

Policy & Legal review for children in alternative care & unaccompanied and separated children from Ukraine arriving in: **LITHUANIA**

Contributors: The Ministry of Social Security and Labour – The Family and Child Rights Protection Group; UNICEF Lithuania; Eurochild; VŠĮ Auto Moto Group

1. What are the laws and/or policies covering care arrangements for children temporarily or permanently deprived of family care (with translation into English if available)?

Main laws are:

- Lietuvos Respublikos Civilinis kodeksas, Trečioji knyga. Šeimos teisė / *Civil Code of the Republic of Lithuania, Third Book: Family Law*. Link: <https://www.infolex.lt/ta/60696>
- Lietuvos Respublikos Vaiko teisių apsaugos pagrindų įstatymas / *Law on the Fundamentals of the Protection of the Rights of the Child*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397/asr>
- Lietuvos Respublikos Vyriausybės 2002 m. kovo 27 d. nutarimas Nr. 405 “Dėl vaiko globos organizavimo nuostatų patvirtinimo” / 2002 March 27 Resolution No. 405 of the Government of the Republic of Lithuania on *the Approval of the Regulations on the Organization of Child Foster Care*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.163202/asr>

Please, consider that currently, *the Regulations on the Organization of Child Foster Care* describe only permanent foster care, and temporary foster care is regulated by *the Regulations on the Organization of Temporary Child Foster Care* (link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.170462/asr>), but from July 1st 2022 these Regulations will be repealed, and both temporary, as well as permanent child foster care and its’ regulation, will be described comprehensively in mentioned *Regulations on the Organization of Child Foster Care* approved by the Government of the Republic of Lithuania (adjustments of this law are being made currently).

Some additional or complementary provisions are too included in:

- Lietuvos Respublikos socialinių paslaugų įstatymas / *Law on the Social Services of the Republic of Lithuania*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.270342/asr>
- Lietuvos Respublikos šeimynų įstatymas / *Law on the Family-based residential facilities of the Republic of Lithuania*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.365491/asr>
- Socialinės apsaugos ir darbo ministro 2018 m. sausio 19 d. įsakymas Nr. A1-28 “Dėl Globos centro veiklos ir vaiko budinčio globotojo vykdomos priežiūros organizavimo ir kokybės priežiūros tvarkos aprašo patvirtinimo” / 2018-01-19 Order No. A1-28 by the Minister of Social Security and Labour “*On the description of the organization and supervision of the quality of the activities of the Foster Care Center and professional foster parent taking care for a child*”. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b2b626f4fd5c11e796a2c6c63add27e9/asr>

In addition, to be able to appoint an unaccompanied child with a legal representative faster than during the usual process of the appointment of foster parent, changes were made to the Law on the Legal Status of Foreigners (Article 140 of this law) (link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232378/asr>). These changes state that in case of a state of war, state of emergency, or declared state of emergency due to mass influx of foreigners, a person can be appointed as a foster parent of the unaccompanied minor foreigner faster, i.e., skipping some requirements that are in place for foster parents. It also says that foreigners can be appointed as foster parents of unaccompanied minor foreigners too.

2. What are the laws and/or policies or bi-lateral agreements covering care arrangements for unaccompanied and separated children (UASC) from foreign countries (with translation into English if available)?

Main laws are:

- Lietuvos Respublikos Civilinis kodeksas, Trečioji knyga. Šeimos teisė / *Civil Code of the Republic of Lithuania, Third Book: Family Law*. Link: <https://www.infolex.lt/ta/60696>
- Lietuvos Respublikos Vaiko teisių apsaugos pagrindų įstatymas / *Law on the Fundamentals of the Protection of the Rights of the Child*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397/asr>
- Lietuvos Respublikos Vyriausybės 2002 m. kovo 27 d. nutarimas Nr. 405 “Dėl vaiko globos organizavimo nuostatų patvirtinimo” / 2002 March 27 Resolution No. 405 of the Government of the Republic of Lithuania on *the Approval of the Regulations on the Organization of Child Foster Care*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.163202/asr>

Please, consider that currently, *the Regulations on the Organization of Child Foster Care* describe only permanent foster care, and temporary foster care is regulated by *the Regulations on the Organization of Temporary Child Foster Care* (link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.170462/asr>), but from July 1st 2022 these Regulations will be repealed, and both temporary, as well as permanent child foster care and its’ regulation, will be described comprehensively in mentioned *Regulations on the Organization of Child Foster Care* approved by the Government of the Republic of Lithuania (adjustments of this law are being made currently).

Some additional or complementary provisions are too included in:

- Lietuvos Respublikos socialinių paslaugų įstatymas / *Law on the Social Services of the Republic of Lithuania*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.270342/asr>
- Lietuvos Respublikos šeimynų įstatymas / *Law on the Family-based residential facilities of the Republic of Lithuania*. Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.365491/asr>
- Socialinės apsaugos ir darbo ministro 2018 m. sausio 19 d. įsakymas Nr. A1-28 “Dėl Globos centro veiklos ir vaiko budinčio globotojo vykdomos priežiūros organizavimo ir kokybės priežiūros tvarkos aprašo patvirtinimo” / 2018-01-19 Order No. A1-28 by the Minister of Social Security and Labour “*On the description of the organization and supervision of the quality of the*

activities of the Foster Care Center and professional foster parent taking care for a child". Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b2b626f4fd5c11e796a2c6c63add27e9/asr>

In addition, to be able to appoint an unaccompanied child with a legal representative faster than during the usual process of the appointment of foster parent, changes were made to the Law on the Legal Status of Foreigners (Article 140 of this law) (link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232378/asr>). These changes state that in case of a state of war, state of emergency, or declared state of emergency due to mass influx of foreigners, a person can be appointed as a foster parent of the unaccompanied minor foreigner faster, i.e., skipping some requirements that are in place for foster parents. It also says that foreigners can be appointed as foster parents of unaccompanied minor foreigners too.

Additional laws relevant specifically for UASC in Lithuania:

- Ministry of the Interior and Ministry of Social Security and Labour (2005), *Order on the approval of the rules of providing accommodation to unaccompanied underage asylum-seekers at the Refugee Reception Centre* (LR Vidaus reikalų ministro ir LR Socialinės apsaugos ir darbo ministro įsakymas Dėl nelydimų nepilnamečių prieglobsčio prašytojų apgyvendinimo pabėgėlių priėmimo centre taisyklių patvirtinimo), Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.250167?jfwid=mmceoh750>
- Ministry of the Interior and Ministry of Social Security and Labour (2014), *Procedure for Assessment of the Age of Non-asylum Seeking Unaccompanied Minor Aliens Identified in the Republic of Lithuania, Accommodation and Other Procedural Action*, approved on 23 April 2014, by order No. A1-229/1V-289/V-491 (LR socialinės apsaugos ir darbo ministro ir LR vidaus reikalų ministro įsakymas Dėl Lietuvos Respublikoje nustatytų nelydimų nepilnamečių užsieniečių, kurie nėra prieglobsčio prašytojai, amžiaus nustatymo, apgyvendinimo ir kitų procedūrinių veiksmų bei paslaugų jiems teikimo tvarkos aprašo patvirtinimo). Link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/3189fe70cc1a11e39b2ab5bbcc4f49fb/asr>

3.

- a. What is the legal status of unaccompanied and separated children (UASC) [from Ukraine] in this country?
- b. Does this status guarantee that a child will be able to return to Ukraine once the situation normalises? Or if there is no such “guarantee”/clause please also indicate.
- c. Is there a difference in how the legal system treats the child classified as unaccompanied vs. separated?
- d. Does this status allow the adoption of the Ukrainian child who has entered this country without the consent or participation of parents and/or representatives of Ukrainian relevant state parties?

- a. According to the Law on the Legal Status of Foreigners of the Republic of Lithuania: “Unaccompanied minor foreigner means a foreigner below the age of 18 who enters the Republic of Lithuania unaccompanied by parents or other legal representatives or who, after

he has entered the Republic of Lithuania, is left unaccompanied until effectively placed under the curatorship by the above-mentioned persons.”

- b. All children from Ukraine who are now placed in temporary care will be able to return to Ukraine once it is possible. There are no legal or other limitations that restrict or prevent children from being able to return home. Only the parents have to pick up the child from Lithuania, informing the local municipality’s Childs Rights Protection Service or the municipality in writing to end the temporary custody. If the parents are unable to pick up the child themselves, a person who has a power of attorney approved by the parents in Ukraine (their responsible authorities) must arrive. This is necessary to protect the child as much as possible from possible trafficking of people.
- c. **NO.** According to Lithuanian law, there is only one concept used, i.e., “unaccompanied minor foreigner” that covers both unaccompanied children and separated children. There is no difference in the way the legal system treats unaccompanied children and separated children – in both cases children are appointed with the legal guardian under the national law of Lithuania and receive all the social guarantees.
- d. **NO.** Also, it is important to mention that in April 2022 an agreement of cooperation between Lithuania and Ukraine (between Ministry of Social Security and Labour of the Republic of Lithuania, and Ministry of Social Policy of Ukraine) was signed that, inter alia, indicates that interstate and national adoption procedures for Ukrainian children shall not be carried out for the duration of martial law in Ukraine without due regard to the legislation of Ukraine or pending the approval of the Ukrainian authorities. All Ukrainian children can be only placed in temporary foster care.

4.

- a. What is the legal status (especially the length of the status, benefits and restrictions) of the Ukrainian guardian accompanying a Ukrainian separated child arriving in this country (for example a member of staff from the evacuated institutions which has been appointed by the Ukrainian authorities as a guardian for a group of children during evacuation of an institution)?
- b. What safeguarding measures are in place to check and protect the best interests of the child if the child has a guardian from Ukraine (i.e., verifying who the guardian is, approve the guardian status in relation to the child, provide support and monitoring, etc.)?

a.

Usually, when a group of children from Ukraine arrives in Lithuania, like e.g., children from children care institution, Lithuanian care institution is appointed as the temporary legal guardian. The staff

that comes together with the child is not separated from children though (unless there is treat to children from their side) – they are often employed in the Lithuanian children’s care institution to be able to stay together with children. In the agreement between Lithuania and Ukraine there is also a provision that says that in case a legal guardian from Ukraine (e.g., from Ukraine’s children care institution) came to Lithuania together with children, the temporary Lithuanian guardian and the Ukrainian legal representative of the child, or another person authorized by Ukraine, make the mutual decision on ensuring the rights and best interests of the Child. In case of disagreement between the positions of the above-mentioned persons regarding actions in relation to children, the final decision is made by the mutual agreement of the competent institution of the Parties in accordance with the best interests of the child.

b.

After the establishment of temporary foster care, State Child Rights Protection and Adoption Service is responsible for the foster care monitoring. Too, after the establishment of foster care, foster parents are contacted by the Foster Care Centers that provide all foster parents with services. Before the establishment of the foster care, State Child Rights Protection and Adoption Service assesses the situation of the child during which child rights protection specialists hear the child, his/her opinion – the law lets specialists talk to the child without his/her legal representatives or in this case, a person who was accompanying a child, if the specialists think that this person can have an impact on what the child will say.

5.

- a. What are the regulations and procedures in case a child arrives without parents and any legal guardian (or any papers authorizing the person to care for the child), e.g., a child which is looked after by an adult (e.g., a family friend, a neighbour, someone who found the child alone on the street and took it along to keep it safe...)?
- b. May the return of these children to Ukraine, after the normalisation of the situation, be questioned/hampered by the legal status they receive?

a.

In order not to separate the child with the person, who accompanied him/her, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour informs the person about the procedures to be appointed as the guardian (temporary foster parent) of the child, provides the person with the forms (declaration, request), checks if there are no obstacles for the person to become a foster parent of the child, communicates with the child and hears his/her views and informs the director of the municipality administration, in accordance with Item 2 of Article 3.254 of the Civil Code of the Republic of Lithuania, 3.262 Article, 1 and 2 of Article 3.264, Item 1 of Article 3.265, Item 1 of Article 3.265, Law of the Republic of Lithuania on the legal status of foreigners in Article 32(1), that it is needed to appoint temporary guardianship for the minor and appoint a minor accompanying person as a guardian. Throughout this process, the child remains together with the person who he/she came with.

Only the parents have to pick up the child from Lithuania, informing the local municipality's Child Rights Protection Service or the municipality in writing to end the temporary custody. If the parents are unable to pick up the child themselves, a person who has a power of attorney approved by the parents in Ukraine (their responsible authorities) must arrive. This is necessary to protect the child as much as possible from possible trafficking of people.

b.

As mentioned before, all children from Ukraine that will arrive in Lithuania will be returned to Ukraine as soon as it will be possible, and in close cooperation with Ukraine. The fact that children are in temporary care in Lithuania does not prevent or limit children's possibility to return to Ukraine. When it will be possible for children to get back to Ukraine, their temporary care in Lithuania will be terminated, and children will return to their parents or other legal representatives in Ukraine.

6. Which government ministry/department is responsible for the:

- a. the care of children temporarily or permanently deprived of family care & would it be possible to provide immediate contacts?
- b. the care of unaccompanied and separated children (UASC) [from Ukraine] & would it be possible to provide immediate contacts?

a.

The Ministry of Social Security and Labour of the Republic of Lithuania is responsible for the development of the child rights protection policy and its' coordination. This includes all laws and legal regulations related to child's care, providence of social services etc.

The main department of the Ministry responsible for the child rights protection policy is Family and Child Rights Protection Group, Head of the Group: Kristina Stepanova, kristina.stepanova@socmin.lt, +370 616 31 406.

The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour is responsible for the practical implementation of the child rights protection policy, incl. care of children temporarily or permanently deprived of family care. The contact point would be: Unit of Support to Children and Families, Head of the Unit: Agne Marciukaitiene, agne.marciukaitiene@vaikoteises.lt, +370 694 96 972

b.

The care of unaccompanied and separated children, incl. children from Ukraine falls under the responsibility of State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. The contact point would be: Unit of Support to Children and Families, Head of the Unit: Agne Marciukaitiene, agne.marciukaitiene@vaikoteises.lt, +370 694 96 972

The Ministry of Social Security and Labour of the Republic of Lithuania plays a coordination role when a groups of children arrives (e.g., from Ukrainian children care institution). In such cases, Ministry helps to coordinate with the municipality that can accommodate the group of children and ensures that such accommodation will be organized fast. The contact person in this case is: Horizontal Policy and Project Management Group, Head of the Group, Daina Urbonaitienė, Daina.Urbonaitiene@socmin.lt; +370 696 05395

7. Has the government adopted specific legislation/policy or bi-lateral agreements on USAC from Ukraine? If not, would the government develop such legislation / regulations or bilateral agreements?

YES. In April 2022, an agreement between the Ministry of Social Security and Labour of the Republic of Lithuania and the Ministry of Social Policy of Ukraine on cooperation in the field of protection of children affected by the war in Ukraine due to the Russian Federation's armed aggression was signed. The aim of this agreement is to ensure a safe environment, comprehensive care, necessary assistance, rights and legitimate interests for children, who arrived to the Republic of Lithuania from war-torn Ukraine.

To be able to appoint an unaccompanied child with a legal representative faster than during the usual process of the appointment of foster parent, the Lithuanian government made changes to the Law on the Legal Status of Foreigners (Article 140 of this law) (link: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232378/asr>). These changes state that in case of a state of war, state of emergency, or declared state of emergency due to mass influx of foreigners, a person can be appointed as a foster parent of the unaccompanied minor foreigner faster, i.e., skipping some requirements that are in place for foster parents. It also says that foreigners can be appointed as foster parents of unaccompanied minor foreigners too.

- 8.
- a. Has the government in this country put in place a system/process to track children from Ukraine, especially UASC?
 - b. Who is responsible for identification and registration of these children, as well as accommodation and care?

- a. **YES** - a process is in place.
- b.
 - The Migration Department, situated within the Ministry of the Interior, is responsible for identification and registration of children from Ukraine.
 - The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour is responsible for organising temporarily guardianship (temporary foster care) for those children.

- Accommodation of children’s groups falls under responsibility of municipalities, and the Ministry of Social Security and Labour plays the coordination role in this process. Provision of services to children is also under the responsibility of municipalities.

9. Which authorities have responsibility for family tracing and reunification? Contact information provided where available.

The Migration Department, situated within the Ministry of the Interior, and can be contacted here: info@migracija.gov.lt.

The Law on the Legal Status of Foreigners says that “Upon receipt of information on an unaccompanied minor foreigner, the Migration Department, together with the representatives of non-governmental or international organizations and the representative of the unaccompanied minor foreigner, shall immediately organize a search for his or her family members and issue an alien's registration certificate.”

Additional relevant information & resources:

- <https://vaikoteises.lt/pagalba-ukrainai/>
- <https://migracija.lrv.lt/lt/naudinga-informacija/ukraina-ukrayina-ukraina-ukraine/information-for-ukrainian-citizens-1>
- <https://socmin.lrv.lt/lt/veiklos-sritys/socialine-integracija/informatsiia-dlia-gromadian-ukrayini-1>