

**ACCESS TO THE ASYLUM
PROCEDURE AT THE
DIPLOMATIC MISSIONS OF
THE REPUBLIC OF
LITHUANIA ABROAD AND
AT THE BORDER
CHECKPOINTS OF THE
STATE BORDER GUARD
SERVICE**

2023 UPDATE

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Raudonasis
Kryžius**

UPDATE TO THE THEMATIC STUDY REPORT PUBLISHED IN 2022

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ACCESS TO THE ASYLUM PROCEDURE AT THE BCP OF THE SBGS

According to the monitoring data for 2023, the number of asylum applications registered at the border checkpoints (hereinafter referred to as BCP) of the State Border Guard Service (hereinafter referred to as SBGS) has decreased significantly compared to 2022. The absolute majority of accepted asylum applications were submitted by Belarusian citizens. In the course of 2023, it was also observed that asylum applications at the BCP of the SBGS were not always accepted.

In 2023, the Lithuanian Red Cross (hereinafter referred to as LRC) monitors received information on 2 cases of the rejected asylum applications. In January, 2 young citizens of the Russian Federation (of Chechen origin) travelling to the Kaliningrad region of the Russian Federation on a transit train arrived at the Kena railway BCP of the Kena Frontier Station (hereinafter referred to as FS) of Vilnius Frontier District (hereinafter referred to as FD) of the SBGS and applied for asylum, but their asylum applications were not accepted. The foreigners continued their journey, transited through Lithuanian territory and arrived in the Kaliningrad region. They then re-acquired transit train tickets and, travelling in the opposite direction, applied for asylum at the Kybartai railway BCP of Kybartai FS of the Pagėgiai FD of the SBGS, but again their applications were not accepted. According to information that is available to the LRC, requests were expressed both orally and in writing.

In August, the LRC monitors received information that a Tajik citizen with signs of vulnerability was present in the Lavoriškės BCP of Lavoriškės FS of Vilnius FD of the SBGS, and that she was applying for asylum, but her application was not registered. In this case, the foreigner used a private lawyer who reported the situation to the LRC partners. According to the data of the LRC, the application for asylum was never accepted, and the foreigner was refused entry into Lithuania and returned to the territory of Belarus.

In August, the LRC monitors received information about the possible non-acceptance of an asylum application of a Belarusian citizen at the Kybartai road BCP of Kybartai FS of Pagėgiai FD of the SBGS. The applicant was in contact with representatives of the LRC and had already been issued with a document for refusal of entry to Lithuania (the LRC has a copy of this document). After the LRC took an interest in the situation, the asylum application was registered. The LRC monitor visited the premises of the Kybartai railway BCP, where the asylum seeker was relocated, and monitored the reception and protection conditions, as well as took part in an initial interview of the asylum seeker. It should be noted that the person's profile is vulnerable, which was also noted in the asylum application registration form.

In this context, a special mention should be made of the situation that took place in July at the Medininkai BCP of the Padvarionys FS of Vilnius FD of the SBGS. According to information provided to the media by the SBGS[1], on 7 July (Friday), Lithuanian border guards, while checking the documents of the passengers of the Minsk-Vilnius shuttle bus, discovered that one of the passengers had presented possibly forged travel documents. The person was found to be a Pakistani national and was refused entry across the border, however, Belarusian officials also refused to let him back in. The man was left on the line of the border next to the road, by the border marker.

[1] „Pasienyje su Baltarusija Medininkų kontrolės punkte sustabdytas sienos kirtimas“, LRT.lt, 8 July 2023:

<https://www.lrt.lt/naujienos/lietuvoje/2/2030343/pasienyje-su-baltarusija-medininku-kontroles-punkte-sustabdytas-sienos-kirtimas>

„Lietuvos ir Baltarusijos pasienyje įstrigusiam pakistaniečiui su suklastotais dokumentais kviesta greitoji pagalba“, LRT.lt, 8 July 2023:

<https://www.lrt.lt/naujienos/lietuvoje/2/2030420/lietuvos-ir-baltarusijos-pasienyje-istrigusiam-pakistanieciui-su-suklastotais-dokumentais-kviesta-greitoji-pagalba>

„Baltarusiams neįsileidžiant pakistaniečio Medininkų pasienio punktas lieka uždarytas“, LRT.lt, 9 July 2023:

<https://www.lrt.lt/naujienos/lietuvoje/2/2030532/baltarusiams-neisileidziant-pakistaniecio-medininku-pasienio-punktas-lieka-uzdarytas>

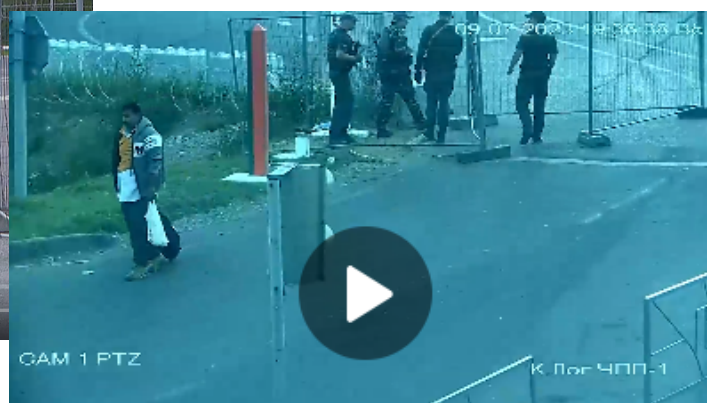
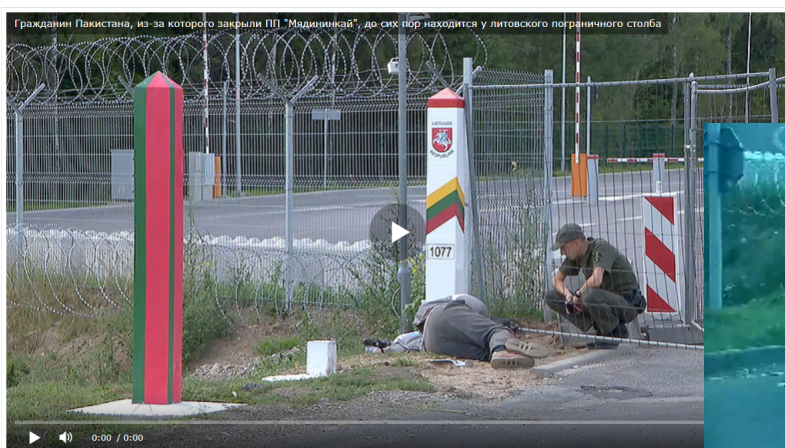
„Baltarusiams įsileidus pakistaniečių atnaujintas Medininkų punkto darbas“, LRT.lt, 9 July 2023:

<https://www.lrt.lt/naujienos/lietuvoje/2/2030729/baltarusiams-isileidus-pakistanieti-atnaujintas-medininku-punkto-darbas>

As the situation remained unresolved, on 8 July (Saturday) it was reported that the border crossing at the Medininkai BCP had been suspended for both vehicles and pedestrians from both Belarus and Lithuania. An ambulance was called on the same day and, after examining the person, medics stated that his health was normal and there was no danger.

On the evening of 9 July, it was reported that the Medininkai BCP had resumed operations following the acceptance of a Pakistani national by Belarusian officials. It should be noted that none of the reports disseminated by the Lithuanian officials mention the person's intentions and will, but rather focus exclusively on the disposition of forged documents and the refusal of the Belarusian officials to allow the foreigner back. On the contrary, Belarusian officials, commenting on this situation, stressed that the foreigner refused to return to Belarus, asked to be allowed to stay in Lithuania[2], it's also mentioned that the foreigner has expressed his will to be granted refugee status in Lithuania[3]. A video released by Belarusian officials[4] showed, inter alia, a foreigner lying at a Lithuanian border line. No Belarusian officials who would physically prevent him from crossing to the other side if he wanted to were visible.

The video of the foreigner gathering his belongings and walking towards Belarus also did not show Belarusian officials physically controlling his movements[5]. Even if the information provided by the Belarusian side is treated with caution, the video recordings support the assumption that the foreigner spent two nights at the Lithuanian border BCP, primarily because he himself refused to return to Belarus. In this respect, it should be noted that Article 65 of the Law on the Legal Status of Foreigners provides that if there are indications that a foreigner present at a BCP or in a transit zone may wish to apply for asylum, he/she shall be provided with information in a language he/she understands on the right to do so and on the procedures to be applied, i.e. SBGS officers must be proactive. LRC stands firm in believing that in a situation where a person refuses to return and spends several days at a Lithuanian BCP qualifies as an "indication" that he "may wish to apply for asylum", but in this particular case, the officials probably did not explain to the person the procedure for submitting an asylum application.



[2] „Инцидент с пакистанцем и закрытие пункта пропуска: что происходило на литовско-белорусской границе?“, State Border Committee of the Republic of Belarus, 10 July 2023: <https://t.me/gpkgovby/3573>

[3] „Стали известны подробности инцидента с пакистанцем на белорусско-литовской границе“, 10 July 2023: <https://www.belarus.kp.ru/online/news/5354503/>

[4] „Гражданин Пакистана, из-за которого закрыли ПП "Мядинкай", до сих пор находится у литовского пограничного столба“, 9 July 2023: https://www.tvr.by/news/obshchestvo/grazhdanin_pakistana_iz_za_kotorogo_zakryli_pp_myadininkay_do_sikh_por_nakhoditsya_u_litovskogo_pogrl/

[5] State Border Committee of the Republic of Belarus, 10 July 2023: <https://t.me/gpkgovby/3572>

ARRIVAL OF ASYLUM SEEKERS THROUGH THE BCP OF THE SBGS: FACTS AND FIGURES

As mentioned above, the number of asylum applications registered at the BCP OF THE SBGS in 2023 has decreased significantly (more than 5 times) compared to 2022.

Asylum applications lodged with the BCP of the SBGS			
2022		2023	
External border with Belarus	External border with the Russian Federation	External border with Belarus	External border with the Russian Federation
90	40	7	17
RUS (55), TJK (21), BLR (6), UKR (5), AZE (3)	BLR (24), RUS (14), UKR (2)	TJK (6), RUS (1)	BLR (17)
Total – 130		Total – 24	

The three-letter codes from the International Organisation for Standardisation's ISO 3166 standard (ISO 3166-1 alpha-3) are used to represent the names of the countries in the table: 'AZE' for Azerbaijan, 'BLR' for Belarus, 'RUS' for the Russian Federation, 'TJK' for Tajikistan, 'UKR' for Ukraine.

In this context, it should be mentioned that in August 2023, 2 BCPs of SBGS on the border with Belarus were closed: the Tverečius BCP of Tverečius FS of Vilnius FD and the Šumskas BCP of Kena FS of Vilnius FD[6]. This has further limited the possibilities to apply for asylum at the BCP on the border with Belarus.

At the end of 2023, there were 5 BCPs on the border with Belarus: 4 road BCPs (Lavoriškės BCP, Medininkai BCP, Šalčininkai BCP and Raigardas BCP) and 1 railway BCP (Kena BCP). At the border with the Russian Federation, movement factually took place via the Kybartai road BCP and the Kybartai railway BCP. Only pedestrian traffic is allowed through the Panemunė BCP due to ongoing bridge maintenance[7]. In contrast to 2022, no asylum applications were registered at this BCP in 2023.

[6] Uždaromi Šumsko ir Tverečiaus pasienio kontrolės punktai, 16 August 2023, vsat.lrv.lt: <https://vsat.lrv.lt/lt/naujienos/uzdaromi-sumsko-ir-tvereciaus-pasienio-kontroles-punktai-foto>

[7] Directorate of Border Crossing Infrastructure under the Ministry of Transport and Communications: <https://pkpd.dedikuotas.lt/>

ACCESS TO THE ASYLUM PROCEDURE AT LITHUANIAN DIPLOMATIC MISSIONS

The LRC has no record of any asylum applications being submitted at the Embassy of the Republic of Lithuania in Minsk in 2023. Below is an update on several cases mentioned in the 2022 LRC report of the thematic study "Access to the Asylum Procedure at the Diplomatic Missions of the Republic of Lithuania Abroad and at the Border Checkpoints of the State Border Guard Service"[8].

The previous report described a complicated case in which a Cuban citizen submitted an application for asylum at the Embassy of the Republic of Lithuania in Minsk as early as November 2021, but for a long period of time (the person was legally allowed to stay in Belarus for no more than 30 days), no decision was taken on this application. The foreigner was eventually forcibly deported to Cuba by Belarusian officials.

The asylum seeker lodged a claim with the Vilnius Regional Administrative Court requesting the Migration Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the MD) to issue him with a travel document for entry to the Republic of Lithuania and to examine his application for asylum in Lithuania.

The Court partially upheld the asylum seeker's claim, i.e. it ordered the MD to examine his application for asylum in the Republic of Lithuania, but rejected the part of the complaint concerning the issuance of a travel document permitting entry to the Republic of Lithuania. The Vilnius Regional Administrative Court stated that the court does not perform public administration functions and, in the case at hand, cannot oblige the MD to carry out actions such as the issuance of a travel document to a foreigner in the country of origin. The asylum seeker appealed to the Supreme Administrative Court of Lithuania, but his appeal was rejected, upholding the decision of the Vilnius Regional Administrative Court[9].

Another case described in the 2022 report concerns a family of 5 Iraqi nationals who applied for asylum at the Embassy of the Republic of Lithuania in Minsk in January 2022, but almost a year later, no decision has been taken on their application.

It was only in April 2023 that the MD adopted decisions refusing to grant the family asylum in Lithuania. The asylum seekers appealed to the Vilnius Regional Administrative Court, which rejected the appeal and upheld the decisions taken by the MD. The asylum seekers appealed to the Supreme Administrative Court of Lithuania, which upheld the appeal, annulled the contested decisions and ordered the MD to re-examine their asylum claims[10]. According to the information available to the LRC, no new decision had yet been taken at the time of this update. Accordingly, asylum seekers have been waiting for a final decision on their asylum application for almost two years.

The LRC does not have any further information on access to the asylum procedure at Lithuanian diplomatic missions.

[8] Lithuanian Red Cross. December 2022. THEMATIC STUDY. Access to the asylum procedure at the diplomatic missions of the Republic of Lithuania abroad and at the border checkpoints of the State Border Guard Service: <https://redcross.lt/wp-content/uploads/2022/09/Access-to-the-asylum-procedure-at-the-diplomatic-missions-and-at-the-BCP-EN.pdf>

[9] See Depersonalised Ruling of the Supreme Administrative Court of Lithuania of 24 May 2023 in administrative case No. eA-1663-789/2023: <https://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=8c949c66-7e81-4732-a933-05abd47f10ac>

[10] [1]See the depersonalised decision of the Supreme Administrative Court of Lithuania of 24 August 2023 in administrative case No. eA-2113-520/2023: <https://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=4a8414bf-10c1-4245-b8f9-3ef8896152d2>



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