



INTERNATIONAL COURT OF JUSTICE

APPLICATION INSTITUTING PROCEEDINGS

REPUBLIC OF LITHUANIA

v.

REPUBLIC OF BELARUS

VOLUME I

19 May 2025

To the Registrar of the International Court of Justice, the undersigned, being duly authorized by the Government of the Republic of Lithuania, states as follows:

1. In accordance with Articles 36 (1) and 40 of the Statute of the Court and Article 38 of the Rules of Court, I have the honour to submit this Application instituting proceedings in the name of the Republic of Lithuania (“Lithuania”) against the Republic of Belarus (“Belarus”).

I. INTRODUCTION

2. This Application concerns breaches by Belarus of its obligations under the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the “Protocol”),¹ in relation to the large-scale smuggling of irregular migrants from Belarus into Lithuania.

3. The Protocol, which entered into force on 28 January 2004, is a multilateral treaty that aims “to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants”.² The Protocol defines the “smuggling of migrants” as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.³

4. Lithuania and Belarus are both Parties to the Protocol, having ratified it on 12 May 2003 and 25 June 2003, respectively.⁴ They are also Parties to the United Nations Convention against Transnational Organized Crime (the “Convention”),⁵ which the Protocol supplements.

5. As explained further below, the present dispute between Lithuania and Belarus falls within the scope of the Protocol, as it concerns the smuggling of migrants as defined in Article 3 and other offences established in accordance with Article 6 of the Protocol. Lithuania will demonstrate over the course of these proceedings that Belarus has breached many of its obligations under the Protocol by: facilitating, supporting, and enabling the smuggling of migrants, and also failing to take necessary border measures to prevent and detect the smuggling of migrants and to ensure the security and control of documents in breach of Articles 11 and 12; failing to exchange information to prevent, detect, and investigate the smuggling of migrants, strengthen cooperation with Lithuania’s border control agencies, and cooperate in the field of public information to prevent potential migrants from falling victim to organised

¹ Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004), 2241 UNTS 507 (“Protocol”).

² *Ibid.*, art. 2.

³ *Ibid.*, art. 3 (a).

⁴ United Nations Treaty Collection, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime New York (15 November 2000), available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtldsg_no=XVIII-12-b&chapter=18.

⁵ United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003), 2225 UNTS 209 (“Convention”).

criminalized groups in breach of Articles 10, 11 (6), and 15; and failing to preserve and protect the rights of migrants and afford them appropriate assistance in violation of Article 16.

6. The smuggling of migrants through Belarus into Lithuania has caused serious harm to Lithuania's sovereignty, security, and public order, as well as to the rights and interests of the smuggled migrants themselves, who have been exposed to grave abuses in trying to reach Lithuanian territory. The large-scale smuggling of migrants has also overwhelmed Lithuania's reception facilities and asylum systems, which has heavily affected Lithuania's ability to respond to the migration crisis at the border.

7. Lithuania has made extensive efforts to address the uncontrolled flow of migrants into its territory through diplomatic channels and bilateral negotiations with Belarus. However, Belarus has refused to engage in constructive and effective dialogue, and has continued to deny not only its responsibility for breaching its obligations under the Protocol, but also the facts on the ground underlying those breaches.

8. Lithuania institutes the present proceedings to establish Belarus' responsibility for breaching its obligations under the Protocol, to hold it fully accountable under international law for its unlawful acts, to seek full reparation for the injury caused as well as assurances and guarantees of non-repetition of Belarus' breaches, and to ensure that migrants, in particular more vulnerable migrants, will no longer be exposed to its illegal practices.

I. JURISDICTION OF THE COURT

9. The Court has jurisdiction over this dispute pursuant to Article 36 (1) of the Statute of the Court and Article 20 (2) of the Protocol.

10. Article 36 (1) of the Statute provides that the Court has jurisdiction over "all matters specially provided for ... in treaties and conventions in force".⁶

11. Article 20 (2) of the Protocol, for its part, provides:

"Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court."⁷

12. Article 20 (3) of the Protocol provides that "[e]ach State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article".⁸ Article 20 (4), in turn, provides that "[a]ny State Party that has made a reservation in accordance with paragraph 3 of this article

⁶ Statute of the Court, art. 36 (1).

⁷ Protocol, art. 20 (2).

⁸ *Ibid.*, art. 20 (3).

may at any time withdraw that reservation by notification to the Secretary-General of the United Nations”.⁹

13. Upon ratification of the Protocol, Lithuania made a reservation to Article 20 (2) pursuant to Article 20 (3).¹⁰ On 12 May 2023, Lithuania notified the Secretary-General of its decision to withdraw the reservation pursuant to Article 20 (4).¹¹

14. Pursuant to Article 20 (2), for the Court to have jurisdiction, there must be (a) a dispute between State Parties to the Protocol concerning the interpretation or application of the Protocol, (b) which cannot be settled through negotiation within a reasonable time, (c) and for which the State Parties are unable to agree on the organization of an arbitration within six months of the date of the request for arbitration.

15. *First*, a dispute has plainly arisen between Lithuania and Belarus concerning the interpretation and application of the Protocol. As early as 10 June 2021, referring to the Protocol, Lithuania raised concerns over the “evident reluctance from the competent authorities of the Republic of Belarus to make efforts in preventing ... illegal migration routes from the Republic of Belarus to the European Union, which are targeted and well organized, as well as to cooperate with the competent authorities of the Republic of Lithuania in combating it”.¹² In its response dated 18 June 2021, Belarus dismissed Lithuania’s allegations as “not consistent with reality”.¹³

16. *Second*, this dispute could not be settled through negotiation within a reasonable time.

17. The Court has previously held that negotiations require “a genuine attempt by one of the disputing parties to engage in discussions with the other disputing party, with a view to resolving the dispute”.¹⁴ The Court has further stated that the negotiation precondition is met “when there has been a failure of negotiations, or when negotiations have become futile or deadlocked”,¹⁵ which would be the case “when the parties’ ‘basic positions ha[ve] not

⁹ *Ibid.*, art. 20 (4).

¹⁰ Lithuania’s reservation stated: “And whereas, it is provided in paragraph 3 of Article 20 of the Protocol, the Republic of Lithuania would like to declare that it does not consider itself bound by paragraph 2 of Article 20, which provides that any State Party may refer any dispute concerning the interpretation or application of the said Protocol to the International Court of Justice”.

¹¹ United Nations Treaty Collection, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime New York (15 November 2000), available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18.

¹² *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-220/2021 (10 June 2021) (confidential) (**Annex 1**).

¹³ *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 02-04/480-H (18 June 2021) (certified translation from Russian) (confidential) (**Annex 2**).

¹⁴ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011*, p. 132, para. 157; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Preliminary Objections, Judgment (12 November 2024)*, para. 51.

¹⁵ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011*, p. 133, para. 159; *Questions*

subsequently evolved’ after several exchanges of diplomatic correspondence and/or meetings”.¹⁶ Unlike the Protocol, the treaties interpreted by the Court in those instances did not contain the caveat that the dispute be settled by negotiations “within a reasonable time”.¹⁷ This additional language reflects a requirement that negotiations under the Protocol should not be dragged on endlessly.

18. This jurisdictional requirement has been amply satisfied. Lithuania made extensive efforts to negotiate a resolution to the dispute, including through the exchange of more than 40 diplomatic notes and participation in three rounds of bilateral negotiation sessions over the course of more than three years.¹⁸ However, a settlement of the dispute through negotiations was not possible.

relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J. Reports 2012, p. 446, paras. 58-59; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Preliminary Objections, Judgment (12 November 2024), para. 52.

¹⁶ *Appeal relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates v. Qatar)*, Judgment, I.C.J. Reports 2020, p. 111, para. 93 (quoting *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, I.C.J. Reports 2012 (II), p. 446, para. 59, citing *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Preliminary Objections, Judgment, I.C.J. Reports 2018 (I), p. 317, para. 76).

¹⁷ Protocol, art. 20 (2).

¹⁸ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-220/2021 (10 June 2021) (confidential) (**Annex 1**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 02-04/480-H (18 June 2021) (certified translation from Russian) (confidential) (**Annex 2**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-380/2021 (13 August 2021) (certified translation from Lithuanian) (confidential) (**Annex 3**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-389/2021 (18 August 2021) (certified translation from Lithuanian) (confidential) (**Annex 4**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 07-42/12178 (23 August 2021) (certified translation from Russian) (confidential) (**Annex 5**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-524/2021 (20 October 2021) (certified translation from Lithuanian) (confidential) (**Annex 6**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 04-24-2374 (28 October 2021) (certified translation from Russian) (confidential) (**Annex 7**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Embassy of the Republic of Belarus in the Republic of Lithuania, No. 5-403/2022 (6 September 2022) (certified translation from Lithuanian) (confidential) (**Annex 8**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 02-17/280 (19 September 2022) (confidential) (**Annex 9**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-150/2023 (5 April 2023) (confidential) (**Annex 10**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 07-1-20/5979 (19 April 2023) (confidential) (**Annex 11**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-332/2023 (21 June 2023) (confidential) (**Annex 12**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 02-15/211 (18 July 2023) (enclosing *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09-2-22/10992 (12 July 2023)) (confidential) (**Annex 13**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-408/2023 (1 August 2023) (confidential) (**Annex 14**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 01-15/223 (3 August 2023) (confidential) (**Annex 15**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Embassy of the Republic of Belarus in the Republic of Lithuania, No. 5-425/2023 (7 August 2023) (confidential) (**Annex 16**); *Note Verbale*

from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-22/12396 (9 August 2023) (confidential) (**Annex 17**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-451-2023 (23 August 2023) (confidential) (**Annex 18**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania No. 02-04/251 (30 August 2023) (enclosing *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-22/13411 (30 August 2023)) (confidential) (**Annex 19**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-568/2023 (18 October 2023) (confidential) (**Annex 20**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 07.1-18/17060 (2 November 2023) (confidential) (**Annex 21**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-643/2023 (27 November 2023) (confidential) (**Annex 22**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-13/2024 (10 January 2024) (confidential) (**Annex 23**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-37/24 (23 January 2024) (confidential) (**Annex 24**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/1787 (2 February 2024) (confidential) (**Annex 25**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-76/2024 (15 February 2024) (confidential) (**Annex 26**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/3104 (28 February 2024) (confidential) (**Annex 27**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-179/2024 (21 March 2024) (confidential) (**Annex 28**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/4755 (29 March 2024) (confidential) (**Annex 29**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-217/2024 (4 April 2024) (confidential) (**Annex 30**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/5127 (5 April 2024) (confidential) (**Annex 31**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-231/2024 (10 April 2024) (confidential) (**Annex 32**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs to the Republic of Lithuania (30 April 2024) (confidential) (**Annex 33**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-296/2024 (7 May 2024) (confidential) (**Annex 34**); *Email* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus (8 May 2024) (certified translation from Russian) (confidential) (**Annex 35**); *Email* from Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (10 May 2024) (certified translation from Russian) (confidential) (**Annex 36**); *Email* from Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (17 May 2024) (certified translation from Russian) (confidential) (**Annex 37**); *Email* from Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (24 May 2024) (confidential) (**Annex 38**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-349/2024 (24 May 2024) (confidential) (**Annex 39**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-353/2024 (28 May 2024) (confidential) (**Annex 40**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-22/8248-n (28 May 2024) (certified translation from Russian) (confidential) (**Annex 41**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-378/2024 (4 June 2024) (confidential) (**Annex 42**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (14 June 2024) (certified translation from Russian) (confidential) (**Annex 43**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (27 June 2024) (certified translation from Russian) (confidential) (**Annex 44**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (5 July 2024) (certified translation from Russian) (confidential) (**Annex 45**); *Email* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus (12 July 2024) (confidential) (**Annex 46**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (15 July 2024) (confidential) (**Annex 47**); *Email* from the Ministry

19. The negotiations process was unnecessarily prolonged due to inexplicable months-long delays on Belarus' end.¹⁹ Further, Belarus consistently refused to acknowledge or engage with Lithuania's claims, and ignored its requested remedies.²⁰ Lithuania thus concluded that "negotiations had become futile because there was no realistic possibility, at that stage, of a bilateral negotiated settlement of the disagreement between the Parties",²¹ let alone of a settlement "within a reasonable time" as required under Article 20 (2) of the Protocol. Consequently, on 6 September 2024, Lithuania delivered to Belarus a request to submit the dispute to arbitration, pursuant to Article 20 (2) of the Protocol.²²

20. *Third*, the Parties were unable to agree on the organization of an arbitration.²³ Belarus refused to accept that the negotiations had reached an impasse, and simply "insist[ed]"

of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus (22 July 2024) (confidential) (**Annex 48**); *Email* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania (23 July 2024) (confidential) (**Annex 49**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-489/2024 (1 August 2024) (confidential) (**Annex 50**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/13301 (19 August 2024) (confidential) (**Annex 51**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-538/2024 (6 September 2024) (confidential) (**Annex 52**); Agreed Minutes of the Meeting between the Delegations of Lithuania and Belarus on 5 September 2023 (confidential) (**Annex 68**); Agreed Minutes of the Meeting between the Delegations of Lithuania and Belarus on 12 April 2024 (confidential) (**Annex 69**); Agreed Minutes of the Meeting between the Delegations of Lithuania and Belarus on 18 June 2024 (confidential) (**Annex 70**).

¹⁹ See e.g., *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-179/2024 (21 March 2024) (confidential) (**Annex 28**).

²⁰ See e.g., *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/13301 (19 August 2024) (confidential) (**Annex 51**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-538/2024 (6 September 2024) (confidential) (**Annex 52**).

²¹ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Preliminary Objections, Judgment* (12 November 2024), para. 58.

²² *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-538/2024 (6 September 2024) (confidential) (**Annex 52**).

²³ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/14832 (16 September 2024) (confidential) (**Annex 53**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-603/2024 (8 October 2024) (confidential) (**Annex 54**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/17317 (29 October 2024) (confidential) (**Annex 55**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-691/2024 (19 November 2024) (confidential) (**Annex 56**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/20731 (24 December 2024) (confidential) (**Annex 57**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-51/2025 (24 January 2025) (confidential) (**Annex 58**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/1250 (28 January 2025) (confidential) (**Annex 59**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/1516 (31 January 2025) (confidential) (**Annex 60**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-85/2025 (14 February 2025) (confidential) (**Annex 61**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/2729 (21 February 2025) (confidential) (**Annex 62**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-109/2025 (3 March

that the potential for negotiations under the Protocol has not been exhausted”,²⁴ called on Lithuania “to return to negotiations”,²⁵ and expressed that negotiations were “still [to] be considered as the most relevant and effective means for addressing the claims of both Parties”.²⁶ During the six-month period following Lithuania’s request for arbitration, the Parties exchanged draft agreements on the organization of the arbitration, but did not reach an agreement thereon.²⁷ Lithuania is therefore entitled, under the Protocol, to refer the dispute to the Court’s jurisdiction.

II. THE FACTS

A. The Surge in Illegal Migration at the Lithuania-Belarus Border

21. Lithuania is situated in the Baltic region of Europe. It is bordered by land and sea with Latvia to the north, Belarus to the east and south, Poland to the south, and the Russian semi-exclave of Kaliningrad Oblast to the southwest, with a maritime border with Sweden to the west. Lithuania has a population of about 2.8 million.

22. Belarus is a country in Eastern Europe, bordered by Russia to the east and northeast, Ukraine to the south, Poland to the west, and Lithuania and Latvia to the northwest. Belarus has a population of about 9 million.

23. Lithuania shares an approximately 678-kilometer-long border with Belarus. The border serves as an external border of the EU and the Schengen Area.

2025) (confidential) (**Annex 63**); *Note Verbale* from the Embassy of the Republic of Belarus in the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Lithuania No. 02-04/96 (11 March 2025) (enclosing *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania No. 09.2-16/3649 (10 March 2025)) (confidential) (**Annex 64**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania No. 09.2-16/5187 (3 April 2025) (confidential) (**Annex 65**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania No. 09.2-21/6747 (30 April 2025) (confidential) (**Annex 66**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus No. 5-216/2025 (12 May 2025) (confidential) (**Annex 67**).

²⁴ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/14832 (16 September 2024) (confidential) (**Annex 53**), p. 3.

²⁵ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/17317 (29 October 2024) (confidential) (**Annex 55**), p. 2.

²⁶ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/1250 (28 January 2025) (confidential) (**Annex 59**), p. 1. *See also Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/20731 (24 December 2024) (confidential) (**Annex 57**).

²⁷ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania, No. 09.2-16/21250 (28 January 2025) (confidential) (**Annex 59**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-109/2025 (3 March 2025) (confidential) (**Annex 63**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Belarus to the Ministry of Foreign Affairs of the Republic of Lithuania No. 09.2-16/5187 (3 April 2025) (confidential) (**Annex 65**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus No. 5-216/2025 (12 May 2025) (confidential) (**Annex 67**).



Figure 1: Lithuania-Belarus border²⁸

24. Prior to 2020, the number of persons attempting illegal border crossings from Belarus to Lithuania was relatively low. The total number of apprehended irregular migrants crossing the border from Belarus in the entirety of 2019 and 2020 was 38 and 77, respectively. Towards the end of 2020, however, the situation changed dramatically. An increasing flow of irregular migrants from Belarus to Lithuania was recorded almost every month. The majority of the migrants came from Iraq, followed by countries in the Middle East, Africa, and Asia such as Syria, Congo, Cameroon, Iran, Afghanistan, Sri Lanka, and India, as well as other countries including Cuba.

25. Irregular migration intensified and reached new heights in the summer of 2021. In the month of July alone, Lithuanian border guards apprehended more than 2,600 irregular migrants entering from Belarus.²⁹ By the end of 2021, that number reached 4,339. Frontex, the European Border and Coast Guard Agency, reported that the number of illegal border crossings

²⁸ UN Department of Peacekeeping Operations, Cartographic Section, Map No. 3783 Rev. 2, *Lithuania* (September 2005) (**Annex 108**).

²⁹ “Why are so many migrants coming to one of Europe’s smallest countries? Blame Belarus, officials say.” *Washington Post* (1 August 2021), available at <https://www.washingtonpost.com/world/2021/08/01/lithuania-belarus-migrants/> (**Annex 142**); 1324th OSCE Permanent Council Meeting Statement by the delegation of the Republic of Lithuania, “On recent developments in Belarus” (23 July 2021) (**Annex 112**); 1326th OSCE Permanent Council Meeting Statement by the delegation of the Republic of Lithuania, “On Recent Developments in Lithuania in the Context of Migration Issues” (30 July 2021) (**Annex 113**).

in 2021 across the EU's Eastern borders reached thirteen times more compared to 2020 and close to twelve times more than in 2019 in the same period.³⁰

B. Belarus' Instrumentalisation of Migrants

26. The crisis at the Lithuania-Belarus border did not arise by accident. Rather, it was the result of an organised effort by Belarus to instrumentalise migrants for political purposes and destabilise its neighbouring countries.

27. The crisis followed the contested presidential elections held in Belarus in August 2020.³¹ In the aftermath of the announcement of the alleged re-election of the outgoing president, mass protests erupted, denouncing a rigged process. Belarusian security officials and police violently cracked down on protesters and their supporters, detaining thousands of people.³² In response, in October 2020, the EU started imposing sanctions against high-level officials in Belarus, including Mr Lukashenko.³³ In June 2021, the EU introduced additional sanctions in connection with the forced and unlawful landing of a Ryanair flight to Vilnius in Minsk, Belarus in May 2021 for the purpose of arresting and detaining Roman Protasevich, a journalist and government critic.³⁴

28. Mr Lukashenko condemned the sanctions as a “hybrid war” against his regime. On several occasions, he made clear that his administration would retaliate, including by refusing to prevent or combat the smuggling of migrants into the EU. For example:

³⁰ Frontex, *Migratory situation November: The highest number of detections in November since 2015* (15 December 2021), available at <https://www.frontex.europa.eu/media-centre/news/news-release/migratory-situation-november-the-highest-number-of-detections-in-november-since-2015-Vn2CSr> (**Annex 120**).

³¹ “Belarus election: Opposition disputes Lukashenko landslide win”, *BBC* (10 August 2020), available at <https://www.bbc.com/news/world-europe-53721410> (**Annex 131**).

³² “Belarus: Police unleash appalling violence on peaceful protesters”, *Amnesty International* (10 August 2020), available at <https://www.amnesty.org/en/latest/news/2020/08/belarus-election-protests-police-crackdown/> (**Annex 132**); “Belarus: Unprecedented Crackdown”, *Human Rights Watch* (13 January 2021), available at <https://www.hrw.org/news/2021/01/13/belarus-unprecedented-crackdown> (**Annex 133**).

³³ Council Implementing Regulation (EU) 2020/1387 of 2 October 2020 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, 2020 O.J. (L 319) 1, available at https://eur-lex.europa.eu/eli/reg_impl/2020/1387/oj/eng (**Annex 90**); Council Implementing Regulation (EU) 2020/1648 of 6 November 2020 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, 2020 O.J. (L 370) 1, available at https://eur-lex.europa.eu/eli/reg_impl/2020/1648/oj/eng (**Annex 91**). See also “Timeline – EU sanctions against Belarus”, *Council of the EU and the European Council*, available at <https://www.consilium.europa.eu/en/policies/sanctions-against-belarus/belarus-timeline/> (**Annex 107**).

³⁴ Council Implementing Regulation (EU) 2021/997 of 21 June 2021 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning Restrictive Measures in respect of Belarus (2021) O.J. (L 219) 3, available at https://eur-lex.europa.eu/eli/reg_impl/2021/997/oj/eng (**Annex 92**); Council Implementing Regulation (EU) 2021/999 of 21 June 2021 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning Restrictive Measures in respect of Belarus (2021) O.J. (L 219) 55, available at https://eur-lex.europa.eu/eli/reg_impl/2021/999/oj/eng (**Annex 93**). See also “Belarus accused of ‘hijacking’ Ryanair flight diverted to arrest blogger”, *The Guardian* (23 May 2021), available at <https://www.theguardian.com/world/2021/may/23/belarus-diverts-ryanair-plane-to-arrest-blogger-says-opposition> (**Annex 134**).

- In May 2021, Mr Lukashenko openly declared: “We stopped drugs and migrants. Now you will eat them and catch them yourselves”.³⁵
- In June 2021, Mr Lukashenko stated: “European countries ... demand that we protect them from smuggling and drug trafficking ... I want to ask them: have you gone crazy there? You are waging a hybrid war against us and demand that we help you as we did before? ... Only insane people would think that and expect us to support them”.³⁶
- In June 2021, Mr Lukashenko also announced Belarus’ withdrawal from the EU’s Eastern Partnership and the suspension of the Belarus-EU readmission agreement, which had required Belarus to accept the return of migrants who had transited Belarus to the EU.³⁷
- In November 2021, Mr Lukashenko stated in an interview with BBC: “Our guys are helping the migrants get into Polish territory? It’s perfectly possible. I think that’s absolutely possible. Maybe someone helped them. I won’t even look into this”.³⁸
- Also in November 2021, Mr Lukashenko met migrants stranded at the border and stated: “If you want to go westwards, we won’t detain you, choke you, beat you ... It’s up to you. Go through. Go”.³⁹
- In August 2024, Mr Lukashenko stated in another interview: “They [the West] reproach me for the fact that migrants are coming through the Belarusian border. Guys, you have put a noose around my neck in the form of sanctions and demand that I protect the European Union from the influx of these migrants. It

³⁵ “Lukashenko willing to flood EU with drugs and migrants to stop new sanctions”, *The Times* (28 May 2021), available at <https://www.thetimes.co.uk/article/lukashenko-willing-to-flood-eu-with-drugs-and-migrants-to-stop-new-sanctions-vtrwndw82> (**Annex 135**); “Belarus ‘weaponising’ illegal migration, Lithuania says”, *Financial Times* (15 June 2021), available at <https://www.ft.com/content/0ad28032-6102-41a0-ad8d-b80460e52867> (**Annex 136**).

³⁶ President of the Republic of Belarus, *Address of Belarus President Aleksandr Lukashenko at the ceremony of laying wreaths in Brest Hero Fortress* (22 June 2021), available at <https://president.gov.by/en/events/uchastie-v-pamyatnyh-meropriyatiyah-v-memorialnom-komplekse-brestskaya-krepost-geroy> (**Annex 110**).

³⁷ President of the Republic of Belarus, “Bill to suspend Belarus-EU readmission agreement in parliament soon” (8 September 2021), <https://president.gov.by/en/events/po-resheniyu-prezidenta-v-palatu-predstaviteley-postupit-zakonoproekt-o-priostanovlenii-soglasheniya-s-es-o-readmissii> (**Annex 114**). See also “Belarus parliament votes to suspend readmission of migrants”, *AP News* (5 October 2021), available at <https://apnews.com/article/european-union-alexander-lukashenko-poland-europe-belarus-4c39e7def6408319747ff89b1a8052fa> (**Annex 147**).

³⁸ “Belarus’s Lukashenko tells BBC: We may have helped migrants into EU”, *BBC* (19 November 2021), available at <https://www.bbc.com/news/world-europe-59343815>, timestamp 0:01 (**Annex 151**) (including video available at **Annex 150**).

³⁹ “‘Go through. Go,’ Lukashenko tells migrants at Polish border”, *Reuters* (26 November 2021), available at <https://www.reuters.com/world/europe/lukashenko-tells-migrants-belarus-poland-border-he-wont-make-them-go-home-2021-11-26/> (**Annex 152**).

will not be like that. Let them go wherever they want. They are not staying with us. This is my policy”.⁴⁰

29. The *modus operandi* of Belarus’ instrumentalisation of migrants has been investigated and widely reported in various media outlets. These reports are independently corroborated by multiple lines of evidence, including videos, photos, intercepted phone calls, and documents, as well as the testimonies of migrants, smugglers, and border guards.

30. As a first step, potential migrants were enticed to travel to Belarus. Travel agencies in conflict-ridden countries such as Iraq and Syria, as well as in countries hosting a large number of refugees such as Turkey, began to aggressively promote “tour packages” to Minsk. Those packages included airfare, visas, health insurance, hotel accommodation, excursions, as well as “guides” or “tour organizers” who would later help the individuals illegally cross the border into Lithuania, as well as Poland and Latvia.⁴¹ Advertisements for those travel packages did not concern sightseeing in Belarus, but directly promoted the opportunity to reach and live in Europe by going through Belarus.⁴²

31. In tandem with such advertisements, Mr Lukashenko’s public statements that Belarus would not stop those seeking entry into Europe were repeatedly broadcast on television.⁴³ One migrant explained in an interview that “because of Lukashenka’s words, the demand for tours from Iraq to Belarus increased significantly”.⁴⁴ Another migrant observed that “in Syria they closely follow all the news related to migration”, adding that “I know about the situation in Belarus and Lukashenka’s words about migrants, so I decided to take the chance.”⁴⁵

32. Once potential migrants responded to the advertisements, the travel agencies requested short-term visas on their behalf from Belarus. The stated purpose of visit ranged from tourism to hunting to medical treatment.⁴⁶ Many of the petitions listed Belarusian State-owned hotels as their temporary residence, including Hotel Minsk and Hotel Planeta—subsidiary

⁴⁰ “Belarus will not stop migrants from heading to EU, says Lukashenko”, *TVP World* (19 August 2024), available at <https://tvpworld.com/80421364/belarus-will-not-stop-migrants-from-heading-to-eu-says-lukashenko> (brackets in original) (**Annex 158**).

⁴¹ Council of the EU General Secretariat, “BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]” (30 November 2021), pp. 6, 12 (confidential) (**Annex 99**); “Migrants Say Belarusians Took Them to E.U. Border and Supplied Wire Cutters”, *The New York Times* (13 November 2021), available at <https://www.nytimes.com/2021/11/13/world/middleeast/belarus-migrants-iraq-kurds.html> (**Annex 149**).

⁴² For instance, an advertisement from VIP Grub, a passport and visa service based in Istanbul, read: “Belarus is more than three quarters of the way to Europe. A valuable opportunity to live in Europe.” Council of the EU General Secretariat, “BELARUS: 20211130 2/2 Underlying/supporting evidence [VIP Grub]”, (30 November 2021) (confidential) (**Annex 100**). In a related social media post, a representative from VIP Grub stated: “You are in Europe when you arrive in Belarus.” *Ibid.*

⁴³ Council of the EU General Secretariat, “BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]” (30 November 2021), p. 13 (confidential) (**Annex 99**).

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, p. 14.

⁴⁶ “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**).

companies of Belarus' President Property Management Directorate, a government agency that directly reports to Mr Lukashenko.⁴⁷

33. In addition to travel agencies, a Belarusian State-owned tourism company named Tsentrkurort (also known as "Centrkurort"), which also belongs to the President Property Management Directorate, played a crucial role in streamlining the procurement of visas for Iraqi nationals. Investigations confirmed that Tsentrkurort directly assisted tour operators such as Oskatur LLC (also known as "Oskartour") and "Beregovaya Zvezda" in their visa requests, despite the fact that the institution responsible for issuing visas in Belarus is the Ministry of Foreign Affairs, not the Office of the President.⁴⁸ Tsentrkurort reportedly helped obtain visas for hundreds of Iraqi nationals in this manner.⁴⁹

34. One document shows that in 2021, Tsentrkurort and Oskatur drafted a cooperation agreement in "the development of international tourism between the countries of the Arab world and the Republic of Belarus".⁵⁰ In an intercepted phone call between the deputy head of Oskatur and a border guard, the deputy head can be heard saying: "We are both Oskartour and Tsentrkurort — we are both responsible for [the migrants]. We work under a cooperation agreement ... We are partners, especially for Iraq".⁵¹ Oskatur was one of the twelve travel companies that Belarus specifically granted the right to issue visa invitations in 2021.⁵²

35. During this time, Belarus simplified the procedures for Iraqi nationals to obtain tourist visas. Group visas were issued on a regular basis, with some groups as large as 20 to 30

⁴⁷ President of the Republic of Belarus, *Belarus President Property Management Directorate*, available at <https://president.gov.by/en/statebodies/the-presidential-property-management-directorate> (**Annex 123**). See also Council of the EU General Secretariat, "BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]" (30 November 2021), pp. 1, 37, 42 (confidential) (**Annex 99**); Council of the EU General Secretariat, "BELARUS: 20211130 22 Underlying/supporting evidence [Hotel Planeta]", (30 November 2021), p. 1 (confidential) (**Annex 102**); "Migrants Say Belarusians Took Them to E.U. Border and Supplied Wire Cutters", *The New York Times* (13 November 2021), available at <https://www.nytimes.com/2021/11/13/world/middleeast/belarus-migrants-iraq-kurds.html> (**Annex 149**).

⁴⁸ Council of the EU General Secretariat, "BELARUS: 20211130 23 Underlying/supporting evidence [Oskatur]", (30 November 2021) (confidential) (**Annex 103**), pp. 11-12; Council of the EU General Secretariat, "BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]" (30 November 2021), p. 38 (confidential) (**Annex 99**); Council of the EU General Secretariat, "BELARUS: 20211130 19 Underlying/supporting evidence [Tsentrkurort]" (30 November 2021) (confidential) (**Annex 101**).

⁴⁹ Council of the EU General Secretariat, "BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]" (30 November 2021), p. 39 (confidential) (**Annex 99**); Council of the EU General Secretariat, "BELARUS: 20211130 19 Underlying/supporting evidence [Tsentrkurort]" (30 November 2021) (confidential) (**Annex 101**).

⁵⁰ "Минск мстит Европе с помощью беженцев из Ирака" [Minsk uses refugees from Iraq to take revenge on Europe], *Dossier Center* (13 August 2021), available at <https://dossier.center/bel-tours/> (certified translation from Russian) (**Annex 144**). See also Council of the EU General Secretariat, "BELARUS: 20211130 23 Underlying/supporting evidence [Oskatur]", (30 November 2021), pp. 16, 19 (confidential) (**Annex 103**).

⁵¹ "Inside Belarus' secret program to undermine the EU", *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (brackets and ellipsis in original) (**Annex 159**).

⁵² Council of the EU General Secretariat, "BELARUS: 20211130 23 Underlying/supporting evidence [Oskatur]" (30 November 2021), p. 29 (confidential) (**Annex 103**); "Undercover of security forces. Who could make millions of dollars on the migration crisis at the EU border, which claimed dozens of lives", *Belarusian Investigative Center* (7 June 2023), available at <https://investigatebel.org/en/investigations/who-could-make-millions-of-dollars-on-the-migration-crisis> (**Annex 157**).

persons.⁵³ Presenting a return flight ticket was not a requirement for obtaining such group tourist visas, and Belarusian authorities no longer required the visa stamp on each individual passport for group visas.⁵⁴ In 2021, Belarus also issued Presidential Decree No. 345, which extended the possible locations for visa-free arrival in Belarus to airports in Brest, Gomel, Grodno, Mogilev, and Vitebsk.⁵⁵

36. Most of the migrants arrived in Minsk via air, usually from Baghdad or Istanbul. During this time, several airlines expanded their air routes to Minsk. Fly Baghdad launched regular flights to Minsk.⁵⁶ Iraqi Airways increased its flights from Baghdad to Minsk from one to four per day, launched new flights from three other Iraqi cities, and employed higher-capacity passenger aircrafts.⁵⁷ By May 2021, the number of flights from Baghdad to Minsk had already doubled.⁵⁸ Belavia, Belarus' State-owned airline operating two of the four flights from Istanbul to Minsk, likewise opened new air routes and expanded flights on existing routes.⁵⁹ Cham Wings Airlines, a Syrian private airline, increased the number of flights from Damascus to Minsk and opened two new offices in Minsk.⁶⁰

37. As a result of all such efforts, Belarus received a significantly increased number of visitors on short-term visas, with the majority originating from Iraq and others from various countries in the Middle East, Africa, and Asia.⁶¹ Those "visitors", however, were hardly tourists. Once they arrived in Minsk, they were taken to hotels such as Hotel Minsk and Hotel

⁵³ UNGA, Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales*, UN doc. A/HRC/53/26/Add.2 (18 May 2023), available at <https://docs.un.org/en/A/HRC/53/26/Add.2>, paras. 18, 21 (**Annex 121**); "Migrants Say Belarusians Took Them to E.U. Border and Supplied Wire Cutters", *The New York Times* (13 November 2021), available at <https://www.nytimes.com/2021/11/13/world/middleeast/belarus-migrants-iraq-kurds.html> (**Annex 149**); "At center of Europe's migrant crisis, tales of how Belarus clears the way — and punishes 'pawns' sent back", *The Washington Post* (13 November 2021), available at <https://www.washingtonpost.com/world/2021/11/13/belarus-migrants-europe-lukashenko-poland/> (**Annex 148**).

⁵⁴ UNGA, Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales*, UN doc. A/HRC/53/26/Add.2 (18 May 2023), available at <https://docs.un.org/en/A/HRC/53/26/Add.2>, para. 18 (**Annex 121**).

⁵⁵ *Ibid.*, para. 14.

⁵⁶ "Baghdad to Lithuania: how Belarus opened new migration route to EU – LRT Investigation", *LRT News* (15 July 2021), available at <https://www.lrt.lt/en/news-in-english/19/1451233/baghdad-to-lithuania-how-belarus-opened-new-migration-route-to-eu-lrt-investigation> (**Annex 139**).

⁵⁷ Council of the EU General Secretariat, "BELARUS: 20211110 24 Underlying/supporting evidence [OSAM]" (26 November 2021), p. 20 (confidential) (**Annex 97**). See also Council of the EU General Secretariat, "BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]" (30 November 2021), p. 38 (confidential) (**Annex 99**).

⁵⁸ Council of the EU General Secretariat, "BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]" (30 November 2021), p. 11 (confidential) (**Annex 99**).

⁵⁹ Council of the EU General Secretariat, "BELARUS: 20211111 18 Underlying/supporting evidence [Belavia]" (26 November 2021), pp. 21-28 (confidential) (**Annex 98**).

⁶⁰ Council of the EU General Secretariat, "BELARUS: 20211130 1/2 Underlying/supporting evidence [Cham Wing Airlines]" (30 November 2021) (confidential) (**Annex 104**).

⁶¹ UNGA, Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales*, UN doc. A/HRC/53/26/Add.2 (18 May 2023), available at <https://docs.un.org/en/A/HRC/53/26/Add.2>, para. 5 (**Annex 121**).

Planeta, often in buses booked by Tsentrkurort.⁶² A few days later, they were transported to the Lithuania-Belarus border by the “guides” or “tour organizers” who in fact assisted with smuggling them across the border.

38. Throughout this process, the migrants received support from Belarusian government officials and entities. At first, the support was more passive in nature. The directive was to turn a blind eye to those attempting to illegally cross the border. In an intercepted phone call from May 2021, a senior official in the Ministry of Internal Affairs is heard relaying to the deputy head of the criminal police in the Minsk region: “The minister gave explicit instructions ... We should not concern ourselves with migrants in transit to Europe ... Anything that moves in that direction ... we shouldn’t stand in its way”.⁶³ One border guard explained in an interview: “To put it simply, the rule was: if you see migrants, turn away and act as if they aren’t there ... There would be no punishment for doing so”.⁶⁴

39. In later months, the State-sponsored migration became increasingly organised and proactive. After potential migrants were transported to the border, they were met by members of the Separate Service for Active Measures (“ASAM” or “OSAM”), a special unit of the Belarusian Border Guards known to report directly to Mr Lukashenko.⁶⁵ ASAM officers would then guide the individuals to specific crossing points and physically transport them to the other side.⁶⁶ Investigations confirm that ASAM has been actively involved in the organised migrant smuggling in this manner. Their actions are implemented under what is called “Operation Gateway”, and ASAM directly profits from the scheme by charging the migrants a fee.⁶⁷

40. The involvement of Belarusian officials in the smuggling is also displayed in video evidence, including footage by Frontex showing a group of migrants being escorted towards the border by a vehicle of the same model used by Belarus’ State Border Committee.⁶⁸ Other videos show Belarusian border patrol officers escorting and pushing migrants towards

⁶² See Council of the EU General Secretariat, “BELARUS: 20211130 21 Underlying/supporting evidence [Hotel Minsk]” (30 November 2021) (confidential) (**Annex 99**); Council of the EU General Secretariat, “BELARUS: 20211130 22 Underlying/supporting evidence [Hotel Planeta]” (30 November 2021), p. 2 (confidential) (**Annex 102**); Council of the EU General Secretariat, “BELARUS: 20211130 19 Underlying/supporting evidence [Tsentrkurort]” (30 November 2021) (confidential) (**Annex 101**); “Минск мстит Европе с помощью беженцев из Ирака” [Minsk uses refugees from Iraq to take revenge on Europe], *Dossier Center* (13 August 2021), available at <https://dossier.center/bel-tours/> (certified translation from Russian) (**Annex 144**).

⁶³ “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**).

⁶⁴ *Ibid.*

⁶⁵ Council of the EU General Secretariat, “BELARUS: 20211110 24 Underlying/supporting evidence [OSAM]” (26 November 2021), pp. 9-10 (confidential) (**Annex 97**).

⁶⁶ “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**); Council of the EU General Secretariat, “BELARUS: 20211110 24 Underlying/supporting evidence [OSAM]” (26 November 2021), p. 13 (confidential) (**Annex 97**).

⁶⁷ Council of the EU General Secretariat, “BELARUS: 20211110 24 Underlying/supporting evidence [OSAM]” (26 November 2021), pp. 5, 18, 21 (confidential) (**Annex 97**).

⁶⁸ “Šalčininkų rajone užfiksuota neteisėta migrantų grupė, kurią lydi žinybinis automobilis” [Illegal group of migrants accompanied by an official vehicle captured in Šalčininkai District], *Vidaus reikalų ministerija* (3 August 2021), available at https://www.youtube.com/watch?v=FSGVu8goe_A&t=12s (translation of the title from Lithuanian) (**Annex 143**).

the border, prying open the border gate to allow migrants enter Lithuania, and holding wire cutters used to physically damage the border fence.⁶⁹



Figures 2 & 3: Armed Belarusian guards force migrants to Lithuania⁷⁰

⁶⁹ “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**); “Armed Belarusian guards escort migrants to Lithuania, video shows”, *LRT News* (7 October 2022), available at <https://www.lrt.lt/en/news-in-english/19/1795184/armed-belarusian-guards-escort-migrants-to-lithuania-video-shows> (**Annex 156**) & (video available at **Annex 155**); “Belarusian officers enter Lithuanian territory, push migrants over the border”, *LRT News* (18 August 2021), available at https://www.lrt.lt/en/news-in-english/19/1471030/belarusian-officers-enter-lithuanianterritory-push-migrants-overthe-border?srsId=AfmBOoo4tsa49_IYmctSXY5wyzVmNoCvK2fatcR-nnWjdk61jIbP7nMy (**Annex 145**) & (video available at **Annex 146**); Council of the EU General Secretariat, “BELARUS: 20211130 2 Underlying/supporting evidence [Anatol Lapo, Chairman of the State Border Committee]” (30 November 2021) (confidential) (**Annex 105**); Video surveillance clip from G. Žagunio border area (31 August 2022) (confidential) (**Annex 154**).

⁷⁰ “Armed Belarusian guards escort migrants to Lithuania, video shows”, *LRT News* (7 October 2022), available at <https://www.lrt.lt/en/news-in-english/19/1795184/armed-belarusian-guards-escort-migrants-to-lithuania-video-shows> (**Annex 156**) & (video available at **Annex 155**); Screenshot from video “Belarusian officers enter Lithuanian territory, push migrants over the border”, *LRT News* (18 August 2021), available at https://www.lrt.lt/en/news-in-english/19/1471030/belarusian-officers-enter-lithuanianterritory-push-migrants-overthe-border?srsId=AfmBOoo4tsa49_IYmctSXY5wyzVmNoCvK2fatcR-nnWjdk61jIbP7nMy (**Annex 145**) & (video available at **Annex 146**).



Figure 4: Belarusian border guards with wire cutters⁷¹

41. Such video and photo evidence are corroborated by interviews with multiple Belarusian border guards, who recounted:

- “From the entire staff, several employees were selected to ensure the unobstructed passage of migrants and their escorts to the state border.”
- “It was striking how organized the groups became ... [W]hen the scheme was refined, their actions became more calculated. Several escorts in uniform. Small groups of five to 15 people. They all started bringing ladders and metal shears, and wearing quality winter clothing.”
- “If [the migrants] chose to return [to Belarus], they were detained by the Belarusian side and treated like animals. Anyone who tried to return was dragged back to the border — and they were beaten.”⁷²

42. Several migrants likewise confirmed in interviews that Belarusian authorities were directly involved in the smuggling process, whether by damaging the barbed wire, shuttling the migrants up and down the border to find the best place to cross, or forcing them to illegally enter Lithuanian territory. As one migrant stated: “The Belarus police guided us to the forest, then pointed directions to lead us inside the forest to keep us away from the official border crossing.”⁷³ Another recalled: “It’s all done by the army ... It’s impossible for people to cross alone. ... The Belarus army then sent us to Lithuania.”⁷⁴

⁷¹ Screenshots from Video surveillance clip from G. Žagunio border area (31 August 2022) (confidential) (**Annex 154**).

⁷² “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**).

⁷³ “Migrants Say Belarusians Took Them to E.U. Border and Supplied Wire Cutters”, *The New York Times* (13 November 2021), available at <https://www.nytimes.com/2021/11/13/world/middleeast/belarus-migrants-iraq-kurds.html> (**Annex 149**).

⁷⁴ “At center of Europe’s migrant crisis, tales of how Belarus clears the way — and punishes ‘pawns’ sent back”, *The Washington Post* (13 November 2021), available at <https://www.washingtonpost.com/world/2021/11/13/belarus-migrants-europe-lukashenko-poland/> (**Annex 148**).

43. When the migrants failed to enter Lithuania, they were violently beaten and forced to remain near the border to attempt additional border crossings.⁷⁵ One migrant described how Belarusian officers threatened to break their legs if they refused to cross the border into Lithuania.⁷⁶

44. States and international organisations have condemned the “orchestrated instrumentalization of human beings” by Belarus, deploring it as an inhumane and unacceptable act of “[u]sing human beings in need to advance political goals” and “endanger[ing] the lives of vulnerable people”.⁷⁷ Recognizing Belarus’ role in enabling illegal migration, the EU in November 2021 broadened its scope of sanctions to be able to target individuals and entities that have been supporting and benefiting from “the orchestrated instrumentalisation of human beings by the Belarus regime for political purposes”.⁷⁸ The targeted entities include:

- Belavia Belarusian Airlines;
- Tsentrkurort;
- LLC Oskartour;
- Hotel Minsk;
- Hotel Planeta;
- Separate Service for Active Measures (ASAM);
- Cham Wings Airlines; and

⁷⁵ United States Department of the State, *Belarus 2021 Human Rights Report*, available at https://by.usembassy.gov/wp-content/uploads/sites/57/313615_BELARUS-2021-HUMAN-RIGHTS-REPORT-1.pdf, pp. 49-50 (**Annex 109**). See also “Inside Belarus’ secret program to undermine the EU”, *Politico* (23 January 2025), available at <https://www.politico.eu/article/alexander-lukashenko-belarus-secret-program-to-undermine-the-eu/> (**Annex 159**).

⁷⁶ Council of the EU General Secretariat, “BELARUS: 20211130 2 Underlying/supporting evidence [Anatol Lapo, Chairman of the State Border Committee]” (30 November 2021), pp. 52-53 (confidential) (**Annex 105**).

⁷⁷ See, e.g., Joint Statement on the Belarusian Authorities’ Activities with Regard to the Instrumentalization of Migrants, *United States Mission to the United Nations* (11 November 2021), available at <https://usun.usmission.gov/joint-statement-on-the-belarusian-authorities-activities-with-regard-to-the-instrumentalization-of-migrants/> (**Annex 116**); “Belarus: Declaration by the High Representative on behalf of the European Union on the instrumentalisation of migrants and refugees by the regime”, *Council of the EU* (30 July 2021), available at <https://www.consilium.europa.eu/en/press/press-releases/2021/07/30/belarus-declaration-of-the-high-representative-on-behalf-of-the-eu-on-the-instrumentalisation-of-migrants-and-refugees-by-the-regime/> (**Annex 95**); Statement by the North Atlantic Council on the situation at the Poland-Belarus border, *North Atlantic Treaty Organization* (12 November 2021), available at https://www.nato.int/cps/en/natohq/news_188529.htm (**Annex 118**).

⁷⁸ Timeline – EU sanctions against Belarus”, *Council of the EU and the European Council*, available at <https://www.consilium.europa.eu/en/policies/sanctions-against-belarus/belarus-timeline/> (**Annex 107**); “Belarus: Declaration by the High Representative on behalf of the European Union on the situation at the European Union border”, *Council of the EU* (10 November 2021), available at <https://www.consilium.europa.eu/en/press/press-releases/2021/11/10/belarus-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-situation-at-the-european-union-border/> (**Annex 96**).

- VIP Grub.⁷⁹

C. Belarus' Failure to Cooperate

45. Both at the inter-agency level and through diplomatic channels, Lithuanian authorities have repeatedly requested Belarus to address the unlawful flow of migrants across the shared border. On numerous occasions, Lithuania's State Border Guard Service ("VSAT") informed Belarus' State Border Committee of the uncontrolled border crossings, inviting Belarus to carry out joint investigations of such incidents and requesting a cooperative exchange of information to prevent further unlawful activities.

46. These efforts have been futile. Towards the end of 2020, any bilateral cooperation had become perfunctory and superficial. This is evidenced by letters between Lithuania's VSAT and Belarus' State Border Committee, in which Belarus routinely denies the occurrence of illegal crossings, despite being presented with substantial evidence—including video surveillance recordings, photos, and testimonies—proving that individuals unlawfully crossed the border from Belarus into Lithuania.⁸⁰

47. As Lithuania expressed in one letter, "the Belarusian side was provided with an exhaustive amount of data proving the circumstances of the illegal border crossing and the identity of the offender, [yet] the Border Commissioner of the Republic of Belarus considered that the evidence given did not provide grounds to establish the fact of illegal crossing of the state border from the Republic of Belarus to the Republic of Lithuania".⁸¹ In another letter from November 2020, Belarus denied the occurrence of an illegal crossing despite being presented with "a compact disc with footage and 47 pages of evidentiary documents" proving it.⁸²

48. In response to Lithuania's multiple requests for information to detect and investigate suspected irregular border crossing incidents, Belarus declined, simply noting that

⁷⁹ Council Implementing Regulation (EU) 2021/2124 of 2 December 2021 implementing Article 8a (1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, 2021 O.J. (L 430) 1, available at https://eur-lex.europa.eu/eli/reg_impl/2021/2124/oj/eng (**Annex 106**).

⁸⁰ See, e.g., Letter from Lithuania State Border Guard Service to Belarus State Border Committee (12 May 2021) (certified translation from Russian) (confidential) (**Annex 82**); Letter from Belarus State Border Committee to Lithuania State Border Guard Service (17 May 2021) (certified translation from Russian) (confidential) (**Annex 83**) (denying the fact of illegal crossing of Iraqi citizen/detainee despite video surveillance recording of person illegally crossing on foot to Lithuania, visa stamp and stamp of arrival from Belarus, detainee's testimony that he crossed the Lithuania-Belarus border, photos showing detainee's presence in Minsk, correspondence in detainee's phone with coordinates and instructions on crossing the state border); Letter from Lithuania State Border Guard Service to Belarus State Border Committee (14 April 2021) (certified translation from Russian) (confidential) (**Annex 79**); Letter from Belarus State Border Committee to Lithuania State Border Guard Service (26 April 2021) (certified translation from Russian) (confidential) (**Annex 81**).

⁸¹ Letter from Lithuania State Border Guard Service to Belarus State Border Committee (2 June 2021) (certified translation from Russian) (confidential) (**Annex 86**).

⁸² Letter from Lithuania State Border Guard Service to Belarus State Border Committee (3 December 2020) (certified translation from Russian) (confidential) (**Annex 73**). See also Letter from Lithuania State Border Guard Service to Belarus State Border Committee (23 April 2021) (certified translation from Russian) (confidential) (**Annex 80**); Letter from Lithuania State Border Guard Service to Belarus State Border Committee (16 November 2020) (certified translation from Russian) (confidential) (**Annex 71**); Letter from Belarus State Border Committee to Lithuania State Border Guard Service (18 November 2020) (certified translation from Russian) (confidential) (**Annex 72**); Letter from Belarus State Border Committee to Lithuania State Border Guard Service (14 December 2020) (certified translation from Russian) (confidential) (**Annex 74**).

no such incidents were found.⁸³ On several occasions, Lithuania expressed its concern over repeated violations of the border by large groups of migrants and requested meetings to jointly investigate and prevent such violations.⁸⁴ Belarus consistently declined, citing Covid-19 concerns, despite Lithuania's assurance that its employees were fully vaccinated and compliant with all recommended health precautions.⁸⁵

D. Consequences of Belarus' Conduct

49. To respond to the migration crisis at the border, Lithuania declared a State-level emergency situation on 2 July 2021 and passed amendments to its Law on the Legal Status of Foreigners aimed at ensuring the proper management of irregular migration in times of emergency and preventing the abuse of the asylum system. Recognizing the "urgent and exceptional pressure" faced by Lithuania to secure the EU's external borders, Frontex also launched a rapid border intervention and pledged to assist Lithuania with additional border guards, patrol cars, and specialised officers.⁸⁶

50. The sudden tide of migrants put an enormous strain on Lithuania's institutional capacities to examine asylum claims and accommodate migrants. Despite allocating significant financial and human resources to ensure proper migration procedures, the unprecedented crisis at the border has caused Lithuania's main foreigner registration centres and refugee reception centres to operate at maximum capacity, leaving no choice but to build temporary tent camps to house new migrants.⁸⁷ Lithuania has already incurred considerable costs to accommodate the migrants and continues to do so today.

51. The mass migrant influx, which occurred in the midst of a global pandemic, led to a precarious situation for thousands of individuals trapped in the border zone. Those include women, minors, and seniors who the smugglers placed in positions of heightened vulnerability and exposed to dire weather conditions.⁸⁸ Interviews with migrants revealed that they were

⁸³ See, e.g., Letter from Lithuania State Border Guard to Belarus State Border Committee (8 March 2021) (certified translation from Russian) (confidential) (**Annex 77**); Letter from Belarus State Border Committee to Lithuania State Border Guard (10 March 2021) (certified translation from Russian) (confidential) (**Annex 78**); Letter from Lithuania State Border Guard to Belarus State Border Committee (30 June 2021) (certified translation from Russian) (confidential) (**Annex 88**); Letter from Belarus State Border Committee to Lithuania State Border Guard (2 July 2021) (certified translation from Russian) (confidential) (**Annex 89**).

⁸⁴ See, e.g., Letter from Belarus State Border Committee to Lithuania State Border Guard Service (26 May 2021) (certified translation from Russian) (confidential) (**Annex 84**); Letter from Lithuania State Border Guard Service to Belarus State Border Committee (June 2021) (certified translation from Russian) (confidential) (**Annex 85**).

⁸⁵ See, e.g., Letter from Lithuania State Border Guard Service to Belarus State Border Committee (17 June 2021) (certified translation from Russian) (confidential) (**Annex 87**); Letter from Lithuania State Border Guard Service to Belarus State Border Committee (22 January 2021) (certified translation from Russian) (confidential) (**Annex 76**); Letter from Belarus State Border Committee to Lithuania State Border Guard Service (22 January 2021) (certified translation from Russian) (confidential) (**Annex 75**).

⁸⁶ Frontex, *Frontex launches rapid intervention in Lithuania* (12 July 2021), available at <https://www.frontex.europa.eu/media-centre/news/news-release/frontex-launches-rapid-intervention-in-lithuania-MwIEXJ> (**Annex 111**).

⁸⁷ "Lithuania to speed up asylum process, build new tent camp", *LRT News* (5 July 2021), available at <https://www.lrt.lt/en/news-in-english/19/1445424/lithuania-to-speed-up-asylum-process-build-new-tent-camp> (**Annex 137**).

⁸⁸ "Briefing by the UN High Commissioner for Refugees", *Security Council Report* (6 December 2021), available at <https://www.securitycouncilreport.org/whatsinblue/2021/12/briefing-by-the-un-high-commissioner-for-refugees-2.php> (**Annex 119**); "Belarus: Meeting under 'Any Other Business' on the Migration Crisis", *Security Council*

beaten, threatened, chased by dogs, stripped of their passports and sim cards, and forced to walk through freezing rivers, among other abuses by Belarusian officials.⁸⁹ Migrants were often transported to the border in life-threatening conditions, such as overcrowded vehicles and even closed cars on loading platforms.⁹⁰

52. To provide additional assistance to the migrants, Lithuania has proactively sought support from NGOs, international organisations, EU agencies, and other States. Through the European Civil Protection Mechanism, for instance, Lithuania was able to procure food supplies and shelter to meet the basic needs of the most vulnerable individuals.⁹¹ Together with NGOs, Lithuania has strived to ensure that the accommodation premises are suitable for living and the migrants are provided with the necessary medical and legal assistance.⁹² Separately, Lithuania has continued with its diplomatic efforts to engage with other States to curb the flow of illegal migration.⁹³

53. The extraordinary influx of migrants has also posed serious threats to the integrity of Lithuania's State border. Lithuania has been forced to invest significant resources to deal with such challenges, including through constructing an additional physical barrier, reinforcing border surveillance systems, and deploying more personnel at the border than ever before.⁹⁴ Between 2021 and 2023 alone, Lithuania incurred costs of more than €200 million in relation to the migration crisis caused by Belarus.

Report (11 November 2021), available at <https://www.securitycouncilreport.org/whatsinblue/2021/11/belarus-meeting-under-any-other-business-on-the-migration-crisis.php> (**Annex 117**).

⁸⁹ "U.N. urges Belarus, Poland to address refugees' 'dire conditions'", *Reuters* (21 December 2021), available at <https://www.reuters.com/world/europe/un-urges-belarus-poland-address-refugees-dire-conditions-2021-12-21/> (**Annex 153**).

⁹⁰ "11 arrests in Germany, Poland and the UK for smuggling migrants from Belarus into the EU", *Europol* (15 July 2022), available at <https://www.europol.europa.eu/media-press/newsroom/news/11-arrests-in-germany-poland-and-uk-for-smuggling-migrants-belarus-eu> (**Annex 124**).

⁹¹ "Migration: EU helps channel humanitarian support to migrants in Lithuania" *European Commission* (23 July 2021), available at https://ec.europa.eu/commission/presscorner/detail/pl/ip_21_3846 (**Annex 94**); "Lithuania – Migrant Influx: EU Civil Protection Mechanism response", *Emergency Response Coordination Centre* (22 September 2021), available at <https://reliefweb.int/map/lithuania/lithuania-migrant-influx-eu-civil-protection-mechanism-response-dg-echo-daily-map> (**Annex 115**). See also "Operational Plan 01 July 2023 – 31 December 2024 agreed by the European Union Agency for Asylum and the Ministry of Interior of the Republic of Lithuania and the Ministry of Social Security and Labour of the Republic of Lithuania" (June 2023), available at https://euaa.europa.eu/sites/default/files/EUAA_Operational_Plan_to_Lithuania_2023-2024.pdf, pp. 3-5 (**Annex 122**).

⁹² "Emergency Plan of Action (EPoA) Lithuania: Population Movement", *IFRC* (12 July 2021), available at <https://reliefweb.int/report/lithuania/emergency-plan-action-epoa-lithuania-population-movement-dref-operation-n-mdrlt001> (**Annex 130**).

⁹³ See, e.g., "On Lithuania's plea, Iraq to probe human smuggling to Europe", *Associated Press* (15 July 2021), available at <https://apnews.com/article/europe-middle-east-migration-iraq-smuggling-9618cc0107f8b0ed9de8d3e280803e66> (**Annex 140**); "Greece offers Lithuania support over sharp rise in migrant numbers", *Reuters* (15 July 2021), available at <https://www.reuters.com/world/europe/greece-offers-lithuania-support-over-sharp-rise-migrant-numbers-2021-07-15/> (**Annex 141**).

⁹⁴ "Lithuania to build wall along Belarus border", *DW News* (7 July 2021), available at <https://www.dw.com/en/lithuania-to-build-wall-along-belarus-border/a-58194710> (**Annex 138**).

III. APPLICABILITY OF THE PROTOCOL TO THIS DISPUTE

54. This dispute between Lithuania and Belarus falls within the scope of the Protocol. According to Article 4, the Protocol applies “to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organised criminal group, as well as to the protection of the rights of persons who have been the object of such offences”.⁹⁵

55. Article 6 (1) provides that:

“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

(a) The smuggling of migrants;

(b) When committed for the purpose of enabling the smuggling of migrants: (i) Producing a fraudulent travel or identity document; (ii) Procuring, providing or possessing such a document;

(c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means”.⁹⁶

56. According to Article 3 (2) of the Convention, an offence is “transnational in nature” within the meaning of Article 4 of the Protocol in any of the four following cases:

“(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State”.⁹⁷

⁹⁵ Protocol, art. 4.

⁹⁶ *Ibid.*, art. 6.

⁹⁷ Convention, art. 3 (2); *See also* D. McClean, “Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Organized Crime”, *Oxford Commentaries on International Law* (2007) (Annex 126), p. 387 (“Important definitions relevant to the present Article are to be found in the Convention. ... The definitions are applied to the Protocol by Article 1(2) of the Protocol”).

57. The organised smuggling of migrants through Belarus into Lithuania is thus an offense that is transnational in nature attracting the applicability of the Protocol.⁹⁸ As described above, the *modus operandi* of the smuggling spans across multiple States or, in any case, has substantial effects on Lithuania. For instance, travel agencies in countries such as Iraq, Turkey, and Syria promoted so-called “tour packages” with “guides” who would later help smuggle the migrants into the EU.⁹⁹ The offense has had a substantial effect on Lithuania’s institutions and State border, to the point where the Government of Lithuania was forced to declare a State-level emergency on 2 July 2021.¹⁰⁰

58. The smuggling of migrants through Belarus into Lithuania “involves an organized criminal group” within the meaning of Article 4 of the Protocol.¹⁰¹ Article 2 of the Convention defines an organised criminal group as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit”.¹⁰² A “structured group” is defined as a “group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure”.¹⁰³ The term “financial or other material benefit” should be understood broadly as it was intended to emphasise that the Protocol’s scope excludes the activities of those providing support to migrants for humanitarian reasons or on the basis of close family ties.¹⁰⁴ The relevant inquiry is whether the crime of migrant smuggling was committed with the *intent* of obtaining a benefit (which could be both financial or non-financial), rather than whether the offenses resulted in actual benefits.¹⁰⁵

⁹⁸ See *supra* paras. 30-44.

⁹⁹ See *supra* paras. 33, 37.

¹⁰⁰ See *supra* para. 49.

¹⁰¹ The *travaux préparatoires* of the Protocol indicate that, in the course of negotiating the draft text of the protocol, some Governments proposed limiting the scope of its application to offenses that had actually been “committed by” an organized criminal group, but it was ultimately decided to use the words “involve an” organized criminal group in support of a broad application of the protocol. See UNODC, “Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto” (2008), available at https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf, pp. 472, 484 (Annex 128).

¹⁰² Convention, art. 2 (a). See also D. McClean, “United Nations Convention Against Transnational Organized Crime”, *Oxford Commentaries on International Law* (2007) (Annex 127), pp. 41-42.

¹⁰³ Convention, art. 2 (c).

¹⁰⁴ D. McClean, “Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Organized Crime”, *Oxford Commentaries on International Law* (2007) (Annex 126), p. 383; UNGA, *Interpretative notes for the official records (travaux préparatoires) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, UN doc. A/55/383/Add.1 (3 November 2000), para. 3 (Annex 125); *ibid.*, para. 88; UNODC, “The Concept of ‘Financial or Other Material Benefit’ in the Smuggling of Migrants Protocol”, available at https://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/UNODC_Issue_Paper_The_Profit_Element_in_the_Smuggling_of_Migrants_Protocol.pdf, pp. 13-15 (Annex 129).

¹⁰⁵ UNODC, “The Concept of ‘Financial or Other Material Benefit’ in the Smuggling of Migrants Protocol”, available at https://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/UNODC_Issue_Paper_The_Profit_Element_in_the_Smuggling_of_Migrants_Protocol.pdf, pp. 8, 14-15 (Annex 129).

59. The entities mentioned above and sanctioned by the EU for their participation in the instrumentalisation of migrants qualify as “organized criminal group[s]” as defined under the Convention. This includes: (1) State-owned entities such as Belavia, Tsentrkurort, Hotel Minsk and Hotel Planeta; (2) State agencies and organs such as ASAM; and (3) private entities such as Oskartour, Cham Wings Airlines, and VIP Grub. These entities are all structured groups of at least three members that were not “randomly formed for the immediate commission of an offence” and have “exist[ed] for a period of time”. As described above, each of them acted in various capacities to facilitate the smuggling of migrants across the State border, and with the intention of gaining a financial or other material benefit.¹⁰⁶

IV. BELARUS’ VIOLATIONS OF THE PROTOCOL

60. Based on the above, as well as the evidence to be presented over the course of these proceedings, Lithuania submits that Belarus is responsible for breaching its obligations under the Protocol by its conduct of, including but not limited to:

- facilitating, supporting, enabling the smuggling of migrants, and also failing to take necessary border measures to prevent and detect the smuggling of migrants and to ensure the security and control of documents in violation of Articles 11 (1)-(5) and 12;
- failing to exchange information to prevent, detect and investigate the smuggling of migrants, strengthen cooperation with Lithuania’s border control agencies and cooperate in the field of public information to prevent potential migrants from falling victim to organised criminalised groups in violation of Articles 10, 11 (6), and 15; and
- failing to preserve and protect the rights of migrants and afford them appropriate assistance in violation of Article 16.

A. Belarus has facilitated, supported, and enabled the smuggling of migrants, and it also failed to adopt measures to prevent and detect migrant smuggling, in violation of Articles 11 (1)-(5) and 12

61. Article 11(1) of the Protocol requires State Parties to “strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants”.¹⁰⁷ Rather than strengthening its border controls, Belarus has directed its officials to actively or passively encourage the smuggling of migrants and created the conditions to facilitate illegal border crossings. Not only did Belarusian ministers instruct enforcement agents to turn a blind eye to those attempting irregular crossing into Lithuanian territory, the ASAM border guards who are known to report directly to the head of State actively escorted individuals to specific crossing points, pried open border gates, and forced migrants to enter Lithuanian territory through unofficial border crossings. Belarus has thus manifestly acted in plain disregard of its obligations under Article 11 (1).¹⁰⁸

¹⁰⁶ See *supra*, paras. 30-44.

¹⁰⁷ Protocol, art. 11 (1).

¹⁰⁸ See *supra* paras. 38-43.

62. As demonstrated above, Belarus has in fact eased the process of issuing short-term visas to encourage the entry of potential migrants into Belarus for the purposes of unlawfully entering EU territory.¹⁰⁹ As Lithuania has protested on multiple occasions, Belarusian border authorities have been directly involved in grave violations of the shared border, including by forcibly pushing individuals into the territory of Lithuania, and causing deliberate damage to the physical security fence.¹¹⁰

63. Article 11 (2) of the Protocol requires State Parties to “adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of” the smuggling of migrants.¹¹¹ Article 11 (3) specifies that such measures may include “establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State”.¹¹² Each State Party is required to “take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation” under Article 11 (4).¹¹³ Pursuant to Article 11 (5), each State Party must also “consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol”.¹¹⁴

64. Belarus has failed to comply with such obligations. Rather than adopting necessary measures to prevent the use of commercial carriers in the commission of migrant smuggling, Belarus’ national airline and State-owned tourism company have been directly involved in the physical transportation of migrants into Belarus and across the State border.¹¹⁵ Instead of taking steps to inhibit the individuals and entities implicated in the smuggling of migrants, Belarus’ State agencies, State agents, and State-owned entities have indirectly or directly participated in the procurement of travel documents and visas for potential migrants.¹¹⁶

65. Article 12 (a) of the Protocol requires States Parties to “ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued”.¹¹⁷ Article 12 (b) further requires States Parties to take measures necessary, within available means, to “ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party

¹⁰⁹ See *supra* paras. 32, 37.

¹¹⁰ *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-389/2021 (18 August 2021) (certified translation from Lithuanian) (confidential) (**Annex 4**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-403/2022 (6 September 2022) (certified translation from Lithuanian) (confidential) (**Annex 8**); *Note Verbale* from the Ministry of Foreign Affairs of the Republic of Lithuania to the Ministry of Foreign Affairs of the Republic of Belarus, No. 5-150/2023 (5 April 2023) (confidential) (**Annex 10**).

¹¹¹ Protocol, art. 11 (2).

¹¹² *Ibid.*, art. 11 (3).

¹¹³ *Ibid.*, art. 11 (4).

¹¹⁴ *Ibid.*, art. 11 (5).

¹¹⁵ See *supra* paras. 33, 36.

¹¹⁶ See *supra* paras. 30-44.

¹¹⁷ Protocol, art. 12 (a).

and to prevent their unlawful creation, issuance and use”.¹¹⁸ Instead of taking such measures, Belarus has simplified the visa regime to facilitate mass irregular migration and cooperated with private companies in the issuance of short-term visas, which were then misused for the purpose of unlawfully entering into the territory of Lithuania.¹¹⁹

B. Belarus has failed to cooperate with Lithuanian authorities in relation to the migration influx in violation of Articles 10, 11 (6), and 15

66. The Protocol seeks “to promote cooperation among States Parties” to prevent and combat the smuggling of migrants.¹²⁰ As recognized in the Preamble, effective action to prevent and combat the smuggling of migrants necessitates comprehensive cooperation and the exchange of information among States Parties.¹²¹

67. Under Article 10, States Parties, and particularly those with common borders, are required to “exchange among themselves ... relevant information” for the purpose of achieving the Protocol’s objectives.¹²² This includes, *inter alia*, comprehensive information relating to “organizations or organized criminal groups known to be or suspected of being engaged in” the smuggling of migrants as well as information on the “methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents”.¹²³ A State Party that fails to share information that is directly relevant to preventing and combating the smuggling of migrants is accordingly in breach of its obligation under Article 10.

68. Article 11 (6) requires States Parties to “consider strengthening cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication”.¹²⁴ Article 15 further requires States Parties to “cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups” and “promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels”.¹²⁵

69. Belarus has failed to cooperate with Lithuanian authorities in relation to the migration influx in violation of such obligations under the Protocol. Since late 2020, Lithuanian border control authorities have submitted multiple notifications on border incidents under the Treaty on the Legal Regime of the Lithuanian-Belarusian State Border of 16 September 2009, requesting a cooperative exchange of information regarding the uncontrolled border crossings. Lithuania’s VSAT repeatedly informed Belarus’ State Border Committee of instances of uncontrolled border crossings and requested assistance and cooperation to prevent further unlawful crossings.

¹¹⁸ *Ibid.*, art. 12 (b).

¹¹⁹ See *supra* paras. 32, 37.

¹²⁰ Protocol, art. 2.

¹²¹ *Ibid.*, Preamble.

¹²² *Ibid.*, art. 10 (1).

¹²³ *Ibid.*, arts. 10 (1)(b), (d).

¹²⁴ *Ibid.*, art. 11 (6).

¹²⁵ *Ibid.*, arts. 15 (2), 15 (3). See also Convention, art. 31.

70. As demonstrated above, Belarus' response has been dismissive and perfunctory. Belarusian authorities routinely denied the very occurrence of the unlawful crossings under its watch despite the overwhelming evidence proving their occurrence, or declined to evaluate allegations thereof. Belarus' State Border Committee refused to share information about suspected border violations with Lithuania's VSAT and turned down Lithuania's proposals to conduct joint investigations and working meetings.¹²⁶ Far from promoting or strengthening cooperation in the field of public information, Belarus has openly enticed potential migrants to go through Belarus into the EU, and made clear its intent not to assist other European nations in the effort to combat migrant smuggling.¹²⁷

C. Belarus has failed to take appropriate measures to preserve and protect the rights of migrants in violation of Article 16

71. Under Article 16 (1) of the Protocol, Belarus is required to "take, consistent with its obligations under international law, all appropriate measures ... to preserve and protect the rights of [migrants] as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment".¹²⁸

72. Articles 16 (2) and 16 (3) of the Protocol further require Belarus to "take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of [smuggling]" and to "afford appropriate assistance to migrants whose lives or safety are endangered".¹²⁹

73. By encouraging migrants to travel to Belarus and facilitating their irregular crossing into neighbouring countries including Lithuania, Belarus has exposed migrants to a heightened risk of grave abuses and increased position of vulnerability to organised criminal groups. As shown above, the unprecedented and sudden movement of migrants to the border zones directly caused thousands of individuals, many of them children, to be left without proper shelter, medical attention, and access to food and water. Individuals have died while attempting to cross the border from Belarus into Lithuania, including from hypothermia and exhaustion. Others were beaten when they failed to cross the border, or forced to remain at precarious border zones to attempt additional border crossings.¹³⁰ This directly violates Belarus' obligations under Article 16 of the Protocol.

74. Belarus has, therefore, not only taken grossly insufficient measures to protect migrants subject to smuggling as required under Article 16, but also itself contributed to grave violations of their rights.

¹²⁶ See *supra* paras. 42-48.

¹²⁷ See *supra* paras. 28, 42-48.

¹²⁸ Protocol, art. 16 (1).

¹²⁹ *Ibid.*, arts. 16 (2), 16 (3).

¹³⁰ See *supra* paras. 41-43.

V. THE RELIEF SOUGHT

75. Lithuania respectfully requests the Court to adjudge and declare:

- That Belarus has breached its obligations under the Protocol, in particular the obligations provided under Articles 10, 11, 12, 15 and 16;
- That, as a consequence of its international responsibility for these breaches, Belarus must:
 - (a) Cease forthwith any such ongoing internationally wrongful act and fully comply with its obligations under Articles 10, 11, 12, 15 and 16 of the Protocol, including by:
 - i. Not facilitating, supporting, or enabling the smuggling of migrants;
 - ii. Taking necessary border measures to prevent and detect the smuggling of migrants;
 - iii. Ensuring the security and control of travel documents ;
 - iv. Exchanging information to prevent, detect and investigate the smuggling of migrants, strengthening cooperation with Lithuania's border control agencies;
 - v. Cooperating in the field of public information to prevent potential migrants from falling victim to organised criminalized groups;
 - vi. Preserving and protecting the rights of migrants and affording them appropriate assistance.
 - (b) Make full reparation for the injury caused by any such internationally wrongful act, including compensation for any damage insofar as such damage is not made good by restitution, including the material losses, damages, injuries, and costs incurred by Lithuania for dealing with the irregular migrants crisis.
 - (c) Offer assurances and guarantees of non-repetition of breaches of its obligations under Articles 10, 11, 12, 15 and 16 of the Protocol.

VI. APPOINTMENT OF JUDGE *AD HOC*

76. Pursuant to Article 31 of the Statute of the Court and Article 35 (1) of the Rules of Court, Lithuania hereby appoints Mr Nicolas Michel, a Swiss national, as judge *ad hoc* in this case.

VII. RESERVATION OF RIGHTS

77. Lithuania reserves the right to supplement and/or amend this Application, as well as the legal grounds invoked and the relief requested, as may be necessary to preserve and vindicate its rights under the Protocol. Likewise, Lithuania reserves all its rights under Article 41 of the Court's Statute to request the indication of provisional measures.

VIII. APPOINTMENT OF AGENT

78. The Government of Lithuania has designated: Mr Ričard Dzikovič, Head of the Legal Representation Group of the Ministry of Justice as its Agent; Dr Dovilė Gailiūtė-Janušonė, Advisor of the Legal Representation Group at the Ministry of Justice as its First Co-Agent; and Ms Ingrida Bačiulienė, Head of International Law Group at the Ministry of Foreign Affairs of the Republic of Lithuania as its Second Co-Agent.

79. Pursuant to Article 40 (1) of the Rules of Court, all communications relating to this case should be sent to: Laan van Meerdervoort 20, 2517 AK The Hague, The Netherlands; Ricard.Dzikovic@tm.lt; dovile.gailiute@tm.lt; and Ingrida.Baciuliene@urm.lt.

80. I have the honour to assure the Court of my highest esteem and consideration.

The Hague, 19 May 2025

Ričard Dzikovič
Agent of the Republic of Lithuania

CERTIFICATION

I certify that the documents listed below and annexed to the Republic of Lithuania's Application are true copies of the originals of these documents or excerpts thereof.

Ričard Dzikovič

AGENT OF THE REPUBLIC OF LITHUANIA

19 MAY 2025