



人权理事会

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促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对白俄罗斯访问

移民人权特别报告员费利佩·冈萨雷斯·莫拉莱斯的报告***

概要

移民人权问题特别报告员费利佩·冈萨雷斯·莫拉莱斯的本报告载有他2022年7月16日至20日对白俄罗斯访问的结果。

在访问期间，特别报告员会见了有关政府当局、白俄罗斯红十字会代表、联合国国家工作队和在该国居住的一些难民。

特别报告员访问的主要目的是评估白俄罗斯和波兰边境移民的人权状况。特别报告员7月12日至15日和7月21日至25日正式访问波兰的结果载于特别报告员主要报告的另一份增编(A/HRC/53/26/Add.1)。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文和俄文分发。

** 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。



Annex

Report of the Special Rapporteur on the human rights of migrants on his visit to Belarus

I. Introduction

1. From 16 to 20 July 2022, following an invitation by the Government of Belarus, the Special Rapporteur conducted a country visit to Belarus to assess the human rights situation of migrants at the border between Belarus and Poland.

2. During his visit to Belarus, the Special Rapporteur met with representatives from the Grodno Regional Executive Committee. He also visited the Bruzgi border crossing point and its adjacent border area, including the area where a large group of migrants set up a makeshift camp in the autumn of 2021, and the surroundings of the logistics centre in which migrants were sheltered between November 2021 and March 2022. In Minsk, the Special Rapporteur met with representatives of the Ministry of the Interior, the Ministry of Health, the Ministry of Labour and Social Protection, the Investigative Committee and the State Border Committee, as well as with the United Nations country team. The Special Rapporteur also had the opportunity to meet with representatives of the Belarusian Red Cross, in both Grodno and Minsk, and he conducted private interviews with a few refugees who had fled Ukraine. While the Special Rapporteur appreciates the opportunity to meet with different agencies of the Government of Belarus, he regrets that he was not able to meet in Belarus with any migrants who had attempted to cross the border with Poland.

3. The Special Rapporteur had the opportunity to exchange views with representatives from a few local civil society organizations that provide humanitarian assistance to migrants, however he was not able to find any local Belarusian civil society organization working on monitoring and reporting on the human rights situation of migrants. This seems to reflect a larger worrisome issue, of lack of civic space and criticism of government policies in the country.

4. The Special Rapporteur expresses his appreciation for the cooperation extended to him by the authorities in Belarus prior to, during and after the visit. He thanks the United Nations country team in Belarus for their valuable support and assistance. He also extends his gratitude to every refugee who shared his or her personal testimony with him during the visit.

II. General background information

5. Belarus and Poland share a 418-kilometre-long border, which is also an external border of the European Union. The two countries largely had smooth and efficient cooperation in managing their common border until recent years. Following the Belarusian presidential elections in 2020 and the post-election events in Belarus, the European Union ceased its funding suspended and/or terminated cooperation projects with Belarus and imposed several packages of sanctions in connection with the situation in the country. In early 2021, Belarus received a significantly increased number of visitors on tourist visas from the Middle East, with the majority originating from Iraq, the Syrian Arab Republic, Afghanistan and Yemen.

6. Since August 2021, thousands of third-country nationals have attempted to enter mainly Poland and to a lesser extent Lithuania and Latvia through their borders with Belarus, using irregular ways of crossing borders in forests. The majority of the migrants arriving were families with children.

7. Of particular concern are reports of pushback practices since the beginning of the humanitarian emergency. Pushbacks have become a routine element of national border governance in both Belarus and Poland, with serious negative impacts on the well-being and human rights of migrants. Other concerns in relation to the Belarusian-Polish border include

reported cases of deaths, missing persons and stranded individuals at the border, including families and children, as well as instances of family separations. In Belarus, migrants were sheltered temporarily in a logistics centre where most of them were not allowed to leave the facility unless they went in the direction of Poland.

8. Tensions at the Belarusian-Polish border temporarily de-escalated during the winter of 2021/22, with reduced numbers of arrivals detected between December 2021 and February 2022. While not in the high figures observed before, reports of third-country nationals attempting to cross the border into Poland continued throughout 2022 and until the time of drafting the present report, with individuals arriving in the Russian Federation and then transiting through Belarus – still mainly originating from the Syrian Arab Republic, Afghanistan and Iraq, but also from African, Latin American and South Asian countries.

9. Although this was not the main focus of his visit to Belarus, the Special Rapporteur nevertheless received information on measures taken by the Government of Belarus to provide protection and assistance to refugees, including those who had recently fled Ukraine. The Special Rapporteur was informed that between January and June 2022, 1,287 Ukrainian nationals had applied for asylum in Belarus. He met with several refugees currently residing in Belarus benefiting from international protection. The Special Rapporteur was pleased to know they received assistance from the Belarusian Red Cross. A few of them had arrived following prior tensions in Ukraine in 2014. They had received support upon arrival in Belarus; many had finished their studies and found stable jobs and had been residing in the country since then.

III. Normative and institutional framework for the protection of the human rights of migrants

A. International legal framework

10. Belarus is party to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and its two Optional Protocols, and the Convention on the Rights of Persons with Disabilities. However, Belarus has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the Optional Protocol to the Convention against Torture. Belarus is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and to the International Convention for the Protection of All Persons from Enforced Disappearance.

11. Belarus has ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Belarus has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. However, Belarus has not acceded to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

12. Belarus voted in favour of the Global Compact for Safe, Orderly and Regular Migration.¹

¹ See [A/73/PV.60](#).

B. National legal and institutional framework

13. In Belarus, the main legal acts regulating migration and border management are the following:

(a) The Constitution of the Republic of Belarus of 15 March 1994, which guarantees in its article 22 that “all people are equal before the law and are entitled to equal protection of rights and lawful interests without any discrimination”;

(b) The Act on the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus of 4 January 2010, No. 105-Z, which defines the legal status of foreign nationals in Belarus, and regulates their entry into, transit through and exit from the country. In accordance with article 11 of the Constitution and article 4 of the Act on the Legal Status of Foreign Citizens and Stateless Persons, foreigners and stateless persons in the country have the same rights, freedoms and obligations as Belarusian citizens unless provided otherwise by the Constitution, the Act itself, or other legislative acts, or the international agreements entered into by Belarus;

(c) Law No. 354-Z of 23 June 2008 on providing foreign citizens and persons without citizenship with refugee status, additional protection, asylum and temporary protection in Belarus, amended on 20 July 2016;

(d) Law No. 419-Z of 21 July 2008 on the State Border of the Republic of Belarus, which determines the organizational and legal basis of the State border policy, and the powers of the President and of State bodies in the area of State border policy, and governs the relations connected with ensuring the border security of Belarus;

(e) The International Labour Migration Act of 30 December 2010.

Visa-free regime²

14. Decree of the President of the Republic of Belarus No. 8 of 9 January 2017 contains a list of nationalities that can enter Belarus without a visa, so long as their stay in the country does not exceed a period of 30 days and on the condition that they came into the country through Minsk National Airport. Arriving individuals must hold a valid passport and have financial means and medical insurance. On 14 September 2021, the President, Aleksandr Lukashenko, signed Decree No. 345 to amend Presidential Decree No. 8, extending the possible locations for visa-free arrival in Belarus to airports in Brest, Gomel, Grodno, Mogilev and Vitebsk. These changes, aimed at further facilitating the entry of foreign citizens into Belarus, came into force on 17 October 2021. Foreign nationals of more than 70 nationalities are currently included under the visa-free procedure.³

Relevant institutions with responsibility for migration governance

15. The Ministry of Internal Affairs is the central government agency responsible for managing a system of law enforcement agencies in Belarus and the Ministry’s internal troops. Within the Ministry, the Department of Citizenship and Migration is the main State authority in charge of migration and asylum. According to the Act on the Granting of Refugee Status and Subsidiary and Temporary Protection, of 23 June 2008, the Department of Citizenship and Migration adopts decisions on applications for international protection in Belarus. The Department of Citizenship and Migration also issues documents to asylum-seekers and to people granted refugee status or complementary protection, as well as documents confirming the legality of people’s stay in Belarus.

16. The State Border Committee is the administrative body responsible for managing and coordinating State border policies, and for ensuring State border security, control and regulation, including arrangements relating to crossings of the border. This institution is composed of military and civilian personnel, whose appointments are approved by the

² Information from the Ministry of Foreign Affairs on visa-free travel is available at <https://mfa.gov.by/en/visa/freemove/>.

³ The list of nationalities included in the visa-free procedure is available at <https://mfa.gov.by/en/visa/freemove/airport>.

President of Belarus. The State Border Committee is also responsible for issuing permits for entry, temporary stay and movement in the border zone to foreign citizens and stateless persons. Border guards can also receive applications for asylum at the border, upon entry to Belarus by any means, or in detention facilities where migrants are held after having been apprehended for irregular border crossing or for irregular stay in Belarus.

IV. Border management at the shared border between Belarus and Poland

A. Situation at the Belarusian-Polish border

Previous cooperation between the two countries

17. Cooperation between Belarus and Poland changed drastically after the presidential elections in August 2020 in Belarus and the post-election violent repression of peaceful protests by Belarusian authorities and the deterioration of human rights, democracy and rule of law in the country. Following these events, the European Union ceased funding and suspended and/or terminated cooperation projects with Belarus, including in the area of cross-border cooperation and international technical assistance. In addition, since October 2020, the European Union has imposed seven packages of sanctions, in connection with the situation in Belarus.⁴ As a result, border management relations between Belarus and Poland have significantly deteriorated since 2020, with tensions at the shared border escalating after August 2021.

Developments at the border since 2020

18. In the summer of 2021, there was a significant increase in the number of visitors with Belarusian tourist visas arriving in Minsk from countries of the Middle East – mainly families with children. Most were from Iraq and the Syrian Arab Republic, and many came in groups, benefiting from “group visas” issued by Belarus. As explained by Belarusian authorities during the Special Rapporteur’s visit, group visas were issued when a group of tourists travelled together from the same country, through the same agency and staying at the same hotel, reporting a common travel purpose. While individual interviews of each member of the group remained part of the procedure for issuing a group visa, the visa stamp on each passport was no longer required by Belarusian authorities. Instead, the visa and the stamp were provided on a separate paper listing all the members of the group. According to information gathered from different sources, presenting a return flight ticket was not a requirement for obtaining group visas for the purpose of tourism.

19. Tensions at the Belarusian-Polish border initially arose in August 2021, when a first group of 32 Afghan migrants reached the normally restricted border area between Belarus and Poland near the town of Usnarz Gorny, requesting international protection from the Polish side. The group was comprised of four women, 27 men and one girl. Their requests for protection were ignored and they were not allowed to enter Polish territory or return to Belarus. They remained stranded at the border area for weeks, between two lines of armed soldiers and border guards, with limited access to food, clean water, adequate shelter and sanitation facilities. This was when the Special Rapporteur on the human rights of migrants started following the situation of migrants at the border between Belarus and Poland.⁵

20. In early November 2021 the situation at the border escalated, when approximately 2,500 migrants marched on the highway to the border area in the Grodno region of Belarus. It was believed that they intended to cross to the Polish side and apply for asylum in the European Union, particularly in Germany. Among this group, individuals with protection needs were identified, who included children aged between two months and 13 years,

⁴ European Union sanctions map, available at <https://www.sanctionsmap.eu/#/main>.

⁵ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26636>, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26494> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27151>.

pregnant women, persons with disabilities and older persons. Since then, migrants, including families with children, have attempted to enter Poland through its border with Belarus on a regular basis.

21. The sudden increase in the number of foreigners arriving in Belarus from the Middle East on tourist visas was unprecedented. Belarus repeatedly claimed that it was a surprise to the authorities, blaming travel agencies for having violated visa policies. However, the authorities did not provide any convincing arguments or evidence disproving that the situation of migrants at the border was to a significant extent the result of a series of deliberate actions of the Government of Belarus, especially considering that the President had warned that Belarus would allow migrants to enter the European Union if sanctions were imposed on Belarus, after the incident with a Ryanair flight in Belarus in May 2021.⁶ The Special Rapporteur learned from the authorities that in 2021, within a short period of time, the procedures for Iraqi citizens to obtain a tourist visa for Belarus were simplified significantly and that, with the assistance of travel agencies, group visas for a minimum of five and in some cases for 20 or 30 persons were issued on a regular basis. In addition, the Special Rapporteur learned that Belarusian border guards were fully aware of the group of about 2,500 migrants approaching the border with Poland on roads very close to a main border post of the Border Guard. They circulated through a series of fences on the Belarusian side, and although it is prohibited to enter the 200-metre zone adjoining the border, the group of 2,500 migrants did so without any impediment from the border guards, as they were not considered as a threat to the security of Belarus.

22. Unable to access the territory of Poland, most of the migrants in this large group set up a makeshift camp in a wooded area near the Bruzgi-Kuźnica crossing point on the Belarusian side of the border. There were around 1,500 to 2,000 people, mostly Iraqis, with Syrians being the second-largest group, including families with children, staying in a 400-metre-wide area. They slept in tents and sleeping bags, in temperatures that had dropped below freezing point. This is when the Belarusian Red Cross started to provide assistance to the migrants. However, no other non-governmental organizations were allowed access to the border zone to provide humanitarian aid to them. Although access to the border is normally not permitted by the Government of Belarus, United Nations agencies such as the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) were granted access to the migrants and refugees at the border by the Belarusian authorities on several occasions in August and November 2021 to assess their needs and living conditions in the makeshift camp along the border area, to distribute humanitarian aid and to elaborate options for those wishing to return home.

23. By 18 November 2021, Belarusian authorities had evacuated the makeshift camp, and all migrants were transferred to the logistics centre in a warehouse in the area near the Bruzgi border crossing. The Ministry of Emergency Situations and the Belarusian Red Cross were involved in the running and management of the logistics centre. Although United Nations entities were not included in the design of the centre and Belarus did not fully benefit from their expertise, several of these entities conducted regular visits to the Bruzgi logistics centre between November 2021 and March 2022. Permission to access the centre was generally granted by the Government of Belarus to IOM, UNHCR, the United Nations Children's Fund (UNICEF), the United Nations Population Fund and the World Health Organization – which provided humanitarian assistance to migrants and asylum-seekers on a regular basis, including access to health services, water and sanitation, food and psychological assistance. Some of these entities assisted in the daily operation of the centre. Visits to the logistics facility were arranged with the Ministry of Foreign Affairs, the State Border Committee and Grodno regional authorities. In addition, the United Nations Development Programme supported the Belarusian Red Cross with essential goods for migrants residing in the logistics centre in accordance with the needs identified. United Nations entities also supported the Belarusian Red Cross in strengthening its volunteers' and specialists' capacities to assist migrants. A United Nations coordination site has been set up in Grodno, the closest city to

⁶ Marc Bennetts, "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>.

the Bruzgi logistics facility, represented by IOM, UNHCR and other entities. The United Nations system was present in the area, closely working with the Belarusian Red Cross and local government agencies, to deliver on their role to support the national effort.

24. However, no other civil society organization providing humanitarian assistance was granted access to the border zone or to the Bruzgi logistics centre. Border guards, as well as military personnel, were present to ensure the safety of the centre.

25. The Special Rapporteur learned from Belarusian authorities that access to the country for groups of foreigners travelling as tourists was restricted in late November 2021, in an attempt to reduce the number of migrants arriving in Belarus. Although the visa regulations reportedly remained the same, the issuance of visas to citizens of countries deemed to be of “high-level migration risk” was temporarily stopped, including working visas and student visas. According to the Ministry of Internal Affairs, this restriction was still in place at the time of the visit of the Special Rapporteur.

26. Thousands of migrants have been repatriated to their home countries. Several hundred individuals were already repatriated to Iraq in November 2021. In this regard, IOM worked very actively providing information to migrants and offering assisted voluntary return and reintegration options, which included reintegration packages upon return to the country of origin. Repatriation of migrants was conducted in coordination with the Government of Belarus and with destination countries.

B. Continuing arrival of migrants through Belarus

27. Following the Belarusian authorities’ suspension of visa issuance to targeted nationalities in November 2021 and the closure of the logistics centre on the Belarusian side in March 2022, the situation at the border seems to have calmed down to some extent. However, as confirmed by several sources, a number of migrants remain stranded in the forest and subject to “pushbacks” from both sides. In addition, reports indicate that there continue to be new arrivals in Belarus of foreigners, although it is challenging to assess how many of them remain in the country. Unlike the movements in 2021, a newly established migration route has emerged through the Russian Federation and Belarus to Poland: it is perceived by migrants as a safer way into Europe than through the Mediterranean Sea but it also attracts smugglers.

28. Attempts to cross the Belarusian-Polish border continue to be detected every day by government authorities and civil society actors that provide humanitarian help to migrants in both countries. Similarly to the situation the previous year, the presence of families and children among newly arriving migrants increased again around the summer of 2022, after a temporary decrease during the winter. Most border crossing attempts reportedly take place at night, including attempts to cross the Polish fence using tunnels, ladders and ropes, as well as attempts to cross the swamps, which pose a greater risk to the migrants’ lives. In addition, there were still reports of people being stranded in the forest for up to 12 days without access to clean water as at November 2022, more than a year after the unfolding of the humanitarian situation at the border.

29. The Special Rapporteur remains concerned about migrants who are still stranded in Belarus. Particularly, he notes the increased difficulty in providing assistance to those in irregular situations, including: individuals who are not eligible for refugee status but who still raise refoulement concerns if they were returned to their countries of origin; those who choose not to apply for asylum as they fear being subjected to detention, violence or deportation if they approach the Belarusian authorities; and those who do not qualify for any existing assistance programmes provided by relevant United Nations agencies.

V. Human rights impact on migrants and refugees

A. Pushbacks

30. The Special Rapporteur is particularly concerned about allegations of use of violence by the border guards of both Belarus and Poland pushing migrants back and forth. Allegations include the use of water cannons, the destruction of migrants' phones and other electrical devices, using dogs to attack, pushing, threatening with weapons, and intimidation. Although denied by both States, the Special Rapporteur gathered testimonies and evidence inside and outside the countries, and witnessed the results of such violence being perpetrated against migrants, which included physical injuries, and mental health consequences such as stress and trauma. Fear of being subjected to further acts of violence, or to other repercussions such as pushbacks or detention, has prevented migrants affected from seeking medical and non-medical assistance to address their needs, on both sides of the border. Migrants of African descent seem to be among the most affected, as well as those who are perceived to be Muslim.

31. The installation of the metal fence along the border on the Polish side has reportedly reduced the interaction between border guards on both sides and migrants. However, instances of violence committed by border authorities from both countries continued to be reported between August and October 2022. In addition, attempts to cross the wall have led to accidents, causing physical injuries that in some instances have required hospitalization.

32. The Special Rapporteur notes with regret that despite the evidence gathered, both sides denied allegations of abusive and violent tactics used by their own border authorities. This situation has resulted in a lack of internal investigations, created a culture of impunity and contributed to the recurrence of violence.

Loss of life at the border

33. Several migrants have lost their lives at the borders, on both sides, since 2021. At the time of the visit, the Belarusian authorities had documented four such cases and had collected data, and the Polish authorities had investigated 10 deaths. In the meantime, the total number of deaths as recognized by the authorities of both countries does not correspond to information gathered by the delegation. According to public sources, at least 19 migrants died in the forest in 2021 and at least another 13 died in 2022, and as many as 195 persons went missing. Given the difficulty for civil society actors and the media to monitor and document the situation, due to restrictions on accessing the border area, the Special Rapporteur is concerned that these figures could be higher.

Migrants stranded at the border

34. As a result of practices adopted by both States, hundreds of migrants, including families and children, remain stranded at the border between the two countries, unable to access the territory of Poland and at the same time prevented from re-entering Belarus. They have been forced to stay in the forests, sometimes hidden, for several weeks in some instances, where they have been exposed to extreme cold and heavy snowfall during the winter, without access to food, shelter, clean water, warm clothes, sanitation facilities, health-care services or any other form of assistance. Many have suffered hypothermia, and risked serious illness and injury. The situation continues to raise serious concerns, as three more persons have been reported dead at the border, in January 2023.

Independent monitoring

35. Volunteers and activists have been barred from accessing the border of Belarus and Poland, and some have even faced prosecution for providing humanitarian assistance to migrants in distress at the border. In Belarus, only the Belarusian Red Cross, after signing an agreement with the Border Guard Service, has been allowed access to the border area and to the Bruzgi logistics centre, to provide humanitarian assistance to migrants arriving in Belarus. Over 1,000 civil society organizations and media outlets lost their presence in the country after the events of 2020 and in the increased repression and persecution that followed. Selected media outlets were only allowed on a few occasions to visit the border area and the

logistics facility. They did not have free access and were not in a position to conduct comprehensive monitoring or assessment of the human rights situation of migrants at the border or sheltered in the logistics centre.

B. Deprivation of liberty of migrants, including asylum-seekers

36. On the Belarusian side, the Belarusian Red Cross, assisted by United Nations agencies and in close collaboration with relevant authorities, has been working on the ground from the beginning of the situation to provide humanitarian assistance to migrants at the border and later at the Bruzgi facility. Most staff and volunteers of the Belarusian Red Cross worked long shifts for a period of 135 days at the border, assisting migrants in this unprecedented situation. They learned and progressed through the process of providing food, non-food items, and medical and other assistance to migrants from different cultural and religious backgrounds. The Belarusian Red Cross also connected private donors, relevant authorities, and other organizations, including international organizations, to provide specific services to migrants in need of help. With their assistance, two persons with prosthetic legs received immediate assistance, six babies were born in Belarus, and the new mothers with their newborn babies were accommodated temporarily in the “crisis room”, a two-bedroom apartment run by the Belarusian Red Cross. They were assisted by an interpreter to communicate their needs to the personnel.

37. While the logistics centre indeed provided some protection to migrants from the cold weather, with food, blankets, footwear and so on being distributed, concerns were raised regarding the poor physical conditions of the facility: an open-space warehouse without the necessary infrastructure to house migrants, with insufficient sanitary conditions and lack of privacy. Testimonies also revealed incidents of mistreatment and gender-based violence by law enforcement personnel at the centre.

38. Furthermore, following the expiry of the 30-day tourist visa, most migrants sheltered at the logistics centre were not allowed to leave the facility unless they went in the direction of Poland. Exceptions were made for those who either had agreed to return to their country of origin or had been accepted for family reunification in a third country, or who had applied for asylum in Belarus, which did not seem to be an appealing option. Between January and June 2022, only 79 non-Ukrainians applied for international protection in the whole country. There were over 400 children at the facility initially, in the winter of 2021. UNICEF took the initiative of providing educational activities for migrant children confined at the logistics facility, in cooperation with the Belarusian Red Cross and with the assistance of volunteers and local teachers. The Special Rapporteur was particularly concerned that the migrants, who included women, pregnant women, and children, were in de facto detention at the Bruzgi logistics centre for periods ranging from weeks to several months, until the dismantlement of the centre in March 2022. Many of them had no home to return to and no money left.

39. In this regard, the Special Rapporteur reiterates that migrant children and their families should never be detained merely due to their migration status. Detention of any child for reasons related to their or their parents’ immigration status is never in the best interests of the child and always constitutes a violation of the rights of the child under international human rights standards.

VI. Conclusions and recommendations

40. The situation of migrants at the Belarusian-Polish border reflects the ongoing geopolitical crisis in the region. The Special Rapporteur firmly condemns the use of migrants as a political tool in violation of their human rights. Migrants should not be used or sacrificed.

41. Pushback practices at the border have cost migrants’ lives. Continued reports of migrants stranded at the Belarusian-Polish border, especially new arrivals, confirm that harsh border governance measures and the construction of the physical fence have not deterred irregular border crossing attempts, but have heightened the risks to migrants and increased their suffering. Serious concern remains about the physical and mental integrity of all migrants stranded at the Belarusian-Polish border, particularly in view of incoming arrivals

and the increasingly harsh circumstances after the installation of the fence, and during winter. These conditions may also amount to cruel, inhuman or degrading treatment and may result in violations of the rights to life and security of person.

42. To find solutions for these migrants, the Special Rapporteur calls upon Belarus, Poland and the European Union to conduct constructive dialogue, most importantly to prevent further loss of life and ensure that protection of the human rights of migrants is placed at the centre of any solution adopted to address this situation, and recommends that:

(a) Belarus and Poland take all reasonable precautionary steps to protect life and to prevent excessive use of force and conditions amounting to cruel, inhuman and degrading treatment, and cooperate to save lives and prevent migrant deaths and injuries, in accordance with international law.

(b) Since each death requires a prompt, independent, transparent and thorough investigation, the authorities of Belarus and Poland must cooperate with such processes and conduct prompt, thorough and transparent investigations into each migrant death and each allegation of violence committed by border guards on both sides at the Belarusian-Polish border, and take proactive steps to remove suspected perpetrators from duty and to prosecute them where appropriate.

43. Relevant United Nations entities should provide human rights training to border guards and other law enforcement officials of both Belarus and Poland, in line with the human rights due diligence policy on United Nations support to non-United Nations security forces.

44. Belarus and Poland should ensure access to justice and remedies for migrants who have suffered human rights violations or abuses as a result of border governance measures, including by establishing accessible and adequate complaint and reparation procedures, and refraining from raising territorial or other restrictions that effectively prevent applicants from accessing justice.

45. Belarus and Poland should also grant civil society and independent monitoring mechanisms full access to the border area. It is important to ensure that a strong and independent role is played by local civil society in both countries, as well as to allow international organizations to conduct in situ monitoring: as emphasized by the Special Rapporteur, States must not impose any penalty or restriction on life-saving humanitarian assistance by civil society organizations. Belarus should create an enabling environment for human rights defenders, and allow them to carry out their legitimate functions in the promotion and protection of human rights without fear of harassment, intimidation or reprisal.

46. To address this ongoing situation and provide safe pathways for migrants, it is essential for Belarus to grant unhindered access to relevant United Nations agencies, to strengthen cooperation, to rebuild partnerships and to regain trust and interest from donors. More specifically, Belarus should work closely with international organizations including the United Nations to enhance the protection of the human rights of migrants and asylum-seekers. Cooperation with relevant United Nations entities and agencies could include human rights training for law enforcement and immigration enforcement personnel, and technical cooperation in establishing independent monitoring mechanisms at international borders.

For the United Nations country team in Belarus:

47. In order to address the needs of migrants stranded in Belarus and bridge protection gaps, the United Nations country team in Belarus should continue to collaborate closely with the Government and civil society organizations to design projects that can effectively address the most pressing needs of migrants such as safe accommodation, legal counselling, food, medical care, child protection and the protection of individuals with vulnerabilities.
