



# LATVIA: RETURN HOME OR NEVER LEAVE THE WOODS

REFUGEES AND MIGRANTS ARBITRARILY DETAINED, BEATEN AND  
COERCED INTO "VOLUNTARY" RETURNS

AMNESTY  
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**Cover photo:** A Latvian border guard looks at detained migrants who have crossed the Belarus-Latvia border, next to the border area near Vorzova, Latvia, 11 August 2021

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# EXECUTIVE SUMMARY

**“[T]hey gave us papers saying that if we returned to Iraq, we would get money and I said: ‘I don’t want money, if I go back to Iraq my life will be in danger’. [Latvian officers] were saying: ‘It is not my problem’... we told them: ‘We want a lawyer, where is the UN, our rights?’ and they told us: ‘For you all, there is nothing in Latvia, no rights’.”**

Omar, a 28-year-old man from Iraq, in Latvia between the fall of 2021 and late January 2022.

As migrants and refugees approached Belarus’ borders with the EU beginning in the summer of 2021, Latvia, Lithuania, and Poland declared their movements the result of a “hybrid attack” by Lukashenka’s government. The three EU member states quickly implemented measures that authorized the forced, often violent return of people back toward Belarus, in effect suspending the right to seeking asylum. These countries failed to protect individuals and families from the actions of Belarus, which sought to instrumentalize refugees and migrants for political purposes, and in fact have committed a range of serious human rights violations against them as well. The European Commission appeared to fully condone the measures taken by the three countries, driving the “hybrid threat” narrative.

As Omar’s experience rightly signalled, there were no rights for people attempting to enter Latvia from Belarus. Instead, the Latvian authorities violated the right to seek asylum; unlawfully and often violently forced people back toward Belarus in repeated pushbacks; tortured and ill-treated people; subjected many to excessive use of force; and arbitrarily detained people in secret locations, possibly amounting to enforced disappearance in some cases. The catalogue of human rights violations committed by Latvian state actors and their agents as reflected in this report is long and shocking – and is in sharp distinction to the way people fleeing the war in Ukraine have been welcomed in Latvia.

Following the lead of Poland and Lithuania, on 10 August 2021, Latvia invoked and has repeatedly extended a state of emergency that allows the authorities to carry out summary and therefore unlawful returns known as pushbacks and suspends the right to seek asylum in four areas at the border with Belarus. Latvian authorities have maintained the state of emergency to date, despite the proven decrease of movements over time, and their own admission that the number of attempted entries – 6,676 as of 25 May 2022 - were the result of multiple crossings by the same people. In any event, the invocation of a state of emergency under such circumstances is not justified under European or international law.

As noted, the repressive response to refugees and migrants at the Belarus border stands in stark contrast with Latvia’s swift mobilization to receive and provide refuge for over 35,000 people (to date) who have fled Ukraine, including measures to guarantee them adequate living conditions and other material support in Latvia.

This report documents the serious human rights violations, including crimes under international law, committed by Latvian Border Guards and other law enforcement bodies in cooperation with unidentified special forces in black gear, armed and with covered faces (referred to as “commandos”) against refugees and migrants at Latvia’s borders with Belarus and in detention facilities beginning in July-August 2021. Consistent descriptions by people interviewed for this research attribute most violations to these unidentified commandos, who appeared to be working under the direction of the Latvian border guards and/or with the border guards’ direct knowledge of actions by the commandos. These special forces served as agents of the Latvian state.

Violations documented in this research include violent and repeated summary forced returns at the border with Belarus, in violation of the obligation of *non-refoulement*; arbitrary and secret detention in undisclosed sites in the Latvian forest, possibly amounting to enforced disappearances; prohibited inhuman or degrading treatment, in some cases amounting to torture; and acts of harassment, intimidation and violence that forced people to accept “voluntary” returns to their country under extreme duress, coercion or by deceit. The research illustrates how, in some cases, Latvian authorities and the International Organization for Migration (IOM) ignored people’s express statements that they were being forced to return against their will. The research also documents the arbitrary detention of migrants and refugees, including accompanied and unaccompanied children, and associated violations of their procedural rights, including the right to an effective remedy and the right to be heard.

The findings in this report are based on in-depth remote and in-person interviews and other written communications with 17 refugees and migrants entering or attempting to enter Latvia from Belarus since July 2021, as well as on court records, return orders, photos and videos shared by interviewees in support of their accounts. The report covers incidents that occurred between July 2021 and April 2022.

An Amnesty International delegation visited Latvia from 7 to 11 March 2022, including the Mucenieki “detained foreigners’ accommodation centre” and the Mucenieki open reception centre, where delegates met detainees, refugees and migrants accommodated in the reception centre, and staff. Remote and in-person interviews and exchanges with Latvian authorities, officers of the European Border and Coast Guard (FRONTEX), and representatives of UN agencies, non-governmental organizations and independent researchers and lawyers were instrumental to this research.

## **A HUMAN RIGHTS EMERGENCY**

The extent of abuse to which Latvian state actors and their agents exposed individuals and families at the Belarus border cannot be justified as a legitimate use of exceptional powers in a time of emergency. As invoked by Latvia, the state of emergency was neither necessary nor proportionate as required under EU, regional and international law.

Especially when compared to the attitude shown towards the much larger numbers of people fleeing Ukraine, the disparate treatment of migrants and refugees crossing from Belarus sharply points to a fundamentally racist and discriminatory approach to non-white refugees and migrants.

Between August 2021 and 25 May 2022, only 156 persons who had entered “irregularly” from Belarus were taken out of the Belarus border area and allowed to enter Latvia on “humanitarian grounds”, while 508 people were detained in connection with irregular border crossings between 2021 and April 2022. Those exceptionally admitted into Latvia from the Belarus border were generally prevented from applying for asylum. Only in April 2022 was the state of emergency order amended to allow asylum applications in the detention centre of Daugavpils and at border crossing points. The rest of the land border remains an exclusion zone for asylum purposes.

When Amnesty International visited Latvia in March 2022 and documented the painful testimonies of people who experienced abuses at the Belarus border, Latvia had already welcomed 6,300 people who had fled from Ukraine. People coming from Ukraine were welcomed in Riga with warm food, clothing, and shelter, directed to orderly registration procedures or enabled to transit safely to other countries in Europe.

## **VIOLATIONS IN THE LATVIAN FOREST**

The prospects of individuals and families, some with small children, at the borders with Belarus were starkly different. People remained stranded in the forested areas at the border for weeks or months, exposed to frigid temperatures and became victims of repeated, often violent summary returns to Belarus, in violation of the prohibition on collective expulsions and the obligation of *non-refoulement*.

People interviewed for this research reported that, upon crossing into Latvia, law enforcement officers, who in most cases appeared to be border guards, typically apprehended them, and handed them over to the commandos. In some cases, commandos would then directly return them to Belarus. In others, in-between

repeated summary returns to Belarus, people were held in tents staffed by commandos or remained stranded in the forest. People's phones were often confiscated upon apprehension, so that they had no notion of their whereabouts and could not communicate with the outside world.

### **ARBITRARY AND SECRET DETENTION AND POTENTIAL ENFORCED DISAPPEARANCE**

In several cases, people reported that at various times in 2021 and 2022, commandos transferred and detained them in tents in undisclosed locations at the border. People were held for varying periods of time and often without access to any means of communication to the outside world (as authorities had generally confiscated their phones). Latvian authorities have only admitted to using these tents at the border as humanitarian outposts; however, people described tents as being used as launching grounds for daily unlawful forced returns, often spanning over months. The circumstances around people's transfers to the tents, the conditions maintained therein, and treatment people endured at the hands of commandos there strongly indicate that the tents are on par with unofficial detention facilities used for the unlawful deprivation of liberty of migrants and refugees and as outposts to "organize" and carry out unlawful returns.

People who spent time in the tents recounted being provided with minimal food and recalled that the tents lacked showers or sanitary facilities, with the only available "toilet" being a hole in the ground outside the tent. In contrast to the government's claim that tents were mere "humanitarian" outposts, people stated that they were heavily restricted by commandos in their freedom to move outside and even while inside tents and described the presence of armed commandos and vehicles surrounding the tents. In some cases, people reported experiencing or witnessing violence by commandos for alleged "misbehaviour" or as a punitive measure for not obeying instructions, such as orders to keep their heads down and not look around in an effort to keep people from orienting themselves.

As Latvian authorities confiscated people's phones and documents, they prevented people from maintaining communications with families or contacts in the outside world. A man from Iraq recounted that during his stay at the Latvian border, between December 2021 and late February 2022, he was not in contact with his family because his phone was taken from him. During this time, his family communicated with an Iraqi diplomatic representative to inquire about his whereabouts as they did not know where he was. A second person separately confirmed a similar sequence of events. The NGO "I want to help refugees" and independent researcher Aleksandra Jolkina similarly reported that they were each contacted by relatives of over 30 refugees and migrants feared as having gone missing in Latvia.

By holding migrants and refugees in tents in unspecified and unrecognized locations, or otherwise leaving them stranded at the border, without access to communication or safe alternatives to being continuously, violently shuttled back and forth between Latvia and Belarus, Latvian authorities acted in violation of the prohibition of "secret detention" and might have violated, in some cases, the absolute prohibition against enforced disappearance.

### **REGISTRATION OF PEOPLE'S DETAILS WHILE AT THE BORDER**

While Latvian authorities maintain that border guards did not keep records of or identify people attempting to cross the border, officers did in fact implement a system to register individuals that they had apprehended. Some people reported being photographed and fingerprinted through specialized equipment at the border. Others spoke about Latvian authorities keeping "lists" of names of people at the border, by which they would record their length of stay there and organize returns.

### **ACTS AMOUNTING TO TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT**

In several cases, people reported directly experiencing or witnessing violence against others while at the border or in detention facilities. Commandos were described as the main perpetrators of violence, that in some cases amounted to torture. People lamented the gratuitous, cruel use of electroshock devices on various parts of their bodies, including genitals. This practice constitutes torture – a crime under international law – and these allegations should be urgently, effectively, and independently investigated. People also reported that Latvian authorities beat them through kicks and punches and subjected them to other behaviours that violated the prohibition of inhuman or degrading treatment. Violence was sometimes used to intimidate people, or as a form of retribution or punishment for those perceived to have misbehaved. Coercion, including violence, was also employed to force people to return "voluntarily" to their countries of origin.

### **PEOPLE FORCED OR THREATENED TO ACCEPT "VOLUNTARY RETURNS"**

In some cases, people reported that they had no other way out of the border area but for agreeing to return to their countries "voluntarily". Some people "agreed" to return after spending extended periods in the tents or stranded in the border area in abysmal living conditions. In some cases, they agreed after physical abuse

or threats. Other people stated that they were misled or forced into signing return papers after being transferred to detention facilities or police stations. Many incidents of this type relate to the Daugavpils detention centre, but some individuals reported that Latvian authorities forced them to agree to return in a facility which appears to be Mucenieki detention centre.

In detention facilities, detainees' attempts to report the abuses suffered at the border fell on deaf ears. Some people reported that their caseworker, a member of the Border Guard, ignored their claims of being forced or misled into returning or actively intimidated them. People also claimed that during court hearings, judges ignored or dismissed their claims that they had suffered violence or had been forced into signing documents that they did not want to sign or did not understand.

### **IOM'S ROLE IN THE ABUSE OF VOLUNTARY RETURN PROCEDURES**

In two documented cases, the IOM representative for Latvia ignored evidence that people transferred as part of "voluntary" return procedures had not provided their genuine consent to returning. One individual recalled that while at the airport, a man – presumably an IOM representative – had given him 100 EUR prior to his return flight in February 2022. He recalled that he explicitly told the man that he did not want to return, but the man ignored him. This report includes additional information drawn from other independent research also indicating that IOM ignored other people's express statements that they did not want to return. Serious concerns remain regarding IOM's role in the "voluntary" return of people from Latvia, especially as access to asylum is severely curtailed by the state of emergency rules.

### **DETAINEES' RIGHTS VIOLATED, QUARANTINES ABUSED AND DETENTION OF CHILDREN**

People who were exceptionally transferred from the border further into Latvia since the summer of 2021, including children, have overwhelmingly ended up in detention facilities. Routine or automatic migration-related detention is arbitrary, and therefore illegal. Amnesty International witnessed first-hand and gathered testimonies indicating that children were detained for migration purposes. This practice is prohibited under international law, as it can never be in the best interests of the child.

Amnesty International has serious concerns about access to procedural rights for detainees in the centres of Mucenieki and Daugavpils, including access to legal information and assistance and communication with the outside world. These concerns extend to NGOs' and independent actors' ability to effectively access and assist detainees.

This research also indicates that in some instances Latvian authorities resorted to quarantine measures against COVID-19 to impose arbitrary restrictions on detainees' freedom with the aim of punishing them.

### **CONCLUSIONS AND RECOMMENDATIONS**

The generous response of EU countries to almost five million people fleeing Ukraine is hard to reconcile with the violence, abuse, or plain neglect to which some of these countries exposed refugees and migrants at the border with Belarus.

Since August 2021, Latvian authorities have exploited unjustified emergency powers to target certain groups of non-white refugees and migrants, systematically deny them access to asylum, and harassing, and coercing them into returning to their countries of origin under duress. Latvia should immediately withdraw the state of emergency order and refrain, in the future, from invoking a state of emergency or other exceptional measures to derogate from the state's human rights obligations in the migration context. Access to asylum across the territory should be effectively restored, without exceptions, including by ensuring that the possibility to make asylum applications at border crossing points is practical and effective.

The Latvia authorities must urgently, effectively, and impartially investigate all allegations of violations emerging from this report, including violations of due process in asylum and return proceedings, and grant victims prompt access to remedy, including by restoring the liberty of people detained arbitrarily or without effective access to asylum and readmitting those unlawfully removed. To this end, Latvian authorities should establish an independent border monitoring mechanism (IBMM), with sufficient resources, means and independence.

Latvian authorities should eradicate, in law and practice, the systematic use of migration-related detention of people admitted from the border and the detention of accompanied and unaccompanied children. They should also ensure the regular and unimpeded access of NGOs and independent observers to border and detention facilities and treat detainees in accordance with international law and standards.

Decisive and urgent steps should be taken, including with IOM, to ensure that voluntary returns are based strictly on the free and informed consent of the individual, without coercion of any kind, and to investigate incidents in this and other reports whereby individuals were coerced or misled into returning “voluntarily”.

Latvia must turn back the dial on its regressive, abusive, and discriminatory laws, policies and practices in the migration context as reflected in this report. The authorities must take urgent measures now to ensure that Latvia restores conditions that respect and protect European asylum principles and the country’s obligations under international human rights law.



# 1. METHODOLOGY

This report is based on in-depth remote and in person interviews and written exchanges with 17 migrants and asylum-seekers, and refugees: 14 men and three women, who entered or attempted to enter Latvia at the Belarus border as members of larger groups of people, beginning in July-August 2021. Interviews were conducted between March and July 2022. The majority of people interviewed were nationals of Iraq. One was an Iranian national. Some people had been returned to their country of origin and remote interviews took place after their return. In all cases, people's personal details have been changed to protect their identity; pseudonyms have been assigned to each refugee, asylum seeker or migrant whose testimony appears in this report. Amnesty International has also reviewed court records, return orders, identification documents, and photos and videos shared by individuals in support of their accounts.

In most cases, people interviewed had attempted to cross the border after the introduction of a state of emergency in Latvia on 10 August 2021. The emergency order<sup>1</sup> effectively banned asylum applications in the border regions and authorized the Latvian authorities to conduct unlawful, summary forced returns to Belarus. While these actions are commonly referred to as “pushbacks”, the increasingly widespread use of this term risks obscuring the inherent brutality and illegality of the practice, and can contribute to its normalization. As such, this report attempts to describe in precise detail the actions – forcible returns, often violent, always unlawful – that characterize pushbacks.

An Amnesty International delegation conducted an in-person visit to Riga and Mucenieki from 7-11 March 2022. The delegation visited the Mucenieki “detained foreigners’ accommodation centre”<sup>2</sup> and the Mucenieki open reception centre in Ropaži municipality, outside Riga and conducted interviews with detainees, residents, and staff. The Latvian authorities denied a request to visit the “detained foreigners’ accommodation centre” in Daugavpils,<sup>3</sup> at the border with Belarus, allegedly due to Covid-19 related quarantine measures in place at the time. Subsequently, however, the Latvian authorities stated that quarantine measures in that facility had ended on 28 February 2022.<sup>4</sup> The Latvian authorities did not respond at all to Amnesty International’s requests to visit the land border or Silene border crossing point and inspection post, the Border Police Guard Station in Silene, and the Administration of the State Border Guard in Daugavpils.

The Amnesty International delegation met and exchanged views with then Minister of Interior, Marija Golubeva, on 11 March 2022.<sup>5</sup> On 23 May 2022, the organization submitted a written request for information to Dr Artis Pabriks, Deputy Prime Minister of Latvia and Minister for Defence, and to General Guntis Pujāts, Chief of the State Border Guard of Latvia. Acting State Secretary of the Interior Ministry Jānis Bekmanis sent a written response to this request on 10 June 2022. The response was formulated in consultation with the Border Guard and is reflected, where relevant, in this report.

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<sup>1</sup> Order of the Cabinet of Ministers no. 518 of 10 August 2021 on the declaration of the state of emergency, at: <https://likumi.lv/ta/id/325266-par-arkartejas-situacijas-izsludinasanu>

<sup>2</sup> In Latvian: “Aizturēto ārzemnieku izmitināšanas centrs ‘Mucenieki’”. Latvian authorities are currently seeking to expand the capacity of facilities used to hold asylum-seekers and migrants with the support of EU funding. According to information from the Latvian Ministry of Interior to Amnesty International, these plans include “the adaptation/creation of additional migrant screening facilities in the Ludza Board of the State Border Guard Service”. See: Written response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis to Amnesty International’s request for information, on file with the organization.

<sup>3</sup> In Latvian: “Aizturēto ārzemnieku izmitināšanas centrs ‘Daugavpils’”.

<sup>4</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary to Amnesty International’s request for information, in full above.

<sup>5</sup> Golubeva stepped down as Minister of Interior on 16 May 2022. On 26 May 2022, Latvia’s Parliament voted Kristaps Eklons as her successor. Baltic Times, *Interior Minister Golubeva steps down*, 16 May 2022, [www.baltictimes.com/interior\\_minister\\_golubeva\\_steps\\_down/](https://www.baltictimes.com/interior_minister_golubeva_steps_down/); Baltic News Network, *Kristaps Eklons approved as Latvia’s new Minister of the Interior*, 26 May 2022, <https://bnn-news.com/kristaps-eklons-approved-as-latvias-new-minister-of-the-interior-235002>

On 9 March 2022, the delegation met with the Latvian Ombudsman Juris Jansons and other members of his office. As a follow up, a written request for further information was sent to the Ombudsman's office on 19 May and a written response was received on 22 June.

An interview was conducted with IOM Head of office in Latvia, Ilmārs Mežs, on 9 March 2022.

A meeting was held in Riga on 7 March 2022 with an officer of FRONTEX. On 30 May, a remote meeting was conducted with a representative of FRONTEX's European Centre for Returns Division. Amnesty International did not meet with the "return specialist" deployed in Latvia by the agency. In a written response of 18 July 2022, a FRONTEX press officer stated that "the return specialists deployed by Frontex are in principle employees of the national authorities of the Member States and Frontex does not have authorisation to organise interviews with them."

On 22 July 2022, Amnesty International shared the preliminary findings of its research with Kristaps Eklons, Minister of the Interior of Latvia; General Guntis Pujāts, Chief of the State Border Guard of Latvia; Dr Artis Pabriks, Deputy Prime Minister and Minister for Defence of Latvia; as well as representatives of the IOM. On 29 July 2022, the organization received a written response from Kristaps Eklons, which is reflected in the text of this report where relevant and partly included in an annex.

This report also includes desk research and in-person and remote interviews with individuals and representatives of organizations working with migrants, asylum-seekers, and refugees in Latvia. These groups include the UNHCR Representation for the Nordic and Baltic Countries; and the NGOs "Gribu palīdzēt bēgļiem" ("I want to help refugees") and Latvijas Cilvēktiesību Centrs (Latvian Centre for Human Rights).

Amnesty International would like to thank Ieva Raubiško, social anthropologist and previously senior policy analyst on asylum and migration at the public policy think tank "PROVIDUS" and Dr Aleksandra Jolkina, a Germany-based independent researcher in EU migration and asylum law, whose work on migration issues in Latvia proved invaluable for this report. Thanks as well to Nikita Matyushchenkov, lawyer at the human rights NGO "Respect – Protect – Fulfill", who represents the applicants in the European Court of Human Rights case *H.M.M. and Others v Latvia* (application no. 42165/21), currently pending before the Court, in relation to which interim measures were ordered against Latvia in August 2021.<sup>6</sup>

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<sup>6</sup> *H.M.M. and Others v. Latvia* (no. 42165/21), European Court of Human Rights, indication of interim measures, 25 August 2022.

# 2. ABUSE OF POWER: A ONE-YEAR “EMERGENCY” AT LATVIAN BORDERS

Starting in July-August 2021, thousands of refugees and migrants attempted to enter Poland, Lithuania, and Latvia across the land borders that these EU member states share with Belarus. In a coordinated reaction, the three countries declared the movements the result of a “hybrid attack” by Belarus.<sup>7</sup> The authorities then proceeded to implement measures that disproportionately negatively affected the migrants and refugees at their borders,<sup>8</sup> doing little to protect them from continuing violations by Belarus and in fact compounding such violations by authorizing forced, often violent, returns back towards Belarus and prohibiting people from seeking asylum in the EU.<sup>9</sup>

It was in this context that Latvia introduced a state of emergency (SoE)<sup>10</sup> on 10 August 2021 in the border regions (administrative territories, administratīvajās teritorijās) of Ludza, Augšdaugava, Krāslava and Daugavpils city. The SoE has been renewed repeatedly since 11 August 2021 and is still in force at the time of writing.<sup>11</sup> In addition to increasing the deployment of officers to the border, Latvia also announced in August 2021 the continuation of construction of a Belarus-Latvia border fence, expected to include a barbed-wire fencing system stretching over 134 km. A temporary fence of 37 km had been installed by November 2021.<sup>12</sup>

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<sup>7</sup> The Chancellery of the Prime Minister of Poland, Statement of the Prime Ministers Ingrida Šimonytė (Lithuania), Arturs Krišjānis Kariņš (Latvia), Kaja Kallas (Estonia) and Mateusz Morawiecki (Poland) on the hybrid attack on our borders by Belarus, 23 August 2021, <https://bit.ly/3nWdpL3>.

<sup>8</sup> Since September 2021, Poland adopted a series of measures to address the situation at the border, including introducing and extending a SoE and amending its legislation on asylum. Amnesty International, *Poland: State of emergency risks worsening already dire situation for 32 asylum-seekers at border* (Press release of 2 September 2021). Lithuania similarly declared a SoE on 2 July 2021, later renewed, and reformed the “Law on the Legal Status of Foreigners”. Amnesty International, *Lithuania: Forced out or locked up – Refugees and migrants abused and abandoned*, (Index: EUR 53/5735/2022).

<sup>9</sup> On 11 April 2022, Amnesty International published new evidence of abuses against migrants and refugees between the Poland and Belarus. Amnesty International, *Poland: cruelty not compassion, at Europe's other borders*, (Index: EUR 37/5460/2022)

<sup>10</sup> Law on Emergency Situation and State of Exception (Par ārkārtējo situāciju un izņēmuma stāvokli), 7 March 2013.

<sup>11</sup> On 13 July 2022, the Minister of Interior proposed an amendment to the SoE order, with a view to extending it until 10 November 2022. The proposed amended text of the SoE order continues to cite “the rapid increase in the number of cases of illegal crossing of the state border between the Republic of Latvia and the Republic of Belarus”, despite the lack of public evidence of new attempted crossings since April 2022. Minister of Interior, Amendments to the order of the Cabinet of Ministers of August 10, 2021 no. 518 “On declaring a state of emergency”, Draft order (amendments), Project ID: 22-TA-2155, 13 July 2022, [https://tapportals.mk.gov.lv/legal\\_acts/6297cbe9-3d25-4437-82a8-d38c466719b1](https://tapportals.mk.gov.lv/legal_acts/6297cbe9-3d25-4437-82a8-d38c466719b1)

<sup>12</sup> The plan to build a fencing system at the Belarus-Latvia border was initially agreed in 2017: ENG.LSM.lv, *Latvia to build €10.5m fence on border with Belarus*, 2017, <https://eng.lsm.lv/article/society/society/latvia-to-build-10.5m-fence-on-border-with-belarus.a255741/>. Latvian Border Guard, *The first 37 km of the barbed wire fence on the Latvia-Belarus border will be ready within 1-2 months*, 3 September 2021, [www.rs.gov.lv/lv/jaunums/pirmie-37-km-dzelonstieplu-zoga-uz-latvijas-baltkrievijas-robezas-bus-gatavi-1-2-menesu-laika](http://www.rs.gov.lv/lv/jaunums/pirmie-37-km-dzelonstieplu-zoga-uz-latvijas-baltkrievijas-robezas-bus-gatavi-1-2-menesu-laika); Latvian Border Guard, *Active work is underway on the construction of a temporary fence, the work will be completed in November this year*, 12 October 2021, [www.rs.gov.lv/lv/jaunums/notiek-aktivs-darbs-pie-pagaidu-zoga-izbuves-darbus-pabeigs-si-gada-novembris](http://www.rs.gov.lv/lv/jaunums/notiek-aktivs-darbs-pie-pagaidu-zoga-izbuves-darbus-pabeigs-si-gada-novembris). The EU is not providing financial support to the construction of the fence: LRT.lt, *Baltic PMs insist that EU should fund Lithuania's border wall*, 8 December 2021, [www.lrt.lt/en/news-in-english/19/1559698/baltic-pms-insist-that-eu-should-fund-lithuania-s-border-wall](http://www.lrt.lt/en/news-in-english/19/1559698/baltic-pms-insist-that-eu-should-fund-lithuania-s-border-wall). Plans of future construction works are detailed in: Diversity Development Group and PROVIDUS Center for Public Policy, *National Integration Evaluation Mechanism (NIEM) comparative report on the influx of irregular migrants across the Belarus border*, 30 June 2022, [https://providus.lv/wp-content/uploads/2022/06/NIEM\\_comparative\\_report\\_Lithuania\\_Latvia.pdf](https://providus.lv/wp-content/uploads/2022/06/NIEM_comparative_report_Lithuania_Latvia.pdf). According to the study: the “construction of additional 22.8

The declaration of a SoE has important implications in terms of law-enforcement powers, access to territory, and access to asylum in Latvia. The SoE empowers the Border Guard, assisted by the army and police, to prevent border crossings and also to return those who have crossed irregularly (that is, without further procedure and/or formal authorization).<sup>13</sup> In a letter to Amnesty International of 10 June 2022, Acting State Secretary of the Interior Ministry Jānis Bekmanis reported that between August 2021 and 25 May 2022, “6,676 persons have been prevented from illegal entry at the border between the Republic of Latvia and the Republic of Belarus (2021: 4445 persons, 2022 (data on 25.05.2022) — 2631 persons).”<sup>14</sup>

### **THE FICTION OF “IRREGULAR” ENTRY OF PEOPLE SEEKING SAFETY**

People with international protection needs and people seeking safety should not be considered to have crossed borders “illegally” when fleeing. According to UNHCR “travelling without fulfilling relevant travel and immigration requirements, including for example, visa requirements or registration procedures for legally exiting one country and entering another, is often an unavoidable reality for refugees who seek to invoke the international protection afforded to them under the 1951 Convention” (i.e. the UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951).<sup>15</sup> The characterization of these crossings as “illegal” is inconsistent with the principle of non-penalization of asylum-seekers and refugees and is a function of Latvia criminalizing an act that is lawful under human rights standards, refugee law and EU law.<sup>16</sup>

The 10 June letter from the Acting State Secretary also stated that in the same timeframe, 156 people have been admitted into Latvia on humanitarian grounds, 62 of whom in 2022. The Latvian authorities have not granted any humanitarian admissions between 12 April and 25 May 2022.<sup>17</sup>

The SoE effectively prohibits people from claiming asylum in the border areas concerned and instructs Latvian authorities not to accept applications. The Latvian authorities have regularly carried out pushbacks, during which people were returned summarily to Belarus, without an individual assessment of their circumstances or an opportunity to challenge the return decision. An amendment to the SoE order passed in April 2022, eight months after the SoE’s introduction, finally allowed people to submit asylum applications at “border crossing points and at the Daugavpils detention centre.”<sup>18</sup> The rest of the land border, where most people have attempted to enter Latvia, continues to be an exclusion zone for asylum purposes. According to UNHCR, “the amendments do not resolve the situation of asylum-seekers prevented from entry at the border areas so UNHCR is continuing its advocacy with the Latvian authorities on this point.”<sup>19</sup>

In a written response to Amnesty International on 29 July 2022,<sup>20</sup> Latvian authorities argued that even under the SoE, asylum at the borders was not wholly suspended, as applications were possible at border crossing points (BCP) and at Riga’s airport. The response indicates that at BCPs people also had the opportunity “to point to humanitarian considerations” and receive a visa giving them permission to move beyond the areas under the SoE and to apply for asylum.<sup>21</sup>

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kilometres-long...section of a temporary fence began in April 2022.” The construction of a 137 Km permanent fence is expected to begin in the summer of 2022.

<sup>13</sup> Para 5, Order of the Cabinet of Ministers no. 518 of 10 August 2021, cited above in full.

<sup>14</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary to Amnesty International, on file with the organization.

<sup>15</sup> UN High Commissioner for Refugees (UNHCR), UNHCR observations on the Order of the Cabinet of Ministers of the Republic of Latvia on the Declaration of Emergency Situation (No 518), 13 October 2021, [www.refworld.org/docid/61767bea4.html](http://www.refworld.org/docid/61767bea4.html)

<sup>16</sup> UNHCR, Summary Conclusions on Non-Penalization for Illegal Entry or Presence: Interpreting and Applying Article 31 of the 1951 Refugee Convention, 15 March 2017, Roundtable: [www.refworld.org/docid/5b18f6740.html](http://www.refworld.org/docid/5b18f6740.html). Article 18, right to asylum, of the EU Charter of Fundamental Rights.

<sup>17</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary to Amnesty International, in full above.

<sup>18</sup> Order of the Cabinet of Ministers No. 254, Amendment to the order of the Cabinet of Ministers of 10 August 2021 no. 518 “On declaring a state of emergency”, 6 April 2022, <https://bit.ly/3PqLa2y>.

<sup>19</sup> Written exchanges (emails) with representatives of UNHCR Representation for the Nordic and Baltic Countries of 14 July 2022.

<sup>20</sup> The Latvian authorities’ response is partly included in the annex to the report.

<sup>21</sup> The response reads: “[the SoE order] (in the version in force until 5 April 2022) provided that applications of persons for the granting of refugee or alternative status were not accepted in the structural units of the State Border Guard and other institutions located in the territory where an emergency situation was declared. That provision was not intended to deprive the applicant of the right to make an application for the grant of refugee or alternative status in the territory of the Republic of Latvia as a whole, but temporarily change the range of areas where applications could be submitted... Thus, the Order did not restrict the right of persons to legally enter [Latvia] by using the specified border crossing points where the State Border Guard issues one-time unified visas and visas with limited territorial validity...: road border crossing points “Pāternieki” and “Silene”, railway border crossing point “Indra”, as well as the border crossing point at Riga Airport, which is also the state border crossing points of the Republic of Latvia and the Republic of Belarus for legal entry into the Republic of Latvia”.

The Latvian authorities' assertion about access to asylum contradicts the wording of the April 2022 amendment of the SoE order.<sup>22</sup> Under the SoE, the April 2022 amendment is the only place where it is made explicit that people can submit asylum applications at BCPs. It has also been the understanding of other actors such as the Latvian Ombudsman that, prior to the April 2022 amendment to the SoE order, BCPs were not places where people could submit asylum applications. As the Ombudsman stated on 12 August, "In the situation of Latvia, denying the possibility to submit an asylum application in the entire territory referred to in the order (including upon arrival at a border control point), there are reasonable doubts as to whether persons have real and effective opportunities to apply for asylum."<sup>23</sup>

Furthermore, border crossing points should have been practicable options for asylum purposes not only in law but in practice.<sup>24</sup>

The Latvian authorities reported to the European Parliament's LIBE Committee, during the committee's visit to Latvia in March 2022, that people rejected at the border were directed to BCP and consular offices where they could apply for asylum.<sup>25</sup> Yet, none of the people interviewed by Amnesty International mentioned being given such information after Latvian authorities returned them to Belarus; also, people stated that after being returned, Belarusian authorities would typically apprehend them and return them back to Latvia. In the words of Hassan,<sup>26</sup> a young man from Iraq who spent five months at the border: "When we tried to cross, the Border Guards intercepted us, called the commandos and the commandos would then push us back through a different border point than the one we had crossed through... We were like a football, each side shooting us to the other side". In these conditions, it is hard to imagine people being able to independently and safely move towards BCPs to apply for asylum there.

According to information received from the Latvian authorities on 10 June 2022, "no applications for granting refugee or alternative status were received at border crossing points" since 6 April 2022.<sup>27</sup> To the same effect, according to the mission report of the EU Parliament LIBE committee, of March 2022, at the Silene BCP, humanitarian visa were only granted to Russian, Belarusian and Ukrainian citizens.<sup>28</sup> In their 29 July 2022 response, the Latvian authorities did not provide any figures as to asylum applications received at BCPs before April 2022 or after 10 June 2022, nor about humanitarian visas granted at BCPs after March 2022.

Based on the above, BCPs in Latvia cannot be regarded as practicable and effective avenues to claim asylum for people stranded at the Belarus border since August 2021.

## 2.1 NO JUSTIFICATION FOR INVOKING A STATE OF EMERGENCY

The recent practice of declaring a state of emergency in connection with migration-related issues was inaugurated by Lithuania, Latvia and Poland in 2021. It was an attempt to legitimize derogations from fundamental rights by conceptualizing the facilitation of migration movements by a state as a tactic of so-called "hybrid warfare". In other words, Belarus sought to push migrants and refugees towards the border of neighbouring EU member states, in large part as retaliation for the EU sanctions introduced after widespread human rights violations following the 2020 Belarusian presidential election, the official outcome of which was widely disputed and led to mass peaceful protests.<sup>29</sup> The European Commission has also been driving the

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<sup>22</sup> Order of the Cabinet of Ministers No. 254, in full above: "6. ...the structural units of the State Border Guard and other institutions located in the territory where a state of emergency has been declared do not accept applications from persons for the granting of refugee or alternative status. The aforementioned does not apply to the border crossing points located in the territories mentioned in paragraph 1 of this order"

<sup>23</sup> Latvian Ombudsman, *Regarding emergency situation on the border of Latvia and Belarus*, 12 August 2021, [www.tiesibsargs.lv/en/news/regarding-emergency-situation-on-the-border-of-latvia-and-belarus/](http://www.tiesibsargs.lv/en/news/regarding-emergency-situation-on-the-border-of-latvia-and-belarus/).

<sup>24</sup> As also indicated in the case of *A.A. and Others v. North Macedonia* (no. 55798/16), ECtHR, para. 114-115, cited by Latvian authorities in their response.

<sup>25</sup> In the context of LIBE's meeting with the Ministry of Interior and the State Border Guard including regional Frontex Liaison officer based in Riga. EU Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE), *Mission Report following the LIBE mission Vilnius, Lithuania, and Riga, Latvia, 1 to 3 March 2022*, published on 14 July 2022, p. 4 at: [www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/LIBE/DV/2022/07-13/MissionreportLT-LV\\_EN.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2022/07-13/MissionreportLT-LV_EN.pdf)

<sup>26</sup> Remote interviews of 12, 24 May and 3 July, and various written exchanges.

<sup>27</sup> Written response of 10 June 2022 from Latvia's Acting State Secretary to Amnesty International, in full above.

<sup>28</sup> "In 2021, 43 visas were issued on humanitarian grounds at Silene BCP (39 to Belarus nationals, 2 to Ukrainian nationals and 1 to a Russian national compared to 11 in 2020 (9 to Belarus nationals and 2 to Armenian nationals) and 4 so far in 2022 to Belarus nationals". LIBE Committee, *Mission Report following the LIBE mission Vilnius, Lithuania, and Riga, Latvia*, above in full, page 6.

<sup>29</sup> Amnesty International, *Belarus/EU: New evidence of brutal violence from Belarusian forces against asylum-seekers and migrants facing pushbacks from the EU*, (Press release, 20 December 2021). Amnesty International, *Belarus: No justice in sight for scores of human rights violations survivors one year on from disputed election*, (Public statement, 9 August 2021).

“hybrid threat” narrative, offering a definition of such “instrumentalisation”<sup>30</sup> and even proposing targeted measures to support Poland, Latvia and Lithuania that would allow the countries to derogate from EU asylum law standards.<sup>31</sup> The Commission subsequently extended similar provisions to all EU member states through a proposed Regulation aimed at equipping the EU against future “hybrid threats” that include the “instrumentalisation” of migrants; the Regulation is currently under negotiation in the Council and the European Parliament.<sup>32</sup>

Amnesty International calls on EU negotiators and Member States to reject this Regulation.

As in Poland and Lithuania, Latvia’s decision to invoke and maintain a state of emergency for migration control purposes has no foundation in international or European human rights law.<sup>33</sup> A state of emergency allows a state to restrict certain human rights in extreme circumstances where there is a “threat to the life of the nation.”<sup>34</sup> No such threat exists in Latvia, where the authorities have attempted to exploit such exceptional powers to target certain groups of refugees and migrants.

Derogations from human rights obligations can only occur within a state of emergency that has been officially proclaimed, attributed to a legitimate reason, limited to the extent required by the exigencies of the situation, and is not inconsistent with the state’s other obligations under international law.<sup>35</sup> In addition, they can last no longer than is strictly necessary.<sup>36</sup> The measures introduced by Latvia, both in their theoretical configuration and in their implementation, grossly fail these requirements on a number of levels.

While the SoE was extended most recently in May 2022,<sup>37</sup> in April the Border Guard described the situation at the border as “stable and peaceful.”<sup>38</sup> The May 2022 annotation to the extension even acknowledged a decrease of irregular crossings from Belarus.<sup>39</sup>

Latvia’s SoE allows law enforcement authorities to summarily return people crossing or attempting to cross the border “irregularly” from Belarus. Irrespective of Latvia’s attempt to legalize this practice, such returns are in violation of the prohibition on collective expulsions, to which Latvia is bound under the ECHR,<sup>40</sup> and are irreconcilable with the obligation of *non-refoulement*, which is non-derogable even in time of a public emergency.<sup>41</sup>

Under the SoE order, Latvian authorities can also take “the necessary measures” to return or prevent the entry of people attempting to cross “irregularly”, including using “physical force and special means” in a “situation of extreme necessity.”<sup>42</sup> On 29 July 2022, Latvian authorities responded to Amnesty International’s

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<sup>30</sup> European Commission, Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions responding to State-sponsored instrumentalisation of migrants at the EU external border, 23 November 2021. See also the definition of instrumentalisation in the proposed revision of the Schengen Border Code: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, COM/2021/891 final.

<sup>31</sup> Amnesty International, *EU: ‘Exceptional measures’ normalize dehumanization of asylum seekers*, (Press Release, 1 December 2021). European Commission, Proposal for a Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland COM/2021/752, 1 December 2021, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:752:FIN>

<sup>32</sup> EU Commission, Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum, COM(2021) 890 final, 14 December 2021.

<sup>33</sup> Amnesty International, *Poland: Digital investigation proves Poland violated refugees’ rights*, (Press Release, 30 September 2021). Amnesty International, *Lithuania: Forced out or locked up – Refugees and migrants abused and abandoned*, above in full.

<sup>34</sup> Article 4, UN International Covenant on Civil and Political Rights, Article 4; Article 15, European Convention on Human Rights.

<sup>35</sup> Article 4, UN International Covenant on Civil and Political Rights, Article 4, Para. 4.

<sup>36</sup> Article 4, UN International Covenant on Civil and Political Rights, Article 4.

<sup>37</sup> Since its introduction, the SoE was extended on three occasions at the time of writing: in October 2021, February, and May 2022. Order of the Cabinet of Ministers no. 324, 11 May 2022, <https://likumi.lv/ta/id/332282-grozijums-ministru-kabineta-2021-gada-10-augusta-rikojuma-nr-518-par-arkartejas-situacijas-izsludinasanu>. Order of the Cabinet of Ministers no. 45, 1 February 2022, <https://likumi.lv/ta/id/329608-grozijums-ministru-kabineta-2021-gada-10-augusta-rikojuma-nr-518-par-arkartejas-situacijas-izsludinasanu->; Order of the Cabinet of Ministers no. 749, 21 October 2021, <https://likumi.lv/ta/id/327054-grozijumi-ministru-kabineta-2021-gada-10-augusta-rikojuma-nr-518-par-arkartejas-situacijas-izsludinasanu->.

<sup>38</sup> Latvia Border Guard, *In general, the situation on the border between Latvia and Belarus is stable and peaceful* [Unofficial translation], 12 April 2022, [www.rs.gov.lv/lv/jaunums/kopuma-situacija-uz-latvijas-baltkrievijas-valsts-robezas-ir-stabila-un-mieriga](http://www.rs.gov.lv/lv/jaunums/kopuma-situacija-uz-latvijas-baltkrievijas-valsts-robezas-ir-stabila-un-mieriga)

<sup>39</sup> The annotation to the May 2022 extension of the SoE order indicates as “an important circumstance” the outbreak of the war in Ukraine and Belarus’ role in it. Yet, and despite Latvia sharing borders with both Belarus and Russia, the geographic scope of the SoE is unchanged. Another factor considered are the crossings recorded at the Lithuanian and Polish border with Belarus, as a result of which the countries extended their SoE until 29 and 30 June 2022. Annotation (ex-ante), Initial impact (ex-ante) assessment report (annotation) of the legal act project “Amendment to the Order of the Cabinet of Ministers of August 10, 2021 No. 518 “On Proclamation of a State of Emergency”, at: <https://tapportals.mk.gov.lv/annotation/f45fe93e-b631-44c2-bf44-f79b9aa9b4d6>

<sup>40</sup> Article 4 of Protocol no. 4 to the European Convention on Human Rights (ECHR).

<sup>41</sup> UNHCR, Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, p. 10, 26 January 2007, <https://www.unhcr.org/4d9486929.pdf>

<sup>42</sup> “The State Border Guard, the National Armed Forces and the State Police, having established that a person does not comply with the order referred to in Paragraph 4 of this Order, have the right to use physical force and special means to ensure its execution in a situation of extreme necessity” [Unofficial translation]. Para 5, Order of the Cabinet of Ministers no. 518 of 10 August 2021. The Latvian Ombudsman warned the Parliament that the “use of force must be proportionate and as the last resort to prevent a threat to national or public security”.

preliminary research findings stating that there have been no cases where physical force or special means have been used by law enforcement authorities, and that no complaints to this effect had been filed to the State Border Guard by people at the border.<sup>43</sup> As this report will show, these powers were regularly abused: Latvian authorities have frequently committed acts of violence, in some cases amounting to torture, and other abuses in the context of apprehensions and returns, in violation of the absolute prohibition of torture and other forms of ill-treatment.

The SoE also effectively suspends the right to seek asylum in the territories concerned with respect to those trying to enter “irregularly”; such suspension is in violation of Article 18 of the EU Charter of Fundamental Rights.

On 30 June 2022, the Court of Justice of the EU delivered a ruling in a case concerning the Lithuanian asylum legislation on migration which limited people’s ability to make asylum applications in the context of the Lithuanian SoE and provided for the automatic detention of asylum seekers. The CJEU interpreted EU asylum law as opposing “rules of a Member State according to which...in the event of the proclamation of an emergency situation due to a massive influx of foreigners, third-country nationals who are staying illegally are effectively deprived of the possibility of having access, in the territory of that Member State, to the procedure for examining an application for international protection.”<sup>44</sup> The CJEU noted that the procedures introduced by Lithuania under the state of emergency were incompatible with EU law,<sup>45</sup> and that ordinary tools were available under EU law which “allow the Member States to exercise, at the Union’s external borders, their responsibilities for maintaining public order and safeguarding internal security, without it being necessary to resort to a derogation under of Article 72 TFEU.”<sup>46</sup> The Court’s analysis and conclusions apply directly to the situation in Latvia, where the SoE order has effectively prevented the majority of people entering or attempting to enter the country “irregularly” from the Belarus border from accessing the asylum procedure.

## LACK OF EFFECTIVE OVERSIGHT

The SoE severely limited the ability of NGOs and other actors to exercise independent oversight of the situation at the border. The Border Guards suspended the issuance of special passes to access the border area.<sup>47</sup> Insofar as media coverage is concerned, a comparative report of June 2022 on Lithuania and Latvia noted that with respect to Latvia, “while at least 30 journalists had visited the border from the middle of July till 10 August 2021...from 11 August, no media were allowed to the border and were instead referred to the centres for asylum seekers and detained foreigners.”<sup>48</sup> Subsequently, the Latvian Border Guard published media guidelines that included several restrictions on access to the border area.<sup>49</sup>

Members of the NGO “Gribu palīdzēt bēgļiem” (“I want to help refugees”, or GPB) were among the first actors to denounce the situation of people stranded at the border and to advocate for their access to asylum.<sup>50</sup> The organization never visited the border and was only able to arrange the provision of humanitarian aid through the mediation of the Border Guard. According to a representative of GPB, “In August 2021, for less than a week, [the organization was] in contact with 41 people at the border, including

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Ombudsman of the Republic of Latvia, *Regarding emergency situation on the border of Latvia and Belarus*, 12 August 2021, [www.tiesibsargs.lv/news/en/regarding-emergency-situation-on-the-border-of-latvia-and-belarus](http://www.tiesibsargs.lv/news/en/regarding-emergency-situation-on-the-border-of-latvia-and-belarus)

<sup>43</sup> Written response to Amnesty International’s preliminary research findings, received on 29 July 2022, by Latvia’s Minister of the Interior, Kristaps Eklons: “To date, no case has been established when the representatives of the State Border Guard, the National Armed Forces or the State Police have used physical force or special means in a situation of extreme need and no complaints have been received in the State Border Guard regarding the use of physical force and special means from persons who have tried to cross the State border of the Republic of Latvia and the Republic of Belarus illegally.” Letter on file with Amnesty International. An extract of the response is also available in the Annex to this report.

<sup>44</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, (C-72/22 PPU), 30 June 2022, Court of Justice of the European Union, Judgment of the Court (First Chamber), Paragraphs 56 (unofficial translation).

<sup>45</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, (C-72/22 PPU), para. 64-65.

<sup>46</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, (C-72/22 PPU), cited above in full, para. 74 (unofficial translation).

<sup>47</sup> Baltic News Network, *For the duration of the emergency situation, special passes will not be issued at the border between Latvia and Belarus*, 11 August 2021, <https://bnn.lv/uz-arkartejas-situacijas-laiku-latvijas-baltkrievijas-pierobeza-neizsniags-specialas-caurlaides-387934>

<sup>48</sup> NIEM comparative report, in full above, p. 33, citing: TV2, *Pujāts: Robežas apsargāšana ir valsts noslēpums, un medijiem nav tiesību to publiskot. 900 sekundes*, 31 August 2021, <https://zinas.tv3.lv/latvija/pujats-robezas-apsargasana-ir-valstsnoslepums-un-medijiem-nav-tiesibu-to-publiskot>

<sup>49</sup> “The guidelines stipulated that media visits should be organised by the Border Guard at a specific place and time ‘so as not to jeopardise Latvia’s security interests, i.e. the return of offenders to the country from which they have entered or otherwise interfere with the performance of official duties’. ...media presence was not allowed during the implementation of national defence measures, the return of border-crossers, and the border surveillance (patrols along the state border). Media presence in the 12-metres-wide border strip was prohibited based on the Law on State Border. Journalists were allowed to come no closer than 15–20 metres to the border under strict supervision by border guards and in compliance with the instructions from the higher Border Guard officials”. NIEM comparative report, in full above, p. 34. See also: Latvia Border Guard, *Important information for journalists: guidelines for media visits near the LR-BLR state border*, 13 September 2021, [www.rs.gov.lv/lv/jaunums/svariga-informacija-zurnalistiem-vadlinijas-mediju-vizitem-lr-blr-valsts-robezas-tuvuma](http://www.rs.gov.lv/lv/jaunums/svariga-informacija-zurnalistiem-vadlinijas-mediju-vizitem-lr-blr-valsts-robezas-tuvuma)

<sup>50</sup> “Gribu palīdzēt bēgļiem” (“I want to help refugees”), “I want to help refugees” position on the current situation on the EU’s external border with Belarus (unofficial translation), 10 November 2021, <https://bit.ly/3Pme4kz>.

23 children. We provided them humanitarian aid through the border guards, hot food and basic items, organized through donations via civil society organizations. These people disappeared the evening before UNHCR visited. We lost contact with them on the evening of 23 August.”<sup>51</sup> It has been separately confirmed that “The daily provision of humanitarian aid by NGO coalition, however, lasted only for four days, until 24 August 2021, when the Border Guard informed [GPB] that neither food nor other items would be needed at the border the next day. NGOs had initially provided humanitarian aid to 94 people, including 30 children, and – after 11 persons (three families with children) were admitted into Latvia on humanitarian grounds on 20 Aug – to 83 people, including 27 children. From 24 August, these people disappeared from the border areas and were not reachable on their mobile phones by their relatives.”<sup>52</sup>

The representative of GPB remarked: “There is a lack of transparency around what happens in areas under the [SoE]. Even if journalists or observers are granted access, they do not see migrants and refugees at the border. They only see a forest covered in snow.”<sup>53</sup>

Among independent observers, only UNHCR and the Latvian Ombudsman have conducted visits to the border area.<sup>54</sup> In Latvia, UNHCR has no regular presence in the border area or reception facilities and only conducts periodic monitoring visits, relying on the agency’s agreement with the authorities. “Due to the COVID-19 restrictions and national security concerns, UNHCR and our NGO partner were not able to visit the border with Belarus since August 2021. In June 2022, UNHCR agreed with the State Border Guard to resume the process of border monitoring visits along the EU external border.”<sup>55</sup>

On 2 September, representatives of the Latvian Ombudsman’s office visited the border, including the Border Guard Administration in Daugavpils and other “structural units, border guard divisions and border control points”.<sup>56</sup> Shortly after the introduction of the SoE, on 12 and 18 August, the Ombudsman voiced concerns regarding the blanket ban on asylum applications in the areas, stressing the importance, even in time of emergency, of an individual assessment of each person’s situation.<sup>57</sup> However, since October 2021, and despite the continuing SoE, the Ombudsman’s engagement on the issue appears to have waned.<sup>58</sup> In its 2021 annual report, the Ombudsman’s office described the situation at the border as a “hybrid attack carried out by Belarus”.<sup>59</sup> The Ombudsman also visited the border on 26 January 2022 and has yet to publish any observations or findings from that trip. As a key human rights interlocutor in Latvia, and the sole actor with unhindered access, the Ombudsman’s continued attention to the border areas is essential.<sup>60</sup>

## MANIPULATED DATA AND LACK OF SCRUTINY

The Latvian authorities have maintained that between August 2021 and 25 May 2022, “6,676 persons have been prevented from illegal entry at the border.”<sup>61</sup> Data published by the Latvian border guards, however,

<sup>51</sup> Remote interview with representatives of “Gribu palīdzēt bēgļiem”, GPB, (“I want to help refugees”), on 17 February 2022.

<sup>52</sup> Diversity Development Group and PROVIDUS, NIEM comparative report, in full above, p. 25-26.

<sup>53</sup> Remote interview with a representative of “Gribu palīdzēt bēgļiem”, GPB, (“I want to help refugees”), on 17 February 2022.

<sup>54</sup> Latvia Border Guard, Experts from the Office of the UN High Commissioner for Refugees (UNHCR) will visit the Latvian-Belarusian border, 23 August 2021, [www.rs.gov.lv/lv/jaunums/ano-augsta-komisara-beglu-jautajumos-biroja-unhcr-eksperti-ieradisies-vizite-uz-latvijas-baltkrievijas-robezu](http://www.rs.gov.lv/lv/jaunums/ano-augsta-komisara-beglu-jautajumos-biroja-unhcr-eksperti-ieradisies-vizite-uz-latvijas-baltkrievijas-robezu). Latvian Border Guard, The Ombudsman visits the Latvian-Belarusian border”, 28 January 2022, [www.iem.gov.lv/lv/jaunums/tiesibsargs-apsekle-latvijas-baltkrievijas-robezu](http://www.iem.gov.lv/lv/jaunums/tiesibsargs-apsekle-latvijas-baltkrievijas-robezu)

<sup>55</sup> Written exchanges (emails) with representatives of UNHCR Representation for the Nordic and Baltic Countries of 14 July.

<sup>56</sup> Ombudsman of the Republic of Latvia, Representatives of the Ombudsman’s Office visit the Latvian-Belarusian state border, 6 September 2021, [www.tiesibsargs.lv/news/en/representatives-of-the-ombudsman-s-office-visit-the-latvian-belorussian-state-border](http://www.tiesibsargs.lv/news/en/representatives-of-the-ombudsman-s-office-visit-the-latvian-belorussian-state-border)

<sup>57</sup> Ombudsman of the Republic of Latvia, *Regarding emergency situation on the border of Latvia and Belarus*, 12 August 2021.

[www.tiesibsargs.lv/news/en/regarding-emergency-situation-on-the-border-of-latvia-and-belarus](http://www.tiesibsargs.lv/news/en/regarding-emergency-situation-on-the-border-of-latvia-and-belarus); *Regarding information on the media about situation on Latvian-Belarusian border*, 18 August 2021, [www.tiesibsargs.lv/news/en/regarding-information-on-the-media-about-situation-on-latvian-belorussian-border](http://www.tiesibsargs.lv/news/en/regarding-information-on-the-media-about-situation-on-latvian-belorussian-border); *August 2021 Monthly News Summary*, 1 September 2021, [www.tiesibsargs.lv/news/en/august-2021-monthly-news-summary](http://www.tiesibsargs.lv/news/en/august-2021-monthly-news-summary)

<sup>58</sup> Since October the website of the Ombudsman of Latvia does not report any information on the situation at the Latvia-Belarus border until the publication of the 2021 Annual Report, which summarizes actions taken by the Ombudsman in this respect. However, in a written response to Amnesty International the Ombudsman mentioned that it issued a letter to the Minister of Interior on 16 November 2021 regarding access to asylum for people admitted into Latvia on humanitarian grounds, in Latvian at: [www.tiesibsargs.lv/uploads/content/par\\_patveruma\\_lietu\\_izskatisanu\\_arkartejas\\_situacijas\\_laika\\_2\\_1641905236.pdf](http://www.tiesibsargs.lv/uploads/content/par_patveruma_lietu_izskatisanu_arkartejas_situacijas_laika_2_1641905236.pdf). Ombudsman of the Republic of Latvia, Written response of 22 June 2022, on file with the organization.

<sup>59</sup> Ombudsman of the Republic of Latvia, Publication of the Ombudsman’s Annual Report 2021, 10 May 2022, [www.tiesibsargs.lv/news/en/publication-of-the-ombudsman-s-annual-report-2021](http://www.tiesibsargs.lv/news/en/publication-of-the-ombudsman-s-annual-report-2021)

<sup>60</sup> Latvia Border Guard, *The Ombudsman visits the Latvian-Belarusian border*, 27 January 2022, [www.rs.gov.lv/lv/galerija/tiesibsargs-apsekle-latvijas-baltkrievijas-robezu#6296](http://www.rs.gov.lv/lv/galerija/tiesibsargs-apsekle-latvijas-baltkrievijas-robezu#6296). Asked by Amnesty International about the reasons for this visit and the relevant findings, the Ombudsman noted that the visit was intended “to assess whether any practical changes have occurred to the situation as well as discuss...access to asylum to people who are admitted in the territory of Latvia on humanitarian grounds and detained in Daugavpils, challenges that the weather conditions may cause, admitting people in the territory of Latvia on humanitarian grounds etc.)”, and noted that such visits also serve as an occasion “to raise awareness and provide the human-rights perspective of everyday work for border guards. See: Ombudsman of Latvia, Written response of 22 June 2022, on file with the organization.

<sup>61</sup> Since April 2022, the website of the Latvian State Border Guard has stopped updating the data regarding “irregular border crossings” at the Belarus borders (nelikumīgu valsts robežas šķērsošanu). The latest information available to Amnesty International regarding the situation at the border are the data shared by Latvia Acting State Secretary on 10 June 2022, dating back to 25 May 2022, reflected in this report.



does not specify any personal details of individuals apprehended. In fact, the Latvian authorities have acknowledged that many of the same people have attempted to cross the border multiple times, but also claim that there is no data on repeat crossings.<sup>62</sup> Research published in March and May 2022 estimated that the number of people at the borders between Belarus and Latvia since August 2021 was “as low as 250.”<sup>63</sup>

Amnesty International’s research is consistent with these findings. While some people reported that Latvian authorities apprehended and detained them, at least seven people travelling in bigger groups testified that they had been subjected to repeated forced returns between Latvia and Belarus, in some cases even multiple times a day and over a period of months. All of those who were victims of repeated returns had attempted to cross into Latvia or were stranded at the border after the implementation of the SoE.

In response to Amnesty International’s query regarding how Latvian authorities track and account for potential multiple crossings by the same individuals, the Acting Secretary of State of the Interior Ministry stated that “the State Border Guard does not carry out identification and registration of persons prevented from illegal border crossing, so there is no data on how many persons were repeatedly prevented between 10 August 2021 and 12 April 2022.”<sup>64</sup> As reflected in the testimonies in this report, however, migrants and refugees consistently claimed that Latvian authorities registered their personal details while they were stranded in the forest and held them under their control for varying periods of time.

Latvia’s stance that Border Guards do not identify individuals is irreconcilable with the very concept of “humanitarian admissions”, introduced and piloted by the Latvian authorities, whereby Border Guards exceptionally allow people with certain needs to cross the border. Border guards retain sole discretion over such admissions and in the course of determining which people to admit they would need to conduct some form of individual assessment.<sup>65</sup> In a meeting with Amnesty International, the Ombudsman of Latvia acknowledged that Latvian authorities were keeping “two registers” concerning people at the border, including one for healthcare needs.<sup>66</sup>

Mohamed, an Iraqi man, travelled with his family and arrived in Latvia on 13 August 2021. They were in a larger group, which included children, and were stranded at the border in August. Mohamed provided information that confirms that Latvian authorities took people’s details, ostensibly in order to provide them humanitarian assistance. After his group had already been pushed back to Belarus, Mohamed and others were stranded at the border. He recalled: “After two days, they [Latvian officer] came to us and asked if we had passports, they will get us food. They didn’t take a photo [of the passport], but they asked to write down the name as written in the passport. They also asked to write our nationality. They told us it was for food and warm clothes. They wrote down our name, but it took three days to bring us food. For those three days we were in the border line. For four days, around 3 pm – they brought food, clothes, powder milk, and hot water. The border guard would bring these items. Maybe two guards every night were watching and on the Belarus side too.” Mohamed recalled that at this point journalists and a television crew were present. Based on Mohamed’s timeline, the above situation happened after 17 August and his group was at the border for seven days, apparently supervised by both Latvian and Belarusian officers. Mohamed provided Amnesty International with videos and photos of his time spent stranded at the border.<sup>67</sup>

Around the same time, on 18 August 2021, the German TV channel DW documented a group of refugees and migrants, including children, stuck at the Latvian-Belarusian border.<sup>68</sup>

In a 29 July 2022 letter to Amnesty International, the Latvian authorities contradicted their previous positions, stating that people who cross into Latvia from Belarus “illegally” under the SoE are provided an individual assessment of their situation, “taking into account the principles of non-refoulement and other human rights

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<sup>62</sup> A documentary by the German channel ARTE of February 2022 shows a representative of the Latvian border guards in Daugavpils confirming that people apprehended are “...mostly the same” (relevant sentence, transcribed in the original French version is “Oui pour la plupart ce sont les mêmes. Nous constatons que certains sont aussi amenés depuis la Pologne et la Lituanie. Il y a différent cas de figures”), ARTE, *Latvia: The silence around the refugee crisis*, 7 February 2022, [www.arte.tv/de/videos/107765-000-A/lettland-das-schweigen-um-die-fluechtlingskrise/](http://www.arte.tv/de/videos/107765-000-A/lettland-das-schweigen-um-die-fluechtlingskrise/).

<sup>63</sup> Aleksandra Jolkina, *Trapped in a Lawless Zone: Humanitarian crisis at the Latvia-Belarus border*, Preliminary findings, 2022, [www.latvia-belarus-border.com](http://www.latvia-belarus-border.com) and <https://bit.ly/3M9NpgR>. Aleksandra Jolkina, *Trapped in a Lawless Zone - Forgotten Refugees at the Latvia-Belarus Border*, 2 May 2022, <https://verfassungsblog.de/trapped-in-a-lawless-zone/>

<sup>64</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis to Amnesty International, cited above in full.

<sup>65</sup> This is implied by Latvia’s Acting State Secretary’s letter which states that “the assessment of ‘humanitarian grounds’ regarding the authorization of a person to cross the border between the Republic of Latvia and...Belarus shall be carried out only by the State Border Guard”. Written response of 10 June 2022 from Latvia’s Acting State Secretary, cited above in full.

<sup>66</sup> Meeting in Riga with representatives of the Ombudsman of Latvia, 9 March 2022.

<sup>67</sup> Amnesty International interviewed Mohamed remotely on 23, 26 and 28 May and had multiple written exchanges with him.

<sup>68</sup> DW News - twitter, *Stuck between Latvian guards on the one side and Belarusian guards on the other, these Kurdish families from Iraq have been stranded*, August 2021, <https://twitter.com/dwnews/status/1427884214687391744>; TV3, *Biedrība “Gribu palīdzēt bēgļiem”:* *Patlaban uz Baltkrievijas-Latvijas robežas varētu būt iestrēguši 80 cilvēki. 900 sekundes*, 24 August 2021, <https://zinas.tv3.lv/latvija/sabiedriba/biedriba-gribu-palidzet-begliem-ptlaban-uzbaltkrievijas-latvijas-robezas-varetu-but-iestregusi-80-cilveki/>

norms binding on the Republic of Latvia, as interpreted by international institutions”.<sup>69</sup> This statement is inconsistent with the previous stance expressed by the Latvian authorities themselves on 10 June 2022, whereby they claimed that “the State Border Guard does not carry out identification and registration of persons prevented from illegal border crossing”,<sup>70</sup> and is also contradicted by testimonies in this report and other independent research that Latvian authorities have summarily, repeatedly returned people without any consideration of their individual circumstances. The only individual assessment that the Latvian authorities have conceded is that done in the context of “humanitarian admissions” of individuals found to be in “severe moral distress or severe physical pain”, which are not in any case based on an individual’s international protection needs.<sup>71</sup>

While this report includes details indicating that Latvian authorities have conducted some form of identification and registration of refugees and migrants at the border, it is clear from the testimonies that this was done with the intent of returning people, rather than with a view to assessing their international protection needs or protecting them from *refoulement*.

### **DAILY UNLAWFUL FORCED RETURNS (“PUSHBACKS”)**

**“We were pushed back 20-25 times within 2 months. During this time, the commandos were beating us a lot with electric shocks, and it is something you cannot imagine.”**

Mohamed, an Iraqi man, travelling with his family who arrived in Latvia on 13 August 2021 and was stranded at the border for around two months.

**“I was pushed back and forth more than 150 times. There were days when you were pushed back eight times each day.”**

Zaki, a man from Iraq who was stranded at the border for around three months since December 2021.

Under the SoE, the Latvian border guards, in cooperation with unidentified officers often described as “commandos”, the army and the police,<sup>72</sup> repeatedly subjected people crossing or attempting to cross into Latvia “irregularly” to summary and therefore unlawful, forced returns back toward Belarus. Belarusian authorities would then similarly summarily force people back to Latvia. Individuals consistently reported that Latvian authorities would return them to Belarus repeatedly, in some cases multiple times a day.

People reported that Latvian border guards would typically apprehend them and hand them over to unidentified officers in black gear, with covered faces, generally described as “commandos”. From that point, in some cases commandos would directly return them to Belarus, sometimes first separating them into different groups, and then driving them to a different section of the border than the one they had crossed from. Sometimes, single men were separated from their larger family group, and men in general were separated from women and children.

In at least four other cases people who entered prior to the SoE appeared to be directly transferred into detention or reception centres after being apprehended at the border.

In several cases involving individuals who entered Latvia since 10 August 2021, people reported spending prolonged periods of time stranded at the border in-between pushbacks. In some cases, they faced dire living conditions, freezing temperatures and other dangers. From the forest, people were sometimes transferred to detention facilities in Latvia.

**“We used to sleep in the forest on the snow. We used to light fire to get warm, there were wolves, bears but because we had fire and used to make groups and shifts, so when wolves or bears come close they are afraid. That is how we survived from it, but they [Latvian authorities] did not provide us with special clothes for the weather.”**

Adil, a man from Iraq, who arrived in Latvia around August 2021 and spent several months in the forest.<sup>73</sup>

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<sup>69</sup> The Latvian authorities’ response is partly enclosed the annex to this report.

<sup>70</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary, cited above in full.

<sup>71</sup> Based on the description of admissions on “humanitarian grounds” in the written response of 10 June 2022 from Latvia’s Acting State Secretary.

<sup>72</sup> In some instances, refugees and migrants interviewed also described the presence of the police. Adil, a man from Iraq who arrived in Latvia around August 2021, recalled the Border Guard calling the police on scene, “The Border guard called the police. The police came in a police car with 4 policemen with blue trousers and white shirt. The uniforms had police written on it. Even the car had police written on it. They came took our passports, took pictures of our passport”. Remote interviews of 23, 26 and 28 May and multiple written exchanges.

<sup>73</sup> Remote interviews of 23, 26 and 28 May and multiple written exchanges.

In some cases, Latvian authorities conducted such forced returns by use of severe physical violence, including torture and other ill-treatment. The authorities also arbitrarily detained people in tents in the forests, a practice which in some cases, may have led to enforced disappearance. Groups of migrants and refugees subjected to these violations often included families with small children.

Researcher Aleksandra Jolkina published evidence of abuses consistent with those described above in March 2022.<sup>74</sup> Also in March, however, the Latvian authorities informed the LIBE Committee that the authorities “conducted several investigations, and could find no evidence of violent pushback.”<sup>75</sup>

In a March 2022 meeting with Amnesty International, the Latvian Ombudsman stated that claims of a “no-man’s land between the two borders, where people are neither here nor there and are pushed back” were “completely false.”<sup>76</sup>

In what appears an attempt to discredit NGOs’ concerns, the Minister for Foreign Affairs Edgars Rinkēvičs “claimed in a television interview in January 2022 that human rights organisations were interested neither in Latvia’s security nor defence, and expressed hope that the statements of human rights organisations ‘were not written in Minsk or Moscow’.”<sup>77</sup> Again in March 2022, the head of the Border Guard General Guntis Pujāts responded to allegations of violence against people at the border raised by Ieva Raubiško, former researcher from the think tank “PROVIDUS”, stating that “a hybrid attack also consists of the dissemination of disinformation, so he does not rule out the possibility that the relevant information is part of a hybrid attack.”<sup>78</sup>

In a written response to Amnesty International of 29 July 2022, the Latvian authorities stated that the Internal Security Office/Bureau (Iekšējās drošības birojs or IDB), an entity established under the Ministry of Interior,<sup>79</sup> had carried out a “departmental check”<sup>80</sup> following an application of 30 August 2021 concerning “alleged violence by State Border Guard officials against illegal border crossings [assumed to mean “crossers”] from Iraq”. As part of the investigation, the IDB evaluated various materials, including video and audio materials, but did not confirm the allegations and “refused to initiate proceedings” in November 2021.<sup>81</sup> The Latvian authorities confirmed that in May 2022 the IDB opened a new investigation into the actions of the police and border guard following the report of Aleksandra Jolkina on the situation of migrants and refugees at the Latvia-Belarus border.<sup>82</sup> The investigation remained pending at the time of writing.

### **ADMITTED ON “HUMANITARIAN GROUNDS”, THEN DETAINED**

According to Latvian authorities, as of 25 May 2022, 156 people who crossed the border irregularly from Belarus were admitted into Latvia on humanitarian grounds.<sup>83</sup> Such admissions appear to be based on an amendment of 1 September 2021 to the SoE, which permitted the Border Guard to provide “food and basic necessities” to people who have crossed “illegally”, as well as emergency medical care and hospitalisation, provided “upon the request of the State Border Guard”.<sup>84</sup> This amendment, ostensibly inspired by

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<sup>74</sup> Aleksandra Jolkina, *Trapped in a Lawless Zone*, preliminary findings, cited above in full.

<sup>75</sup> LIBE Committee, *Mission Report* following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 4.

<sup>76</sup> Meeting in Riga with representatives of the Ombudsman of Latvia, 9 March 2022.

<sup>77</sup> Diversity Development Group and PROVIDUS, NIEM comparative report, in full above, p. 33, citing: LTV, “«Šodienas jautājums» - kādam scenārijam gatavoties Krievijas-Ukrainas saspīlējumā? Šodienas jautājums” 17 January 2022, <https://lv.lsm.lv/raksts/17.01.2022-sodienas-jautajums-kadamscenarijam-gatavoties-krievijas-ukrainas-saspilejuma-ar-surdotulkojumu.id250004>. The statements made reference to a joint letter from civil society organizations in Latvia, Poland, Lithuania to the EU commission of 11 October 2021, available at: [https://gribupalidzetbeegliem.files.wordpress.com/2021/11/jointletterlatvia\\_11.10.2021.pdf](https://gribupalidzetbeegliem.files.wordpress.com/2021/11/jointletterlatvia_11.10.2021.pdf)

<sup>78</sup> NRA.lv, Pujāts: If the state of emergency had not been declared, Belarus would have tried to “push” more than 10,000 people into Latvia, 16 March [unofficial translation], 2022, <https://nra.lv/latvija/375490-pujats-ja-nebutu-izsludinata-arkarteja-situacija-balktrievija-censtos-latvija-iestumt-vairak-neka-10-000-cilveku.htm>

<sup>79</sup> The IDB is competent for the investigation of criminal actions by law enforcement bodies, including the police and the Border Guard. For IDB’s competences and structure see: <https://www.idb.gov.lv/lv/kompetence>. The 2021 Annual Review of the IDB’s operations, published on 1<sup>st</sup> June 2022, mentions that “In 2021, the initiation of criminal prosecution was proposed against 99 persons, including: “8 for employees of the State Border Guard”, at: [www.idb.gov.lv/lv/media/563/download](http://www.idb.gov.lv/lv/media/563/download)

<sup>80</sup> “By a departmental examination within the meaning of the criminal procedure law section 373 shall be meant an examination performed by the state authority and officials thereof in respect of possible violation of the law using powers, which are not criminal procedural powers, specified in the law governing the operation of such authority”, written response to Amnesty International’s preliminary research findings, of 29 July 2022, from Latvia’s Minister of the Interior, Kristaps Eklons, of file with the organization.

<sup>81</sup> Written response to Amnesty International’s preliminary research findings, of 29 July 2022, from Latvia’s Minister of the Interior, Kristaps Eklons.

<sup>82</sup> Written response to Amnesty International’s preliminary research findings, of 29 July 2022, from Latvia’s Minister of the Interior, Kristaps Eklons, on file with the organization. The investigation is also covered in: Diversity Development Group and PROVIDUS, NIEM comparative report, in full above, p. 26, footnote no. 10. And LSM.lv, *The Office of Homeland Security is investigating reports of violence against Iraqis on the border with Belarus*, 27 June 2022, [www.lsm.lv/raksts/zinas/latvija/ieksejas-drosibas-birojs-parbauda-zinas-par-vardarbibu-pret-irakiesiem-uz-robezas-ar-balktrieviju.a462663/](http://www.lsm.lv/raksts/zinas/latvija/ieksejas-drosibas-birojs-parbauda-zinas-par-vardarbibu-pret-irakiesiem-uz-robezas-ar-balktrieviju.a462663/). The LSM.lv report notes: “the deputy head of the Daugavpils administration of the State Border Guard, Juris Kusiņš, denied...that violence was used against illegal border crossers and emphasized that the services followed the law.” (Unofficial translation).

<sup>83</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis, on file with the organization.

<sup>84</sup> Order of the Cabinet of Ministers no. 604, 1 September 2021 (Prot. No. 58 § 36), para 1.1 and 1.2.

humanitarian reasons, lacks specificity and is prone to arbitrary or discriminatory application.<sup>85</sup> Decisions to admit people on humanitarian grounds do not appear to be subjected to internal or independent scrutiny.

As confirmed by the Acting State Secretary of the Interior Ministry, the term “humanitarian grounds” is not fully elaborated in Latvian law and its interpretation is left to the sole discretion of the Border Guard: “‘Humanitarian grounds’ are applicable in exceptional cases, i.e. special circumstances linked to a person’s individual severe moral distress or severe physical pain directly to the person himself... These can be both physical difficulties... and the difficulties of persons dependent on that person... If necessary, for the examination of the state of health of persons, brigades of the Emergency Medical Service are called, but the assessment of ‘humanitarian grounds’ regarding the authorization of a person to cross the border between the Republic of Latvia and the Republic of Belarus shall be carried out only by the State Border Guard, without the involvement of any third party, non-governmental organizations or institutions.”<sup>86</sup>

Representatives of the NGO “I want to help refugees” have told Amnesty International that they were “concerned about the lack of transparency around which criteria are used to allow the ‘humanitarian admission’ of migrants stranded at the border.”<sup>87</sup>

Humanitarian admission does not guarantee an individual’s access to asylum or long-term stay in Latvia. People who have been admitted on these grounds typically were merely transferred from the border to a detention facility.<sup>88</sup> According to the Acting State Secretary of the Interior Ministry, as of 25 May 2022, out of the 156 people admitted on humanitarian grounds, the Border Guards registered only 58 applications for asylum or “alternative status”.<sup>89</sup> As succinctly noted by UNHCR, “the right to seek asylum should not be conflated with the prerogative of a State to grant humanitarian entry.”<sup>90</sup>

## 2.2 A TALE OF TWO BORDERS: PEOPLE FLEEING UKRAINE WELCOMED IN LATVIA

Russia’s invasion of Ukraine on 24 February 2022 affected Latvia’s response to movements at its borders and the maintenance of the SoE in the country and has generally influenced the country’s discourse on Belarus’ actions.<sup>91</sup> Sharing a border with Russia and hosting a significant presence of NATO forces, Latvia has taken various steps to reinforce its defence against possible threats resulting from the war,<sup>92</sup> even proposing the reinstatement of compulsory military service on 5 July 2022.<sup>93</sup>

While some reports have emerged that the war in Ukraine reignited tensions with Latvia’s ethnic Russian and Russian-speaking population,<sup>94</sup> the country has overall shown great solidarity with Ukraine and people who

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<sup>85</sup> On the issue of discretionary access to the territory based on “humanitarian grounds”, references should be made, by analogy, to the CJEU ruling of *M.A. v Valstybės sienos apsaugos tarnyba*, cited in full above. At para. 67, the ruling notes that Lithuanian rules “providing for the discretionary power of the competent authority to take into account only the requests of certain interested parties who are illegally residing, in because of their vulnerability, does not fulfil the conditions laid down in Article 7(1) of Directive 2013/32.”

<sup>86</sup> According to the written response of Latvia’s Acting State Secretary: “the term “humanitarian grounds” is a general clause the content of which is not further specified in the Immigration Law or other legislation in force in the Republic of Latvia. The legislator... has left a number of situations to the competent authorities, including the State Border Guard, the competence to assess individually the circumstances of a particular case, filling the concept of “humanitarian grounds” with the content. “Humanitarian grounds” are applicable in exceptional cases, i.e. special circumstances linked to a person’s individual severe moral distress or severe physical pain directly to the person himself. This could be a subjectively burdensome condition for a person in which compliance with certain requirements or conditions would be excessive, to such an extent that it can be regarded as an inhumane requirement. These can be both physical difficulties (difficulty to move because of disability or age, staying in a state of helplessness or almost helplessness) and the difficulties of person’s dependent on that person (staying in a state of helplessness or almost helplessness)”. Written response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis, cited above in full.

<sup>87</sup> Remote interviews with the NGO of February 2022 and written exchanges of 1 July 2022. Remarks about the lack of clarity around humanitarian admissions are also raised in: Diversity Development Group and PROVIDUS, NIEM comparative report, above, p. 27.

<sup>88</sup> As per the LIBE Committee mission report, in a meeting of 2 March 2022 with the border guard in Daugavpils, authorities stated: “In 2021... only 145 persons were allowed to enter due to humanitarian reasons and then detained, out of which 69 persons returned voluntarily, 4 persons were removed to a third country and 23 persons applied for international protection”. LIBE Committee, Mission Report, above in full, page 5.

<sup>89</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis, cited above in full.

<sup>90</sup> UNHCR, UNHCR observations on the Order of the Cabinet of Ministers of the Republic of Latvia, in full above.

<sup>91</sup> The annotation to the May 2022 order extending the SoE order indicates as “an important circumstance” the outbreak of the war in Ukraine and Belarus’ role in it. Annotation (ex-ante), Initial impact assessment report, cited above in full.

<sup>92</sup> Politico, *‘If a war starts, they will come here first’: Latvia mounts a wary border watch*, 28 January 2022, <https://politi.co/3yFMfwT>

<sup>93</sup> Politico, *Latvia to reinstate compulsory military service amid Russia’s war on Ukraine*, 6 July 2022, <https://politi.co/3nZ380r>

<sup>94</sup> Reports on a survey by the Research Centre SKDS, indicate: “every third resident of Latvia, or 34%, says that society has become more divided at the moment.” LV, Survey: *Latvians unite, 49% of Russian-speakers feel the division of society under the influence of the war*, 9 April 2022, <https://lvportals.lv/skaidrojumi/339856-aptauja-latviesi-salidejas-49-krieviski-runajoso-kara-ietekme-izjut-sabiedribas-skelsanos-2022>. EU DG COMM’s Public Opinion Monitoring Unit, Public Opinion on the war in Ukraine, March 2022, <https://bit.ly/306jaR1>. Baltic News Network, *Survey: support of Russia among Russian-speakers in Latvia down in April*, 3 May 2022,

have fled Ukraine and are seeking safety in Latvia. As of 26 July 2022, Latvia has welcomed over 35,000 people who have fled from Ukraine.<sup>95</sup> As of 30 May 2022, reports indicated that 57,000 people from Ukraine had transited through Latvia.<sup>96</sup> These large movements of people into Latvia, however, did not lead the country to change the geographical scope of the SoE, which has been maintained only at the border with Belarus.

Latvian authorities passed a “Law on Support of Civilians of Ukraine” on 3 March 2022<sup>97</sup> that, among other things, “established a mechanism for the Ukrainian population to receive support quickly, as well as the right to reside and work in Latvia”.<sup>98</sup> While NGOs have pointed out some difficulties regarding people from Ukraine accessing housing in Latvia,<sup>99</sup> the public mobilisation and solidarity shown to people who have fled Ukraine has been and remains strong.

Latvia’s approach to people from Ukraine highlights the problem of disparate treatment of people seeking international protection in the country. When contrasted with the extent to which Latvia has gone to prevent arrivals of people at its border with Belarus, the treatment of people from Ukraine is a reminder of the potential of Latvia and all EU member states to receive people seeking protection and to provide them with the necessary material resources and access to procedures that they require under EU and international law.

It must be noted that practically all the people arriving from or attempting to cross from Belarus are racial or ethnic minorities<sup>100</sup> – racialized individuals and groups – who have been systematically denied access to asylum, with the rare exception of some among those granted discretionary humanitarian access. This raises serious concern that racism and discrimination are embedded in Latvia’s immigration and asylum processes.

A representative from the NGO “I want to help refugees” (GPB), has experienced both sides, as the NGO has actively assisted people stranded at the Belarus border since August 2021 and is also currently engaged in supporting people who fled Ukraine.<sup>101</sup> The GPB representative told Amnesty International that “the response of the Latvian society to people fleeing from the war in Ukraine has been very forthcoming, welcoming and mostly friendly. People who were trying to cross the border with Belarus however were mostly treated as a threat to Latvian security.”<sup>102</sup> On 30 May 2022, the NGO issued a statement to raise awareness about the needs of people other than those who had fled Ukraine, pointing to the challenges this group faces in their access to social support, housing and the job market in Latvia. The statement noted: “The Covid-19 pandemic and the flow of refugees caused by Russian aggression highlight the challenges of providing housing for people from third countries with low incomes.... the influx of refugees from Ukraine further demonstrates the need for systematic and sustainable solutions to provide housing for all the most vulnerable groups of society.”<sup>103</sup>

Aleksandra Jolkina, an independent scholar who has conducted research on the human rights situation at the Belarus-Latvia border since November 2021, has interviewed dozens of people who spent time at the border. She considers racial bias against refugees and migrants coming through Belarus as a potential underlying reason for the difference in treatment: “It is difficult to imagine how several dozens of asylum-seekers crossing the Latvian border from Belarus could pose a security threat to the Latvian state or exhaust

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<https://bit.ly/304E5DV>. In 2014 reports emerged of similar divisions: TIME, *Latvia Wary of its Ethnic Russians as Tensions with Moscow Rise*, 3 October 2014, <https://time.com/3456722/latvia-election-russia-ukraine/>

<sup>95</sup> UNHCR Operational data portal, Ukraine refugee situation, as of 26 July 2022, at: <https://bit.ly/3PtWfB>. Latvia created a comprehensive multi-language landing webpage with information for Ukrainian refugees to navigate the system, providing advice and resources on life in Latvia, including residence permits, healthcare and job opportunities: <https://www.ukraine-latvia.com/>

<sup>96</sup> ENG.LSM.lv, *Volunteers help Ukrainian refugees cross Latvia in transit* [unofficial translation] 30 May 2022, <https://bit.ly/3cfhkQx>

<sup>97</sup> Law on the Support of Civilians of Ukraine, 3 March 2022, 2022/45A.1, <https://likumi.lv/ta/id/330546-ukrainas-civiliedzivotaju-atbalsta-likums>, last amended of 23 June 2022. Under Article 1, the law defines the beneficiaries of its provisions as follows: “Civilians of Ukraine within the meaning of this law are citizens of Ukraine and their family members, as well as persons who have received a permanent residence permit in Ukraine and cannot return to their country of citizenship, stateless status or international protection status, and their family members.” (unofficial translation).

<sup>98</sup> Cabinet of Ministers of Latvia, *The Cabinet of Ministers will forward to the Saeima the draft law prepared by the Ministry of the Interior to support Ukrainian civilians*, unofficial translation, 1 March 2022, <https://bit.ly/3Ruvf5b>. The law was amended on 5 April: The Office of Citizenship and Migration Affairs (PMLP), *Information for the press*, 1 April 2022, [www.pmlp.gov.lv/lv/informacija-presei](http://www.pmlp.gov.lv/lv/informacija-presei)

<sup>99</sup> In a joint letter of 17 May 2022, organization “I want to help refugees” (GPB) and others requested support to organize their response to the Ukrainian refugees’ needs in Latvia, expressing particular concern about support with housing and food. See: GPB and others, *Non-governmental organizations call for immediate concrete steps to further support Ukrainian civilians*, 17 May 2022, <https://bit.ly/3awQJOV>. In June, Latvia passed an amendment to the Law on Support of Civilians of Ukraine to extend housing support from 90 to 120 days, and even beyond in cases involving people in specific situations. Amendments to the Law on the Support of Civilians of Ukraine, 16 June 2022: <https://likumi.lv/ta/id/333453-grozijumi-ukrainas-civiliedzivotaju-atbalsta-likuma>

<sup>100</sup> Diversity Development Group and PROVIDUS, NIEM comparative report, p. 21, referring to people detained between 26 July 2021-31 January 2022: “The majority of irregular migrants came from Iraq (403 individuals or 88 per cent), followed by 4 per cent or 19 persons from Afghanistan”. The remainder were people from Sri Lanka, Syria, Turkey, Cuba, Iran, India, Egypt, Belarus, Pakistan.

<sup>101</sup> GPB, *NGOs call for immediate concrete steps to further support Ukrainian civilians*, 17 May 2022, <https://bit.ly/3uMksdO>

<sup>102</sup> Written exchange (email) of 1 July 2022.

<sup>103</sup> GPB, *Challenges of beneficiaries of international protection in the housing market*, unofficial translation, 30 May 2022, <https://gribupalidzetbegliem.lv/2022/05/30/starptautiskas-aizsardzibas-sanemeju-izacinajumi-majoklu-tirgu/>

its reception capacities. The treatment of asylum-seekers – predominantly from the Middle East – crossing the Latvian border from Belarus is in sharp contrast with the recent decision of the Latvian government to support up to 40,000 people fleeing Ukraine. Such discrepancy raises concerns about racial bias being the principal rationale for the introduction of the state of emergency.”<sup>104</sup>

As with Poland and Lithuania, Latvia too has shown its willingness and ability to provide for the needs of people from Ukraine and has rapidly mobilized resources and adapted its legislation to this end. When it comes to people crossing from Belarus, however, the same promptness and resolve has been channelled into building fences and preventing, oftentimes by employing excessive violence, their access to protection in the country. While geopolitical interests and the conceptualization of these migration movements as a tool of “hybrid warfare” may explain some of the disparity in treatment, the scale of abuse and ruthlessness shown towards individuals and families at the Belarus border can justifiably be explained by a fundamentally racist and discriminatory approach to non-white refugees and migrants.<sup>105</sup>

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<sup>104</sup> Written exchange (email) of 30 June 2022.

<sup>105</sup> Amnesty International, *Lithuania: Forced out or locked up*, cited above in full, p.13; Amnesty International, *Poland: cruelty not compassion, at Europe's other borders*, above in full, p.14.

# 3. ARBITRARY DETENTION, TORTURE AND ILL-TREATMENT AND ENFORCED DISAPPEARANCE IN THE LATVIAN FOREST

**“I am trying to put what happened into words, but words cannot explain what we went through.”**

Mohamed an Iraqi man, travelling with his family, who spent around two months at the border since August 2021

**“When I tell others about what happened to me, they ask me: ‘how did you survive?’”**

Adil, a man from Iraq, who arrived in Latvia around August 2021 and spent several months in the forest.

As noted in the section on forced returns, people were shuffled back and forth between Latvia and Belarus, often repeatedly and violently. Some people ended up for extended periods of time in the heavily wooded areas of the border region and were subjected to a range of abuses there. All people interviewed for this research who reported spending some time stranded at the border stated that after their initial apprehension, the Latvian authorities transferred them to and held them in tents set up in isolated, forested areas for varying periods of time and without access to external means of communication as Latvian authorities generally confiscated their phones upon or shortly after apprehending them. Testimonies indicate that these tents were used as outposts for conducting daily unlawful forced returns of migrants and refugees to Belarus. This routine was often repeated multiple times, and in some cases spanned over months.

In the context of these violations, people reported that the commandos working in cooperation with the Latvian authorities were the perpetrators of serious frequent acts of physical violence, as well as verbal abuse against people at the border. Such abuse took place both after the apprehension of individuals, before their placement in a tent, during their stay in the tent or upon their release.<sup>106</sup> Testimonies indicate that the Latvian authorities used physical and verbal abuse to threaten people, dissuading them from crossing back into Latvia or forcing them to comply with orders. In some cases, this intimidation and coercion appeared instrumental in convincing people to return to their country of origin. As will be discussed in the next chapter, people who agreed to return to their country of origin would at some point be transferred from the border area to sites close to the border, possibly police or border guard stations, and finally to the detention centres of Daugavpils or Mucenieki to await their return flights. Transfers appear to have been operated according to a rotation “system” devised by the Latvian authorities, discussed in more detail below.

Although Latvia and its implementing partner, the International Organization for Migration (IOM), have labelled such returns as “voluntary”, people’s decisions to return to their home countries made in such conditions of hardship or under such severe duress cannot be considered truly voluntary.

## 3.1 THE CHAIN OF RESPONSIBILITY BEHIND DETENTION IN THE WOODS AND FORCED RETURNS

**“Border Guards wore green camouflage, while commandos wore black, had black vans and black balaclavas.”**

Adil, an Iraqi man, who arrived in Latvia around August 2021 and spent several months in the forest.

**“Their weapons looked like they are ready for a war: they have N4, Kalashnikov pistols.”**

Mohamed, an Iraqi man, who was at the border for two months since August 2021.

People reported that after an initial apprehension by officers wearing green, brown or camouflage uniforms, compatible with the apparel of Latvian border guards and the army,<sup>107</sup> they were then handed to “commandos” or special forces, officers wearing black gear and a face covering or balaclava, who were often armed. People stated that commandos would generally arrive on the scene in vans, with four individuals separately describing the vehicles as having no licence plates.

People consistently reported that it was primarily the commandos who engaged in physical and verbal abuse. Hassan, a young man from Iraq who entered Latvia in August 2021 and spent five months in the forest at the border, reported: “Once we tried to cross into Latvia, the Latvian Border Guard identified themselves as such. They were wearing green camouflage uniforms. They stopped us. They did not beat us. Then the Border Guard called the commandos in a black van [a Renault van]. Only commandos in black uniforms and balaclavas tortured or beat or misbehaved.”<sup>108</sup> While commandos appeared primarily to abuse men, they would generally treat all migrants and refugees roughly, threatening them not to look at them or at the surrounding environment, in what appears to have been an attempt to prevent people from getting oriented to their surroundings.

**“We were not allowed to look at [commandos] because when we looked up, we would be beaten.”<sup>109</sup>**

Kassim, a 35-year-old Iraqi man, travelling with children, who was at the Latvian border between 5 and 15 August 2021.

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<sup>106</sup> The LIBE Committee also reported hearing allegations of violence in the forest from detainees in the Daugavpils detention centre, interviewed during the Committee’s mission to Latvia in March 2022. “Members were able to hear allegations of multiple pushbacks while being kept in the forest, of violence by border forces, of lack of legal assistance and of reduced access to phones.” LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 6-7.

<sup>107</sup> For an example of the Latvian Border Guard apparel see: Latvian Border Guard, The leadership of the State Border Guard and the National Armed Forces met, 1 July 2021, [www.rs.gov.lv/lv/galerija/tikas-valsts-robezardzes-un-nacionalo-brunoto-speku-vadiba](https://www.rs.gov.lv/lv/galerija/tikas-valsts-robezardzes-un-nacionalo-brunoto-speku-vadiba). Other examples of border guards’ gear at: <https://www.rs.gov.lv/lv/galerija/robezsargi-konstate-divus-cigaresu-nelikumigas-parvietosanas-gadjumus#6703>; [www.diena.lv/raksts/latvija/zinas/robezsargiem-apmacibu-uzsaksanai-piegada-trienciensautenes-g-36-14172612](https://www.diena.lv/raksts/latvija/zinas/robezsargiem-apmacibu-uzsaksanai-piegada-trienciensautenes-g-36-14172612) (camouflage uniforms); <https://www.rs.gov.lv/lv/galerija/deputati-kopsede-apmekleja-latvijas-baltkrievijas-robezu-un-iepazinas-ar-robezas-joslas-infrastrukturaz-izbuves-progresu#6075> (green uniforms), and Army gear: [www.rs.gov.lv/lv/galerija/tikas-valsts-robezardzes-un-nacionalo-brunoto-speku-vadiba#4913](https://www.rs.gov.lv/lv/galerija/tikas-valsts-robezardzes-un-nacionalo-brunoto-speku-vadiba#4913); [www.sargs.lv/lv/latvija/2021-07-27/sargslv-reportaza-uz-latvijas-un-baltkrievijas-robezas-pagaidam-mierigi](https://www.sargs.lv/lv/latvija/2021-07-27/sargslv-reportaza-uz-latvijas-un-baltkrievijas-robezas-pagaidam-mierigi)

<sup>108</sup> Remote interviews of 12, 24 May and 3 July, and various written exchanges.

<sup>109</sup> Remote interview of 2 March 2022.



**“They [commandos] usually order us to put our hands over our heads, to put our head down when entering a van – once out of the car, they keep telling us ‘Head down, look down’ so we are not able to see the place very well, but once I looked around, I saw many cars, usually black vans. Once I saw a Mitsubishi Pajero (SUV).”<sup>110</sup>**

Hassan, a young man from Iraq who entered Latvia in August 2021 and spent five months in the forest at the border.

Recollections that border guards usually were not present during instances of physical abuse by commandos strongly suggest an attempt to remove themselves from any responsibility for these acts. Only in a few cases did people allege that border guards directly used violence against migrants and refugees. However, the sequence of actions described by victims of such abuses clearly indicates that the Border Guards maintained operational control and thus ultimate responsibility for the violations of the rights of migrants and refugees. People also recalled that Latvian authorities maintained a constant awareness of their whereabouts at the border with a system of video surveillance and in some cases, took recordings of them. Authorities at the Border Police Guard Station of Silene confirmed the presence of night vision and thermal cameras along the border during a visit of the LIBE Committee to Latvia in March 2022.<sup>111</sup>

Migrants and refugees appeared well aware of the video-surveillance system. Zaki, a man from Iraq who arrived in Latvia in early December 2021 and was last pushed back to Belarus in late February 2022,<sup>112</sup> recounted that “The border guard was recording every time through the border cameras and a camera on their chest. There was no hitting anyone when the Border Guard was around, but after the commandos come, the border guards went away.” Adnan, a Kurdish man from the Kurdistan Region of Iraq who spent over two months at the border, one of which in a tent,<sup>113</sup> explained that while stranded in the forest, his group would stand in front of the surveillance camera when they needed humanitarian assistance, suggesting that the Latvian authorities were aware of their presence: “During the two months out of the tent, we set fire to branches... there were a lot of cameras everywhere, no police, no guards, and when we were hungry we went in front of the camera so that the police could see that we are hungry. Sometimes it took two to three days for the guards and others to bring us water and biscuits.”<sup>114</sup>

In multiple testimonies, border guards were described as leaving the scene as commandos arrived or handing migrants and refugees over to commandos, which clearly indicates that commandos were working with the knowledge of or under the direction of the Latvian border guards. Adnan recalled that, while in the tent, border guards and commandos were both present to guard them: “There were also border guards present who were guarding us in the tents. Permanently there were three to four commandos in front of the tent staying there all the time. Also, around the tent there were people in green uniforms and some officers with green/yellow uniforms”, a pattern which he recognized as camouflage. This lends weight to the idea that commandos and border guards worked in close collaboration. Zaki, a man from Iraq, who spent around three months at the border and was used by Latvian authorities as an interpreter for migrants and refugees there, similarly described border guards and commandos as working together in a police station.<sup>115</sup>

Researcher Aleksandra Jolkina sought information from Latvian police regarding the units assisting the border guards but said that the police declined to disclose any details in this respect. “In response to my written question, the Latvian Police only revealed that these are ‘experienced policemen, including those with experience in various international missions.’”<sup>116</sup>

Further corroborating the idea of commandos as faceless agents of the border guards are several allegations that different patrols of commandos would follow the direction of a person, often identified as the “commander”, who appeared to hold a position of authority and presented distinguishing features. Notably, people described commanders as generally wearing camouflage uniforms rather than black unmarked clothing. Zaki described the commander as a man wearing gear akin to that of border guards: “[The commander] was leading them [commandos] and telling them what to do. The clothes were the same as the border guards, but he was with the special forces when he came. It was brown clothing, a camouflage uniform.”<sup>117</sup> Similarly, Adnan, described the commander as “someone who was commanding the

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<sup>110</sup> A Mitsubishi Pajero car appear as part of the equipment of the Latvian Border Guard College, based on data of the Procurement Supervision Office, <https://info.iub.gov.lv/lv/meklet/cn/Valsts%20robe%C5%BEsardzes%20koled%C5%BEa/wn/SIA%20%E2%80%9EMOTOFAVOR%C4%AAT%20%E2%80%9D/>

<sup>111</sup> LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 7.

<sup>112</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

<sup>113</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July 2022.

<sup>114</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July 2022.

<sup>115</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

<sup>116</sup> Written exchange (email) of 30 June 2022.

<sup>117</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

commandos. His outfit was not like them, it was like the American military.” On a different occasion, he also described “a high rank person” in a civilian outfit, a man “who came around the tent not inside, he had glasses and like 60 commandos with him. I tried to look at him sneakily and they shouted, ‘don’t look’.”<sup>118</sup> Mohamed, who spent around two months at the border with his family, since 13 August 2021, could identify multiple commanders in charge of heading different groups of commandos, “There were three groups of 10 people [commandos] each with one person commanding them; the 10 of them were in black clothes, the commander in brown.” Mohamed also described the commander’s uniform as similar to U.S. army uniforms.<sup>119</sup>

Based on consistent testimony, it is reasonable to conclude that commandos are persons working under the authority of the Border Guard and thus as agents of the Latvian state.

### **FOREIGN OFFICERS OPERATING IN LATVIA**

In addition to Latvian border guards, army and police, non-Latvian forces have been deployed on the territory of Latvia, in different capacities, before and during the state of emergency. NATO forces are heavily present in Latvia, due to the geo-political significance of the country.<sup>120</sup> FRONTEX, the European Border and Coast Guard Agency has also been present in Latvia since before the SoE, having deployed officers to patrol the border.<sup>121</sup> According to a FRONTEX officer, “the role of border guard officers is defined by the profiles approved by Frontex Management Board which includes detection and apprehension of persons having crossed or having attempted to cross the border illegally; documenting relevant actions but not further handling, which is up to national authorities. FRONTEX has also been present in Latvia through a return counselling expert deployed at Latvia’s request.”<sup>122</sup>

Some testimonies from migrants and refugees suggest that foreign officers may have been present during segments of forced return operations. Mohamed, who alleged that the Latvian authorities forcibly returned him and his family to Belarus 20-25 times in a period of around two months, described coming across a uniformed officer who appeared to speak English like a native and whom he described as the “American”. A person stranded in a group at the border in January 2022, said that on one occasion, a man wearing a blue uniform approached their group. The man spoke French with some of the Border Guards and had a French flag on his uniform and hat. This person told Amnesty International that he believed the man was a policeman, as he was wearing the same uniform as the police, including a blue jacket.

Human rights violations documented in this report appear to have taken place in areas where FRONTEX is operational, including at border locations where FRONTEX patrolling officers were deployed, and in detention facilities where the agency has access, including through its return expert. While it was not possible to ascertain whether FRONTEX was involved in any of the human rights violations documented in this report, at very least FRONTEX must comply with its obligations under Article 46 of Regulation 2019/1896 and assess its ongoing activities in Latvia given the serious and persistent violations of international and EU law perpetrated by the Latvian authorities.<sup>123</sup>

## **3.2 THE “GOOD PLACE”: TENTS IN THE WOODS USED AS UNOFFICIAL SITES FOR ARBITRARY DETENTION AND FORCED RETURNS**

Several individuals who spent time at the border with bigger groups of people, told Amnesty International that at different times between August 2021 and early 2022 they were transferred to and spent time in tents in isolated locations in the woods, sometimes on multiple occasions in the course of their stay in the border region. In some cases, Latvian authorities placed people in tents only after they had spent time stranded in

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<sup>118</sup> Remote interviews of 10 March, 17 May, 7 June and 11 July.

<sup>119</sup> Remote interviews with Mohamed on several occasions in May 2022.

<sup>120</sup> CBC, *As Canada sends more troops to Latvia, some locals fear country may be dragged into larger war*, 13 April 2022, [www.cbc.ca/news/world/nato-canadian-troops-latvia-1.6417411](https://www.cbc.ca/news/world/nato-canadian-troops-latvia-1.6417411)

<sup>121</sup> FRONTEX, *Frontex provides support for Lithuania, Latvia at their borders with Belarus*, 1 July 2021, <https://bit.ly/3065vck>

<sup>122</sup> Information based on interviews, in person and remotely, with FRONTEX officers on 7 March and 30 May, as revised by FRONTEX Press officers, on 18 July 2022. According to FRONTEX Return division, through return counselling FRONTEX assists the authorities of the member state in explaining the return procedure to migrants and, through informative talks with eligible migrants, explain options available to them, including voluntary return, keeping into account the best interest of the individual. Counselling is provided as much as possible in person in different locations.

<sup>123</sup> Article 46, EU Regulation 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard. See similar calls in: Amnesty International, *Lithuania: Forced out or locked up – Refugees and migrants abused and abandoned*, p. 57.

the open. In others, people reported that after a certain period, commandos would expel people from the tents or even dismantle the tent and release people into the open. In some cases, people described the presence of two tents.<sup>124</sup>

**“For one month I stayed in an orange tent. The other two months I stayed in the open. I was staying in the tent in December. There were 34 people with me in the tent. After being there for one month, [Latvian authorities] said that we could no longer stay in the tent. Latvian authorities called the tent ‘platka’. They told us not to tell the Belarusians that we were in the ‘platka’.”**

Adnan, a Kurdish man from the Kurdistan Region of Iraq who spent over two months at the border between October 2021 and January 2022, one of which in a tent.<sup>125</sup>

**“At the beginning we were 23 refugees, there were women and families. [Latvian authorities] allowed us to stay in a tent on Latvian soil but later the number of refugees became higher, about 50 refugees, so the Latvians did not allow us to stay. Only those too sick or too tired were allowed in the tent, otherwise they did not allow us and we had to sleep and spend days in the woods.”**

Hassan, an Iraqi man who spent five months at the border from August 2021.

The Latvian authorities have admitted the use of tents as “humanitarian” outposts.<sup>126</sup> Based on the circumstances around people’s transfers to the tents, the conditions maintained therein and treatment people endured at the hands of commandos while there, it is clear that their use in practice exceeded this purpose. The research in this report strongly suggests that the tents are on a par with unofficial detention facilities used for the unlawful deprivation of liberty of migrants and refugees and as outposts to organize and carry out daily unlawful forced returns.

## **OUTPOSTS FOR PUSHBACKS**

People reported that they were transferred to tents on a daily basis, sometimes over a period of months, but generally spent only a brief time inside on each occasion.<sup>127</sup> In the majority of cases, Latvian authorities transferred people to tents upon apprehending them at the border, kept them in the tent over night until the early morning, and then forcibly returned them to Belarus. This is illustrated by the experience of Adil, a man from Iraq, who spent several months in the forest since August 2021: “Between September and late October, they [Latvian authorities] used to take us to this big tent, in the forest on the border to sleep in. At 4-5 in the morning, they would wake us up, take us to the forest again. We spent two months this way. Then they took the tent out”.<sup>128</sup> Similarly, Mohamed, who travelled with his family, including children, stated that they were taken to the tent five times. He recalled that he and his family were allowed to stay in the tent briefly on four of these occasions, and one time they were in the tent for 26 days: “For two months it was not clear where we would be based because sometimes we were in the border and it was like football; they were just shooting us to different places and for 26 days we were in a tent which was under control of Latvian Government in the forest.”<sup>129</sup>

Once released from the tents, people were generally pushed back to Belarus and left in limbo between the two countries until a new apprehension by Latvian forces. In other cases, people were transferred to detention facilities in inland Latvia, sometimes after agreeing to returning “voluntarily” to their countries.

The accounts of some of the applicants in the case of *H.M.M. and Others v Latvia*, currently pending before the European Court of Human Rights, confirm the patterns described above: “the Latvian authorities took other applicants to a large tent located on Latvian territory, where they spent various periods of time (from several weeks to several months). During that period, they were allegedly pushed back again several times to

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<sup>124</sup> This was the case of Mohamed and his group, and of Omar and Bilal who also recalled two tents being present, one for Afghans and Kurdish people.

<sup>125</sup> Presumably, Adnan, referred to the Russian word “палатка - palatka”, which indeed translates into “tent”.

<sup>126</sup> The Ombudsman of Latvia confirmed to Amnesty International that tents were present for Latvian authorities “to provide clothes and healthcare”, during a meeting in person on 9 March 2022. The Border Guard of Latvia confirmed the existence of a tent to the LIBE Committee in March 2022. According to the LIBE mission report “the head of border guard confirmed its existence [of the tent], but explained that the tent is being moved all the time depending where migrants are. There were no further explanations given about the use of this tent. Members were unable to verify its existence”. LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 7.

<sup>127</sup> While some people described spending months at the border, most people were kept in tents at different times throughout those months, with periods ranging from hours to days.

<sup>128</sup> Remote interviews with Adil of 23, 26 and 28 May.

<sup>129</sup> Remote interviews with Mohamed on several occasions in May 2022.

the territory of Belarus where they were not allowed to enter or, if they entered, were pushed back to Latvia.”<sup>130</sup>

On occasion, families or individuals with health needs were allowed to remain in the tent for longer periods or were transferred to healthcare facilities and then back to the tent, as in the case of Mohamed and his family: “With the family at the border, we were in the tent. My wife and children did not feel well at all. We felt all the time we were very sick and had no control. Then the Latvian police brought a car and took us to a doctor. The doctor was in a place like a police station and had the green outfit. We stayed there and an ambulance came to pick us up. The ambulance took us to Daugavpils, there was an hospital in Daugavpils.”<sup>131</sup> Hassan similarly recalled: “once I was sick, they took me to an ambulance, treated me there and brought me back to the tent, allowed me [to stay] for one day, then pushed me back.”<sup>132</sup>

**“They let us inside [the tent] for two hours, then pushed us back. But if someone is sick or had an injury from walking, they would allow them to stay for a couple of days.”**

Hassan, a young Iraqi man who spent five months at the border since August 2021.

**“When we were in the tent, we stayed just for two days. Between 4 am until 6 pm we had to be out of the tent. During that time there were women and kids in the tents.”**

Omar and Bilal, two Iraqi men, at the border in the fall of 2021.

Aleksandra Jolkina’s independent research confirms this pattern as well. She stated that according to interviews with around 40 people, “Every day the persons apprehended at the border used to be driven to a tent set up by the Latvian authorities several kilometres inside the Latvian territory, allowed to sleep there and then pushed back into Belarus early in the morning. My interviewees testify that starting from mid-December 2021, the Latvian authorities stopped bringing people to the tent, forcing them to live under an open sky in freezing temperatures up to -20C and continuing to subject them to systematic pushbacks.”<sup>133</sup> Hassan’s story, introduced above, also confirms this pattern. He recalled: “I was in the border by August, and daily they took us to the tent then pushed us back to Belarus but in or after October something happened, they had new rules. A tent was still present, but they didn’t take us there, [they only took] those in dangerous life-threatening situation or families.”<sup>134</sup>

## **A HEAVILY GUARDED SITE IN A SECRET LOCATION**

Latvian authorities have not acknowledged the use of tents for purposes beyond that of humanitarian assistance. The Latvian authorities also maintain that the “State Border Guard does not carry out identification and registration of persons prevented from illegal border crossing.”<sup>135</sup> Little, if any, official information has been made public about these facilities and those who have spent time in the tents are technically not subjected to registration. The tents also appear to be excluded from independent monitoring. The Latvian Ombudsman acknowledged the presence of tents “to provide clothes and healthcare” to people at the border and stated that he had not confirmed that tents were used for long stays.<sup>136</sup>

However, the length of people’s stays is immaterial to whether Latvian authorities used tents to unlawfully deprive people of their liberty and keep them under their control while there.<sup>137</sup>

Based on people’s testimonies, it is clear that their stay in the tent was generally not voluntary. Some people reported being taken to tents forcefully by commandos after their apprehension at the border. Others were misled by Latvian authorities into thinking they would be taken to a place with adequate conditions.

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<sup>130</sup> *H.M.M. and Others v Latvia*, no. 42165/21, communicated on 3 May 2022. According to the allegations in the communicated case: “The pushbacks to Belarus continued until some of the applicants were allegedly forced to agree to be removed to Iraq. Those applicants who so agreed were allowed to enter Latvia and were removed to Iraq without their asylum claims having been registered and reviewed by the Latvian authorities.”

<sup>131</sup> A report of June 2022 notes that in Latvia “no information could be obtained from the authorities about the fate of persons who had experienced health problems while in the border zone and had been assisted by the medics either in situ or taken to the hospital...it was not clear whether they were admitted into Latvia on humanitarian grounds after receiving medical treatment or taken back to the border zone/made to return to the territory of Belarus”. Diversity Development Group and PROVIDUS, NIEM comparative report, in full above, p.28.

<sup>132</sup> Remote interviews with Hassan of 12, 24 May and 3 July, and various written exchanges.

<sup>133</sup> Written exchange (email) of 30 June 2022.

<sup>134</sup> Remote interviews with Hassan of 12, 24 May and 3 July, and various written exchanges.

<sup>135</sup> Letter to Amnesty International from Latvia’s Acting State Secretary, of 10 June 2022, on file.

<sup>136</sup> Meeting in Riga with representatives of the Ombudsman of Latvia, 9 March 2022.

<sup>137</sup> Amnesty International has previously documented how, in the Evros region of Greece, official and unofficial detention sites were used by the authorities to hold migrants and refugees for short periods of time, without recording their presence, prior to their unlawful, forced return at the borders with Turkey. In that context individuals stated that they were held in places of detention for periods ranging from a few hours to more than one day without access to phone calls, lawyers, and without registration procedures. In the context of Latvia, tents appear to serve the same purpose. Amnesty International, *Greece: Violence, lies, and pushbacks – Refugees and migrants still denied safety and asylum at Europe’s borders*, (EUR 25/4307/2021).

Mohamed, who spent several days stranded at the border with his family and others, recounted that at some point the Latvian authorities approached them and proposed to take them to a “good place”. Prior to this point, some of the people in the group had already experienced beatings and pushbacks by Latvian authorities: “The seventh day, the Latvian police came and said, ‘we want to take you to a good place where you will have clothes and food’. If you stay here, you will die because we will not provide food anymore. We said, ‘no we don’t want to’. They insisted we should come to the camp. The day after the Latvian border guards came and shouted, ‘you will come with us, or we will take you by force’.”<sup>138</sup> The group tried to walk away, but shortly after they came across a group of commandos who transferred the group to a site with two tents.

Supporting the conclusion that tents were sites for unlawful detention is consistent testimony that the authorities confiscated or damaged people’s personal items, especially phones, which prevented people from maintaining communication with the outside world, document what was happening to them or take photos of the site.<sup>139</sup> Several individuals reported having their phones confiscated or damaged upon apprehension or shortly after Latvian border guards apprehended them. Some people also reported that prior to entering the tent, they endured body searches, including strip-searches. In the words of Adil, an Iraqi man who spent time in the tent during part of the several months he was at the border, “Nobody could send a location from a tent for different reasons. First, they had searched us before and once we arrived in the tent, they searched again with metal detector used in the airport.”<sup>140</sup>

**“From the first point they catch us they took our phone, asked for password and checked it. Until now my phone is in Latvia.”**

Zaki, an Iraqi man at the borders since early December, until he was pushed back to Belarus in late February 2022.

Indications that Latvian authorities implemented a strict system of surveillance on people, imposing heavy restrictions on their freedom to move outside and inside tents, also support the custodial nature of people’s stays there. Asked whether he could move freely or leave the tent or if anyone else tried to leave, Zaki, who was at the border for around three months and spent some time in the tent, replied: “You could only move inside and if you made noise, they would beat you and take you to the border. People did not try to leave because [the tent] was surrounded by cameras and forces [officers] so it would be insane to try that. Even if you go out you have to look down and don’t look at anywhere else.”<sup>141</sup>

People described the tents as being heavily guarded by commandos and pointed to the presence of several vehicles near the tents, including black vans and an SUV, possibly used to reinforce the supervision of tents, and to carry out pushbacks and transfers. Based on descriptions, commandos would be in charge of manning and actively guarding tents, ensuring that those held inside would not exit or look around freely. Mohamed recounted: “Around the tent, at all times, there were three to four black buses with commandos. There were also commandos in front of the tents. They were there so that we don’t move, don’t run, we don’t do any bad things.” He also mentioned: “There were 40 commandos walking around the tent. There were 10 buses and military jeeps.” Similar numbers were reported by Adil who described “about 10-11 black vans and 70 commandos with rifles,” while Kamal, an Iraqi man, who spent time in the forest in November 2021,<sup>142</sup> similarly recounted “In the four corners of the tent” and officers in a van in front of the tent supervising the tent 24-hours a day.”<sup>143</sup>

According to people, commandos would be primarily responsible for operations around tents. In some cases, however, people described the presence of other officers or people in civilian clothes. Omar and Bilal, two men from Iraq who Amnesty International interviewed together,<sup>144</sup> stated that “in the tents some people were wearing civilian clothes, and some were just regular police, like traffic police.”

Aside from the heavily militarized nature of the site, commandos also physically abused people who did not follow instructions. Omar and Bilal stated “When they took [us] to the tent they took our head down, but we think the tents were far from each other and if we tried looking, they hit us. We stayed two days in the tent and after that we went to the forest and stayed there because they were attacking us a lot. We think that they

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<sup>138</sup> Remote interviews with Mohamed on several occasions in May 2022.

<sup>139</sup> For instance, experts from the UN Committee on Enforced Disappearances (CED), in exchanges with Greek authorities “noted that the Committee was concerned about practices that might contribute to or fulfil the offense of enforced disappearance, such as mobile phones being broken or throw away.” UN Committee on Enforced Disappearances (CED), In Dialogue with Greece, Experts of the Committee on Enforced Disappearances ask about detention and disappearances of migrants and asylum seekers, including unaccompanied minors, 29 March 2022, [www.ohchr.org/en/press-releases/2022/03/dialogue-greece-experts-committee-enforced-disappearances-ask-about](http://www.ohchr.org/en/press-releases/2022/03/dialogue-greece-experts-committee-enforced-disappearances-ask-about)

<sup>140</sup> Remote interviews with Adil of 23, 26 and 28 May.

<sup>141</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

<sup>142</sup> Remote interviews with Kamal on 31 May 7, 10 and 11 June 2022.

<sup>143</sup> Interviews with Mohamed, Adil, and Kamal.

<sup>144</sup> Bilal and Omar are a 33-year-old and 28-year-old men from Iraq who went to Latvia together in the fall of 2021. Bilal was returned in late January 2022 and Omar in February 2022. They were interviewed over the phone together on 10 March 2022.

were hitting us to make us fed up and want to return to our country.” Commandos also generally escorted people to the “toilet” instructing them to keep their sight down. Kamal, who spent four days in the tent, recalled: “In the tent it was terrible. There were Afghan, Syrian, Kurds some said they were there four months, some five months. I had no right to look out of the tent. When we had to go to the toilet, they asked us to look at the ground, raise our hands, this applied to all people, also the kids. We were only allowed out to go to toilet.”<sup>145</sup>

In some cases, people also reported that Latvian authorities used them or other people with them as “translators” inside the tents and during return operations. Testimonies indicate that these people were effectively coerced into providing this service.

Zaki, an Iraqi man who arrived in Latvia in early December 2021 and was last pushed back to Belarus in late February 2022, reported that he and around five others who spoke some English were used as “translators” and for this reason, he was kept in the tent for longer: “Once I stayed [in the tent] for six days in February [2022] because they [Latvian officers] started taking in some people and asking them for their passport and since I spoke English they told me to stay in the tent.” At some point during Zaki’s time at the border “people were taken first to a police station near a village and then to the tent.”<sup>146</sup>

Jolkina’s research similarly indicates that, “Latvian security forces operating the tent demanded absolute obedience [from migrants and refugees] and ordered people to provide information about Belarus border guards or act as interpreters if they could speak English or Russian.”<sup>147</sup>

The secrecy of the tents’ locations also supports the idea that they were used as an unofficial detention site. People described the tent as located in an isolated forested area. In some cases, people reported that the tent would be dismantled or that they were taken to a tent placed in a different location than the previous one, which could indicate that multiple tents were used at the same time or that tents would be moved to different areas.<sup>148</sup> This is consistent with information provided by the Border Guard of Latvia to the LIBE Committee in March 2022. According to the LIBE mission report “the head of border guard confirmed its existence [of the tent], but explained that the tent is being moved all the time depending where migrants are.”<sup>149</sup>

**“When driving to the main tent, [the commandos] had a rule, they drove around two hours, one hour and a half, to not let any refugee know the direction to the tent. Sometimes when you tried to look, they hit you.”**

Zaki, an Iraqi man at the border for around three months since December 2021.

Nikita Matyushchenkov, who represents the applicants in the ECtHR case *H.M.M v. Latvia*, where some of the individuals allege being taken into tents and stranded at the border for around 7 months, also maintains that tents were used for detaining people: “I believe that the tents were used for long-term detention of migrants because testimonies of all migrants whom I interviewed separately over the span of several months stated the same thing. Their testimonies were consistent with one another. Migrants, who had been in the tent at different times, i.e. they have never met each other in Latvia, reported similar treatment, and their description of the tent was similar,” – he remarked.<sup>150</sup>

## **INADEQUATE CONDITIONS**

People described the tents as medium sized, between 4-6 metres long, generally empty aside from a heating unit sometimes installed inside. People uniformly recounted the presence of other migrants and refugees in the tent, including families with children, and generally described a state of overcrowding during the night, with people sharing the space with 30 to 90 other people.

While in the tent, people described commandos providing them with minimal food, normally consisting of biscuits, rice cakes and a small bottle of water, sometimes on an irregular basis. Tents were not equipped with showers or sanitary facilities, which compounded the discomfort of people held there, who had often spent prolonged periods of time stranded at the border, in freezing temperatures and exposed to the elements. As recalled by Zaki: “if you wanted to wash yourself you could go outside in the snow. They gave you two bottles of water and no soap, and you had to look down. They [commandos] would tell you that if you did not look down they would come and beat you directly and take you to the forest.”<sup>151</sup>

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<sup>145</sup> Remote interviews with Kamal on 31 May 7, 10 and 11 June 2022.

<sup>146</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

<sup>147</sup> Written exchange (email) of 30 June 2022 and previous remote interviews.

<sup>148</sup> Zaki recounted witnessing the tent being dismantled and that it was then set up in a different place.

<sup>149</sup> LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 7.

<sup>150</sup> Written exchange of 11 July 2022 and previous remote interviews.

<sup>151</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

People described the toilet as a hole in the ground, placed outside the tent. Adil recalled: “In 24 hours they would give us a pack of biscuits. For months we did not shower. When we want to go to toilet, one would come telling me to look down and took me to the toilet. The toilet was a hole in the wood with a plastic thing around it. When I finished, he guided me back ordering me to look down.”<sup>152</sup>

### **ORDER IN THE CHAOS: REGISTRATION AND FINGERPRINTING IN THE FOREST**

While Latvian authorities maintain that they did not identify people prevented from entering “irregularly”, some people’s testimonies indicate that the tents were instrumental to the maintenance of a system of registration of individuals apprehended at the border, seemingly run by the Latvian border guards and commandos. In some cases, during this process, the authorities photographed and fingerprinted people using specialized equipment before transferring them to tents. Such “registration” took place sometimes in vans next to the tent. In other cases, people were registered in what they described as police stations or a different tent. In some cases, the authorities handed people documents which they understood to be return documents.

**“When we went to the tent, we had to do fingerprinting. When they asked us ‘why you came from where you came’, they were kicking us. They gave us a blank page, [where we should write] the father’s name, our name, how many people are in our family. They told us that this was our temporary deportation paper.”**

Bilal, an Iraqi man who was at the border in the fall of 2021 and was returned in late January 2022.

**“The paper they gave us was like a form for deportation. I told them that I had problems, I cannot go back, and they told me that it had nothing to do with them. Then they took me and five people with the same deportation paper to their cars and took us somewhere in the forest.”**

Omar, an Iraqi man who was at the border in the fall of 2021 and was returned in February 2022.

The testimony of Adnan, a Kurdish man from the Kurdistan Region of Iraq, who spent over two months at the border from October 2021, is particularly illustrative. Upon entering Latvia, Border Guards wearing green clothes immediately apprehended Adnan and his group and then left the scene when a patrol of commandos came in a van without licence plates. Adnan recounted that on the second night after apprehension, border guards made them remove their clothes and checked them before handing them to the commandos, who then interviewed them and appeared to register their information, including by taking their fingerprints and photos. This procedure was done in a bus or van next to a tent: “[The registration was done] by the commandos. It was always at night because the commandos did not want us to see them, so when we went to do these things, they told us to look down. We wanted to know what the registration was for, but we don’t know because we were afraid that if we asked, we would be hit, so we stayed silent. They took our phones. They took us on a van, we sat on a chair and they started taking photos of us from all angles. We had the impression that we were being treated like terrorists; it was like something we saw in movies... Whoever entered, they would ask them their name, name of the father and grandfather, the route that they took, the cities and the country, all the roads that took them there, and the person that encouraged them. After doing this interview, some of them were taken by the guards and attacked with electric things. The people coming to do the interviews had covered their faces and were in civilian clothing. They were all men and once there was a woman. She had a camera and some equipment for getting fingerprints from 10 fingers. They took our fingerprints.”<sup>153</sup>

Zaki, who spent around three months at the border, reported that on 7 December 2021, border guards took his group to a green military tent 20 minutes from their location, near a police station, close to border crossing point no. 300. Zaki specified that this was a different tent than the one managed by the commandos, where he and others were transferred later. At this tent, border guards in camouflage uniforms and covered faces, and people in civilian clothes working with them, took their photos, photos of their documents and fingerprints.<sup>154</sup>

Mohamed, an Iraqi man travelling with his family, on his fifth attempt to enter Latvia, similarly reported that the border guards transported his group to a tent similar to the one manned by commandos on other occasions, but in a different location. Mohamed described the place as a “border guard centre” and “a police training” facility where officers “wore uniforms like U.S. military clothes, light brown.” Testimony included reports that in some cases people would have their fingerprints and passport taken in a “police station” and would then be sent back to the forest.

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<sup>152</sup> Remote interviews with Adil of 23, 26 and 28 May.

<sup>153</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July.

<sup>154</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

The experiences separately recounted by the people above contradict the Latvian authorities' claims that they did not identify people at the border. The Latvian authorities have not acknowledged the registration activities conducted at the border. Consistent testimony indicates, however, that such registration was conducted in an unofficial manner, wholly lacking in transparency, which supports the conclusion that Latvian authorities intended to conceal their activities at the border, including their use of tents as unofficial detention sites.

### 3.3 “IF YOU ONLY LOOK UP YOU ARE DONE”: TORTURE AND OTHER ILL-TREATMENT

**“Where are you from? Wherever you are from, you didn’t know that if you come here, we would kill you?”**

Mohamed, a man from Iraq, recounting commandos addressing his group while questioning them inside a van in the Latvian forest.

**“They were...kicking me in the legs, with electric things, long sticks. They hit me so much I fell on the ground, I felt so much pain and I felt nothing at the same time. They hit me all over my body, I was screaming and shouting. They said if you don’t want to go back, we will hit you so much that we will force you to”.**

Adnan a Kurdish man from the Kurdistan Region of Iraq who spent over two months at the border since October 2021.

Many people recounted harrowing stories of how they directly experienced violence or witnessed violence against others at different points during their time at the border or in Latvian detention facilities, including before, during or upon release from tents. In the majority of cases, commandos were described as perpetrators, but in some instances, people identified border guards as having committed acts of violence. Most victims were men, either travelling with family or alone, but in two cases, people reported witnessing commandos behaving roughly towards women, pulling them or treating them with physical aggression. Commandos sometimes used violence instrumentally to intimidate or tame people under their control, force them into compliance or as a form of retribution for those perceived to misbehave. People also reported Latvian authorities using swearwords or derogatory terms and threats against migrants.

#### USE OF TASERS

A number of people described commandos administering electric shocks to various parts of people’s bodies with objects that Amnesty International has concluded were tasers. While the SoE legislation in Latvia allows for the use of force by law enforcement officials in some cases, incidents documented in this report indicate that commandos used tasers in a gratuitous or punitive manner rather than in self-defence or with a view to restraining people presenting a real threat. Adnan recounted: “I asked them for food, and the guard said come with me I will give you food and attacked me with electric shock.” He recounted that they would normally be attacked from the neck down, including genitals.<sup>155</sup>

Representatives of the Latvian Ombudsman told Amnesty International that they had heard allegations regarding the use of tasers in September 2021 but noted that in the specific case presented to their attention and considering “the information provided by State Border Guard about their equipment while doing border monitoring,” they could not verify the allegation. The Ombudsman stated that the incident in question involved classified information and the office could not provide further information about it; they referred to another incident being forwarded to the Internal Security Bureau.

It should be noted that Latvia’s regulations on the use of “special means” specifically allows both the police and the border guard to use electroshock devices.<sup>156</sup> On the occasion of the LIBE Committee’s visit to Latvia, authorities maintained that “Border guards were not equipped with electroshock devices.”<sup>157</sup> Whether tasers may be part of the equipment of the police or the army, in the exercise of their powers while assisting the border guard’s operations, was left unaddressed. As previously mentioned, Aleksandra Jolkina maintains that the Latvian Police declined to disclose any details to her “about the police units assisting the border

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<sup>155</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July.

<sup>156</sup> See: Regulations of the Cabinet of Ministers No. 55 of 18 January 18 (prot. No. 5 § 21) Rules on the types of special means and the procedure for their use, (Noteikumi par speciālo līdzekļu veidiem un to lietošanas kārtību), para.7, <https://likumi.lv/ta/id/224905-noteikumi-par-speciālo-līdzekļu-veidiem-un-to-lietošanas-kārtību>

<sup>157</sup> In the context of LIBE’s meeting with the Ministry of Interior and the State Border Guard including regional Frontex Liaison officer based in Riga. LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, page 4.



guards at the Belarus border.”<sup>158</sup> Based on publicly available document, the use of electroshock devices is part of the curriculum offered by the State Police.<sup>159</sup>

**“When [Latvian officers] arrived, they started hitting us, and they told us to look down and sit on our knees and put our hands on our head. The whole group was put in a van. They used electricity, like electric shock. They used it on my shoulder, back. They were using it freely, whatever part was close to them, biceps, hands etc. We stayed close to three months [at the border], when people were coming, they were using it [electrocution], hitting people.”**

Zaki, a man from Iraq, who spent around three months at the border since December 2021.

In 2007, the UN Committee Against Torture expressed concern “that the use of [“TaserX26” weapons by Portugal] causes severe pain constituting a form of torture, and that in some cases it may even cause death”.<sup>160</sup> The Committee called on countries to ensure “that electrical discharge weapons are used exclusively in extreme and limited situations where there is a real and immediate threat to life or risk of serious injury, as a substitute for lethal weapons, and by trained law enforcement personnel only.”<sup>161</sup> Amnesty International has repeatedly expressed serious concerns about the use of tasers and electro-shock devices in the context of law enforcement, “both as regards their safety and their potential for misuse.”<sup>162</sup> The unregulated and reckless use of tasers in the absence of a threat, as described in the cases above, constitutes torture; the relevant incidents should be urgently and effectively investigated.

### **OTHER FORMS OF VIOLENCE AND DEGRADING TREATMENT UPON APPREHENSION OR TRANSFER, INCLUDING OTHER ACTS AMOUNTING TO TORTURE**

In addition to the use of tasers, people described beatings by kicks and punches, and in some cases attacks with objects or weapons. Several people stated that commandos committed violence against them while making them board vans or inside vans, during or before transfers. Omar and Bilal, two men from Iraq who were at the border together in fall of 2021 recounted: “Commandos in black outfits took us two hours after we crossed into Latvia. They took us to the forest, to the tent and while they were taking us to the tents, they attacked us and used the electric shocks. They hit us all, there was no difference.”

**“They would punch us until we got in the van and after ... Sometimes when you tried to look, they hit you, if you only look up you are done. They can hit you for up to 50 minutes. Before entering the van, they hit you with hands, legs. Then in the van with the taser.”**

Zaki, a man from Iraq, at the Latvian border for three months since December 2021.

In some cases, people also reported witnessing commandos committing acts of violence on people inside the tents. Zaki, a man from Iraq, recounted that commandos beat a person severely, possibly as a punishment for smoking inside the tent. Zaki reported seeing the individual after he had endured the treatment. According to Zaki: “They broke four bones of his chest. They took the lighter from him and put him in the border. First time we entered in tent we saw him, he was screaming saying ‘I have a lot of pain’. Sometimes commandos would come inside the tent to check if someone was smoking. If they catch you smoking, they would hit you a lot and say ‘why are you smoking? it is bad for your health’ as a way to mock [people].” According to Zaki’s testimony, he and the individual who was attacked were pushed back together to Belarus in December 2022. He stated that once there, a Belarusian doctor checked the individual, confirming that he had four broken bones.

**“One day the commandos entered the tent and took one guy outside the tent and started to beat him badly, then took him outside of the tent and they put his head in the dirty water.”**

Kamal, a man from Iraq, in the forest in November 2021.

People also reported degrading and humiliating behaviours, including actions that caused physical harm. This included reports of people being forced on their knees for prolonged periods of time while commandos held them in vans. As recounted by Mohamed, “Commandos checked the men, and made them board a

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<sup>158</sup> Written exchange (email) of 30 June 2022.

<sup>159</sup> State Police College, Curriculum, item 87, [www.policijas.koledza.gov.lv/lv/macibu-programmas?utm\\_source=https%3A%2F%2Fwww.google.com%2F](http://www.policijas.koledza.gov.lv/lv/macibu-programmas?utm_source=https%3A%2F%2Fwww.google.com%2F)

<sup>160</sup> Consideration of reports submitted by states parties under article 19 of the Convention - Conclusions and recommendations of the Committee against Torture: Portugal, (2008), CAT/C/PRT/CO/4, para. 14.

<sup>161</sup> Committee against Torture Concluding observations on the combined fifth and sixth periodic reports of Portugal, (2013), CAT/C/PRT/CO/5-6, para. 15.

<sup>162</sup> Amnesty International, *USA - Amnesty International's concerns about Taser use: statement to the US Justice Department inquiry into deaths in custody*, (AMR 51/151/2007).

van. They told us to put our hands upon our heads and our knees on the ground. We were on our knees for one to two hours and we felt that blood in our legs felt like drying because we had no right to move, they told us every move equates to one kick.” In this case, commandos also used high speed driving as a way of hurting migrants: “When it was high speed our knees hurt, and we had no right to scream and when the speed was high and the commandos knew it was hard for us they were laughing at us. The van was moving for 1-2 hours,” Mohamed added, “One of the commandos told one man in the group to put his head down, down, down. His head was so far down that it reached the floor of the van. Then he told him ‘Go back to your place in this position’. When the man was trying to go back to his place, the commando kicked him several times and said ‘if you scream I will kick you more’.”<sup>163</sup>

At least two persons described being strip searched prior to entering vans or tents, and one before being returned.

In the case of Hassan, Latvian authorities made migrants remove their clothing in a clear attempt to cause them harm and humiliation. Hassan recounted: “Sometimes the Latvians beat us, usually when we tried to cross into Latvia. They forced us to be completely naked without underwear. Sometimes they beat us when naked, then they forced us to cross back to Belarus, sometimes having to cross a river which was very cold. They did not care that it was winter, and we had to enter the cold water. They forced us threatening us with machine guns, saying they would shoot us if we didn’t cross. Once they made us cross through a lake when it was snowing and covered in ice. One of us felt that the ice was not enough to hold us, and he fell in the water, we spent one hour to take him out. Sometimes they took our lighter so we couldn’t use the lighter to warm up.”<sup>164</sup> The treatment Hassan describes – forced nudity, beatings and pushbacks to Belarus in freezing temperatures – amounted to torture and other cruel, inhuman and degrading treatment.

In general, strip-searches under the conditions that refugees and migrants suffered in the border areas are inconsistent with human rights principles: they were conducted outside of official detention facilities and in the absence of adequate safeguards. Under international human rights law, intrusive body searches may only be undertaken where absolutely necessary and details of the search should be duly recorded.<sup>165</sup> Searches also seem to have happened in front of the other migrants and refugees present on the scene, violating the privacy of the person being searched as well as their sense of dignity.<sup>166</sup>

Others recounted brutal beatings. Kamal, a man from Iraq who spent time in the forest in November 2021 recalled that commandos kicked him in the spine to the point that he could not breathe: “In the van I had to be on my knees and had to keep my head down, couldn’t look around... they kicked me very hard and there were other people with me. My look was down, my hands above my head. Then, commandos kicked the bones in my spine. He kicked me so strong I couldn’t breathe. That time I felt I am about to die, also because of the pain I couldn’t breathe.”<sup>167</sup>

In all cases, the violence described by people in this report amounted to inhuman or degrading treatment, contrary to Article 3 ECHR and Article 4 of the EU Charter of Fundamental Rights. Some of the allegations of violence are of such gravity as to amount to torture, especially in view of the severity of the pain inflicted and the intention to cause humiliation or to punish a person.

## 3.4 DEPRIVATION OF LIBERTY POTENTIALLY AMOUNTING TO ENFORCED DISAPPEARANCE

**“We didn’t even know what time it was, only the month, nor the exact location. We knew we were at the border in Latvia... There was no support, nothing and they were attacking us. It was about three months without phone, nothing to inform our family. There was no way to inform our family if we are dead, if something happened to us. When asking for the phone, they attacked us. The only time the guards came to us was when they wanted to arrest some of the migrants to deport them.”**

Adnan, a Kurdish man from the Kurdistan Region of Iraq, present at the border for over two months since October 2021.

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<sup>163</sup> Remote interviews with Mohamed on several occasions in May 2022.

<sup>164</sup> Remote interviews with Hassan of 12, 24 May and 3 July, and various written exchanges.

<sup>165</sup> Rule 51 and 52 of the UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners: resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, (the Mandela Rules); *Frerot v. France* (70204/01), European Court of Human Rights (2007), paras 41 and 47. See also Amnesty International, *Netherlands: Inhuman and unnecessary: Human rights violations in Dutch high-security prisons in the context of counterterrorism*, 30 October 2017, (Index Number: EUR 35/7351/2017).

<sup>166</sup> *Frerot v. France* (70204/01), paras 38-39; *Horych v. Poland* (13621/08), ECtHR (2012), para. 101.

<sup>167</sup> Remote interviews with Kamal on 31 May 7, 10 and 11 June 2022

As a result of the combined effect of the actions described above, Latvia may have subjected migrants to enforced disappearance, which is a crime under international law. Enforced disappearance is defined under the UN Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) as the “arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”<sup>168</sup>

By holding migrants and refugees in tents in unspecified unofficial locations, or otherwise holding them at the border without access to external communication, and without giving them access to effective alternatives to frequent and serial forced returns, Latvia has specifically violated the prohibition of “secret detention”, within the meaning of Art. 17.1 of the ICPPED.<sup>169</sup> Notably, in the 2017 Report of the Working Group on Enforced or Involuntary Disappearances (WGED) on enforced disappearances in the context of migration, it has been acknowledged that “...migrants who are detained, in a transit or destination State, under administrative proceedings sometimes disappear. Disappearances can also occur due to a lack of transparency, the fact that migrants are often detained in unofficial detention centres with little or no registration systems, the very limited access of migrants to the justice system and the lack of an independent monitoring mechanism for such detentions. Indeed, it has been recognized that immigration detention is often the most opaque area of public administrations. In addition, there are cases in which non-State actors and authorities are jointly involved in the detention of migrants, without registering them and without letting them have access to lawyers, in addition to other due process guarantees.”<sup>170</sup>

Several people reported that the Latvian authorities confiscated their phones and, in some cases, documents, or damaged their phones to make them unusable. By doing this, Latvian authorities prevented them from maintaining communication with families or contacts, including seeking assistance in case of need. Relatives of missing people thus were left unaware of the whereabouts or status of their loved ones. In a dialogue with Greece, UN enforced disappearance experts expressed their concern about similar practices “that might contribute to or fulfil the offense of enforced disappearance.” The use of detention in “makeshift” locations, without records being kept of detainees, and by persons carrying weapons, was also noted in the case of Greece.<sup>171</sup>

In February 2022, lawyer Nikita Matyushchenkov who represents the applicants in the ECtHR case *H.M.M. and Others v Latvia*,<sup>172</sup> submitted reports to the UN Working Group on Enforced or Involuntary Disappearances in the cases of two individuals from the same group who had gone missing in Latvia’s territory at the border with Belarus. The individuals’ whereabouts were unknown since 24 August 2021. In the two cases, it was reported that Latvian authorities forcefully took the individuals concerned and others to “a tent camp” located in a “secluded area surrounded by trees” and that authorities had taken away their phone, so that since late August 2021 they had not been able to communicate with family members. The submission characterizes the individuals’ stay in the “camp” as detention. Based on testimonies of other refugees and migrants, the individuals concerned were in the camp as of November 2021 and were last seen there in January 2022. The submission states that in the context of the proceedings before the ECtHR, the “Government of Latvia has repeatedly claimed that [the individual] has never been identified by the authorities and that the tent camp described by the witnesses has never existed in Latvia.” The submission alleges that people associated with the individuals had made enquiries with the Latvian Border Guards about their whereabouts without success. Matyushchenkov reported that a month after the submissions to the Working Group on Arbitrary detention, both individuals were admitted to Daugavpils Detention Centre.<sup>173</sup>

Researcher Aleksandra Jolkina recounted that in November 2021, as she started interviewing people who had spent time at the border, she learned that other people were still stranded at the border, and later she

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<sup>168</sup> Article 2 of the United Nations International Convention for the Protection of All Persons from Enforced Disappearance, 2010.

<sup>169</sup> Notably, in the concept note accompanying the “Call for inputs on enforced disappearances in the context of migration (concept note for CED General Comment)”, it is noted that: “When, within [pushbacks], persons are deprived of their liberty and their fate or whereabouts are concealed, enforced disappearances within the meaning of Article 2 of the ICPPED are taking place”. Committee on Enforced Disappearances, General comment on enforced disappearances in the context of migration - concept note -, 2022, para. 29. At: <https://www.ohchr.org/en/calls-for-input/2022/call-inputs-enforced-disappearances-context-migration-concept-note-ced-general>

<sup>170</sup> Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration, 2017, A/HRC/36/39/Add.2, paras. 23-24.

<sup>171</sup> UN Committee on Enforced Disappearances (CED), *In Dialogue with Greece, Experts of the Committee on Enforced Disappearances Ask about Detention and Disappearances of Migrants and Asylum Seekers, including Unaccompanied Minors*, 29 March 2022, [www.ohchr.org/en/press-releases/2022/03/dialogue-greece-experts-committee-enforced-disappearances-ask-about](http://www.ohchr.org/en/press-releases/2022/03/dialogue-greece-experts-committee-enforced-disappearances-ask-about). Also: UN CED, *UN Committee on Enforced Disappearances publishes findings on Greece and Niger*, 12 April 2022, [www.ohchr.org/en/press-releases/2022/04/un-committee-enforced-disappearances-publishes-findings-greece-and-niger](http://www.ohchr.org/en/press-releases/2022/04/un-committee-enforced-disappearances-publishes-findings-greece-and-niger); UN CED, Concluding observations on the report submitted by Greece under article 29, paragraph 1, of the Convention, 2022, CED/C/GRC/CO/1.

<sup>172</sup> *H.M.M. and Others v Latvia*, (no. 42165/21).

<sup>173</sup> Submission on file with Amnesty International and written exchanges of 13 July 2022.

was contacted by relatives of people believed to be missing: “I learned that many of the people they were with in the forest still remained trapped between the borders. Several of those still in the forest belonged to the groups stranded on the border line in August. As my contact network kept growing, I also began to be regularly contacted by the relatives of persons trapped on the Latvian border who shared their personal data and asked for help.”<sup>174</sup> As with Matyushchenkov’s, Jolkina’s requests to the authorities to locate the individuals were unsuccessful: “In winter 2021/22, I compiled and regularly updated the list of persons trapped on the Latvia-Belarus border, based on the data supplied by their relatives and people who had already been returned from the border to Iraq. I shared the list with the UNHCR’s Representation for the Nordic and Baltic Countries who then made a formal request to the Latvian authorities. I also contacted Ms Tineke Strik, a member of the European Parliament, who in December 2021 sent a letter to the Latvian authorities asking, inter alia, to provide information about eight persons included in my list at the time. In their replies to the UNHCR and Ms Tineke Strik, the Latvian authorities claimed they had no information about the relevant individuals. Over the following weeks, I kept regularly updating the list and sharing the updated versions with the UNHCR who, in turn, was expected to make further requests to the Latvian authorities. By early February, there were 34 persons on my list. It was only several weeks later that I learned the UNHCR had only made one request and never shared the updated versions of my list with the Latvian authorities - without having informed me about this.” Jolkina reported that all the persons from her list were later admitted to Daugavpils detention centre and “typically” returned to Iraq.<sup>175</sup>

Zaki, a man from Iraq, recounted that during his stay in Latvia between December 2021 and late February 2022, he was not in contact with his family as his phone had been confiscated. During this time, he said that his family started to communicate with a diplomatic representative of Iraq to enquire about his circumstances. He claimed that families of others did the same, but the diplomatic representative only arrived in Latvia after some months. “Sometime in February, Latvian authorities started taking people to the tent because representatives of the Iraq embassy, maybe from Poland, were in Latvia and people started to be deported”.<sup>176</sup> Another person separately confirmed a similar sequence of events: his phone had been confiscated, so when new arrivals would come to the border, he and others would use their phones to inform their families about their situation, and the families would in turn update the Iraqi consular authorities.

In March 2022 people interviewed for this research informed Amnesty International that they had lost contact with a relative who was last known to be with them at the border, in Latvia. On another occasion, in February 2022, another person approached Amnesty International researchers about a missing family member in Latvia.

The crime of enforced disappearance does not only affect the rights of the missing, but “inflicts severe suffering” on their families too,<sup>177</sup> which can amount, in its own right, to a breach of the prohibition of inhuman treatment under Article 3 of the ECHR.<sup>178</sup>

The NGO “I want to help refugees” (GPB) told Amnesty international that on several occasions from August to October-November 2021, the organization was approached by individuals identifying themselves as relatives/acquaintances of people who had last been known to be in Latvia but were “missing”, as contact with them was lost since the evening of 23 August 2021. At times, the number of people reported missing was between 30-40. In an interview on 28 May 2022, a GPB representative commented: “As far as I understand, at this point, all the people reported to us as missing have been returned to their country of origin. Initially, relatives of these people approached us, giving us names and passport [details] which we passed on to UNHCR and the Border Guards.”<sup>179</sup>

The cases presented above strongly indicate that Latvian authorities have effectively concealed the presence of people stranded at the border, obstructing people’s access to communications with their families or ability to seek help externally, and effectively keeping relatives and other concerned parties in the dark as to their fate for prolonged periods of time. These elements are sufficient to conclude that, for at least periods of people’s stays at the border, they were victims of enforced disappearance at the hands of Latvian authorities.

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<sup>174</sup> Written exchanges of 30 June 2022.

<sup>175</sup> Written exchanges of 30 June 2022.

<sup>176</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

<sup>177</sup> Article 1.2 of the United Nations International Convention for the Protection of All Persons from Enforced Disappearance, 2010.

<sup>178</sup> *Imakayeva v. Russia*, (no. 7615/02), para. 166.

<sup>179</sup> Written exchanges (email) of 16 July 2022, and previous written and remote communications.

# 4. BETWEEN A ROCK AND A HARD PLACE: PEOPLE COERCED INTO “VOLUNTARY” RETURNS

According to Latvian authorities, in the course of 2021, 145 persons were allowed to enter Latvian territory from the border due to humanitarian reasons and were then detained. Out of these, “69 persons returned voluntarily, 4 persons were removed to a third country.”<sup>180</sup>

While it is reasonable to believe that some people genuinely decided to return to their countries freely, a number of people stated that they were transferred from the forest to detention centres not because they had humanitarian needs, but because they had agreed to return “voluntarily” to their country of origin. Some people “agreed” to return after spending extended amounts of time in the tents or stranded in the border area in abysmal living conditions and, in a number of cases, after brutal physical and verbal abuse or threats.

In other cases, people who entered Latvia prior to the state of emergency reported that they were forced or misled into signing return papers after being transferred to detention facilities.

Some applicants in the pending case of *H.M.M. and Others v Latvia* also claimed that they were taken into a tent in the forest and, from there, pushed back to Belarus: “The pushbacks...continued until some of the applicants were allegedly forced to agree to be removed to Iraq. Those applicants...were allowed to enter Latvia and, one or two weeks later, were removed to Iraq without their asylum claims having been registered and reviewed by the Latvian authorities.”<sup>181</sup> Nikita Matyushchenkov, the lawyer representing the applicants confirmed that some of the migrants he represents who were detained in Daugavpils reported receiving “threats that people would be taken back to the forest if they did not agree to a voluntary return.”<sup>182</sup>

In May 2022, the Minister of the Interior’s response to allegations of this type was that “the Border Guard was not aware of any cases when applications for voluntary return had been submitted or signed under coercion.”<sup>183</sup> In a letter of 29 July 2022, the Latvian authorities denied allegations that people were forced to return against their will, stating that “the State Border Guard does not have information on cases where persons have submitted voluntary return declarations on a forced basis, as well as no complaints have been received regarding the signing of voluntary return declarations on a forced basis. In some cases, foreigners, voluntarily applying to return to their country of residence within the framework of the above-mentioned programme, after their accommodation in the centre ‘Daugavpils’ drastically changed their intentions and

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<sup>180</sup> LIBE, Mission Report following the LIBE mission Vilnius, Lithuania, and Riga, Latvia, above in full, page 5.

<sup>181</sup> *H.M.M. and Others v Latvia*, no. 42165/21, communicated on 3 May 2022.

<sup>182</sup> Various written exchanges including on 11 and 28 July 2022.

<sup>183</sup> Diversity Development Group and PROVIDUS, NIEM comparative report, above, p.29, citing: “Latvia. Ministry of the Interior. (2022, May 11). “Par informācijas sniegšanu”. Letter No. 1-37/FIZ/233 to Ms. Nadezhda Borisovska, Parliamentary Committee on Human Rights and Public Affairs” (not publicly available).

refused to leave voluntarily. In view of the above, the voluntary return process for these persons was interrupted".<sup>184</sup> The research in this report indicates that people were in fact coerced and signed voluntary returns papers under extreme duress. Any complaints they made to state actors, including judges, went ignored.

## 4.1 MIGRANTS AND REFUGEES FORCED TO “AGREE” TO RETURNS UNDER DURESS OR COERCION

Some people reported that during their time in the forest, in the course of pushbacks, or while in a tent, commandos would tell them that they should resign themselves and return to their country of origin. In some cases, this harassment occurred in the context of commandos physically abusing the individuals. Commandos also used violence against people who refused to return, in what appears to be a clear attempt to intimidate them into compliance and to break their spirit. A number of people who suffered such duress and were ordered to “agree” to return had previously faced violence, or extremely dire living conditions and continued pushbacks.

In all cases where people were harassed or subjected to duress or coercion and asked to return while stranded at the border, returnees’ consent to return cannot be considered free and therefore genuine. Even where people had not suffered abuse or harassment explicitly aimed at convincing them to return, the context prevailing in Latvia at the time of these “voluntary” returns cannot be ignored: Latvia lacked functioning asylum procedures and systemically detained people who were admitted from the border, after they had often already been exposed to forced returns and abysmal living conditions. These factors inevitably impacted people’s ability to freely choose to return voluntarily.

As a person who spent time at the border acting as an “interpreter” for other refugees and migrants, Zaki’s testimony is particularly illustrative of these dynamics of coercion. Commandos caught Zaki and others after they crossed into Latvia in December 2022. After an initial registration and interview, the group was taken into a van by a group of commandos, headed by a “commander” wearing a camouflage uniform. A second “commander”, also in camouflage and having a less active role, was also present: “When they arrived, they started hitting us, and they told us to look down and sit on our knees and put our hands on our head. The whole group was put in a van. They asked who speaks English and took me to do another interview. A commander was asking questions and a second commander was recording, holding a camera on his chest; when there was beating the second commander was covering the camera. The commander came inside, asked where I am from, what is my name and they asked to translate for my friend [the first person in the group to be interviewed]. In the interview they asked where we are from and how old and if we wanted to go to Germany or we wanted to go back to Iraq. I was the last person they interviewed. The first person interviewed said ‘Germany’, so they beat him up in the van and he, the commander, told me to ask him again if he wants to go to Germany or to Iraq. They beat him by punches and kicks. Three of my friends [people in the group] were hit. The commander was asking the questions. I think it was not an interview, he [the commander] was just having some fun hitting refugees, doing it for himself, because when he asked these questions, it was recorded, but when he finished and started hitting, the camera was turned off. The third guy got hit so bad. After my friend [the next person to be hit] saw him hit like this they started saying I want to get back to Iraq and they did not hit anyone [from this point]. I was the last guy [interviewed]. I told them I wanted to stay in Latvia. He [the commander] said, ‘Why?’ I said, ‘I want to study and stay here.’ He told me ‘You know how it goes, I have to hit you?’ I said, ‘Go ahead no problem.’ They hit me and after he hit me, he said ‘What do you think now?’ Still the same, if I wanted to go back to Iraq I would go from the first point, Minsk, why go across the border and see all this suffering.”<sup>185</sup>

### LATVIAN AUTHORITIES KEPT RETURN “LISTS” IN THE FOREST

Several people recounted how the Latvian authorities kept lists of the names of people held at the border in an effort to organize returns. This is consistent with allegations, introduced in the previous section, whereby

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<sup>184</sup> Written response to Amnesty International’s preliminary research findings, of 29 July 2022, above in full. The response explains the procedure supposedly followed by the State Border Guard to ascertain people’s voluntariness in return procedures: “The State Border Guard initially conducts a survey of a foreigner who has crossed the State border illegally and ascertains whether he or she agrees to leave the European Union on a voluntary basis. If he wants to leave, he is issued with an order of departure and he exits himself. If a foreigner wishes to leave, but does not have a travel document or money at his or her disposal, he or she shall be directed to the International Organization for Migration (hereinafter – IOM)...As regards the allegations of compulsory signature of voluntary return declarations, it should be noted that the principle of non-refoulement is respected and foreigners who were found to have voluntarily left the administrative territory concerned during the emergency with the support of IOM”.

<sup>185</sup> Remote interview with Zaki of 26 and 29 May and 8 July 2022.

Latvian authorities would subject people who were held in tents or repeatedly pushed back to a “registration” procedure. Adnan, a Kurdish man from the Kurdistan Region of Iraq who spent around three months in the forest before being transferred to two facilities (one described as a “quarantine” camp) and then deported, stated: “It was against our will, none of us wanted to go back because we went through so many things, it would be like wasting all the things we went through to get here. After three months they transported us to the quarantine camp. It [transfers] was like periodically, our turn was after three months. Some people were left after our group of 6-7 people were taken to the quarantine camp. Around 70-80 people [were] left in forest. There were a lot of families, Iraqi, Afghani and Filipino and black-skinned people. Sometimes I saw them [again] but everyday there were new people in the camp.” Discussing the possible criteria for transferring people from the border into detention facilities, Adnan noted: “There were lists [of names] on [Latvian authorities’] mobiles and lists also in the closed centre. They were looking at the names to find out how long [migrants and refugees] have been there for. If they had been there for a long time they wouldn’t deport them, they only wanted to deport those who came recently, and the reason is that those who stayed long knew the borders and the routes, and how to save themselves,” meaning that people who had been at the border for long periods, would have known how to re-enter.<sup>186</sup>

Omar, Bilal and Hassan provided similar accounts of this “system” of admissions into detention camps and returns. Omar and Bilal said that the Latvian authorities would keep lists of names of people they intended to deport and that each week they would only deport five people. While at the border, Omar and Bilal said that the Latvian authorities handed them papers which they understood to be deportation papers. While Bilal was handed a blank paper that he had to fill in with his information, Omar was given a more official looking paper. The two were transferred from the forest and deported at different times.

Hassan spent around five months in the woods. He provided an illustrative account of the way Latvian authorities engaged with people in order to effect returns. He noted that, while in the forest, commandos would take pictures of people’s passports and where people lacked a passport, they would ask for their name and date of birth. “[A]fterwards, commandos would come and say, ‘we have a list of names approved to be evacuated from the forest to the camp to be deported.’ They would come and say the names, put those people in vans, and take them to camps [i.e. facilities in Latvian inland]. [When] my turn came, they came with my name and took me to Daugavpils. At this point, if [people] say no [to returning], they [commandos] threaten the person that they will be back to the forest and that they will not provide food, and even if sick, they don’t allow him/her in the tent to rest...When it was snowing in the area, they started taking the families with children into Latvia; while we were in the woods with our heads down one commando came saying ‘who wants to be deported will stand on this side and who doesn’t on the other side’. Some guys were tired of the situation and accepted to be deported and they [commandos] took them. I don’t know what happened to them. Some others didn’t accept to be deported, including me. The commandos asked why. I told them ‘If I am deported to Iraq I will die’... I said ‘there is risk for my life in Iraq’. The commando responded: ‘You can die here too’...They took me to the border guards who told me ‘Either you accept, or you will stay in the woods for the rest of your life’.”<sup>187</sup>

People also reported facing physical violence or intimidation and threats when urged to return or hearing similar accounts from others. Adnan reported to Amnesty International that he was severely hit when he refused to be returned: “We were six or seven people in the forest. Then the police came and said: ‘Who wants to go back to Iraq?’ Some said, ‘We want’. I did not raise my hand. They came to me and separated me from the others and started beating me. I was hit seven times in the same day for four hours. I was hit by four commandos.”<sup>188</sup>

Kamal, a man from Iraq, who spent time in a tent in November 2021, recalled that: “When in the tent they came to us several times and they asked us ‘Deport, deport’. I just wanted to be released from that situation, I would say to them yes, as in thinking ‘Yes just don’t do anything to us’. Then they took us to the van and gave us some papers which we signed. They told us very bad words, like insulting us, then came back to the tent. In the van they told us if you don’t deport yourself, you will be in this place forever.”<sup>189</sup>

In some cases, for people in the forest, the return process appeared to start or continue in different facilities, in some cases referred to as “police centres” or “stations”. Kamal, who was later transferred from the forest to the Daugavpils detention centre, stated that he signed the same document in the forest and in a different facility, referred to as a “police centre”, and another document in Daugavpils detention centre. Kamal said that in the “police centre” too, officers were insulting him and threatening him to sign. Asked whether he knew the meaning of the document he was signing in the forest, Kamal replied: “Yes but I was forced to sign

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<sup>186</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July.

<sup>187</sup> Remote interviews with Hassan of 12, 24 May and 3 July, and various written exchanges.

<sup>188</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July.

<sup>189</sup> Remote interviews with Kamal on 31 May 7, 10 and 11 June 2022.

because they [Latvian authorities] said they would force me and if I did not, my situation would get worse.”<sup>190</sup> Some people reported that while in these facilities they were forced to sign a paper which they recognized as a document from the International Organization for Migration (IOM).

**“At the police station they called an interpreter over the phone to explain what was written in the paper. He told me ‘This is a deportation paper; if you sign, we will deport you. If you don’t want to sign, we will call the commandos and they will take you back to the woods’. There were border guards who spoke English with me and said the same to me.”**

Hassan, a young Iraqi man who spent five months at the border since August 2021.

In both Adnan’s and Hassan’s case, Border Guards threatened them and told them that if they refused to return, they would be handed back to the commandos or left in the forest. People reported that border guards and other officers would be in charge of these procedures, rather than commandos.

Commandos transferred Adnan and six others from the tent to a facility which Adnan described, at different points, as a police station or garage. Based on documents shared by Adnan, it appears that he was both taken to a border guard station and detained in Daugavpils detention centre in January 2022. In Adnan’s words: “I was taken from the tent to a building near the forest for the return procedure. I was alone, the other six people were taken to another room to do the return procedure. It took place in a building very close to the forest, like a garage, there were cars. It was like a police station, I saw the border guards there”. Adnan also stated that in a site that he referred to as “Daugavpils”: “They read our names and said: ‘You will be deported and if you don’t accept you will die in this forest’. We told them that if we are deported, we would face some risks, and they didn’t even give time to explain properly, they didn’t care. These were both the commandos and some other forces whose appearance was like the army. There was no physical violence, but they talked to us and it sounded threatening because they said ‘If you don’t leave we will beat you and leave you in the forest and you will die here’.”

However, Omar reported that commandos were also present on the scene. Omar and five others were given a deportation paper and driven by commandos to a small building. “Until we arrived to those offices our head was down, but we saw that it was like a building, an office. There were many commandos. Also outside of the building, at the entrance there were commandos who had these electric shocks.” Omar recounted how an officer slapped him on his neck and forcibly held his hand to do the signature: “There were two big guards and they told us, like threatening us, to sign this [document] and go back to your country. I did not want to sign the paper and then one of those big officers slammed my hand on the table and kicked me from behind my neck, then he came back again and held my hand and said you should do the signature, and then with force he made me do the signature.”

From these facilities, people were normally transferred to a different establishment, which in the majority of cases appeared to be the detention centre of Daugavpils.

## **4.2 “THE WAY THEY TALKED TO US BROKE OUR HEART FROM INSIDE”: PEOPLE MISLED AND COERCED INTO SIGNING RETURN FORMS IN DETENTION CENTRES**

People who were detained in the detention facility at Daugavpils described how they were misled or forced to sign a return form, including what appeared to be voluntary return forms. People also described a climate of fear and uncertainty in the facility.<sup>191</sup>

Farid, a 20-year-old Kurdish man from Iraq, was held in Daugavpils on two occasions: upon entering Latvia in late July 2021 and prior to his return to Iraq in April 2022. In March 2022, Amnesty International met with Farid while he was being held in the detention facility in Mucenieki, just outside Riga. In total, Farid spent around nine months in detention. Farid arrived in Latvia prior to the state of emergency and for a month he was placed in quarantine due to Covid-19 in Daugavpils. On 30 July 2021, he signed a document, without knowing the content of it: “An interpreter was talking on the phone. The interpreter did not see the document, he just said how to sign it. We signed it, then they took our fingerprinting and picture. We were

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<sup>190</sup> Remote interviews with Kamal on 31 May 7, 10 and 11 June 2022.

<sup>191</sup> Remote interview with Kamal.



thinking they would accept us and give us status but after two to three months we realised it [the document] was about deportation. The document was not translated to me.”<sup>192</sup>

Najib, a 42-year-old man from Iraq,<sup>193</sup> was in the same group as Farid and he too signed the same document and confirmed Farid’s account, stating that nine people had signed the voluntary return paper. Amnesty International interviewed him separately during a visit to Mucenieki detention centre in March 2022, where Farid and Najib were held at the time. Najib reported that after arriving in Latvia on 26 July 2021, he spent over a month in Daugavpils. On 28 August 2021 he was transferred to Mucenieki detention centre: “When in Daugavpils, I was told that I would go into quarantine because of Covid-19. On the third day of quarantine, 30 July, they took all people who were in quarantine out. There was no interpreter in person but only one on the phone. We were presented with a document and the interpreter told us the document was about their quarantine. If we signed it, the quarantine would end, and we would apply for asylum. On the document there was no signature of the interpreter. On 4 August I had a court hearing and the judge said that I had accepted to return voluntarily. When the court decided, I had seven days to appeal. Nobody told me about my appeal rights. In three months, nobody told me anything. The court [hearing] was about the deportation proceedings. They said to me that in two months they would return me to my country.” After eight months in detention, Najib hired a lawyer at his own expense and filed an appeal against the return decision.

For Farid, however, things went differently. At some point in April, Latvian authorities transferred him back to Daugavpils detention centre and he returned to Iraq via the IOM assisted voluntary return programme.

The people who told Amnesty International that Latvian authorities actively forced or attempted to force them or other detainees in Daugavpils to agree to return “voluntarily”, sometimes after threatening or mistreating them, entered Latvia after the implementation of the SoE. In some of these cases, people reported that their caseworker (referred to as “inspectors” and appearing to belong to the Border Guard) either neglected their concerns or actively intimidated them. Mohamed, who spent time in detention with his family in the Daugavpils detention centre, said: “There was an inspector who came and said that we had to sign these papers, or they would handcuff us and deport us. He wore a green uniform, like the border guards. He introduced himself as ‘I am your inspector, and I will manage your case’. He told me that he was part of the border guards. Once he also came to the office of the camp, brought papers and told me ‘If you don’t sign these papers then I will take you back to Iraq in one week’. The document was in Kurdish, Arabic, English and Latvian. It was just one paper and there was IOM written on it”.

In the time he spent in Daugavpils prior to his return, around April 2022, Farid reported that he witnessed instances where border guards working in Daugavpils, with uncovered faces, used psychological and physical violence against other detainees in order to get them to return voluntarily: “All people in Daugavpils were afraid of the border guards. I saw a lot of violence, including physical violence. I did not experience it because I was quiet and not doing anything. We are young and afraid of the police, but older people who would not accept everything that the police said, faced physical violence. Once, I saw that they [the Border Guards] were moving people in a location without a security camera, on purpose. They used sticks to hit people and their boots to kick them. They were also punching them by hand and so much different violence. The violence and torture they did to people was for people to be afraid of the police and when IOM came they would say ‘Yes we want to go back voluntarily’.” Farid also recalled witnessing the Border Guards in Daugavpils telling people to accept voluntary returns, prior to IOM representatives visiting the facility: “They would tell people: ‘You have to accept, you don’t have any other option. Latvia is not accepting any refugees. There is no asylum right for you. You either accept return voluntarily or you will be failed and then we will force you to the airport and return you to your country’.” According to Farid, this occurred on more than one instance: “Every time when we saw them, for instance when going to eat, when getting documents, every time they [the border guards] would repeat this: ‘You have to accept you don’t have other choice, otherwise we would return you by force’.”<sup>194</sup>

It is important to note that the SoE order of August 2021 prohibited detainees in the facility of Daugavpils from making asylum applications, but the 6 April 2022<sup>195</sup> amendment restored this possibility for detainees at this facility. Yet, Farid’s testimony suggests that Latvian authorities’ attempt to intimidate people into accepting “voluntarily” return continued even though they technically had the right to submit an asylum claim.

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<sup>192</sup> Interview of 11 March, in person, and remote interview of 9 June 2022.

<sup>193</sup> Najib entered Latvia on 26 July, was apprehended and taken to Daugavpils detention centre and then to Mucenieki closed, where Amnesty International interviewed him on 11 March 2022

<sup>194</sup> Remote interview with Farid of 9 June 2022.

<sup>195</sup> Cabinet of Ministers, Order No. 254 of 6 April 2022

In a letter to Amnesty International, Latvian authorities confirmed that Ilmars Mežs, IOM head of office for Latvia, visited the Daugavpils detention centre after 6 April 2022, which is consistent with Farid's account. Farid recounted that when IOM came to visit Daugavpils, detainees were on the first floor and IOM was downstairs. The manager of the border guards talked to detainees saying "If you mention that you agreed to return under pressure, if you say something like that you will be arrested and have big problem. If you go downstairs don't mention anything. IOM didn't see any bad behaviour". When asked if he or others had mentioned the threats and violence they faced or witnessed in Daugavpils during interviews with IOM, Farid explained that nobody did for fear of repercussions: "IOM worker asked whether our decision was voluntary or if [we] were tortured. I said it was my own decision." He however remarked that the border guards had intimidated and threatened them not to suggest their decision to return had been influenced: "We were told you have to say it is your own decision; if you say you agreed under pressure it will be a big problem."<sup>196</sup>

Kamal, an Iraqi man who was detained in Daugavpils after having spent time in a tent in the forest at the border, reported that he had previously been pressured to agree to return to his country while in the forest and that he had signed documents in a van and in a "police centre". He recounted how once in Daugavpils he was also given a paper to sign but was not given information about what the paper was: "They did not give me any explanation, they just gave a more official looking paper and there was no insulting [i.e., he was not threatened or harassed to sign]. I signed the paper in Daugavpils, then I found out [it was a deportation paper]."<sup>197</sup>

The observations of the LIBE Committee upon their visit to Daugavpils detention centre in March 2022 are consistent with these findings. The LIBE Committee's report stated that: "Members were able to speak in private to four detainees, unfortunately the absence of any interpreter in the centre made it difficult to communicate...All detainees also reported they were afraid to return to Iraq and complained about the quarantine. Asked whether they had to sign a form saying they were accepting voluntary return to Iraq, they seemed to confirm these allegations."<sup>198</sup>

In two cases, information received by Amnesty International indicated that Latvian authorities also forced people to sign return documents in Mucenieki detention centre, including through the use of violence.

Adnan, recalled that in January 2022 he was transferred from the "police centre" close to the forest to a facility, which he referred to as a "quarantine camp" and he thought was close to Riga; presumably it was Mucenieki detention centre. "They transported us to a 'quarantine camp', four hours away, I don't know the name of it. I think it was close to Riga. They gave us many papers there. I didn't understand what was written in the papers. During the six days that we were in a quarantine camp, they made us sign those papers to return and when I said that I didn't want to go back, four of them came to attack us. They told me if you don't go and don't sign, we will attack you...They said 'we will force you and make you to go back to Iraq, we will kick you to the airport'. They threatened me and then also beat me with a cable, like an electric cable, and by kicking and punching."<sup>199</sup>

The account of Omar, including indications regarding the distance of the facility from the border area, also suggests that he was forced to sign return papers in Mucenieki: "After I did the signature [in the police station/facility at the border] there was a car, they drove through the forest for about five hours and then we got to a white building. There they gave us this paper saying that if we returned to Iraq, we would get a certain amount of money and I said, 'I don't want money, if I go back to Iraq my life will be in danger'. We went inside one by one and at my turn I said no I don't want, I started screaming, saying 'I cannot, my life will be in danger', they were saying 'it is not my problem'.<sup>200</sup>

## 4.3 IOM'S ROLE IN THE ABUSE OF VOLUNTARY RETURN ORDERS

Amnesty International's research indicates that in several cases, International Organization for Migration (IOM) staff in Latvia ignored evidence that people transferred under "voluntary return" decisions had not provided their free and informed consent to returning.

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<sup>196</sup> Remote interview with Farid of 9 June 2022.

<sup>197</sup> Remote Interviews with Kamal of 31 May 7, 10 and 11 June 2022.

<sup>198</sup> LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 6-7.

<sup>199</sup> Remote interviews with Adnan of 10 March, 17 May, 7 June and 11 July.

<sup>200</sup> Remote interview with Omar of 10 March 2022.

Omar reported signing return papers against his will in a facility at the border and later being transferred to the airport. Omar said that at the airport an unidentified man gave him 100 EUR prior to the flight in late February 2022. He recalled that while at the airport he tried to challenge his return: “After the quarantine, they brought us to the airport. There I said that I did not want to go back to Iraq, my life is in danger. I told the three police in civilian clothes. They handed me over to the airport police. The guy that gave me 100 euros, not sure if IOM, I told him that I did not want to go back, he replied: ‘It has nothing to do with me, just take this money and go back to Iraq’.” While Omar could not explicitly identify the individual handing him the money as a representative of IOM, the actions and circumstances described strongly suggest that this was the case.

A second person who was returned as part of a bigger group<sup>201</sup> told Amnesty International that he was returned against his will in the presence of the IOM representative at the airport. He reported that he explicitly told the IOM representative that he did not want to return to Iraq, but the IOM representative ignored him, saying he could not help, and that he had to sign the return papers.

In March 2022, researcher Aleksandra Jolkina shared similar concerns regarding IOM. Some individuals with whom she was in contact claimed that prior to their return flights on 24 February 2022, and 2 and 3 March 2022, they had expressed to the IOM representative present at the airport that they did not want to be returned. The individuals alleged that the IOM representative had “remained indifferent” and generally failed to take action following their claim. Jolkina also reported that when she confronted the sole IOM representative in Riga about these incidents, he denied all the allegations and claimed that the individuals agreed to return voluntarily.<sup>202</sup>

In an in-person meeting on 9 March 2022 with Ilmārs Mežs, the IOM representative in Latvia, Amnesty International delegates discussed these incidents and sought IOM’s response regarding allegations that people had been forced into accepting “voluntary returns” against their will.<sup>203</sup> Mežs confirmed that IOM would generally receive referrals from the border guards of people with an interest in returning voluntarily. “From time to time we receive e-mails and WhatsApp [texts] directly from individuals.”

Asked specifically about allegations that people had been threatened that they had to accept to voluntarily return back to their home countries or remain in the forest at the border, Mežs replied that he could not confirm under what circumstances people agreed to returning because he had not been present in all cases of people consenting to return voluntarily or signing return documents. He added, “In some cases, IOM received applications from the Border Guard and when you speak to the individual they do not want [to return]. In theory I cannot exclude that some of the people let in [admitted into Latvia] were not willing to sign that application [for voluntary return].” The IOM representative confirmed that IOM was present for all voluntary returns and that the agency conducted interviews in person in Riga and Mucenieki and, remotely, in Daugavpils, and was also present at the airport.<sup>204</sup>

According to IOM’s policy on return and reintegration IOM must respect migrants’ agency in the context of return, meaning that “respect for migrants’ free, prior and informed consent to the specific return modality or option available is an underlying prerequisite for any operational support related to return and reintegration offered by IOM.” Such consent requires “the absence of physical or psychological coercion, intimidation or manipulation...and the possibility of withdrawing or reconsidering one’s consent if the proposed activities, circumstances, or available information change.” IOM’s policy on accountability similarly states the agency’s commitment “to ensure that potential rights violations during return...processes are reported through appropriate channels and to determine when mitigating measures or suspension of return and reintegration programmes is required.”<sup>205</sup>

IOM Latvia’s response regarding how the agency would verify people’s informed consent betrayed a lack of understanding of the monitoring role embedded in IOM’s management of voluntary returns. During the meeting with Mežs, Amnesty International inquired about the agency’s position regarding Jolkina’s allegations about incidents where migrants and refugees had informed IOM that they did not want to return. Mežs’ response suggested that he had not been alert to signs that individuals were trying to express their wish not to be returned and revealed that he was generally confused about his monitoring role in the context of voluntary return operations.

According to Mežs, “On 24 February she [Jolkina] wrote about a person in airport who did not want to return. They [the people who were to be returned] were talking amongst themselves and when I came, I

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<sup>201</sup> The details of the individual giving this testimony are kept to a minimum in order to protect his safety and privacy.

<sup>202</sup> Written exchanges of 8 March, 29 April and 25 June 2022.

<sup>203</sup> Including based on the findings published by Jolkina, already available at the time of this meeting.

<sup>204</sup> In person interview of 9 March 2022.

<sup>205</sup> IOM, IOM’S policy on the full spectrum of return, readmission and reintegration, 23 April 2021, <https://www.iom.int/sites/g/files/tmzbd1486/files/documents/ioms-policy-full-spectrum-of-return-readmission-and-reintegration.pdf>

cannot exclude that the guy [we assume this to mean “the returnee who alleged to Jolkina that he was returned against his will”] said something silently - I am trying to remember, I had headphones – we were in the queue for boarding pass, they got the registration pass. I asked again if everybody was ready to return and there were no signals [we read this to mean “no signs to the contrary”]. Then I received a call from Aleksandra on the same day, saying that they didn’t want to return. Some of the people in the group had passed security. There was some misunderstanding with luggage and Turkish airlines. I received this call, and I was very surprised.”

After saying this, Mežs went on to rectify that the episode he had just discussed was not the one in relation to which Jolkina had raised concerns. He added: “I got these two cases [we understand “these two cases” to mean “the two cases where people claimed they were returned against their will”]. I am puzzled now, maybe here is something I have to be more careful, but other cases they were...it could be that they were kind of ‘I don’t want to go’, not very clear. Now I am afraid to work with others in the pipeline. Thinking as devil’s advocate – maybe some people are afraid of telling me (IOM) that they don’t want to go.” Mežs added that he was “puzzled” that he had to do such a monitoring job.

The characterization of these episodes is particularly alarming when juxtaposed with allegations, discussed above, that returnees had clearly told IOM or the person that they presumed to be an IOM representative that they did not want to return.

Amnesty International has serious concerns not only about IOM’s inaction upon people’s express statements that they did not agree to a “voluntary” return, but also about the broader human rights implications of IOM’s Assisted Voluntary Returns programme in Latvia. Since August 2021, Latvia has suspended the possibility to claim asylum in the border regions. It was only beginning in April 2022 that the authorities permitted people in the detention facility of Daugavpils to submit asylum applications. Latvia has thus erected obstacles to people’s right to seek asylum, severely limited procedural guarantees, held people in arbitrary detention, coerced and misled them into signing returns forms, and subjected them to a range of other human rights violations, including in some cases to torture and other ill-treatment.

A key component of “voluntariness” in the process of return to a home country is that a person’s rights have been protected and yet they still want to return. As noted in UNHCR’s Handbook on Voluntary Repatriation: “One of the most important elements in the verification of voluntariness is the legal status of the refugees<sup>206</sup> in the country of asylum. If refugees are legally recognized as such, their rights are protected and if they are allowed to settle, their choice to repatriate is likely to be truly free and voluntary. If, however, their rights are not recognized, if they are subjected to pressures and restrictions and confined to closed camps, they may choose to return, but this is not an act of free will.”<sup>207</sup> Amnesty International restates that “In the face of individuals being subjected to ...severely restrictive detention regimes, [the organization] has serious concerns about whether returns can be truly voluntary. We would question what choice an individual has when the only alternative to return with IOM’s assistance is to remain in detention for a lengthy or indefinite period of time while ‘awaiting deportation’.”<sup>208</sup>

## 4.4 IGNORED AND OBSTRUCTED: DETAINEES’ RIGHTS VIOLATED

The migration detention facilities used by the Latvian authorities to address the summer 2021 migration movements are the “detained foreigners’ accommodation centre” in Daugavpils,<sup>209</sup> at the border with

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<sup>206</sup> For the purposes of the handbook in question refugees are defined as “all persons outside their country of origin for reasons of feared persecution, armed conflict, generalized violence or gross violations of human rights and who, as a result, need international Protection”, therefore it should be understood to include asylum-seekers who have not been officially granted protection in the country of asylum. See, UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation: International Protection, January 1996, preface, [www.refworld.org/docid/3ae6b3510.html](http://www.refworld.org/docid/3ae6b3510.html).

<sup>207</sup> UN High Commissioner for Refugees (UNHCR), Handbook - Voluntary Repatriation, in full above, para. 2.3.

<sup>208</sup> Amnesty International, *Amnesty International statement to IOM Council, November 2003*, (AI Index: IOR 30/011/2003). In the context of Libya, Amnesty International similarly questioned the genuine nature of people’s consent to return voluntarily: “Given the alternative of indefinite detention and the torture and other ill-treatment in detention, the extent to which these returns are voluntary remains questionable: there is a risk that people potentially in need of international protection may, for lack of better options, accept to return to a country where they may be exposed to persecution, torture or other human rights violations.”, Amnesty International, *Libya’s dark web of collusion: Abuses against Europe-bound refugees and migrants*, 11 December 2017, (MDE 19/7561/2017). See also: Amnesty International, *Israel: Forced and unlawful: Israel’s deportation of Eritrean and Sudanese asylum-seekers to Uganda*, 18 June 2018, (Index Number: MDE 15/8479/2018).

<sup>209</sup> Global Detention Project, Daugavpils detention centre, information page, [www.globaldetentionproject.org/countries/europe/latvia/detention-centres/1695/daugavpils-detention-centre](http://www.globaldetentionproject.org/countries/europe/latvia/detention-centres/1695/daugavpils-detention-centre)

Belarus and the Mucenieki “detained foreigners’ accommodation centre”, Ropaži municipality outside Riga.<sup>210</sup>

According to information provided to Amnesty International by the Latvian authorities,<sup>211</sup> in 2021, 170 people were detained in Daugavpils detention centre on the basis of migration law provisions and 160 were detained under asylum law. As of 24 May 2022, 107 people were detained under migration law and 31 under asylum law in 2022.

Amnesty International visited Mucenieki detention centre on 11 March 2022 and interviewed detainees and met with Border Guard representatives Major Antons Prozors, Deputy Head of the Centre<sup>212</sup> and Captain Iveta Volkova from the “Return and Asylum Service”.<sup>213</sup> The facility, opened in 2017, is composed of two blocks, one housing single men and the other minors and families. At the time of the visit, one single woman was also detained there. Across the street from the facility is the “asylum-seekers open accommodation centre”,<sup>214</sup> where some of the detainees are in some cases released to depending on the state of their asylum case.<sup>215</sup> Both facilities are located in an area which falls outside the scope of the SoE, therefore people in these facilities can make asylum applications.

Although initially designed to hold people in immigration detention, asylum-seekers are currently detained in the Mucenieki facility as well. While the official capacity of the facility is 84, the actual occupancy rate went from 200 immigration detainees in 2017 to 72 migrants and 156 asylum seekers detained since August 2021.<sup>216</sup> The maximum number of detainees in 2022 was only 20 and, at the time of the Amnesty International delegation’s visit, the facility was hosting only 11 asylum-seekers, four of whom were minors. Two of the detainees, originally from Iraq and Syria respectively, were sent back to Latvia from Germany under the Dublin Regulation.

## ARBITRARY DETENTION

People who were transferred from the border into mainland Latvia since August 2021, including families with children and unaccompanied minors (children travelling without their parents or guardians), have overwhelmingly been taken into the detention facilities of Daugavpils. Until April 2022, detainees in Daugavpils were barred from making asylum applications, as the site fell under the geographical scope of the state of emergency; as such they were detained in compliance with Latvian migration law, rather than under the provisions of asylum law, which would have been more lenient.<sup>217</sup>

People interviewed by Amnesty International, who spent time in Mucenieki or Daugavpils detention centre, reported that they were detained for an initial period of 2 months, which was extended repeatedly.

Detention orders reviewed by Amnesty International were commonly issued on the grounds that the individual concerned had crossed the border “irregularly”, and that deportation proceedings were being carried out.<sup>218</sup> Under international and EU law, migration related detention can only be used in specific and the most exceptional of circumstances and only as a measure of last resort. Routine or automatic migration-related detention is, by definition, arbitrary, and therefore illegal. Immigration detention should only be used where it is necessary and proportionate, and it should never be imposed on children.<sup>219</sup> It cannot be

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<sup>210</sup> Global Detention Project, Mucenieki detention centre, information page.

[www.globaldetentionproject.org/countries/europe/latvia/detention-centres/2031/mucenieki-detention-centre](http://www.globaldetentionproject.org/countries/europe/latvia/detention-centres/2031/mucenieki-detention-centre)

<sup>211</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary, on file with the organization.

<sup>212</sup> Head of the Operational Management and Security Division

<sup>213</sup> Deputy Head of Service, Head of Convoy Division

<sup>214</sup> In Latvian: “PMIC - Patvēruma meklētāju izmitināšanas centrs ‘Mucenieki’”

<sup>215</sup> While the centre is qualified as an open facility, long quarantines appear to have been imposed at times. See: Current Time, *Illegal Migrants In Latvia: Still Hoping For A ‘Safe’ Place To Call Home*, 29 September 2021, <https://en.currenttime.tv/a/illegal-migrants-in-latvia-still-hope-for-a-safe-place-to-call-home/31484061.html>

<sup>216</sup> In 2021, there were still some detained foreigners, 32 Moldovans and 18 Iraqis, while all asylum seekers were Iraqi. All information is based on a presentation given to Amnesty International delegates in the context of their visit to the facility on 11 March 2022.

<sup>217</sup> The detention of asylum-seekers under Latvia Asylum Law, Article 17, is only allowed for an initial period of up to six days, that can be extended upon request of the Border Guard under certain circumstances, through an order of the Court (Article 18) for a period of up to two months or not exceeding the duration of the asylum procedure (Article 19.1.2). Under migration law, the initial period of detention is instead of 10 days and is extendable by two months at a time and up to a total of six months or up to an additional 12 months in cases where “the foreigner refuses to cooperate or there is a delay in receiving the necessary documents from third countries.” (Article 54 unofficial translation). Concerningly, even in the context of the detention of asylum-seekers, Latvian law appears to grant the State Border Guard the power to submit requests to extend the detention of an individual for an “unlimited” number of times. See: Article 18.5: “(5) The State Border Guard may submit a motion to detain an asylum seeker to the district (city) court an unlimited number of times. A repeated proposal is considered in accordance with the procedure provided for in this article”. All text reported is an unofficial translation. See Asylum Law of 17 December 2015, <https://likumi.lv/ta/id/278986-patveruma-likums> and Migration Law of 31 October 2002, at: <https://likumi.lv/ta/id/68522-imigrācijas-likums>

<sup>218</sup> Latvia Immigration law of 31 October 2002, Article 51.

<sup>219</sup> Universal Declaration of Human Rights (UDHR), Arts 9 and 14; Convention Relating to the Status of Refugees (Refugee Convention), Art. 31; International Covenant on Civil and Political Rights (ICCPR), Arts 2 and 9(1); Convention on the Protection of the Rights of Migrant Workers and Members of their Families (Migrant Worker Convention), Art. 16; UN Human Rights Committee, General Comment 35: Article

imposed only as a punishment for entering or staying in the country “irregularly”. Detention for the purpose of return or removal can only be imposed in relation to a procedure that has *been initiated*, is *in progress* and has a reasonable prospect of being executed within a reasonable timeframe.

In Daugavpils, the conclusion that the use of migration detention was arbitrary is compounded by the impossibility for people detained there to have their asylum claims considered.

In the case of *H.M.M. and Others v Latvia*, pending before the European Court of Human Rights, three families of asylum seekers (six adults and five children) who entered Latvia “irregularly” in August 2021 submitted claims regarding their detention in Daugavpils, under Article 5 paragraph 1 and 4 of the ECHR. Nikita Matyushchenkov, the lawyer representing the applicants, told Amnesty International that: “Asylum-seekers arriving in Latvia irregularly often find themselves deprived of their liberty arbitrarily, as a direct consequence of the legalisation of *refoulement*.” Matyushchenkov’s comments indicate that in these cases, the authorities appeared to ignore the lack of access to asylum in the Daugavpils detention centre under the state of emergency: “These families explicitly requested international protection in Latvia. They were deprived of liberty on the basis of the Immigration Law. The courts refused to apply to them the Asylum Law. The courts ignored the fact that the authority responsible for accepting the families’ applications for asylum – the State Border Guard – was prohibited from doing this by Order No. 518 [the order on the state of emergency]. Among the reasons justifying the detention of our clients the court repeatedly used the phrase ‘it is obvious that his [her] final destination was not the Republic of Latvia’. This phrase was never supported by analysis of a migrant’s personal circumstances.” According to Matyushchenkov, this motivation was used by the court of last instance in all six cases his organization studied. “The use of such justification of the deprivation of liberty indicates its arbitrariness,” – Matyushchenkov commented.<sup>220</sup>

## PROCEDURAL RIGHTS IN DETENTION

Amnesty International also has serious concerns about the respect for detainees’ procedural rights, including the rights to be heard and participate effectively in proceedings, the right to legal information and assistance, and the right to access communication with the outside world.

### LACK OF INDEPENDENT MONITORING

Since the introduction of the SoE, NGOs and other independent actors’ ability to effectively monitor the conditions in these facilities and have access to detainees has been severely restricted.

According to a report of the LIBE Committee, based on a visit to the Daugavpils detention centre, authorities indicated that “Due to COVID, NGOs had access to detainees only remotely. Legal aid could also be provided remotely, upon request”.<sup>221</sup> Information provided to Amnesty International by the Latvian authorities stated that “UNCHR, UNCHR partners, lawyers and NGOs have access to the center “Daugavpils” after the end of the COVID-19 quarantine”, which lasted until 28 February 2022. The Latvian authorities did not however indicate when the quarantine had started.<sup>222</sup>

Researcher Aleksandra Jolkina reported that she was denied access to people in the facility of Daugavpils on the basis of Covid-19 restrictions: “On 22 November 2021, I contacted the Latvian State Border Guard spokesperson via email asking for a possibility to visit the Daugavpils centre to interview the detained persons, should they agree to be interviewed, and the centre staff. In a subsequent phone conversation, the spokesperson told me my request was rejected on the basis of ‘security considerations’. I was not provided any meaningful explanation as to what this formulation entails and how my visit could put the security or order at the centre at risk. A week later, on 29 November, I attempted to gain access to the centre once again by sending the spokesperson an email with the names of two families who were detained at the centre at the time and wished to talk to me. My request, however, was rejected again – this time, on the pretext of quarantine. During the respective phone conversation, the spokesperson could neither reply to my question as to when exactly the quarantine was introduced, nor refer me to any official documentation confirming this. Although she promised to send me an email confirming the quarantine was introduced in writing, I have never received it.”<sup>223</sup>

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9, Right to Liberty and Security of Persons (HRC General Comment 35); UN Committee on the Elimination of Racial Discrimination, General Recommendation 30 on Discrimination against Non-Citizens; European Convention on Human Rights (ECHR), Art. 5(1); UN High Commissioner for Refugees (UNHCR), Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), (UNHCR Detention Guidelines), Guidelines 1, 2 and 3. Under EU law, see among others, Charter of Fundamental Rights of the EU, Article 47; Reception Conditions Directive, Article 9 Asylum Procedures Directive, Article 26.

<sup>220</sup> Written exchange of 11 July 2022.

<sup>221</sup> LIBE Committee, Mission Report following the LIBE mission to Vilnius, Lithuania, and Riga, Latvia, 2022, above in full, page 7.

<sup>222</sup> Written response of 10 June 2022 from Latvia’s Acting State Secretary to Amnesty International, on file with the organization.

<sup>223</sup> Written exchange of 30 June 2022.

The NGO Latvian Centre for Human Rights (LCHR), an implementing partner organization to UNHCR, told Amnesty International that since the introduction of the state of emergency, they have faced obstacles accessing people detained in Daugavpils. “Our relationship with the Daugavpils administration was initially productive. We were able to provide legal support to detainees, communicating to them via tablets that we provide to the facility. Then in December detainees started facing difficulties in using the tablets”. The LCHR understood that the restrictions may have to do with the suspension of asylum applications for people in the Daugavpils detention centre. The LCHR spearheaded the process in Latvian Administrative Courts which resulted in the April 2022 amendment to the SoE that allowed detainees in Daugavpils to file asylum applications. Since May 2022, the LCHR has been able to resume remote communications with only one detainee.<sup>224</sup>

People’s ability to reach out for support to organizations of their own initiative was also affected by the very limited phone time afforded to them. People consistently reported that while in detention in Daugavpils they were permitted only 15 minutes per day of phone time and around 1-2 hours in Mucenieki detention centre. Detainees have a right to have adequate access to communications with the outside world, including with legal counsel and with their families or dear ones.<sup>225</sup> The limited phone time afforded to detainees in both facilities inevitably affected this right, including when it came to their ability to secure adequate legal representation and advice. These limitations are particularly concerning in the Latvian context, where – as discussed in the previous chapters – Latvian authorities in detention facilities are described as actively threatening, forcing or harassing detainees into renouncing their rights and accepting “voluntary” returns.

For instance, after learning about the situation of Farid, who had been misled into signing a voluntary return document and who lacked the assistance of legal counsel, Amnesty International referred the case to the LCHR on 14 March 2022 and requested that LCHR intervene in the case. The LCHR forwarded a power of attorney form to Daugavpils for Farid to sign, along with LCHR’s contact details. On 21 April, the LCHR informed Amnesty International that according to the head of Daugavpils detention centre, Farid had not applied for asylum and expressed the wish to return home and that since he was not an asylum-seeker, there were no grounds on which to organize a meeting with the LCHR. The head of the detention centre also told the LCHR that Farid had a mobile phone and could contact them at his initiative. The centre repeatedly refused LCHR’s request to organize a call with Farid, stating that they would tell him to call LCHR instead. Farid, however, told Amnesty International that while he had been informed that the LCHR was trying to reach him, the authorities did not let him talk to the LCHR. Also due to the limited phone time granted to him, he was ultimately unable to communicate with the organization.

#### VIOLATIONS OF THE RIGHT TO BE HEARD AND ACCESS TO REMEDY

People reported that in the context of their detention Latvian authorities ignored or dismissed their complaints or did not allow them to participate effectively in procedures. In some cases, Latvian authorities ignored people’s complaints that they had suffered violence or had been forced into signing documents that they did not want to sign or did not understand.

Farid recounted how, in the context of judicial hearings (generally held online) ruling on the extension of his detention, the Latvian authorities did not allow him to participate effectively. “In court they just say: ‘Two months extra prison’.” Farid believes that authorities had pre-determined the outcome of the decision before the hearing. “During each hearing they would not let me talk. I was trying to talk, and they would say ‘Stop, don’t talk.’ They wouldn’t let me explain what happened. I had no lawyer, and they wouldn’t allow me to have a lawyer. When I told them I signed a document by force they did not comment. On one occasion, there was a problem with the internet connection and when the connection re-started the judge just said, ‘extra two months.’ They didn’t even have the hearing due to connection problem, and when we reconnected, they just decided on the extension.”<sup>226</sup>

Farid reported that despite disclosing to the Latvian authorities that he had signed a return document without knowing its content, his claims were left unaddressed. The inspector (caseworker) assigned to him did not take any effective action. Having spent almost eight months in detention at the time of his first interview with Amnesty International, Farid appeared disheartened and frustrated with his prolonged confinement and said that he wished to return to his country. Farid recounted that other people with him in Mucenieki detention centre had been transferred to the open reception centre after applying for asylum. However, Latvian authorities informed him that the “criminal proceedings” against him, presumably in relation to his “irregular entry”, had to be completed first. “I told them [the Latvian authorities] that I want to go back to my country, but they are not sending me back. I can’t understand why I am here. I told my inspector that I was forced to

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<sup>224</sup> Remote interview of 28 May 2022.

<sup>225</sup> Among others see: Rule 58, 61 and 62 of the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

<sup>226</sup> Remote interview with Farid of 9 June 2022

sign [the return papers], I can't understand how in a European country they can force you to sign a document when you don't know what is written in it. The inspector is not helping, and you can only get a paid for lawyer...I applied for asylum, but the criminal procedure must be concluded first but it has been already a lot of time so...send me back. I am told they cannot send me back until the criminal process is completed. I received a result from the court that they accepted my application for asylum. Normally now I should be transferred in the open camp, but for me the criminal case has to finish first". Najib, who was in the same group as Farid and had also been misled into signing a voluntary return document, similarly stated that during court hearings he had explained that he had not signed this document voluntarily "In court, every time I said I signed the voluntary return document not voluntarily".<sup>227</sup>

People also reported that during court hearings, presumably aimed at ruling on the extension of their detention, judges similarly ignored or dismissed their claims that they had suffered mistreatment at the border. For instance, when asked if he had reported the experience in the forest to anyone in Daugavpils Detention Centre, Mohamed told Amnesty International that both judges (on some occasions a man, on others a woman) and his inspector had dismissed him. Mohamed reported that both said things to the effect of "It is not our problem, don't talk about these things with us, why did you leave your country, what are your intentions in Latvia?" Mohamed added: "The judge told me: 'when I ask you a question you just say yes or no.' When I told the judge that they were beating and hurting us, the judge said it is not our business, don't talk about these things with us. The same with the inspector."<sup>228</sup>

Hassan gave a similar account. After being transferred to detention, he reported speaking with a judge through an interpreter: "I told the interpreter about Latvian commandos torturing and beating us in the woods. I said that I stayed five months [in the woods]. The judge used his hands as if to ask 'Five?'. He then did not ask more questions, but I did tell the interpreter to tell the judge. Nobody explained to me what the purpose of the interview with the judge was. The judge asked if I have passport, if I have money, I said no. He asked if I had someone who could receive me in their home in Latvia, I said no. I felt that he did not care and I was desperate of repeating myself."

In view of the accounts and serious concerns presented above, Amnesty International welcomed the visit of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the detention centres of Daugavpils and Mucenieki from 10-20 May 2022.<sup>229</sup>

## **COVID-19 QUARANTINES MISUSED**

Testimonies collected for this report indicate that in the detention centre at Daugavpils, Latvian authorities resorted to quarantine measures, invoking COVID-19 to impose arbitrary restrictions on detainees' freedom or with the aim of punishing them. Farid, who reported spending around one month in Daugavpils prior to his return to Iraq, said he spent "almost all the time" of his detention in quarantine: "They were using the quarantine to block our freedom. I was in quarantine three times in Mucenieki and almost all the time in Daugavpils. We were not transferred to a different room, but during quarantine we were always locked in the room."

In other cases, quarantines may have been used legitimately to prevent risks from COVID-19, but restrictions imposed on some people appeared to be excessive and punitive in nature. Omar stated that after being transferred from a police station, he was placed in a different site, possibly Mucenieki detention centre, where he was placed in quarantine as a punishment and forced to accept a "voluntary" return to his country of origin: "We went inside one by one and at my turn I said no I don't want [to] and [I] started screaming, saying 'I cannot, my life will be in danger', they were saying 'It is not my problem', and for that they quarantined me for a week. In the quarantine I was not eating for two days, they didn't bring me food. We told them that we wanted a lawyer, where is the UN, our rights. They told us, 'For you all, there is nothing in Latvia, no right[s]'. "

Latvian authorities also invoked Covid-19 protocols and quarantines to restrict the Amnesty International delegation's access to Latvian detention facilities in March 2022. On 4 March, the authorities stated that quarantines were in place in both Daugavpils and Mucenieki. The organization's request to visit the Mucenieki detention centre was granted "exceptionally", but the visit to Daugavpils detention centre was denied. The Latvian authorities left unaddressed the delegation's request to visit the Daugavpils Border Guards Administration and the Border Police Guard Station and border crossing point of Silene. The authorities also failed to propose alternative ways for the delegation to meet with refugees and asylum-seekers or with members of the Border Guards. In a communication to Amnesty International of 10 June

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<sup>227</sup> In person interview of 11 March.

<sup>228</sup> Remote interviews with Mohamed on several occasions in May 2022.

<sup>229</sup> Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Council of Europe anti-torture Committee visits Latvia, 24 May 2022.



2022, the Latvian authorities stated that the quarantine imposed in Daugavpils was in force only until 28 February. This statement stands in stark contradiction to the reasons the authorities previously invoked to deny Amnesty International's access to the facility in March 2022, and with Farid's statement that, as of April 2022, he had spent almost the whole of his time in Daugavpils in quarantine.

## 4.5 DETENTION OF CHILDREN

Under Latvian law, unaccompanied minors of 14 years of age and above can be detained for migration and asylum purposes. However, younger children travelling with their parents or guardians can be detained by reasons of the detention order imposed on the adults with them.<sup>230</sup>

Amnesty International witnessed first-hand the detention of children and collected testimonies from people with first-hand knowledge of young children in detention for migration-related purposes. At the time of Amnesty International's visit to Mucenieki, four unaccompanied minors (children who had arrived in Latvia without their parents or guardians) were detained there.<sup>231</sup>

A representative from the Latvian Center for Human Rights (LCHR) reported that: "We had four families with little children detained in bad conditions. One had a little child with development issues and the family ultimately signed a voluntary return order." The representative added, "This doesn't have to do with the conditions in Daugavpils per se, but with the fact that detention is not suitable for children. We still insist that there should be no detention of children with families."<sup>232</sup>

Children should never be detained for migration-related purposes. This practice is prohibited under international law as it can never be in the best interests of the child.<sup>233</sup> Amnesty International opposes the migration and asylum-related detention of children, accompanied and unaccompanied, under all circumstances.

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<sup>230</sup> NIEM comparative report, in full above, p. 27, states: "Children were de facto confined together with their parents, but not legally detained". In a written response to Amnesty International of 29 July 2022, Latvian authorities seem to suggest that younger children in relation to whom detention is not applied, are "accommodated together" with the detained adult provided that both have no objection to this: "The fact that the detained person to be accommodated in the Centre has no objection to the joint accommodation of a minor accompanying him or her shall be sought both for the arrested person and for the consent of the minor to be accommodated with him or her." Written response to Amnesty International's preliminary research findings, received on 29 July 2022, by Latvia's Minister of the Interior, on file with the organization.

<sup>231</sup> Amnesty International delegates visited the section of the Mucenieki detention centre during its visit to the facility on 11 March 2022, including the section allocated to minors and families, where the four minors were detained at the time.

<sup>232</sup> Remote meeting with representatives of the LCHR on 28 May 2022.

<sup>233</sup> UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, para. 5.

# CONCLUSIONS AND RECOMMENDATIONS

As of August 2022, European countries have received almost five million people fleeing the war in Ukraine, a large percentage of whom have crossed into Europe from its eastern borders. At the same borders, however, people attempting to enter Europe from countries including Iraq, Afghanistan, Iran and Syria have faced a very different fate, often exposed to prolonged violence, detention, abuse or plain neglect.

Since August 2021, Latvia, Lithuania, and Poland have become the symbol of Europe's double standard towards racialized individuals and groups who have been attempting to enter the countries from Belarus. Their misuse of emergency powers to impose disproportionate restrictions on people seeking safety at these borders and to systematically prevent their access to protection has been largely condoned by EU institutions.

Latvia's policy of systematic forced returns, accompanied by arbitrary detention, torture and other ill-treatment, and – in some cases – possible enforced disappearances, is a blatant violation of international and European human rights law and has resulted in prolonged anxiety and suffering for people at the borders, their relatives, and friends. The country's suspension of asylum applications in border regions and the conditions faced by those who ended up in detention for prolonged periods of time in Latvia's facilities has also caused great uncertainty and extensive psychological damage that will likely remain unaddressed for most people.

Cruel practices to mislead or force people into agreeing to "return voluntarily", with the apparent complicity of IOM, have further undermined people's confidence in a system with a blatant bias against refugees and migrants who came across the Belarus border.

To stop human rights violations and crimes under international law, ensure redress and restore access to protection in Latvia, Amnesty International makes the following recommendations:

## TO LATVIAN AUTHORITIES:

- Halt immediately pushbacks of refugees and migrants to Belarus and ensure respect of the principle of *non-refoulement* by not transferring anyone to a place where they would be at real risk of persecution or other serious human rights violations, or where they would risk onward *refoulement*.
- Revoke immediately the state of emergency order of 10 August 2021 and refrain, in the future, from invoking a state of emergency or other exceptional measures to derogate from the state's human rights obligations in the migration context. Create the conditions for independent organizations to visit the border areas unimpeded, with a view to provide humanitarian assistance, legal information and representation to people at the border.
- Restore access to asylum across the territory of Latvia, without exceptions. Ensure that all asylum-seekers have access to a fair and effective asylum procedure, including an assessment of their claims for international protection on their merits through an individualized procedure, irrespective of the conditions of entry into Latvia.
- Take measures to ensure that migrants and refugees can make asylum applications at Border Crossing Points in a practical and effective manner. Such measures should include facilitating the

safe transportation of people who are detected at other areas of the land border and who express the wish to apply for asylum, to Border Crossing Points.

- Ensure that UNHCR, civil society organizations and other independent observers have unhindered access to Border Crossing Points for monitoring and advice purposes.
- Conduct as a matter of urgency prompt, independent, impartial, and effective investigations into all allegations of human rights violations described in this report, including acts of excessive use of force and physical violence, including torture; unlawful detention in tents at the border; and alleged enforced disappearances. If sufficient and credible admissible evidence is found, prosecute all those suspected of criminal responsibility in fair trials before ordinary civilian courts.
- Ensure that individuals who wish to report violations of their rights can do so safely and that their allegations are duly investigated.
- Establish an independent border monitoring mechanism (IBMM), with sufficient resources, means and independence to ensure respect of the human rights of migrants and refugees at the border, and guarantee that any violation is effectively investigated. The design of this mechanism should provide for the involvement of independent actors, including civil society and specialized organizations.
- Provide prompt and meaningful access to effective remedy, including access to justice, truth and reparation through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, to all refugees and migrants whose rights and freedoms have been violated by Latvian state actors or their agents.
- Ensure that all laws, policies, practices and procedures in the migration and asylum context strictly adhere to the principle of non-discrimination.
- Release immediately all asylum-seekers and irregular migrants who are subjected to arbitrary detention and ensure their liberty and freedom to move within Latvia unless measures restricting their rights are proven to be necessary and proportionate within the circumstances of each individual case.
- End the policy of automatic, arbitrary detention and ensure that migration-related detention is only imposed as a matter of last resort and when legal, proportionate and necessary.
- Ensure that civil society organizations, lawyers and other independent observers have regular and unimpeded access to detention facilities.
- Ensure that quarantine and other restrictive measures aimed at the protection of public health are legitimately declared and that, under such measures, any restrictions on the rights of detainees are strictly necessary and proportionate to the health emergency.
- Improve detainees' access to legal information, assistance and advice and ensure that they have effective means of communication with the outside world.
- Prohibit, in law and practice, the detention of accompanied or unaccompanied children for migration or asylum-related purposes.
- Ensure that voluntary returns are based strictly on the free and informed consent of the individual, without coercion of any kind. Investigate incidents reported in this and other reports whereby individuals were coerced or misled into returning "voluntarily".

#### TO IOM:

- Investigate as a matter of urgency allegations that IOM representatives ignored or neglected people's claims that they did not consent to return voluntarily. Take immediate measures to ensure that all incidents in which returnees' rights are reported to have been violated are reported and investigated both by IOM and by the Latvian authorities.
- Implement effective protocols and procedures to ensure that migrants' free, prior and informed consent to return voluntarily is protected. This should include procedures aimed at verifying "the absence of physical or psychological coercion, intimidation or manipulation" and remedies to ensure that a returnee can withdraw or reconsider their consent to returning "voluntarily" if circumstances change, in line with IOM'S "policy on the full spectrum of return, readmission and reintegration" of 23 April 2021.

#### TO EU INSTITUTIONS AND MEMBER STATES:

- Take urgent measures, including commencement of infringement proceedings, to ensure that Latvia restores conditions that respect European asylum and fundamental rights law at its borders and across the country.
- Ensure that EU funding granted to Latvia does not contribute toward human rights violations. Latvia's application for funding under the Asylum, Migration and Integration Fund [AMIF] for 2021-2027, which is, among other things, intended for the expansion of Daugavpils detention centre, should only be granted upon condition that the country commits to halting all human rights violations in this facility and to fully and effectively investigating allegations that Latvian authorities committed human rights abuses against people transferred to and detained in this facility.
- Ensure that Latvia takes steps to establish an Independent Border Monitoring Mechanism (IBMM) to ensure the effective investigation of allegations of human rights violations at its borders.
- Reject the Commission proposal for a Regulation addressing situations of "instrumentalisation in the field of migration and asylum" and any other attempts at codification of this concept in EU law.
- Refrain from using dehumanising expressions such as 'hybrid threat' or 'hybrid attack' in relation to the instrumentalisation of refugees and migrants for political purposes by state and non-state actors.
- Contribute to accountability for systemic human rights violations at the EU's borders by agreeing that Member States must, as a matter of EU law, establish an effective independent border monitoring mechanism which has broad scope and fulfils the requirements of independence and transparency.
- Share with Latvia the responsibility for assisting refugees and migrants currently in the country, including those currently in detention there, by offering at a minimum humanitarian admission and family reunification opportunities.
- Suspend Dublin transfers to Latvia and take responsibility for pending asylum applications under discretionary clauses while allowing the reopening of applications if asylum-seekers had received a final rejection in Latvia.

#### TO FRONTEX:

- Initiate proceedings in accordance with Article 46(4) of Regulation (EU) 2019/1896, according to which the Executive Director should immediately suspend all operational activities in a Member State "if he or she considers that there are violations of fundamental rights or international protection obligations related to the activity concerned that are of a serious nature or are likely to persist."
- Suspend operational activities until steps are taken by the Latvian authorities to guarantee that people arriving at EU borders are duly registered by the competent national authorities; given access to an individualised procedure and to asylum, if they so wish; and are not exposed to human rights violations.

# ADDENDUM: UPDATES SINCE AUGUST 2022

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## 1. INTRODUCTION: AMNESTY INTERNATIONAL'S DECISION TO POSTPONE PUBLICATION OF THE RESEARCH ON THE LATVIA-BELARUS BORDER

Amnesty International announced on 26 July 2022 that it would publish a report on Latvia on 10 August 2022, the one-year anniversary of Latvia's introduction of a state emergency at its borders with Belarus. The report, titled: *Latvia: Return home or never leave the woods*, concluded that the Latvian authorities had committed serious human rights violations against refugees and migrants who entered or attempted to enter the country from Belarus (hereinafter the "Latvia-Belarus report"). With the July announcement, Amnesty International also called on Latvian authorities to halt the plans to renew the state of emergency for a fourth time.<sup>234</sup>

On 9 August 2022, Amnesty International decided to postpone publication of the Latvia-Belarus report. The decision was taken after careful consideration of the reactions to Amnesty International's 4 August 2022 press release on the Ukraine war.<sup>235</sup> The sole purpose of the delay in publication of the Latvia-Belarus report was to ensure that the people who had shared their experiences of human rights abuses in Latvia received the attention they deserve and that we amplified their voices to achieve maximum human rights impact on their behalf.

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<sup>234</sup> Amnesty International, tweet of 26 July 2022, at: <https://twitter.com/AmnestyEU/status/1551856721924165632>

<sup>235</sup> Amnesty International, *Ukraine: Ukrainian fighting tactics endanger civilians*, 4 August 2022.

Amnesty International also communicated the decision to postpone publication of the Latvia-Belarus report to the Latvian authorities on 9 August. The communication was sent to Kristaps Eklons, Minister of the Interior; General Guntis Pujāts, Chief of the State Border Guard; Dr Artis Pabriks, Deputy Prime Minister and Minister for Defence, and to representatives of the International Organization for Migration (IOM).

Amnesty International had previously communicated to these same authorities the summary findings of its research on 22 July 2022 and requested a reply to those findings. Minister Eklons responded to our findings on 29 July and portions of his letter are reflected in the text of the report where relevant. Additional excerpts of the letter were included in a separate annex to the report.

Amnesty International did not share the summary research findings with the Ombudsman of Latvia, who only received the Latvia-Belarus report plus this addendum, on 12 October 2022, ahead of the new publication date.

On 8 September 2022, Amnesty International informed the Latvian authorities that the Latvia-Belarus report would be published in October 2022, in the same version prepared for publication in August.<sup>236</sup> This communication included requests for information and updates for the purposes of this addendum. Response letters from the Minister of Interior of Latvia were received on 22 and 29 September 2022 and are reflected in the text of this addendum.

## 2. MOVEMENTS AT THE LATVIA-BELARUS BORDER SINCE AUGUST 2022

### OBJECTIONS TO THE EXTENSION OF THE STATE OF EMERGENCY AND CONCERNS EXPRESSED BY THE COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS

The Latvian Minister of Interior had proposed in July 2022 an extension of the state of emergency in force in the border regions of Ludza, Augšdaugava, Krāslava and Daugavpils city and the emergency order was in fact extended for a fourth time on 10 August 2022.<sup>237</sup> The order is in force until 10 November 2022.<sup>238</sup> The Minister of Finance and the Minister of Justice of Latvia had objected to the proposal to extend the state of emergency.

The Minister of Justice questioned the merits of the proposal, arguing that the “factual circumstances” presented as grounds to extend the state of emergency were not in line with the requirements of the law on emergency situations in Latvia.<sup>239</sup> The Minister noted how the annotation to the proposal stated that there had been a “significant decrease” of attempted crossings and the Border Guard had prevented the crossing of 20, 96 and five people in May, June, and July respectively. According to the Minister, “such information could not be the basis for maintaining (prolonging) the emergency situation”. The Minister remarked that the factors considered for the extension included the state of the construction works of the border fences in Poland, Lithuania and Latvia. He noted that: “the assumption that the construction of a fence in Poland or Lithuania may increase the number of illegal border crossers, and the absence of a fence in Latvia cannot be a basis for prolonging the declared emergency situation”.<sup>240</sup>

The Minister of Finance’s objection noted that the proposal could not be supported as there had been no “discussion at the political level regarding the extension of the state of emergency” at the border with Belarus.<sup>241</sup>

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<sup>236</sup> The authorities informed included: Kristaps Eklons, Minister of the Interior of Latvia; Dr Artis Pabriks Deputy Prime Minister and Minister for Defence of Latvia; General Guntis Pujāts Chief of the State Border Guard of Latvia, and other representations of the Border Guard of Latvia.

<sup>237</sup> TV3.lv, The emergency situation on the border of Belarus will be extended until November, 17 July 2022, <https://bit.ly/3DWAJSQ>.

<sup>238</sup> Order of the Cabinet of Ministers no. 552 of 10 August 2022, <https://bit.ly/3BOzDX1>

<sup>239</sup> “Thus, the factual circumstances set out in the annotation to the project do not correspond to the conditions laid down in Article 4 of the Law ‘On the State of Emergency and State of Emergency’ regarding the danger to the state and the necessity of prolonging the emergency situation”. Unofficial translation from Latvian. Objections of the Minister of Justice (“TM”), of 26 July 2022, at: [https://tapportals.mk.gov.lv/legal\\_acts/6297cbe9-3d25-4437-82a8-d38c466719b1](https://tapportals.mk.gov.lv/legal_acts/6297cbe9-3d25-4437-82a8-d38c466719b1). Also: Law “On the emergency situation and the state of emergency”, No.: 2013/61.1, Article 4, at: [www.vestnesis.lv/op/2013/61.1](http://www.vestnesis.lv/op/2013/61.1)

<sup>240</sup> Unofficial translation from Latvian. Objections of the Minister of Justice (“TM”), of 26 July 2022, above in full.

<sup>241</sup> Unofficial translation from Latvian. Objections of the Minister of Finance (“FM”), of 26 July 2022, at: <https://tapportals.mk.gov.lv/reviews/resolutions/bdaadae6-c509-40a8-9318-d8a13e4b1d40>

The executive authorities' lack of consideration for the objections of their own government ministries calls into question the legitimacy of the continued use of emergency powers to manage the situation at the border.

Under the state of emergency, access to the border area for media workers and independent observers is limited.<sup>242</sup> In its objections to the renewal of the state of emergency, the NGO "I want to help refugees" (Gribu palīdzēt bēgļiem") pointed out that the extension of the state of emergency allows "possible human rights violations to be carried out in secrecy, without the possibility of independent monitoring and support for potential asylum seekers".<sup>243</sup>

On 8 August 2022, the Council of Europe Commissioner for Human Rights released a letter of 29 July addressed to the Minister of Interior of Latvia in which she similarly expressed concern about the restrictions on access to the areas under the state of emergency, stating that this "has not only prevented effective transparency and accountability for measures taken in the border region, but has also significantly restricted the important work of organisations engaged in protecting the human rights of refugees, asylum-seekers, and migrants". The Commissioner expressed "significant concern" regarding "the reports of refugees, asylum-seekers and migrants having been violently prevented from entering Latvia, held in inhumane conditions in the forest, denied access to the asylum procedure, and forced into signing voluntary return declarations, leading also to the submission of complaints to the European Court of Human Rights". She urged the Latvian authorities "to ensure that an independent and thorough investigation into the treatment of people who have attempted to enter Latvia from Belarus be conducted as soon as possible". The Minister of the Interior's response to the Commissioner largely replicated the language used in his response of 29 July 2022 to Amnesty International's research findings, an extract of which is in an annex to our report.<sup>244</sup>

## DATA ON "PREVENTED ENTRIES" AT THE BORDER AND DEVELOPMENTS SINCE AUGUST 2022

In April 2022, the Latvian Border Guard reported that the situation at the Belarus border had "stabilized".<sup>245</sup> In the wake of new arrivals being recorded at the Lithuanian borders with Belarus,<sup>246</sup> around August 2022, the Latvia Border Guard and other officials reported an increase of attempted crossings in Latvia.

On 12 August, the head of the State Border Guard, Guntis Pujāts, claimed that Latvia was the target of a Belarusian "hybrid attack" and spoke of a deliberate diversion of people towards Latvia: "There has been an attempt by 30 persons [to cross the border "irregularly"], with 10 persons on the last day".<sup>247</sup> Jurijs Vlasovs, chief executive of the State Border Guard of Daugavpils, declared on 26 August that "285 people have tried to cross the border illegally. On average, they are 12-15 people a day. On August 2 and 3 there were several groups of 25 people who tried to cross the Latvian border illegally at the same time".<sup>248</sup> According to Vlasovs, the Daugavpils detention centre hosted 35 people as of 26 August.<sup>249</sup> On 14 September, the Deputy Head of the State Border Guard, General Juris Martukāns stated that "At the moment, there is no increased flow of people illegally crossing the state border, however, we prevent 60-80 people's attempts to enter Latvia illegally per week".<sup>250</sup>

Since April 2022, the website of the Latvian State Border Guard stopped publicly posting data on "illegal border crossings" ("nelikumīgu valsts robežas šķērsošanu") at the Belarus border in the daily statistics

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<sup>242</sup> NIEM comparative report on the influx of irregular migrants across the Belarus border, 30 June 2022, <https://bit.ly/3UtwQd1>, p. 32-34. Latvia Border Guard, *Important information for journalists: guidelines for media visits near the LR-BLR state border*, 13 September 2021, <https://bit.ly/3R2sQNP>.

<sup>243</sup> Unofficial translation from Latvian. Objection of "I want to help refugees" ("GPB"), 28 July 2022, at: [https://tapportals.mk.gov.lv/legal\\_acts/6297cbe9-3d25-4437-82a8-d38c466719b1](https://tapportals.mk.gov.lv/legal_acts/6297cbe9-3d25-4437-82a8-d38c466719b1). Also: Delfi, *Despite the objections, the government decides to extend the state of emergency*, above in full.

<sup>244</sup> COUNCIL OF EUROPE, COMMISSIONER FOR HUMAN RIGHTS, *LATVIAN AUTHORITIES SHOULD INVESTIGATE HUMAN RIGHTS ABUSES AT BORDER WITH BELARUS*, 9 AUGUST 2022, [HTTPS://BIT.LY/3UZNGXQ](https://bit.ly/3UZNGXQ). REPLY OF THE MINISTER OF INTERIOR OF LATVIA: [HTTPS://BIT.LY/3BEQG10](https://bit.ly/3BEQG10).

<sup>245</sup> Border Guard of Latvia, *In general, the situation on the border between Latvia and Belarus is stable and peaceful*, 12 April 2022, [in Latvian], <https://www.rs.gov.lv/lv/jaunums/kopuma-situacija-uz-latvijas-baltkrievijas-valsts-robezās-ir-stabila-un-mierīga>. In April and May, only 22 cases of prevented crossings were reported. Ministry of the Interior, *The state of emergency on the Latvian-Belarusian border is extended until 10 August*, 10 May 2022, [in Latvian], [www.iem.gov.lv/lv/jaunums/arkartejo-situaciju-latvijas-baltkrievijas-pierobeza-pagarina-lidz-10-augustam](http://www.iem.gov.lv/lv/jaunums/arkartejo-situaciju-latvijas-baltkrievijas-pierobeza-pagarina-lidz-10-augustam)

<sup>246</sup> LRT.lt, *Belarus directs irregular migrants to Lithuania, says border guard chief*, 4 August 2022, [www.lrt.lt/en/news-in-english/19/1751843/belarus-directs-irregular-migrants-to-lithuania-says-border-guard-chief](http://www.lrt.lt/en/news-in-english/19/1751843/belarus-directs-irregular-migrants-to-lithuania-says-border-guard-chief)

<sup>247</sup> ENG.LSM.lv, *Migrant flow on Latvia-Belarus border picks up again*, 12 August 2022, <https://bit.ly/3xzpT0h>.

<sup>248</sup> ENG.LSM.lv, *Latvia-Belarus border situation tense again*, 26 August 2022, <https://bit.ly/3DBzxmI>.

<sup>249</sup> ENG.LSM.lv, *Latvia-Belarus border situation tense again*, 26 August 2022, above.

<sup>250</sup> Ministry of the Interior, *Active construction works are underway on the Latvia-Belarus border*, 14 September 2022, <https://bit.ly/3BqvLdd>.

concerning events “on the state border and inside the state” (“uz valsts robežas un valsts iekšienē”).<sup>251</sup> Publicly available data from the Ministry of the Interior indicate that in the months of June<sup>252</sup> and July,<sup>253</sup> the number of prevented crossings at the Belarus-Latvia border amounted to 96 and 17, while detention orders were two and 11 respectively. Since April 2022, no public data can be found regarding the “humanitarian admissions” granted to people at this border.

Regarding border control measures, as of August 2022 the police supported the Border Guard’s activities at the border,<sup>254</sup> while the construction work of the border fence, expected to stretch for 173 Km, continued.<sup>255</sup>

On 28 September, the Latvian authorities also introduced a three-month state of emergency at the borders with Russia in response to the country’s call for mobilization. The state of emergency provides for the closure of the Pededze border crossing points and enhanced border surveillance and checks.<sup>256</sup>

As of 3 October, Latvia provided protection to over 40,000 people fleeing Ukraine.<sup>257</sup>

## INFORMATION AND DATA SHARED BY THE MINISTER OF INTERIOR ON 22 AND 29 SEPTEMBER 2022

In response letters to Amnesty International of 22 and 29 September, the Latvian Minister of Interior provided comprehensive data from the Border Guard on the situation of people entering or attempting to enter the country from the border with Belarus, covering the period from 23 May to 14 September 2022.

- **Prevented entries and detention on asylum and migration related grounds**

According to the Latvian authorities, between 23 May and 14 September 2022, 562 persons were “deterred from illegally crossing” the border, and only 23 people were allowed to enter Latvia for “humanitarian reasons”.<sup>258</sup> These add to the 6,676 persons that the authorities report having “prevented” from entering through this border between August 2021 and 25 May 2022.<sup>259</sup>

Between 23 May and 14 September 2022, the authorities detained 15 adults and six minors in the detention centre of **Daugavpils** on migration-related grounds; 25 adults and nine minors were detained on asylum-related grounds. In the same period, the authorities detained 27 adults and three minors in the detention centre of **Mucenieki** on asylum-related grounds.

The Minister of Interior reported, among other things, that during this time the organization Medecins Sans Frontières (MSF) carried out 10 and eight visits to the detention centre of Daugavpils and Mucenieki respectively. The Minister of Interior also reported that a delegation of UNHCR and lawyers also visited these facilities.

- **Asylum applications and humanitarian visas at border crossing points (BCPs)**

Since the state of emergency rules were amended in April 2022, people can submit asylum applications at “border crossing points” (BCPs) in the affected areas.<sup>260</sup> In a written response to Amnesty International on 29 July 2022,<sup>261</sup> the Latvian Minister of Interior claimed that under the state of emergency, even prior to the April 2022 amendment, people approaching BCPs had the opportunity “to point to humanitarian

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<sup>251</sup> Border Guard of Latvia, daily statistics: [www.rs.gov.lv/lv/jaunumi?category%5B142%5D=142](http://www.rs.gov.lv/lv/jaunumi?category%5B142%5D=142).

<sup>252</sup> Ministry of the Interior, *The Government allocates funding to the internal affairs services for the security of the Latvian-Belarusian border*, 9 August 2022, [www.iem.gov.lv/lv/jaunums/valdiba-pieskir-finansejumu-ieklietu-dienestiem-latvijas-baltkrievijas-robezas-drosibai](http://www.iem.gov.lv/lv/jaunums/valdiba-pieskir-finansejumu-ieklietu-dienestiem-latvijas-baltkrievijas-robezas-drosibai), [unofficial translation].

<sup>253</sup> Ministry of the Interior, *The Government allocates funding to the internal affairs services for the security of the Latvian-Belarusian border*, 6 September 2022, [www.iem.gov.lv/lv/jaunums/valdiba-pieskir-finansejumu-ieklietu-dienestiem-latvijas-baltkrievijas-robezas-drosibai](http://www.iem.gov.lv/lv/jaunums/valdiba-pieskir-finansejumu-ieklietu-dienestiem-latvijas-baltkrievijas-robezas-drosibai). Some sources reported lower numbers for the month of July: TV3.lv, *The state of emergency on the border of Belarus has been extended until November*, 9 August 2022, <https://zinas.tv3.lv/latvija/arkarteja-situacija-baltkrievijas-pierobeza-pagarinata-lidz-novembrim/>; Nra.lv, *The Government supports the allocation of 123,000 euros for the protection of the Latvian-Belarusian border*, 9 August 2022, <https://bit.ly/3Lq9jFK>.

<sup>254</sup> ENG.LSM.lv, *Latvia-Belarus border situation tense again*, 26 August 2022, above.

<sup>255</sup> Ministry of the Interior, *Active construction works are underway on the Latvia-Belarus border*, 14 September 2022, above.

<sup>256</sup> The state of emergency applies to the administrative territories of Alūksne, Balvu, Ludza and at border crossing points. See: Order of the Cabinet of Ministers no. 671 of 27 September 2022 (Prot. No. 49 § 60) <https://likumi.lv/ta/id/335925-par-arkartejas-situacijas-izsludinasanu>

<sup>257</sup> UNHCR, Operational Data Portal, Ukraine Refugee Situation, as of 3 October, <https://data.unhcr.org/en/situations/ukraine>

<sup>258</sup> The Mol reported that within this period, the monthly number of people prevented from entering at the borders with Belarus, is as follows: May: 0, June: 96, July: 17, August: 301, September: 148. Within the same period, the monthly number of people authorities to enter Latvia on humanitarian grounds is as follows: May: zero, June: two, July: 11, August: six, September: four.

<sup>259</sup> Response of 10 June 2022 from Latvia’s Acting State Secretary Jānis Bekmanis to Amnesty International’s request for information, on file with the organization.

<sup>260</sup> Order of the Cabinet of Ministers No. 254, Amendment to the order of the Cabinet of Ministers of 10 August 2021 no. 518 “On declaring a state of emergency”, 6 April 2022, <https://bit.ly/3PgLa2y>.

<sup>261</sup> The response of the Minister of Interior is partly included in the annex to the report.



considerations” and receive a visa giving them permission to move beyond the areas under the SoE and to apply for asylum.<sup>262</sup>

In a response of 10 June 2022, Latvia’s Acting State Secretary Jānis Bekmanis reported to Amnesty International that no asylum applications were “received” at Latvian BCPs between 6 April and 10 June 2022.

Based on a mission report of the EU Parliament LIBE Committee, as of March 2022, at the Silene BCP, humanitarian visas were only granted to Russian, Belarusian and Ukrainian citizens.<sup>263</sup>

Responding to Amnesty International’s request for updated information, the Minister of Interior’s response of 22 September stated that between 10 June and 14 September 2022, only six asylum applications were received at a BCP between Latvia and Belarus, all of which were from Russian nationals. Between August 2021 and 14 September 2022, the authorities granted 149 humanitarian visas at the BCP of Silene and 76 at the BCP of Pāternieki. However, these were only granted to citizens of Armenia, Belarus, Moldova, Russia, Ukraine, Azerbaijan and Tajikistan, rather than to people of the nationalities identified as victims of summary returns at the borders with Belarus.

- **Forced and voluntary returns**

The Minister of Interior’s letter of 22 September reported that since August 2021, “a total of 173 persons were allowed to enter for humanitarian reasons”, including 13 citizens of Afghanistan, one person from Eritrea, two people from Guinea, two from India, 17 from Iran, 114 from Iraq, 12 from Sri Lanka, three from Pakistan, four from Syria and five from Turkey. In the same period “100 persons have been expelled to their home country, of which five have been forced (one Guinean and four Iraqi nationals)” and 95 people returned with the support of IOM. Out of these, 49 persons returned in 2021 and 46 in 2022.

The Minister of Interior also addressed Amnesty International’s questions regarding the forced return of nationals of Iraq, in relation to which the EU Commission had noted difficulties regarding the cooperation with Iraqi authorities.<sup>264</sup> The Minister remarked that the four Iraqi citizens who were eventually forcefully returned had first applied to return voluntarily through IOM, and through the involvement of Iraqi diplomatic representations, travel documents were issued for them. As a result, the Iraqi diplomatic representation has issued a “return certificate” “on the basis of the willingness of persons to return voluntarily to the Republic of Iraq”. The Minister notes that however that, following the issuance of such certificate, the “persons refused to leave voluntarily for their country of residence despite several interviews with them. In the light of the above, persons were subject to a forced return procedure”.

## **3. LATVIAN AUTHORITIES’ RESPONSE TO AMNESTY INTERNATIONAL’S ANNOUNCED RESEARCH**

Amnesty International is concerned by state authorities’ public criticism of the Latvia-Belarus report in August 2022, in spite of the fact that they had not received or read the full report. As noted, the full report was not transmitted to the authorities in light of the postponement of its publication and was not made public in August 2022. The authorities and the Ombudsman formally received the report and this addendum only on 12 October.

The **Ombudsman of Latvia** published a letter on 10 August 2022 addressed to Amnesty International’s Europe Director, rejecting the organization’s research findings and arguing that “the biased statement published by Amnesty International on 26 July suggests that the information and assessment provided by the Ombudsman were not taken into account when assessing the situation on the Latvian-Belarusian

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<sup>262</sup> The response reads: “[the SoE order] (in the version in force until 5 April 2022)... did not restrict the right of persons to legally enter [Latvia] by using the specified border crossing points where the State Border Guard issues one-time unified visas and visas with limited territorial validity...: road border crossing points “Pāternieki” and “Silene”, railway border crossing point “Indra”, as well as the border crossing point at Riga Airport, which is also the state border crossing points of the Republic of Latvia and the Republic of Belarus for legal entry into the Republic of Latvia”.

<sup>263</sup> “In 2021, 43 visas were issued on humanitarian grounds at Silene BCP (39 to Belarus nationals, 2 to Ukrainian nationals and 1 to a Russian national compared to 11 in 2020 (9 to Belarus nationals and 2 to Armenian nationals) and 4 so far in 2022 to Belarus nationals”. EU Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE), Mission Report following the LIBE mission Vilnius, Lithuania, and Riga, Latvia, 1 to 3 March 2022, published on 14 July 2022, p. 6 at:

[www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/LIBE/DV/2022/07-13/MissionreportLT-LV\\_EN.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2022/07-13/MissionreportLT-LV_EN.pdf)

<sup>264</sup> European Commission, Proposal for a Council implementing decision on the suspension of certain provisions of regulation (EC) 810/2009 of the European Parliament and of the Council with respect to Iraq, 15 July 2021, <https://eur-lex.europa.eu/legalcontent/EN/TXT/HTML/?uri=CELEX:52021PC0414&from=E>

border”.<sup>265</sup> The statement referred to a meeting among the Ombudsman, his office staff and an Amnesty International delegation on 9 March 2022 and successive written exchanges. The Ombudsman’s letter argues that Amnesty International chose to ignore the information his office had provided and lamented a lack of collegiality by the organization. In a live television interview, the Ombudsman described Amnesty International’s claims as “false and misrepresented”.<sup>266</sup>

Amnesty International regrets to note that at the time of these declarations the research findings (in summary or extensive form) were not available to the Ombudsman. His comments are pure conjecture as he had not read the report. The information provided by the Ombudsman of Latvia during the March 2022 meeting and through a subsequent letter of 21 June are duly reflected in the methodology and text of the report.

In the interview mentioned above, the Ombudsman also maintained that Border Guards were not equipped with tasers/electroshock devices.<sup>267</sup> This statement is not only contradicted by the multiple testimonies of people who have reported personally experiencing electric discharges with tasers by Latvian officers<sup>268</sup> but by Latvian law itself. The state of emergency rules introduced at the Belarus border explicitly authorize the use of “special means”.<sup>269</sup> The Latvian “Rules on the types of special means and the procedure for their use” explicitly list “electric shock devices” and provide that border guards, as well as police officers who too assist the Border Guards under the state of emergency, are entitled to use them.<sup>270</sup> In public news, Latvian police officers can be seen training on the use of tasers with Lithuanian officers in 2020.<sup>271</sup>

On 12 August, General Pujāts, Head of the Border Guard of Latvia, dismissed Amnesty International’s findings in a televised interview, stating that our “allegations [...] about mistreatment of migrants on Latvia’s borders are one-sided and not substantiated by evidence”, and that “not a single migrant has been seriously injured or killed on the border”. The interview added that “members of Amnesty International met with a number of representatives of Latvian state institutions who provided comprehensive information about the situation on the Latvian-Belarusian border, but there is none of this information in the organization’s report, which therefore is one-sided.”<sup>272</sup> It must be noted that the full content of the report had not been made available to the Border Guard at the time of these statements. Information shared by the Border Guards, both in the context of Amnesty International’s visit to Mucenieki detention centre and in response to written requests for information, is reflected in various sections of the report.

## 4. DEVELOPMENTS AT EU LEVEL ON THE “INSTRUMENTALIZATION” OF REFUGEES AND MIGRANTS

Under the presidency of the Czech Republic (1 July-31 December 2022), the EU Council prioritized plans proposed by the European Commission in December 2021 to adopt a Regulation on the “instrumentalization” of migrants and refugees.<sup>273</sup> The proposal, elaborated largely in response to the 2021 events at the Belarus borders with Poland, Lithuania and Latvia, would allow Member States to derogate from their obligations under EU asylum and migration law in situations of “instrumentalization”. In September 2022, Amnesty International and over 70 civil society organizations issued a statement opposing the proposal primarily because it disproportionately impacts the rights of refugees and migrants; it is

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<sup>265</sup> Ombudsman of Latvia, Regarding the situation on the Latvian-Belarusian border and statements made by Amnesty International, 9 August 2022, [www.tiesibsargs.lv/en/resource/regarding-the-situation-on-the-latvian-belarusian-border-and-statements-made-by-amnesty-international/](http://www.tiesibsargs.lv/en/resource/regarding-the-situation-on-the-latvian-belarusian-border-and-statements-made-by-amnesty-international/)

<sup>266</sup> ENG.LSM.lv, Ombudsman calls Amnesty’s claim on Latvia’s treatment of migrants deceitful, 10 August 2022, [unofficial translation from Latvian], <https://eng.lsm.lv/article/society/society/ombudsman-calls-amnestys-claim-on-latvias-treatment-of-migrants-deceitful.a468751/>

<sup>267</sup> As was also maintained by the Latvian authorities in discussions with the LIBE Committee in March 2022, see p. 4: <https://bit.ly/3QY13zg>.

<sup>268</sup> See: section 3.3 of this report: “If you only look up you are done: torture and other ill-treatment”. See also: Aleksandra Jolkina, *Trapped in a Lawless Zone: Humanitarian crisis at the Latvia-Belarus border*, Preliminary findings, 2022, <https://bit.ly/3BSqJrs>.

<sup>269</sup> Order of the Cabinet of Ministers no. 518, 10 August 2021, On declaring a state of emergency, Para 5, <https://bit.ly/3f3Kp2M>.

<sup>270</sup> Regulations of the Cabinet of Ministers No. 55 of 18 January 2011, Rules on the types of special means and the procedure for their use, para. 2.5, 3 and 7, <https://likumi.lv/ta/id/224905-noteikumi11par-specialo-lidzeklu-veidiem-un-to-lietosanas-kartibu>

<sup>271</sup> Liepājniekiem.lv, *The State Police in Liepāja held three days of training on the use of electric shock weapons*, 27 August 2020, [www.liepajniekiem.lv/zinas/sabiedriba/valsts-policija-liepaja-tris-dienu-garuma-norisinajas-apmacibas-par-elektrosoka-ierocu-izmantosanu/](http://www.liepajniekiem.lv/zinas/sabiedriba/valsts-policija-liepaja-tris-dienu-garuma-norisinajas-apmacibas-par-elektrosoka-ierocu-izmantosanu/); Interreg V-A Latvia-Lithuania Programme 2014–2020, SCAPE LLI-269 training for TASER instructors, 23 September 20220, <https://latlit.eu/scape-lli-269-training-for-taser-instructors/>. See also: State Police College, Curriculum, item 87, [www.policijas.koledza.gov.lv/lv/macibu-programmas](http://www.policijas.koledza.gov.lv/lv/macibu-programmas)

<sup>272</sup> The Baltic Times, *Allegations about mistreatment of migrants by Latvia are one-sided and not substantiated by evidence - Border Guard chief*, 12 August 2022, <https://bit.ly/3DFaYp4>.

<sup>273</sup> Euobserver, *Czechs pushing EU law on Belarus-type migrant storms*, 7 September 2022, <https://euobserver.com/world/155982>

unnecessary, as derogations already exist under ordinary EU asylum and migration law; and it risks undermining the uniform application of the Common European Asylum System across Member States.<sup>274</sup>

The civil society statement also referenced the guidance provided by the ruling of the Court of Justice of the EU (CJEU) against Lithuania (30 June 2022) regarding the use of emergency powers in the context of migration-related events. The CJEU ruling assessed the compatibility with EU law of the Lithuanian legislation on asylum and migration, which limited people's ability to make asylum applications in the context of the state of emergency and provided for the automatic detention of asylum seekers. The CJEU interpreted EU asylum law as opposing national rules whereby "in the event of the proclamation of an emergency situation due to a massive influx of foreigners, third-country nationals who are staying illegally are effectively deprived of the possibility of having access, in the territory of that Member State, to the procedure for examining an application for international protection".<sup>275</sup> The ruling noted that procedures are available under EU law which allow states "to exercise, at the external borders of the European Union, their responsibilities for the maintenance of law and order and the safeguarding of internal security, without it being necessary to have recourse to a derogation under Article 72 of the Treaty on the Functioning of the European Union (TFEU)".<sup>276</sup>

Measures under the state of emergency in Latvia have been in place for over a year, effectively preventing the majority of people who have entered or attempted to enter the country "irregularly" from the Belarus border from accessing the asylum procedure. As such, the Court's analysis and conclusions should apply directly to the situation in Latvia.

It is important to note that the referring Lithuanian court observed that while the Border Guard had "a margin of discretion" in allowing people who entered irregularly to apply for asylum, relying on vulnerability and other individual factors, "the conditions for exercising this discretion are not regulated precisely",<sup>277</sup> so the Lithuanian court was "not in a position to rule on the lawfulness of the measures taken" by the border guards in this case. This statement is relevant to the situation of Latvia, where the Border Guard grants humanitarian admissions on a discretionary basis to people at the border on similarly opaque criteria.<sup>278</sup>

Similar considerations apply to the CJEU's remark that the Lithuanian Government had not specified the effect of the legal provisions restricting the right to apply for asylum "on maintaining public order and safeguarding internal security in the emergency situation linked to the massive influx of immigrants involved".<sup>279</sup>

Measures under the state of emergency in Latvia that have significant impact on access to asylum have been maintained for over a year, using nearly identical reasoning and wording. The CJEU ruling should be given considerable weight in terms of Latvia's – and other EU member states' – compliance with EU law in their actions in the migration-related context.

## 5. CORRIGENDUM: ACCESS TO PROTECTION AT BORDER CROSSING POINTS

In the text of the report as published (pages 12-13), information is presented regarding access to asylum and humanitarian visas at Latvian Border Crossing Points (BCPs). This information was included in the 29 July 2022 letter from Minister of Interior of Latvia. The Amnesty International report states that "Latvian authorities argued that even under the [State of Emergency, SoE], asylum at the borders was not wholly suspended, as applications were possible at border crossing points (BCP) and at Riga's airport". This statement should be rectified in two respects.

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<sup>274</sup> ECRE, Amnesty International and others, *Joint Statement: NGOs call on Member States: Agreeing on the Instrumentalisation Regulation will be the Final Blow to a COMMON European Asylum System (CEAS) in Europe*, 8 September 2022, <https://bit.ly/3LnLEWA>

<sup>275</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, (C-72/22 PPU), 30 June 2022, Court of Justice of the European Union, Judgment of the Court (First Chamber), Paragraphs 56, and 64-65 (unofficial translation from French), <https://bit.ly/3SgeLgF>.

<sup>276</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, above in full, para. 74. Also: Article 72 TFEU: "This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security."

<sup>277</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, above in full, para. 27 (unofficial translation).

<sup>278</sup> In this report, see section: "Admitted on 'humanitarian grounds', then detained".

<sup>279</sup> *M.A. v Valstybės sienos apsaugos tarnyba*, above in full, para. 73 (unofficial translation).

Firstly, the information provided by the Minister of Interior on 29 July referred to the effects of the SoE order prior to the 6 April 2022 amendment - which explicitly authorized asylum applications at BCPs - and not to the SoE as a whole.

Secondly, the information was reported incorrectly in the report, as the Latvian authorities did not claim that asylum applications were possible at BCPs before 6 April 2022, but only that people could seek entry into Latvia at BCPs by applying for an entry visa on humanitarian grounds. If granted such a visa, they would be given access to Latvian territory, including to areas not affected by the SoE, where they would have been able to apply for asylum.<sup>280</sup>

The response of the Minister of Interior argued that under the SoE in the version in force until 6 April 2022, people were able to seek entry into Latvia at BCPs, including based on humanitarian considerations, and then move on to apply for asylum. It maintains that until 6 April, emergency rules did not deprive people of the right to seek asylum in the territory of Latvia, but “temporarily change(d) the range of areas where applications could be submitted”.

Notwithstanding the above correction, Amnesty International maintains that the concerns expressed in the report as to whether BCPs were accessible in practice to people attempting to enter from or stranded at the Latvia-Belarus border, and about the lack of indications that visas on humanitarian grounds were ever granted to people in this group, remain valid. Therefore, Amnesty International does not consider BCPs in Latvia as practicable and effective avenues to claim asylum for refugees and migrants at the Latvia-Belarus border since August 2021.

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<sup>280</sup> Specifically, the response reads: “Paragraph 6 of the Order (in the version in force until 5 April 2022) provided that applications of persons for the granting of refugee or alternative status were not accepted in the structural units of the State Border Guard and other institutions located in the territory where an emergency situation was declared. That provision was not intended to deprive the applicant of the right to make an application for the grant of refugee or alternative status in the territory of the Republic of Latvia as a whole, but temporarily change the range of areas where applications could be submitted, within the discretion of the Member States under Articles 4(1) and 6 of Directive 2013/32/EU. Thus, the Order did not restrict the right of persons to legally enter the Republic of Latvia in accordance with the procedures laid down in laws and regulations or by using the specified border crossing points where the State Border Guard issues one-time unified visas and visas with limited territorial validity...: road border crossing points "Pāternieki" and "Silene", railway border crossing point "Indra", as well as the border crossing point at Riga Airport, which is also the state border crossing points of the Republic of Latvia and the Republic of Belarus for legal entry into the Republic of Latvia. Thus, any person who arrived at a border crossing point, including in the territory of the Republic of Latvia, had an equal right to justify permission to enter, which may be expressed both in documentary and in word form, for example by referring to the circumstances, and thus to obtain an entry permit on an equal basis. [...] Namely, one of the grounds when a person who is not a national of a Member State of the European Union (the so-called third-country national) has the right to enter the Republic of Latvia, if he or she does not have the documents specified in regulatory enactments for entry into the Republic of Latvia, is humanitarian grounds, national interests or international obligations ...In the abovementioned cases [...] the State Border Guard shall issue a one-time unified visa or a visa with limited territorial validity at certain border crossing points. The humanitarian grounds may constitute, inter alia, the circumstances which may form the basis of an application for asylum in the Republic of Latvia. [...]”. Written response to Amnesty International’s preliminary research findings, received on 29 July 2022, by Latvia’s Minister of the Interior, Kristaps Eklons, on file with Amnesty International. An extract of the response is also available in the Annex to this report.

# ANNEX: EXTRACTS FROM THE RESPONSE OF THE LATVIAN MINISTER OF INTERIOR, RECEIVED ON 29 JULY 2022

Item № 1-18/1785

To: Mr Nils Muižnieks, Director of the Europe Regional Office, Amnesty International

On the Amnesty International's research on the situation of refugees and migrants in Latvia

The Ministry of the Interior has got acquainted with the information submitted by Amnesty International regarding the findings of the study in relation to the treatment of persons who, since the summer of 2021, while traveling through Belarus, have illegally crossed or tried to cross the state border of the Republic of Latvia and the recommendations included in the report prepared by the organization.

The Ministry of the Interior expresses its gratitude to Amnesty International for its involvement in the assessment of current issues for the Republic of Latvia. The situation in the territory of the State border of the Republic of Latvia and the Republic of Belarus is significant not only in the context of the internal security of the Republic of Latvia, but also of the European Union, therefore the involvement of international human rights organisations in promoting its stability should also be especially appreciated. At the same time, the Ministry of the Interior, upon evaluating the information indicated in the letter, shall provide its assessment and opinion on the conformity of the information indicated therein with the actual situation of the State border of the Republic of Latvia and the Republic of Belarus territory.

The Cabinet of Ministers of the Republic of Latvia declared emergency situation from 11 August 2021 to 10 August 2022 by the by order No. 518 of 10 August 2021 "On declaration of emergency situation" (hereinafter – the Order) in four administrative territories, taking into account the rapid increase in the number of cases of illegal crossings of the State border of the Republic of Latvia and the Republic of Belarus, as well as taking into account the large number of cases of illegal crossings of the State border of the Republic of Lithuania and the Republic of Belarus recorded in neighboring Lithuania. Accordingly, the Order was adopted to ensure the internal security of the state, within the framework of which one of the essential elements is the effective implementation of prevention of illegal crossing of State border within the framework of the resources available to the state.

States, as the European Court of Human Rights (ECHR) has also established in its case-law, have the right to control the entry, residence and exit of persons and to determine their immigration policies in order to

ensure the fulfilment of their bilateral obligations or obligations towards the European Union (see, for example, Paragraph 42 of the ECHR judgment of 21 October 1997 in case 122/1996/741/940 *Boujlifa v. France*) and Articles 67(2), 77 to 79 (in particular Article 79(1) concerning the prevention of illegal immigration) and 80 of the Treaty on the Functioning of the European Union. A key element in ensuring the internal security of States is the establishment of border guarding systems, including border controls, which serve not only the national interests at the borders of which border controls are carried out, but also the interests of all States applying the provisions of the Schengen *acquis* relating to the abolition of border controls at the internal borders of the European Union.

Accordingly, the principle that unlawful crossing of a State border is not permissible or only lawful entry of a person into the State is to be regarded as eligible. Entry of a person into the State shall be considered lawful if the State border is crossed at the place provided for it, as well as the person is able to justify the circumstances allowing the person to enter the State and if the person does not pose a threat to State security, public order and security, public health. Moreover, it is essential that the possibility of lawful entry provided by the State is not only formal or practically impossible, but genuinely and effectively implemented by any person within a reasonable period of time (see, for example, Paragraph 208 of the ECHR judgment of 13 February 2020 in cases 8675/15 and 8697/15 *N.D. and N.T. v. Spain*; Paragraphs 114-116 of the ECHR judgment of 5 April 2022, in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

In regards of the possibilities for lodging an application for international protection, it should be noted that Articles 4(1) and 6 (especially paragraph 3) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (hereinafter – Directive 2013/32/EU) give States discretion to determine the institutions (including, accordingly, their territorial location), who are competent to accept an application for refugee or subsidiary status without determining which authorities are to be designated as competent and also without determining their territorial location, including within the State (see, *mutatis mutandis*, Paragraph 114.1 of the CJEU judgment of 25 June 2020 in case C-36/20 PPU *Ministerio Fiscal*).

In general, the aforementioned provisions of Directive 2013/32/EU, using the discretion granted to the Member States as described in the previous paragraph, have been transposed into the regulatory framework of the Republic of Latvia by the second paragraph of Article 6 of the Asylum Law, which provides:

'(2) A person shall submit an application for granting refugee or alternative status in person to the State Border Guard:

- 1) at a border crossing point or border crossing transit zone prior to entering the Republic of Latvia;
- 2) in a structural unit of the State Border Guard if the person is located in the Republic of Latvia.

(4) If a person has expressed his or her wish to acquire refugee or alternative status to the Office of Citizenship and Migration Affairs, the State Police or the Prisons Administration, they shall immediately, not later than within three working days, contact the State Border Guard so that the asylum seeker may submit an application."

Paragraph 6 of the Order (in the version in force until 5 April 2022) provided that applications of persons for the granting of refugee or alternative status were not accepted in the structural units of the State Border Guard and other institutions located in the territory where an emergency situation was declared. That provision was not intended to deprive the applicant of the right to make an application for the grant of refugee or alternative status in the territory of the Republic of Latvia as a whole, but temporarily change the range of areas where applications could be submitted, within the discretion of the Member States under Articles 4(1) and 6 of Directive 2013/32/EU.

Thus, the Order did not restrict the right of persons to legally enter the Republic of Latvia in accordance with the procedures laid down in laws and regulations or by using the specified border crossing points where the State Border Guard issues one-time unified visas and visas with limited territorial validity, which are laid down in Cabinet Regulation No. 676 of 30 August 2011 "Visa Regulations" (hereinafter - Cabinet Regulation No. 676): road border crossing points "Pāternieki" and "Silene", railway border crossing point "Indra", as well as the border crossing point at Riga Airport, which is also the state border crossing points of the Republic of Latvia and the Republic of Belarus for legal entry into the Republic of Latvia.

Thus, any person who arrived at a border crossing point, including in the territory of the Republic of Latvia, had an equal right to justify permission to enter, which may be expressed both in documentary and in word form, for example by referring to the circumstances, and thus to obtain an entry permit on an equal basis.

In view of the above, accordingly the Order, in order to ensure a reasonable balance between the interests of the State and the interests of the individual, provided for the possibility of lawful entry for persons in an order that was genuinely and effectively enforceable for any person within a reasonable period of time (see, *mutatis mutandis*, Paragraphs 121, 122 of the ECHR judgment of 5 April 2022 in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

Namely, one of the grounds when a person who is not a national of a Member State of the European Union (the so-called third-country national) has the right to enter the Republic of Latvia, if he or she does not have the documents specified in regulatory enactments for entry into the Republic of Latvia, is humanitarian grounds, national interests or international obligations (Article 5 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on the Union Code on the Rules Governing the Movement of Persons Across Borders (Schengen Code). In the abovementioned cases, in conformity with Section 13, Paragraph two of the Immigration Law and Sub-paragraph 5.4 of Cabinet Regulation No. 676 of 30 August 2011 "Visa Regulations" the State Border Guard shall issue a one-time unified visa or a visa with limited territorial validity at certain border crossing points.

The humanitarian grounds may constitute, inter alia, the circumstances which may form the basis of an application for asylum in the Republic of Latvia. Furthermore, the reference to humanitarian considerations may be made in any form (verbally, in writing, with convoluted activities) (see, *mutatis mutandis*, Paragraphs 97, 99 and 100 of the CJEU judgment of 17 December 2020 in case C-808/18 *European Commission v Hungary*).

It thus follows that persons who arrived at the border crossing points between the Republic of Latvia and the Republic of Belarus also within the framework of the emergency situation specified in the Order, had the opportunity, in the absence of the documents specified for entry into the Republic of Latvia, to point to humanitarian considerations (verbally, in writing, with convoluted activities), such as fear of persecution in the State from which the person entered or in the State of origin, to health-related aspects and other conditions; and on the basis thereof to receive a single uniform visa or a visa with limited territorial validity issued by the State Border Guard at the relevant border crossing point. The abovementioned visa gives a person the right to move within the Republic of Latvia, including beyond the territory specified in the Order in which an emergency situation has been declared, and also to submit an application for granting refugee or alternative status.

Thus, the Order provided an opportunity for persons to lawfully enter the Republic of Latvia also in the territories specified in Paragraph 1 thereof, as well as provided an opportunity for persons after the conclusion of the border check and, accordingly, entry into the Republic of Latvia to move beyond the territory specified in the Order and, if necessary, to apply for asylum. Accordingly, the Order did not deprive a person of the possibility of legally entering the Republic of Latvia for the purpose of applying for asylum on the merits or within the discretion of the Member States enshrined in Article 4(1) and Article 6 of Directive 2013/32/EU, taking into account the situation, including at the state border between the Republic of Latvia and the Republic of Belarus, temporarily changed the authorities competent to accept the territorial location of asylum applications. At the same time, the Order still provided a real opportunity to enter legally, including with a view to applying for asylum, and provided a real opportunity to apply for asylum as soon as possible after entering the Republic of Latvia (see, for example, Paragraphs 121, 122 of the ECHR judgment of 5 April 2022 in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

At the same time, as the ECHR has also stated, the principle of lawful entry is not absolute and may be derogated from if a person is able to objectively justify the circumstances in which he or she does not cross the State border in places designated for him, such as the threat of immediate persecution in the country from which he is seeking to enter. Accordingly, in each individual case, there is an objective assessment of the circumstances put forward by the person, their relevance, their immediate nature, in order to determine whether they are proportionate to failure to comply with legal entry. If it is established that the objective circumstances indicated by the person are justified, the person must be authorised to enter the country in accordance with the principle of *non-refoulement*.

Objective circumstances justifying non-compliance with lawful entry do not include, for example, the mere presence of a non-national in a border zone without a border crossing point, without any objectively justified indication of the need to enter the country immediately, or merely the use of a situation in which a large number of persons wish to enter the country at the same time, thus posing a threat to the country's internal security and public order as well as the normal exercise of its functions (see, *mutatis mutandis*, for example, Paragraph 121 of the ECHR judgment of 5 April 2022 in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

In the absence of the relevant objectively justified circumstances relating to the need for the immediate entry of a person into a country outside the procedure laid down for lawful entry, States are entitled, where appropriate, to refuse entry to the State, which does not constitute a breach of the principle of non-refoulement (see, for example, Paragraphs 178, 180, 184-185, 188, 200, 201, 210 of the ECHR judgment of 13 February 2020 in cases 8675/15 and 8697/15 *N.D. and N.T. v. Spain*).

This is also demonstrated by the Second Paragraph of Article A.1 of the United Nations Convention Relating to the Status of Refugees, read in conjunction with Article I of the Protocol Relating to the Status of Refugees, according to which a person, who, by well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of which he is a national and who is unable, or by reason of such fear unwilling to avail himself of the protection of that country, or a person who is not a national and who is unable or unwilling to return to his country of previous residence as a result of such events, is to be considered a “refugee”.

Consequently, any case where a person also wishes to cross the State border of the Republic of Latvia — the Republic of Belarus illegally within the framework of the emergency situation specified in the Order is assessed individually, taking into account the principles of non-refoulement and other human rights norms binding on the Republic of Latvia, as interpreted by international institutions (see, *mutatis mutandis*, for example, Paragraphs 116, 119, 121 of the ECHR judgment of 5 April 2022 in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

Nevertheless, on 6 April 2022 the Cabinet of Ministers adopted Regulation No 254 “Amendment to Cabinet Order No 518 of 10 August 2021 “On Proclamation of an Emergency” (hereinafter – Cabinet Regulation No 254), which provides for the wording of Paragraph 6 of the Order:

“6. To determine that in the units of the State Border Guard and other institutions located in the territory where the emergency situation has been declared, applications of persons regarding granting of refugee or alternative status shall not be accepted. The above shall not be applicable to border crossing points located in the territories referred to in Paragraph 1 of this Order, as well as to the Accommodation Centre “Daugavpils” for foreigners detained by the Daugavpils Department of the State Border Guard.”

As indicated in the Initial Impact Assessment Report (Annotation) of Cabinet Regulation No 254, the amendments were made in Order to clarify the literal wording of Paragraph 6 of the Order, taking into account the judgments of Rēzekne Courthouse of the Administrative District Court in cases A420290221, A420287621, A420291421, as well as taking into account that other cases were also pending before the court at that time. As stated above, Paragraph 6 of the Order did not deprive individuals of the right to apply for refugee status or alternative status in the Republic of Latvia in substance even before the amendment of Paragraph 6 of the Order, but it changed the territorial location of the authorities in which the asylum applications were accepted, within the discretion of the Member States. Thus, the amendments to Paragraph 6 of the Order by Cabinet Regulation No 254 were intended to prevent a different interpretation or clarification of grammatical terms.

Paragraph 6 of the Order permits an application for refugee status or alternative status to be submitted, within the scope of the Order, at the border crossing points referred to therein and at the accommodation centre of detained foreigners “Daugavpils” of the Daugavpils Administration of the State Border Guard. At the same time, Paragraph 6 of the Order, in the version of 6 April 2022, maintains the principle that, in the presence of objectively justified circumstances relating to the need for immediate entry of a person into a country outside the conditions laid down for lawful entry, persons may be allowed to enter the country and also apply for refugee or alternative status. Accordingly, if the grounds for detention of a person laid down in the Immigration Law are detected, the person may be detained and his or her application for asylum may also be submitted to the accommodation centre of detained foreigners “Daugavpils” of the Daugavpils Administration of the State Border Guard. However, if the relevant grounds for detention cannot be determined, the person may submit an application for asylum at any place in the territory of the Republic of Latvia specified in the Asylum Law or the Order.

In the light of the above, paragraph 6 of the Order, following the amendment of 6 April 2022, in the light of the discretion provided for in Articles 4(1) and 6 of Directive 2013/32/EU (in particular paragraph 3 thereof), allows States to determine the authorities competent to accept an application for refugee or alternative status (see, *mutatis mutandis*, for example, Paragraphs 121, 122 of the ECHR judgement in case 55798/16 and 4 other cases *A.A. and Others v North Macedonia*).

At the same time, the Order was adopted taking into account human rights provisions binding on the Republic of Latvia, including the UN Convention Relating to the Status of Refugees of 28 July 1951 and its Protocol Relating to the Status of Refugees of 31 January 1967, the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, the European



Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe of 4 November 1950, as interpreted by the ECHR in its case-law, as well as *non-refoulement* and other principles contained in other relevant documents (see, *mutatis mutandis*, Paragraphs 114-115, 121 of the ECHR judgment of 5 April 2022 in case 55798/16 and 4 other cases *A.A. and Others v. North Macedonia*).

[...]

In conclusion, I once again express my gratitude for the interest and involvement in matters of importance to the Republic of Latvia.

Minister of the Interior

Kristaps Eklons

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# LATVIA: RETURN HOME OR NEVER

## LEAVE THE WOODS

### REFUGEES AND MIGRANTS ARBITRARILY DETAINED, BEATEN AND COERCED INTO "VOLUNTARY" RETURNS

In August 2021, Latvia introduced a state of emergency at the Belarus border, preventing people from seeking asylum and legalizing pushbacks. Latvia's abuse of emergency powers escalated into acts constituting torture and other ill-treatment, arbitrary detention, and the use of intimidation and violence to force people to return "voluntarily". While Latvia sought to keep refugees and migrants from racial or ethnic minorities out, it welcomed 35000 refugees from Ukraine.