EUROPEAN COURT OF HUMAN RIGHTS

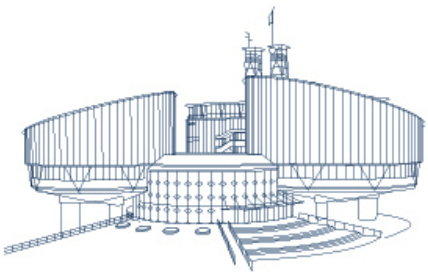
PRESS RELEASE

RESPONDING TO REALITIES OF INSTRUMENTALISATION OF MIGRATION AT BELARUS BORDER, EUROPEAN COURT SAFEGUARDS ESSENTIAL RIGHTS AND REITERATES LIMITS OF CONVENTION PROTECTIONS

A.R. and Others v. Poland

H.M.M. and Others v. Latvia

C.O.C.G. and Others v. Lithuania



ECHR 297 (2026) 24.11.2026

Press release issued by the Registrar of the Court

The cases of A.R. and Others v. Poland (application no. 42120/21), H.M.M. and Others v. Latvia (no. 42165/21) and C.O.C.G. and Others v. Lithuania (no. 17764/22) concerned attempts by individuals from Afghanistan, Iraq and Cuba to enter Council of Europe member States unlawfully from Belarus in 2021 and 2022. This occurred in a context of hostile actions carried out by the Belarusian authorities referred to as "instrumentalisation of migration", where Belarus had encouraged, facilitated, or forced the movement of migrants across its borders with the intention of destabilising the respondent States or the wider region.

The judgments have affirmed the need for the national authorities to ensure that migrants benefit from the essential protection of Article 3 against the risk of inhuman or degrading treatment. At the same time, they reiterate the limits to individual rights and State obligations in that context. They expressly recognise the difficulties deliberately created for the respondent States and the threat posed to the Convention system itself by attempts from hostile actors to exploit it by instrumentalising individuals. They take account of this new reality by defining the scope and content of the procedural obligations on national authorities.

At the outset, the Court reiterated that States have the right to control the entry of foreign nationals into their territory. The Convention did not prevent them from restricting entry, or even fully closing their borders. It went on to find that in a context of instrumentalisation of migration, the removal of a foreign national to the instrumentalising State would not, as such, constitute a violation of Article 3 (prohibition of torture and inhuman and degrading treatment). Before removing an individual in such circumstances, the national authorities

had an obligation to detect those individuals who would be particularly at risk of suffering or enduring ill-treatment. Those individuals fell into two categories. First those who presented evident personal vulnerabilities (for example, owing to age, ill health or disability), and second those with a specific basis for claiming that removal to the instrumentalising State would evidently expose them to a real and immediate threat to life or a real and immediate risk of ill-treatment reaching the threshold of severity under Article 3. It was not necessary for the authorities of the State in question to carry out an assessment of whether individuals would have access to an adequate asylum procedure in the instrumentalising State.

Taking that approach, the Court found that there had been no violation of Article 3 where the applicants did not fall into one of the two categories and found a violation of Article 3 where they did.

In **A.R. and Others v. Poland**, the first applicant fell into the second category of vulnerability because on the date of his removal, an interim measure granted under Rule 39 of the Rules of Court had been in force. The Court held, unanimously, that **there had therefore been a violation of Article 3 in respect of the first applicant on account of his removal to Belarus on 20 October 2021**.

In **H.M.M. and Others v. Latvia**, the Court held that the applicant children fell within the first category of vulnerability and that their adequate protection could not be ensured without the presence and support of their close family members. The Court held, unanimously, that **there had therefore been a violation of Article 3 in respect of the applicant children and their accompanying family members on account of their removal to Belarus on various dates.** However, **in respect of the adult applicants in that case, who did not fall into either category**, the Court held, unanimously, that **there had been no violation of Article 3**.

In **C.O.C.G. and Others v. Lithuania**, the Court found that the applicants did not fall into either category. The Court held, by eleven votes to six, that **there had therefore been no violation of Article 3**.

The Court also examined other complaints under Articles 3 (living conditions), 5 (right to liberty and security), 13 (right to an effective remedy), 34 (right of individual petition).

For an FAQ on the judgments please click here.

Legal summaries of these cases will be available in the Court's database HUDOC: A.R. and Others v. Poland; H.M.M. and Others v. Latvia; C.O.C.G. and Others v. Lithuania.

PRINCIPAL FACTS
AND COMPLAINTS

The cases all principally concerned attempts by individuals to enter Council of Europe member States unlawfully from Belarus, in a context of instrumentalisation of migration. *A.R. and Others v. Poland* concerned attempts by a group of Afghan nationals to enter Poland, *H.M.M. and Others v. Latvia* concerned attempts by a group, which included children, of Iraqi nationals of Kurdish origin, to enter Latvia, and *C.O.C.G. and Others v. Lithuania* concerned attempts by a group of Cuban nationals to enter Lithuania.

For a summary of the principal facts and complaints, and the procedure, including lists of third-party interveners, please see previous press releases: A.R. and Others v. Poland, H.M.M. and Others v. Latvia and C.O.C.G. and Others v. Lithuania.

For the relevant national and international context, including the situation at the EU-Belarus border from 2021 onwards and the migration flows into the States concerned through the Belarusian border

during the relevant periods, see the Grand Chamber judgments (paragraphs 16-25 in *A.R. v. Poland*; paragraphs 16-25 in *H.M.M. and Others v. Latvia*; and paragraphs 15-28 in *C.O.C.G. and Others v. Lithuania*.)

The applicants all complained under Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment), in particular, about their returns to Belarus without any examination of their requests for international protection, which they said had exposed them to the risk of ill-treatment in Belarus and in their countries of origin.

OUTCOME

REASONING OF THE COURT

ARTICLE 3 (PROHIBITION OF TORTURE AND INHUMAN AND DEGRADING TREATMENT) - APPROACH IN CASES OF INSTRUMENTALISATION OF MIGRATION BY A THIRD STATE

Instrumentalisation of migration by a third State represented a deliberate threat to the State, in particular to the integrity of its borders, and was liable to put at risk its essential functions, including the maintenance of law and order and the safeguarding of its national security, as well as its ability to fulfil its human-rights obligations under the Convention. It should therefore be distinguished from situations previously examined by the Court involving migratory crises or difficulties.

States had the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence and expulsion of foreign nationals. States were not precluded under the Convention from restricting entry by foreign nationals through their borders or even fully closing those borders. It was well established that Article 3 did not permit a State to remove an individual to a country where substantial grounds had been shown for believing that he or she would face a real risk of being subjected there to treatment contrary to that provision. That obligation corresponded to the essence of the protection against ill-treatment that had to be given to all individuals, including those who had entered the territory of the State illegally as a result of the instrumentalisation of migration.

The Court had previously held that, in cases where the authorities had sought to return an asylum-seeker to an intermediary third country without examining the merits of his or her asylum claim, they had to assess whether the individual would have access to an adequate asylum procedure in that country. The Court considered that, in the specific context of instrumentalised migration, where the instrumentalising State sought to exploit third-country nationals or stateless persons by encouraging, facilitating or forcing their movement to the territory of a Council of Europe member State, an assessment of whether those individuals would have access to an adequate asylum procedure in the instrumentalising State lacked pertinence, in view of the purpose of such a policy and the manner of its implementation.

As to the assessment that national authorities were required to carry out under Article 3 of the Convention before removing an individual in the specific situation where the Contracting State was being targeted by instrumentalised migration, the national authorities had an obligation to detect those individuals who would be particularly at risk of suffering or enduring ill-treatment. Those individuals fell into two categories. First, those who presented evident personal vulnerabilities (for example, owing to age, ill health or disability), and second, those with a specific basis for claiming that removal to the instrumentalising State would evidently expose them to a real and immediate threat to life or a real and immediate risk of ill-treatment reaching the threshold of severity under Article 3.

Regarding the second category, the burden of proof would be on the person concerned to provide evidence which, on the face of it, might be reasonably expected in the circumstances. The Court recognised the difficulties facing applicants in gathering evidence in the circumstances created by instrumentalisation of migration and would be attentive to any valid reasons given as to why such evidence had not been put forward. Reports and statements from reputable sources that describe the general situation at the time, while relevant, could not in themselves constitute enough initial

proof ("prima facie evidence"), in the absence of a detailed, specific and consistent account by applicants or any other relevant elements relating to their individual circumstances.

It followed that, in a situation of instrumentalised migration, the removal of a foreign national to the instrumentalising State would not, as such, constitute a violation of Article 3 of the Convention. It was only those individuals with evident personal vulnerabilities, or who could show a specific basis for the claim that, if sent back to that State, they would be evidently exposed to a real and immediate threat to life or a real and immediate risk of severe ill-treatment, who had to be detected by the national authorities with a view to assessing their need for protection and taking appropriate action to comply with their obligations under Article 3 of the Convention.

The approach taken by the Court was without prejudice to other obligations of the States under international law, and where appropriate under EU law, in particular with respect to asylum, a right which is not protected under the Convention or its Protocols.

Having clarified the interpretation of Article 3 in the context of instrumentalised migration, the Court considered that the requirements of Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens) did not, in the present and specific context, go beyond those of Article 3 of the Convention. Nor did it consider it necessary to examine the related complaints raised under Article 13 of the Convention.

A.R. AND OTHERS V. POLAND

Of the initial 32 applicants in this case, only two confirmed their wish to pursue the proceedings. They claimed to have crossed the Polish border from Belarus on several occasions, and then to have been in a makeshift camp that was initially installed just inside the Polish border before being transferred to Belarusian territory. The Court found the applicants' claims that they had been on the territory of Poland at that time, and thus within Poland's territorial jurisdiction, to be unsubstantiated. It also found that during the period when the applicants were in the makeshift camp on the Belarusian side of the border, they were not within the jurisdiction of Poland. Only the first applicant was found to have been within the jurisdiction of Poland when he crossed the border on 20 October 2021 and was removed that same day.

As set out above, the national authorities had an obligation to detect those individuals who would be particularly at risk of suffering or enduring ill-treatment and who fell into two categories. The first applicant had not alleged any evident personal vulnerabilities that would have brought him within the first category. The question therefore was whether he should have been detected as falling under the second category. The Court found that in the circumstances of the case, the factual elements put forward by him, which referred to extremely difficult material conditions during the period spent in the makeshift camp, were not sufficient in themselves to demonstrate that he fell within it.

However, on the date of his removal, an interim measure granted under Rule 39 of the Rules of Court had been in force, indicating that he should not be returned to Belarus, provided that he was on Polish territory. Within the factual context of the case, that required the national authorities to have detected him as having a specific basis for claiming that he would be evidently exposed to a real and immediate threat to life or a real and immediate risk of ill-treatment in the event of removal to Belarus. Before his removal, the first applicant had been under the control of the Polish border guards for several hours which had been a sufficient length of time for those authorities to become aware of the interim measure in force. Therefore, there had been an obligation on the authorities to assess his need for protection and to take appropriate action to comply with their obligations under Article 3 of the Convention. It was clear, however, that that obligation had not been fulfilled.

The Polish authorities had failed to demonstrate that they had put in place an effective procedure enabling the first applicant, who should have been detected as belonging to the second category, to benefit from the protection required by the Convention before his removal to Belarus.

There had therefore been a violation of Article 3 in respect of the first applicant on account of his removal to Belarus on 20 October 2021.

H.M.M. AND OTHERS V. LATVIA

The application was struck out for seven of the original 26 applicants. Of the 19 remaining applicants, 12 made up three family groups comprising two parents and two children (applicants nos. 1-4, 8-11 and 23-26). The question of whether and on which dates the applicants had actually been on Latvian territory and therefore within Latvia's jurisdiction was examined in the light of all of the relevant evidence. The Court made detailed findings on that point.

The Court first considered the removal of the applicant children and their accompanying family members.

The Court reiterated that children, whether accompanied or unaccompanied, had to be treated as an extremely vulnerable group with specific needs that were related to their age, lack of independence and asylum-seeker or migrant status. The exploitative nature of instrumentalisation of migration was particularly apparent where such young children were brought into it. Therefore, in accordance with its approach as set out above in such cases, the Court considered that the applicant children, four of whom had been infants or very young children, and one of whom had been nearly 11 years old, belonged to the group of people whose personal vulnerability was evident in view of their young age. Those five applicants should therefore have been detected, at the time of their interception by the Latvian border guards, as falling within the first category. Accordingly, the Latvian authorities should have taken proper account of that and assessed their need for protection prior to their removal to Belarus. However, the Latvian authorities had disregarded the evident vulnerability of those applicants and had proceeded with their summary removal to Belarus.

In the specific context of instrumentalisation of migration, the Court emphasised the importance of families being kept together given the complete dependence of the child applicants on their accompanying family members. The Court considered that adequate protection of the child applicants in the case could not have been ensured without the presence and support of their close family members. That referred to the applicant parents, and also to applicant no. 25, as the adult sibling of applicant no. 26. That degree of dependence should have been recognised by the national authorities and included in the required assessment of the child applicants' need for protection.

The Latvian authorities had not therefore fulfilled their obligation under Article 3 of the Convention on the occasions in question. Furthermore, they had failed to demonstrate that they had put in place an effective procedure enabling the applicant children, who had been evidently personally vulnerable, and their close family members travelling with them, to benefit from the protection required by Article 3 of the Convention before their removal to Belarus.

There had therefore been a violation of Article 3 of the Convention in respect of those applicants on account of their removals on 11 August 2021 (applicants nos. 1-4, 8-11 and 23-26); 14 August 2021 (applicants nos. 2-4, 9-11, 23 and 26); and 10 September 2021 (applicants nos. 25 and 26).

The Court went on to consider the removal of the adult applicants (nos. 14, 22 and 24). In line with the Court's factual findings, that part of the examination related to the removal of those applicants on 12 September 2021 (on that date, the children of applicant no. 24 had not been present with her in Latvia); 14 August and 16 September 2021 (applicant no. 14), and 17 and 20 January 2022 (applicant no. 22). None of those applicants had alleged or demonstrated any evident personal vulnerabilities that would have brought them within the first category. As to the second category, those applicants had not presented to the Latvian authorities any evidence to indicate any specific basis for claiming that, on the occasions in question, they fell under the second category. In the absence of grounds to detect them as coming within either of the categories, their removal to Belarus was not contrary to Article 3 of the Convention.

There had therefore been no violation of Article 3 of the Convention in respect of these adult applicants as regards their removals on those dates.

C.O.C.G. AND OTHERS V. LITHUANIA

The four applicants in this case complained that they had been intercepted by Lithuanian border guards and returned to Belarus on six occasions over the space of ten days in March/April 2022. On each of these occasions, they alleged that they had requested asylum in Lithuania but that this been ignored. Each time the applicants had been apprehended, the Lithuanian border guards had established their identity and country of origin. Even if the applicants had expressed the wish to seek asylum, the Court did not consider that that could be taken, on the face of it, as evidence for the claim that summary removal to Belarus would evidently expose them to a real and immediate threat to life or a real and immediate risk of ill-treatment. In the absence of grounds on which to detect the applicants as coming within either of the two categories set out above, their removal to Belarus on the relevant dates had not been contrary to Article 3 of the Convention. There had therefore been no violation of Article 3.

ARTICLE 5 (RIGHT TO LIBERTY AND SECURITY) - APPROACH IN CASES OF INSTRUMENTALISATION OF MIGRATION BY A THIRD STATE

The Court recognised the importance, for a State targeted by instrumentalised migration, of exercising its right to control the liberty of foreign nationals in an immigration context. In particular, the Court was mindful that, when seeking to manage the difficulties created by instrumentalisation of migration by another State, the Contracting State's authorities might have a stronger interest than in other circumstances in controlling the liberty of foreign nationals who had unlawfully entered their national territory. That was particularly true in cases such as these ones, where the respondent States were also members of the European Union and part of the Schengen Area, as the fact of permitting third-country nationals to be at liberty within the national territory would allow them to move within the entire Schengen Area.

The Governments had not argued that the specific and novel context of instrumentalisation of migration constituted grounds for the Court to depart from the existing principles established in its case-law under Article 5 of the Convention. The Court was therefore of the view that the principles it had established in cases concerning immigration detention, including those relating to situations of a mass influx of foreign nationals, and which enshrined the minimum guarantees that needed to be provided to detained individuals, remained relevant in situations of instrumentalisation of migration by another State, and the Contracting States remained bound by their obligations under Article 5 of the Convention.

H.M.M. AND OTHERS V. LATVIA

Four adult applicants (applicants nos. 1, 2, 8 and 9) and four applicant children (applicants nos. 3, 4, 10 and 11) complained about their detention in the Daugavpils accommodation centre. It had not been disputed that the adult applicants had been detained there with a view to their removal to Iraq. However, the Government had argued that the applicant children had been accommodated with their parents at their parents' request and had not been detained.

Two possibilities had been available to the national authorities: either the families could be kept together in the Daugavpils accommodation centre and be subject to what amounted to deprivation of liberty, or the adult applicants could be separated from their children during their detention with the children being placed in a child-care institution. It appeared that there had been no possibility, under national law, to keep the family together outside of any detention setting. As a result, the adult applicants, who had not wished to be separated from their young children, had had no other choice than to accept that they would be kept together in the accommodation centre. Although a waiver of rights was, in principle, possible in respect of certain rights guaranteed by the Convention and under certain conditions, the Court considered that the fact that the adult applicants had wished to stay together with their children could not be taken to indicate that they had intended to waive their children's rights to liberty and security under Article 5 of the Convention.

The Daugavpils accommodation centre was a closed facility and, while it appeared that families with children were able to move within their living unit, the children had not been able to leave that

facility. The adult applicants had been deprived of their liberty, and the Court came to the same conclusion in respect of their children.

As regards the adult applicants, applicants nos. 1 and 2 had been deprived of their liberty from 20 August to 23 November 2021 and applicants nos. 8 and 9 had been deprived of their liberty from 20 August 2021 to 15 February 2022. Their detention had been ordered on the grounds that action was being taken with a view to their removal to Iraq and was in accordance with the law. Removal proceedings had been pending throughout. Having regard to the circumstances of the case and also to the particular difficulties faced by the Latvian authorities at the time as a result of the significant increase in illegal border crossings caused by the instrumentalisation of migration by Belarus, the Court considered that the removal proceedings against the applicants had been carried out with sufficient diligence and that their detention had not exceeded what was reasonably necessary (three months in the case of applicants nos. 1 and 2 and nearly six months in the case of applicants nos. 8 and 9). The Daugavpils accommodation centre had been designed to hold foreign nationals and had been adapted to their needs. The conditions were generally of a good standard.

The Court found, unanimously, that there had therefore been no violation of Article 5 § 1 (right to liberty and security) in respect of the adult applicants. The Court also found, unanimously, that there had been **no violation of Article 5 § 4** (right to have lawfulness of detention decided speedily by a court) in respect of those same applicants as they had been able to effectively challenge the lawfulness of their detention before the national courts.

As regards the applicant children (applicants nos. 3, 4, 10 and 11), the Court had already established that they had been deprived of their liberty while held in the Daugavpils accommodation centre with their parents. The Court accepted that there had been some legal basis in Latvian law for the deprivation of their liberty. The national authorities had had grounds to believe that the adult applicants would avoid the removal procedure and that alternative measures under national law could not be applied in their respect. The fact that they had wished to stay together with their children did not relieve the respondent State from its obligations under the Convention to provide certain minimum guarantees, even in the context of instrumentalisation of migration by another State, regarding the immigration detention of children.

The applicant children had been very young. However, the national authorities had not assessed whether the conditions in the centre had been adapted to their specific needs and extreme vulnerability. The Court was particularly concerned by the length of their detention. When minors were detained, greater speed and diligence on the part of the authorities were called for. Although the Court had established that the removal proceedings had been carried out with sufficient diligence as far as the adult applicants were concerned, the Court could not reach the same conclusion in respect of the children. In contrast to regular detention-review proceedings for their parents, the authorities had not examined the children's situation. Nor had they examined whether the conditions in that facility had been adapted to their extreme vulnerability as time went on.

The Court found, unanimously, that there had therefore been a violation of Article 5 § 1 in respect of the applicant children. The Court also concluded, unanimously, that **there had been a violation of Article 5 § 4** of the Convention in their respect. No individual detention orders had been issued for them which could have been challenged before the national courts.

C.O.C.G. AND OTHERS V. LITHUANIA

The applicants had been detained in the Foreigners' Registration Centres in Medininkai and Pabradė. Those had been closed, fenced and under the continuous surveillance of the security forces. They had not been permitted to leave and had only had limited freedom of movement inside. They had therefore been deprived of their liberty from 15 April to 18 October 2022, and Article 5 of the Convention was applicable in respect of that period.

The applicants had not been provided with a written decision. At the time, the law did not require that a decision be adopted in respect of each individual who had lodged asylum applications at the border and was temporarily accommodated. While the Court considered that the applicants must have been aware that they had entered Lithuania illegally and that their detention was somehow

related to that illegal entry, that did not relieve the State of its obligation to provide them with the necessary information, so as to enable them to apply to a court to challenge the lawfulness of their detention. It appears that the first time at least some of the applicants had met with an officer of the State Border Guard Service, where they might have obtained that information, had been on 1 September 2022, more than four months after the applicants had been detained. It therefore clearly did not meet the requirement of "promptness" under Article 5 § 2 of the Convention. The Court found, unanimously, that **there had therefore been a violation of Article 5 § 2** (everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him).

As the applicants had not been informed of the reasons for their detention and the national law did not explicitly provide a way for them to appeal against their detention, the Court found that they had not had a practical and effective possibility of challenging its lawfulness. The Court held, unanimously, that **there had therefore been a violation of Article 5 § 4** (right to have lawfulness of detention decided speedily by a court).

The applicants had entered Lithuania illegally. They had been detained from 15 April to 18 October 2022, and, during that time, they had not been formally admitted to Lithuanian territory while their asylum applications were being examined. The Lithuanian Constitutional Court had held that the legal regime at the time had been contrary to the Constitution because it had allowed a person to be deprived of his or her liberty for six months without any individual decision being adopted, without an assessment of his or her personal circumstances or the possibility of applying less coercive measures, and without any possibility of appeal before a court. In the Constitutional Court's view, a state of emergency or an extraordinary situation did not constitute grounds for subjecting all asylum-seekers to such a restriction of their liberty, without an assessment of their individual situation. The Court found no reason to reach a different conclusion. The legislation which had authorised the automatic deprivation of liberty of all asylum-seekers for six months without any possibility of appeal had not met even the minimum requirements relating to lawfulness that the Court had established in cases concerning mass arrivals of asylum-seekers.

The Court found, unanimously, that there had therefore been a violation of Article 5 § 1 of the Convention on account of the applicants' deprivation of liberty from 15 April to 18 October 2022.

OTHER COMPLAINTS

A.R. AND OTHERS V. POLAND

In *A.R. and Others v. Poland* the Court found inadmissible the first applicant's complaints under Article 3 of the Convention alleging ill-treatment by Polish officers, under Articles 2 and 3 of the Convention concerning the material and sanitary conditions in the camp and under Article 13 of the Convention taken in conjunction with Articles 2 and 3 alleging a lack of effective remedies in that regard.

The Court also found, unanimously, **a violation of Article 34** on account of the fact that the lawyers of the first and second applicants had been prevented from having access to them on 28 September 2021, and on account of the first applicant's removal to Belarus on 20 October 2021.

H.M.M. AND OTHERS V. LATVIA

Article 3 (conditions in the border zone)

The applicants complained about the conditions they had experienced in the border zone on Latvian territory from 15 to 20 August 2021 (applicants nos. 1-4 and 8-11) and from 15 to 24 August 2021 (applicants nos. 13-16, 18, 19 and 22-26). It had been established that those events had taken place on Latvian territory and, accordingly, came within the jurisdiction of Latvia. The applicants had been dependent on the Latvian authorities for their most basic human needs. They had been prevented from leaving the zone by crossing into Belarus, due to the presence of armed Belarusian guards on the other side of the border. Thus, irrespective of any obligations Belarus might have had in respect of the applicants under international law, and as they were stranded on Latvian territory, the Latvian

authorities had been under the obligation under the Convention not to subject them to conditions that constituted inhuman or degrading treatment.

As regards the material conditions of the applicants' stay in the border zone, the Court noted that there had been no facilities to accommodate them and they had not had access to any sanitary facilities. While there was a small makeshift shelter, it had not been sufficient for all the applicants to be able to protect themselves from the rain or to sleep under it. Thus, the applicants had had to stay out in the open and to sleep on the ground. Temperatures had been as low as 6-10°C at night and they had had to endure the rain; their only possibility to keep warm had been to keep campfires burning. They had had to subsist on very little food, if any at all, from 15 to 20 August 2021.

The Court noted with concern that among the applicants who had stayed in the border zone in that period there were five children: one infant (under one year old), three very young children (two of whom were under three, and the other one under four) and one nearly 11-year-old child. The conditions in which they had been staying in the border zone from 15 to 20 August had been entirely ill-suited for them with no regard to their most basic needs, let alone their specific needs and extreme vulnerability as children. While some of the applicants, including the younger children had been removed from the border zone by the Latvian authorities on 20 August 2021, other applicants, including the child applicant who was not yet 11, remained in similar conditions until 24 August.

The Court held, unanimously, that there had therefore been **a violation of Article 3 of the Convention on account of conditions experienced in the border zone** in respect of applicants nos. 1-4 and 8-11 from 15 to 20 August 2021 and in respect of applicants nos. 13-16, 18, 19 and 22-26 from 15 to 24 August 2021.

The Court went on to find, unanimously, that there had been **no violation of Article 13 taken in conjunction with Article 3**, as there was no reason to doubt the effectiveness of the remedy referred to by the Government.

However, the Court found inadmissible the applicants' complaints under Article 3 of the Convention alleging ill-treatment by Latvian officials and Article 13 of the Convention taken in conjunction with Article 3 alleging a lack of effective remedies in that regard.

C.O.C.G. AND OTHERS V. LITHUANIA

In *C.O.C.G. and Others v. Lithuania*, the Court found inadmissible the complaints alleging a lack of effective remedies under Article 13 of the Convention taken in conjunction with Article 3 concerning the applicants' removal to Belarus, the complaint alleging ill-treatment by Lithuanian border guards under Article 3 of the Convention and that of a lack of effective remedies under Article 13 of the Convention taken in conjunction with Article 3 in that regard,

The Court also found, by eleven votes to six, that there had been **no violation of Article 34 of the Convention**. The Court took note of the explanation provided by the Government as to why the border authorities had not immediately been notified of the decision on interim measures and was satisfied that the lack of notification did not result from any bad faith. The Lithuanian authorities had taken all reasonable steps to ensure that similar situations would not occur again.

JUST SATISFACTION (ARTICLE 41)

The Court held that in the case of *A.R. and Others v. Poland*, Poland was to pay the first applicant 20,000 euros (EUR) and the second applicant EUR 5,000 in respect of non-pecuniary damage and EUR 3,137.01 in respect of costs and expenses.

In *H.M.M. and Others v. Latvia*, the Court held that Latvia was to pay EUR 20,000 to applicants nos. 1-4 jointly; EUR 20,000 to applicants nos. 8-11 jointly; EUR 7,500 to applicants nos. 13 and 14 jointly; EUR 7,500 to applicants nos. 15 and 16 each; EUR 7,500 to applicants nos. 18 and 19 jointly; EUR 7,500 to applicant no. 22; and EUR 20,000 to applicants nos. 23-26 jointly and EUR 15,000 in respect of costs and expenses.

In *C.O.C.G. and Others v. Lithuania*, the Court held that Lithuania was to pay the applicants EUR 15,000 each in respect of non-pecuniary damage and EUR 1,800 to the applicants jointly in respect of costs and expenses.

SEPARATE OPINIONS

Judge Elósegui expressed a concurring opinion in the case of *H.M.M. and Others v. Latvia*.

In the case of *A.R. and Others v. Poland*, Judges Ktistakis, Krenc, Kovatcheva and Adamska-Gallant expressed a partly dissenting opinion; Judge Paczolay made a statement of partial dissent; Judges Kovatcheva and Adamska-Gallant expressed a partly dissenting opinion.

Judges Ktistakis, Paczolay, Felici, Krenc, Kovatcheva and Adamska-Gallant expressed a joint partly dissenting opinion in the case of *C.O.C.G. and Others v. Lithuania*.

These opinions are annexed to the judgments.

PROCEDURE
AND COMPOSITION OF THE COURT

The applications were lodged with the European Court of Human Rights on 20 August 2021 (*A.R. and Others v. Poland*), 20 August 2021 (*H.M.M. and Others v. Latvia*) and 8 April 2022 (C*.O.C.G. and Others v. Lithuania*).

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Arnfinn **Bårdsen** (Norway),
Lado **Chanturia** (Georgia),
Ioannis **Ktistakis** (Greece),
Péter **Paczolay** (Hungary),
María **Elósegui** (Spain),
Gilberto **Felici** (San Marino) (*A.R. and Others v. Poland* and *C.O.C.G. and Others v. Lithuania*)
Erik **Wennerström** (Sweden),
Anja **Seibert-Fohr** (Germany),
Frédéric **Krenc** (Belgium),
Davor **Derenčinović** (Croatia),
Anne Louise **Bormann** (Denmark),
Sebastian **Răduleţu** (Romania),
Diana **Kovatcheva** (Bulgaria),
Gediminas **Sagatys** (Lithuania),
Anna **Adamska-Gallant** (Poland),
Juha **Lavapuro** (Finland),
Mārtiņš **Mits**, (Latvia) *ad hoc* judge (*H.M.M. and Others v. Latvia*)

and also John **Darcy**, *Deputy Grand Chamber Registrar.*

The judgment is available in English and French.

The Court's judgments finding a violation are binding on the State concerned. The Committee of Ministers of the Council of Europe, the executive body of the Council of Europe, supported by the Department for the Execution of Judgments of the European Court of Human Rights, is responsible for supervising their implementation.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.