

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

IN

LITHUANIA

By

Biekša Laurynas

Lecturer, Mykolas Romeris University
laurynas@redcross.lt

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The person in the team of thematic coordination in charge of this directive that you can contact if you have a question or need help when completing this questionnaire is:

Markus Gunneflo

Telephone: +46 46 2221037 / +46 31 16 38 89

E-mail: markus.gunneflo@jur.lu.se

FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Law on Legal Status of Aliens of the Republic of Lithuania (further – Aliens Law)
DATE: 29 April 2004, as amended on 28 November 2006
NUMBER: IX-2206
DATE OF ENTRY INTO FORCE: 30 April 2004
PROVISIONS CONCERNED : Articles: 2, 26, 40, 43, 49, 50, 66, 92-96 of the Law (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION
IN THE OFFICIAL JOURNAL: „State News“ No. 73-2539, 2004
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Order of the Minister of Interior on Approval of Order for Examination of Foreigners' Applications for Asylum, Adoption of Decisions and the Implementation thereof (further – Order on Asylum Applications)
DATE: 15 November 2004
NUMBER: 1V-361
DATE OF ENTRY INTO FORCE: 21 February 2004
PROVISIONS CONCERNED : Paragraphs: 118-131. (for example if the norm also pursues other objectives than the transposition of the concerned directive)
REFERENCES OF PUBLICATION
IN THE OFFICIAL JOURNAL: « State News » No. 168-6196, 20 February 2004
LEGAL NATURE (please tick the correct box): <input type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system (first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

A.1.B. No other norms that would be directly applicable.

Table 1

TITLE:
DATE:
NUMBER:
DATE OF ENTRY INTO FORCE:
PROVISIONS CONCERNED : (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2. This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

A.2. Not applicable for Lithuania.

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	Examination of individual applications and first instance decisions on temporary protection
CENTRAL MINISTRY OF:	Ministry of Interior
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Migration Department to the Ministry
OTHER LEVEL OF ADMINISTRATION:	-
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	The authority is a body attached to the Ministry, but not falling under the structure of the Ministry

Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES

NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES

NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

According to Art. 92 of the Aliens Law.

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is ‘no’, how is a Council decision transposed ad hoc into national law?)

Art. 96(1)(1) of the Aliens Law allows to cancel temporary protection if a foreigner can return to the country of origin. As this ground is similar to the ground in Art. 6(2) of the Directive on which a Council decision shall be based, Art.96(1)(1) of the Aliens Law can be used for the ad hoc transposition of a Council decision.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

According to Art. 92 of the Aliens Law.

Obligations of the Member States towards persons enjoying temporary protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

According to Art. 40, Art. 49, Art. 95 of the Aliens Law.

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': **Is the residence permit valid for the entire period of temporary protection?** *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 40, Art. 49, Art. 95 of the Aliens Law.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Art. 94(1)(3) guarantees the right to receive the information regarding their status in their language, but it is not mentioned that this information has to be provided in the form of written document.

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Para. 126, Para. 129 of the Order on Asylum Applications, the decisions to grant or to cancel temporary protection have to be registered, but it is not mentioned which data from the decision has to be registered.

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 95(2) of the Aliens Law, travel documents for travel to Lithuania are provided.

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

According to Para. 124 of the Order on Asylum Applications, persons granted temporary protection are provided with free of charge travel documents for travel to Lithuania. In addition, according to Para. 2.5, Para. 2.6, Para. 2.7 and Para 2.28 of the List of State Charged Services and Amount of Charges, persons granted temporary protection have reduced charges for obtaining and changing a temporary residence permit or a foreigner passport.

Q.9. **According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? See mandatory provision in article 11.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No such provision in the Aliens Law. Art. 96(1)(2) of the Aliens Law might indicate the opposite - the temporary protection is cancelled if a foreigner moves to live to another state.

Q.10. **Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? See optional provision in article 11, final sentence.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please specify with which country)

No special agreements regarding persons granted temporary protection.

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. **Are the persons enjoying temporary protection allowed to engage in:**

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Employed activities? **Yes** **No**

- Self-employed activities?** **Yes** **No**
- Educational opportunities for adults?** **Yes** **No**
- Vocational training?** **Yes** **No**
- Practical workplace experience?** **Yes** **No**

Explanation:

Foreigners granted temporary protection have a right to work without the requirement to receive a labour permit (Art. 58(1)(1), Art. 94(1)(4) of the Aliens Law). Foreigners having temporary residence permit in Lithuania have access to education on equal basis with nationals (Art. 25 of the Law on Education). Foreigners having temporary residence permit in Lithuania have access to vocational training and practical workplace experience on equal basis with nationals (Art. 1 of the Law on Support for Employment).

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- EU citizens?** **Yes** **No**
- Citizens of the European Economic Area?** **Yes** **No**
- Legally resident third-country nationals who receives unemployment benefits?** **Yes** **No**

Explanation: No such priorities foreseen in domestic legislation.

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Remuneration? **Yes** **No**

Access to social security systems relating to employed or self-employed activities and other conditions of employment? **Yes** **No**

Explanation:

The Labour Code, the Law on Pensions of Social Insurance, the Law on Social Insurance of Illness and Maternity, the Law on Social Insurance of Accidents in Workplace and Professional Diseases, the Law on Social Insurance of Unemployment and other social security legal acts related to employment are equally applied to all persons employed.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing? *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation :

According to Art. 94(1)(2) of the Aliens Law, foreigners granted temporary protection have a right to live in the place provided by the Government.

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? *See mandatory provision in article 13(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 94(1)(5) of the Aliens Law, foreigners granted temporary protection have a right to receive financial assistance if they do not have other income in Lithuania. But general social welfare laws (the Law on Payments to Children, the Law on Social Support to Families and Single Persons with a Low Income, the Law on State Charity Payments and other) do not cover the foreigners with temporary residence permits.

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? *See mandatory provision in article 13 (2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

Medical assistance is limited only to emergency cases (Art. 49 of the Law on Health System) unless the foreigner works or belongs to vulnerable group (children under 18, single parents with children, pregnant women, persons with dangerous diseases, and persons at the age retirement) and has a right to a complete medical assistance (Art. 6 of the Law on Health Insurance).

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence? *See mandatory provision in article 13(4).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

Medical assistance is limited only to emergency cases (Art. 49 of the Law on Health System), which usually does not include psychological assistance, just if foreigners work or belong to vulnerable groups (children under 18, single parents with children, pregnant women, persons with dangerous diseases, and persons at the age retirement), they have a right to a complete medical assistance (Art. 6 of the Law on Health Insurance).

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? *See mandatory provision in article 14(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: According to the Art. 94(2) of the Aliens Law.

Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: According to the Art. 94(2) of the Aliens Law, it covers all kinds of educational institutions.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Foreigners having temporary residence permit in Lithuania have access to education on equal basis with nationals (Art. 25 of the Law on Education).

Q.14. Questions regarding right to family reunification. *See article 15:*

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”? *See article 15(1)(a)(b).*

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? *See mandatory provision in article 15(4).*

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? *See mandatory provision in article 15(8).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification. No procedure is foreseen for the exchange of information in domestic legislation.

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. *See mandatory provision in article 16(1).*

According to Art. 32, Art. 79 of the Aliens Law and Rules of Accommodation in the Refugee Reception Center of Unaccompanied Minors Seeking Asylum, unaccompanied minors seeking asylum are from the first moment accommodated in the Refugee Reception Center which acts as an institutional guardian.

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: *See mandatory provision in article 16(2).*

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accommodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

Explanation:

According to Art. 32, Art. 79 of the Aliens Law and Rules of Accommodation in the Refugee Reception Center of Unaccompanied Minors Seeking Asylum, unaccompanied minors seeking asylum are from the first moment accommodated in the Refugee Reception Center which acts as an institutional guardian.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? *See mandatory provision in article 16(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes** **No**

Explanation:

The Refugee Reception Center is the only institution, where unaccompanied minors can live. No alternatives are foreseen in domestic legislation, so there is no space left for taking into account the views of the child.

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes** **No**

Explanation:

No such prejudices foreseen in domestic legislation.

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 94(1)(1) of the Aliens Law.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Persons who apply for asylum are granted temporary territorial asylum till a final decision (Art. 76 of the Aliens Law). If the application is rejected as manifestly unfounded, temporary territorial asylum is not granted, but appeal against such decision has a suspensive effect on deportation (Art. 128 of the Aliens Law).

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

No criteria are provided in domestic legislation, but according to Dublin regulation, another Member state would be responsible for examining an asylum application of a person enjoying temporary protection in another Member State.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

Provisions that asylum application terminates temporary protection are not foreseen in domestic legislation.

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provisions that asylum application terminates temporary protection are not foreseen in domestic legislation.

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

No such provisions foreseen in domestic legislation.

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. See mandatory provision in article 21(1).

No such provisions foreseen in domestic legislation.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? See optional provision in article 21(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No such provisions foreseen in domestic legislation.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

No such provisions transposed in domestic legislation. Art. 96(1)(1) of the Aliens Law might indicate the opposite - temporary protection is cancelled if a foreigner can return to the country of origin.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (If the answer is “yes”, for how long is that possible).

No such provisions foreseen in domestic legislation.

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

No such provisions foreseen in domestic legislation.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

Humanitarian reasons are specified in Art. 128 of the Aliens Law. Art. 128 of the Aliens Law states:

1. When making a decision to expel an alien from the Republic of Lithuania account shall be taken of:

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

2. The implementation of the decision regarding the expulsion of an alien from the Republic of Lithuania shall be suspended if:

- 1) the decision regarding expulsion of an alien from the Republic of Lithuania is appealed against in the court, except in cases when the alien must be expelled due to the threat which he constitutes to state security or public policy;
- 2) the foreign country to which the alien may be expelled refuses to accept him ;

- 3) the alien is in need of immediate medical aid, the necessity of which shall be confirmed by a consulting panel of a health care institution;
 - 4) the alien cannot be expelled due to objective reasons (the alien is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.).
3. With the disappearance of the reasons indicated in paragraph 2 of this Article the decision concerning expulsion of the alien from the Republic of Lithuania must be implemented without delay.

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

Art. 128 of the Aliens Law states:

1. When making a decision to expel an alien from the Republic of Lithuania account shall be taken of:
 - 1) the period of his lawful stay in the Republic of Lithuania;
 - 2) his family relationship with persons resident in the Republic of Lithuania;
 - 3) his social, economic and other connections in the Republic of Lithuania;
 - 4) type and extent of dangerousness of the committed violation of law.
2. The implementation of the decision regarding the expulsion of an alien from the Republic of Lithuania shall be suspended if:
 - 1) the decision regarding expulsion of an alien from the Republic of Lithuania is appealed against in the court, except in cases when the alien must be expelled due to the threat which he constitutes to state security or public policy;
 - 2) the foreign country to which the alien may be expelled refuses to accept him ;
 - 3) the alien is in need of immediate medical aid, the necessity of which shall be confirmed by a consulting panel of a health care institution;
 - 4) the alien cannot be expelled due to objective reasons (the alien is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.).
3. With the disappearance of the reasons indicated in paragraph 2 of this Article the decision concerning expulsion of the alien from the Republic of Lithuania must be implemented without delay.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

According to Art. 128(2)(3) of the Aliens Law.

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? *See optional provision in article 23.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? *See mandatory provision in article 25(2).*

No such provisions foreseen in domestic legislation.

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. *See article 26:*

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Para. 119 of the Order on Asylum Applications, other Member States, the Commission and UNHCR are informed about the number of foreigners granted temporary protection in Lithuania, but it is not specifically mentioned whether it includes requests for transfers.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? (See mandatory provision in article 26(3)).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 96(1)(2) of the Aliens Law, the temporary protection is cancelled if a foreigner moves to live to another state, according to Art. 90(2)(2) of the Aliens Law, subsidiary protection is also cancelled if a foreigner moves to live to another state. Regarding other residence permits - in such case permanent residence permits do not expire (Art. 54), temporary residence permits expire after 6 months (Art. 50).

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 96(1)(2) of the Aliens Law, the temporary protection is cancelled if a foreigner moves to live to another state.

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your

Member State grant temporary protection to that person? *See mandatory provision in article 26(4), last sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Para. 124 of the Order on Asylum Applications, persons granted temporary protection are provided with free of charge travel documents for travel to Lithuania which is similar to the model pass, but it is not foreseen that such document is used for transferral procedure.

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: According to Para. 119 of the Order on Asylum Applications, such authority is the Migration Department, which also issues decisions regarding temporary protection.

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? *See optional provision in article 28.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If yes, specify the criteria).

Art. 93(1) of the Aliens Law states:

An alien shall be excluded from temporary protection in the Republic of Lithuania if:

1) there are serious grounds for considering that the alien has committed a crime against peace or a war crime, or performed genocide, as defined in the legal acts of the Republic of Lithuania, International treaties and other instruments of international law;

- 2) there are serious reasons to believe that the alien has committed a serious non-political crime outside the Republic of Lithuania prior to his admission into the Republic of Lithuania as a person enjoying temporary protection;
- 3) there are serious reason to believe that the alien has been guilty of acts contrary to the purposes and principles of the United Nations;
- 4) there are reasonable grounds for regarding the alien as a danger to public security or public policy of the Republic of Lithuania;
- 5) the alien has been convicted of a serious or particularly serious crime.

Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes No

Explanation:

Art. 93(1) mentions public order and crimes as separate grounds, and it includes not just particularly serious crimes, but also serious crimes.

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions foreseen in domestic legislation.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

excluded from the benefit of temporary protection **Yes** **No**

denied family reunification **Yes** **No**

Explanation:

According to Art. 138 of the Aliens Law, foreigners can mount a legal challenge against the decisions regarding their legal status. But family reunification would be denied without any decision (simply not accepting application), because according to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification.

Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.

According to Art. 138 of the Aliens Law, within 14 days foreigners can mount a legal challenge to administrative court against the decisions regarding their legal status.

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? See mandatory provision in article 30.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the penalties).

No such provisions foreseen in domestic legislation.

Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive? See mandatory provision in article 30.

No such provisions foreseen in domestic legislation.

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

No.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

No.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?

Art. 43(8) of the Aliens Law states that foreigners granted temporary protection do not have a right to family reunification (Amendment of the Aliens Law of 28 November 2006). Art. 94 of the Aliens Law states that family members of foreigners granted temporary protection have a right to temporary protection in Lithuania (the Aliens Law of 29 April 2004). The contradiction between these provisions probably would be solved in favour of Art. 43(8), because that provision is the later.

According to Art. 138 of the Aliens Law, foreigners can mount a legal challenge against the decisions regarding their legal status. But family reunification would be denied without any decision (simply not accepting application), because according to Art. 43(8) of the Aliens Law foreigners granted temporary protection do not have a right to family reunification. Theoretically it would be possible to submit a legal challenge not against the decision, but against the failure to act (i.e. failure to accept application), but as applicants for family reunification would be denied being abroad, in practice they would not have an effective right to mount a legal challenge even against the failure to act.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29

Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p>Before the 29 April 2004 Aliens Law temporary protections status had not existed.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>The 29 April 2004 Aliens Law included most provisions regulating temporary protection status, but did not transpose some important provisions as well.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input checked="" type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30.

From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Family reunification			
<p>Explain the situation before transposition</p> <p>Before the 29 April 2004 Aliens Law temporary protections status had not existed.</p>	<p>Explain the situation after transposition</p> <p>The 28 November 2006 amendment of the Aliens Law stated that foreigners granted temporary protection do not have a right to family reunification. (Art. 43(8))</p>	<p><input checked="" type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input checked="" type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Table 2

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Medical care			
<p>Explain the situation before transposition</p> <p>Before the 29 April 2004 Aliens Law temporary protections status had not existed.</p>	<p>Explain the situation after transposition</p> <p>Generally medical assistance is limited only to emergency cases (Art. 49 of the Law on Health System). But the 28 April 2005 Amendment on the Law on Health Insurance made a step further providing a complete medical assistance to vulnerable groups (children under 18, single parents with children, pregnant women, persons with dangerous diseases, and persons at the age retirement). (Art. 6 of the Law on Health Insurance)</p> <p>Still psychological assistance for traumatised persons are not foreseen.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input checked="" type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Table 3

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Solidarity			
<p>Explain the situation before transposition</p> <p>Before the 29 April 2004 Aliens Law temporary protections status had not existed.</p>	<p>Explain the situation after transposition</p> <p>Most of solidarity provisions (regarding exchange of information, transfer documents, cooperation with international organisations) are not transposed.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input checked="" type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q.31. A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES NO

Q.31.C. **If yes, give some of examples:**

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

Not applicable.

Q.32. **Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation** (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	DATE: Not applicable.	REFERENCE OF PUBLICATIONS:	SUMMARY OF CONTENT:
DECISION OF APPEAL COURTS	DATE:	REFERENCE OF PUBLICATIONS:	SUMMARY OF CONTENT:
DECISION(S) IN FIRST RESORT	DATE:	REFERENCE OF PUBLICATIONS:	SUMMARY OF CONTENT:

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any **problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.**

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. **Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION
Not applicable.	

Q.35. **Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.**

No other elements.