



LITHUANIA

ORAL SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE, 72ND
SESSION NOVEMBER-DECEMBER 2021
ISSUES RELATED TO REFUGEES, PEOPLE SEEKING ASYLUM, AND
IMMIGRATION DETENTION

16 November 2021

Rachael Reilly, Global Detention Project

Chair, Vice Chairs, Members of the Committee: my name is Rachael Reilly. I am the Senior Advocacy Coordinator for the Global Detention Project, based here in Geneva. The Global Detention Project is a non-governmental organization dedicated to documenting the use of detention in response to migration, asylum and refugee movements worldwide. At the heart of our work is a global data-base we have built of information and analysis on immigration detention laws, policies and practices based on human rights indicators provided in international and regional human rights instruments. It is the only global repository of data on immigration detention that currently exists in the world. Critical to this project has been our partnership with local, national and regional organizations working on immigration detention around the world – they help to provide the data and analysis that feed into our database and we engage regularly with them in joint advocacy interventions, in particular with respect to international human rights mechanisms such as this.

Given the critical situation with respect to the treatment of migrants and asylum seekers on the border between Belarus and Lithuania, we felt that it was particularly important, along with the Lithuanian-based NGO, the Human Rights Monitoring Institute, to bring these urgent concerns to your attention.

Before I hand over to my colleague Meta, who has travelled from Lithuania to address you today, I would like to remind the Committee that many of the recommendations it made to the Lithuanian government on the detention of asylum seekers during its third periodic review in 2014 have not

been enacted and remain extremely relevant today. In particular, recommendation 17.a to “refrain from detaining asylum seekers and illegal immigrants for prolonged periods and use the detention of asylum seekers only as a measure of last resort for as short a period as possible” is far from the reality in Lithuania today. The detention of migrants and asylum seekers in Lithuania has greatly increased, it is automatic, mandatory and for prolonged periods. We are extremely concerned by reports of ill-treatment, possibly amounting to torture, of asylum seekers and migrants in detention sites and call for these accounts to be immediately and independently investigated. We urge the Committee to call on the Lithuanian government to cease the automatic and mandatory detention of asylum seekers and migrants on arrival in Lithuania and, in particular, to immediately release from detention all children and their families, in line with the 2017 joint General Comment of the Committee on the Rights of the Child and the Committee on Migrant Workers which ruled that “migration-related detention of children is inherently a violation of children’s human rights and thus must be abolished”.

Meta can now speak directly to the situation in Lithuania and bring you up-to-date with the latest developments since we issued our joint written submission to the CAT a few weeks ago. Thank you.

Mėta Adutavičiūtė, Human Rights Monitoring Institute

1. Mister Chairperson, Respected Members of the Committee: I am Mėta Adutavičiūtė, representative of Human Rights Monitoring Institute, Lithuania-based non-governmental organisation. Human Rights Monitoring Institute (HRMI) is an independent not-for-profit organisation that has been founded in 2003 with a mission to strengthen an open and democratic society by contributing to the protection of human rights and freedoms. Since its establishment HRMI has been advocating for full compliance of national laws and policies with international human rights obligations and working to ensure that rights are real and effective in practice.
2. With our joint submission with the Global Detention Project and in my present statement I would like to draw your attention to the migration crisis that has been developing since the early summer at the Lithuanian border and at the borders of several other EU states.
3. In response to the EU sanctions the Belarusian regime began facilitating a new route of migration to the EU which created a substantial flow of people trying to reach the EU through Belarus. The role of the Belarusian regime in facilitating this crisis is well documented, including mass issue of tourists visas, facilitation of movement of people from Minsk to the border zone and escorting them, directing or even physically pushing people through the border into the territory of Lithuania, equipping people with tools to cut the fence, etc. Therefore the current migration crisis at the EU border needs to be addressed in light of these circumstances.
4. At the same time Lithuania and other EU border states have their international obligations to uphold when responding to this crisis, especially bearing in mind that people in this situation became hostages of the Belarussian regime that does not care for people’s lives or wellbeing.

5. There are several issues of concern that we would like to raise. First of all, collective expulsion of people who crossed the border and are already in the territory of Lithuania. According to the recent amendments to the Law on the Legal Status of Aliens, during a mass influx of foreigners and in cases of extraordinary situation, state of emergency or times of war, people who crossed the border at the places not designated for crossing are not legally considered to have entered the territory of Lithuania until the decision allowing them to enter is issued by authorities. Therefore people who are de facto in the territory of Lithuania, in the border zone or a bit deeper are apprehended and returned to Belarus in groups. These people cannot ask for asylum in these circumstances because under the current law the only possibility to ask for asylum is by entering through the official border control points or by filing the application in the Lithuanian embassy in Minsk. Since the push-back policy was instated on 2 of August 2021, only 10 applications for asylum were filed in the designated places, and more than 6000 people were turned away at the border or collectively expelled from the country, except up to 200 people who were let in on humanitarian grounds and allowed the possibility to claim asylum. In addition, to claim asylum at the official border crossing points it is mandatory to have personal identification documents, however, large part of the people trying to cross do not have them. There are only 4 official border crossing points on the border with Belarus which is almost 700 km long. Therefore the right to claim asylum in Lithuania at the moment is severely restricted and very difficult to implement in practice.
6. Another point of concern is mandatory de facto detention of all migrants and asylum seekers up to 6 months during the mass influx of foreigners and in the extraordinary situation, state of emergency or times of war. Although the law provides for the restriction of movement in the Lithuanian territory, and does not provide for mass detention, in practice people are held in de facto detention. HRMI representatives visited 7 of the ad hoc camps, which were either tent camps at the border guard stations or camps in the defunct school buildings, and all of these camps were fenced and guarded by the officers without the opportunity to leave the perimeter. The people from the ad hoc camps mentioned in the submission have been transferred to other camps with better conditions. HRMI did not have an opportunity yet to visit the new camps, however, it is obvious from the pictures from these camps, that they are also fenced and guarded. One of the places of accommodation and detention was set up in the former prison in Kybartai, where people are living in the actual prison conditions. It is very important to stress that the law does not provide for a judicial oversight of such de facto detention or any mechanism to challenge it, however, several people managed to contact a lawyer and secure the release from the camps by court decisions. Currently, there are amendments pending before the parliament, which will discontinue the restriction of liberty after the 6 months period, and the extension of this period for another 6 months maximum will be possible if there are reasons to believe that the person in question will hide; also, after 6 months, the de jure detention will be possible if the border guard service appeals to court and asks for detention of a specific individual who is not an asylum seeker on public security and other grounds. However, it is important to emphasise, that even with these amendments, de facto detention will be possible for up to a year without any mechanism for

judicial review, including vulnerable people, families with children, unaccompanied minors, people with disabilities, and others.

7. Another issue of concern are the allegations of mistreatment of people held in Verebiejai camp. The testimonies were collected and published by the Refugee Council of Lithuania, and the information from these published reports was included into the submission. There is a need to investigate these incidents and determine all the facts and circumstances of what happened in this camp. There was a protest held the day before the events due to poor living conditions and lack of freedom that the government treated as riots. The events detailed in the submission are corroborated by additional testimonies collected by a journalist who has contacts with people who were held in this camp. These testimonies confirm that there was indeed a night time operation by armed officers who were looking for specific individuals and have used physical force against people held there, for example, one person testified that he was thrown out of his bed to the floor, and the officer pressed his head to the ground with his boot, and told to be „quiet“. To his friend the officer did the same as (I quote) “to that black person in the US who died“. Another told: „Pointed a weapon to my head and told me to lie on the floor. I lied down, and the officer kicked me in the eye. Then rested his foot on my back. I asked „why are you doing this“, but I asked in French...He said „Look to the floor“. It is very important to stress that the people who witnessed these events, and those who claim that they experienced the violence themselves, are very scared and afraid to talk about this treatment because they fear retribution or negative consequences. They did not want their identities to be known, so the journalist, who wrote the article, did not disclose their true names. Therefore when the investigations are launched, it is extremely important to ensure protection of all victims and witnesses from any retaliation or negative consequences for speaking up. According to the information published in the media on 12 November, the government denies that violence has been used. The Ministry of Internal Affairs has conducted the review of information and claims that no data on abuse of power or excessive use of force has been found. Therefore, it is safe to conclude that no real, effective and meaningful investigation has been conducted into these incidents so far.
8. Another point of concern is the state of emergency regime. State of emergency for the duration of 1 month was declared in Lithuania on 10 of November in response to the escalating situation at the Polish border. However, state of emergency was declared not only in the border zone, but also in five largest camps that house migrants and asylum seekers. It was declared in these places in response to the protests held in some of the camps on 8 of November, the same day that events escalated at the Polish border, however, these protests were planned in advance and the administration of the camps was notified of this. The state of emergency allows for the possibility by the decision of state border guard officers to ban communication by mobile or internet technologies, except for communication with state institutions; it also provides for a ban on spreading and receiving information, except from state institutions. We were assured that in person visits and communication will be allowed for non-government organisations, however, we still do not have full information on how these restrictions will be applied in practice, that is,

whether they will be applied to all people held in the camps, or only to separate individuals, and whether the persons concerned will have the possibility of communicating with their family members, lawyers and attorneys, international and humanitarian organisations, and non-governmental organisations. It is very important to allow these communications given that people are held in de facto detention.

9. These are the main issues of concern that we raise and I will be glad to answer the questions and provide any additional information on the points raised in the submission as well as in my statement.

Additional recommendations:

- 1) Stop collective expulsions of people from the territory of Lithuania and allow for the possibility to claim asylum when they are already in the territory despite the manner in which they have entered;
- 2) Reduce the period of the de facto detention (de jure restriction of movement in the territory of Lithuania) in cases of extraordinary situation, state of emergency or times of war to the maximum period of 28 days, during which decisions should be taken, whether to release an individual, detain him, or apply measures alternative to detention; provide for the judicial mechanism for reviewing these decisions;
- 3) Ensure that people in camps where the state of emergency has been declared have a possibility to communicate with their family members, lawyers and attorneys, as well as international organisations, humanitarian and non-governmental organisations.

