



Latvijas Republikas tiesībsargs  
*Ombudsman of the Republic of Latvia*

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*Regarding request for information*

The Ombudsman's Office has received your request for information regarding the situation of migrants and refugees in Latvia after the visit that was held in Riga in March 2022.

As it was mentioned during our meeting as well as in my public rhetoric, the state's duty is to protect its national security and territorial integrity and in the light of recent events in Ukraine as well as other activities of Belarus and Russia it remains as important as ever. For this reason, I have always stressed that in this case we must balance the interests of national security with the respect for human rights while taking into account the specific context of these events. I.e., this situation was directly caused by another state with an aim to harm our national security. My position remains unchanged, and I won't hesitate to voice my support for the protection of our national security. Considering that, I am hereby providing Amnesty International with the requested information and clarifications regarding the topics that were discussed during our meeting.

1.Regarding the information in Ombudsman's annual Report for 2021.

You would like to receive a clarification regarding the information that was included in the Annual Report and whether Ombudsman's current position has changed from the one that was stated in statements of August 12 and 18, 2021.

Due to the need to be concise, in the Annual Report Ombudsman's activities and statements are not described in detail, but preference is given to several short statements and a link to the original document/statement when appropriate. Thus, the section regarding the Latvia-Belarus border issue is also relatively short and highlights only few

aspects of the statements. In the report (p.185) there are links to the official Latvian language versions of the statements from August 12 and 18 that you are referring to in your letter. The part to which you refer in your letter and where it is noted that the Ombudsman “stressed that access to the asylum procedure had to be ensured for those persons who had been admitted to Latvia on humanitarian grounds” is introduced as an additional statement to the ones given before. It refers to the letter of November 16, 2021<sup>1</sup> that was sent to the Minister of Interior affairs regarding the access to the asylum procedure of persons who were admitted in the territory of Latvia on humanitarian grounds. This letter was also sent as a reaction after an NGO informed us that there were cases of people trying to request asylum in the detention centre in Daugavpils. These statements do not contradict or revoke each other, but rather complement. This was meant to be reflected in that way also in the Annual Report.

In the letter of November 16, 2021, it was also stated that the opportunity to request humanitarian visa in the border crossing points at that point might not be an effective alternative to applying for asylum. Thus, we welcomed the amendments in the Emergency Decree that made it possible to request the asylum in border crossing points as well as in the detention centre in Daugavpils. Given the security concerns that I mentioned before, this is a reasonable compromise between the interests of national security and need to ensure that there is an access to the asylum procedure. It is also more in line with the recent case law of the European Court of Human Rights than the previous version of the Emergency Decree when no access to the asylum procedure was available.<sup>2</sup>

In the letter from Amnesty International there is also a question regarding monitoring of forced returns. First of all, I should clarify that this monitoring concerns returns who are subject to procedure laid out in immigration Law (i.e. there is a decision regarding the forced return operation and Ombudsman’s Office is notified about this decision). Ombudsman’s Office is not notified about the cases when person decides to return voluntarily. In those cases where the return decision is issued we take part in operation itself based on the necessity (i.e. it is more likely that we will decide to take part in an operation if a vulnerable person is concerned, for example, person with disabilities, minors, unaccompanied minors etc. or if there are indications that there might be use of force or means of restraint applied, such as in cases when person has expressed unwillingness to return). We also take into account if the escorts will accompany the person only till the airport or if they will also accompany them during a flight. Another part of forced return monitoring is interviewing the persons who have received such decisions. During those interviews we ask about the conditions in the detention centre as well as attitude from the staff towards them and other questions regarding their return decision and individual circumstances. Based on the information that is available to us, persons who entered Latvia from Belarus since the Emergency decree came into the force either opted to depart voluntarily (sometimes with assistance from IOM) or were still waiting for their return decision in 2021. Thus, none of our monitoring in 2021 concerned this specific group.

Regarding the information about the Ombudsman’s Office and possibility to make a submission of file a complaint, there is information available in the detention centres

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<sup>1</sup> Available (in Latvian) here

[https://www.tiesibsargs.lv/uploads/content/par\\_patveruma\\_lietu\\_izskatisanu\\_arkartejas\\_situacijas\\_laika\\_2\\_1641905\\_236.pdf](https://www.tiesibsargs.lv/uploads/content/par_patveruma_lietu_izskatisanu_arkartejas_situacijas_laika_2_1641905_236.pdf)

<sup>2</sup> For instance Case N.D. and N.T. vs Spain <https://hudoc.echr.coe.int/eng?i=001-201353>

(posters on the wall) in several languages. Information about Ombudsman and its role is also provided to detained foreigners during the interviews that are part of the forced return monitoring. In addition we regularly communicate with NGO's that provide legal aid to detained foreigners to hear about the challenges they are facing. The management as well as staff that works at the detention centres are also very well aware of our functions and activities due to our role as the monitoring body as well as our other mandates.

In Ombudsman's office the statistics of received submissions/complaints are collected based on the subject/theme of the complaint rather than the applicant, thus the most precise information would concern that kind of data. Also we can receive information from people in not a written form and if that is something that can be solved on-site, it is not registered as an individual complaint. For example during an interview in 2022 a person who had entered the Latvia from Belarus did not complain about the circumstances of entering, but made a remark that it is not possible to go for a walk because their family does not have weather-appropriate clothes. In that case NGO "Red Cross" was contacted and the clothes were arranged.

## 2. Regarding the Ombudsman's visit to the Latvia-Belarus border on 26 January 2022.

The visit was conducted as a follow-up to the one held in September 2021 to assess whether any practical changes have occurred to the situation as well as discuss the topics that were brought up in the previously mentioned letter of November 16, 2021 (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.). This was also an opportunity to meet with the Chief of the State Border Guard, general G.Pujāts and discuss the Emergency Decree and its latest amendments in person. Together with representatives of the State Border Guard a border itself as well as a facility where the border guards are stationed, and the remote border monitoring takes place was visited. The Ombudsman's Office uses these meetings not only to hold on-site visits, but also to talk to the officials who are directly involved in border management and may be the ones who meet and identify the foreigners. Since the letters or statements most likely reach only high-level officials, these visits can also serve as a way to raise awareness and provide the human-rights perspective of everyday work for border guards and not only those who work on management lever or as decision makers. However, as it was mentioned during our meeting, it is important to acknowledge that the Border Guards work according to the legal framework that is currently in force and it is not up to the State Border Guard to repeal or amend it. That is the duty of politicians. Thus, after the visit, I was satisfied with the State Boarder Guards and their understanding of the situation. This was something that I stated during our meeting as well.

## 3. Regarding the Ombudsman's role as the National Preventive Mechanism (NPM).

Detention centre "Mucenieki" was visited in July 2021. However according to the information available to us, almost all the people who entered from Belarus were detained in Daugavpils. Thus, in September 2021 the detention centre "Daugavpils" was visited to meet detained people and determine if the centre was not overcrowded. And in January 2022, we held interviews with people who had been subjected to forced return

procedure after being admitted in Latvia on humanitarian grounds and were detained in Daugavpils.

As it was mentioned before, the employees of the Ombudsman's Office visit detention centres regularly (even more so before Covid-19 pandemic) thus there were no new findings regarding the conditions. Overall the living conditions on both centres are adequate – there are all the necessary facilities (showers, toilets etc.), cleaning and meals are provided, but there is also an option to use washing machine and prepare extra food. There are rooms for recreation and activities (TV, some games, sporting equipment), access to wifi in a designated room etc. Medical personnel are present in both centres, but they don't provide psychological counselling. In the recent years we have not received complaints about physical violence or conflicts between the detained foreigners and staff of the detention centre.

If you would like to receive more detailed information regarding the living conditions in the detention centres, please do not hesitate to let me know.

4. Clarification regarding the topics discussed during our in-person meeting on March 9, 2022.

Unlawful use of force can be investigated by the Internal Security Bureau (In Latvian - Iekšējās drošības birojs) which is an independent investigative body created specifically to work with crimes committed by policemen, border guards, prison guards etc. The most accurate statistics on complaints that are received in Internal Security Bureau and submitted by either people themselves or forwarded to them by other institutions could be provided by Bureau itself.

As it was stated during our meeting, there have been very few individual complaints addressed to the Ombudsman regarding use of force. In September 2021 we became aware of complaints regarding the use of tasers by boarder guards. We reacted to that, but at that specific case, given the information provided by State Border Guard about their equipment while doing border monitoring, we did not find evidence that would support that. Since that includes classified information, it is not possible to provide more details. Another case was one that was forwarded to the Internal Security Bureau.

In the letter you also state that a reference was made to a case involving someone who was returned even having claimed asylum at the airport. This reference might have been a result of slight miscommunication when we discussed the access to asylum and the territorial limitations of the Emergency Decree. One of the arguments we mentioned in the letter to the Minister of Interior as well as to State Border Guards regarding access to asylum procedure for people who were admitted to the territory of Latvia on humanitarian grounds was that once the return procedure would take place and they were transported outside the territory where the emergency situation was declared they would be able to request asylum. I.e., if they would request the asylum at the airport, it would be necessary to initiate the procedure, thus it would be reasonable to allow them to request asylum already when they were admitted. And a colleague might have mentioned that there have been such cases as a reference to a long-established case law of European Court of Human Rights regarding the principle of *non-refoulement*. We are not aware of any such incidents involving the people who entered from Belarus (or any other cases in the past years while I am in office).

You have also requested my permission for the information in my responses and notes from our in-person meeting to be made public. I do not have any objections,

however if they are incorporated in a statement, findings, or any other materials, I would kindly ask to share them with me before publishing, so that I could assess them and give additional clarifications, if necessary.

Yours sincerely,  
Ombudsman

Juris Jansons