

September 11<sup>th</sup>, 2024

# FAMILY REUNIFICATION

LITHUANIAN RED CROSS



Lietuvos  
Raudonasis  
Kryžius

**Įkvėpti pirmi padėti krizėje**

# FAMILY REUNIFICATION: MAJOR ISSUES (1)

- NO PROCEDURE FOR FAMILY REUNIFICATION

Provisions of the Council directive 2003/86/EC suggest that a Member State is expected to have a procedure in place designed specifically for family reunification. An application for family reunification shall be submitted by either a sponsor or their family. Once the application is approved, the family shall be issued necessary visas for arrival.

In Lithuania, there is no procedure designed specifically for family reunification. The person has no possibility to apply for either family reunification per se or for confirmation of their right to reunite with the family.

“Family reunification” is merely one of the grounds for issuing a residence permit, along with work, studies, etc. Thus, in order to reunite with their family, a person needs to apply for a residence permit in the framework of general residence permit procedure.

Council directive 2003/86/EC defines “family reunification” as “**entry into and residence** in a Member State by family members”. Up until recently, the “entry into” part of this definition was not addressed at all, simplifying the family reunification issue down to mere issuing a residence permit, which was possible only after the family members concerned have already come to Lithuania. Currently, a residence permit may be issued abroad, thus enabling the family to travel to Lithuania. Still, the procedural requirements make it virtually impossible for some people to reunite with their families.

# FAMILY REUNIFICATION: MAJOR ISSUES (2)

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- NO CLEAR PRACTICAL GUIDELINES ON THE APPLICABLE PROCEDURES PROVIDED

According to the European Commission, Member States should establish practical guidelines with detailed, accurate, and clear information for applicants and clearly communicate any changes in a timely fashion. The Council of Europe also encourages States to provide accurate information in a timely fashion in a language understandable to applicants, further emphasizing that while other organizations may assist in this matter, it is primarily the responsibility of the State.

In Lithuania, the relevant “practical guidance” is limited to general instructions on how to submit an application for residence permit, omitting the numerous practical aspects and procedural modalities unique to the family reunification situations. Individual consultations on how a particular person might realize their right to family reunification in their specific situation are also not provided.

# FAMILY REUNIFICATION: PRACTICAL CHALLENGES

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- SINCE 2019 – NO POSSIBILITY TO APPLY FOR RESIDENCE PERMIT AT THE EMBASSIES (only in Lithuania, meaning families are expected to find ways to come to Lithuania themselves)
  - SINCE 2021 – NO POSSIBILITY FOR A SPONSOR TO APPLY FOR RESIDENCE PERMIT ON BEHALF OF THEIR FAMILY
  - SCHENGEN VISA – NOT DESIGNED FOR FAMILY REUNIFICATION (one of prerequisites – guarantee that a person will return after their visa expires, which is contrary to the whole essence of family reunification)
  - NATIONAL VISA – FAMILY REUNIFICATION IS NOT AMONG THE GROUNDS (national (D) visas are not issued for family reunification purposes)
  - 3 MONTHS LIMIT FOR EXEMPTIONS (HOUSING, HEALTH INSURANCE, MEANS OF SUBSISTENCE) DESPITE STATE SUPPORT FOR INTEGRATION (a beneficiary of international protection receives state support for integration, which does not end after 3 months; moreover, their family members also receive such support after they reunite; nevertheless, the authorities stick to the 3 months limit, as if by that time a beneficiary is expected to be able to fully provide for themselves and their family)

# FAMILY REUNIFICATION: 2023 DEVELOPMENTS (1)

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- SINCE 2023 – POSSIBILITY TO APPLY FOR RESIDENCE PERMIT AT VFS GLOBAL (instead of embassies, the applications for residence permit are now being accepted via privately contracted third-party). THE VSF GLOBAL OFFICES ACCEPTING APPLICATIONS ON BEHALF OF LITHUANIA:

Albania, Argentina, Armenia, Australia, Azerbaijan, Brazil, Canada, Georgia, Israel, Japan, Kazakhstan, Kyrgyzstan, Malaysia, Moldova, New Zealand, Philippines, Singapore, South African Republic, South Korea, Taiwan, Tajikistan, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Venezuela.

None of the TOP5 countries of origin of people granted asylum in Lithuania made this list, i. e. for most beneficiaries of international protection the harsh reality is that their family members must travel to a third country just to submit their applications for residence permit.

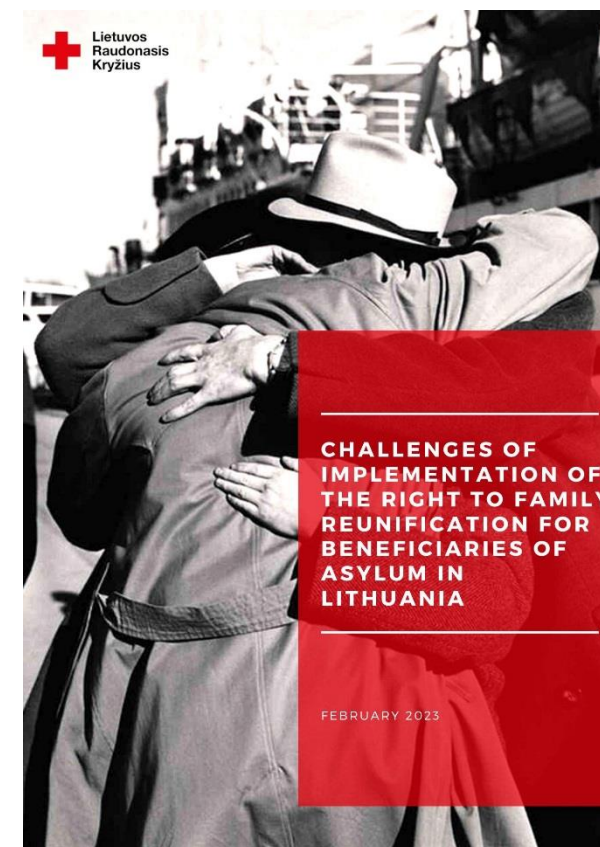
# FAMILY REUNIFICATION: 2023 DEVELOPMENTS (2)

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LRC ADVOCACY DOCUMENT ON FAMILY REUNIFICATION\*, FOLLOWED BY ROUND-TABLE DISCUSSIONS AND LEGISLATIVE DELIBERATIONS

- POSSIBILITY FOR A SPONSOR TO APPLY FOR RESIDENCE PERMIT ON BEHALF OF THEIR FAMILY (reintroduced in summer 2023)
- **6 MONTHS** LIMIT FOR EXEMPTIONS (HOUSING, HEALTH INSURANCE, MEANS OF SUBSISTENCE) (3 months extended to 6 months in summer 2024)
- NATIONAL LEGISLATION AMENDED IN LIGHT OF CJEU RULINGS IN CASES C-550/16, C-279/20, and C-230/21, PROVIDING CLARIFICATIONS ON ASSESSMENT OF THE CHILD'S AGE AND THE RIGHTS OF MARRIED CHILDREN TO REUNITE WITH THEIR FAMILIES

\*Available (currently in LT only) at: <https://redcross.lt/wp-content/uploads/2022/09/LIETUVOJE-PRIEGLOBSTI-GAVUSIU-ASMENU-TEISES-I-SEIMOS-SUSIJUNGIMA-IGYVENDINIMO-ISSUKIAI-LT-2023.pdf>



# FAMILY REUNIFICATION: CURRENT ISSUES (1)

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- CJEU JUDGEMENT IN CASE C-1/23 PPU | AFRIN – **NOT IMPLEMENTED** (and currently no plans for implementation, all discussions reached dead-end)

It is essential that the Member States show the necessary flexibility to enable the persons concerned to be able to submit their application for family reunification in good time, by facilitating the submission of that application and by **permitting the use of remote means of communication. The requirement to appear in person when an application for reunification is submitted, without allowing for derogations from that requirement, undermines the objective pursued by EU law.** The Member States may require the sponsor's family members to appear in person at a later stage of that procedure.

Currently, family members (or the sponsor) may fill-in the application for residence permit online, but such application is not processed and not considered “accepted” until family shows up in person in order to provide original documentation and have their fingerprints and pictures taken. There is no way around this requirements. Thus, in order to have their application processed (not even approved, but simply processed), family members must come to VFS Global office (in selected countries) in person.

# FAMILY REUNIFICATION: CURRENT ISSUES (2)

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- SINCE 2023 – LAW ON RESTRICTIVE MEASURES DUE TO MILITARY AGGRESSION AGAINST UKRAINE

Ban on accepting applications for residence permit from Russian nationals;

Ban on issuing visas to Russian and Belarussian nationals.

As a result, Russian nationals granted international protection in Lithuania have no real possibility to reunite with their families. With Belarussian nationals the situation is different, but their family members still need to travel to third countries in order to submit an application (no VFS Global office in Belarus and no visas issued to Belarussians, thus they can not come straight to Lithuania and apply there).



# FAMILY REUNIFICATION: REFUGEE STORIES (1)

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## Alina (Russia)

Fleeing persecution, Alina and her family applied for asylum in Ukraine, but were refused. Then Alina came to Lithuania, where in 2018 she was granted refugee status and permanent residence. In order to be reunited with her minor daughter who remained in Ukraine, Alina faced obstacles, as her daughter did not have a valid travel document and was unable to obtain one. The International Committee of the Red Cross issued an Emergency Travel Document to Alina's daughter in September 2019, which at that time was not yet recognized as entitling a foreigner to enter the Republic of Lithuania. Through the mediation of the Lithuanian Red Cross and the Migration Department, the Consular Department of the Ministry of Foreign Affairs approved a one-time decision on the possibility of issuing a visa of the Republic of Lithuania based on the submitted emergency travel document at the Embassy of the Republic of Lithuania in Ukraine, and the latter issued a Schengen visa of limited territorial validity to Alina's daughter. After entering Lithuania, Alina's daughter received a residence permit on the basis of family reunification.

# FAMILY REUNIFICATION: REFUGEE STORIES (2)

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## Abdujalil (Tajikistan)

Abdujalil was granted refugee status in Lithuania and issued a residence permit. Abdujalil wanted to reunite with his family (wife and 3 children) remaining in Tajikistan, but faced obstacles, as the only country where his family could go and apply for a visa was Turkey, but the Embassy of the Republic of Lithuania in Ankara would only serve those foreigners who have declared a place of residence in Turkey or have valid permits for residence in Turkey. Abdujalil's family did not have such residence permits, nor did they have grounds to apply for their issuing. With the help of the Lithuanian Red Cross, Abdujalil applied to the Embassy of the Republic of Lithuania for the Islamic Republic of Pakistan and the Islamic Republic of Iran in the Republic of Turkey in 2022 with a request to allow his family to apply for visas without submitting documents confirming that they are Turkish residents. In response to the aforementioned application, the embassy informed that Abdujalil's family members who do not have a permit for residence in Turkey have been granted an exception and they can apply for Schengen visas at one of 'VFS Global' visa centers in Turkey.

This is not the only case when the Embassy of the Republic of Lithuania in Turkey demonstrated flexibility in solving such problems and applied exceptions to families from Tajikistan and Syria. However, as is demonstrated by Mahmoud's case described below, the mere possibility of applying for a visa does not necessarily solve the problem of entry to Lithuania.

# FAMILY REUNIFICATION: REFUGEE STORIES (3)

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## Mahmoud (Syria)

Mahmoud was granted refugee status in Lithuania in 2021 and issued a permit for permanent residence. At that time his wife was in a refugee camp in Turkey. With the help of the Lithuanian Red Cross, Mahmoud applied to the Embassy of the Republic of Lithuania for the Islamic Republic of Pakistan and the Islamic Republic of Iran in the Republic of Turkey in 2022 with a request to allow his wife to apply for a visa without providing a permit for residence in Turkey. The embassy agreed to make an exception for Mahmoud's wife and informed her that she could apply for a Schengen visa at the 'VFS Global' visa center. Both Mahmoud and his wife were open about the fact that she was going to Lithuania for the purpose of family reunification. Nevertheless, after examination of Mahmoud's wife's application for a Schengen visa, the embassy refused to issue her a visa, on the grounds, inter alia, that: justification for the intended purpose and conditions of stay was not provided; there are reasonable doubts about the intention to leave the territory of the Member States before the expiry of the visa. Unfortunately, the obstacles to entry for Mahmoud's wife did not end with the denial of visa. The Migration Department decided to ban her from entering the Republic of Lithuania for a year on the sole basis that the visa was refused. Furthermore, the same decision banned her from entering all Schengen states, which means that Mahmoud's wife will not have the possibility to get a visa not only for Lithuania, but also for other Schengen states for another year.

Thus, travelling for the purpose of family reunification is not only not considered a suitable basis for obtaining a visa, but in certain cases it can become a basis for refusal to issue a visa, since it presupposes that the person intends to stay in Lithuania instead of leaving after the expiry of visa. However, as is shown by the case of Mostafa described below, obtaining a visa and entering Lithuania does not guarantee successful family reunification either.

# FAMILY REUNIFICATION: REFUGEE STORIES (4)

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## Mostafa (Syria)

In 2022 Mostafa was granted refugee status and issued a residence permit. Immediately, he began to take care of the arrival of his wife, who remained in Syria. Since there is no diplomatic representation of the Republic of Lithuania in Syria, the woman turned to the representation of a foreign state that represents Lithuania, namely to the Embassy of the Republic of Austria in the Republic of Lebanon. However, this embassy refused to serve her and referred her to the diplomatic mission of the Republic of Austria in Syria, Damascus. After contacting the diplomatic mission in Damascus, it turned out that this representative office is not functioning at all, does not accept applications and refers back to the Austrian diplomatic mission in Lebanon. Mostafa (with a group of Syrian citizens in a similar situation), with the help of the Lithuanian Red Cross, applied to the Migration Department and the Consular Department of the Ministry of Foreign Affairs in April 2022, asking for help in finding a way out of this impasse, but after a month, he received only responses of general nature explaining the procedure for the submission of documents. Communication with the institutions was renewed in July 2022, and finally Mostafa's wife was able to submit the documents for a Schengen visa at the VFS Global visa center in Dubai in October. After receiving the visa, she entered Lithuania in November and applied to the Migration Department for the issuance of a temporary residence permit on the basis of family reunification, but her application was not accepted, citing the fact that the certificate of criminal record presented by the woman was issued more than 6 months ago, also indicating that both the new certificate of criminal record and her marriage certificate must be legalized. Furthermore, since Mostafa's wife did not apply for a permit for residence within 3 months, she was not eligible for exemptions related to the requirement to have sufficient means of subsistence, completely ignoring the reasons that caused the delay. The woman's Schengen visa was valid until December 21. Not expecting that she would be able to obtain a new certificate of criminal record (applying through the Syrian Embassy in the Republic of Belarus) and legalize the documents at the Ministry of Foreign Affairs before the visa expires, Mostafa's wife left Lithuania and applied for asylum in another country.

# FAMILY REUNIFICATION: REFUGEE STORIES (5)

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## Marco (South Sudan)

In 2020 Marco was granted refugee status and issued a residence permit. Marco's family (wife and son) lived in Egypt since 2016, registered in UNHCR refugee camp. After applying for residence permits through MIGRIS, Marco's family members had to present themselves to the Migration Department before 17 September 2020, but faced obstacles, because due to the COVID-19 pandemic and extremely strict quarantine conditions in Egypt, they could not come to Lithuania on time and submit biometric data, nor did they have the opportunity to collect and submit the necessary documents. In November 2020, after the visa center in Cairo finally resumed operations, Marco's family booked time for a visit and received visas valid until 15 March 2021. Upon arrival to Lithuania, they faced additional obstacles - they did not have a valid certificate of criminal record required for issuing of permits for residence, and the documents issued to them in Egypt were not legalized. The family applied to the Migration Department with a request to allow them to submit documents without legalization and without presenting a new certificate of criminal record. While they were waiting for a response, their visas expired, therefore, not wanting to stay in Lithuania illegally (which in itself would become an obstacle in obtaining permits for residence) and having no other option, on 17 March 2021 Marco's wife and son applied for asylum. The examination of the application for asylum was prolonged and the decision on it was made only a year later and only after the intervention of the Seimas Ombudsperson. Finally, the life of Marco's family members in Lithuania was legalized (given subsidiary protection), but through a procedure that is not related to the exercising of the right to family reunification.

# FAMILY REUNIFICATION: REFUGEE STORIES (6)

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## Abraham (Eritrea)

In 2021 Abraham was granted refugee status and issued a residence permit. Abraham was separated with his family (wife and 2 children) back in 2014. They are currently refugees in Ethiopia. Abraham has not seen his family for 10 years. While trying to reunite with his family, Abraham faced obstacles because his family did not have passports of Eritrean citizens, and there is no Lithuanian diplomatic mission in Ethiopia to which they could apply for visas. Being refugees in another country, Abraham's family members have no possibility to obtain travel documents issued by their country of origin. Through mediation of the UNHCR, Ethiopia issued Abraham's family emergency travel documents, but these documents alone, without a valid visa, are not enough to enter Lithuania. To this day, the situation is not resolved, the state institutions do not offer or seek a solution. The 3-month period, when Abraham's family could apply for residence permits under preferential conditions, has long expired.

In the fall of 2021 family members of Eritrean refugees, residing in Lithuania, who found themselves in a similar situation in the past, were resettled to Lithuania after 4 years of deliberations. These persons were issued travel documents to enter the Republic of Lithuania, upon their arrival they were registered as asylum seekers, and later they were granted asylum (a procedure unrelated to the exercising of the right to family reunification). All attempts to use the family reunification procedure were unsuccessful due to the formal requirements and inflexibility of the institutions. The Government resolution provided an opportunity to relocate (or resettle) 1,077 foreigners to the territory of the Republic of Lithuania until 31 December 2021. To date, this deadline has not been extended.

**Thank you**

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**Įkvėpti pirmi padėti krizėje**