

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State

Deliverable B.II Investors' Residence Schemes in Lithuania

JUST/2016/RCIT/FW/RIGH/0152 (2017/06)



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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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I. GENERAL BACKGROUND

■ *Legal background*

The system of foreigners' admission to Lithuania **does not** provide for any **special programme** addressing foreigners arriving to the country for business purposes and does not include any targeted legal regulation in this respect.¹

In Lithuania, the Law on the Legal Status of Aliens² (LLSA) regulates the granting of temporary residence permits³ (TRP) for foreigners, i.e. third-country nationals, who carry out lawful (economic) activities.⁴ Specifically, Articles 45.1(1), Articles 45.1(2) and 45.1(2¹) LLSA provide a possibility for foreign investors to apply for temporary residence if they carry out an investment which meets the legal thresholds (see below in this Report) and actively participate in the running of the business. Thus, Lithuanian law does not grant residence on investment alone ('silent' investment): 'An alien can be admitted to the country only if he/she is a participant of an enterprise registered in Lithuania (e.g., if he/she is the manager, member of its collegial management board, or a shareholder who holds shares equivalent to no less than 1/3 of the share capital).'⁵ In other words, the main purpose of the foreign investor's arrival must be to work in their business ('participant in the enterprise').⁶ The legislation differentiates three roles in which the investor may participate in the company: as owners, as shareholders or as 'manager of an enterprise'. It should be noted that the term 'manager of an enterprise' is used to indicate that the person is actively involved in the running of the company. Thus, a 'manager of the enterprise' could be a director in a limited company (UAB or AB); or an appointed general manager in a partnership (MB); or an appointed administration manager in an Agricultural Company (ŽŪB); or a person running an individual enterprise (II)⁷.

The Lithuanian legislation does not explicitly indicate which types of companies investors may set up. The wording of Articles 45.1(1), 45.1(2) and 45.1(2¹) LLSA indicates a distinction between joint stock enterprises (where liability is limited by shares) and other types of enterprises, which in practice could include a limited a partnership (MB), an Agricultural Company (ŽŪB), or an individual enterprise (II).⁸ For the purposes of consistency, this Report uses the broad term 'company' to

¹ Sipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 57.

² Republic of Lithuania Law on the Legal Status of Aliens (Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties), Valstybės žinios No. 73-2539, 1041010ISTA0IX-2206, available at <https://www.e-tar.lt/portal/lt/legalAct/TAR.42837E5A79DD/uCWCKWxVbe>.

³ Article 28.1 LLSA.

⁴ Article 45 LLSA.

⁵ Sipavičienė, Jeršovas, and Stankevičiūtė, 57.

⁶ Information with the Migration Department; competent authority on migration issues; 28 February 2018. See also Article 45.1(2) LLSA. The letter of the law does not state that investors must be actively involved in the business. However, both Article 45.1(1) and 45.1(21) LLSA apply only to persons who 'participate' in an enterprise, implying that they must be actively involved (no 'silent' investors). The only explicit reference of the purpose of arrival without investing - to work in an enterprise - is for managers of small foreign enterprises (Article 45.1(2) LLSA). Their TRP application must show that they want to come to Lithuania to manage a small foreign enterprise that meets the investment and employee conditions set out in Article 45.1(1). In conclusion, all these types of investors (widely framed in the terms of this Report: whether they are stakeholders, owners or managers of the enterprise) must actively participate in the business they own/run.

⁷ Information obtained from the website of Invest Lithuania, which is the website of the Lithuanian Investment Promotion, a government agency for foreign businesses interested in investing in or sourcing products from Lithuania. The Agency was established by the Ministry of Economy of the Republic of Lithuania. Website available at <https://investlithuania.com/investor-guide/start-your-business/>.

⁸ Information obtained from the website of Invest Lithuania, which is the website of the Lithuanian Investment Promotion, a government agency for foreign businesses interested in investing in or sourcing products from Lithuania. The Agency was established by the Ministry of Economy of the Republic of Lithuania. Website available at <https://investlithuania.com/investor-guide/start-your-business/>. The Lithuanian Commercial Law recognises the following types of companies: Individual enterprise, general partnership, limited partnership, joint stock company, private limited company, cooperative company, and agricultural partnership.

encompass the variety of legal business types that investors may set up.

Before 1 November 2014, the LLSA had quite liberal rules for foreign investors: there was no monitoring whether the company established was being genuinely created.⁹ Hence the number of Lithuanian residence permits issued to immigrant investors increased from 1,400 in 2009¹⁰ to 6,600 in 2014,¹¹ with refusal rates remaining low. The increase in figures for the TRP applications on the basis of lawful activities, especially from 4,523 in 2013 to 7,696 in 2014, occurred because more and more applicants were applying for a TRP using fictitious companies.¹²

For this reason, the Ministry of the Interior proposed changes to the legal framework to stop such abuses that occurred via fictitious companies and to encourage genuine business investors.¹³ The Law Amending the Law on the Legal Status of Aliens came into force in November 2014. It included requirements that the company in which a foreign investor invests should have a minimum of three full-time employees and that the foreigner should invest at least 50,000 Litas (approx. EUR 14 481)¹⁴ of own capital, with the minimum company capital being at 100,000 Litas (approx. EUR 28 962 euro).¹⁵

These legal amendments, especially the minimum employees condition, inspired by the legal provisions of some other EU Member States,¹⁶ were considered by start-ups and small IT companies quite strict and disadvantageous for small foreign investors, potentially forcing them to seek other means (i.e. legal loopholes) to obtain temporary residence.¹⁷ For example, when a rule was introduced that a foreigner could not obtain an EU Blue Card if they were the manager of the enterprise they established, such a person could ‘sell’ their company to the spouse, then could be recruited directly by the company, in order to obtain the Blue Card; and on the basis of the Blue Card their spouse could obtain a residence permit.¹⁸

From January 2017, these requirements were slightly softened through amendments to the LLSA.¹⁹ In addition, a second level of investment was introduced in Article 45.1(2¹) LLSA (see below, medium investment).

Consequently, there are currently two types of investment levels via which foreign investors who come to Lithuania to do business can access temporary residence:²⁰

- (1) Article 45.1(1) LLSA sets the investor’s personal investment of at least EUR 14,000 euro in a company that has the capital/assets of at least EUR 28,000 (**small investment**);

⁹ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹⁰ European Migration Network, “Admitting Third-Country Nationals for Business Purposes,” 2015, 10, http://www.emn.lv/wp-content/uploads/emn_study_admitting_third-country_nationals_for_business_purposes_synthesis_report_vf_04may2015.pdf.

¹¹ Sipavičienė, Jeršovas, and Stankevičiūtė, “Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics],” 27.

¹² Sipavičienė, Jeršovas, and Stankevičiūtė, 26.

¹³ Sipavičienė, Jeršovas, and Stankevičiūtė, 7.

¹⁴ Lithuania introduced the euro on 1 January 2015.

¹⁵ Law Amending the Law on the Legal Status of Aliens (Lietuvos Respublikos įstatymo „Dėl užsieniečių teisinės padėties“ Nr. IX-2206 2, 4, 19, 21, 26, 32, 33, 34, 35, 36, 40, 43, 44, 44-1, 45, 46, 49-2, 50, 51, 57, 58, 62, 64, 71, 94, 101, 104, 128, 141 straipsnių pakeitimo ir 141-1 straipsnio pripažinimo netekusiu galios įstatymas), TAR No. 9973, 2014-09973, available at <https://www.e-tar.lt/portal/en/legalAct/62104290083111e4b836947d492f2f50>.

¹⁶ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹⁷ Sipavičienė, Jeršovas, and Stankevičiūtė, “Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics],” 8.

¹⁸ Sipavičienė, Jeršovas, and Stankevičiūtė, 46–47.

¹⁹ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²⁰ These investment levels were introduced without much consultation on what the appropriate levels should be – the figures were quite arbitrary; Information with the Migration Department; competent authority on migration issues; 28 February 2018.

(2) Article 45.1(2¹) LLSA requires minimum EUR 260,000 investment/assets in a company (**medium investment**).

Based on the level of investment, it can be concluded that the Lithuanian legislation contemplates two categories of investors: **small** and **medium investors**, regardless of the role under which they participate in the running of the company.

Apart from the investment that must be fulfilled by the investors (whether in the lower or upper level), there are additional requirements for their **companies**. These requirements vary depending on the level of investment carried out.

Small investors must demonstrate that the company in which they participate:²¹

- Carries out the legally declared business activity for at least the last six months before the application for the investor's temporary residence is filed (the genuine business presence requirement);
- Has full-time workers (at least one)²² who are Lithuanian, EU/EEA citizens or permanently residing foreign nationals.
- The workers must receive the total minimum pay of at least two gross average monthly salaries (BDU) measured at the last financial quarter, as announced by the Lithuanian Department of Statistics.²³

Medium investors must demonstrate that the company in which they participate:²⁴

- Carries out the legally declared business activity for at least the last six months before the application for the investor's temporary residence is filed (the genuine business presence requirement);
- Employs at least five full-time workers who are Lithuanian, EU/EEA citizens or permanently residing foreign nationals. No conditions on workers' pay level is set by the LLSA for such companies.

Therefore, the nature of the foreign investment is defined not only by the amount directly invested, but also by the company's size, which is expressed in the number of the permanent full-time workers and the level of pay these workers would receive. In this way, the spirit of the law communicates that Lithuania welcomes only the foreign investors who at the same time carry out a business activity and create new jobs, contributing to the country's economic and social development.²⁵

■ *Competent authorities*

According to Article 4.1 LLSA, the key institutions that control the presence and residence of foreign nationals in Lithuania are as follows:

- Police Department at the Ministry of the Interior
- Migration Department at the Ministry of the Interior
- State Border Guard Service at the Ministry of the Interior

In terms of competent authorities in a general context regarding migration and residence permits

²¹ Article 45.1(1) LLSA.

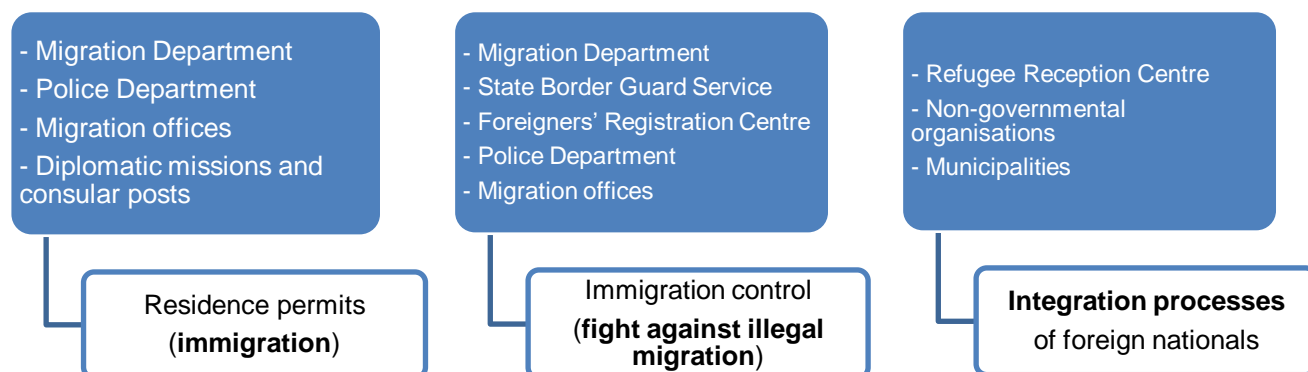
²² After the 2017 amendments, the three full-time employees condition was removed for foreign investors in the lower level (small investment), only requiring them to employ at least one full-time worker who receives a high salary.

²³ The bruto average monthly salary (BDU) for the third quarter of 2017 was 842.7 euro; see SoDra, "Core Social Indicators (Pagrindiniai Socialiniai Rodikliai)," accessed March 6, 2018, <http://www.sodra.lt/lt/situacijos/statistika/pagrindiniai-socialiniai-rodikliai>.

²⁴ Article 45.1(2¹) LLSA.

²⁵ Šipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 25.

(apart from asylum and refugee system), the key institutions and processes are the following:²⁶



When carrying out their functions, these institutions collaborate with other state and local governance bodies and authorities. In practice, there are also other institutions that help implement and manage migration policies more generally:²⁷

- **The Ministry of the Interior** is responsible for formulating migration policy related to public security.
- **The Ministry of Social Security and Labour** is responsible for work policy in the economic migration field and issues work permits (via the Lithuanian Labour Exchange).²⁸
- **The Ministry of Foreign Affairs of the Republic of Lithuania** takes part in formulating and implementing visa policies, while Lithuanian diplomatic and consular agencies issue visas and accept applications for residence permits for foreigners outside Lithuania.
- **The Ministry of Economy** is responsible, among other matters, for economic policy formulation, analysis of human resources in employment market and attracting investment into Lithuania via e.g. entrepreneurial schemes.
- **The Department of Migration** oversees the issuing of visas, residence permits and other documents for foreign nationals. The Department was established under the Ministry of the Interior on 21 May 1992 by merging two divisions of the Ministry: the Emigration and Immigration Service with the Passport Board.²⁹ The main operational goal of the Migration Department is to ensure, within its competence, the implementation procedures of visa, immigration, asylum, and citizenship of the Republic of Lithuania, the issuance of the identity and citizenship confirmation documents, travel documents, permits of residence in the Republic of Lithuania and other documents and the implementation of the free movement of person's principle.³⁰
- **Migration offices** are the key territorial units that issue residence permits and carry out the checks on foreigners' continued rights to reside in Lithuania. The activities of migration offices are controlled by the Police Department.
- **Diplomatic missions and consular posts:** they perform the functions of migration offices (receiving TRP initial applications, communicating decisions) for foreigners who are abroad.

The Ministry of the Interior and the Migration Department therefore hold the most important role in formulating and implementing migration politics and attracting foreign investors. These bodies responsible for migration do not focus on the business perspective and the focus is rather on security.

²⁶ Adapted from National Audit Office of Lithuania, "Išankstinio Tyrimo Ataskaita: Imigracijos Procesų Valdymas [Preliminary Findings: Administration of Immigration Processes]" (Vilnius: Valstybės Kontrolė, 2015), <https://www.vkontrole.lt/failas.aspx?id=3327>.

²⁷ Sipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 22. See also Migration Department, "Migration Yearbook (Migracijos Metraštis)" (Vilnius, 2013), 12, <http://www.migracija.lt/index.php?-1704151938>.

²⁸ Article 57.6 LLSA.

²⁹ Migration Department, "Migration Yearbook (Migracijos Metraštis)," 2013, 13.

³⁰ Article 11 Migration Department Regulations.

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

The procedure for the Lithuanian temporary residence is regulated by the LLSA and is further detailed in the Order of the Minister of the Interior ‘On the Approval of the rules on the issue of TRPs for aliens in the Republic of Lithuania and the rules for the identification of marriages of conveniences, registered partnerships, and fictitious adoptions’ (hereinafter the TRP Rules).³¹

1.1 PROCEDURES

■ *Who can apply for a residence permit*

In Lithuania, foreign investors and their family members are granted temporary residence in the country if they are carrying out a lawful (business) activity in Lithuania – they must leave when such activity ceases.³² As explained in Section I, it is a requirement that the foreign investor:

- Meets the investment requirements; and
- Actively participates in the company (regardless of whether as an owner, shareholder or manager)

■ *Procedural stages*

■ **Lodging of an application for issue/renewal of a TRP: Articles 6-53 TRP Rules**

As a general rule, foreigner who applies for a TRP for the first time or for its renewal and legally resides in Lithuania, must file the application with the migration office of the (declared or intended) place of residence in Lithuania.³³ However, there are special rules that apply for foreign investors:

- Those legally residing in Lithuania must file the application with the Migration Department.³⁴
- Their family members can also apply directly with the Migration Department (if they arrive together with the foreign investor) or have a choice between the Migration Department and the local migration office (if they arrive later).³⁵

The application must be filed in person³⁶ or through a lawyer.³⁷ There is a set state fee to be paid, depending on whether it is an ordinary or urgent application.³⁸

An investor applying outside Lithuania can file their application with the diplomatic mission or

³¹ Order of the Minister of the Interior of the Republic of Lithuania ‘On the Approval of the rules on the issue of temporary residence permits for aliens in the Republic of Lithuania and the rules for the identification of marriages of conveniences, registered partnerships, and fictitious adoptions and companies’ (Lietuvos Respublikos vidaus reikalų ministro įsakymas “Dėl leidimų laikinai gyventi Lietuvos Respublikoje užsieniečiams išdavimo, keitimo, panaikinimo, taip pat įvertinimo, ar santuoka, registruota partnerystė, įvaikinimas ar įmonė yra fiktyvūs, tvarkos aprašo patvirtinimo”), Valstybės žinios No. 126-4509, 1052310ISAK001V-329, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.7CB7682A04DB/mXscBnPkeU>.

³² Article 45.4 LLSA.

³³ Article 6 TRP Rules.

³⁴ Article 6¹, 6^{1.1}, 6^{1.2}, 7¹ TRP Rules.

³⁵ Articles 6², 7², TRP Rules.

³⁶ Article 8 TRP Rules.

³⁷ Article 9 TRP Rules.

³⁸ Article 15 TRP Rules. Two types of fees are collected: for considering applications and also for later processing TRPs for successful applicants; see Migration Department, “Migracijos Departamentas - Business - The Owner, a Sharer of a Company,” accessed March 11, 2018, <http://www.migracija.lt/index.php?-921144007>.

consular post of the Republic of Lithuania abroad.³⁹ The applicable consular fee is EUR 100.⁴⁰

The application can be filed in Lithuanian, Russian or English and it must be accompanied by the documents listed in Articles 17-17.12 of the TRP Rules.⁴¹ In terms of the documents, small investors are required to supply the evidence specified in 24.21 TRP Rules,⁴² while medium investors are to follow 24.22¹ TRP Rules.⁴³ All documents must be supplied either as original documents or as their copies certified by a public notary⁴⁴ or with apostille,⁴⁵ including translations.⁴⁶ For ease of use, the list of the documents required is also published on the Migration Department's website, by the type of application,⁴⁷ for both small and medium investors.⁴⁸

The civil servant at the consular office⁴⁹ checks all the applicant's personal data, the correctness of the supplied documents (and that they were not forged) and registers the application. Once all the document checks are complete, the application file is then posted to the Migration Department.

Similarly, when an application is sent to the civil servant at the local migration office or reaches the Migration Department, there are also detailed checks.⁵⁰ However, note that, generally for speedier and more consistent processing, the TRP applications from foreign investors are to be filed directly with the Migration Department.

³⁹ Article 28.2 LLSA.

⁴⁰ Article 16 TRP Rules. See also Article 6 of the Government Resolution 'On Lithuanian Republic Consular Fee Tariffs, their Collection and Return' (Lietuvos Respublikos Vyriausybės nutarimas "Dėl Lietuvos Respublikos konsulinio mokesčio tarifų ir Lietuvos Respublikos konsulinio mokesčio mokėjimo bei grąžinimo tvarkos patvirtinimo"), Valstybės žinios No. 90-1751, 0941100NUTA00001135, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.CD24C5B1E90F/ZNzAHuZSkR>.

⁴¹ A valid travel document; a valid document granting the right to be in the territory of the Lithuanian Republic; the permanent residence permit (if the application is to renew it); a photograph that meets the prescribed legal requirements; the documents confirming the grounds for the residence application as a foreign investor; documents confirming the required income/maintenance that meets the maintenance levels set by the Ministry of Social Security and Labour; documents confirming that s/he has a suitable place of accommodation in Lithuania which will be the declared permanent residence address, including the relevant ownership/tenancy agreements confirming legal rights to such accommodation; appropriate health insurance; documents confirming their place(s) of residence abroad in the last two years preceding the application; confirmation from the relevant authorities as to their previous criminal convictions noting any unspent sentences; receipt of the payment of the TRP application state fees.

⁴² Company's establishment/purchase documents and company's articles of association; business plan; documents confirming that 6 months prior to the application for the TRP the company was commercially active in Lithuania (e.g. contracts with suppliers or clients; company's bank account statements; annual corporate tax declaration; contract for hire of business premises etc); documents evidencing that the company employs at least one full-time employee who receives the total minimum pay of at least two gross average monthly salaries (BDU) measured at the last financial quarter, as announced by the Statistics Lithuania (e.g. an employment contract); documents evidencing that the share capital (if a joint stock company) or the value of the overall business assets is at least EUR 28,000, from which at least EUR 14,000 is the investor's personal investment (e.g. financial accounts; the balance sheet); documents evidencing that the foreigner participates in the company (either as owner, "manager of the enterprise", or a shareholder who owns at least one third of the nominal value of the registered company's share capital).

⁴³ Company's establishment/purchase documents and company's articles of association; business plan; documents confirming that 6 months prior to the application for the TRP the company was commercially active in Lithuania (e.g. contracts with suppliers or clients; company's bank account statements; annual corporate tax declaration; contract for hire of business premises etc); documents evidencing that the company employs at least five full-time employees (e.g. employment contracts), as announced by the Statistics Lithuania (e.g. an employment contract); documents evidencing that the foreign investor personally invested in this company at least EUR 260,000 investment; documents evidencing that the foreigner participates in the company (either as owner, "manager of the enterprise", or a shareholder who owns at least one third of the nominal value of the registered company's share capital).

⁴⁴ Article 39 TRP Rules.

⁴⁵ Article 41 TRP Rules.

⁴⁶ Article 40 TRP Rules.

⁴⁷ "Migration Department - Business."

⁴⁸ As defined under Articles 45.1(1), 45.1(2), 45.1(2¹), LLSA.

⁴⁹ See Articles 43-43.6 TRP Rules.

⁵⁰ See Articles 44-43.8 TRP Rules.

The TRP Rules require civil servants to check the relevant official registers⁵¹ and information systems:

- Population Register: whether the foreigner had been previously issued Lithuanian identity document or a residence permit; whether they are registered at an address that may have been used as a residential address by other foreigners.⁵²
- Register of Legal Entities: whether the foreign investor is registered as company owner, shareholder or manager of the enterprise.⁵³
- Real Estate Register: whether the foreigner has a place to live that will be the declared place of residence.⁵⁴
- Information system of the State Social Insurance Fund Board: whether there are full-time work posts in the company and how many employees work there.⁵⁵

All institutions assessing the applications must apply the requirements listed in the LLSA, but there are also some discretionary conditions (e.g. the business plan, ability to speak Lithuanian and other languages; checking the truthfulness of the applicant's biographic facts) that are 'not systematically evaluated and are left at the consular authorities' or immigration officers' discretion.'⁵⁶

Once all checks are complete and the documents are deemed to be in order, the application must be passed on to the Migration Department within five working days or within two working days (if it is an urgent application).⁵⁷

1. Examination of the application for issue/renewal of a TRP: Articles 54-105 TRP Rules

A civil servant at the Migration Department will consider and assess each TRP application file. The final decision is taken by the Department's Director or the person authorised by the Director.⁵⁸

Once the Migration Department receives the file, the civil servant must check that all required documents have been provided; if not, the file is returned to the migration office that originally received the file, to complete the missing information.⁵⁹

If the file is complete, once again the relevant registers are checked to ensure the information is correct and complete, before a decision is taken:⁶⁰ the Register of Legal Entities; the Register of Aliens; the Population Register; the Real Estate Register; Information system of the State Social Insurance Fund Board.

Besides the specific requirements for minimum investment, to employ local workers and to run a genuine business stated in Articles 45.1(1) and 45.1(2¹) LLSA, there are additional general criteria that investors need to meet to obtain a TRP. The foreigner must meet the relevant arrival conditions as

⁵¹ Most of these are managed by the State Enterprise Centre of Registers; see "SE Centre of Registers," accessed March 11, 2018, <http://www.registrucentras.lt/en/>.

⁵² Article 44.7.1 TRP Rules.

⁵³ Article 44.9.1 TRP Rules.

⁵⁴ Articles 17.7 and 33 TRP Rules.

⁵⁵ Article 44.9.2 TRP Rules.

⁵⁶ Sipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 31, 57–58. This report highlights the inconsistency of checks of foreign investors' applications as problematic. Furthermore, from the stakeholder interviews, it follows that there is no formal supervisory procedure to check immigration officers' discretion (e.g. which factors are checked and what documents are requested in practice). The national expert did not discover any information about existence of any 'internal memos' stating the criteria, in addition to the TRP Rules. This means that all officers should be following and applying the criteria set out in the TRP Rules.

⁵⁷ Article 49 TRP Rules.

⁵⁸ Article 54 TRP Rules.

⁵⁹ Article 69 TRP Rules.

⁶⁰ Articles 70, 70.5.1, 70.5.2 TRP Rules.

provided in the Schengen Borders Code⁶¹; have a valid health insurance; sufficient financial income to sustain themselves while in Lithuania; have a suitable accommodation in Lithuania; supply a list of the places s/he has lived abroad or travelled outside Lithuania; and supply information about their past and present relationships and links with the persons residing in Lithuania and with any foreign intelligence, security or military agencies.⁶²

Therefore, the following are checked by the Migration Department:⁶³

- Lithuanian national second generation Schengen Information System: that another Schengen country has not issued a prohibition for the foreigner to enter or to reside, or a warning to check the person concerned;⁶⁴
- Register of Aliens: whether the foreigner is in the list of the persons prohibited from residing in Lithuania;⁶⁵
- Register of Administrative Offences⁶⁶
- Register of Suspected, Accused and Convicted Persons⁶⁷
- Register of Application of Preventive Sanctions⁶⁸
- Departmental Register of Wanted Persons, Unidentified Bodies and Unknown Helpless Persons⁶⁹
- Database of Interpol General Secretariat⁷⁰
- Checks on the information system of the State Social Insurance Fund Board⁷¹
- Queries with State Tax Inspectorate: to check whether there is money(if any) owed to the state⁷²
- Queries with Kaunas Territorial Customs Office: check whether all customs duties (if any) have been fulfilled.⁷³
- If the applicant declared an illness: to check if their medical condition could cause a threat to public health.⁷⁴
- Queries with State Border Guard Service, State Security Department and Police Department: to establish whether a foreigner is in Lithuania legally and does not present a threat to public order/security.⁷⁵

Before issuing/renewing the TRP for foreign investors, state authorities must assess whether the company in which the investor holds shares or which s/he leads, is not fictitious (Article 45.5 LLSA). This is regulated by Articles 100-100.12 TRP Rules and involves checking whether:⁷⁶

- The foreign investor can answer the questions related to their company's activity;
- The investor has the required professional qualification or experience to run the business;
- The main purpose of their residence is working in the business;
- The investor can provide proof that the company is genuinely engaged in economic activity;
- The company is not registered at an address that is frequently used for registering companies of other foreign investors;
- The registered company is paying the relevant taxes.

⁶¹ Articles 6, 12, 14, ANNEX I and ANNEX V of the Schengen Border Code, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>.

⁶² Article 26 LLSA.

⁶³ For the institutions that check the potential danger to public order and public security, see Article 4 LLSA.

⁶⁴ Article 71.3.1 TRP Rules.

⁶⁵ Article 71.3.2 TRP Rules.

⁶⁶ Article 71.3.3 TRP Rules.

⁶⁷ Article 71.3.4 TRP Rules.

⁶⁸ Article 71.3.5 TRP Rules.

⁶⁹ Article 71.3.6 TRP Rules.

⁷⁰ Article 71.3.7 TRP Rules.

⁷¹ Article 71.3.8 TRP Rules.

⁷² Article 71.4 TRP Rules.

⁷³ Article 71.5 TRP Rules.

⁷⁴ Article 71.6 TRP Rules.

⁷⁵ Articles 77, 82² TRP Rules.

⁷⁶ Sipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 28.

If there is suspicion that a company may be fictitious, a civil servant at the Migration Department has the power to collect further evidence/investigate. It can do so by interviewing the TRP applicant; by speaking to the company employees; visiting the registered address or the actual place of business; and filing requests about the company's activities with other state institutions and bodies.⁷⁷ The interview can be done in writing (by the TRP applicant filling in the survey form) and/or orally (where the oral interview is either voice-recorded or the officer writes up an interview protocol).⁷⁸ The TRP applicant is invited for an interview to the relevant migration office in person, and a failure to show up is regarded as a ground to believe that the company s/he directs or had invested in is fictitious.⁷⁹

■ **Making of a decision: Articles 106-110 TRP Rules**

The decision whether to issue a TRP is to be made by the appropriate institution no later than within two months from the date the application was filed.⁸⁰ It is possible to request an urgent decision for a higher fee;⁸¹ then the decision term will be half as long (one month).⁸²

The Migration Department civil servant who assesses the application can make the following recommendations and prepares a draft decision text:⁸³

- To issue a TRP
- To renew a TRP
- Not to issue/renew a TRP

The Migration Department's Director or the person authorised by the Director takes the final decision and approves the decision text with a signature.⁸⁴ All decisions must be registered.⁸⁵

■ **Dispatch of the decision taken to the applicant: Articles 111-118, 131 TRP Rules**

The decision to issue or to refuse to issue/renew a TRP is to be communicated within two working days.⁸⁶ The Migration Department sends the decision directly to the applicant.⁸⁷ For foreigners residing abroad, the decision is communicated by the diplomatic mission or consular post of the Republic of Lithuania abroad, where applicants will collect it, or it will be sent by post.⁸⁸

The TRP for **small foreign investors**, as defined in Article 45.1(1) LLSA, is issued for **two years**, or for the duration of the business activity, when such activity lasts less than two years.⁸⁹

The TRP for **medium foreign investors** is issued for **three years**, or for the duration of the business activity, when such activity lasts less than three years.⁹⁰

⁷⁷ Articles 101.1-104 TRP Rules.

⁷⁸ Article 101.1 TRP Rules.

⁷⁹ Articles 102 TRP Rules.

⁸⁰ Article 33.1(2)(d) LLSA.

⁸¹ The urgent procedure application fee for the consideration of the application for issuing/replacing the TRP is currently EUR 172; see below and Articles 2.6-2.7.2 of the Government Resolution 'On State Fees, their Collection and Return' (Lietuvos Respublikos Vyriausybės nutarimas "Dėl valstybės rinkliavos objektų sąrašo, šios rinkliavos dydžių ir mokėjimo ir gražinimo taisyklių patvirtinimo"), Valstybės žinios No. 108-3463, 1001100NUTA00001458, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.E3A145C8DD49/eJlUgjbMYg>.

⁸² Articles 4.3, 55, 62 TRP Rules.

⁸³ Articles 106.1-106.2 TRP Rules.

⁸⁴ Articles 108.1-108.2 TRP Rules.

⁸⁵ Article 131 TRP Rules.

⁸⁶ Articles 111, 114, 117 TRP Rules.

⁸⁷ Article 114 TRP Rules.

⁸⁸ Article 111 TRP Rules.

⁸⁹ Article 45.2 LLSA.

⁹⁰ Article 45.3 LLSA.

- **Processing of a TRP / Appeal against a negative decision in a court: Articles 130, 135-142, 151-161, 168-184 TRP Rules**

Where the decision to issue a TRP is granted, it is valid for three months.⁹¹ During this time, successful applicants are required to lodge an application for processing of a TRP card⁹² via the migration office of their declared residence. This is done by sending a standard application form and the receipt of the state fee,⁹³ together with other documents required.⁹⁴ The picture, fingerprints and signature is taken and a unique registration number is assigned⁹⁵ to manufacture a TRP card.⁹⁶

A TRP is processed within 10 working days (general procedure) or within five working days (urgent procedure) from the request for processing submitted to the relevant institution.⁹⁷

The TRP card is issued by the Identity Documents Personalisation Centre at the Ministry of the Interior within six working days (general procedure) or within two working days (urgent procedure).⁹⁸

The third-country national collects the processed TRP from the same migration office in person⁹⁹ or through a lawyer.¹⁰⁰

All decisions taken by the Migration Department can be challenged via administrative courts.¹⁰¹ The primary purpose of administrative courts in Lithuania is to protect individuals against the decisions of public bodies.

- **Compliance monitoring: Articles 185-202, 222 TRP Rules**

Monitoring whether third-country nationals who have been granted TRPs continue to comply with the conditions upon which it was granted is performed by the migration office of their residence, which notifies the Migration Department of any issues uncovered through this monitoring.¹⁰²

Once a TRP is issued, foreign investors (both small and medium)¹⁰³ have a duty to report to the Ministry of the Interior within seven calendar days if:¹⁰⁴

- They change their personal identity documents;
- There is a change in their family status/relationship;
- They change the place of residence;

⁹¹ Article 34.1 LLSA.

⁹² Article 34.2 LLSA.

⁹³ Article 136 TRP Rules.

⁹⁴ As listed in Articles 138.1-138.9 TRP Regulations: an application to process a TRP; a valid travel document; a document evidencing the right to reside in Lithuania (where the visa-free legal regime does not apply); a valid TRP; documents confirming person's civil status (e.g. marriage certificate), where such data does not match or is absent from the records in the Register of Aliens and/or the Population Register; receipt for the state fee for processing the TRP application; documents evidencing the place of residence in Lithuania and a suitable health insurance (if such documents had not been supplied at the application stage).

⁹⁵ Articles 158.4.7-158.4.11 TRP Rules.

⁹⁶ Identity Documents Personalisation Centre, "Residence Permit from 2012," accessed March 12, 2018, <http://adic.lrv.lt/en/identity-documents/residence-permit-document/residence-permit-from-2012>.

⁹⁷ Articles 34.2 and 34¹ LLSA; Article 137 TRP Rules.

⁹⁸ Article 161 TRP Rules.

⁹⁹ Article 168 TRP Rules.

¹⁰⁰ Article 169 TRP Rules.

¹⁰¹ Articles 122, 123 TRP Rules. For the list of the recent administrative court decisions on migration (in Lithuanian), please see "Migracijos Departamentas - Teismo Sprendimai," accessed March 23, 2018, <http://www.migracija.lt/index.php?1776732896>.

¹⁰² Articles 126, 127 TRP Rules.

¹⁰³ Who received a TPR based on Articles 45.1(1), 45.1(2), 45.1(2¹) LLSA.

¹⁰⁴ Articles 33.1(4) and 36 LLSA, Article 222 TRP Rules.

- There is a change in the registered address of their company listed on the Lithuanian Register of Legal Entities or in the address of the foreign-registered company's subsidiary in Lithuania.

The TRP can be annulled/withdrawn if the Lithuanian authorities later establish that:¹⁰⁵

- The company in which s/he invests is fictitious.
- Either the company or the foreign investor fail to meet the special requirements for the temporary residence set out in Articles 45.1(1), (2) or 45.1(2¹) LLSA;
- The foreign investor no longer leads the company or no longer owns at least one third of the nominal value of the registered share capital in a joint stock company.

There are also rules regulating TRP forgery¹⁰⁶ that can result in criminal investigations.¹⁰⁷

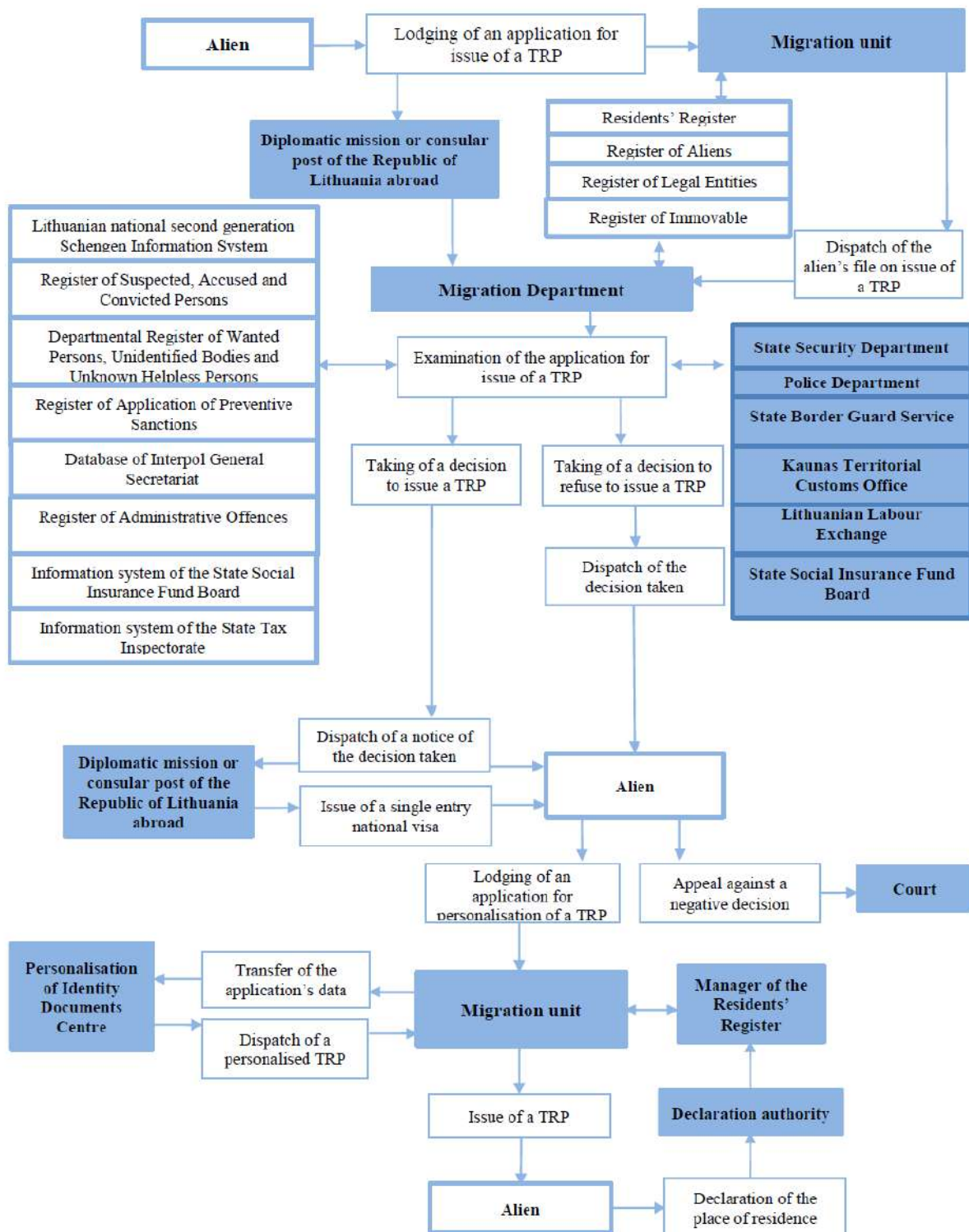
¹⁰⁵ Article 50.1(7) LLSA, Articles 188-202 TRP Rules.

¹⁰⁶ Article 52.1(3) and Articles 208-210 TRP Rules

¹⁰⁷ Article 210 TRP Rules.

The diagram below¹⁰⁸ illustrates the general process of application for a TRP in Lithuania.

7.8. Flow chart of issue of a TRP



¹⁰⁸ Migration Department, "Migration Yearbook (Migracijos Metaštis)" (Vilnius, 2015), 62, <http://www.migracija.lt/index.php?-1704151938>.

■ **The condition(s) for granting residence to investors**

There are two sets of conditions to be met. One set of conditions is addressed to the investors themselves, and the other set of conditions is addressed to the company that is being invested in. This section focuses on both.

Regarding **small investors**, Article 45.1(1) LLSA prescribes:

The investor's personal investment in the company must be at least EUR 14,000.

Their company must have the capital/assets of at least EUR 28,000.

The investor must be the 'manager of the enterprise' or a shareholder in a joint stock company owning at least one third of the nominal value of the registered share capital.

The company must carry out the legally declared business activity for at least the last six months before the application for the temporary residence is filed (the genuine business presence requirement);

The company must have full-time workers (at least one) who are Lithuanian, EU/EEA citizens or permanently residing foreign nationals.

The company's workers must receive the total minimum pay of at least two gross average monthly salaries (BDU) measured at the last financial quarter, as announced by the Lithuanian Department of Statistics.¹⁰⁹

Regarding **medium investors**, Article 45.1(2¹) LLSA prescribes:

- The investor's personal investment in the company must be at least EUR 260,000.
- The investor must be the 'manager of the enterprise' or a shareholder in a joint stock company owning at least one third of the nominal value of the registered share capital.
- The company must carry out the legally declared business activity for at least the last six months before the application for the temporary residence is filed (the genuine business presence requirement);
- The company must employ at least five full-time workers who are Lithuanian, EU/EEA citizens or permanently residing foreign nationals. No conditions on workers' pay level is set by the LLSA for such businesses.

In addition to the special conditions above, foreign investors must meet other **general requirements**, as applied to other foreign TRP applicants:

- Proof of sufficient financial resources for subsistence;¹¹⁰
- Proof of a suitable place of residence in Lithuania;
- A certificate regarding (the absence of) a criminal record;
- Evidence of health insurance¹¹¹ (insurance sum – EUR 6000);
- A list of trips and residence in foreign states;¹¹²
- A document confirming the legal residence, if the investor submits the application while staying in Lithuania;¹¹³

¹⁰⁹ The gross average monthly salary (BDU) for the third quarter of 2017 was 842.7 euro; see SoDra, "Core Social Indicators (Pagrindiniai Socialiniai Rodikliai)."

¹¹⁰ Article 17.6 TRP Rules. This equals to 1 minimal monthly salary for one month; from 1 January 2018, this is EUR 400; see Government Resolution 'On Minimal Pay (Lietuvos Respublikos Vyriausybės nutarimas "Dėl minimaliojo darbo užmokesčio")', TAR Nr. 16194, available at <https://www.e-tar.lt/portal/lt/legalAct/d6219e10af3e11e7afdadc0e4460de4>.

¹¹¹ Article 61 LLSA and Article 17.8 TRP Rules. Health insurance should be valid throughout the whole time of residence. This requirement was introduced with effect from January 2017: The Law Amending the Law on Law Amending the Law on the Legal Status of Aliens (Lietuvos Respublikos įstatymo „Dėl užsieniečių teisinės padėties“ Nr. IX-2206 pakeitimo įstatymas), TAR No. 23714, 2016-23714, available at <https://www.e-tar.lt/portal/en/legalAct/b6327e007e7311e6b969d7ae07280e89>.

¹¹² Article 17.10 TRP Rules. When applying for a TRP for the first time, such a list should cover 10 years preceding the application.

¹¹³ Article 17.2 TRP Rules,

- A photograph,¹¹⁴ a valid travel document¹¹⁵ and the receipt showing that the state TRP application fee was paid.¹¹⁶
- **Application fee¹¹⁷**

For the **consideration of the application** for issuing / replacing the TRP (the processing of the application and all scrutiny checks, in order to determine whether a foreigner should be granted the right to temporary residence):

- General procedure – EUR 86;
- Urgent procedure – EUR 172;

For the **issuing** of the TRP (the payment will have to be made later, when applying for the formalisation of the residence permit):

- General procedure – EUR 28;
- Urgent procedure – EUR 56.

- ***The reasons for turning-down applications***

A decision not to issue/renew a TRP to a foreign investor is taken when the following grounds are present:¹¹⁸

- Their residence in Lithuania poses a risk to public security, public order or public health;
- The information supplied is untruthful, or the documents are falsified, or there are serious grounds to suspect that the company they are running/own is fictitious;
- Another Schengen country has issued an entry warning and there are no humanitarian reasons; or the foreigner is listed in the national list of prohibited persons;
- Does not have sufficient financial resources to live in Lithuania;¹¹⁹
- Does not have a suitable property to reside in for the duration of their stay;
- Does not have a valid health insurance;
- There is a serious ground to believe s/he has committed or convinced others to commit crimes against peace, humanity or war crimes;
- Did not comply repeatedly with the requests to notify state authorities about the changes in personal circumstances listed in Article 36 LLSA;
- S/he owns tax of the amount larger than one Basic Social Benefit;¹²⁰
- There are serious grounds to believe that there is a risk of illegal migration;¹²¹

¹¹⁴ Article 17.4 TRP Rules.

¹¹⁵ Article 17.1 TRP Rules.

¹¹⁶ Articles 17.11 and 17.12 TRP Rules.

¹¹⁷ Articles 2.6-2.7.2 of the Government Resolution ‘On State Fees, their Collection and Return’ (Lietuvos Respublikos Vyriausybės nutarimas “Dėl valstybės rinkliavos objektų sąrašo, šios rinkliavos dydžių ir mokėjimo ir grąžinimo taisyklių patvirtinimo”), Valstybės žinios No. 108-3463, 1001100NUTA00001458, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.E3A145C8DD49/eJIUgjbMYg>.

¹¹⁸ Article 35.1 LLSA.

¹¹⁹ Under 17.6 TRP Rules, sufficient financial resources for subsistence are set by the Ministry of Social Security and Labour. This equals to 1 minimal monthly salary for one month, according to Article 1.3 of the Order of the Minister of Social Security and Labour ‘On calculating sufficient financial resources for subsistence for foreigners who request residence permits’ (Lietuvos Respublikos Socialinės apsaugos ir darbo ministro įsakymas “Dėl pragyvenimo Lietuvos Respublikoje lėšų dydžio, kuris gali būti laikomas pakankamu pragyventi Lietuvos Respublikoje, užsieniečiui, prašančiam išduoti leidimą gyventi, nustatymo”), 1072230ISAK000A1-22, available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.291849>. From 1 January 2018, 1 minimal monthly was EUR 400; see Government Resolution ‘On Minimal Pay’ (Lietuvos Respublikos Vyriausybės nutarimas “Dėl minimaliojo darbo užmokesčio”), TAR Nr. 16194, available at <https://www.e-tar.lt/portal/lt/legalAct/d6219e10af3e11e7afdadc0e4460de4>.

¹²⁰ In March 2018, the Basic Social Benefit (Bazinė socialinė išmoka) was EUR 38; see SoDra, “Core Social Indicators (Pagrindiniai Socialiniai Rodikliai).”

¹²¹ The law does not seem to specify exact circumstances/examples. The serious grounds to believe that there is a risk of illegal migration are assessed at the TRP application stage, where the Migration Department sends a request to the State Border Guard Service to check whether the foreigner may pose risk to the public security or whether there are serious grounds to believe that there is a risk of illegal migration

- They do not supply the information documents required to issue/renew TRP during the time periods listed in Article 33.4 LLSA;
- They do not meet the special TRP conditions for foreign investors under Articles 45.1(1) and 45.1(2¹) LLSA;
- There are serious grounds to believe that the request for TRP is used to avoid the enforcement criminal liability abroad, where Lithuanian law prescribes criminal liability for such actions, or the foreigner will commit crime in Lithuania.
- ***Legal remedy(ies) in the case of refusal of residence***

All decisions taken by the Migration Department can be challenged via courts.¹²²
 A positive decision granting a TRP may be contested but this is not common.¹²³

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

According to Article 4.1 LLSA, the key institutions that control the presence and residence of foreign nationals in Lithuania are as follows:

- Police Department at the Ministry of the Interior
- Migration Department at the Ministry of the Interior
- State Border Guard Service at the Ministry of the Interior

There are no non-public bodies involved in issuing TRPs for foreign investors.

Drawing on the detailed legal provisions provided in Section II(1.1) of this Country Fiche, below is the summary of the competent authorities, listed for each procedural stage of the issuing of a TRP:

1. Lodging of an application for issue/renewal of a TRP

The Migration Department (via the local migration offices in regional police offices) or the diplomatic mission or consular post of the Republic of Lithuania abroad. The appointment at the Migration Department for foreign entrepreneurs/investors, highly qualified employees and their family members can be booked online via <https://www.epolicija.lt/rezervacija/index.php?id=18&lang=EN>

2. Examination of the application for issue/renewal of a TRP

The Migration Department, consulting other state bodies/institutions/registers to complete the relevant checks:¹²⁴

- Lithuanian national second generation Schengen Information System
- Register of Aliens
- Register of Administrative Offences
- Register of Suspected, Accused and Convicted Persons
- Register of Application of Preventive Sanctions
- Departmental Register of Wanted Persons, Unidentified Bodies and Unknown Helpless Persons
- Database of Interpol General Secretariat
- The information system of the State Social Insurance Fund Board
- The State Tax Inspectorate
- Kaunas Territorial Customs Office

¹²² Articles 122, 123 TRP Rules.

¹²³ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹²⁴ Articles 71.3.1-

- The State Border Guard Service
- State Security Department
- Police Department

3. Taking of a decision

The Migration Department.

4. Dispatch of the decision taken to the applicant

The Migration Department or the diplomatic mission / consular post of the Republic of Lithuania abroad.

5. Processing of a TRP

Migration offices of the declared foreign investors' residence in Lithuania.
The Identity Documents Personalisation Centre at the Ministry of the Interior.

6. TRP compliance monitoring/checks

The departments and agencies at the Ministry of the Interior:

- The Migration Department
- Migration offices in regional police offices.
- Police Department
- The State Border Guard Service
- State Security Department

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

There is neither a cap for the scheme, nor regular scrutiny from parliamentary or other committees/bodies on the number of successful applications.

The Ministry of the Interior provides general national statistics to Eurostat on residence permits, considering foreign investors as part of the broader pool of persons who engage in 'lawful activities'.¹²⁵

The Migration Department Regulations state¹²⁶ that the public announcements by the Migration Department are published on its website (www.migracija.lt) and/or via other media outlets. Where specified by legislation, such information is published in the annex of 'Valstybės žinios' called 'Informational Announcements'.

The Migration Department Regulations also state¹²⁷ that there can be a state audit (as required) by the National Audit Office (NAO) of Lithuania. In 2015, the NAO carried out an audit by way of assessment of the administration of immigration processes. Its preliminary report¹²⁸ criticised the

¹²⁵ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹²⁶ Article 9 of the Order of the Minister of the Interior 'On the Regulations of the Migration Department at the Ministry of the Interior' ("Dėl Migracijos departamento prie Vidaus reikalų ministerijos nuostatų patvirtinimo"), Valstybės žinios No. 86-2639, 1002310ISAK00000388, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.AC68574D989E/YAEOHqXizC..>

¹²⁷ Article 21 Migration Department Regulations.

¹²⁸ National Audit Office of Lithuania, "Išankstinio Tyrimo Ataskaita: Imigracijos Procesų Valdymas [Preliminary Findings: Administration of Immigration Processes]."

absence of a coordinated approach to Lithuania’s immigration policy, noted the poor running and data quality in the Register of Aliens, the overlapping functions of some of the migration institutions that assess TRP claims and the extensive bureaucracy that is burdensome on the TRP applicants.¹²⁹

1.4 INFORMATION ON APPLICATIONS

There is no legal obligation to disclose information about successful applicants, but the Migration Department collects such statistical information which is published in its annual Migration Yearbooks. The Yearbooks are prepared by the Migration Department, in collaboration with a number of other institutions: the President of the Republic of Lithuania, the Consular Department of the Ministry of Foreign Affairs, the Ministry of Social Security and Labour, the Lithuanian Department of Statistics (Statistics Lithuania), and the institutions under the Ministry of the Interior: the State Border Guard Service, the Police Department and migration offices of county police headquarters, the Personalisation of Identity Documents Centre, the Residents’ Register Service.

Names of successful foreign investors are not published due to data protection reasons.¹³⁰ However, the Migration Department recently released anonymised data for *all* successful TRP applicants, covering December 2017-March 2018, listed by the TRP number and indicating the migration office that issued it.¹³¹

The grounds under which foreign investors apply for temporary residence are listed as ‘lawful activities’.¹³² They are detailed in Article 45 LLSA and include not only those investing or establishing new business, but also highly skilled leaders of large companies,¹³³ sports professionals,¹³⁴ artists,¹³⁵ journalists,¹³⁶ religious clergymen,¹³⁷ persons implementing joint inter-governmental programmes¹³⁸ and persons volunteering under the EU programmes.¹³⁹ The statistical data for 2012-2015 and 2017 covers all these types of applicants in the ‘lawful activities’ category: the specific data covering only foreign investors was not published in the Migration Yearbooks.

The table below includes information regarding both issuing new and renewing the expired TRPs. It shows that in 2014, the non-EU investors’ applications on the grounds of lawful activities rose by up to 1.6.¹⁴⁰ The post-2014 reduction in application numbers can be explained by the legal changes that were introduced in November 2014 to fight residence acquisition through fictitious companies, as discussed in Section I (Legal background).

Year	Total no. of requests for residence	No. of requests for residence (lawful activities)	No. of successful applications	No. of turned down applications	Sources
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¹²⁹ National Audit Office of Lithuania, 7–8.

¹³⁰ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹³¹ “Migration Department - News: Decisions on Temporary Residence Permit of the Republic of Lithuania,” accessed March 18, 2018, <http://www.migracija.lt/index.php?1373576451>.

¹³² Article 40.1(5) LLSA.

¹³³ Article 45.1(2²) LLSA.

¹³⁴ Article 45.1(3) LLSA.

¹³⁵ Article 45.1(4) LLSA.

¹³⁶ Article 45.1(5) LLSA.

¹³⁷ Article 45.1(6) LLSA.

¹³⁸ Article 45.1(7) LLSA.

¹³⁹ Article 45.1(8) LLSA.

¹⁴⁰ Migration Department, “Migration Yearbook (Migracijos Metraštis)” (Vilnius, 2014), 3, <http://www.migracija.lt/index.php?-1704151938>.

Year	Total no. of requests for residence	No. of requests for residence (lawful activities)	No. of successful applications	No. of turned down applications	Sources
2012	13 432	2 908	2 816	62	Migration Yearbook ¹⁴¹
2013	14 947	4 523	4 181	134	Migration Yearbook ¹⁴²
2014	19 625	7 696	6 615	324	Migration Yearbook ¹⁴³
2015	17 878	4 547	4 949	173	Migration Yearbook ¹⁴⁴
2017	19 373	752	264	488	Migration Yearbook ¹⁴⁵

The 2016 Yearbook, differently from others, lists separately the decisions made only for third-country nationals who actively participate in a company, including as managers of the enterprise,¹⁴⁶ distinguishing them from all other foreigners carrying out lawful activities.¹⁴⁷ This is highlighted in the table below. These 2016 figures indicate that most of the persons who were carrying out lawful activities did so actively participating in a company: they represented 82% of all successful applicants. This leads to assume that in the previous years and in 2017, too, this group was the majority in the ‘lawful activities’ category.

Year	Total no. of requests for residence	No. of requests for residence (foreigners participating in a company)	No. of successful applications	No. of turned down applications	Sources
2016	15 987	2 487	2 258	229	Migration Yearbook ¹⁴⁸

The 2017 data shows not only that the applications dramatically decreased, but also that their success rate dropped to 35%, which is the lowest in the reporting period.

The Yearbooks also include the numbers of annulled/withdrawn TRPs, highlighting the unprecedented ‘crack-down’ on fictitious companies in 2017:¹⁴⁹

Grounds for annulment/withdrawal of TRPs	2012	2013	2014	2015	2016	2017
Where it transpires that a company, enterprise or organisation that the foreigner owns did not carry out the declared business activities and/or the foreigner’s residence in Lithuania is not necessary for not carrying out the declared business activities and its purposes.	3	24	22	2	-	-
Where it transpires that the receiving company, enterprise or organisation registered in Lithuania to which a foreigner was transferred or which they own or manage is fictitious; or the foreigner does not meet the grounds for residence outlined in Articles 45.1 (1),	-	-	-	5	93	607

¹⁴¹ Migration Department, “Migration Yearbook (Migracijos Metraštis)” (Vilnius, 2012), <http://www.migracija.lt/index.php?-1704151938>.

¹⁴² Migration Department, “Migration Yearbook (Migracijos Metraštis),” 2013.

¹⁴³ Migration Department, “Migration Yearbook (Migracijos Metraštis),” 2014.

¹⁴⁴ Migration Department, “Migration Yearbook (Migracijos Metraštis),” 2015.

¹⁴⁵ Migration Department, “Migration Yearbook (Migracijos Metraštis),” (Vilnius, 2017), fig. 7.4, <http://www.migracija.lt/index.php?683399458>.

¹⁴⁶ Migration Department, “Migration Yearbook (Migracijos metraštis)” (Vilnius, 2016), fig. 7.2, <http://www.migracija.lt/index.php?-1704151938>.

¹⁴⁷ Migration Department, fig. 7.4.

¹⁴⁸ Migration Department, “Migration Yearbook (Migracijos metraštis).”

¹⁴⁹ Migration Yearbooks 2012-2017, figs. 7.5.

Grounds for annulment/withdrawal of TRPs	2012	2013	2014	2015	2016	2017
41.1(21), 41.1(22) LLSA; or if a foreigner is no longer the manager of the enterprise; or no longer owns at least one third of the nominal value of the registered share capital in a joint stock company.						
Total	3	24	22	7	93	606

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

■ Measures concerning *residence permits granted to family members*

When applying for temporary residence, foreign investors can bring their family to Lithuania,¹⁵⁰ or their family can arrive later, based on family reunification.¹⁵¹ The new rules to accommodate family members took effect from 2017,¹⁵² as a reaction to calls from smaller foreign investors to improve flexibility allowing to be accompanied by their family members.¹⁵³

The time term to assess the foreign investor's application for a TRP is the same as for the applications from their family members (2 months).¹⁵⁴ If the TRP application is successful, the foreign investors' family members would receive the TRP within the same length as the investor.¹⁵⁵ Similarly, if the foreign investor's issued TRP is invalidated, the permits of their family members are invalidated as well.¹⁵⁶

Family reunification rules for foreign investors holding TRPs are more generous, as compared to other third-country nationals: the requirements for de facto residence (two years) and legal temporary residence (one year) and the prospect for permanent residence are waived.¹⁵⁷

*Statistical data on the number/percentage of **successful** applications for residence permits for family members:*

The data is not available, as the Lithuanian Migration Department does not collect such a data set and it is impossible to disaggregate the data from the investors' data set.¹⁵⁸

¹⁵⁰ Article 40.6 LLSA.

¹⁵¹ Article 43.6(6) LLSA.

¹⁵² The Law Amending the Law on Law Amending the Law on the Legal Status of Aliens (Lietuvos Respublikos įstatymo „Dėl užsieniečių teisinės padėties“ Nr. IX-2206 pakeitimo įstatymas), TAR No. 23714, 2016-23714, available at <https://www.e-tar.lt/portal/en/legalAct/b6327e007e7311e6b969d7ae07280e89>.

¹⁵³ Information with the European Migration Network in Lithuania, 26 February 2018. See also Sipavičienė, Jeršovas, and Stankevičiūtė, “Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics],” 38.

¹⁵⁴ Article 33.1(2)(e) LLSA

¹⁵⁵ Article 40.6 LLSA.

¹⁵⁶ Article 50.3 LLSA.

¹⁵⁷ Article 43.6(6) LLSA.

¹⁵⁸ Information with the Migration Department; competent authority on migration issues; 28 February 2018

2 TYPE OF INVESTMENT¹⁵⁹

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>Small investors: Article 45.1(1) LLSA Investment in the business that the foreigner runs or owns</p>	<p>Minimum EUR 14,000 in a company that has the capital minimum EUR 28,000.</p> <p>The investor must own at least 1/3 of the nominal value of the registered share capital in such a joint stock company.</p>	<ul style="list-style-type: none"> ■ The checks of personal investment are carried out firstly during the lodging of an application for the issue/renewal of a TRP (Stage 1). ■ The checks for personal investment are carried out at the time of the application to issue/renew a TRP (Stage 1).¹⁶⁰ ■ The fictitious company (genuine business presence) checks are carried out at the stage of a TRP application (Stage 1)¹⁶¹ and during the examination of the application (Stage 2);¹⁶² they can be also carried out later, after a TRP has been granted.¹⁶³ ■ The law does not specify that the investment should include a cash payment. ■ To prove that the investment requirement is fulfilled, the following evidence should be presented (Article 24.21 TRP Rules): <ul style="list-style-type: none"> ▪ Company's establishment/purchase documents and company's articles of association; ▪ Business plan; ▪ Documents confirming that 6 months prior to the application for the TRP the company was commercially active in Lithuania (e.g. contracts with suppliers or clients; company's bank account statements; annual corporate tax declaration; contract for hire of business premises etc); ▪ Documents evidencing that the company employs at least one full-time employee who receives the total minimum pay of at least two gross average monthly salaries (BDU) measured at the last financial quarter, as announced by the Statistics Lithuania (e.g. an employment contract). The Information system of the State Social Insurance Fund Board is consulted 	<ul style="list-style-type: none"> ■ The competent authorities for foreign investors' TRP applications are not different from the ones in the general procedure: from 1 December 2017, applications for TRPs and related documents are accepted only at central migration units of the Chief Police Commissariats.¹⁶⁴ ■ The only difference for foreign investors is the requirement of advance online pre-registration for an appointment with the Immigration Division at the Migration Department, which is not yet available for other TRP applicants.¹⁶⁵ ■ The Migration Department receives and considers directly the applications for

¹⁵⁹ For the purposes of this Table, the term 'investment' covers any pecuniary disbursement required as part of the process for obtaining residence under the investors' residence scheme.

¹⁶⁰ Articles 17.5 and 24.21 TRP Rules.

¹⁶¹ Article 45.5 LLSA.

¹⁶² Articles 100-100.12 TRP Rules.

¹⁶³ Article 188 TRP Rules.

¹⁶⁴ "Migration Department - Migration Offices," accessed March 7, 2018, <http://www.migracija.lt/index.php?823486922>.

¹⁶⁵ "Migration Department - Pre-Registration on Temporary Residence Permits and Citizenship of the Republic of Lithuania Matters," accessed March 15, 2018, <http://www.migracija.lt/index.php?630693534>.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<p>to confirm there are full-time work posts in the company and how many employees work there (Article 44.9.2 TRP Rules).</p> <ul style="list-style-type: none"> ▪ Documents evidencing that the share capital (if a joint stock company) or the value of the overall business assets is at least EUR 28,000, from which at least EUR 14,000 is the investor's personal investment (e.g. financial accounts; the balance sheet); ▪ Documents evidencing that the foreigner participates in the company (either as owner, "manager of the enterprise", or a shareholder who owns at least one third of the nominal value of the registered company's share capital). For such purpose, the Register of Legal Entities is also checked. (Article 44.9.1 TRP Rules). 	<p>a TRP by foreign investors and their arriving family members.</p>
<p>Medium investors: Article 45.1(2¹) LLSA Investment in the business that the foreigner runs or owns</p>	<p>Minimum EUR 260,000.</p> <p>The investor must own at least 1/3 of the nominal value of the registered share capital in such a joint stock company.</p>	<ul style="list-style-type: none"> ■ The checks of personal investment are carried out firstly during the lodging of an application for issue/renewal of a TRP (Stage 1). ■ The checks for personal investment are carried out at the time of a TRP application to issue/renew a TRP (Stage 1).¹⁶⁶ ■ The fictitious company (genuine business presence) checks are carried out at the stage of a TRP application (Stage 1)¹⁶⁷ and at the examination of the application (Stage 2);¹⁶⁸ they can be also carried out later, after a TRP had been granted.¹⁶⁹ ■ The law does not specify that the investment should include a cash payment. ■ To prove that the investment requirement is fulfilled, the following evidence should be presented (Article 24.21¹ TRP Rules): <ul style="list-style-type: none"> ▪ Company's establishment/purchase documents and company's articles of association; ▪ Documents confirming that 6 months prior to the application for TRP the company was commercially active in Lithuania (e.g. business plan, contracts with suppliers or clients; company's bank account statements; annual corporate tax declaration; contract for hire of business premises etc); ▪ Documents evidencing that it employs at least five full-time employees 	

¹⁶⁶ Articles 17.5 and 24.21¹ TRP Rules.

¹⁶⁷ Article 45.5 LLSA.

¹⁶⁸ Articles 100-100.12 TRP Rules.

¹⁶⁹ Article 188 TRP Rules.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<p>(e.g. employment contracts). The Information system of the State Social Insurance Fund Board is consulted to confirm there are full-time work posts in the company and how many employees work there (Article 44.9.2 TRP Rules).</p> <ul style="list-style-type: none"> Documents evidencing that the share capital (if a joint stock company) or the value of the overall business assets is at least 28,000 euro, from which at least 14,000 euro is the investor's personal investment (e.g. financial accounts; the balance sheet); Documents evidencing that the foreigner participates in the company (either as "manager of the enterprise", or as a shareholder who owns at least 1/3 of the nominal value of the registered company's share capital). For such purposes, the Register of Legal Entities is also checked (Article 44.9.1 TRP Rules). 	

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>Article 45.2 LLSA: TRP for small investors: issued for 2 years, or for the duration of the business activity, when such activity lasts less than 2 years.</p>	<ol style="list-style-type: none"> Application for a TRP can be filed either when the foreign investor legally resides abroad or in Lithuania (Articles 28.2 and 28.3 LLSA) To obtain a TRP, there is no need to prove a certain length of residence in Lithuania for investors themselves. Instead, the law sets the requirements for the investors' active business presence in Lithuania for at least the last 6 months.¹⁷⁰ There is also a requirement to provide documentation that the investor found suitable residential accommodation in Lithuania,¹⁷¹ if they are to be engaged in running their company. 	<ol style="list-style-type: none"> The competent authorities for foreign investors' TRP applications are not different from the ones in the general procedure. There are no regular scrutiny mechanisms or reporting obligations in place, but the Migration Department announces in its website the activities carried out 	<ol style="list-style-type: none"> The procedure for renewal of a TRP is the same as for issuing the permit for the first time, except that some requirements do not apply (e.g. a certificate regarding the absence of a criminal record). Lithuanian law does not set limits on how many times a TRP can be renewed, nor does it specify how frequently it can

¹⁷⁰ Articles 45.1(1) and 45.2 LLSA; Articles 24.21 and 24.2¹ TRP Rules

¹⁷¹ Article 17.7 TRP Rules.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>Article 45.3 LLSA: TRP for medium investors: issued for 3 years, or for the duration of the business activity, when such activity lasts less than 3 years.</p>	<p>3. The checks for business presence (of a minimum of 6 months) and for the suitable residential accommodation are carried out at the stage of a TRP application (Stage 1) and then double-checked at the examination of the application stage (Stage 2).¹⁷²</p> <p>4. For suitable residential accommodation, the Real Estate Register is checked on whether the foreigner has a place to live that will be the declared place of residence.¹⁷³ The Population Register is checked to verify whether the foreigner is registered at an address that may have been used as a residential address by other foreigners,¹⁷⁴ which might raise fictitious company concerns.</p> <p>5. The physical presence of the investor is not formally required during the duration of the residence permit, but the policy preference is to attract investors who are actively engaged in the business they invest/own, hence there seems to be a positive bias towards resident investors.¹⁷⁵</p> <p>6. The fictitious company (genuine business presence) checks are carried out at the stage of a TRP application (Stage 1)¹⁷⁶ and at the examination of the application (Stage 2);¹⁷⁷ they can be also carried out later, after a TRP had been granted.¹⁷⁸</p> <p>7. Future changes of the investor's residential address, the company's registered address, or of the investor's identity documents must be self-reported to the migration authorities,¹⁷⁹ within 7 days from the occurrence of the change.</p>	<p>(including TRPs) thus enhancing transparency and serving as a kind of reporting mechanism on its activities. In addition, where specified by legislation such information is published in the annex of 'Valstybės žinios' called 'Informational Announcements'.¹⁸⁰</p> <p>12. The Ministry of the Interior provides national statistics to Eurostat.¹⁸¹</p> <p>13. There can be a state audit (as required) by the National Audit Office (NAO) of Lithuania.¹⁸² In 2015, the NAO carried out such an audit by way of assessment of the administration of immigration processes.¹⁸³</p>	<p>be renewed.</p> <ul style="list-style-type: none"> ■ The conditions that must be met to renew a TRP are the same as for the issue of a TRP, except that the foreigner renewing it must have an official place of residence in Lithuania. ■ The duration of the renewal is the same as for first-time issued permits: Articles 45.2 and 45.3 LLSA. ■ The standard application for a renewal and accompanying documents must be submitted at least 2 months before the date of expiry of the TRP, while the urgent application for a renewal and accompanying documents must be submitted at least 1 month before the date of expiry of the TRP, but not earlier than 4 months before the date of expiry.¹⁸⁴

¹⁷² Articles 70, 70.1, 70.5.1, 70.5.2 TRP Rules.

¹⁷³ Articles 17.7 and 33 TRP Rules.

¹⁷⁴ Article 44.7.1 TRP Rules.

¹⁷⁵ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹⁷⁶ Article 45.5 LLSA.

¹⁷⁷ Articles 100-100.12 TRP Rules.

¹⁷⁸ Article 188 TRP Rules.

¹⁷⁹ Article 36 LLSA and Article 222 TRP Regulations.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	<p>8. Article 36.3 LLSA also prescribes that certain subjects must notify the migration authorities if they become aware of the circumstances that may impact on the foreigner's residence status. They include employers, authorities monitoring economic activities, education institutions, the police and other authorities that apply administrative penalties, the Prison Department, or companies receiving foreign employees via intra-company transfers.</p> <p>9. The criteria applied for turning down applications that do not meet the conditions for residence are listed in Article 35.1 LLSA.</p>		

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<ul style="list-style-type: none"> From 3 May 2015¹⁸⁵ foreigners applying for a TRP for the first time¹⁸⁶ must submit, along with the application, a certificate of non-conviction issued by the 	<ul style="list-style-type: none"> The criteria applied for turning down applications based on due diligence checks are listed in Article 35.1 LLSA. A clean criminal record 	<ul style="list-style-type: none"> The competent authorities are not different from the ones that check due diligence criteria and security considerations in the general procedure. The key function here is performed by the Migration Department, with criminal record 	<ul style="list-style-type: none"> Article 36.3 LLSA prescribes that certain subjects must notify the migration authorities if they become aware of the circumstances that may impact the

¹⁸⁰ Article 9 of the Order of the Minister of the Interior ‘On the Regulations of the Migration Department at the Ministry of the Interior’ (“Dėl Migracijos departamento prie Vidaus reikalų ministerijos nuostatų patvirtinimo”), Valstybės žinios No. 86-2639, 1002310ISAK00000388, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.AC68574D989E/YAEOHqXizC>.

¹⁸¹ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹⁸² Article 21 of the Order of the Minister of the Interior ‘On the Regulations of the Migration Department at the Ministry of the Interior’ (“Dėl Migracijos departamento prie Vidaus reikalų ministerijos nuostatų patvirtinimo”), Valstybės žinios No. 86-2639, 1002310ISAK00000388, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.AC68574D989E/YAEOHqXizC>.

¹⁸³ National Audit Office of Lithuania, “Išankstinio Tyrimo Ataskaita: Imigracijos Procesų Valdymas [Preliminary Findings: Administration of Immigration Processes].”

¹⁸⁴ Migration Department, “Migracijos Departamentas - Business - The Owner, a Sharer of a Company.”

¹⁸⁵ Migration Department, “Migration Yearbook (Migracijos Metraštis),” 2015, 9.

¹⁸⁶ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>competent authority of a foreign state in which they resided two years prior to the entry into the Republic of Lithuania or are currently residing.¹⁸⁷</p> <ul style="list-style-type: none"> ■ By default, these prior checks do not cover the origin of the money invested.¹⁸⁸ However, this can be uncovered if there is suspicion of a fictitious company and an investigation is started on this ground, as provided in Article 45.5 LLSA and Articles 100-100.12 TRP Rules. ■ There are also due diligence checks if document forgery is uncovered.¹⁸⁹ 	<p>(certificate of non-conviction) is required at the stage of a TRP application (Stage 1)¹⁹⁰ and at the examination of the application stage (Stage 2).¹⁹¹</p> <ul style="list-style-type: none"> ■ The fictitious company (genuine business presence) checks are carried out at the stage of a TRP application (Stage 1)¹⁹² and at the examination of the application (Stage 2).¹⁹³ ■ The law does not set any frequency with which such checks should be carried out, especially after the TRP was granted. ■ The type and gravity of a crime or the stage of criminal procedure when the case ended is taken into consideration when deciding about the gravity of the person's danger to the public order, especially for the foreign investors who 	<p>and other public offences checks carried out by the Police Department.¹⁹⁶</p> <ul style="list-style-type: none"> ■ The Migration Department cooperates with other relevant public agencies and institutions: <ul style="list-style-type: none"> ○ Register of Administrative Offences ○ Register of Suspected, Accused and Convicted Persons ○ Register of Application of Preventive Sanctions ○ Departmental Register of Wanted Persons, Unidentified Persons and Unidentified Vulnerable Persons ○ Database of Interpol General Secretariat ○ The information system of the State Social Insurance Fund Board ○ The State Tax Inspectorate ○ Kaunas Territorial Customs Office ○ The State Border Guard Service ○ State Security Department ○ Police Department 	<p>foreigner's residence status. They include authorities monitoring economic activities, the police and other authorities that apply administrative penalties, the Prison Department.</p> <ul style="list-style-type: none"> ■ In 2017, there was an important case where 18 investors were found to have intended to work in 2 fictitious companies; this was uncovered by the Migration Department at the application stage.¹⁹⁷ ■ The fictitious company checks can be also carried out later by the Migration Department, after a TRP had been granted. ■ No further information on cases of misuse associated with corruption and fraud has been found.¹⁹⁸

¹⁸⁷ Articles 17.9, 17.9.3, 17.9.4. TRP Rules.

¹⁸⁸ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

¹⁸⁹ Article 52.3 LLSA and Articles 208-210 TRP Rules.

¹⁹⁰ Article 17.9 TRP Rules.

¹⁹¹ Articles 77¹ and 78 TRP Rules.

¹⁹² Article 45.5 LLSA.

¹⁹³ Articles 100-100.12 TRP Rules.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
	<p>apply for a TRP while resident in Lithuania: the Police Department will check for the specific categories of offences (criminal, administrative etc).¹⁹⁴</p> <ul style="list-style-type: none"> ■ If a foreigner provides a clean criminal record (certificate of non-conviction) from a foreign authority, it must cover the time period no later than one month before his/her visa issue date and must state when and for what activity the foreigner was convicted, what penalty was set and whether the sentence has been served.¹⁹⁵ 		

¹⁹⁶ Articles 77¹ and 78 TRP Rules.

¹⁹⁷ Migration Department, “Migracijos Departamentas - Naujienos: Fiktyvių Įmonių Schema Nepasiteisino – Užsieniečiai Leidimų Gyventi Negavo [News: Fictitious Companies Scheme Failed - Foreigners Did Not Obtain Residence Permits],” accessed March 15, 2018, <http://www.migracija.lt/index.php?867979033>.

¹⁹⁸ Based on desk research and stakeholder consultation.

¹⁹⁴ Articles 78, 71.3.1, 71.3.3, 71.3.4, 71.3.5, 71.3.7 TRP Rules.

¹⁹⁵ Articles 17.9 and 77¹ TRP Rules.

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

Drawing on Article 29 of the Lithuanian Constitution, Article 3.2 LLSA provides:

Foreigners in the Republic of Lithuania are equal before laws regardless of their race, colour, sex, language, religion, political or other convictions, national or social origin, property, birth or any others status.

Under this premise, foreign investors would be entitled to all constitutional fundamental rights (healthcare, education, association, equality before the law and work). Stakeholder interviews and literature indicate that there are no other additional rights granted to foreign investors: they are treated in the same way as other foreign nationals who possess a TRP and have the same rights.¹⁹⁹ For example:

- The right to work. For foreign investors, the right to work is mandated by Articles 45.1(1) and 45.1(2¹) LSSA, given that the investors are required to be ‘participants’ in the company.
- The right to health care. Those TRP holders who work are entitled to receive free state health care,²⁰⁰ which is conditional on them or their employer paying compulsory health insurance contributions. In order to obtain health care, they would need to present their TRP permit at the hospital or at another state health care provider.²⁰¹
- The right to welfare support. Temporary residents’ access to the non-contributory welfare rights is very limited or non-existent.²⁰²
- The right to education and enhancement of qualifications (also see below).²⁰³

2 RIGHTS GRANTED TO THE INVESTORS’ FAMILY MEMBERS

Family members can enter Lithuania together with the foreign investor and work in Lithuania for the duration of the TRP.²⁰⁴ There are no other additional rights granted to the family member(s) foreign investors: they are treated in the same way as family member(s) of other third-country nationals who have been granted a TRP (see above, Section III.1).²⁰⁵

With regard to the right to education, Article 41 of Lithuanian Constitution states:

¹⁹⁹ Sipavičienė, Jeršovas, and Stankevičiūtė, “Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics],” 28. Also Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²⁰⁰ Article 6.1(2) of the Law on Health Insurance (Lietuvos Respublikos sveikatos draudimo įstatymas), Valstybės žinios No. 55-1287, 0961010ISTA00I-1343, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.94F6B680E8B8/jylPSqHbsV>.

²⁰¹ Irena Dvilaitienė, Beatričė Bernotienė, and Vita Šulskytė, “Užsieniečiai Ir Mišrios Šeimos Lietuvoje: Praktinių Situacijų Gidas [Aliens and Mixed Families in Lithuania: A Practical Guide]” (International Migration Organisation (Vilnius Office), 2015), 19.

²⁰² Information with the Migration Department; competent authority on migration issues; 28 February 2018. For the latest round-up on social security rights in Lithuania, see European Commission, “Your Social Security Rights in Lithuania,” 2017, <http://ec.europa.eu/social/BlobServlet?docId=13747&langId=en>.

²⁰³ Article 24.1 Republic of Lithuania Law on Education (Lietuvos Respublikos švietimo įstatymas), Lietuvos aidas No. 153-0, 0911010ISTA00I-1489, available at https://www.e-tar.lt/portal/en/legalAct/TAR.9A3AD08EA5D0/TAIS_458774.

²⁰⁴ Article 40.6 LLSA; Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²⁰⁵ Sipavičienė, Jeršovas, and Stankevičiūtė, “Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics],” 28.

Education shall be compulsory for persons under the age of 16.

Education at state and municipal schools of general education, vocational schools, and schools of further education shall be free of charge.

Higher education shall be accessible to everyone according to individual abilities. Citizens who are good at their studies shall be guaranteed education at state schools of higher education free of charge.

Where investors' family members have obtained a TRP as the investors' family members under Article 40.6 LLSA, they have the right to primary and secondary education²⁰⁶ and can access higher education. Foreign investors' children who do not speak Lithuanian would learn in specially convened adjustment classes or groups²⁰⁷ that are designed by their kindergarten or school, based on the local requirements.²⁰⁸ Such investors' family members also would have the same rights to work, health care and welfare support as the investor who had been issued a TRP.

The key institution responsible for the integration of third-country nationals in Lithuania is the Ministry of Social Security and Labour. However, the guidance on integration on its official website seems to be aimed mainly at refugees and asylum seekers.²⁰⁹

3 OTHER BENEFITS

Compared with other immigrants to Lithuania, foreign investors do not have any other special rights with regard to entry, arrival, residence or Lithuanian citizenship acquisition. There are no economic or tax advantages, either.²¹⁰

The slightly more advantageous treatment is provided for medium foreign investors, who invest at least EUR 260,000 and create five full-time jobs in their companies. However, these advantages are minor: the TRP is issued to them for three years, while for small investors it is two years.²¹¹ For a comparison, please see the 'Residence Phase' table above.

²⁰⁶ Article 24.1 Republic of Lithuania Law on Education (Lietuvos Respublikos švietimo įstatymas), Lietuvos aidas No. 153-0, 0911010ISTA00I-1489, available at https://www.e-tar.lt/portal/en/legalAct/TAR.9A3AD08EA5D0/TAIS_458774.

²⁰⁷ Order of the Minister of Education and Science 'On the children of aliens and of Lithuanian citizens who arrive or return to live and work in Lithuania and wish to study in children or adult adjustment classes and adjustment mobile groups' (Lietuvos Respublikos Švietimo ir mokslo ministro įsakymas 'Dėl Užsieniečių ir Lietuvos Respublikos piliečių, atvykusių ar grįžusių gyventi ir dirbti Lietuvos Respublikoje, vaikų ir suaugusiųjų ugdymo išlyginamosiose klasėse ir išlyginamosiose mobiliosiose grupėse tvarkos aprašo patvirtinimo'), Valstybės žinios No. 109-3991, 1052070ISAKSAK-1800, available at <https://www.e-tar.lt/portal/en/legalAct/TAR.661870DCF152>.

²⁰⁸ Dvilaitienė, Bernotienė, and Šulskytė, "Užsieniečiai Ir Mišrios Šeimos Lietuvoje: Praktinių Situacijų Gidas [Aliens and Mixed Families in Lithuania: A Practical Guide]," 20.

²⁰⁹ Ministry of Social Security and Labour, "Užsieniečių integracija [Integration of aliens]," accessed May 16, 2018, <http://socmin.lrv.lt/lt/veiklos-sritys/socialine-integracija/uzsienieciu-integracija>.

²¹⁰ Information with the Migration Department; competent authority on migration issues; 28 February 2018; Sipavičienė, Jeršovas, and Stankevičiūtė, 28.

²¹¹ Information with the Migration Department; competent authority on migration issues; 28 February 2018; Sipavičienė, Jeršovas, and Stankevičiūtė, 28.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

Lithuania does not provide any route to citizenship through investment: foreign investors must meet the ordinary naturalisation conditions if they wish to obtain Lithuanian nationality.²¹² These naturalisation conditions, listed in the Law on Citizenship, state that the applicant must:²¹³

1. have been legally permanently resident in the Republic of Lithuania for the last ten years;
2. at the time of the application for the granting of citizenship of the Republic of Lithuania and the decision regarding the granting of citizenship of the Republic of Lithuania, have the right of permanent residence in the Republic of Lithuania;
3. have passed an examination in the state language;
4. have passed an examination in the fundamentals of the Constitution of the Republic of Lithuania;
5. have legal means of subsistence;
6. be a stateless person or a citizen of a state under the law of which he loses citizenship of that state on acquiring citizenship of the Republic of Lithuania, or expresses the will in writing to renounce their citizenship of another state after they are granted citizenship of the Republic of Lithuania;
7. show there are no circumstances specified in Article 22 of the Law on Citizenship (committed international crimes; committed criminal acts against the Republic of Lithuania; were sentenced to imprisonment in another state for a premeditated crime which is a grave crime under laws of the Republic of Lithuania, or were punished for a grave crime in the Republic of Lithuania; were not otherwise lawfully entitled to obtain a document attesting to the right of permanent residence).

Therefore, there is no statistical data available on interaction between residence and citizenship schemes in Lithuania.²¹⁴

²¹² Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²¹³ Article 18.1, Republic of Lithuania Law on Citizenship (Lietuvos Respublikos pilietybės įstatymas), Valstybės žinios No. 144-7361, 1101010ISTA0XI-1196, available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.387811/PtyylkFObc>.

²¹⁴ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

There are no known state-mandated, commercial, scholarly or other independent studies, statistics or legal monitoring mechanisms to evaluate the economic impact and financial revenues of investors who have been granted residence.²¹⁵

The guidance on the Migration Department's website suggests that most foreign investors are small (there is no online guidance on TRP applications for medium investors).²¹⁶ The stakeholder interviews confirm this, leading also to assume that such businesses, due to their size and nature, are likely to have a minimal impact on the national economy.²¹⁷

To give some illustration, there were 2,240 successful applications of foreign investors, listed in the table on data for the year 2016. Given that small investors (with the capital/assets of at least EUR 14,000) are the most common type of foreign third-country investor,²¹⁸ it could be estimated that the total volume of business investment in 2016 would equal to EUR 31,360,000:

2 240 (number of applications) x EUR 14,000 (minimum investment to be carried out by small investors) = EUR 31,360,000

At the same time, given that in 2017 there were 607 TRPs that were annulled/withdrawn due to foreign-investor businesses being fictitious or due to the foreign investors being no longer able to satisfy the investment conditions on which their TRP was issued, the magnitude of the 2016 overall economic impact would be reduced by EUR 8,498,000:

607 x EUR 14,000 = EUR 8,498,000

Taken away from the successful application figures of 2016, this would result in the net figure of EUR 22,862,000:

EUR 31,360,000 - EUR 8,498,000 = EUR 22,862,000

Given that at the end of December 2016, the cumulative foreign direct investment (FDI) in Lithuania amounted to EUR 13.1 billion,²¹⁹ the above numbers indicate a small scale. This EUR 13.1 billion figure includes EU/EEA foreign investors,²²⁰ who hold the largest share of the overall FDI. In contrast, most third-country national foreign investors who apply for TRPs under the LSSA, come from Belarus, Russia and Ukraine²²¹ and their investments are often modest. Given that most foreign investment companies are small and that they pushed for the minimum full-time workers condition to be reduced to one in 2017,²²² their job creation potential is not high, either.

²¹⁵ Information with the Migration Department; competent authority on migration issues; 28 February 2018; Information with the European Migration Network in Lithuania, 26 February 2018.

²¹⁶ As on 15 March 2018; Migration Department, "Migracijos Departamentas - Business - The Owner, a Sharer of a Company."

²¹⁷ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²¹⁸ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²¹⁹ The Bank of Lithuania and Statistics Lithuania, 'Statistical Release: Direct Investment 2016' (31 March 2017), 2 https://www.lb.lt/uploads/documents/files/TUI2016_IVketv_apzvalgaA.pdf

²²⁰ In EUR millions: Sweden 2,496.73; The Netherlands 1,585.68; Germany 1,315.42; Poland 957.82; Norway 919.18; Estonia 696.41; Cyprus 660.88; Denmark 591.06; Finland 588.29; Malta 405.42. See The Bank of Lithuania and Statistics Lithuania, 'Statistical Release: Direct Investment 2016' (31 March 2017), Table 1.

²²¹ See section 7.3 of the Migration Yearbooks 2012-2017.

²²² See 'Legal background' in Section I of this Report.

VI. OTHER COMMENTS

There is currently no clear economic migration policy to attract foreign investors to Lithuania, especially the highly-skilled workers, hence the efforts of the Lithuanian institutions are concentrated on the security dimension, especially due to the terrorism threat that became more prominent during 2012-2017.²²³

In 2015, research found that foreign investment was more difficult to attract due to the bureaucracy, civil servants' lack of flexibility and inability to speak foreign languages, time-consuming procedures and old technological infrastructure.²²⁴ There was also a problem of a lack of cultural and ethnic tolerance from the migration officers assessing TRP applications, but also more generally from the public institutions and society as a whole.²²⁵ There are very different interpretations of the law by migration officers that as a result may require foreign investors to supply additional documents not listed in the legislation.²²⁶ Although the decisions of the migration officers can be appealed (see Section II.1 of this Report), no information was retrieved on such appeals.²²⁷ Research suggested that the government should introduce and implement long-term strategic educational programmes to enhance tolerance, which would support foreign businesses investment in Lithuania.²²⁸

Some of these concerns are currently being addressed. For example, there is a government proposal to reorganise the migration administration system in Lithuania, leaving one central office (the Migration Department) and 10 regional offices; this is proposed to be in place by January 2019.²²⁹ According to the Minister of the Interior, Eimutis Misiūnas, this will ensure transparency and accountability: the fewer institutions involved in decision-making, the clearer their responsibilities are.²³⁰ This in turn should also ensure that the quality of service provided to TRP applicants also improves, reducing extremely long queues (4-5 hours) and procedural efficiency.²³¹

Finally, Lithuanian institutions are also currently working to introduce a new national migration information management system, MIGRIS, based on the Finnish model and funded by the European Union, expected to be in place before September 2020.²³² Hopefully, this will help implement some of the recommendations by the NAO²³³ that called for introducing a more coordinated approach to Lithuania's immigration policy, better data quality and reducing the extensive bureaucracy that is burdensome on the TRP applicants.

²²³ Information with the Migration Department; competent authority on migration issues; 28 February 2018.

²²⁴ Sipavičienė, Jeršovas, and Stankevičiūtė, "Verslo Ir Investicijų Pritraukimas į Lietuvą: Migracijos Ir Migracijos Politikos Vaidmuo [Attracting Business and Investment into Lithuania: The Role of Migration and Migration Politics]," 38.

²²⁵ Sipavičienė, Jeršovas, and Stankevičiūtė, 39.

²²⁶ Sipavičienė, Jeršovas, and Stankevičiūtė, 46.

²²⁷ Conclusion based on desk research and stakeholder consultation carried out by the national expert.

²²⁸ Sipavičienė, Jeršovas, and Stankevičiūtė, 46.

²²⁹ Ministry of the Interior, "Siūloma migracijos funkcijų pertvarka ir konsolidavimas [The Proposal for Restructuring and Consolidation of Migration Functions]," accessed March 18, 2018, <http://vrm.lrv.lt/lt/naujienos/siuloma-migracijos-funkciju-pertvarka-ir-konsolidavimas>.

²³⁰ Dovaidas Pabiržis, "Vyriausybė pritaria migracijos sistemos reformai," vz.lt, accessed May 15, 2018, <https://www.vz.lt/verslo-aplinka/2018/03/21/vyriausybe-pritaria-migracijos-sistemos-reformai>.

²³¹ Pabiržis.

²³² Information with the Migration Department; competent authority on migration issues; 28 February 2018. See also "Migration Department - News: Migracijos Paslaugų Kokybei Gerinti – Lietuvos Migracijos Informacinė Sistema," accessed March 15, 2018, <http://www.migracija.lt/index.php?680995707>.

²³³ National Audit Office of Lithuania, "Išankstinio Tyrimo Ataskaita: Imigracijos Procesų Valdymas [Preliminary Findings: Administration of Immigration Processes]."