

EMN FOCUSED STUDY 2012

Establishing Identity for International Protection: Challenges and Practices

National Contribution from Lithuania

***Disclaimer:** The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

Top-line 'Factsheet'

(National Contribution)

[Executive Summary

(Synthesis Report)]

National Contribution (one page only)

During 2006-2011, on average approximately 480 applications for asylum used to be lodged in Lithuania each year. Approximately 50 per cent of asylum seekers failed to produce documents confirming their identity. The officers working with asylum seekers claim that the large number of persons without documents confirming their identity complicates adoption of decisions on asylum. Moreover, establishment of the identity of such persons requires larger human and financial resources.

The central authority which takes decisions on asylum and on expulsion/return is the Migration Department. Using the entire available information, the officers of the Migration Department adopt decisions on granting of asylum (and issue residence permits in the Republic of Lithuania, which confirm identity) or on refusal to grant asylum and a person's return/expulsion (a decision must indicate a person's identity and the country to which the person needs to be returned/expelled).

In Lithuania, the number of persons whose identity is not established using all methods is not large. Approximately 2-4 cases are recorded per year in Lithuania when a decision on expulsion is deferred, because it is not possible to determine the country to which an alien must be expelled. After the lapse of one year and if the origin and identity of the person are not established, such a person is issued a temporary residence permit valid for one year. 1-2 such permits are issued each year. Experts point out that establishment of identity is facilitated by the fact that for a number of years, the main groups of asylum seekers have arrived from the same countries (Russia, Georgia), hence the officers working in this field have accumulated considerable experience and are able to more easily decide about the authenticity of provided information.

In the course of establishment of a person's identity, the entire information and documents collected in Lithuania are analysed in detail as a totality, and all are considered as relevant (e.g., a university diploma, a marriage certificate, etc.). Officers also apply the principle of admissibility of means of proof: if a person, despite his honest efforts, is unable to provide any written evidence, all data relating

to his status are assessed in favour of the person, and the person's application for granting of asylum is considered as credible provided that information submitted and the person's explanations are consistent and non-contradictory and not contrary to universally known facts.

In Lithuania, the following methods are used to establish identity: taking and examination of fingerprints (both in the national and the EURODAC systems), photographs and interview. DNA, age determination tests and language analysis may be used according to the need, but in practice they are used rather rarely. Neither of the measures is prioritised over the other. The most frequently used method is an interview, in the course of which a person provides the entire information which will be subsequently evaluated by the Migration Department. Experts note that identity is increasingly rarely established solely on the basis of a person's oral explanations.

Lithuania does not use the principle of 'partial' determination of identity. Moreover, in the Republic of Lithuania there is no legal framework and practice for deferral of adoption of a decision.

Given the growing and increasingly diverse number of asylum seekers, the issues of identity establishment are likely to become increasingly topical for Lithuania. Therefore, sharing best practices with other states having more extensive experience in this field is of utmost importance.

Synthesis Report (up to 3 pages)

Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.

Section 1

The National Framework

(National Contribution: Maximum 6 pages, excluding statistics)

The Synthesis Report will provide the reader and policymakers, in particular, with insights into the scale and scope of the issue at national and EU level, evidenced by statistics. It will present an overview of which (Member) States consider, in the absence of credible documentation, the establishing of identity of applicants for international protection and for those applicants who have to be forcibly returned an issue and why. It will hence identify the extent to which (particular) challenges are shared across (Member) States.

It will subsequently analyse the extent to which the process for establishing identity in those cases is laid down in legislation across (Member) States, and the institutional framework for this process. Differences in the capacity that (Member) States have available to meet the challenges (e.g. in terms of being able to draw on expertise, access databases, or have a legal basis for using certain methods) will be drawn out.

1.1 The Challenges and Scope of the issue

Is the issue of establishing identity in the absence of credible documentation considered an issue within the framework of the procedure for:

a) international protection?; and

b) the forced return of a rejected applicant to their (presumed) country of origin?

If Yes, briefly outline for either or both of the two cases above, the main issues, challenges and difficulties within your (Member) State (e.g. no identification documents, false documents, multiple identities, applicants from certain third countries)

Based on statistical data, it may be claimed that approximately 50% of asylum seekers enter the Republic of Lithuania without personal documents which can confirm their identity. This means that officers of Lithuanian institutions responsible for the legal status of such aliens in Lithuania face the problem of a lack of sufficiently reliable documents or evidence permitting to establish their identity. If asylum seekers enter the country not in possession of identification documentation, they most frequently present birth certificates, marriage certificates or originals or copies of other documents (certificates, school- and university-issued diplomas, certificates of completion of in-service training or language courses, employment record books, etc.), which do not confirm a person's identity, but are of importance when establishing identity/citizenship.

However, provisions of legal acts of the Republic of Lithuania, their implementation in practice, application of various methods and co-operation among competent authorities and states allow the relevant authorities to adequately respond to the rising problems and adopt decisions on the legal status of such aliens.

It is important to point out that in respect of the expulsion process, problems over the establishment of identity arise less frequently, because in the course of examination of applications for asylum, the competent authority almost always establishes a person's identity and citizenship.

If Yes, please also indicate which of the following factors listed below contribute to the issues. Please support your answers with reference to statistics (e.g. those presented under Question 1.2 below), research or any other sources of information (e.g. media debates, case-law, policy documents, practitioners' views).

➤ **The volume of cases where no credible documentation is available to substantiate an applicant's identity is considered to be large and/or growing.**

Yes. The table presented below shows that approximately 50% of asylum seekers enter the Republic of Lithuania not holding documents confirming their identity. For instance, in 2011 256 asylum seekers were not in possession of documentation to substantiate their identity (50% of all asylum seekers). The year 2010 was outstanding, as in that year, out of 487 aliens who lodged applications for asylum 135 asylum seekers failed to provide documents substantiating a person's identity, which amounted to 28% of all asylum seekers. It was not possible to establish clear reasons for such a decrease.

Year	Total number of asylum seekers	Asylum seekers not in possession of documents confirming a	%

		person's identity	
2006	444	214	48
2007	465	214	46
2008	522	221	42
2009	426	212	50
2010	487	135	28
2011	515	256	50

Source: data of the Register of Aliens

➤ ***The measures used to establish an applicant's identity in the absence of credible documentation are resource-intensive.***

Yes. Officers of different institutions dealing with admission of asylum seekers, examination of applications for granting of asylum, execution of decisions need to devote more time to persons whose identity has not been established. Moreover, it is necessary to take into account the fact that additional funds of the state budget are spent to conduct examination (age determination and language tests, analysis, determination of authenticity of documents, etc.)

➤ ***The measures used to establish identity are not always successful.***

Yes. The measures undertaken do not always help to successfully establish a person's identity, although such cases are highly infrequent.

When it proves impossible to establish a person's identity, which in turn does not allow to expel from the Republic of Lithuania the asylum seekers in respect of whom a negative decision has been adopted, such decisions on expulsion are deferred and further efforts are made to establish a person's origin, identity and to obtain documents for return to the country of origin. In the event of a failure to establish the person's identity and to obtain return documentation after the lapse of one year, decisions are adopted on the issuance of temporary residence permits in the Republic of Lithuania (for a period of one year).

Year	Total number of decisions on deferral of expulsion	Temporary residence permits issued after one year	%
2006	1	1	100
2007	0	0	0
2008	5	4	80
2009	9	2	22
2010	4	2	50

2011	1	0	0
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Source: data of the Register of Aliens

- ***Decision-making on applications for international protection is difficult due to the fact that measures used to establish identity are not always successful.***

Yes. Although decisions on granting/refusal to grant asylum are adopted taking into account the totality of documents, information, reports about the situation in the country of origin collected during examination of an application for asylum, and each asylum seeker's case is examined in great detail and individually, and a decision may be adopted only following a thorough examination. Moreover, the sole fact that a person's identity or citizenship has been partially established is not a ground for refusing to grant international protection to such a person and taking a decision on his expulsion from the Republic of Lithuania. However, the decision-making process becomes more complicated when identification procedures also need to be carried out during the procedure.

- ***A significant proportion of rejected applicants for international protection cannot be returned to their country of origin due to the fact that measures used to establish identity are not always successful.***

No. In Lithuania, the number of persons who cannot be returned to their country of origin due to a failure to establish their identity is very small. For example, in 2008 there were 5 persons whose expulsion was deferred, because it was not possible to obtain documents for their return to the country of origin, in 2009 – there were 9 such persons, in 2010 – 4 and in 2011 – 1 (source: data of the Register of Aliens).

List the countries of (claimed) origin for which establishing identity is particularly difficult, (i) when considering asylum applications; (ii) for implementing return

Pakistan, Angola.

- ***Other (Member) State specific factors***

There are no such factors.

If No, please provide reasons why the question of establishing identity in the absence of credible documentation is not considered an issue within the framework of the procedure for:

- a) international protection; and***
- b) the forced return of a rejected applicant to their (presumed) country of origin.***

Not applicable in Lithuania's case.

1.2 Statistics on the Scale of the Issue

Please provide, to the extent possible, the following statistics (with their Source) along with, if necessary, an explanatory note to interpret them if, for example, the statistics provided are partial, had to be estimated (e.g. on the basis of available statistics that differs from the below, or of first-hand research) or if they reflect any particular trends (e.g. a change in policy, improved methods of establishing identity, a change in the country of origin of applicants or of rejected applicants, etc.) If statistics are not available, please try to indicate an order of magnitude. Where available, statistics from Eurostat should be used and presented annually covering the period between 2007 and 2011 inclusive.

	2007	2008	2009	2010	2011	Additional Information (e.g. Source, caveats, reasons for trends, top five nationalities, with numbers for total applicants – see below Table also)
<u>Total Number</u> of applicants for international protection	480	540	449	503	527	In 2011, most applications were lodged by citizens of Georgia (229), Russia (111), Afghanistan (55), Kyrgyzstan (30), Armenia (28). Source: data of the Migration Department
Number of applicants for whom <u>identity</u> was not documented at the time of application	214	221	212	135	256	Source: data of the Register of Aliens
Number of applicants for whom <u>identity was wholly or partially established</u> during the asylum process thereby allowing the relevant authorities to reach a particular decision on international application (e.g. grant, refuse, defer)	n/a	n/a	n/a	n/a	n/a	It is not possible to provide such statistics.
Total Number of <u>Positive Decisions</u>	402	364	232	111	95	In 2011, asylum was mostly granted to citizens of Russia (54), Afghanistan (17), Belarus (9), Iraq (3), Nepal (3) and Syria (2). The major reason for decrease in the number of positive decisions – applications for asylum lodged by asylum seekers are evidently unfounded, i.e., unsubstantiated, or it is established that they are

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						based on fraud or abuse of the procedure for granting asylum. Source: data of the Migration Department
Total Number of Positive Decisions for applicants whose identity was not documented at the time of application	120	119	70	53	40	Source: data of the Register of Aliens
Total Number of Positive Decisions for applicants whose identity was considered sufficiently established by the decision-making authorities	n/a	n/a	n/a	n/a	n/a	Such practice is not applied in Lithuania.
Total Number of <u>Negative Decisions</u>	51	49	155	180	280	In 2011, the majority of negative decisions were adopted in respect of citizens of Georgia (213), Russia (20), Kyrgyzstan (16), Uzbekistan (6), Vietnam (5). The majority of rejected applicants exercise their right to appeal against a negative decision. In 2011, 174 appeals were filed with courts of first instance. Source: data of the Migration Department
Total Number of Negative Decisions for applicants whose identity was not documented at the time of application	22	17	67	43	114	Source: data of the Register of Aliens
Total Number of Negative Decisions for applicants whose identity was not considered by sufficiently established by the decision-making authorities	n/a	n/a	n/a	n/a	n/a	Such practice is not applied in Lithuania.

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Total number of (Forced) ¹ Returns undertaken of all rejected applicants	6	19	27	40	64	In 2011, most of returns were undertaken in respect of citizens of Georgia (30) and Russia (10), several citizens of Uzbekistan, Belarus, Vietnam. Source: data of the Division on Asylum Affairs of the Migration Department.
Number of (Forced) ² Returns of rejected applicants whose identity had to be established at the time of return	n/a	n/a	4	10	7	Majority - citizens of Georgia Source: data of the Register of Aliens
Number of (Forced) ³ Returns of rejected applicants whose return could not be executed as their identity was not considered to be sufficiently established by the authorities of the (presumed) country of origin	0	5	9	4	1	In most cases, the country of origin of such persons (from their own words) was Pakistan, Cuba, Cameroon, Angola. Source: data of the Division on Asylum Affairs of the Migration Department

If desired, and it cannot be fitted in the Table, add further details concerning particular trends and/or notable aspects of the statistics provided.

¹ While the scope of this Focussed Study (with respect to Returns) includes only the forced return of rejected applicants, it is acknowledged that distinguishing between forced and voluntary returns in official statistics may not be possible. Where possible, do make this distinction.

² Idem.

³ Idem.

1.3 Relevant EU and National Legislation

Is the process to be used to determine identity within the procedure for international protection laid down in legislation?

If Yes, briefly specify which legislative documents, including their link to relevant EU acquis, regulate the process of identity determination in relation to the procedure for international protection.

Where possible, please refer to your National Contribution to the Organisation of Asylum and Migration Policies in the EU, rather than repeating the information here.⁴

The main legislative documents regulating the process of identity and citizenship determination are described in the table presented below.

<i>Title of a legislative document</i>	<i>Content of the document</i>
<i>Law of the Republic of Lithuania on the Legal Status of Aliens of 29 April 2004</i>	<i>The Law establishes the procedure of entry and exit, stay and residence of aliens, granting of asylum, the procedure of integration and naturalisation, the procedure for lodging appeals against decisions on the legal status of aliens as well as regulates aliens' identity determination procedures.</i>
<i>Methodology for Determination of a Person's Identity and Travel Route approved by Minister of the Interior Order No 4nt of 3 February 2000</i>	<i>The Methodology describes the actions by officers aiming at establishing a person's identity and the person's route to the Republic of Lithuania.</i>
<i>Description of the Procedure for Examination of Applications for Asylum by Aliens and for Adoption and Implementation of Decisions approved by Minister of the Interior Order No IV-361 of 15 November 2004</i>	<i>Provisions relating to asylum and identity determination procedures are described.</i>
<i>Rules for Adoption and Implementation of Decisions Regarding the Obligation to Depart, Expulsion, Return and Passing in Transit Through the Territory of the Republic of Lithuania approved by Minister of the Interior of</i>	<i>The Rules specify the actions of competent authorities in adopting decisions on return or expulsion of aliens from the Republic of Lithuania, also procedures for obtaining travel documents for the purpose of returning</i>

⁴ If however the level of detail is highly relevant, by shedding light on, for example, which elements of identity should be evidenced, what methods can or should be used to do so, what weight is to be given to the outcomes of the use of these methods, etc., it would be useful to insert the information directly in the Template.

the Republic of Lithuania Order No IV-382 of 15 May 2012

to the country of origin from the relevant diplomatic missions or consular posts of foreign states and other procedures required for adoption of decisions on returning or expelling aliens to the country of origin.

Moreover, an old procedure/guidelines should be reviewed and a new procedure/guidelines should be approved for officers/civil servants of all institutions regarding the methods employed and actions undertaken in establishing an alien's identity. Such a detailed procedure would help to determine a person's identity, citizenship, origin, etc. as quickly and effectively as possible.

Is the process to be used to determine identity within the procedure for the forced return of rejected applicants laid down in legislation?

If Yes, briefly specify which legislative documents, including their link to relevant EU acquis, regulate the process of identity determination in relation to the forced return of rejected applicants.

Where possible, please refer to your National Contribution to the Organisation of Asylum and Migration Policies in the EU, rather than repeating the information here.⁵

The same documents mentioned in the abovementioned table apply.

1.4 The institutional framework at national level

Which national authorities have the operational responsibility for establishing the identity of applicants for international protection?

The Migration Department acts as the central authority which adopts decisions on asylum.

Other institutions which deal with asylum seekers (receive their applications for granting of asylum and carry out initial actions: collect all available documents, conduct an initial interview of an asylum seeker, examine fingerprints and photograph the asylum seeker, carry out inspection of the asylum seeker and his personal belongings):

- *State Border Guard Service under the Ministry of the Interior and its structural divisions (the Foreigners' Registration Centre, state border crossing points, frontier stations, etc.);*
- *Police Department under the Ministry of the Interior and its structural divisions (migration services of territorial police agencies).*

In the opinion of experts, it would expedient to organise regular training for officers of these institutions, exchanges of best practices with other countries in order to

⁵ Idem.

assist the officers in competently performing the functions assigned to them during the identity/citizenship determination procedure.

Which national authorities have the operational responsibility for establishing the identity of applicants for international protection who have to (be) forcibly return(ed) to their (presumed) country of origin?

The Migration Department adopts a decision on expulsion and indicates the country to which a person is to be expelled. Decisions on expulsion are implemented by:

- *State Border Guard Service under the Ministry of the Interior (most frequently, the Foreigners' Registration Centre, when the aliens in respect of whom a decision on expulsion must be executed are provided with accommodation or are detained, by a court decision, at this Centre);*
- *Police Department under the Ministry of the Interior (migration services of territorial police agencies in the territory of which the aliens who must be expelled are staying).*

These two institutions are also responsible for the establishing the identity of applicant and for receiving return documents.

Does your (Member) State have a central competence centre for issues related to the determination of identity and/or verification of documents?⁶

Yes.

*The central authority which adopts decisions on asylum and expulsion is the **Migration Department**.*

*In the course of the identity establishment process, the Migration Department co-operates with other institutions. The institution in charge of determination whether documents are genuine is the **State Border Guard Service**, which under Government of the Republic of Lithuania Resolution No 68 of 30 January 2008 acts as the national central authority of a European Image-Archiving System (FADO) , which manages the operation of the national sub-system (N.FADO) of the European Image-Archiving System (FADO) in the Republic of Lithuania.*

If Yes, what issues does the centre cover:

-issues relating to the determination of identity in respect of the procedure for granting international protection OR in respect of the procedure for executing the return of rejected applicants) OR in respect of both of these procedures

-issues relating to the verification of documents in respect of the procedure for granting international protection OR in respect of the procedure for executing the return of rejected applicants OR in respect of both of these procedures

⁶ This may be a separate body (as in Norway) or a unit within a relevant authority.

[Insert response here]

If Yes:

- ***Has the centre developed its own database / reference base for***
 - *genuine documents? Yes*
 - *false documents? Yes*
- ***Does it make use of the database iFADO (iPRADO)⁷ for checking false ID documents? Yes***
- ***Does it make use of the EDISON⁸ system? No***
- ***Does its tasks involve:***
 - ***Advisory services? Yes.*** *The centre consults all the divisions of the Ministry of the Interior concerned on the authenticity of documents.*
 - ***Development of Methods? Yes.*** *The centre provides in-depth instructions for officers, makes use of the best national and international practices which services as a basis for improvement of identity determination methods.*
 - ***Training of frontline officers? Yes.*** *Trainings are organised under separate training programs. During the trainings, officers are familiarised with legal acts of the Republic of Lithuania, the European Union, international legislation governing border control, asylum, operation of carriers, as well as procedures for checking persons and documents, verifying aliens' compliance with the requirements for crossing the borders of the Republic of Lithuania, the European Union, detecting violations of regulations of border crossing points and drawing up procedural documents for such violations, checking travel, vehicle documents, visas and residence permits, detecting forged, counterfeit documents, using equipment designed to detect forged documents, affixing Schengen entry and exit stamps on travel documents , visas, etc.*
 - ***Support with difficult cases? Yes.*** *The centre provides detailed conclusions and recommendations by specialists.*
- ***Does it have a forensic document unit? Yes.*** *There are three units in Lithuania: at the State Border Guard Service under the Ministry of the Interior, the Lithuanian Police Forensic Science Centre and at the Forensic Science Centre of Lithuania.*

⁷ [PRADO](#) Public register of authentic identity and travel documents online

⁸ EDISON Travel Documents System

If No, i.e. your (Member) State does not have a central competence centre, what other institutions / systems are available to provide advisory services/other forms of support to officials responsible for establishing the identity of applicants for international protection?

Not applicable in Lithuania's case.

Are the officials responsible for determining the identity of applicants for international protection authorised to access EU databases holding identity information about third-country nationals (e.g. EURODAC, SIS II, VIS, etc.)?

No

If No, are the officials responsible for determining the identity of applicants for international protection authorised to liaise directly with the officials who do have access to these databases?

Yes

Section 2

Methods for Establishing Identity

(National Contribution: Maximum 8 pages)

The Synthesis Report will provide an overview of the types of documents that are required for establishing identity (preferable in Table format), of the methods that can/should be used in the absence of credible documentation (preferably in Table format), and the relative weight that is given to the outcomes of the methods used (Table or narrative, depending on the responses given) across the (Member) States.

2.1 Definition and Documents required for establishing identity

What definition (if any) of identity is used with regard to (a) applicants for international protection and (b) for the return process.

*The legal acts of the Republic of Lithuania regulating the legal status of aliens do not contain a definition of the concept of **identity**.*

What types of documents and other information do authorities in your (Member) State accept as (contributing to) establishing the identity for applicants of international protection? For example:

- **Official travel documents: Passports, ID cards;**
- **Other documents: birth certificates, divorce certificates, marriage licences, qualification certificates, etc.**

Where possible, please indicate whether copies are accepted by relevant authority(ies) and which type of documents are considered by the national authorities as core or supporting documents. Also indicate the major issues faced

concerning determining the veracity (or genuineness) of documents.

In the Republic of Lithuania, all documents submitted by an asylum seeker are considered as relevant.

Under Article 69 of the Law of the Republic of Lithuania on the Legal Status of Aliens, a civil servant authorised by the state institution or agency which has received an alien's asylum application shall collect all the documents and travel tickets held by the asylum applicant.

According to subparagraph 9.3 of the Description of the Procedure for Examination of Applications for Asylum by Aliens and for Adoption and Implementation of Decisions as approved by Minister of the Interior Order No IV-361 of 15 November 2004, a civil servant of the state institution which has received an application for asylum authorised to work with asylum seekers collects all personal identity documents and travel tickets held by an asylum seeker, makes their copies and visually checks whether the documents contain signs of forgery. The documents confirming the identity of an asylum seeker and other documents provided by him remain in his file until examination of the application for asylum is completed. Where the asylum seeker holds only copies of documents, they are taken too.

Asylum seekers often enter the Republic of Lithuania without documents which could confirm their identity, i.e., without a document issued by official authorities of the country of origin and containing their photo, signature (for instance, a passport, travel document, driver's licence, residence permit, etc.). Each additionally submitted document or a copy of a document (for example, a birth certificate, a marriage certificate, a driver's licence, a party membership card, a pensioner's identity card, certificates of the health condition, school- and university-issued diplomas, certificates of completion of language courses, in-service training, an employment record book, letters of intermediation, etc.) is examined individually and is considered to be relevant for examination of the application for asylum.

What types of documents are accepted by national authorities in the (presumed) countries of origin if those applicants for international protection have to be returned, because they have received a negative decision, exhausted or abandoned the procedure? Please illustrate any differences between the documents accepted by the authorities of the (presumed) countries of origin and the documents accepted by the relevant authorities of your (Member) State.

Where an alien does not hold a valid document issued by his country of origin according to which he could be returned or expelled, the procedure of obtaining documents for return to the country of origin is initiated. During this procedure, the competent authorities of the alien's country of origin, most often consular posts, issue the return documents recognised by Lithuania.

2.2 Methods used in the absence of documentary evidence of identity

The aim of this section is to investigate, for cases where aspects of the applicant's statements regarding his/her identity are not supported by documentary evidence, which methods are used by the competent authorities in the (Member) State to check the credibility of the applicant's statements. In the boxes below, a list of methods is provided. For each method listed, please indicate

- (a) *whether it is used within the framework of the procedure for international protection and/or the procedure to forcibly return rejected applicants, or have exhausted or abandoned the procedure for international protection;*
- (b) *whether the method is obligatory (i.e. enshrined in law), whether it is part of standard practice (i.e. used in most cases but not enshrined in law) or whether it is optional (i.e. not enshrined in law and used in some cases only). The rationale for selecting some methods as obligatory or optional may relate to national legislation, outlined in Section 1.2 (which the (Member) State can refer to in their replies);*

Do national authorities make use of:

i) Language analysis to determine probable country and/or region of origin?

➤ Applicants for international protection:

Yes (applied in practice). A language test is applied in Lithuania, though legal acts do not stipulate the procedures according to which language tests/analysis should be performed. In practice, over the past 10 years there have been only a few cases in Lithuania when it has proved impossible to accurately determine the origin of asylum seekers and the language dialect spoken by them. However, in such cases the Migration Department addressed the competent authorities of other Member States (e.g., Sweden) requesting to assist in establishing the origin of the asylum seekers. A close co-operation with another Member State helped to establish the region of the country of origin from which the asylum seekers had arrived and the dialect spoken by them. Firstly, the language and dialect spoken by an asylum seeker were established by contacting the authority of another Member State by phone, with a detailed interview of these asylum seekers organised upon arrival of a specialist/interpreter to Lithuania.

➤ Return of rejected applicants for international protection:

No such cases occurred in practice.

ii) Age assessment to determine probable age⁹

➤ Applicants for international protection:

Yes (if necessary). Article 123 of the Law of the Republic of Lithuania on the Legal Status of Aliens regulates performance of an age determination test. If there are reasonable grounds to doubt an alien's age, the Migration Department may oblige the alien who is applying for the issue of a residence permit or granting of asylum to undergo an age determination test. The age determination test must be performed with the consent of the alien whose age is to be determined. Where it is established that the alien may be a minor, the test is performed only with the consent of the alien's parents, other legal

⁹ EMN NCPs are asked to update the information provided through the EMN Comparative EU Study on Unaccompanied Minors. EMN (2010), *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors*, European Migration Network, May 2010. The EMN Synthesis Report, as well as the 22 National Reports upon which the synthesis is based, are available from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=115>.

representatives or temporary guardian (custodian). If an alien who applies for asylum in Republic of Lithuania refuses to undergo an age determination test for no justifiable reasons, other data that cannot be confirmed by written evidence are assessed in accordance with Article 83 of the mentioned Law:

Article 83. Admissibility of Means of Proof

1. Where, in the course of examining an asylum applicant's application, it is established that, despite the applicant's honest efforts, the data relevant to the determination of his status cannot be supported by written proof, such data shall be assessed in favour of the asylum applicant and the asylum application shall be considered as well-founded provided that the asylum applicant's explanations are consistent and non-contradictory in essence and are not contrary to universally known facts.

2. Paragraph 1 of this Article shall not apply and the data that cannot be confirmed by written proof shall be rejected if, in the course of examination of the asylum applicant's application, the asylum applicant misleads the investigation, delays it by his acts or omissions, tries to cheat or if contradictions are established between the facts specified by the asylum applicant that have a decisive effect on the granting of the asylum.

The expenses related to the performance of an age determination test are covered by the alien, except for asylum applicants, whose test expenses are covered by the Republic of Lithuania. In the Republic of Lithuania, where there are reasonable doubts regarding a person's age, such a test is performed by the State Forensic Medicine Service under the Ministry of Justice of the Republic of Lithuania. Specialists of this Service submit to the Migration Department under the Ministry of the Interior a conclusion describing the data of the examination and specifying the age of the alien. The conclusion indicates that, according to data of the examination of the alien and x-ray images of his limb joints and taking into consideration the racial and sexual features and climate conditions, the biological age of the person has been established to be from (e.g., 19).

➤ Return of rejected applicants for international protection:

The same procedures as in the case of asylum seekers.

iii) Fingerprints for comparison with National and European databases

National Database

➤ Applicants for international protection:

Yes (obligatory for persons from the age of 14). Fingerprints of the aliens who lodge applications for granting of asylum in the Republic of Lithuania are checked/compared in the national database against the data available about the persons against whom investigation regarding commission of criminal offences has been initiated or who have already been convicted. Such checks are carried out and the database is managed by the Lithuanian Police Forensic Science Centre.

➤ Return of rejected applicants for international protection:

No. Checking of fingerprints in the national database is carried out when an alien lodges an application for granting of asylum. When a decision on expulsion of such a person is taken, the alien's fingerprints are not additionally checked.

European databases

➤ Applicants for international protection:

Yes (obligatory for persons from the age of 14). Fingerprints are checked in the EURODAC fingerprint identification system. The national unit, established at the Lithuanian Police Forensic Science Centre, forwards a reply on registration of an asylum seeker in the EURODAC system and the result of comparison of fingerprints to the Migration Department under the Ministry of the Interior.

➤ Return of rejected applicants for international protection:

No. A search in the EURODAC fingerprint identification system is carried out immediately after an application for granting of asylum in the Republic of Lithuania is lodged. When a decision to expel the alien is taken, no additional check is carried out.

iv) Photograph for comparison with National and European databases

National Database

➤ Applicants for international protection:

Currently, all data about asylum seekers are stored in the Register of Aliens, which provides the possibility of storing also photographs of the asylum seekers. However, due to certain technical problems photographs are currently not placed in the Register, and thus it is not possible to compare them. In the near future, works related to upgrading of the Register of Aliens and technical troubleshooting must be completed and it should be possible to place an asylum seeker's photograph beside all other personal data and to compare it.

➤ Return of rejected applicants for international protection:

The same situation as in the case of asylum seekers.

European databases

➤ Applicants for international protection:

No, photographs are not checked.

➤ Return of rejected applicants for international protection:

No, photographs are not checked.

v) Iris scans for comparison with National and European databases

National Database

- Applicants for international protection:
No, such a practice is not applied.
- Return of rejected applicants for international protection:
No, such a practice is not applied.

European databases

- Applicants for international protection:
No, such a practice is not applied.
- Return of rejected applicants for international protection:
No, such a practice is not applied.

vi) DNA analysis

- Applicants for international protection:
Yes (if necessary). Article 122 of the Law of the Republic of Lithuania on the Legal Status of Aliens contains provisions related to carrying out of DNA tests:

If an alien applies for the issue of a residence permit, seeking to reside with the family or to be granted asylum, the Migration Department may oblige the alien and the person related to the alien by kinship to perform a DNA test to confirm kinship. The performance of a DNA test may be requested only in cases where the alien is not able to prove the kinship relationship otherwise. The expenses related to the performance of the DNA test are covered by the alien, except for asylum applicants, whose DNA testing expenses are covered by the Republic of Lithuania.

In the Republic of Lithuania, DNA tests are performed by the Lithuanian Police Forensic Science Centre, but in respect of asylum seekers no tests have been performed yet.

- Return of rejected applicants for international protection:
The same procedure as in the case of asylum seekers.

vii) Interviews to determine probable country and or region of origin (or other elements of identity, such as faith and ethnicity)¹⁰

- Applicants for international protection:
Yes (obligatory). On 15 November 2004, the Description of the Procedure for Examination of Applications for Asylum by Aliens and for Adoption and Implementation of Decisions was approved by Order of the Minister of the

¹⁰ This would depend on the elements included in your national definition of “identity” used within the procedures covered by this Study. See Section 2.1.

Interior No IV-361. Set forth in The Description specifies the initial action to be taken by officers receiving asylum applications, including the obligation to perform an inspection of an asylum seeker and his personal belongings as well as an initial interview of the asylum seeker under the model form of an interview report. The aim of the interview is to collect data on the asylum seeker and the family members who came along with him, the route to the Republic of Lithuania, the data relating to establishment of the EU Member State responsible for examining the asylum application, as well as to identify the reasons for lodging the application for asylum and the status of the asylum seeker in third countries.

According to available identification documents and other documents, officers establish an asylum seeker's identity and his travel route. If the asylum seeker does not hold any documents establishing his identity, his identity and the route are determined in accordance with the procedure laid down by the Minister of the Interior at the Foreigners' Registration Centre. Upon establishing the person's identity, a notice is immediately given to the Migration Department. If the asylum seeker does not hold any documents substantiating his identity, his personal data are taken from his words, and during the examination of the application his name, surname, citizenship and date of birth are recorded in all decisions and documents issued according to the information provided by him, unless additional documents and/or information about his personal data are received during the examination of the application. If the alien does not have any documents confirming his identity or available documents do not confirm identity (forged documents, another person's documents, etc.), the questions asked at the initial interview also help to determine the alien's identity.

During an interview, the following data about a person must be established: name, surname, patronymics, citizenship, nationality, ethnic origin, clan, the religion professed, sex, date and place of birth, the last known residential address. Moreover, questions are asked about the country of origin: the capital of the country, the main cities (their geographical position, destinations between the cities), the neighbouring countries, the largest lakes and rivers of the country, features of the landscape (mountains, plains, etc.), the main roads of the region, a detailed description of the place of residence, the national symbols of the country, the currency, names of leaders of the country, etc. During the interview, questions are asked about the person's marital status, the date and place of contraction (dissolution) of marriage, names, surnames of the father and the mother, date and place of birth, the person's education, occupation, the latest positions held, mother tongue and knowledge other languages.

When interviewing an alien, effort is made to determine whether the person is in possession of personal documents, i.e., what are reasons for not being in possession of these documents. If the alien holds personal identity documents, he must confirm their authenticity during the interview. If the documents held by the person are false, he must provide information about the manner and circumstances of their acquisition (who manufactured them, when and where they were manufactured, from whom they were acquired, how much the alien paid), the person capable of confirming the alien's identity, citizenship, their

names, surnames, date of birth, place of residence, phone number.

Questions are also asked about the manner and route by which the alien arrived to the Republic of Lithuania, the way of crossing the state border, the location where the border was crossed, description of the location (river, forest, swamp, state border signs and other features), whether the alien came with a group of people (the number of people), or an individual, who led group, which language was spoken, how the alien got acquainted with the leader, his appearance, behaviour, what additional means were used (phones, flashlights, car, etc.), what accommodation at the border was used, the amount of time spent there, the travel expenses (how much, who, when was paid), whether the alien had previously applied for asylum in other countries (in which countries, to what organisation, when and what decision was adopted), whether any family members entered the country together with the alien, the family members living abroad, the relatives residing in the Republic of Lithuania, whether there are other contacts in the Republic of Lithuania.

In addition, every literate adult asylum seeker must complete an asylum seeker's questionnaire (in his mother tongue or in the language which he speaks best), in which some of the questions related to establishment of the person's identity, holding of documents, etc. are repeated. The data of the initial interview and information of the questionnaire are collated and evaluated during the procedures related to determination of the identity.

➤ **Return of rejected applicants for international protection:**

Yes. In addition, if during the asylum procedure it proves not possible to accurately establish a person's identity so that it would be supported by documents, as well as a decision to refuse asylum in Lithuania and to expel the person upon entry into force of the decision (it contains a reference to a country to which the alien is to be expelled), the officers of the Foreigners' Registration Centre or local police officers who execute the decision additionally interview the person in order to obtain return documents. The person to be expelled must also fill in questionnaires of the specified form regarding receipt of return documents, which are forwarded to diplomatic missions or consular posts of the country of origin of such a person.

viii) Other (please describe, e.g. type of co-operation with or contacts in third countries), related to

➤ **Applicants for international protection:**

The Migration Department under the Ministry of the Interior co-operates with other competent authorities of the Member States of the European Union, in particular the units implementing the Dublin Regulation when determining the Member State responsible for examining an asylum application. Only one EU Member State may be in charge of examination of an asylum application lodged in the territory of the EU Member States. Upon receipt of an application for asylum and related documents and having regard to the response received from the EURODAC system, the data provided by the asylum seeker, personal identity, travel and other documents, the Migration Department determines whether there are grounds for application of provisions of the Dublin Regulation. In the course of the examination, the Migration Department, relying on direct and circumstantial evidence, fills in

an inquiry of the specified form to another Member State, which could be responsible for examining the asylum application. Not later than within 3 months after the asylum application is lodged, the Migration Department contacts the competent authority of the responsible EU Member State on transfer of responsibility for examining the asylum application. For this purpose, the Migration Department shall forward requests DubliNet system responses from Member States also receive this system. Through this partnership, preventing asylum seekers to abuse of asylum procedures and these procedures may help the true identity of the asylum seeker, when a person does not have lost, had stolen or otherwise lost their personal documents. For this purpose, the Migration Department forwards queries through the DubliNet system and receives responses from the Member States also through this system. Such co-operation helps to prevent asylum seekers from abusing the asylum procedure, and these procedures may help to determine the actual identity of an asylum seeker, when such a person does not have at his disposal, has lost his personal identity documents, they have been stolen or are otherwise missing.

➤ Return of rejected applicants for international protection:

Not applicable.

If possible, outline briefly the rationale behind the method(s) indicated above used in your (Member) State, e.g. why some method(s) been used in preference to others, is there a hierarchy or order of methods followed, any research conducted providing evidence of the method's reliability.

A civil servant authorised by a state institution or agency to which an alien's application for asylum has been submitted must interview the asylum seeker, take his fingerprints and take pictures of him. Such a duty is stipulated by paragraph 1 of Article 69 of the Law on the Legal Status of Aliens. Articles 122 and 123 of the same Law indicate that DNA tests and an age determination test may be carried out if necessary.

Section 3

Decision-making Process

(National Contribution: Maximum 3 pages)

The Synthesis Report will describe how the different methods are combined to establish an identity and how the outcomes of attempts to establish identity are then used in making a decision on international protection and forced return. To the extent possible, the Synthesis Report will draw out commonalities and differences across (Member) States.

3.1 Status and weight of different methods to determine identity

On the basis of the information gathered by the methods outlined in Section 2, how then is a decision on identification made, e.g. are some methods given more weight on their reliability than others; does there need to be consistency between the results from some of the methods used? Briefly outline whether the results from the different methods will have different status and/or will be given different weights, and whether this is laid down in legislation, policy or practice guidelines.¹¹

A variety of methods and combinations of these methods may be used to establish a person's identity, e.g., conducting of a comprehensive and detailed interview, the use of age determination tests and fingerprint comparison. Each method is important and is used taking into consideration the information provided by an asylum seeker, whether he holds any documents, whether these documents are original or are just copies of documents.

All the methods which are employed are stipulated in legal acts of the Republic of Lithuania. However, their application and the necessity to apply them in practice are most often determined by an officer or a civil servant who works directly with an asylum seeker, conducts his interview, obtains information and documents from him, examines all the documents received, evaluates them and provides conclusions regarding a decision to be adopted. As regards all the information related to the asylum seeker, the use of different methods helps the officers working in the field of asylum to evaluate, in a comprehensive and detailed manner, all the reasons for lodging an application for asylum, its credibility, and to adopt a decision in respect of such a person.

Is a “grading” structure or spectrum used to denote the degree of identity determination (e.g. from “undocumented,” over “sufficiently substantiated” or “has the benefit of doubt” to “fully documented and verified”)? If Yes, outline what this is.

Lithuania does not have in place such a grading system.

When assessing the degree of credibility of identity/citizenship determination, each

¹¹ Member States may differ significantly in how they deal with applicants for international protection whose statements regarding their identity are not supported by valid documentary evidence, not only in the methods they can or should use, but also in the weight they give to the outcomes of some methods. The aim, therefore, is to highlight these differences, should they exist.

case is considered individually, taking into account all documents, information, questionnaires of the specified form filled-in during an interview, etc. During the procedure, a reasoned opinion is drawn up listing all of the data provided by an asylum seeker, the entire information gathered during the investigation, and proposals for decision-making are presented upon assessing the degree of credibility of each asylum seeker. The investigation also employs the principle of admissibility of evidence (the principle of the benefit of doubt) enshrined in Article 83 of the Law of the Republic of Lithuania on the Legal Status of Aliens.

If a decision is adopted to grant asylum, a person's identity is indicated in documents on the basis of the information collected and the alien's words. If citizenship cannot be determined (although the decision to grant asylum is adopted), then the documents will indicate that the person is stateless.

Are any future measures considered with regard to setting up or further elaborating a "grading" structure? If Yes, outline what these are.

No measures have been envisaged.

3.2 Decisions taken by competent authorities on basis of outcomes of identity establishment

3.2.1 For the consideration of the application for international protection

What are the potential decisions that can be taken by the competent authorities where identity has been established (even partially) to inform the overall decision taken? For example, does the outcome of identity establishment influence a recommendation to "grant international protection," "refuse international protection," "defer decision"?

Decisions on granting of asylum/refusal to grant asylum are adopted taking into account the totality of documents, information and reports about the situation in the country of origin as collected during examination of in asylum application. Each asylum seeker's case is examined in great detail and individually, and a decision may be adopted only after a thorough examination. The sole fact that a person's identity or citizenship cannot be confirmed by credible documentation is not a ground for denying international protection to such a person and adopting a decision on his expulsion from the Republic of Lithuania. In the Republic of Lithuania, there is no legal framework and practice for deferral of the decision.

How important is establishing identity relative to other factors used in making an overall decision? For example, if identity cannot be established, does this de facto lead to a rejected decision? Are other factors such as gender, suspected country of origin, given more weighting than identity determination in some cases?

As it has been mentioned in the answer above, the fact that a person's identity or citizenship cannot be confirmed by credible documentation is not a ground for denying international protection to such a person and adopting a decision on his expulsion from the Republic of Lithuania. Decisions on granting of asylum/refusal to grant asylum are adopted having regard to the totality of documents and information.

3.2.2 For the return to country of origin

What are the potential decisions that can be taken by the competent authorities where identity has been established (even partially) to inform the overall decision taken? For example, does the outcome of identity establishment influence a recommendation to “defer return”?

If an application for granting of asylum is rejected and a decision on expulsion is taken, but a person’s identity/citizenship cannot be established, or return documents have not been received, the execution of the expulsion decision is deferred, and responsible officers continue to work in order to verify the necessary information (be in correspondence with consular posts through the Ministry of Foreign Affairs). If after one year the person’s identity is not determined and the return documents are not received, a decision on the issuance of a temporary residence permit valid for one year is taken.

If return documents are received during that year, the expulsion decision must be executed immediately. If the return documents, however, are not received, then the temporary residence permit is extended for another year.

During the expulsion procedure, when documents for return to the country of origin are received there are cases when a person’s identity is not confirmed and only the authorities of the country of origin are able to determine the actual data of the person according to which documents for return to the country of origin are issued:

Year	Asylum seekers not in possession of documents confirming a person’s identity	Personal data changed upon expulsion according to a return document	%
2009	212	4	2
2010	135	10	7
2011	256	7	3

Are the results of the work to establish identity during the international protection process available for work to prepare for forced return?

Yes.

If ‘yes’: please describe the type of supplementary steps that may be needed with respect to identity documentation before the authorities in the receiving country are prepared to accept the return.

The officers in charge of execution of a decision on expulsion must address the country of origin regarding return documentation.

If ‘no’: please describe the type of steps that may be needed with respect to identity documentation before the authorities in the receiving country are prepared to accept

the return.

Not applicable in Lithuania's case.

Section 4

Conclusions

(National Contribution: Maximum 2 pages)

The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level.

With regard to the aims of this Focussed Study, what conclusions would you draw from your findings? What is the relevance of your findings to (national and/or EU level) policymakers?

1. *Approximately 50% of asylum seekers enter the Republic of Lithuania without personal identity documents which can confirm their identity. This means that the officers responsible for the legal status of such aliens in Lithuania face the problem of a lack of sufficiently reliable documents or evidence permitting to establish their identity. However, provisions of legal acts of the Republic of Lithuania, their implementation in practice, application of various methods and co-operation among authorities and states allow the relevant authorities to adequately respond to the rising problems and adopt decisions on the legal status of such aliens.*
2. *In the Republic of Lithuania, all applications for granting of asylum are examined and decisions are adopted by the central authority – the Migration Department under the Ministry of the Interior. In the case when the Republic of Lithuania refuses to grant asylum, the issue of return or expulsion of such a person to the country of origin is addressed again by the Migration Department, while decisions on expulsion are executed by divisions of the State Border Guard Service, most frequently the Foreigners' Registration Centre, or the Police Department.*
3. *The following methods are used to establish identity in Lithuania: taking and examination of fingerprints, photographs and interview. DNA, age determination tests and language analysis may be employed if necessary. Determination of identity usually involves combinations of several methods.*
4. *Lithuania does not have a grading system designed to estimate the degree of credibility of establishment of a person's identity/citizenship (identity/citizenship is either established or not established).*
5. *All available information and statistics about aliens are accumulated in the Register of Aliens. However, due to technical problems there is still no possibility to introduce photographs of asylum seekers. Experts indicate the necessity to upgrade the Register of Aliens in order to provide possibilities for entering the most detailed possible information about aliens.*
6. *The civil servants who are involved in the process of establishment of aliens' identity/citizenship point out the need to organise trainings and become familiarised with the best practices of other countries in dealing with the issues of identity determination.*