

**Submission to the Committee against Torture on the
Topics to be Included in the List of Issues Prior to
Reporting for the 7th Reporting Cycle of Latvia**

For consideration at the 75th Session of the Committee Against
Torture (October-November 2022)

By Respect – Protect – Fulfill

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I. Introduction

Respect – Protect – Fulfill ("RPF") is a Lithuania based non-profit non-governmental non-partisan human rights organisation. We help victims of human rights abuses in Belarus and other jurisdictions to seek justice.

This submission focuses on the treatment of migrants in Latvia since 10 August 2021. It is informed by the RPF's work representing migrants before the European Court of Human Rights ("ECtHR") in *H.M.M. and Others v. Latvia* (no. 42165/21, communicated on 3 May 2022)¹ and 2 other applications (submitted in May 2022) and before the Working Group on Enforced or Involuntary Disappearances ("WGEID") in 2 cases concerning Latvia.²

Unless other sources are referenced, information presented in this submission came to the RPF's knowledge from interviews with migrants subjected to the described treatment and documents they shared with us.

II. Background information

In 2020 presidential election was held in Belarus. According to official results, Alexander Lukashenko was re-elected for the 6th consecutive term. This outcome resulted in overwhelmingly peaceful protests all across the country. The authorities responded to the protests with unnecessary and disproportionate use of force reaching the level of crimes against humanity.³ Since 2020 the authorities have persecuted the population displaying opposition to Lukashenko.⁴ Persecution takes form of unnecessary or disproportionate use of force, arrests, detention, torture or ill-treatment, including rape and sexual and gender-based violence, and the systematic denial of the rights to due process and to a fair trial.⁵

In response to the unprecedented violence the European Union imposed sanctions on the Belarusian authorities. In response to this policy since mid-2021 the Belarusian authorities have ceased to enforce migration control laws while facilitating access to the country for foreigners. In Latvia, Lithuania, and Poland this resulted in the increase of irregular arrivals from Belarus.

¹ ECtHR, *H.M.M. and Others v. Latvia* (no. 42165/21, communicated on 3 May 2022).

² Information about the 2 cases before the Working Group was published in the [post-sessional document](#) (126th session, A/HRC/WGEID/126/1).

³ Human Rights Council, "[Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath](#)" (A/HRC/49/71) (4 March 2022), § 89.

⁴ *Ibid.*, § 85.

⁵ *Ibid.*, § 83.

Since 2021 international human rights organisations have documented that the Belarusian authorities in the area adjacent to the country's border with Lithuania and Poland subject migrants to violence, rape, extortion, and other abuses and often coerce them to cross the border irregularly.⁶

III. Legalisation of *refoulement* (Article 3 of the Convention)

In response to the increase of irregular arrivals from Belarus, on 10 August 2021, the Cabinet of Ministers of Latvia adopted Order No. 518 on the Declaration of Emergency Situation ("Order No. 518").⁷ Under the Order, the State Border Guard, the National Armed Forces, and the State Police have been authorised to return to Belarus foreigners, who have irregularly crossed the Latvian border from Belarus or attempted to do so. These agencies were authorised to execute returns without using the formal return procedures and, if need be, with the use of force and special means. The Order prohibited the State Border Guard and other authorities located in the 4 municipalities adjacent to the border with Belarus (Ludza, Krāslava, Augšdaugava, and Daugavpils) to accept applications for international protection.

As a result it became impossible for persons arriving in Latvia irregularly from the territory of Belarus to seek international protection. In practice migrants and asylum-seekers are pushed back to Belarus without any assessment of their personal circumstances and without regard for the treatment they risk being subjected to in Belarus (see background information). Such push backs occur even despite articulated requests for asylum. Asylum-seekers, who are permitted to enter Latvia, are detained as irregular migrants, their applications for international protection are not accepted, and the asylum-seekers are returned to their countries origin without any assessment of their personal circumstances. Thus, in Latvia the protection against *refoulement*, guaranteed by Article 3 of the Convention, has been derogated from in the 4 municipalities adjacent to the border with Belarus.

According to the official statistics, between 10 August 2021 and 28 March 2022 a total of 6,621 people have been deterred from crossing the Latvia-Belarus border irregularly.⁸ RPF and an independent researcher have discovered that often migrants, including asylum-seekers,

⁶ Human Rights Watch, [Die here or go to Poland](#) (24 November 2021); Human Rights Watch, [Violence and Pushbacks at Poland-Belarus Border](#) (7 June 2022); Amnesty International, [Belarus/EU: New evidence of brutal violence from Belarusian forces against asylum-seekers and migrants facing pushbacks from the EU](#) (20 December 2021).

⁷ Cabinet of the Ministers of the Republic of Latvia, [Order No 518 of the Cabinet of Ministers of the Republic of Latvia on the Declaration of Emergency Situation](#) (10 August 2021).

⁸ State Border Guard of the Republic of Latvia, [27. martā novērsts 5 cilvēku mēģinājums nelikumīgi šķērsot Latvijas – Baltkrievijas valsts robežu](#) (27 March 2022).

tried to enter Latvia from Belarus multiple times. Thus, the statistics most likely reflect multiple entries by a single person. According to the researcher, the total number of individuals who have attempted to cross the Latvian border since August 2021 is much lower – 200-300 people.⁹

The UNHCR, in its observations on the Order No. 518, highlighted that the protection against *refoulement* and the right to seek asylum cannot be derogated in times of emergency and strongly encouraged the Cabinet of Ministers and the Ministry of the Interior to amend the Order in question accordingly.¹⁰

RPF invites the Committee to ask the Government of Latvia:

- a) how it intends to remedy rights of those who tried to submit an application for international protection but were returned to Belarus or their countries of origin without any assessment of their personal circumstances;**
- b) when the state of emergency introduced by Order No. 518 will be lifted;**
- c) when Order No. 518 will be repealed or amended in accordance with Latvia's international human rights obligations.**

IV. Torture and other ill-treatment of migrants (Articles 1, 2, 12 and 16 of the Convention)

RPF and the independent researcher¹¹ have discovered that from the end of August 2021 until the end of March 2022 the Latvian security services forcefully kept large groups of migrants, including asylum-seekers, in the forest in the Latvian territory adjacent to the border with Belarus in dire living conditions and subjected them daily to push backs to Belarus.

Around 10 August 2021 41 initial applicants in *H.M.M. and Others v. Latvia*¹² (11 children and 30 adults) crossed the Belarus-Latvia border in an irregular manner on foot with a view to seek international protection. After a series of push backs by the Latvian and Belarusian authorities they were stranded on the border line prevented from entering either country by the countries' respective security services. Between 10 and 20/24 August 2021 they were living under the open sky on the border line a few metres into the Latvian territory. They

⁹ Dr. Aleksandra Jolkina, [Trapped in a Lawless Zone: Humanitarian Crisis at the Latvia-Belarus Border](#) (March 2022).

¹⁰ 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).

¹¹ Dr. Aleksandra Jolkina, [Trapped in a Lawless Zone: Humanitarian Crisis at the Latvia-Belarus Border](#) (March 2022).

¹² ECtHR, *H.M.M. and Others v. Latvia* (no. 42165/21, communicated on 3 May 2022).

were not able to leave the area, they slept on the ground, were not provided food or water regularly, and had no shelter or facilities to maintain hygiene.

On 20 August 2021 11 persons from this group were admitted into the detention centre in Daugavpils. On 24 August 2021, the Latvian authorities transferred, at least, 15 other persons from this group into a tent in the forest in the Latvian territory adjacent to the border with Belarus. These 15 persons along with other migrants had spent the subsequent 2 to 7 months in the border area while being forced to live in the guarded tent or under the open sky in the forest and being pushed back daily to Belarus and from Belarus to Latvia.

In the tent the migrants were guarded 24/7 by men in dark uniforms with their faces covered armed with pistols, carabines, and other rifles. Migrants interviewed by the RPF referred to them as "commandos". These men regularly beat, including with electroshock, threaten, and verbally abuse the migrants. The migrants were not permitted to leave the tent.

The "commandos" were responsible for the daily attempts to return the migrants to Belarus. The migrants were forced to cross the border between Latvia and Belarus at least once a day in the morning at around 4 a.m. The migrants were woken up, taken in mini buses to the border, and forced to cross it. When the Belarusian border guards apprehend them in Belarus, they returned the migrants to the border and forced them to enter Latvia. Then the Latvian border guards detected the migrants and called the "commandos" who took them to the tent.

Between the end of August and mid-December 2021 the migrants kept in the forest spend most of the nights in the tent. In the tent men, women, and children were not separated. There were no beds or bedding. There was a heating device inside, which was mostly on during cold weather. The migrants were prohibited from leaving the tent unless the permission for that was received from the "commandos" – that also applied to going to the makeshift toilet, which migrants made themselves. In the tent there was no water, no facilities to maintain hygiene, no private space.

Between mid-December 2021 and the end of March 2022 the Latvian authorities only occasionally brought migrants to the tent. During this period most of the time the migrants lived in the forest under the open sky.

Between August 2021 and March 2022 the "commandos" fed the migrants predominantly with a pack of biscuits (200 grams) and a bottle of water per day. Sometimes the migrants were not given any food for several days.

When the migrants got under "commandos" control, their phones, SIM cards, and charging cables were taken away or destroyed on the spot. Thus, as soon as a migrant was apprehended, he or she could no longer communicate with the outside world. As a result, their families did not know about their whereabouts (in the most extreme cases for up to 7 months).

Regular beatings coupled with dire living conditions in the forest and other ill-treatment inflicted by the Latvian public officials acting in an official capacity with the aim of coercing migrants to leave Latvia constitute torture within the meaning of Article 1 of the Convention. Also, the above described conduct constitutes enforced disappearance in terms of Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance. Migrants' testimonies collected by RPF reveal that such treatment was inflicted on them as part of a widespread and systematic attack.

RPF communicated information presented in this part of the submission to the Government of Latvia in the course of aforementioned proceedings before the ECtHR and the WGEID. We are not aware of any official investigation ongoing in Latvia.

RPF invites the Committee to ask the Government of Latvia:

a) whether Latvia's competent authorities intend to proceed to a prompt and impartial investigation of the acts and omissions described above committed under Latvia's jurisdiction as it is required by Article 12 of the Convention;

b) whether the victims of the described treatment can obtain free legal aid in Latvia to assist them with seeking redress;

c) whether the victims of the described treatment can obtain redress and adequate compensation, as is required by Article 14 of the Convention.

V. Coercion to participate in the IOM's voluntary return programme (Article 3 of the Convention)

Migrants' testimonies collected by RPF and the researcher¹³ reveal that the Latvian "commandos" forced asylum-seekers kept in the forest to participate in the voluntary return programme run by the International Organization for Migration.

¹³ Dr. Aleksandra Jolkina, [Trapped in a Lawless Zone: Humanitarian Crisis at the Latvia-Belarus Border](#) (March 2022).

By using threats of physical violence and death migrants, including the asylum-seekers, were forced to write a statement that they wanted to return to their home country voluntarily, to sign the documents in a foreign language they did not understand, and to be recorded on video saying they wished to return to their home country. As migrants described to the RPF, they complied with the demands of the "commandos" because they could not bear violence and living conditions in the forest – for them this was the only way out of there.

After signing up for the voluntary return the migrants were transferred from the forest to the detention centre for migrants in Daugavpils, where they awaited the return. In some cases the returns occurred despite the migrants's articulated wish to seek international protection in Latvia.

RPF invites the Committee to ask the Government of Latvia:

whether Latvia's competent authorities intend to proceed to a prompt and impartial investigation of the allegations that asylum-seekers were forced to sign up for the IOM's voluntary return programme.

VI. Immigration-related detention (Articles 3 and 16 of the Convention)

i. Arbitrary deprivation of liberty

As a direct consequence of the legalisation of *refoulement* asylum-seekers arriving in Latvia irregularly often find themselves deprived of their liberty arbitrability. RPF represents before the ECtHR in deprivation of liberty cases 3 families of asylum seekers (6 adults and 5 children) who entered Latvia irregularly in August 2021. 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, which has different provisions on the deprivation of liberty of persons who expressed a wish to seek asylum in Latvia. The courts justified this by referring to the fact that there had been no information on the detention file that asylum proceedings had been initiated with regard to them. 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.

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. Thus, to a reasonable reader, it was not obvious why the courts came to this conclusion. Such logic appeared in 6

out of 6 judgements of the Latgale Regional Court – the court of the final instance in detention matters – that have come to the RPF's attention in November 2021. The use of such justification of the deprivation of liberty indicates its arbitrariness.

RPF invites the Committee to ask the Government of Latvia:

a) when it will cease to detain asylum-seekers under the Immigration Law;

b) when it will cease to detain asylum-seekers on manifestly arbitrary grounds.

ii. Conditions of immigration-related detention (Article 16 of the Convention)

Before the forced "voluntary" repatriation, migrants, including asylum-seekers, were put in the detention centre in Daugavpils for quarantine. The period of stay varied depending on the person – generally, it was around 8 days. However, upon admission migrants were not informed about the length of the quarantine. This was stressful for them.

The migrants experienced intense emotional distress, inflicted by the Latvian authorities. For instance during quarantine, families were separated without any possibility of contacting one another and without knowing other family members' whereabouts. Such treatment caused detainees severe mental distress.

Migrants who had spent months in dire condition in the forest were not provided with psychological help at the detention centre.

Children under 14 years old were detained with their parents, even though the Immigration Law prohibits the detention of minor foreigners who have not reached the age of 14.¹⁴

RPF invites the Committee to ask the Government of Latvia:

a) whether it intends to ensure that families of migrants are not separated during quarantine at the detention centres for migrants;

b) whether it intends to make psychological help available at the detention centres for migrants.

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¹⁴ [Immigration Law of the Republic of Latvia](#), Section 51.