova and Region of South Caucasus should be considered with preferences (as it is identified in chapter No. 1.1., immigration from Belarus and Ukraine is prevailing aside preferences concerned).

There are more general priorities indicated in *Strategy of Regulation of Economic Migration*. These priorities should be considered as very general while there are no certain measures indicated how to achieve the following objectives: to (1) promote circular migration; (2) combat illegal migration; 3) encourage selective high qualified labour immigration; 4) establish migrant integration measures giving the priority to Lithuanian language courses; (5) promote immigration from neighbouring countries.¹⁸

Also, there are priorities of *immigration* policy established by the Government of the Republic of Lithuania. Ministry of Foreign Affairs came up with the proposal on Principles on Migration Policy.¹⁹ According to the principles concerned, two dimensions of economic migration are (or should be) important: (1) regulation of regular immigration flows and (2) migrant integration into receiving society. Considering these dimensions, the main aims should be: (1) to ensure quantitative and qualitative correspondence between foreign workers in Lithuania and needs of Lithuanian labour market, as well as (2) to guarantee social and cultural harmony (i.e. multicultural and integrated Lithuanian society). Proposal emphasises the need to create effective and single-minded, not *ad hoc* economic migration policy which would be beneficial for employers, immigrants, and the receiving country.

17 International Organisation for Migration (Vilnius). Report on „Impact of Economic Crisis to Migrants and Migration: Situation in the World and Lithuania“. Available at: <http://www.iom.lt/>, (17.06.2009)

18 Strategy on Regulation of Economic Migration.

Available at: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=296517 (17.04.2009)

19 Principles on Migration Policy proposed by Ministry of Foreign affairs of the Republic of Lithuania.

Available at: <http://www.urm.lt/index.php?-1567618118>, (14.04.2009)

Principles on Migration Policy puts forward main principles and priorities for economic *immigration*: (1) to promote legal migration and to combat illegal migration; (2) foreign labour force has to compensate (not to replace) lack of local labour force shortages; (3) to attract foreign labour force considering certain priorities (political and geographical – i.e. from Belarus, Ukraine, Moldavia, South Caucasus); (4) to promote selectively open migration policy (i.e. that Lithuania has to keep a position between closed and open migration policy); (5) to promote circular (or return) migration (i.e. after finishing liabilities foreign workers has to return to their countries of origin in order to benefit countries of origin and destination, save means for migrant integration and reduce threat to public order).

Main measures to implement these priorities are: (1) to facilitate visa, residence and work permit obtaining procedures; (2) to promote migration flows from neighbouring countries; (3) to discuss and to prepare proposals regarding more flexible procedures of obtaining residence permit for seasonal workers and for those who intend to occupy professions in need; (4) to accelerate the process of issuance of residence permit for high skilled workers, and (5) to implement blue card system for high qualified specialists from third countries.²⁰

If the Principles on Migration Policy is a document that has no certain legal authority (it is a proposal that was drafted by the Ministry of Foreign and harmonised with the Ministries of Social Security and Labour, Interior, Finances, and Economy), then the Resolution on Confirmation of Landmarks of Lithuanian Migration Policy²¹ has certain legal authority as it is a resolution that was adopted by the Government of Lithuania in December 2008.

The resolution concerned has similar priorities towards migration issues as Principles on Migration Policy and Strategy of Regulation of Economic Migration. It is understandable while long term migration policy is created by different ministries and it appears as an object of inter-governmental cooperation. However, in some cases these principles are general and cannot be considered as specific measures of migration policy.

Moreover, according to IOM Vilnius²², considering current global economic crisis all initiatives regarding migration issues are temporary suspended, including programmes of prevention of human trafficking, help for victims, and stimulation of return migration. Also, Lithuania keeps holding strict line towards immigration policy. Consequently, it is hardly possible to identify particular measures of migration management and migrant integration policy.

Infrastructure of establishment of new initiatives of migration policy, including regulation of economic migration

Ministry of Foreign Affairs played an important role in establishing the *Strategy of Regulation of Economic Migration*, as well as other ministries such as Ministry of Social Security and Labour, Ministry of Interior and Ministry of Finances. During the debates on the strategy concerned, social partners such as (1) trade-unions, (2) employers, (3) academicians, (4) IOM Vilnius, (5) companies concerned in bringing foreign labour force also actively participated in the debates. Some of these groups should influence the guidelines of regulation of economic migration process in the future.

20 Principles on Migration Policy proposed by Ministry of Foreign affairs of the Republic of Lithuania.

Available at: <http://www.urm.lt/index.php?-1567618118>, (14.04.2009)

21 Resolution on Confirmation of Landmarks of Lithuanian Migration Policy (Nutarimas del Lietuvos imigracijos politikos gairiu patvirtinimo). 03.12.2008 (No. 1317).

Available at: http://www.lrv.lt/bylos/Teises_aktai/2008/12/11884.doc, (17.04.2009)

22 International Organisation for Migration (Vilnius). Report on „Impact of Economic Crisis to Migrants and Migration: Situation in the World and Lithuania“. Available at: <http://www.iom.lt/>, (17.06.2009)

However, considering the effects of current global economic crisis the trends of economic migration as well as general trends of regular and irregular migration may change. Along with it, the course of implementation of migrant integration policy, especially for newly arriving migrants may change as well. Though, regardless changes of economic situation employers still are interested in bringing cheaper labour force from third countries.

Social actors shaping economic migration policy

With regard to labour force shortage that was prevailing during 2006-2008, employers started to demand more liberal admission policies in order to import cheaper labour force from third countries to work in Lithuania. The demands of corporate sector had strong impact on labour migration policy as Lithuania has begun the development of long-term strategy.

Consequently, recent amendments of labour migration policy were implemented as a result of employers' demands to liberalise the admission policies of third country nationals willing to work in Lithuania: (1) the term of issuance of work permits for foreigners with higher qualification has been shortened and (2) the requirements of necessary document in these cases has been reduced.

Considering recent debates in Lithuania as well as recommendations coming from the EU, amendment of the Law on Legal Status of Aliens should be implemented with due consideration of family reunion principle. Under the current system migrants from third countries can take his/her families only after two years residence in Lithuania. Considering the fact that work permit for foreigners can be issued not longer than for a period of two years, this rule is one of the strictest in the EU. Under the new rules, high qualified migrants should be able to take his/her family without waiting for two years.

Labour immigration process has not been sufficiently analysed yet. Though, during 2006-2008 public and media attention to this process increased, however, it seems that in 2009 the attention to labour immigration decreased and publications on this topic became infrequent.

Summarising general approach to migration policy

Selectively open immigration policy is applied in Lithuania – a middle position between open and closed migration policy with stimulated circular migration in order to safe integration means and to «preserve public order». It means that immigrants in Lithuania are considered as means that can satisfy labour force shortage without aspirations of long-term integration. From one hand, labour market is regulated in order to «protect» internal labour force from losing their positions. From another – immigration of highly skilled specialists from third countries and the EU member states are stimulated.

4. INTEGRATION POLICIES AND MEASURES

Chapter VI of Lithuanian Law on the Legal Status of Aliens «Integration and Naturalization of Aliens» regulates all aspects of migrant integration in Lithuania. This chapter considers all migrants coming in Lithuania under different grounds, including asylum seekers.

According to the Art. 110, the main measures of integration of foreigners in Republic of Lithuania are applied particularly for those who have been granted refugee status or temporary protection. These measures are (1) Lithuanian language courses; (2) education; (3) employment;

(4) provision with accommodation; (5) social protection; (6) health care; (7) information to the public about the processes of integration.²³

Currently in Lithuania there are no integration measures applied for newly arriving migrants, including foreign workers from third countries, their families, and other types of migrants. However, the aforementioned *Strategy of Regulation of Economic Migration* forecasts integration measures for newly arriving migrants. Though, these measures are expected to be implemented in the future. Also, there are no specifications on what kind of integration measures will be adopted considering important factors and indicators of immigration into Lithuania: (1) the structure of immigration (along with socio-demographic characteristics of migrants from third countries); (2) the needs²⁴ of migrants coming to Lithuania under different channels of regular migration (labour immigration, family reunion, legal activities, studies, etc); (3) negative attitudes towards different types of ethnic groups and migrants; (4) existing infrastructure of social integration programme of refugees as well as ethnic minorities; and finally, (5) the structure analysis of labour immigration (i.e. foreign workers by employment occupation, profession, sector of economics, citizenship, etc.) and other important issues related to specific situation of immigration of third country nationals in Lithuania.

Integration measures applied for different categories of ethnic groups

The Department of National Minorities and Lithuanians Living Abroad under the Government of the Republic of Lithuania coordinates *programmes of ethnic minority integration*, where priority is given to Sunday schools and non-governmental organisations. There is range of NGOs of particular minority groups (for instance, Ukrainians, Belarusians, etc.). However, there is no official information that organisations concerned could be in touch with newly arriving immigrants from third countries. Nonetheless, the *Law on Ethnic Minorities* (No. XI-3412, adopted on 23.11.1989, in force since 10.12.1989) may have a relevance to long-term residing immigrants who may take part in the work of ethnic or national minority organisations in the future. In case they become naturalised as citizens, they have full civic and political rights, in other case they may be beneficiaries of the minority organisations, who, like any other organisations, may apply for the project funding from the state budget. However, the main institutional arrangement for maintaining dialogue between the state and ethnic minority organisations – the Department of National Minorities and Lithuanians Living Abroad under the Government of the Republic of Lithuania – has been closed in 2009.

Education for children and adults (i.e. equalising courses) could be mentioned as another integration measure. Since 2005, schools in Lithuania can organise classes for pupils from foreign countries that need to learn Lithuanian language in order to continue the educational process in general system. However, the practice of providing foreign pupils with language courses is infrequent. Also, the statistical information about third country nationals which reside in Lithuania with families and children are fragmented.

Ministry of Social Security and Labour together with NGOs sector are developing *infrastructure of refugees' social integration*. The system concerned is applied for foreigners who have been granted refugee status of temporary protection in Lithuania. As it is indicated in the beginning of

23 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (17.04. 2009)

24 The needs of newly arriving immigrants are not identified yet. However, Centre of Ethnic Studies is working on the project *Third Country Nationals in Lithuania: Assessment and Indexes of Integration Policy* on the basis of an annual programme of *The European Fund for the Integration of Third country Nationals*. The survey that will be implemented in summer 2009 will help to identify obstacles for successful integration, social resources possessed by third country nationals in Lithuania and their needs

this chapter, there are certain integration measures applied for foreigners with refugee status in form of temporary protection, including language courses, vocational training, courses on Lithuanian culture and traditions, etc. Social integration programme has been well developed as governmental institutions and NGOs annually receive financial support from EU (on the basis of the European Refugee Fund). It helps to develop and to improve refugee acceptance and living conditions.

Though, there are no similar programmes applied for other types of migrants, the European Fund for the Integration of Third country Nationals (that was launched in 2007) could be considered as the first step towards specific integration measures for third country nationals, including labour immigrants and their families as well as other types of migrants such as foreigners coming to gain education, raise qualification, etc. Hopefully, the European Fund for the Integration of Third country Nationals will build strong background in order to establish and to improve infrastructure of integration of third country nationals as the European Refugee Fund did regarding social integration of refugees.

The overview of the projects financed by the fund concerned shows that there are at least four areas of activities that these projects are dealing with: (1) presenting immigration of third country nationals and life of immigrants from third countries for society: residence in Lithuania, problems of integration, etc; (2) publications and other information sources (for instance, telephone hotline) for third country nationals about necessary issues – documentation, information on social assistance, etc; (3) researches and (4) social services for immigrants from third countries.

Language as a key element of integration

Regarding the structure of immigration it can be stressed that language has not emerged as an important issue or an obstacle for successful integration. The majority of newly arriving immigrants (including labour migrants) are coming from countries where many if not most people can speak Russian (such as in Belarus and Ukraine). Also, the majority of refugees have Russian citizenship and also can speak Russian. Since many Lithuanians also have basic knowledge of Russian language, the integration through Lithuanian language learning so far has not been so central for practical everyday interaction. Moreover, migrant workers from third countries are concentrated in Klaipėda and Vilnius where Russian language is more prevalent than in other regions of the country. Also, labour immigrants work in those sectors and occupy those professions where state (official) language is not central for their work.

However, new trends in increasing numbers of labour immigrants from China, Turkey, or Moldova show that language might become more necessary as a communication tool and as an important integration measure.

Migrant Integration Policy Index: the case of Lithuania

With regard to other areas of migrant integration, *Migrant Integration Policy Index* (MIPEX) (2007)²⁵ could be identified as a source where comparison of all EU member states becomes possible considering following indicators: *access to labour market, long-term residence, political participation, access to nationality*, and *anti-discrimination* tools. According to MIPEX, Lithuania occupies 20th position considering the situation in all integration areas in the

25 Migrant Integration Policy Index. British Council and Migration Policy Group, 2007.
Available at: <http://www.integrationindex.eu/> (05.05.2009)

EU.²⁶ Family reunion is the strongest integration area measured by MIPEX, while access to long term residence and political participation is the second worst among all countries observed. Anti-discrimination and access to labour market are in the half way to best practise (for more information, see: <http://www.integrationindex.eu>).

Summarising general policy on migration and integration

According to migration policy principles proposed by the Ministry of Foreign Affairs of the Republic of Lithuania and the Law on the Legal Status of Aliens, integration measures are applied for refugees and those foreigners who have been granted temporary protection. No information as well as legal acts that regulate integration processes for other types of migrants (and migrant families) are available.

Regarding other priorities of migration policy reflected in the Strategy on Regulation of Economic Migration and Resolution on Confirmation of Landmarks of Lithuanian Migration Policy, specific objectives and long-term priorities of migrant integration processes hardly could be identified. However, prevailing focus in migration policy is on return migration rather than on immigration policy and measures of migrant integration.

5. POLITICAL AND LEGAL CONTEXT

5.1 ACCESS TO RESIDENCE/ADMISSION

The admission of foreigners into the Republic of Lithuania is regulated by provisions of the Law on the Legal Status of Aliens. According to the document concerned (Art. 5) the entrance or exit to and from the territory of Lithuania are regulated by the provisions of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006.²⁷ Art. 6 of the Law on the Legal Status of Aliens states, that foreigner who enters the Republic of Lithuania first of all have to possess a valid travel document. The procedure regulating the recognition of valid travel documents of foreigner and the list of documents necessary to enter the Republic of Lithuania are established by the Minister of Foreign Affairs in conjunction with Minister of the Interior.

Admission and stay of third country nationals

The admission of foreigners from non-EU member states in Republic of Lithuania is regulated by Council Regulation²⁸ (EC) 539/2001 of 15 March 2001 (consolidated version of 19 January 2007). The regulation is listing countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

26 When analysing MIPEX, we should consider that its indicators are too general to identify specific integration level of migrants in all EU member states. The case of Lithuania shows that data, indicated in MIPEX are not entirely correct. For instance, it is written that in order to obtain Lithuanian citizenship, written test of history and national anthem is necessary. It is not true: ordinary conditions to obtain Lithuanian citizenship include test of Lithuanian language and Constitution. It seems that Lithuania was mixed with Latvia in this regard

27 REGULATION (EC) No 562/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2006.

Establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:105:0001:0032:EN:PDF> (16.06.2009)

28 COUNCIL REGULATION (EC) No 539/2001 of 15 March 2001. Listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0539:20070119:EN:PDF> (16.06.2009)

Also, admission of third country nationals is regulated by the Law on the Legal Status of Aliens. Art. 11 regulates visa regime for nationals concerned. It states that the foreigner *to whom visa-free travel regime is applied shall be entitled to enter the Republic of Lithuania and stay in it without a visa up to 3 months in each half year from the first day of entry in the Republic of Lithuania or any other Schengen state.* Art. 11 also states that the foreigner *in possession of a valid Schengen visa shall be entitled to enter the Republic of Lithuania and stay in it for the time period specified in the visa, but not longer than 3 months from the first day of entry in the Republic of Lithuania or any other Schengen state.*²⁹

Art. 11 regulates admission of members of the family of a citizen of the EU Member State, who are not citizens of the EU Member State. According to this article, *those family members who possess the residence permit indicated in the Corrigendum to Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004*³⁰ *on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States are entitled to enter the Republic of Lithuania and stay in it without a visa up to 3 month in each half year.*

Finally, foreigner who possesses *a residence permit issued by another Schengen state is entitled during the period of validity of the residence permit to enter the Republic of Lithuania and stay in it without a visa up to 3 month in each half year from the first day of entry in the Republic of Lithuania or any other Schengen state which did not issue residence permit.*³¹

Admission of labour migrants from third countries

Foreigner (third country national) who is willing to work in Lithuania needs to obtain a work permit before entering the country (after that it is necessary to obtain residence permit that can be issued for up to 2 years). A work permit can be issued in the case if there is no specialist in Lithuania that meets qualification requirements. A work permit can be issued for a period not longer than two years. If foreigner is willing to take up seasonal work, it can be issued for a period up to six-month in a year. If foreigner enters Lithuania for employment as an intern or trainee it can be issued for a period of one year with the possibility to extended validity.³²

Admission and stay of the EU nationals

According to the Law on Legal Status of Aliens the EU nationals can enter the Republic of Lithuania and stay in the country for the period non exceeding three month (Art. 97). The same regulations are applied for family members of the EU nationals.³³

29 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (10.04. 2009)

30 DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004.

Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF> (16.06.2009)

31 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (10.04. 2009)

32 Order of Minister of Social Security and Labour on Conditions of Issuance of Work Permits for Foreign (Dėl leidimo dirbti užsieniečiams išdavimo sąlygų ir tvarkos aprašo patvirtinimo). (24.04.2006, No A1-118).

Available at: <http://www3.lrs.lt/cgi-bin/getfmt?C1=e&C2=274859>, (14.04.2009)

33 Family members of the national of the EU Member State who are not citizens of an EU Member State, upon entering the Republic of Lithuania for residence for longer than 3 months in a 6-month period accompanying the national of the EU Member State or joining him must be issued the EU residence permit

Regulations of legal stay of foreigners

Legal stay of foreigner includes areas of visa regime and residence permits (temporary and permanent). There are two types of visa for third country nationals: (1) the Schengen visa and (2) the national visa. The first type of visa includes: airport transit visa (A); transit visa (B) and short-stay visa (C). Group visa can be issued for a group of foreigners (with limited territorial validity). Also, the Schengen visas may be single-entry, double-entry or multiple-entry. The second type of visa (national one) may be (1) single³⁴ and (2) multiple³⁵ entries.

Art. 12 regulates issuance of the Schengen visa. Hence, visa is issued to a foreigner *who possesses a valid travel document, when its time of validity is not less than 3 months longer than the term of validity of the visa applied for*. Also, *the alien in possession of a valid Schengen visa may enter the Republic of Lithuania and stay in it for the time period established in the visa, if the conditions of entry in the Schengen state established in the Schengen Borders Code are complied with*. The national visa allows for foreigner to enter and stay in Lithuania for a period not longer than three months.³⁶

Residence permits

Foreigners with granted residence permits³⁷ have right to (1) reside, (2) choose the place of residence, (3) change the place of residence, and (4) depart from and (5) return to Lithuania during the period of validity of the permit concerned.

There are two types of residence permits: temporary and permanent.³⁸ By granting residence permit for the first time, usually temporary residence permits are issued (except in the cases established by the Law on the Legal Status of Aliens). The foreigner can be granted with residence permit by the number of reasons indicated in the Law concern (Art. 26); Art. 40 indicates grounds of issuance of a temporary residence permit (including family reunification: employment: lawful activities, education, protection, etc.). Permanent residence permits are issued for other grounds indicated in Art. 53.³⁹

Residence permits for the EU nationals (and his or her members of families)

Chapter V of the Law on the Legal Status of Aliens regulates entrance, residence, and work of the EU nationals (together with their family members with some exceptions indicated in Art. 101 and 101¹). Art. 97 states that a national of the EU member state (and members of his or her family) may enter Lithuania for residence for period of not longer than 3 months in a period of 6 month.⁴⁰ Contrary to the status of third country nationals, the EU nationals and their family members intending to work in Lithuania under an employment contract are not required to obtain a work permit.

34 Single entry national visas are issued to foreigner who has been granted a temporary or permanent residence permit

35 Multiple-entry national visas are issued to foreigner whose purpose of entry of the Republic of Lithuania is a long stay. Foreigner who periodically comes to Lithuania to work or engage in some other lawful activity and whose main place of residence is in a foreign state shall be issued a multiple entry national visa.

36 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (10.04. 2009)

37 There are three types of residence permits issued for different categories of foreigners: (1) Residence permits of citizens of the European Community Member State (for the EU and EFTA nationals); (2) Temporary residence permits in the Republic of Lithuania (for third country nationals) and (3) Permits of a long term resident of the Republic of Lithuania to reside in the European Community (for third country nationals).

38 Permanent residence permit can be issued if foreigner has been living in Lithuania for a continuous period of the last 5 years with temporary residence permit

39 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (10.04. 2009)

40 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (10.04. 2009)

Quota

According to the principles of migration policy (including the Law on the Legal Status of Aliens, Resolution on Confirmation of Landmarks of Lithuanian Migration Policy and other legal acts) there are no quotas applied for third country nationals including labour migrants (considering recent economic crisis, some restrictions in labour market were made. These restrictions are not related to migrant quotas). The possibility of quotas is defined in bilateral treaties signed by Lithuania with other third countries. However the application of those treaties is very limited.

Linguistic norms

According to the Law on the Citizenship⁴¹ (Art. 12), foreigners that seek to obtain Lithuanian citizenship has to pass an exam of Lithuanian language (the description of the exam is confirmed by Minister of education of the Republic of Lithuania in 2004 (amended in 2006) No. 37-1320) (other requirements for foreigners to obtain Lithuanian citizenship are indicated in chapter 4.4). Also, there are no other linguistic norms applied for third country nationals willing to work or be engaged in other lawful activities in Lithuania.

Qualification recognition

Lithuanian Centre for Quality Assessment in Higher Education⁴² is responsible for recognition of qualifications concerning higher education (since 2003 – for secondary as well). In terms of qualification recognition of foreigners, Centre is engaged in two types of activities: (1) for foreign students and (2) for foreign graduates. In the context of first type of activity, Centre provides with the information about higher education institutions (HEI) in Lithuania and assesses foreign secondary education qualifications if foreigner intends to enter a HEI in Lithuania. In the context of second activity, Centre assesses higher education (HE) qualifications if foreigner intends to study or work in Lithuania and provides with the information about Lithuanian institutions that foreigner can apply in order to seek recognition of qualification.

Summarising political and legal context

The main legal conditions for incoming migrants are created. The admission and residence conditions are different in terms of different migrant status (labour migrants, asylum seekers, family reunion, etc.) and country of migrant origin (third country nationals vs EU nationals). Also, for the moment there are no migrant quotas applied in Lithuania. Linguistic norms are very important as one of the key condition to obtain Lithuanian citizenship. There are opportunities for qualification recognition established by the Lithuanian Centre for Quality Assessment in Higher Education.

5.2 CORE ECONOMIC AND SOCIAL RIGHTS

Economic rights

Art. 62 of the Law on Legal Status of Aliens highlights principles of equal opportunities in terms of wage, i.e. that wages of foreigners cannot be smaller than of the residents of Lithuania (performing equal work). In general the labour relations, where foreigners are involved, are regulated by the Labour Code, the Law on Legal Status of Aliens, and legal acts of the EU.⁴³

41 Law on Citizenship (IX-1078). 17.09.2002. Amended in 15 June of 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=326111, (17.04. 2009)

42 Centre for Quality Assessment in Higher Education. Available at: <http://www.skvc.lt/en/?id=0>, (17.04. 2009)

43 Law on the Legal Status of Aliens (IX-2206). 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (14.04. 2009)

With regard to rights of workers from third countries, restrictions for family reunion can be mentioned as well: on the one hand, foreigners with issued work permits (that can be issued up to two years) are obliged to obtain temporary residence permit (that also are issued up to two years); on the other hand, migrant workers can bring their family only after two years of residence in Lithuania. This regulation is an evidence of a strict political approach towards labour immigration.

The Law on Trade Unions⁴⁴ was amended in 2003 to extend the right to join trade unions to all who are legally employed (Art. 1) – previously, this right was applied only to Lithuanian citizens and permanent residents. However, there are no migrant trade unions, nor is there any information about immigrant participation in trade unions. There are no data or reports regarding the working conditions of immigrants as well.

A factor that may influence unprotected condition of migrant workers in Lithuania is a fact that many foreign workers are posted, i.e. although they do work in Lithuania and for the Lithuanian companies, their work is being legally organised under the subcontracted foreign company who presumably posts those workers for the tasks to be done in Lithuania. In this situation, the delegated employees of the foreign firms work in Lithuania under the pay-levels and social security standards of the country in which the firm is registered.⁴⁵ In that case, Lithuanian agencies cannot interfere in regulating labour conditions. Sometimes this puts foreign workers in a disadvantaged position.

Social rights of foreigners from third countries

The main social insecurity of migrant workers from third countries is related to their status: due to the fact that employers may ask the Lithuanian Labour Exchange to abolish validity of work permit at any time, migrant workers immediately may lose their status and their right to residence. As temporary residence permit is «tied»⁴⁶ to work permit, migrant workers from third countries have no possibilities to be protected from abuses in labour market. This regulation leaves space for employers to suspend labour relations with foreign worker at any time and to leave them without paying salaries under conditions prescribed in contracts.

Though all migrants from third countries legally residing and working in Lithuania have the same rights for social guarantees as citizens of Lithuania: foreigners have the right to the same social insurance as citizens of Lithuania, i.e. that third country and the EU nationals (including those who are employed under employment contracts) are insured in the same way as citizens of Lithuania if they are subject of insurance under Lithuanian laws⁴⁷ and the EU regulations. Also, according to the Law on Social Services,⁴⁸ all foreigners and stateless persons residing in Lithuania with temporary or permanent residence permits have the right to social services.

44 The Law on Trade Unions (I-1818). 03.11.2003.

Available at http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=221466, (22.06.2009)

45 "The situation of migrants from Belarus, Moldova and Ukraine on the Labour Markets of Latvia, Lithuania, Hungary, Poland and the Slovak Republic. Regional Report" (2009) Kyiv: Secretariat of the Soderkopring/ Cross-border Cooperation Process. [<http://soderkopring.org.ua/files/pages/20468/2.pdf>]

46 I.e. foreigner must obtain residence permit after he/she was granted with work permit. Also, if work permit is no longer valid, foreigner must immediately leave the country. Moreover, foreigner can pursue only those duties indicated under the issuance of work permit

47 For instance, Law on State Social Insurance (I-1336).21.05.1991. Amended in 17.02.2009.

Available at in Lithuanian: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=346661, (28.04. 2009)

48 For instance, Law on State Social Insurance (I-1336).21.05.1991. Amended in 17.02.2009.

Available at in Lithuanian: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=346661, (28.04. 2009)

Employment support system for jobseekers is provided in Lithuania under the Law on Support for Employment.⁴⁹ The Law concerned is applied for citizens of Lithuania and for foreigners legally residing in Lithuania.

Social rights of refugees⁵⁰ are regulated by the Law on the Legal Status of Aliens (see chapter 3 for details). The Law also regulates rights of unaccompanied minor foreigners. Regardless their status, such persons have right to (1) be supplied with free accommodation and be supported, (2) study at general education schools and vocational schools, (3) receive free immediate medical aid, (4) be provided with free social services, (5) receive legal assistance guaranteed by the state, and (6) contact the representatives of non-governmental or international organisations in Lithuania.

The analysis of legal basis that regulates social protection shows that state social insurance is not related to person's citizenship or origin: all categories of foreigners and Lithuanian citizens are insured equally under the same regulations. Foreigners and Lithuanian citizens have the same rights for social assistance. Employment support system for foreigners and Lithuanian citizens is applied equally as well.

Access to education

Art. 2 and 25 of Law on Education⁵¹ state that foreigners under 16 years old living in Lithuania with temporary and permanent residence permits (like citizens of Lithuania) are entitled with the right to get education that is guaranteed by the state, including primary, basic, secondary or special education, as well as access to special education, post-secondary and higher education or vocational training that result in the acquisition of a primary qualification. Art. 30 of the Law concerned guarantees education in Lithuanian language and of Lithuanian (state) language. Also, it grants the same conditions for children of foreigners (with temporary and permanent residence permits) along with the possibility to learn in their mother tongue.

Foreigners willing to study in Lithuanian institutions of higher education must pay fee that is regulated by Lithuanian higher schools (while citizens of Lithuania are entitled with the possibility of free access to higher education). Also, foreigners have access to state scholarships and fees for studies and internships in Lithuanian educational institutions.

Financial assistance

Financial assistance is granted for poor families under the evaluation of individual means and incomes. This regulation is applied for *permanent* residents of Lithuania (including foreigners with permanent residence permits and refugees). Foreigners who reside in Lithuania permanently (including refugees) have a right to receive allowances (1) for children, (2) in the case of death (for members of family) and (3) one time allowance in order to settle. No social assistance is provided for foreigners with temporary residence permits.

49 The Law on Support for Employment (X-694). 15.06.2006. Amended in 10.05.2007.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=298481, (22.06.2009)

50 Foreigners who have been granted refugee status or temporary protection

51 Law on Education (I-1489). 25.06.1991. Amended in 03.04.2007.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=296455, (22.06.2009)

5.3 EQUAL TREATMENT MEASURES

Most of equal treatment measures apply for migrants in the same way as they apply for the citizens, and are defined by the following laws:

The Law on Equal Treatment (No. IX-1826) adopted no 18.11.2003, in force since 01.01.2005;

The Labour Code (No. IX-926, adopted on 04.06.2002, in force since 01.01.2003) defines the principle of equality of subjects under the labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion and other factors unrelated to the employee's professional qualities.⁵²

The Law on Public Service (No. VIII-1316, adopted on 08.07.1999, in force since 30.07.1999) contains provisions regarding equal opportunities for all persons, eligible to public service, regardless of their origin.

The Penal Code (No. VII-1968, adopted on 26.09.2000): the section 25 of the Penal Code of the Republic of Lithuania defines crimes and misdemeanours against person's equality of rights and freedom of consciousness. The section covers three articles, which foresee responsibility for discrimination on the basis of nationality (ethnic origin), race, gender, origin, religion or other group membership (Art 169), for increment of any national, racial, ethnic, religious or other hatred (art 170) and for the obstruction of religious service or religious celebrations (Art. 171).⁵³

The Code of Administrative Offences adopted on 16.06.2005: Art. 214.12 of the Code of Administrative Offences of the Republic of Lithuania deals with the production, possession, distribution and public demonstration of information production (publications, video, audio, or other types of production) that propagates national, racial or religious discord and foresees financial fines and/or confiscation of the production and means of the production.⁵⁴

The provisions of the Penal Code and the Code of Administrative Offences mainly apply for protecting peace in society and defending migrants or minorities from offence. However, it is the Law on Equal Opportunities that became a basis for some complaints submitted by the foreigners during the last few years. The main factor that makes this legal act effective is the existence of the complaint mechanism through the Office of the Equal Opportunities Ombudsperson.⁵⁵ A web-site of this Office contains some information in English that may be helpful for foreigners seeking legal support.

With regard to Labour Code or other provisions regarding equal opportunities, it is important to realise that they only can be effective if there is an effective mechanism for helping immigrants to get know their rights and to be assisted in legal matters. As a matter of fact, most Lithuanian human rights organisations do not have essential capacities for legal counselling and legal representation. Similarly, trade unions so far are not focused on immigrant worker issues. Asylum seekers and refugees receive legal assistance through a well developed infrastructure of the state and non-governmental agencies; the labour migrants often have no opportunity of support.

52 The Labour Code available at: <http://www3.lrs.lt/cgi-bin/preps2?Condition1=259422&Condition2>

53 The Penal Code available at: <http://www3.lrs.lt/cgi-bin/preps2?Condition1=111555&Condition2>

54 The Code of Administrative Offences, Lithuania available at:

http://www3.lrs.lt/pls/inter3/dokpaieskashowdoc_l?p_id=347441&p_query=&p_tr2=

55 However, no information is available about how many complaints were submitted by immigrants

5.4 CIVIL AND POLITICAL RIGHTS

Political rights

Permanent residents of a municipality (age over 18) have right to elect members of City Municipality Council. The right to become City Municipality Council member belongs to foreigners (age over 20) who have permanent residence permit in Lithuania. The member of Council can not be a foreigner, whose election right in his/her country of origin is limited by decision of court.⁵⁶

The right to elect European Parliament or to be elected as member of European Parliament belongs to citizens of Lithuania and other citizens of EU member states who live in Lithuania permanently (with the exception of those who have lost election right in their countries of origin). The passive suffrage is reserved for those aged 21 and older.⁵⁷

The right to elect the Parliament and President of Lithuania is entitled only to those who obtained Lithuanian citizenship.⁵⁸ Foreigners have no right to stand as candidates in elections to Seimas and President.⁵⁹

*Naturalization of immigrants from third countries*⁶⁰

The analysis of legal acts shows that only those migrants who possess Lithuanian citizenship are entitled with rights to participate in political life actively. Naturalisation of third country nationals is regulated by the Law on Citizenship of the Republic of Lithuania⁶¹ According to the Law on Legal Status of Aliens⁶² (Art. 111), foreigners have the right to obtain Lithuanian citizenship as established in the Law on Citizenship.

According to the Law on Citizenship of the Republic of Lithuania (Art. 12), citizenship of Lithuania may be granted to a person if s/he meets the following conditions: (1) has passed the examination in the state language; (2) at the time of submission of the application has a document certifying his/her right to reside in Lithuania permanently; (3) has been residing in the territory of Lithuania for the last ten years; (4) has a legal source of support, and (5) has passed the examination in the Constitution of Lithuania.

Granting Lithuanian Citizenship upon Marriage

A person, who lives in a marriage with Lithuanian citizen and has maintained his/her marital status for the last 7 years while residing in Lithuania, can be granted citizenship of Lithuania considering conditions prescribed in the Law on Citizenship.

56 Law on Elections to Municipal Councils (I-532). 07.07.1994. Amended in 16.04.2009.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=342502, (15.04.2009) were observed and analysed

57 Law on Elections to the European Parliament (IX-1837). 20.12.2003. Amended in 16.04.2009.

Available at: <http://en.infolex.lt/scripts/sarasas2.dll?Tekstas=1&Id=122368>, (15.04.2009)

58 Lithuanian citizenship policies are based on jus sanguinis

59 Law on Citizenship of the Republic of Lithuania (IX-1078). 17.09.2002. Amended in 15.07.2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=326111, (22.06.2009)

60 Estonian citizenship policies are based on jus sanguinis

61 Law on Citizenship of the Republic of Lithuania (IX-1078). 17.09.2002. Amended in 15.07.2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=326111, (22.06.2009)

62 Law on the Legal Status of Aliens (IX-2206) 29.04.2004. Amended in 1 of February 2008.

Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=319034, (15.04.2009)

Persons who live in a marriage with citizens of Lithuania who are deportees, political prisoners or their children born in exile, can be granted citizenship of Lithuania if after marriage they moved to Lithuania for permanent residence and provided that they have resided for the last five years in the Republic of Lithuania together with their spouses who are citizens of Lithuania.

A person who after a marriage with Lithuanian citizen has resided in Lithuania for over a year, in case of death of his/her spouse can be granted citizenship of Lithuania after s/he has resided in Lithuania for five years and meets conditions established in the Law on Citizenship.⁶³

Conditions of obtaining Lithuanian citizenship for children whose parents are citizens of Lithuania

If parents hold citizenship of different countries and one of them is a citizen of Lithuania, child has the right to become a citizen of Lithuania regardless of whether s/he was born in Lithuania or beyond its borders. The child whose one of the parents is Lithuanian citizen while the other is a stateless person also has right to obtain citizenship regardless place of birth. If one of the parents was a citizen of Lithuania but s/he died while the other remains a stateless person, their child can obtain citizenship of Lithuania as well. A child who was born in Lithuania, whose parents are stateless persons and reside in the country permanently, can also acquire citizenship of Lithuania.⁶⁴ The Law on Citizenship (Art. 11) also regulates citizenship of children with unknown parents.

5.5 SOCIETAL ATTITUDES, INTOLERANCE AND RACIST VIOLENCE

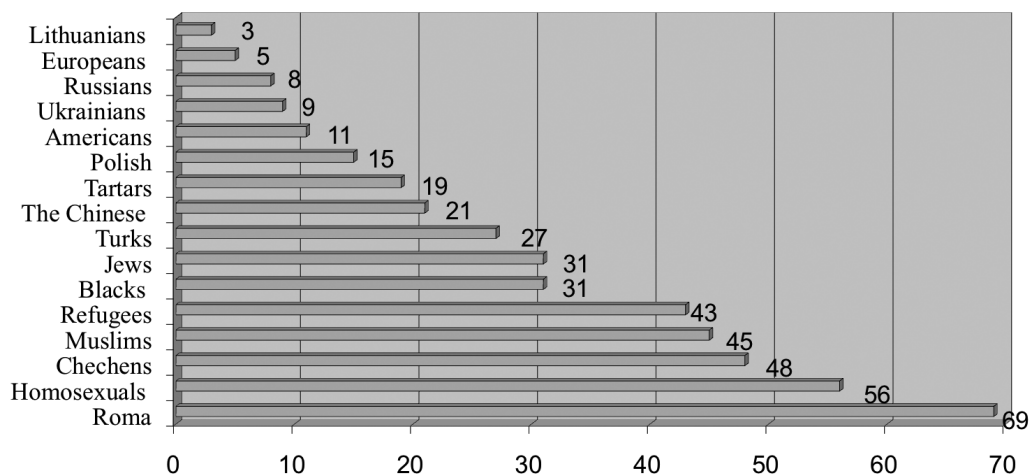
Public attitudes towards various migrant groups

According to various researches, societal attitudes towards minorities and various types of migrants (refugees, labour migrants) in Lithuania are negative. From 2005 to 2008, the Centre of Ethnic Studies (CES) at the Institute for Social Research accomplished a range of public opinion polls on attitudes towards various social and ethnic groups. For instance, in 2008 respondents were asked to indicate groups from the list presented to them they would not like to have as their neighbours. As it is seen in the table below, 69% answered that they would not like to live with Roma, 48% – with Chechens, 45% – with Muslims, and 43% – with refugees.

It is important to note that about 80% of asylum seekers in Lithuania are Russian Federation citizens of Chechen ethnicity, predominantly Muslims. The social distancing towards these three categories (i.e. refugees, Muslims, and Chechens) is the largest, leaving the Chechens in a situation of multiple rejection (that is higher on all three dimensions than in the case of any other immigrant group).

63 Law on Citizenship of the Republic of Lithuania (IX-1078). 17.09.2002. Amended in 15.07.2008. Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=326111, (15.04.2009)

64 Law on Citizenship of the Republic of Lithuania (IX-1078). 17.09.2002. Amended in 15.07.2008. Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=326111, (15.04.2009)

Which of the groups you would not like to have as your neighbours? (%)


Source: Centre of Ethnic Studies at the Institute for Social Research. 2008. Available at: http://www.ces.lt/downloads/structure/files/ETC_apklauso%20duomenys.pdf

The time series analysis shows that the negative attitudes towards the most disliked groups were decreasing in 2005-2008 (see annexes, graph 1). However, it does not mean that an issue of ethnic intolerance is becoming less important, because in the beginning of 2009, the negative attitudes jumped up again.

Another CES opinion poll, accomplished in 2008, showed that public attitudes towards labour immigrants and labour immigration in general are unstable. On the one hand, more than 80% were in favour of equal rights to foreigners and citizens of Lithuania in labour relations. On the other hand, cautious attitude prevails: more than 60% believe that migrant workers can trigger social disorder, and almost 47% think that there are enough foreign workers in Lithuania and no more are needed (see annexes, graph 2).

The survey data show that Lithuanian society is not well informed about the sphere of labour migration. For instance, people do not know whether labour migrants complement or replace internal labour force, or what status do labour migrants have in Lithuania (or what are the difference between status of labour immigrants and foreigners with refugee status or temporary protection), and other important questions. Thus, the ambiguity prevails: on the one hand, social distance towards immigrants is evident, on the other hand, advantages of economic immigration are considered.

Issue of racism and racist violence

According to various sources of information about incidents related to xenophobic or racist violence,⁶⁵ there was a sudden increase in direct attacks against foreigners in 2007: over ten reported cases when foreigners were attacked. In some of those cases, short-term country visitors

⁶⁵ The main source of information is so-far the media. The judicial authorities, although they have a technical possibility to register the potentially racist motivation behind the incidents, do not report this kind of statistics in a systematic way

were attacked; in some other, students who study in Lithuania were abused. In 2008, the overall number of the registered direct attacks decreased.

A popular situation where xenophobic attitudes are being publicly demonstrated is sports. In case of football, the foreign teams sometimes are being met with racist commentaries; in case of basketball, immigrant players of Lithuanian clubs are sometimes insulted during the games or harassed in non-play situations.⁶⁶ In 2008, the local club in Šiauliai was fined due to the racist behaviour of its fans.

Among the factors behind the xenophobic attacks can be a rise of informal youth groups related to or similar to skinheads (if not in style then in extreme right-wing ideology), who were often mentioned as perpetrators of the attacks against foreigners. On 11 March 2008, an informal demonstration of right-wing radical youth marched through the main avenue in Vilnius and chanted xenophobic rhymes (legal cases due to instigation of hatred followed). Since then, public and media attention to the problem of hate and violence has increased. Nonetheless, this has not prevented an incident in April 2008, when a TV show participant, who is an immigrant of South-African origin, was bullied by a group of young people on the street and was beaten by a young woman (this has been qualified as a racist attack by the court⁶⁷).

A phenomenon that may also be related to the reinforcement of negative attitudes in society, are hateful commentaries on the web-sites (most newspapers and web-portals have a possibility for the readers to type their commentaries on-line). In the last few years, the judicial authorities became more vigilant in reacting to hateful commentaries: during 2008, 101 (so far the ever-highest number) pre-trial investigation was started on the basis of alleged instigation of hatred on the basis of person's belonging to some social group (28 of those cases went to courts, in 25 of them, instigation of hatred was recognised by the courts). According to the General Prosecutor's office, 65 of those cases were based on verbal abuse against the black-skinned persons.⁶⁸

As a matter of fact, the xenophobic attacks were based on the way a victim looked (dark-skin) rather than on their formal status (immigrants or tourists, etc.). The occasional incidents in public space, even if rare, may add to insecurity of immigrants and tourists alike. The General Prosecutor Office admits that so far only the specialised judicial authorities are reacting to hate-crimes actively; the territorial prosecutors are less vigilant in registering and reacting to xenophobic incidents.

6. MEDIA ASSESSMENT OF THE MIGRANTS

A review of immigration-related topics in Lithuanian internet media was carried out in the Centre of Ethnic Studies to assess the immigrant images and media attitudes. This has been done on the basis of the on-going media monitoring data base, where the CES collects media items where ethnic group names or migration topics are being mentioned.

66 For instance, see: Garkauskas P., 'Žalgirio juodaodžiams – rasistiniai įžeidinėjimai Šiauliuose', 25 02 2008, in *www.DELFI.lt* [<http://www.delfi.lt/archive/article.php?id=16090642>]. Also, see an interview with a black basketball player about his everyday life experience in Lithuania in: Reklaitis G., *Kauno diena*, 01 03 2008 [<http://www.basketnews.lt/news-13590-brownas-del-odos-spalvos-mane-izeidineja-kasdien.html>]

67 See: 'Dainininkę Berneen sumušusi V.Iljinych pripažinta kalta, jai skirtas 43 parų areštas', 27 05 2009, in *Lrytas.lt* [<http://www.lrytas.lt/print.asp?data=&k=news&id=12434320251243081115>]

68 See a press release of the General Prosecutor Office, 22 01 2009

[<http://www.prokuraturos.lt/Naujienos/Prane%C5%A1imaispaudai/tabid/71/ItemID/2433/Default.aspx>]

General tendencies in Lithuanian media on immigration issues remained stable during the last two years. Neither the quantity nor topics of information varied in 2008 compared to previous year. Publications concerning immigration composed about ¼ of all publications that covered ethnic issues. However, during the first half of 2009 media's interest in immigration issues decreased while other issues (for instance, ethnic minorities such as Jews and Poles) became more visible.

The publications⁶⁹ appeared in particular streams after certain events. As a rule, most articles were triggered by certain developments related to migration: (1) laws, projects, and policies concerning immigration issues; (2) debates on migration processes and its consequences; (3) discrimination and racism issues; (4) migrants integration, and (5) issues of labour immigration. There are no significant differences among media channels in terms of subject of issues.

Perceptions of threat (such as terrorism, crimes, riots, unemployment) and problems (such as cultural incompatibility, racism, illegal work, lower payment for local labour force) prevail in all topics concerning immigration issues. Media tends to emphasise threats articulated by representatives of governmental institutions and experts. More attention is paid to the most controversial statements. In such cases, threatening rhetoric is used in headlines. For instance, in 2008 a representative of Vilnius Migration Service was asked in press conference, if migration could cause a threat of terrorism. The officer replied «why not». The headline «Newcomers from third countries may pose a threat of terrorism, officials claim»⁷⁰ appeared afterwards, though the article focused on much broader issues debated in the press conference.

Laws and projects concerning immigration issues presented in media are usually followed by public discussions about immigration policies and potential challenges of immigration processes. The latter are showed as inescapable and problematic. Also, common trend is identified when statistics on migration are presented in order to show growing numbers of immigrants. Such growth in media is considered as a threat.

Contrary to previous years when publications on potential challenges that has been raised by immigration focused on examples of problematic experiences of Western European countries, in 2008 the focus shifted towards labour migrants, and issues related to labour immigration and needs of labour market. In such discussions, attitudes of representatives of governmental institutions, business, and experts are predominant. Preferences for labour immigration from the CIS countries are supported by employers stressing qualified labour force shortages. Such kinds of discussions are followed by critical remarks showing labour immigration as a threat to local labour force and an obstacle for improving labour conditions. These discussions are consolidated by increased concern of large scale emigration flows resulting in population ageing and other demographic problems.

The main topics on discrimination issues are discrimination at work and racist attacks. Immigrants are not visible in terms of discrimination at work, as media pay more attention to other discriminated groups such as women or local ethnic minorities. However, the occasional incidents of racist attacks towards foreigners are much more stressed and reflected in media. Especially it is prevailing in such cases where famous persons such as basketball players are involved.

69 The analysis is based on data from the biggest Lithuanian internet news portals (www.delfi.lt, www.balsas.lt, www.alfa.lt, www.bernardinai.lt, www.lrytas.lt) were all articles dealing with immigration issues in 2008 (50 units) were observed and analysed

70 "Atvykėliai iš trečiųjų šalių gali kelti terorizmo grėsmę, teigia pareigūnai", 11.06.2008. Available at: <http://cl1.balsas.lt/naujiena/200101>, (22.06.2009)

A foreigner is regarded as a risk factor in terms of discrimination. Thus, it is one of the most common topics that prevail in interviews with foreigners living in Lithuania: issues of tolerance and problems of integration are often raised in publications that appeared in 2008. However, the attention is usually given to individual experiences – there were no observed articles that deal with general issues of integration and anti-discrimination policy.

The most stereotypical image of all migrant groups is the one of labour migrants from third countries, mostly from China and Turkey. Usually they are mentioned when situations of illegal work are portrayed. Labour migrants from China and Turkey are also considered to be hard working, loyal to their employers, cheap and vulnerable (sometimes physically), though in certain cases aggressive and provoking problems. Such images usually appear in reports about violations of laws. Typically, the growing number of labour immigrants is perceived as a background for such problems as illegal work. Such reports usually tend to overview basic facts, give brief comments of experts and avoid authors' personal attitudes. The voice of migrants or migrant groups hardly could be identified. Usually it is either absent or briefly introduced in a few sentences. Also, media show little interest in analysing working and living conditions of migrants in Lithuania. However, media remains probably the only channel where problematic situations of the migrants can be at least given publicity, for instance, in case of expulsion of Chinese workers that were cheated by the supposedly employment agency.⁷¹

7. MIGRANT COMMUNITY VOICE AND ITS IMPORTANCE

According to the Law on Associations,⁷² an association can be founded by persons who have reached 18 years of age. So far, there are no organisations in Lithuania that would represent migrants as their main constituency or would be specialised in migrant rights.

Organisations that represent national minorities or persons with particular ethnic background can apply to the Department of National Minorities and Lithuanians Living Abroad that provides support and funding mostly for educational and cultural activities of ethnic minority organisations (as has been mentioned, this Department ceased to exist since the end of 2009; its functions have been taken over by other state agencies of the general type). The first NGOs representing particular national/ethnic communities were established in 1991-1992. Most of minority NGOs are limiting their activities on the grounds of interests and needs of a particular ethnic group, which leads to a relatively closed nature of activities of organisations focused on cultivation of ethnic identity, ethnic patriotism through organising of cultural events that are traditional in their form and contents and are addressed to quite passive elderly groups.

With regard to immigrants, some services are being tried out by specialised organisations such as IOM; however, they are project-based and not oriented to migrant community representation.

It remains a challenge both to the state and to the NGOs to find ways to be in contact with the newly arrived residents of the country, to be aware of their contribution and of their problems. So far, there is little knowledge about the migrant community, and few channels to hear their voice in Lithuania.

71 See: 'Apgauti kinai turės palikti Lietuvą', 19 08 2008, in Alfa.lt [<http://www.alfa.lt/straipsnis/c84784>]

72 Law on Associations (IX-1969). 22.01.2004.

Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=32028z, (23.06.2009)

8. CONCLUSIONS

The study carried out in Lithuania within a project assessing the *problems of new immigrants in the Baltic States* brought the following conclusions:

Immigration is a new phenomenon in Lithuania, which increased after joining the EU with a particular flow of labour migrants. The year 2008 saw a peak of total immigration of 9,297 and of issued number of 7,819 work permits. The main countries of origin of newly arriving immigrants are the CIS countries (Belarus, Russia and Ukraine). There are also new migrant groups (particularly labour related) from China, Turkey, and Moldova.

On the one hand, formal legal regulations of migration process are established, with existing differences for admission of third country nationals and EU nationals. There are no quotas applied for newly arriving immigrants, but issuance of work permits may become more restrictive in the background of global economy crisis.

The analysis of condition for third country and EU nationals to obtain Lithuanian citizenship and (actively/passively) participate in political life showed that only naturalised immigrants (who possess Lithuanian citizenship) are fully entitled with the rights to participate in political life. Those third country nationals who live in Lithuania with permanent residence permits are entitled to take part in municipal elections, and those with temporary permits do not have these rights. There are detailed regulations for education of migrant children and adults (e. g. equalising courses), but little attention to monitoring working conditions of the immigrants – while it is the sphere of work rather than education where most of migrant workers are involved. It may also be mentioned that family reunion regulations are so strict that few immigrant workers have any chance to bring their family and children before they resided in a country at least two years.

The analysis of current situation shows that there are no registered trade unions of migrants; no data are available on migrant participation in trade unions (except few cases). Also, there are no data or reports regarding working conditions of foreign workers as well as foreigners with refugee status and temporary protection. Trade unions are so far not focused on immigrant workers' issues. With regard to Labour Code or other provisions regarding equal opportunities, it is important to realise that they only can be effective if there is an effective mechanism for helping immigrants to know their rights and to be assisted in legal matters. As a matter of fact, most Lithuanian human rights organisations do not have essential capacities for legal counselling and legal representation. Asylum seekers and refugees receive legal assistance through a well developed infrastructure of the state and non-governmental agencies; the labour migrants often have no assistance, counselling or other support. The fact that substantial part of migrant workers in Lithuania are posted (and therefore are not subject to Lithuanian labour legislation), this leaves them vulnerable to employer exploitation.

Lithuania is still predominantly a country of emigration, a fact that may explain the focus of migration policy on measures that could encourage remigration, while issues of immigrant integration remain largely neglected. Until the 2007 Strategy of Regulation of Economic Migration, there was no long-term approach for immigration. However, in contrast to migration management means, there are still no specific integration measures for third country nationals in the aforementioned Strategy. Lack of attention to policy of migrant integration and integration of minorities in general seems to become a tendency in Lithuania: without creating any effective

institutional arrangement for migrant integration, Lithuania decided in 2008 to dismantle the Department of National Minorities and Lithuanians Living Abroad (in 2009).

It may be questioned, whether multi-institutional approach would be effective in solving all migrant integration challenges, especially the negative societal reaction. While negative attitudes towards migrants are changing over time and they were diminishing throughout 2005-2008, some categories like Muslims, Refugees and Chechens are among the most disliked by the respondents in public opinion surveys, and are actually related to the types of the recent immigrant groups. In case of refugees from the Russian Federation who are Chechen by ethnic origin and Muslims by religion, there seems to be a high risk of multiple social rejection.

Apart from public attitudes, there are occasional cases of direct attacks against foreigners that peaked in 2007, but also occurred in 2008: the xenophobic attacks were racist, i. e. based on the way a victim looked (dark-skin) rather than on any other grounds, their formal status (immigrants or tourists, etc.) or other. The racist incidents are well highlighted in media when famous people, such as basketball players, are involved.

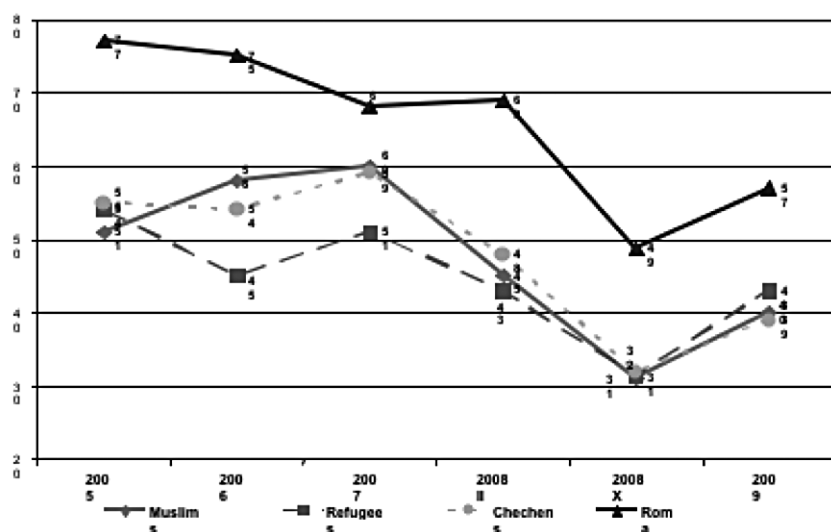
When reporting about immigration, media tend to use alarmist headlines and appeal to negative impacts and threats posed by immigration. In contrast, the real contribution, living and working conditions and exploitation of the immigrants by and large remain unanalysed and unknown to society.

It remains a challenge both to the state and to the NGOs to find ways to be in contact with the newly arrived residents of the country, to be aware of their contribution and of their problems. So far, there is little knowledge about the migrant community, and few channels to hear their voice in Lithuania.

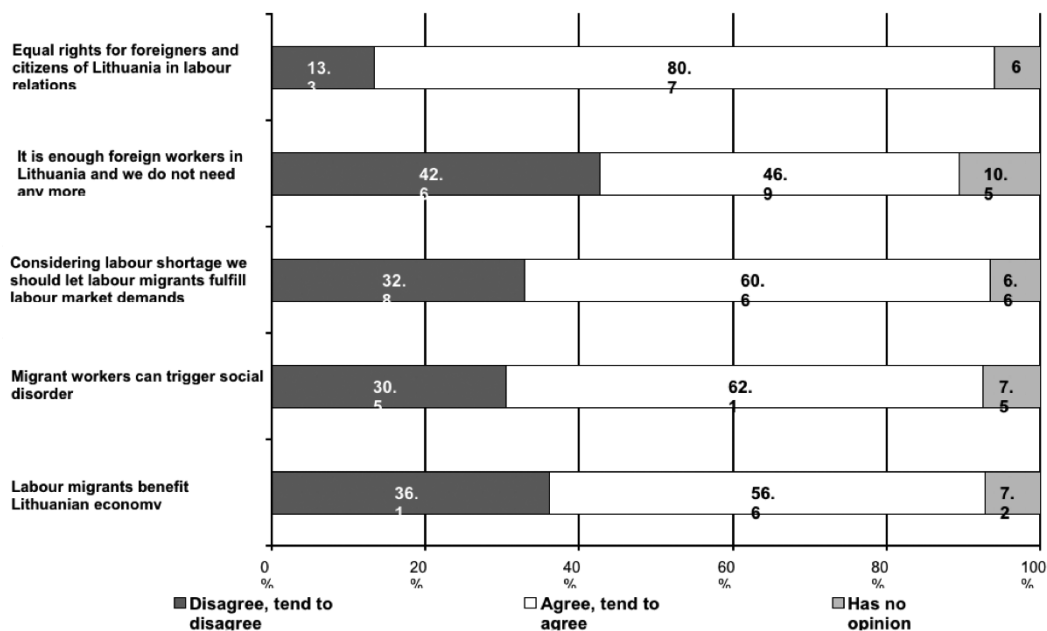
ANNEX

Graph 1. Changes of societal attitudes towards selected groups in 2005-2009

Which of the groups you would not like to have as your neighbours 2005-2009 (%)



Graph 2. Societal attitudes towards labour immigrants



Source: Centre of Ethnic Studies at the Institute for Social Research (2008). Available at:

http://www.ces.lt/downloads/structure/files/ETC_darbo%20migrantai_2008%2003%2031.pdf

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The Legal Information Centre for Human Rights

The Legal Information Centre for Human Rights (LICHR) was founded on May 2, 1994. Intimately involved in the setting up and consolidation of the LICHR were the non-governmental organisations of Denmark and Estonia. The LICHR launched its activities at the beginning of January 1995.

The LICHR is an independent non-governmental NGO, which activities are based on projects.

In its activities LICHR has mapped four high priority strategic spheres:

1. Conflict prevention: identifying the causes of potential conflicts through analysis and dissemination of information, as well as by enhancement of awareness and knowledge about the human rights;
2. Fostering the creation of the society based on human rights standards;
3. Analysis of the Estonian legislation for its conformity with the international instruments on human rights;
4. Provision of legal advice and aid to individuals, whose rights are not duly guaranteed or are violated.

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