



**LIETUVOS RESPUBLIKOS NUOLATINĖ ATSTOVYBĖ
PRIE JUNGTINIŲ TAUTŲ BIURO
IR KITŲ TARPTAUTINIŲ ORGANIZACIJŲ ŽENEVOJE**

**PERMANENT MISSION OF THE REPUBLIC OF LITHUANIA
TO THE UNITED NATIONS OFFICE
AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA**

No. 180.1.6.1/SNBA-3

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and in response to the Joint Urgent Appeal from special procedures, sent by Ms. Beatriz Balbin, Chief of Special Procedures Branch at the Office of the High Commissioner for Human Rights and signed by the Special Rapporteur on the human rights of migrants, the Working Group on Arbitrary Detention; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on trafficking in persons, especially women and children, of 25 November 2021, has the honor to submit the reply of the Minister of Foreign Affairs of the Republic of Lithuania, Mr. Gabrielius Landsbergis.

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

ENCLOSURE. 7 pages.



Geneva, 4 January 2022

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
Geneva



MINISTER
OF FOREIGN AFFAIRS
REPUBLIC OF LITHUANIA

Vilnius, 4 January 2022

Re: JOINT URGENT APPEAL FROM SPECIAL PROCEDURES

Your Ref: UA LTU 1/2021

Dear Special Procedures mandate holders,

The Republic of Lithuania appreciates close attention given by the Special Rapporteur on the human rights of migrants, the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on trafficking in persons, especially women and children to the situation, related to the currently happening organized irregular migration into the European Union (EU) via the Belarus-Lithuania border and respectively to the amendments made to the Law on Legal Status of Aliens No IX-2206 (the “Aliens Law”), which were adopted as the reaction.

Thank you for your expressed observations. On behalf of the Government of Lithuania, I would like to present the following information.

To objectively evaluate the impact on the human rights of migrants, including asylum seekers, of the Law on Legal Status of Aliens No IX-2206, it is important to provide an overview of the context under which the amendments were adopted. Lithuania is currently facing a large-scale hybrid attack organised by the Belarusian authorities, encouraging and /or forcing third-country nationals to cross illegally the border from Belarus into Lithuania/EU in retaliation for our support to the Belarusian people struggling for freedom, and in response to the European Union sanctions imposed for the harsh violations of human rights in Belarus.

Mr. Felipe González-Morales
Special Rapporteur on the human rights of migrants

Ms. Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Mr. Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ms. Siobhán Mullaly
Special Rapporteur on trafficking in persons, especially women and children

The Belarus regime created an artificial migration route, by generating a mass of foreigners in their country under the guise of tourism, and since June this year, we are observing that Belarus state authorities are guiding these people to approach the European Union-Belarus border and to attempt unauthorized border crossings in the EU territory. The Belarusian security services do not only encourage the process, but prevent migrants from turning back, including through using physical force. This use of vulnerable third-country nationals for a hybrid attack with the aim to exert political pressure and destabilize the situation in the neighboring European Union countries is unacceptable and threatens security of the region. It results in an increasing number of vulnerable people in Belarus, including minors, whose fundamental human rights are being violated, as well as, it dilutes the focus of the international community on the human rights violations of Belarus' own citizens by the regime. In this respect, it is highly important not to overlook the root and primary cause of this migrant crisis which is the criminally inhumane behavior of the Belarus regime that puts human health and lives at risk in pursuit of political objectives.

As a result of this extraordinary situation, the migration flows to Lithuania increased almost 60 times in 2021. This required us to take adequate reactions and measures, adapt our reception mechanisms, and develop additional resources. Neither the country's infrastructure nor human resources were ready to immediately react to this challenge, but Lithuania is managing the situation to the best of our abilities, ensuring that all actions we are taking are in full compliance with the international commitments and human rights norms. Presently the situation has significantly improved, compared to the situation in July. This concerns the whole spectrum – from accommodation conditions to providing basic humanitarian needs, medical, social, or legal services.

In response to the observations made in the Joint Urgent Appeal (REF: UA LTU 1/2021, 25 November 2021), allow me to stress that there are no reasons to conclude that the Lithuanian asylum system does not conform to the international law. The fact that 445 persons were successfully granted asylum this year is proof of that, among these, are 180 persons evacuated from Afghanistan, 126 people from Belarus, and others.

Lithuanian asylum system could not be judged based only on the current challenges, because it is obvious that our capacities and abilities are deliberately overloaded. In 2021, more than 3800 asylum applications were submitted in Lithuania. Our national institutions are determined to consider all of them individually, thoroughly, and objectively. For that purpose, the Migration Department hired extra staff – 56 additional employees. Whereas upon examining asylum applications from the current migratory wave, we observed that serious doubts arise, as to whether the irregular third-country nationals at issue fulfill the criteria contained in the definition of the Convention Relating to the Status of Refugees of 1951. While being interviewed at the temporary reception facilities, the majority of third-country nationals reveal that they come to Europe for economic purposes and through organized channels. This suggests that the asylum system is being abused. In spite of that, irregular migrants have a full right of appeal, if asylum is not granted, and to obtain state-guaranteed free legal aid throughout the whole appeal process. The use of state-ensured legal aid by asylum-seekers is very efficient, with about 90% of the Migration Department's decisions being appealed against. As of today, there are more than 1000 appeals lodged to the Vilnius County administrative court (with an approximate rate of 20 appeals per day).

Any restrictions of human rights during the emergency situation are temporary and proportionate. The fundamental human rights, as well as the right to material reception conditions, essential medical assistance, state-guaranteed legal aid, interpreting, and, for vulnerable persons, the right to benefit from reception conditions appropriate to their special needs - have been, and continue to be, guaranteed, even in the emergency situation. The Law on the Legal Status of Aliens stipulates that during the emergency situation, the restrictions could only be temporarily imposed on rights such as access to notarial services, compensation for public transport, and interpreting services, where such rights cannot be guaranteed for objective and well-grounded reasons.

The right to interpretation services to migrants and asylum seekers is guaranteed. People are informed in a language they understand and provided with information such as the substance of the decision taken by the Migration Department, the time limit for appealing the decision, the main reasons for the decision. Asylum seekers are informed of their rights and obligations before each interview. In addition, information leaflets with “frequently asked questions” on asylum procedures are available in the languages most commonly spoken by asylum seekers and contain all relevant information. The migrants also have access to ask and get information from the accommodation site management staff or representatives of the institutions and organizations providing services at the accommodation site, also from the representatives of non-governmental organizations.

Accommodation of migrants, including asylum seekers, in temporary reception facilities without the right of movement within the Republic of Lithuania, does not amount to detention. People are not kept in isolation: they are allowed to move in the area of their accommodation facility and communicate with other foreigners accommodated in the same place, as well as feel free to contact the accommodation site management staff or communicate with representatives of the institutions and organizations providing services at the accommodation site. In case of necessity, such as medical reasons, they are allowed to leave their accommodation facility with an escort.

Restriction of movement of migrants for no longer than 6 months, while border procedure is applied, is an exception prescribed in the law and is only used in an emergency situation to ensure the implementation of all the relevant migration procedures in line with international obligations. Asylum procedure in the regular situation remains unchanged. The reasoning of this provision is directly related to the ability and capacity of the asylum system to individually and thoroughly process all the asylum applications, and also the risk of absconding. Our institutions are working tirelessly to complete the asylum procedures in a shorter time period than 6 months.

Accommodation facilities

In response to the observations made regarding the temporary accommodation facilities in which migrants and asylum seekers are being accommodated, we find it important to highlight that accommodating migrants in tent camps was a temporary solution to the problem, and the situation today has significantly improved. Currently, in Lithuania, there are no irregular migrants living in the tent camps, they are housed in 5 facilities that are fully suitable for cold climate conditions, are provided with hot food, also they are provided with means to prepare food by themselves.

Since the outset of the crisis, Lithuania’s authorities have been looking for alternative options how to ensure basic social services for the most vulnerable groups. The government started to move vulnerable migrants to new living premises on 14 September 2021. The Refugee Reception Centres

in Rukla and Vilnius accommodate the most vulnerable people, including families with children, pregnant women, unaccompanied minors, the disabled, and the seriously ill. In both facilities, most of the places are occupied with 1225 persons living in the centers.

Persons in the Refugee Reception Centres have the means to prepare food of their own choice in equipped kitchens. Food is purchased in the shops operating in the centres as well as delivered by the charity organization „Food Bank“. The state ensures that each person receives a food allowance. Besides, essential hygiene products, diapers, clothing, footwear, utensils, or other necessary items are provided. The centres offer translation services from the main Kurdish dialects and Arabic. The staff speaks English, Russian, and French, which are mostly spoken by migrants.

Residents are able to receive medical and psychological services. Doctors visit the Refugee Reception Centre in Vilnius twice a week. In Rukla, the necessary medical assistance is provided through mobile medical teams, a doctor, and several nurses.

Volunteers and staff members organize activities for children and adults in the accommodation facilities. Exercises take place, conditions are created to use the nearby stadium, play football and basketball, and the little ones can spend time in the playground. Exhibitions and events are organized. Adults have opportunities to engage in arts and crafts or play board games in rest space. There are premises for children's leisure, where they are provided with means for reading, drawing or playing. There are wireless internet access points installed for the residents in both centers.

The education of children is organized with the help of volunteers and staff of the accommodation facilities. From 1 October 2021, children learn the Lithuanian language. The training is organized by the Ministry of Education, Science, and Sports and the Lithuanian Home School.

All unaccompanied minors shall be accommodated in a Refugee Reception Centre upon confirmation of their age. Social workers work here and help to meet the necessary and special needs of each inhabitant such as the provision of social services and development of social skills.

Whenever it is possible, people are accommodated in the facilities according to their origin, nationality, and religion. Migrants of different religions and denominations are accommodated in separate parts. For example, Iraqi Kurds live on one side, while Africans and citizens of other countries on another side of the facilities to avoid tension.

In addition, all identified members of the LGBTQ + community are currently housed separately from others, thus ensuring that their human rights are protected without discrimination based on sexual orientation, gender identity, or violence.

The Refugee Reception Centers implement a project in cooperation with the Red Cross to support other migrant groups. There are 5 teams of mobile specialists, each composed of 3 social workers and psychologists. These teams identify people's necessary and special needs, assess their emotional state, and need for a doctor, psychologist, or other specialists. The social workers inform the migrants about their situation, the rules in the accommodation facility, the possibilities to return to the country of origin, and the ways to receive the necessary services. They also provide information to various other questions that arise.

Non-governmental organizations play an important role in providing humanitarian aid to the migrants in all accommodation facilities. Volunteers from various organizations, such as the Red Cross, the International Organization for Migration, the European Asylum Support Office, Caritas, and Malta Relief Organization provide support to migrants. Their help includes logistics assistance, packaging, and distribution of humanitarian packages (food, hygiene, and clothing), restoration of family ties, organization of activities for children, women, men, vulnerable groups with the help of trained volunteers, provision of first psychological care. Specialist volunteers such as translators, psychologists, and other specialists are available. Non-governmental organizations in Lithuania have initiated the 'People First' initiative aiming to contribute to meeting the basic needs of migrants. Representatives of non-governmental organizations are also working in close cooperation with state authorities in instructing relevant actors to perform proactive and inclusive management of accommodation facilities.

The European Asylum Support Office (EASO) is closely working with the national authorities of Lithuania, as well as the European Commission and FRONTEX to ensure a seamless and coordinated approach to the management of the migration crisis. EASO is currently developing a vulnerability assessment tool that will be available online. EASO experts assist in the temporary accommodation of irregular migrants, cooperate with the administrators of the facilities and mobile specialist teams, and provide information on identified vulnerable persons.

The national Asylum, Migration and Integration programme of the 2021-2027 is being developed, which aims to create a unified vulnerability assessment system and methodology for working with vulnerable persons in Lithuania. The programme includes training for specialists providing various public services to strengthen their competencies to identify vulnerable persons and provide them with the necessary assistance.

State institutions are taking a proactive approach to prevent any possible human rights abuses of irregular migrants in all accommodation facilities. To name some of the measures:

- Regular briefings are performed to the officers, security personnel, and other relevant staff in the accommodation facilities to highlight the conformity with human rights and fundamental freedoms, as a priority in all actions.
- Accommodation facilities and service vehicles have surveillance cameras installed, therefore all actions of officers are monitored.
- 700 body cameras will be purchased which will be used by the officers to record their actions.
- Close cooperation with NGOs is maintained, and their observations and remarks are investigated and acted upon.
- European Union agencies (FRONTEX, EASO) participate and monitor the activities of officers.

In addition to the information provided on accommodation facilities, it is important to add that every migrant has the right to appeal against his accommodation conditions. All the appeals are being investigated attentively by the state institutions, including the Ombudspersons for Human Rights, for Equal Opportunities, for Child's Rights.

Law on the Legal Status of Aliens

Provisions of the Law on the Legal Status of Aliens are subject to change. On 23 December 2021, the Seimas of the Republic of Lithuania adopted the amendments to the Law on the Legal Status of Aliens. The amended provisions are balanced, aimed to ensure the interests of national security, at the same time ensuring the respect for human rights norms and full compliance with all the international commitments. The key amendments, which apply only in the event of emergency situation, are as follows:

- After the expiration of 6 months border procedure, an individual shall be issued with a registration document, which would not amount to a residence permit and will not grant a right to leave the country.
- If an asylum application is still pending at the end of the border procedure, the Migration Department shall take a decision on accommodation.
- If an individual appeals the negative asylum decision, but there is no risk of absconding, and no other detention criteria are applicable, restriction of movement is no longer applied.
- If an individual poses a risk of absconding (criteria are prescribed in the law), restriction of movement can be imposed on him/her by the competent authority.
- There are 2-level appeal procedure: first appeal instance is the Regional Administrative Court and the second is the Supreme Administrative Court of Lithuania. The previous pre-trial or the administrative stage of appeal is abolished.
- The time limit for submitting an appeal against the first instance decision on asylum is extended up to 14 days (both in regular time and in the event of emergency situation).
- Even during the emergency situation unaccompanied minors shall be provided with accommodation suitable for them and only with their representative's consent.

Migrants at international borders

Elaborating on the actions the Government is taking to protect the human rights of migrants at international borders, including effective access to asylum and other international protection procedures, allow me to inform that the Law on the Legal Status of Aliens extends the list of places where foreigners can submit applications for asylum, during emergency situations, by introducing the possibility of submitting such an application also in diplomatic missions or consular offices of the Republic of Lithuania designated by the Minister of Foreign Affairs. In line with the mentioned law and the Decision of the head of state-level emergency operations of 2 August 2021, officers of the Lithuanian State Border Guard Service redirect third-country nationals who are willing to apply for asylum after being detected in the border area, having crossed the state border illegally, to the nearest operating international border control point or to the Lithuanian diplomatic representation in Belarus. For this purpose, audio recordings are broadcasted in foreign languages on the procedure for submitting asylum applications. Where possible, the information is provided orally by officers.

This procedure is only used in exceptional situations, such as currently happening in the border area to regulate flows, prevent abuse of the asylum system, and prevent a secondary movement. However, even in the current challenging situation, vulnerable persons are allowed to apply for asylum to the State Border Guard Service despite the fact that they crossed the state border of the Republic of Lithuania illegally.

Inhumane actions of the Belarus state authorities created a dire humanitarian situation at the border area. In order to minimize risks to the irregular migrants, the Lithuanian State Border Guard Service in cooperation with non-governmental organizations provides humanitarian packages which include water, food, warm clothes, and making sure that these packages reach people that need them most. If there is a need, medical assistance is provided. Because of these actions, Lithuanian border guards have saved scores of migrant lives in the course of this artificially created crisis.

Principle of non-refoulement

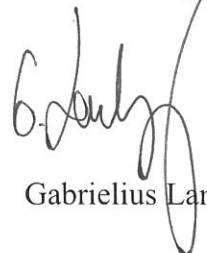
Lithuania fully ensures the principle of non-refoulement: safeguards are implemented against the removal of persons without a proper evaluation of the risks in the country of origin. This also applies in respect of the persons who crossed the state border illegally. Even in these exceptional circumstances, an asylum seeker is granted fair and effective procedure, comprising state-guaranteed legal aid, in order to ensure proper consideration of each and every individual situation. No asylum seeker has been expelled from Lithuania prior to examination of the request for asylum and adoption of the final decision. According to the national legislation, the court may suspend the execution of any expulsion decision. So far this year 55 irregular migrants were expelled (after the final decision (including appeal)); another 353 migrants returned voluntarily.

Conclusion

Let me recall, that all the people in Lithuania are treated in compliance with international commitments and human rights norms, irrespective of their legal status. In the face of the ongoing hybrid attack, my country strives for the best managing the situation.

Lithuania is always ready to constructively and openly engage in a dialogue, but the root cause of this migration crisis must not be ignored. By strong condemnation of the deliberate policies of the Belarusian regime and life-threatening situations the migrants are put into by it are utterly incompatible with international public, human rights, humanitarian, refugee, and migration law. Identification and public condemnation of such actions could discourage the regime in Minsk to continue ominous hybrid attacks on Lithuania and other neighbouring EU member states and undermine the credibility of the international institutions.

Allow me to use this opportunity to call upon you to immediately investigate, and speak up against, the cynical exploitation of vulnerable migrants for political purposes by the Belarusian regime.



Gabrielius Landsbergis