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Abstract

The paper explores the link between visa policies as a migration management tool and the concept of "migrant instrumentalisation" through the EU-Belarus border crisis. In the summer of 2021, following EU sanctions on Minsk, Belarus increased the issuance of visas to nationals of refugee-producing countries and ceased preventing irregular border crossings into the EU. Latvia, Lithuania, and Poland framed this as "migrant instrumentalisation", using this narrative to justify pushbacks and severe restrictions on asylum rights.

This paper specifically focuses on one element of this framing: the visa policies of Belarus and Russia, which are often cited by EU and Member State political actors as key tools of "instrumentalisation". It challenges this narrative, arguing that it obscures the EU's own restrictive visa regimes and lack of legal pathways to protection. It also highlights the difficulty of proving an intent to destabilise the EU through visa policies, warning against broad assumptions that ignore foreign nationals' diverse motives and agency. Since early 2022, foreign nationals have most frequently entered Belarus via Russia, using Russian visas or visa-free travel. However, the claim that Russia centrally coordinates its visa policies to put pressure on the EU is not substantiated by evidence. Instead, decentralised corruption and the proliferation of fixer networks appear to facilitate irregular migration. Additionally, many foreign nationals live in precarious conditions in Russia before attempting to enter the EU, further complicating simplistic "instrumentalisation" claims.

Keywords: EU-Belarus border crisis, asylum, migrant instrumentalisation, Russian visas, Belarus visas

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Visas as a Tool of "Migrant Instrumentalisation"? The EU-Belarus Border Crisis Reconsidered

Aleksandra Ancite-Jepifánova[1]

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Introduction

It was July 2021 when, in anticipation of the Taliban takeover, a family of nine fled Afghanistan. Having paid $70,000 to intermediaries who promised to transport them to Europe, they were driven to the border with Tajikistan. During the following weeks, with drivers and vehicles constantly changing, they managed to make their way through Uzbekistan, Kazakhstan, and across Russia. "They were mostly driving at night, at a very high speed and away from major roads. As we drove through Russia, no one stopped us", Rohullah, a father of five, later told me in an interview.[2]

It was the second half of August when they ultimately crossed from Russia into Belarus and continued onwards to its border with Latvia, a European Union (EU) Member State. The drivers dropped them in the forest, showed them the direction, and told them they were a short walk away from Latvian border guards who would take the family to a refugee camp.

The reality, however, proved drastically different. Rohullah's family had arrived at the EU's external border during a period of heightened securitisation. In response to what was framed as the "instrumentalisation of migrants" by the Belarusian regime, Latvia had suspended the right to seek asylum and authorised systematic pushbacks. Although the family had travelled irregularly and never obtained Russian or Belarusian visas – nor had previously any other contact with Russian or Belarusian authorities – they were pushed back and forth between Latvian and Belarusian forces for weeks, eventually becoming separated. Rohullah, his wife, and their five young children were exceptionally admitted into Latvia and subsequently

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[2] I interviewed Rohullah as part of my study on the situation at the EU-Belarus border. The interview was conducted in person in November 2021. For ethical and security reasons, the names of my informants, as they appear here and elsewhere in the text, have been changed to protect their identities. For more details on the research and methodology, see, e.g., Aleksandra Ancite-Jepifánova, "Beyond the 'Hybrid Attack' Paradigm: EU-Belarus Border Crisis and the Erosion of Asylum-Seeker Rights in Latvia, Lithuania and Poland", *Avant*, 15(2), 2024, DOI: 10.26913/ava2202405.

granted asylum. Two other members of his extended family, young adult males, were ultimately forced to remain in the forest for seven months.[3]

This case exposes the contradictions and harsh realities underlying the official narratives of "migrant instrumentalisation" and "hybrid threats", which have been invoked by EU Member States bordering Belarus to justify derogations from the core principles of both EU and international refugee protection regimes. The roots of the border crisis can be traced back to the summer of 2021, when, following the EU's imposition of sanctions on Minsk, Belarus increased the issuance of visas to nationals of refugee-producing countries, leading to a rise in arrivals to Minsk *en route* to the EU's external borders. In response, the governments of Latvia, Lithuania, and Poland – each sharing a land border with Belarus – introduced a series of restrictive measures that severely curtailed access to asylum and formalised the practice of systematic pushbacks, in clear contradiction with EU asylum law and international human rights obligations.[4] The result has been a proliferation of human rights violations, whereby the EU's eastern frontier has increasingly become a securitised exclusion zone marked by border violence, disappearances, and deaths.[5] Even more disturbing is the fact that these national-level policies have received both indirect support and formal endorsement at the EU level, culminating in the incorporation of the instrumentalisation concept into EU hard law.[6]

This paper seeks to unpack and critically examine the notion of "migrant instrumentalisation" in the context of the EU's eastern border, focusing on one element that frequently appears in official and legal discourses: the visa policies of Belarus and Russia, which are often cited by EU and Member State political actors as key tools of "instrumentalisation". The paper investigates whether, and to what extent, these visa regimes can be meaningfully understood in such terms, and assesses how these claims correspond to conditions on the ground. Among other sources, the analysis draws on findings from my research into the EU-Belarus border crisis, which combines legal analysis with fieldwork conducted in all three EU Member States bordering Belarus. This includes approximately 20 in-depth interviews with legal practitioners and humanitarian aid volunteers, as well as over 40 interviews with non-EU nationals from the Middle East and North Africa (MENA) region who attempted to cross into the EU from Belarus. [7]

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[3] For more details, see Aleksandra Ancite-Jepifánova, "Seven Months in the Freezing Forest: Why Events at the Latvian-Belarus Border Were Long Hidden From the Public" *VerfBlog*, 15 November 2022, https://verfassungsblog.de/seven-months-in-the-freezing-forest/ [accessed: 23.10.2025].

[4] See Section 1.2 for more details.

[5] For an analysis and criticism of the Member State policies see, e.g., Amnesty International, "Lithuania: Forced out or Locked up. Refugees and Migrants Abused and Abandoned", 2022, https://www.amnesty.org/en/documents/eur53/5735/2022/en/ [accessed: 23.10.2025]; Amnesty International, "Latvia: Return Home or Never Leave the Woods. Refugees and Migrants Arbitrarily Detained, Beaten and Coerced Into 'Voluntary' Returns", 2022, https://www.amnesty.org/en/documents/eur52/5913/2022/en/ [accessed: 23.10.2025]; Aleksandra Ancite-Jepifánova, "Beyond the 'Hybrid Attack' Paradigm" (n 2); Egala/Oxfam, "Brutal Barriers: Pushbacks, Violence and the Violation of Human Rights on the Poland-Belarus Border", 2025, https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/2025-03/Brutal%20Barriers%20report_0.pdf [accessed: 23.10.2025].

[6] See Section 2.1 for more details.

[7] Interviews with non-EU nationals were conducted predominantly between November 2021 and April 2022 and included Iraqi, Syrian, Afghan, and other nationalities. Interviews with legal practitioners and volunteers

The paper is structured into two main parts. The first provides a timeline and outlines the key phases of the EU-Belarus border crisis, linking migration routes and patterns to the visa regimes of Belarus and Russia. It begins with an overview of the situation at the EU-Belarus border prior to summer 2021, continues with the period from summer to the end of 2021 – when people crossing irregularly from Belarus most frequently entered the country directly with Belarusian visas – and then turns to the period from early 2022 onward, when the majority of individuals seeking to reach the EU began arriving in Belarus via Russia. The second part engages in a critical analysis of discourses that frame Belarusian and Russian visa regimes as tools of "migrant instrumentalisation". It situates this narrative within the broader context of EU externalisation and containment policies, including restrictive EU visa rules, and examines it alongside Russian migration policies and visa practices. The analysis also considers the agency of foreign nationals themselves and assesses whether and to what extent official discourses correspond to the actual situation on the ground.

1. Situation at the EU border with Belarus and Russia: Timeline of events

1.1 Situation before summer 2021

Contrary to how recent discourses on "migrant instrumentalisation" often portray it, irregular migration from Belarus to the EU is not a new development. Since the 1990s, Belarus has functioned as an important transit country for foreign nationals – particularly from Russia, Central Asia, the Caucasus, and countries like Afghanistan – seeking irregular entry into the EU, often with the aim of applying for asylum. This route was primarily shaped by geography, the absence of internal border controls between Belarus and Russia,[8] and restrictive EU visa policies that made regular access to the EU nearly impossible for many. For example, this route was frequently used by Russian nationals fleeing persecution, especially from Chechnya, as well as nationals of Central Asian states who benefited from visa-free access to Russia, as well as those transiting through Russia irregularly.[9]

At the time, such movements in official discourses were not labelled as forms of instrumentalisation or "hybrid threats". During this period, instead, the EU had long sought

took place in 2023. I have also remained in contact with my informants, continuing to exchange information online. For research findings and a more detailed discussion of the methodology, see, e.g., Aleksandra Ancite-Jepifánova, "Trapped in a Lawless Zone: Forgotten Refugees at the Latvia-Belarus Border" *VerfBlog*, 2 May 2022, https://verfassungsblog.de/trapped-in-a-lawless-zone/ [accessed: 23.10.2025]; Aleksandra Ancite-Jepifánova, "Seven Months in the Freezing Forest" (n 3); Aleksandra Ancite-Jepifánova, "Migrant Instrumentalisation: Facts and Fictions: Realities On the Ground at the EU-Belarus Border", *VerfBlog*, 21 September 2023, https://verfassungsblog.de/migrant-instrumentalisation-facts-and-fictions/ [accessed: 23.10.2025]; Aleksandra Ancite-Jepifánova, "Beyond the 'Hybrid Attack' Paradigm" (n 2); The present paper also, where appropriate, draws on unpublished findings from my research.

[8] In 1995 border control on the Russian-Belarusian border was abolished following the signing of the Treaty of Friendship, Neighborhood and Cooperation (21.02.1995) between the two countries, https://base.spinform.ru/show_doc.fwx?rgn=25444 [accessed: 15.11.2025].

[9] See, e.g., Katsiaryna Yakouchyk and Alexandra M. Schmid, "EU-Belarus Cooperation in Border Management: Mechanisms and Forms of Norm Transfer", in: Raphael Bossong and Helena Carrapico (eds.). *EU Borders and Shifting Internal Security: Technology, Externalization and Accountability*, Springer, 2016, 121-138.

cooperation with Belarus in managing and controlling irregular migration. From the early 2000s onward, the EU allocated over €80 million to Belarus for border management and security initiatives.[10] Following a protracted negotiation process, the EU and Belarus reached a readmission agreement in 2020, requiring Belarus to take back third-country nationals who had entered the EU after transiting through or staying in its territory.[11]

While a substantial share of individuals entering the EU from Belarus aimed to continue toward Western Europe, some did seek protection in the bordering Member States, with their numbers fluctuating over the years. Notably, reports of asylum access being obstructed at these borders predate the 2021 crisis. At Poland's Terespol crossing, for instance, border officials regularly denied non-Belarusians the opportunity to lodge asylum claims, instead returning them to Belarus.[12] Between 2017 and 2019 alone, nearly 76,000 individuals, primarily nationals of Russia and Tajikistan, were refused entry at this crossing.[13] Such deterrence practices contributed significantly to the decline in asylum applications registered in Poland in the years preceding the 2021 border developments.[14] Similarly low application numbers were also recorded in Lithuania and Latvia during this period.[15]

An illustrative episode predating 2021 that has been described in terms of "migrant instrumentalisation" at the EU's eastern borders occurred in late 2015 and early 2016, during the height of the so-called refugee crisis. At that time, several thousand foreign nationals originating from Syria, Afghanistan, Iraq, and various other countries attempted to reach the EU via the so-called Arctic route, through Norway and then Finland, where Russian border officers initially did not restrict the departure of individuals lacking Schengen visas.[16] Available research, however, indicates that the Arctic route was not orchestrated by the Russian state and that Russian border control practices were less restrictive than presumed by Finnish and Norwegian officials at the time. Rather, the route appears to have emerged within the broader

[10] Ibid 129-133.

[11] Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation**,** ST/12160/2019/INIT, OJ L 181, 9.6.2020, Article 4(1)(c).

[12] Witold Klaus and Monika Szulecka, "Departing or Being Deported? Poland's Approach towards Humanitarian Migrants", *Journal of Refugee Studies,* 36(3), 2023, 467–488, 467, 473, DOI: 10.1093/jrs/feac063.

[13] Ibid.

[14] In 2018-2019, Poland, a country with a population of around 37 million, registered as few as approximately 4,000 asylum claims annually. Ibid, 473.

[15] For example, over the period from 2018 to 2020 Latvia registered less than 200 asylum applications per year. For the statistics on Latvia and Lithuania, see European Migration Network, "Lithuania: EMN Country Factsheet 2019", 2020, https://www.emn.lt/uploads/Products/product_1550/17_lithuania_country_factsheet_2019_en.pdf [accessed: 31.08.2025]; Latvian Office of Citizenship and Migration Affairs, "Statistics on Asylum Seekers (01.01.1998 – 31.12.2024)", https://www.pmlp.gov.lv/en/statistics-asylum-seekers?utm_source=https%3A%2F%2Fwww.google.com%2F [accessed: 23.10.2025].

[16] For more details, see Arild Moe and Lars Rowe, "Asylstrømmen fra Russland til Norge i 2015: Bevisst russisk politikk?" *Nordisk Østforum,* 30(2), 2016, 80-97, 80; Joni Virkkunen and Minna Piipponen, "Informal Practices and the Rule of Law: Russia, Migration and the 'Arctic Route'" in: Rano Turaeva and Rustamjon Urinboyev (eds.). *Labour, Mobility and Informal Practices in Russia, Central Asia and Eastern Europe*, Routledge, 2021, 192-213.

context of refugee movements, offering a comparatively safer and cheaper alternative to the hazardous journeys across the Mediterranean or through the Balkans.[17]

Evidence suggests that people on the move formed a mixed group and typically arrived at the border through their own agency, taking advantage of the relatively easy visa regimes between Russia and their countries of origin (for example, Syrian nationals could still acquire Russian visas – see Section 2.2 for further details), and were assisted by local or transnational intermediaries. The group also included people who had lived in Russia for extended periods of time. Although in 2015-2016 fewer than five per cent of asylum seekers in Finland arrived via the Arctic route, Finnish public and political discourse portrayed it as an instance of Russian hybrid interference and an attempt to instrumentalise migration.[18] The route was effectively closed after following a meeting between the Finnish and Russian presidents, after which the two states temporarily shut two Arctic border crossing points to third-country nationals.[19]

1.2 Summer 2021 – end of 2021

As noted in Section 1.1, in the years leading up to 2021, the number of asylum applications in EU countries bordering Belarus remained relatively low. However, this began to change in the summer of 2021, when irregular border crossings from Belarus into Latvia, Lithuania, and Poland increased – mainly involving nationals of Middle Eastern and African countries. For instance, in July 2021 alone, Lithuania intercepted and detained nearly 3,000 people who had crossed the border irregularly from Belarus. This marked a significant rise compared to the approximately 80 individuals apprehended at the same border throughout the entire year of 2020.[20]

In the official discourses of EU Member States bordering Belarus, the surge in irregular border crossings in the summer of 2021 was attributed to deliberate actions by the Belarusian regime. These were seen as retaliation for EU sanctions imposed after the violent crackdown on protests against the disputed 2020 presidential election and the forced diversion of a Ryanair flight in May 2021 to arrest a journalist and prominent critic of the Belarusian government. Shortly thereafter, in June 2021, Belarus suspended its readmission agreement with the EU. A few weeks earlier, Belarusian authoritarian leader Alexander Lukashenko had publicly declared that Belarus would no longer prevent migrants from entering the EU. Following the EU's strong reaction to the Ryanair incident, he stated: "We were stopping drugs and migrants – now you will catch them and eat them yourselves".[21]

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[17] Ibid.

[18] Joni Virkkunen and Minna Piipponen, "Informal Practices and the Rule of Law" (n 16), 195.

[19] "Finland and Russia finalize temporary border restrictions" *DW,* 23 March 2016, https://www.dw.com/en/finland-and-russia-finalize-temporary-border-restrictions/a-19135796 [accessed: 23.10.2025]. Prior to that, Norwegian authorities negotiated an agreement with Russia to prevent third-country nationals without valid visas from entering Norwegian territory, after which the protection seekers' route shifted to Finland.

[20] ECRE, "Extraordinary Responses: Legislative Changes in Lithuania, 2021", 2021, Legal Note N11, 2, https://ecre.org/wp-content/uploads/2021/09/Legal-Note-11.pdf [accessed: 23.10.2025].

[21] "Belarusian leader defends his action to divert flight" *The Independent,* 25 May 2021, https://www.independent.co.uk/news/world/europe/belarusian-leader-defends-his-action-to-divert-flight-alexander-lukashenko-european-union-ukraine-kyiv-ryanair-b1854076.html [accessed: 23.10.2025].

In the EU Member States bordering Belarus, the rise in border crossings was subsequently framed as "migrant instrumentalisation" or "weaponisation" by the Belarusian regime, described as part of an alleged "hybrid attack" on the EU. Within this narrative, irregular border crossers were portrayed through racialised discourses as "living weapons", "economic migrants" rather than "real refugees", or passive "pawns" in a geopolitical game.[22]

Despite the relatively modest number of irregular border crossings in absolute terms, Latvia, Lithuania and Poland responded by introducing radical legislative measures that enable these states to heavily restrict or entirely suspend the right to claim asylum for those crossing irregularly from Belarus, while also allowing pushbacks. These actions clearly contravene their EU and international human rights obligations, most notably the right to seek asylum, which is guaranteed under EU law, in particular under Article 18 of the EU Charter of Fundamental Rights (EUCFR) and the Asylum Procedures Directive (2013/32/EU). This right applies regardless of the applicant's mode of entry. [23] The right to seek asylum is intrinsically linked to the non-derogable principle of *non-refoulement*, which forbids returning individuals to territories where they risk torture or other inhuman or degrading treatment. This principle constitutes a fundamental pillar of international refugee protection and is reflected in multiple legal instruments, most prominently Article 33(1) of the 1951 Refugee Convention (Geneva Convention), Article 3 of the European Convention on Human Rights (ECHR), Article 78 of the Treaty on the Functioning of the European Union (TFEU), and Article 19 of the EUCFR. The implementation of the legislation, adopted by Poland, Latvia and Lithuania, has led to massive human rights violations, drawing strong condemnation from numerous human rights bodies and organisations, including the UN Refugee Agency (UNHCR),[24] the Council of Europe Commissioner for Human Rights,[25] and Amnesty International.[26]

The relaxation of visa requirements in Belarus for nationals of refugee-producing countries has been cited by policymakers in EU Member States as one of the key elements of "migrant

[22] For an analysis of the framing, see Artem Graban, "Instrumentalisation of Fear and Securitisation of 'Eastern Borders Route': The Case of Poland-Belarus 'Border Crisis'", *European Security*, 33(2), 2023, 236-260, 236, 249-251; Sandra Hagelin, "Framing Entangled Borders in the Baltic States", *Journal of Borderlands Studies,* 39(6), 2023, 1101-1120; Joanna Szylko-Kwas, "Two Crises – Framing Messages about the Crisis on the Polish-Belarusian Border", *Res Rhetorica*, 10(4), 2023, 118-139.

[23] This has been confirmed by the seminal CJEU ruling in Case C-72/22PPU M.A. v Valstybės sienos apsaugos tarnyba ECLI:EU:C:2022:505.

[24] UNHCR, "UNHCR observations on the Order of the Cabinet of Ministers of the Republic of Latvia on the Declaration of Emergency Situation (No 518)", 13 October 2021, https://www.refworld.org/legal/natlegcomments/unhcr/2021/en/124040 [accessed: 23.10.2025].

[25] Commissioner for Human Rights, "Poland needs to respect its international human rights obligations on the Belarusian border, says Commissioner O'Flaherty", 23 September 2024, https://www.coe.int/en/web/commissioner/-/poland-needs-to-respect-its-international-human-rights-obligations-on-the-belarusian-border-says-commissioner-o-flaherty [accessed: 23.10.2025].

[26] Amnesty International, "Lithuania: Forced out or Locked up" (n 5); Amnesty International, "Latvia: Return Home or Never Leave the Woods" (n 5). For an analysis see also Aleksandra Ancite-Jepifánova, 'Unpacking the "Migrant Instrumentalisation" Narrative: Law and Politics of Refugee Exclusion at the EU-Belarus Border', *CEU Democracy Institute Working Paper*, 2025/32, https://democracyinstitute.ceu.edu/sites/default/files/article/attachment/2025-10/Aleksandra%20Ancite-Jepifánova_Unpacking%20the%20"Migrant%20Instrumentalisation_%20Narrative_CEU%20DI%20WP%2032%202025.pdf [accessed: 15.11.2025].

instrumentalisation". For example, this argument was explicitly presented by Lithuania in its submission to the International Court of Justice (ICJ), where, in May 2025, it initiated proceedings against Belarus. Lithuania claimed that Belarus violated the Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplements the UN Convention against Transnational Organized Crime.[27]

In its submission, Lithuania detailed the *modus operandi* of what it described as Belarus' instrumentalisation strategy. Drawing on media reports and other sources, the submission outlined how travel agencies in refugee-producing or hosting countries began offering "tour packages" to Minsk, including airfare, visas, accommodation, and the assistance of intermediaries who later helped foreign nationals cross into the EU irregularly. It underlined that these agencies often applied for short-term visas on behalf of their clients, citing tourism or medical treatment as the stated purpose of visit. Lithuania particularly highlighted the role of the Belarusian state-owned tourism company *Tsentrkurort*, which was said to have streamlined visa issuance for Iraqi nationals.[28] The submission alleged that Belarus deliberately simplified its visa regime and collaborated with private firms to "facilitate mass irregular migration", with visas ultimately being "misused" to enter Lithuania unlawfully.[29] Other elements of this alleged strategy, as highlighted in Lithuania's ICJ submission, included the opening of new air routes and an increase in flights to Minsk.[30] The submission also cited extensive evidence that the Belarusian authorities either failed to prevent or actively facilitated irregular border crossings, at times reportedly using force to push non-nationals across the EU's external border.[31]

1.3 Early 2022 – onwards

Available evidence indicates that the situation along the Belarus-EU border has undergone significant transformation since the crisis began in the summer of 2021. Already by late 2021, under EU pressure, several international airlines introduced discriminatory restrictions that prevented nationals of countries like Iraq, Syria, and Yemen from boarding flights to Minsk.[32] Around the same time, the Iraqi government organised several "repatriation" flights to return hundreds of Iraqi nationals from Belarus.[33]

Although these measures led to a decline in irregular border crossings from Belarus to the EU compared to 2021, the route has remained actively used. However, whereas most non-EU nationals in 2021 entered Belarus directly with Belarusian visas, since around early 2022 the

[27] *Lithuania v Belarus,* Application Instituting Proceedings (ICJ, 19.05.2025), https://www.icj-cij.org/sites/default/files/case-related/200/200-20250519-app-01-00-en.pdf [accessed: 23.10.2025].
[28] Ibid paras 29-34.
[29] Ibid para 65.
[30] Ibid para 36.
[31] Ibid paras 39-42.
[32] Andrew Roth and Lisa O'Carroll, "Turkey bans citizens from Syria, Yemen and Iraq from flying to Minsk" *The Guardian*, 12 November 2021, https://www.theguardian.com/world/2021/nov/12/turkey-bans-citizens-syria-yemen-iraq-from-flying-minsk [accessed: 24.11.2025].
[33] Emma Wallis, "More migrants flown back to Iraq from Belarus", *InfoMigrants*, 6 December 2021, https://www.infomigrants.net/en/post/37025/more-migrants-flown-back-to-iraq-from-belarus [accessed: 23.10.2025].

majority of people seeking to cross into the EU have typically first travelled to Russia – often holding Russian visas or entering under visa-free arrangements – before continuing overland into Belarus.[34] By 2022, this Russia-Belarus transit route had clearly become the dominant pathway for those attempting to enter the EU irregularly via Belarus. This pattern has been confirmed by various sources, including my interviews with humanitarian aid volunteers assisting protection seekers at the border.[35] During my research, I also had the opportunity to see numerous short-term Russian visas issued to nationals of Middle Eastern or African countries, often granted for purposes including tourism, study, or private visits.

This shift in migration patterns, however, has often been neglected in official narratives on "migrant instrumentalisation". For example, in its submission to the ICJ, Lithuania does not specify the time frame during which foreign nationals predominantly relied on short-term Belarusian visas issued as part of travel packages, thereby creating the misleading impression that this *modus operandi* by Belarus is still ongoing. Nevertheless, even when this shift is acknowledged, the transit route through Russia continues to be linked to narratives of "migrant instrumentalisation" and "hybrid threats", a discourse that has intensified following the Russian invasion of Ukraine and carries a strong securitised dimension. The Polish authorities, for instance, have repeatedly claimed that the movement of people attempting to cross the Belarusian border is "artificially created", in part through the facilitation of tourist visas for nationals of refugee-producing countries.[36] Polish Prime Minister Donald Tusk notably alleged: "It is the Russian state, not some murky business, that is behind the organisation of the recruitment, transport, and attempts to smuggle thousands of people into Europe", emphasising that the vast majority of those crossing the Polish border irregularly possess Russian visas.[37] Such narratives have also been echoed at the EU level. For example, Monique Pariat, the European Commission's Director-General for Migration and Home Affairs, noted that EU Member States have reported a significant number of irregular arrivals holding "Russian visas or entry stamps", linking this trend to ongoing "hybrid threats" at the EU's external borders.[38]

Moreover, since early 2022, EU Member States bordering Belarus have transformed initially temporary responses to alleged instrumentalisation into permanent legal frameworks. In

[34] In 1995 border control on the Russian-Belarusian border was abolished following the signing of the Treaty of Friendship, Neighborhood and Cooperation (21.02.1995) between the two countries, https://base.spinform.ru/show_doc.fwx?rgn=25444 [accessed: 15.11.2025].

[35] See also, e.g., Humana Constanta, "Humanitarian Crisis in Belarus and the European Union Border in 2023-24: A Structural Analysis and Perspectives", 2025 https://humanconstanta.org/wp-content/uploads/2025/04/humanitarian-crisis-in-belarus-.pdf [accessed: 23.10.2025].

[36] Natasha Mellersh, "'Brutal barriers?' A closer look at the EU's eastern border", *InfoMigrants*, 26 May 2025, https://www.infomigrants.net/en/post/64063/brutal-barriers-a-closer-look-at-the-eus-eastern-border [accessed: 23.10.2025].

[37] Marion MacGregor, "Russia alleged to be smuggling migrants to Europe in 'hybrid attack'", *InfoMigrants*, 22 May 2024, https://www.infomigrants.net/en/post/57253/russia-alleged-to-be-smuggling-migrants-to-europe-in-hybrid-attack [accessed: 23.10.2025].

[38] Eleonora Vasques, "Russia encourages migrants to cross Belarus to the EU, Baltic States warn", *Euractiv,* 5 September 2023, https://www.euractiv.com/section/politics/news/russia-encourages-migrants-to-cross-belarus-to-the-eu-baltic-states-warn/ [accessed: 23.10.2025]. See also Council of the European Union, Document 5234/25 (16.01.2025), https://www.statewatch.org/media/4714/eu-council-emwp-eastern-land-route-5234-25.pdf [accessed: 23.10.2025].

spring 2023, Lithuania amended its State Border Law to authorise pushbacks during a declared "extreme situation" caused by irregular migration.[39] This move formalised ongoing practices and was soon mirrored by Latvia.[40] Finland echoed this approach, first closing its border with Russia and later passing legislation authorising pushbacks in response to a late 2023 incident involving several hundred third-country nationals who attempted to cross the Russian-Finnish border.[41] Further, despite the liberal, pro-European coalition coming to power in Poland after the October 2023 elections, the new government strengthened, rather than reversed, the country's hardline migration policies. In early 2025, it amended the law to permit the suspension of the right to claim asylum in cases of alleged instrumentalisation,[42] despite clear conflicts with the Polish Constitution, EU law, and international human rights standards.[43]

At the EU level, the most significant development has been the adoption of the Crisis and Force Majeure Regulation,[44] which is part of the New Pact on Migration and Asylum and shall apply from 1 July 2026. The Regulation formally codifies the instrumentalisation concept,[45] allowing Member States to delay asylum registration, expand the use of border procedures, and increase detention in such scenarios. Although the Regulation stops short of explicitly permitting pushbacks or the suspension of asylum rights, it offers only minimal procedural safeguards.[46]

[39] Lietuvos Respublikos valstybės sienos ir jos apsaugos įstatymo Nr. VIII-1666 1, 2, 4, 10, 11, 14, 15, 16, 18, 23, 26 straipsnių pakeitimo ir Įstatymo papildymo 23-1 straipsniu ir nauju IX skyriumi įstatymas (TAR, 2023-04-26, Nr. 2023-08044), https://www.infolex.lt/ta/849616 [accessed: 23.10.2025].

[40] Grozījums Latvijas Republikas valsts robežas likumā (22.06.2023, *Latvijas Vēstnesis*, no. 125), https://www.vestnesis.lv/op/2023/125.5 [accessed: 23.10.2025]; Grozījums Latvijas Republikas valsts robežas likumā (22.06.2023, *Latvijas Vēstnesis*, no. 125), https://www.vestnesis.lv/op/2023/125.5 [accessed: 23.10.2025].

[41] For analysis and criticism, see Jaana Palander and Mehrnoosh Farzamfar, "Border Crisis as a Crisis of Law: National Security & Mobility Rights at the Eastern Border of Finland", *IACL-AIDC Blog,* 11 July 2024, https://blog-iacl-aidc.org/2024-posts/2024/7/11/border-crisis-as-a-crisis-of-law-national-security-amp-mobility-rights-at-the-eastern-border-of-finland [accessed: 23.10.2025]; Jukka Könönen, **"**Beyond the Northeastern Border Spectacle: The Instrumentalisation of Hybrid Threats to Suspend Asylum Law', *Border Criminologies Blog,* 11 March 2025, https://blogs.law.ox.ac.uk/border-criminologies-blog/blog-post/2025/03/beyond-northeastern-border-spectacle [accessed: 23.10.2025].

[42] Art.1. Zmiana ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej (Dz.U.2025.389, Wersja od 26.03.2025), https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/zmiana-ustawy-o-udzielaniu-cudzoziemcom-ochrony-na-terytorium-22125980/art-1 [accessed: 23.10.2025].

[43] For criticism see Maciej Grześkowiak, "Poland's Ban on Asylum – A New Low", *EUobserver,* 28 February 2025, https://euobserver.com/migration/ard2ed88b7 [accessed: 23.10.2025].

[44] Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147 [2024] *OJ L2024/1359.*

[45] See Section 2.1. for more details.

[46] For an analysis see, e.g., Violeta Moreno-Lax, "The 'Crisification' of Migration Law: Insights from the EU External Border", *Queen Mary Law Research Paper* No. 403/2023, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4577364 [accessed: 23.10.2025].

2. Visas and the narrative of "migrant instrumentalisation": A critical reappraisal

2.1. Conceptual and legal challenges

A general observation regarding the instrumentalisation narrative in EU legal and political discourses is that it operates as a simplified and generalised framing that serves to deflect attention from the EU's own externalisation and containment policies. These policies, which aim to prevent nationals of refugee-producing countries from reaching EU territory, are heavily reliant on restrictive visa regimes and the near-total absence of legal pathways for protection seekers. It is these barriers, rather than the actions of Belarusian authorities, that primarily compel people to resort to dangerous and irregular routes in their efforts to access protection in the EU. The route through Belarus represents only one such example. It is no coincidence that passports from countries such as Afghanistan, Syria, and Iraq rank among the lowest globally in terms of mobility rights. Nationals of these states – precisely those most likely to qualify for international protection – require visas to access most countries worldwide, and securing a visa to enter states in the so-called Global North, including EU Member States, is extremely difficult.[47] From the perspective of global mobility alone, and irrespective of the instrumentalisation context, the comparatively liberal visa regimes of Belarus and Russia may be viewed in a positive light for the access they provide to cross-border movement, particularly against the backdrop of global passport inequality.[48]

The instrumentalisation narrative, by contrast, effectively allows for the exclusion of foreign nationals from fundamental rights protections based solely on the route they take to reach the EU. This framing overlooks the structural drivers behind irregular journeys and largely depicts individuals as passive subjects. However, empirical evidence challenges this portrayal, demonstrating that many of those affected exhibit considerable agency in shaping their journeys, actively navigating and attempting to overcome global mobility constraints. Several of my interviewees, for instance, selected the Belarus route because it was seen as comparatively safer – often after failed attempts to reach the EU through alternative pathways. Farooq, a protection seeker who was eventually returned to Iraq after spending two and a half months at the Latvia-Belarus border, described his experience as follows:

[47] See Global Passport Power Rank 2025, https://www.passportindex.org/byRank.php [accessed: 23.10.2025]. For a discussion on the EU externalisation and containment policies see, e.g., Valsamis Mitsilegas, "The EU external border as a site of preventive (in)justice", *European Law Journal*, 28(4-6), 2022, 263-280, DOI: 10.1111/eulj.12444; Violeta Moreno-Lax, "Crisis as (Asylum) Governance: The Evolving Normalisation of Non-access to Protection in the EU", *European Papers,* 9(1), 2024, 179-208, DOI: 10.15166/2499-8249/752; Sarah Ganty and Dimitry Kochenov, "EU Lawlessness Law", *Columbia Journal of European Law,* 30, 2024, 78-156; Ermioni Xanthopoulou, "Mapping EU Externalisation Devices through a Critical Eye", *European Journal of Migration and Law*, 26/1, 2024, 108135, DOI: 10.1163/15718166-12340170.

[48] This holds true regardless of the level of protection Belarus and Russia offer to third-country nationals, insofar as global mobility denotes a broader conceptual terrain encompassing entry and residence through regular, semi-regular, or irregular means and is closely tied to an individual's agency to move – even when the resulting living conditions may be inadequate or far from decent. See Section 2.2. for more details on living conditions in Russia.

> I am a Kurd from Mosul. I wanted to become a refugee in Europe because I have been threatened by some groups in Iraq. They want to kill me. In 2018, I tried to go to Europe via Turkey but Turkish border guards beat me up, put me in jail for ten days and returned [me] back to Iraq. In 2020, I went to Greece but Greek commandos caught me near Saloniki [Thessaloniki] and sent me back to Turkey. And Turkey again sent me back to Iraq. This time I tried to go to Latvia – I paid $1,800 to get to Minsk. Now I am back but I will keep trying to move to Europe – anywhere safe.

Furthermore, from a legal standpoint, the concept of instrumentalisation remains overly broad and imprecise, significantly undermining legal certainty – even where attempts have been made to define it explicitly. Under the Crisis, Force Majeure and Instrumentalisation Regulation, a situation of instrumentalisation is defined as one in which a

> third country or hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons to the EU's external borders or into a Member State, with the aim of destabilising the Union or a Member State, and where such actions are likely to threaten essential state functions, including the maintenance of public order or the safeguarding of national security.[49]

One of the core issues with this definition is the ambiguity surrounding what it means to "encourage or facilitate" the movement of foreign nationals to the EU's external borders. If interpreted to include the issuance of visas to individuals who would otherwise be unable to enter the EU – or the introduction of visa-free regimes with specific third countries – such a reading risks encroaching on the sovereign right of states to regulate the entry and stay of foreign nationals, including through the operation of independent visa policies.[50] The requirement to demonstrate that a third country acted with the intention of destabilising the EU is equally problematic. It is overly expansive and fundamentally undermines the principle of legal certainty, particularly given that visas are generally issued for ordinary purposes such as tourism, education, employment, or private visits. Even if a more permissive visa regime is politically motivated or intended to exert diplomatic pressure, imputing a destabilising intent remains a subjective and highly generalised judgment. This framing risks portraying all recipients of Belarusian or Russian visas who later attempt to cross into the EU irregularly as being instrumentalised, thereby disregarding their individual circumstances, personal agency, and the diverse motivations behind their journeys.

2.2 Russian visas

In light of the above, from a strictly legal standpoint, allegations that Belarus deliberately relaxed its visa regime for nationals of certain countries to exert pressure on the EU are difficult to substantiate and should therefore be treated with caution. Even aside from legal considerations, it is important to emphasise that the alleged Belarusian facilitation of migration through visa issuance appears to be short-lived, occurring primarily between the summer of 2021 and late that year or early 2022. As outlined in Section 1.3, since early 2022,

[49] Reg 2024/1359, art 4(b).

[50] ECtHR Judgment of 28 May 1985, *Abdulaziz, Cabales & Balkandali v. UK,* Applications nos. 9214/80, 9473/81 and 9474/81, § 67.

foreign nationals have most frequently arrived at the Belarus-EU border using Russian visas or transiting through Russia without a visa, either due to visa-free arrangements or irregularly. In this context, claims that Russia deliberately manipulates its visa policy as a geopolitical tool to destabilise the EU warrant especially careful scrutiny.

Individuals arriving at the EU border irregularly from Belarus via Russia represent a diverse range of nationalities, including Syrian, Afghan, Iraqi, Iranian, Somali, Indian, Bangladeshi, Yemeni, Turkish, Cuban and Sri Lankan nationals,[51] and their circumstances of entering Russia vary. In this context, it is important to emphasise that Russia has a large and diverse foreign-born population[52] and remains a significant destination country. According to official statistics, in both 2023 and 2024 Russia recorded over 15 million entries by foreign nationals each year. In 2024 alone, Russian authorities issued an estimated 1.4 million visas to individuals from abroad.[53] Russia has also recently expanded its electronic visa regime, which now applies to nationals of over 60 countries, including China, India, and Iran.[54] In 2024, China accounted for the highest number of visas issued (over 550,000) followed by Turkmenistan, Saudi Arabia, India, Türkiye, and Germany. The purposes of travel varied: for example, while most Turkish and German nationals entered on tourist visas, nearly half of the paper visas issued to Indian nationals (22,600 in total) were for employment.[55] In addition, Russia maintains visa-free entry arrangements with numerous countries, particularly members of the Commonwealth of Independent States (CIS), as well as politically aligned states such as Cuba and several others in Latin America.[56]

For nationals of countries not eligible for e-visas, traditional visa application processes remain relatively accessible and are often more permissive than those of the EU. This includes nationals of refugee-producing countries, for whom obtaining EU entry visas is exceptionally difficult.[57] Following the outbreak of the civil war in Syria in 2011, for example, Russia remained one of the few countries that continued to issue tourist visas to Syrian passport

[51] See, e.g., Council of the European Union, Document 5234/25 (n 34). These nationalities have also been mentioned by my informants.

[52] As of 2020, Russia had the fourth-largest foreign-born population worldwide, following the United States, Germany, and Saudi Arabia. IOM, World Migration Report 2022, https://publications.iom.int/books/world-migration-report-2022 [accessed: 23.10.2025].

[53] For the statistics see, "Rossiya v 2024 godu uvelichila vydachu viz inostrantsam na 40 %. Kto poluchaet razresheniya na v'ezd", *RBK*, 15 April 2025 (in Russian), https://www.rbc.ru/business/15/04/2025/67fcf4f99a794769945b186f?from=from_main_9 [accessed: 23.10.2025].

[54] The list of states whose nationals can apply for a Russian e-visa is published on the website of the Consular Department of the Russian Ministry of Foreign Affairs: https://electronic-visa.kdmid.ru/country_en.html [accessed: 23.10.2025].

[55] "Rossiya v 2024 godu uvelichila vydachu viz inostrantsam na 40 %" (n 53).

[56] "Informatsiya o vizovom/bezvizovom rezhime poezdok grazhdan po razlichnym vidam pasportov, ustanovlennom mezhdunarodnymi soglasheniyami, a takzhe odnostoronnimi resheniyami vlastey" (as of 19.09.2025) (in Russian), https://www.kdmid.ru/info-for-traveling-abroad/reference-information-for-traveling-abroad/list-of-countries-with-simplified-entry/ [accessed: 23.10.2025].

[57] Even though the Russian authorities maintain a list of countries considered to pose a "migration risk" for Russia, and applications for Russian visas from nationals of these countries shall be subjected to more careful scrutiny. The list is not publicly available.

holders.[58] Such migration routes are frequently facilitated by informal networks and intermediaries, with recurrent reports of low-level corruption at Russian consulates – dating back well before 2022. Russian refugee support organisations have documented cases in which Syrian families paid several thousand dollars for tourist visas.[59] Similar patterns have been observed among nationals of African countries.[60] Student visas also remain a common entry route. For example, the Russian government allocates a number of scholarships each year for foreign students, including individuals from Afghanistan and Iraq.[61] There is also the possibility to study in Russia on a fee-paying basis or to enrol in Russian language courses. However, the use of student or business visas has also frequently been linked to low-level corrupt practices involving intermediaries, local officials, and consulates.

It is not uncommon for such schemes to be used by foreign nationals to enter Russia and subsequently travel to the Belarusian border with the EU. These dynamics have been extensively documented in media reports. One illustrative case involved two Syrian nationals fleeing military conscription, who obtained student visas from the Russian consulate in Damascus. They paid $2,500 and $3,000, respectively, to intermediaries who arranged university invitations and prepared the necessary documents. After flying from Damascus to Moscow, the Syrians continued their journey to Belarus and then onwards to the EU border.[62]

A similar case involved a programme launched by the Russian Embassy in Djibouti, which offered law enforcement training for Somali police officers. Investigations later revealed that senior Somali police officials had allegedly sold visas on the black market. These visas were then purchased by people who used them to enter Russia and attempt onward travel to the EU via Belarus.[63]

Moreover, while many individuals crossing from Belarus used Russia solely as a transit country *en route* to the EU, others initially entered with the intention of settling in Russia. Interviews conducted during the course of my research indicate that those attempting to cross the Belarus-EU border are not necessarily recent arrivals. Rather, many have resided in Russia for extended periods and have subsequently abandoned efforts to regularise their legal status or

[58] See, e.g., Ekaterina Fomina, "Syrian refugees in Russia have to fight for their rights", *openDemocracy,* 2 November 2017, https://www.opendemocracy.net/en/odr/syrian-refugees-in-russia/ [accessed: 23.10.2025].
[59] Ibid.
[60] "Kak ustroena zhizn' siriiskikh i drugikh bezhentsev v Rossii" (Civic Assistance Committee, 28.07.2015) (in Russian), https://refugee.ru/news/kak-ustroena-zhizn-sirijskih-i-drugih-bezhentsev-v-rossii/ [accessed: 23.10.2025].
[61] "Passports and visas for Russia issued to 365 Afghan scholarship students", *Ariana News*, 21 October 2022, https://www.ariananews.af/passports-and-visas-for-russia-issued-to-365-afghan-scholarship-students/ [accessed: 23.10.2025]; "Russia to offer 70 scholarships to Kurdistan Region students for 2025-2026 academic year", *Kurdistan24*, 8 October 2024, https://www.kurdistan24.net/en/story/805295/russia-to-offer-70-scholarships-to-kurdistan-region-students-for-2025-2026-academic-year [accessed: 23.10.2025].
[62] Vadikh El-Khayek, '"Oni podpisali chto-to, sami ne ponyali, chto. A tut im govoryat: v armiyu'", *Novaya Gazeta*, 1 February 2024 (in Russian), https://novayagazeta.ru/articles/2024/02/01/oni-podpisali-chto-to-sami-ne-poniali-chto-a-tut-im-govoriat-v-armiiu [accessed: 23.10.2025].
[63] See "Somalia-Russia partnership sparks immigration crisis in Europe, Finland suffers most", *HornObserver*, 19 November 2023, https://hornobserver.com/articles/2523/Somalia-Russia-partnership-sparks-immigration-crisis-in-Europe-Finland-suffers-most [accessed: 23.10.2025].

decided to seek protection in the EU due to deteriorating conditions in Russia, including an increasingly repressive human rights environment.[64]

These cases highlight the fact that, although Russia may be comparatively easier to enter for certain nationalities, it remains largely inhospitable as a destination country. Although entry into Russia may be facilitated through visa-free regimes or corrupt consular practices, asylum approval rates remain exceedingly low.[65] The prevailing living conditions are challenging and, when combined with pervasive informality and corruption, frequently compel foreign nationals to overstay their visas and engage in irregular employment. Many reside in precarious circumstances, subject to continual threats of deportation and systemic obstacles such as police harassment, extortion, and racialised violence. For example, although Russia currently hosts thousands of Syrians and Afghans who arrived at different times, many have lived there for extended periods in a state of legal limbo.[66] Furthermore, since the outbreak of the war in Ukraine in 2022, Russian authorities have increasingly sought to recruit foreign nationals – particularly those detained in immigration centres or in precarious legal situations – to fight in the conflict. In return, these individuals are promised legal status or Russian citizenship. [67]

The ECtHR case of *C.O.C.G. and Others v. Lithuania*[68] vividly illustrates these dynamics. The applicants, Cuban nationals who fled Cuba due to well-founded fears of persecution, initially travelled to Russia under the visa-free regime. Despite their attempts to establish themselves in Russia, they faced persistent police harassment, demands for bribes, and threats of deportation. Finding it untenable to live safely in Russia, they travelled to Belarus and sought to cross into Lithuania to claim asylum. However, they were subjected to multiple pushbacks by Lithuanian authorities, who denied them the opportunity to submit asylum applications and left them stranded in the border area for extended periods.[69]

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[64] Similar patterns were observed during the incident at the Russian borders with Norway and Finland in late 2015 to early 2016, as described in Section 1.1. See Joni Virkkunen and Minna Piipponen, "Informal Practices and the Rule of Law" (n 16).

[65] **"**Migratsionnye itogi 2024 goda: MVD Rossii priznalo bezhentsami 12 chelovek, 5,3 tysyachi poluchili status "vremennoe ubezhishche"' (Civic Assistance Committee, 28.02.2025) (in Russian), https://refugee.ru/en/dokladyi/migraczionnye-itogi-2024-goda-mvd-rossii-priznalo-bezhenczami-12-chelovek-53-tysyachi-poluchili-status-vremennoe-ubezhishhe [accessed: 23.10.2025].

[66] See, e.g., "Kak ustroena zhizn' siriiskikh i drugikh bezhentsev v Rossii" (Civic Assistance Committee, 28.07.2015) (n 60); Ivan Aleksandrov, "Rossiya: afganskie bezhentsy v zalozhnikakh u byurokratii i ksenofobii", *eurasianet*, 24 January 2022 (in Russian), https://tinyurl.com/yrwwz2j4 [accessed: 23.10.2025].
For a discussion on the precarious living conditions faced by migrants and protection seekers in Russia, see, e.g., Joni Virkkunen and Minna Piipponen, "Informal Practices and the Rule of Law" (n 16), Rano Turaeva, "Capitalising Precarity: Wellbeing of Migrants in Russia", *Journal of Labor and Society* 27(3), 2023, 397-414, DOI: 10.1163/24714607-bja10120.

[67] Hanna Sokolova-Stekh, "How Russia is recruiting foreigners to fight in Ukraine", *DW*, 22 August 2024, https://www.dw.com/en/how-russia-is-recruiting-foreigners-to-fight-in-ukraine/a-70019040 [accessed: 23.10.2025]; Mikhail Kalinin, "Lost in Translation: How African migrants are tricked and threatened into Russian military service", *The Insider*, 7 November 2024, https://theins.ru/en/politics/276018 [accessed: 23.10.2025].

[68] *C.O.C.G. and Others v. Lithuania* (Application No. 17764/22).

[69] Unpublished case materials, on file with the author.

2.3 Interlinkages between visa policies and other alleged tools of instrumentalisation

As the analysis above has shown, people crossing from Belarus have consistently formed a highly diverse group in terms of nationality, mode of entry into Belarus or Russia, and personal circumstances. Given the high number of visas issued annually by Russia, its relatively liberal visa policy, and the persistence of low-level corruption, the claim that a small number of individuals entering the EU via Belarus[70] are deliberately issued Russian visas to pressure the EU is unsustainable. This assertion becomes even less tenable by the fact that many individuals initially intended to remain in Russia but chose to leave due to harsh living conditions and human rights violations. Similar patterns – albeit, perhaps, to a lesser extent – have also been observed in Belarus: for example, students from various African countries arrived on student visas to pursue higher education, but many found themselves in precarious situations due to restrictions on work and the inability to pay tuition, prompting them to attempt to cross into the EU.[71]

Moreover, measures targeting perceived instrumentalisation are blanket in nature and affect even those who never obtained Belarusian or Russian visas. By imposing sweeping restrictions on asylum, EU Member States effectively imply that all foreign nationals crossing irregularly from Belarus are being instrumentalised, regardless of their actual circumstances. Even within the limited timeframe of the 2021 border events, the notion of a homogeneous group is misleading. While most did arrive with Belarusian visas, others – such as Rohullah (as described in the introduction) and various other groups – transited through Belarus without visas, relying on smuggling networks operating along long-established irregular Central Asian-Russian routes.

When considering the period from 2022 onwards – and while a detailed analysis of other aspects of perceived "migrant instrumentalisation", such as the transportation of third-country nationals to the border or the failure to prevent irregular crossings, falls outside the scope of this paper – certain observations can nevertheless be made. These observations further support the argument that Russian visa policies are not driven by an intent to exert pressure on the EU. Rather, the evidence points to a proliferation of smuggling networks since the onset of the crisis in 2021 – networks that already existed prior to 2021 but have since expanded. This expansion appears to be facilitated by Belarus' continuous failure to prevent irregular border crossings, as well as by low-level corruption at various stages of the migration process, including within travel agencies, local authorities, and Russian consulates abroad.

Interviews conducted in the course of this research, alongside media reports, suggest that the majority of individuals crossing from Belarus are transported to the border by intermediaries

[70] In 2021, at the peak of the crisis, Polish border guards recorded fewer than 40,000 "attempts of illegal border crossings" from Belarus. Straż Graniczna [Polish Border Guard], "W 2021 r. granicę polsko-białoruską próbowano nielegalnie przekroczyć 39 670 razy, w 2020 r. nielegalnych przekroczeń było 129, w 2019 r.—20, w 2018 r.—4" (X, 04.01.2022) https://x.com/Straz_Graniczna/status/1478327785903038469 [accessed: 23.10.2025]. In the following years, the numbers have sharply decreased and, at certain times, dropped close to zero. See, e.g., Adriana Sas, "Number of Attempts to Illegally Cross the Polish-Belarusian border in Poland from August 2021 to July 2025", *Statista*, 4 August 2025, https://www.statista.com/statistics/1271292/poland-attempts-of-illegal-crossing-of-the-polish-belarusian-border/ [accessed: 23.10.2025].

[71] Humana Constanta, "Humanitarian Crisis in Belarus and the European Union Border in 2023-24" (n 35), 6.

of varied backgrounds who operate as non-state actors, although some undertake the journey independently. Demonstrating direct involvement by Russian or Belarusian state authorities in these operations would require concrete evidence of state-level coordination or complicity within specific fixer networks – an extremely challenging, if not impossible, undertaking.

Furthermore, the current *modus operandi* of Belarusian authorities contradicts the notion of a deliberate, centralised and organised state policy to transport people to the border. Unlike their earlier negligence towards or facilitation of transit of foreigners during 2021-2022, Belarusian authorities have increasingly engaged in the irregular detention of individuals within their territory in subsequent years, with many being deported back to Russia, from where they originally travelled.[72]

A related, though distinct, issue often considered part of the perceived instrumentalisation is the *modus operandi* of Belarusian authorities at the border. While there is currently no evidence that Russian or Belarusian authorities systematically organise trips to Belarus or transport non-EU nationals to the border, Belarusian border guards nevertheless continue to fail to prevent irregular crossings into the EU. In many cases, they also prohibit non-EU nationals from leaving the border zone, forcing repeated attempts to cross into the EU, which, to a large extent, mirrors pushback practices by their EU Member State counterparts. Labelling such practices – particularly the mere failure to prevent irregular crossings – as "migrant instrumentalisation", however, is legally problematic. It should be emphasised that international human rights law does not impose an obligation on state authorities to prevent individuals from crossing irregularly into neighbouring states. On the contrary, the 1951 Refugee Convention recognises that many refugees may arrive irregularly and expressly prohibits penalising those seeking protection for irregular entry (Article 31).

Similar considerations also apply to the incident at the Russian-Finnish border in 2023, mentioned in Section 1.3. When several hundred third-country nationals attempted to cross the Russian-Finnish border to claim asylum in Finland, the Finnish government labelled it as "migrant instrumentalisation".[73] However, there is no credible evidence to support the claim that this route was deliberately organised by the Russian state. Instead, it appears to have been used by fixer networks after Russia terminated its border agreement with Finland amid rising tensions with Helsinki following the Russian invasion of Ukraine[74] and ceased preventing foreigners without valid Schengen visas from entering Finland.

Multiple media reports indicate that fixer networks soon began operating the route, with information circulating widely on social media and in internet chat groups. Some foreign nationals involved had previously made unsuccessful attempts to enter the EU via Belarus and

[72] Humana Constanta, "Humanitarian Crisis in Belarus and the European Union Border in 2023-24" (n 35), 14, 16.
[73] See n 16 for more details.
[74] Thomas Nilsen, "Russia terminates cross-border agreement with Finland", *The Barents Observer*, 22 October 2023, https://www.thebarentsobserver.com/life-and-public/russia-terminates-crossborder-agreement-with-finland/152712/ [accessed: 23.10.2025].

later sought entry via Finland, sometimes independently and without intermediaries.[75] Another factor undermining claims of a coordinated Russian state strategy to facilitate these movements is that, near the Finnish border, Russian authorities frequently conducted police checks. In late 2023, at least 230 individuals were arrested in Karelia alone – one of three Russian regions bordering Finland – for remaining in Russia without valid visas. Numerous reports also indicate that, while in pre-deportation detention, some of these foreign nationals were approached by military recruiters and pressured to sign army contracts as a means of avoiding deportation.[76]

Conclusion

This paper has examined the relationship between visa policies as migration management tools and the concept of "migrant instrumentalisation" through the EU-Belarus border crisis. In summer 2021, after EU sanctions on Minsk, Belarus increased visa issuance to nationals from refugee-producing countries, enabled their passage to the EU border, and ceased preventing irregular crossings, causing the rise in irregular arrivals in the EU. Latvia, Lithuania, and Poland framed this as deliberate instrumentalisation by Belarus and Russia to destabilise the EU, using this narrative to justify severe restrictions on the right to seek asylum that violate EU and international law. Over the subsequent years, the temporary measures became permanent and have been indirectly supported and formally endorsed by the EU, which culminated in embedding the instrumentalisation concept into EU hard law.

The relaxation of visa requirements in Belarus has been cited by EU policymakers as a key element of "migrant instrumentalisation". However, this narrative diverts attention from EU's own restrictive visa policies and lack of legal protection routes, which force many protection seekers from countries like Iraq, Syria, and Afghanistan to attempt dangerous irregular journeys, including via Belarus. The instrumentalisation framing excludes foreign nationals from rights protections solely based on their route, ignoring the structural causes of irregular migration and the active agency of many people on the move who choose routes like Belarus as comparatively safer alternatives after failed attempts elsewhere.

Second, establishing an aim to destabilise the EU is challenging and undermines legal certainty, as visas are officially issued for ordinary purposes such as tourism, study, or work. Even if a more relaxed visa regime is politically motivated, attributing a deliberate intent to destabilise is subjective, overly broad and nearly impossible to substantiate from a legal perspective. This risks unfairly categorising all Belarusian or Russian visa holders who

[75] See, e.g., Oleg Boldyrev, "Russia luring migrants from Finnish border for war in Ukraine", *BBC Russian*, 7 December 2023, https://www.bbc.com/news/world-europe-67647379 [accessed: 23.10.2025].

[76] Ibid; Sergei Romashenko, "Iz Murmanskoi oblasti deportiruyut migrantov iz Indii i Sirii", *DW*, 15 January 2024 (in Russian), https://www.dw.com/ru/iz-murmanskoj-oblasti-deportiruut-migrantov-iz-indii-i-sirii/a-67983752 [accessed: 23.10.2025]; Shaun Walker and Faisal Ali, "Beaten and conscripted into Putin's army: A Somali refugee attempts to reach Europe", *The Guardian*, 29 July 2024, https://www.theguardian.com/world/article/2024/jul/29/somali-refugee-reach-eu-putin-russia-germany [accessed: 23.10.2025].

subsequently cross into the EU irregularly as instrumentalised, disregarding their individual circumstances and agency.

Crucially, available evidence shows that the situation at the Belarus-EU border has changed significantly since the crisis began in summer 2021. While most non-EU nationals initially entered Belarus directly with Belarusian visas, a notable shift occurred around early 2022. Since then, the majority have travelled first to Russia – often using Russian visas or visa-free arrangements – before crossing overland into Belarus. By 2022, this Russia-Belarus transit route had become the dominant pathway for irregular entry into the EU via Belarus. Currently, however, there are no clear indications that Russia operates a centrally coordinated visa policy aimed specifically at pressuring the EU. Such assertions oversimplify complex migration dynamics and overlook important factors such as decentralised corruption, the role of fixer networks, the agency of migrants, and established regional mobility patterns.

Those crossing into the EU from Belarus represent a highly diverse group. Russia issues over a million of visas annually, including to nationals from refugee-producing countries, and maintains visa-free arrangements with many states, making its visa policy generally more permissive than that of the EU. It is therefore unsurprising that some foreign nationals obtain Russian visas through informal channels involving low-level corruption – with the aim to cross into the EU via Belarus after entering Russia. Moreover, many of those seeking to cross from Belarus have lived in Russia for extended periods, only attempting irregular entry into the EU after facing harsh living conditions, systemic harassment by authorities, low asylum approval rates, and legal precarity in Russia. Additionally, some arrive at the EU–Belarus border via Russia without holding any visas, travelling irregularly. These observations further undermine the assumption that Russian visa policies are designed to exert pressure on the EU. Rather, the evidence points to an expansion of fixer networks since the border crisis began in 2021 – networks that existed beforehand but have grown. This expansion appears facilitated by Belarus's continuous failure to prevent irregular border crossings, alongside low-level corruption throughout the migration process, including in travel agencies, local authorities, and Russian consulates abroad.

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