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**Mr. Felipe González Morales**  
**United Nations Special Rapporteur**  
**On the Human Rights of Migrants**

By email at: [OHCHR-migrant@un.org](mailto:OHCHR-migrant@un.org)

**Submission to the call for inputs for the Report of the UN Special Rapporteur on the Human Rights of Migrants**

Human Rights Monitoring Institute (hereinafter – HRMI) respectfully submits to the UN Special Rapporteur on the Human Rights of Migrants information on Lithuania for the report *Human rights violations at international borders: trends, prevention and accountability*.

HRMI is a non-governmental organisation working to strengthen an open and democratic society by contributing to the protection and fostering of human rights and freedoms. Since its establishment in 2003, HRMI has been advocating for full compliance of national laws and policies with international human rights obligations and working to ensure that rights are effective in practice.

The submission of information is structured according to the issues raised by the Special Rapporteur in the call for inputs / questionnaire.

- 1. Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021. Grateful if you could kindly submit the original text of the relevant provisions of the legislation or policy(ies), accompanied by an English translation if it is in a language other than English, French or Spanish.**

In response to the substantial increase in the number of people irregularly crossing the Lithuanian-Belarussian border in the summer of 2021, on the 13<sup>th</sup> of July 2021, the Parliament passed

amendments to the Law on the Legal Status of Aliens (Annex 1).<sup>1</sup> The amendments, *inter alia*, provided that the presence of foreigners, who filed applications for asylum at border checkpoints, transit zones or immediately after crossing the State border illegally, in the temporary accommodation facilities is not considered an arrival into the territory of the country, until the decision is taken to allow the asylum seeker to enter the Republic of Lithuania. The law also provided that in times of war, state of emergency, extreme situation, or extreme events due to mass influx of aliens, asylum seekers are to be accommodated in the border checkpoints, transit zones, on State Border Guard Service premises or other places adjusted for that purpose without the right to freely move in the territory of the Republic of Lithuania.<sup>2</sup> This measure might be extended for up to six months (no judicial review of such accommodation / *de facto* detention has been provided in the law). The law provided for a possibility of detention of an asylum seeker on the ground that he / she entered the territory of the country illegally in times of war, state of emergency, extreme situation, or extreme events due to a mass influx of aliens (Art. 113(4) 1<sup>1</sup>); it also provided that the decisions on asylum issued by the Migration Department are to be appealed within 7 days, firstly to the Migration Department itself, whereas the decisions it issues may be appealed within 7 days to the district administrative court as a final recourse.

On the 10<sup>th</sup> of August 2021 other amendments to the Law on the Legal Status of Aliens were passed by the Lithuanian Parliament, *inter alia*, providing that in times of war, state of emergency, extreme situation or extreme events due to the mass influx of aliens, the alien's request for asylum shall be submitted at the border checkpoints, to the Migration Department in case of legal entry, or the Republic of Lithuania's diplomatic mission abroad, whereas the requests submitted not according to this procedure shall not be accepted; the exception has been made that in case of vulnerability or other individual circumstances of the foreigner, the State Border Guard Service may, under their discretion, accept an application for asylum (Annex 2).<sup>3</sup>

On the 23<sup>rd</sup> of December 2021 another set of amendments to the Law on the Legal Status of Aliens was passed, which, *inter alia*, provided for potential extension of the accommodation of asylum seekers without the right to move freely in the territory of the Republic of Lithuania for up to another 6 months (Annex 3).<sup>4</sup> The law amended the previously established procedure of non-judicial review of the Migration Department decisions and provided for two instances of judicial review of the said decisions. Art. 140<sup>17</sup> (2) of the amended law also provided that an asylum seeker

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<sup>1</sup> Law of the Republic of Lithuania No. XIV-506 on the Amendment of Articles 5, 71, 76, 77, 79, 113, 131, 136, 138, 139, 140 and Supplementation with Section IX<sup>1</sup> of the Law on Legal Status of Aliens No. IX-2206, 13 July 2021, <https://www.e-tar.lt/portal/lt/legalAct/a4780990eac111eb9f09e7df20500045>

<sup>2</sup> Law of the Republic of Lithuania No. XIV-506 on the Amendment of Articles 5, 71, 76, 77, 79, 113, 131, 136, 138, 139, 140 and Supplementation with Section IX<sup>1</sup> of the Law on Legal Status of Aliens No. IX-2206, 13 July 2021, <https://www.e-tar.lt/portal/lt/legalAct/a4780990eac111eb9f09e7df20500045>

<sup>3</sup> Law of the Republic of Lithuania No. XIV-515 on the Amendment of Article 67 of the Law on Legal Status of Aliens No. IX-2206, 10 August 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/baee7ea2fa7211ebb4af84e751d2e0c9?positionInSearchResults=3&searchModelUUID=48baf645-4426-45a5-89cb-bb259fa318b8>

<sup>4</sup> Law of the Republic of Lithuania No. XIV-816 on the Amendment of 2, 3, 5, 26, 32, 40, 50, 67, 71, 76, 77, 79, 113, 125, 126, 130-1, 136, 138, 139, 140, Abolishment of Article 69 and Section IX<sup>1</sup> and Supplementation with Section X<sup>2</sup> of the Law on Legal Status of Aliens No. IX-2206, 23 December 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/c67c9f5266e611ecb2fe9975f8a9e52e?jfwid=-9faiflft>

may be detained on the ground that he / she entered the territory of the Republic of Lithuania by illegally crossing the State border.

On the 13<sup>th</sup> of January 2023 a draft law (approved by the Government on the 12<sup>th</sup> of January 2023) was registered in the Parliament, amending the Law on the Legal Status of Aliens (Annex 4).<sup>5</sup> The draft provides that in times of war, state of emergency, extreme situation or extreme events due to the mass influx of aliens, the application for asylum can be, *inter alia*, submitted in the territory of the Republic of Lithuania to the Migration Department or State Border Guard Service. That means that the application for asylum can be made irrespective of the means of entry into the territory. The draft also proposes to abolish the possibility of detention of an asylum seeker on the ground that he / she entered the territory of the country illegally.

**2. Please provide information on recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in your country.**

On the 2<sup>nd</sup> of August 2021 the Minister of Interior (head of operations of State-level extreme situations) issued a decision No. 10V-20 charging the institutions, responsible for guarding the state border, to, *inter alia*, ensure that 1) persons would cross the external land border only through the border checkpoints; 2) persons, attempting to cross the border through other places than provided in point 1, would not be allowed to enter the territory and would be redirected to the closest operating international border checkpoint; 3) persons, who crossed the border in other places than provided in point 1, and who are present in the border zone area and seek asylum in the Republic of Lithuania, would not be allowed to enter the territory of the country and would be redirected to the nearest operating international border checkpoint or diplomatic mission of the Republic of Lithuania (Annex 5).<sup>6</sup> As of writing of this submission, the decision is still in effect.

On 9<sup>th</sup> of November 2021, in response to instrumentalisation of migration by Belarus, a state of emergency was declared by a parliamentary resolution (Annex 6).<sup>7</sup> The state of emergency was declared in the entire border zone area with Belarus and spanning 5 kilometres into the territory of

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<sup>5</sup> Republic of Lithuania, Draft Law No. XIVP-2385 on the Amendment of Articles 140(8), 140(12) and the Abolishment of Articles 140(11), 140(17) of the Law on the Legal Status of Aliens No. IX-2206, registered 13 January, 2023, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/927284f0930d11edb55e9d42c1579bdf?positionInSearchResults=3&searchModeIUUID=95fb27e3-6dbe-4b6a-8b4b-f3d22137718d>

<sup>6</sup> Decision No. 10V-20 of the Minister of Interior of the Republic of Lithuania, Head of Operations of Extreme Situation on the Management of Mass Influx of Aliens in the Territories of the Border Zone next to the State Border of the Republic of Lithuania with the Republic of Belarus and Strengthening the Protection of the State Border, 2 August 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/6c0ea3a0f42811ebb4af84e751d2e0c9?positionInSearchResults=21&searchModeIUUID=48baf645-4426-45a5-89cb-bb259fa318b8>

<sup>7</sup> Republic of Lithuania, Resolution of the Parliament No. XIV-617 on the Introduction of the State of Emergency, 9 November 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/dd1e40a2417111ecac25bd9c0b3391dc?positionInSearchResults=25&searchModeIUUID=65c20f76-3de9-490e-aec4-ebbbbeb65a49>

Lithuania, as well as in the foreigners' registration and refugee reception centres where the foreigners were accommodated (*de facto* detained) and 200 metres around them. The resolution restricted the rights of foreigners in the centres to freely communicate or obtain and impart information, except communication with state institutions.

On the 7<sup>th</sup> of December 2021 the state of emergency was extended by Parliament's resolution until the 15<sup>th</sup> of January 2022, including the restrictions on communication and imparting and obtaining information for the foreigners held in detention centres, however, amendments were made to provide for exceptions for communication with state institutions, communication when requesting legal aid, as well as communication with international organisations (Annex 7).<sup>8</sup>

On the 13<sup>th</sup> of December 2022, in response to Russia's war of aggression against Ukraine, as well as, *inter alia*, instrumentalisation of migrants as a form of hybrid aggression by Belarus, a parliamentary resolution was passed, establishing a state of emergency in the border zone area next to the border with Russian Federation and the Republic of Belarus (Annex 8).<sup>9</sup> Article 2(1) point 2 of the resolution provides for strengthening of the protection of the State border and, *inter alia*, states that persons, intending to cross the external border of the European Union or having crossed the border in places not designated for this purpose, are not allowed to enter the territory of the Republic of Lithuania (this provision shall not be applicable when ensuring the entering of foreigners on humanitarian grounds, who flee from war and (or) persecution, including those not having a valid travel document).

On the 13<sup>th</sup> of January 2023 draft amendments (approved by the Government on the 12<sup>th</sup> of January 2023) to the Law on State Border and its Protection were registered in the Parliament (Annex 9).<sup>10</sup> Art. 2(2) of the draft law, *inter alia*, provides that, in times of extreme situation because of mass influx of foreigners and with a purpose to ensure national security and public order in the Republic of Lithuania, the Government, upon suggestion from the National Security Commission (composed by the Government), may issue a decision that foreigners, trying to cross or having crossed the State border places not designated for that purpose or in places of that purpose, but by violating the procedure of border crossing, shall not be allowed entry into the territory of the Republic of Lithuania (the provision shall be applied individually to each foreigner and shall not apply when foreigners are fleeing war or persecution, or when ensuring entry of the foreigners on

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<sup>8</sup> Republic of Lithuania, Resolution of the Parliament No. XIV-733 on the Introduction of the State of Emergency, 7 December 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e6418713575a11ec86bdc0a6d573b32?positionInSearchResults=5&searchModelUUID=65c20f76-3de9-490e-aec4-ebbbbeb65a49>

<sup>9</sup> Republic of Lithuania, Resolution of the Parliament No. XIV-1657 on the Introduction of the State of Emergency, 13 December 2022, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/dbffd5207c5e11edbdceb68a7a0df7e?positionInSearchResults=1&searchModelUUID=65c20f76-3de9-490e-aec4-ebbbbeb65a49>

<sup>10</sup> Republic of Lithuania, Draft Law on the Amendment of Sections I and III and Articles 4, 10, 16, 18, 23, 26 and the Supplementation with Article 23(1) and New Section IX of the Law on State Border and its Protection, registered on 13 January 2023, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/31695270930c11edb55e9d42c1579bdf?positionInSearchResults=4&searchModelUUID=95fb27e3-6dbe-4b6a-8b4b-f3d22137718d>

humanitarian grounds). The foreigners, not allowed entry, are to be provided, in case of need, with necessary medical and humanitarian aid without delay.

**3. Please provide information on how the “safe third country” concept is applied and if there is any “safe third country” list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

The concept of the “safe third country” is defined by Art. 2(25) of the Law on Legal Status of Aliens, which provides that safe third country means a country which is not a foreigner’s country of origin but is a state party to the 1951 Convention relating to the Status of Refugees and/or the 1967 Protocol relating to Refugee Status as well as the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the 1966 International Covenant on Civil and Political Rights, implementing the provisions of the above-mentioned instruments and providing a feasible possibility under national laws to apply for and be granted asylum according to the established procedure (Annexes 10-11).<sup>11</sup>

Art. 77(1) of the Law on the Legal Status of Aliens, *inter alia*, provides that by a decision of the Migration Department, an application for asylum shall not be examined if: 1) the asylum applicant has been granted asylum by another EU Member State or a safe third country and the asylum applicant is able to return to that state and continue to enjoy asylum; 2) the asylum applicant has entered the Republic of Lithuania from a safe third country.

Point 50 of the Description of the Procedure of Granting and Revoking Asylum in the Republic of Lithuania (Annex 12)<sup>12</sup> sets out that the decision not to examine the application for asylum, based on Art. 77(1) point 2 of the Law on the Legal Status of Aliens, shall be adopted if the Migration Department, taking into account the information provided by the asylum seeker and COI (information on the country of origin), establishes that: 1) there is a connection between the asylum seeker and the respective third country, based on which the asylum seeker has serious reasons to go to this country; 2) the third country corresponds to the definition of a safe third country, provided for by Art. 2(25) of the Law on the Legal Status of Aliens, and the asylum seeker will be treated in this country according to the principles set out in this procedure (the provisions of Annex 12, point 50.2.1. to point 50.2.5).

Point 51 of the description of the Procedure on Granting and Revoking Asylum in the Republic of Lithuania sets out that the Migration Department annually informs the European Commission on the countries, which have been assigned as safe third countries.<sup>13</sup>

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<sup>11</sup> Republic of Lithuania, Law on the Legal Status of Aliens No. IX-2206 (last amended on 17 March 2022), <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/ac2cfa50b06f11ecaf79c2120caf5094?jfwid=>

<sup>12</sup> Republic of Lithuania, Order No. 1V-131 of the Minister of Interior on Approval of the Description of Procedure on Granting and Revoking Asylum in the Republic of Lithuania, 24 February 2016, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/0a918630dc0311e59019a599c5cbd673/asr>

<sup>13</sup> Republic of Lithuania, Order No. 1V-131 of the Minister of Interior on Approval of the Description of Procedure on Granting and Revoking Asylum in the Republic of Lithuania, 24 February 2016, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/0a918630dc0311e59019a599c5cbd673/asr>

According to the 25<sup>th</sup> of January 2023 information from the Migration Department, the list of safe third countries is not being compiled; every case is being assessed on an individual basis, taking into account the accurate and the most recent information on the country of origin of the asylum seeker or a third country, to which the asylum seeker may return and continue using (*liet. naudotis*) his / her asylum.<sup>14</sup>

**4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.**

No progress has been made in developing independent border monitoring mechanism(s) at the national level. In one instance, the Lithuanian-Belarussian border monitoring was conducted by the Parliamentary Ombudsperson's Office representative on the 6<sup>th</sup> of August 2021 and data from the monitoring included into the Ombudsperson's report (Annex 13).<sup>15</sup> No independent border monitoring has been carried out since.

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Enclosed. 13 Annexes

Yours faithfully,

Dainius Pūras

Director

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<sup>14</sup> HRMI's email communication with the Migration Department, 25 January 2023.

<sup>15</sup> Seimas Ombudsmen's Office of the Republic of Lithuania, Report No. NKP-2021/1-3 On Ensuring Human Rights and Freedoms in Places of Temporary Accommodation of Foreigners Having Crossed the Border of the Republic of Lithuania with the Republic of Belarus, 7 October 2021, [http://hrmi.lt/wp-content/uploads/2021/10/E5339-Ataskaita\\_Migrantai\\_2021\\_RED\\_EN-1-2.pdf](http://hrmi.lt/wp-content/uploads/2021/10/E5339-Ataskaita_Migrantai_2021_RED_EN-1-2.pdf)