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# **Asylum and return: Commission proposes temporary legal and practical measures to address the emergency situation at the EU's external border with Belarus**

8-9 minutes

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The Commission is today putting forward a set of temporary asylum and return measures to assist Latvia, Lithuania and Poland in addressing the emergency situation at the EU's external border with Belarus. The measures will allow these Member States to set up swift and orderly processes to manage the situation, in full respect of fundamental rights and international obligations, including the principle of non-refoulement. The proposal follows the invitation by

the European Council for the Commission to propose any necessary changes to the EU's legal framework and concrete measures underpinned by adequate financial support to ensure an immediate and appropriate response in line with EU law and international obligations, including the respect of fundamental rights. The measures, based on [Article 78\(3\) of the Treaty on the Functioning of the European Union](#) Search for available translations of the preceding link, will enter into force after their adoption by the Council. The European Parliament will be consulted. The measures will remain in force for a period of 6 months.

Vice-President for Promoting our European Way of Life, Margaritis **Schinas**, said: *“In the past weeks, we have managed to bring the EU's collective weight to bear in face of the hybrid attack directed at our Union. Collectively, the EU made clear that attempts to undermine our Union will only solidify our solidarity with one another. Today we are giving living manifestation to that solidarity: in the form of a set of temporary and exceptional measures that will equip Latvia, Lithuania and Poland with the means needed to respond to these extraordinary circumstances in a controlled and swift manner and to operate in conditions of legal certainty.”*

Commissioner for Home Affairs, Ylva **Johansson**, said: *“Although the EU's intense efforts have brought rapid results, the situation remains delicate. Today, to protect our borders, and to protect people, we are giving flexibility and support to Member States to manage this emergency situation, without compromising on human rights. This should allow the Member States in question to fully uphold the right to asylum and align legislation with EU acquis. It's also time limited and targeted. To make our response to hybrid threats future-proof, we activate the EU's formidable diplomatic and legal capacity, to apply sanctions and persuade third countries to stop flights. We will soon propose a reform of the Schengen rules. Making progress now on the Pact on Migration and Asylum is essential.”*

### **Provisional measures proposed**

The measures included in this proposal are of an extraordinary and exceptional nature. They will apply for a period of 6 months, unless extended or repealed, and will apply to non-EU nationals who have irregularly entered the EU from Belarus and are at the vicinity of the border or those who present themselves at border crossing points.

The main elements of the proposal are:

### **Emergency migration and asylum management procedure at the external borders:**

- The 3 Member States will have the possibility to **extend the registration period for asylum applications** to 4 weeks, instead of the current 3 to 10 days. The Member States may also apply the **asylum procedure** at the border to process all asylum claims, including the appeal, within a maximum of 16 weeks - except where adequate support for applicants with particular health issues cannot be provided. In doing so, well-founded claims and those of families and children should be prioritised.
- **Material reception conditions:** Member States focus reception conditions on the covering of basic needs, including temporary shelter adapted to the seasonal weather conditions, food, water, clothing, adequate medical care, and assistance to vulnerable persons, in full respect of human dignity. It is important that Member States ensure close cooperation with UNHCR and relevant partner organisations to support individuals in this emergency situation.

- **Return procedure:** Member States concerned will be able to apply simplified and quicker national procedures including for the return of people whose applications for international protection have been rejected in this context.

All procedures carried out in line with this proposal must respect fundamental rights and specific guarantees provided for by EU law, including the best interests of the child, emergency health care and needs of vulnerable people, the use of coercive measures and detention conditions.

### **Practical support and cooperation:**

- **Support from EU agencies:** EU agencies stand ready to help the Member States on request. The European Asylum Support Office (EASO) can help register and process applications, ensure screening of vulnerable people and support the management, design and putting in place of adequate reception. Further Frontex support is available for border control activities, including screening and return operations. Support from Europol is also available to provide intelligence to counter smuggling.

- **Continued cooperation:** The Commission, the Member States and EU Agencies will continue their cooperation, including an obligation on the Member States to continue reporting relevant data and statistics via the EU Migration Preparedness and Crisis Management Network.

The Commission will regularly reassess the situation and may propose to the Council to prolong or repeal these provisional measures.

### **Next steps**

Article 78(3) of the Treaty on the Functioning of the EU states that after consulting the European Parliament, the Council may adopt provisional measures for the benefit of the Member States concerned. This happens by qualified majority vote. Once agreed by the Council, in view of the urgency of the situation, this Decision should enter into force the day after its publication in the Official Journal of the EU.

### **Background**

Since the summer, the Lukashenko regime and its supporters have initiated a hybrid attack on the EU, especially Lithuania, Poland and Latvia, which have experienced an insidious new threat in the form of the instrumentalisation of desperate people.

In October 2021, the European Council invited the Commission to propose any necessary changes to the EU's legal framework to respond to the state-sponsored instrumentalisation of people at the EU's external border with Belarus. Article 78(3) of the Treaty on the Functioning of the European Union (TFEU) provides for the adoption of provisional measures in emergency migratory situations at the EU's external borders.

Today's proposal is the latest in a series of coordinated EU actions that include: targeted measures for transport operators that facilitate or engage in smuggling; diplomatic and external action; stepping up humanitarian assistance and support for border and migration management.

This proposal is in line with the comprehensive approach set out in the New Pact on Migration and Asylum. It complements the Schengen Borders Code and the upcoming Schengen reform, in

which the Commission intends to propose a permanent framework for addressing possible situations of instrumentalisation that may still confront the Union in the future.

Financing of this proposal will be accommodated within the budget of the existing EU funding instruments under the period 2014-2020 and 2021-2027 in the field of migration, asylum and border management. Where exceptionally necessary, if the situation aggravates further, the flexibility mechanisms within the Multiannual Financial Framework 2021-2027 could be used.

### **For More Information**

[Proposal for a Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland](#) Search for available translations of the preceding link

[Communication: Responding to state-sponsored instrumentalisation of migrants at the EU external border](#) Search for available translations of the preceding link