

Provisional emergency measures for the benefit of Latvia, Lithuania and Poland

2021/0401(CNS) - 02/12/2021 - Legislative proposal

PURPOSE: to establish provisional asylum and return measures in order to assist Latvia, Lithuania and Poland in dealing with the emergency situation at the EU's external border with Belarus.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: since the summer of 2021, the Union as a whole and Latvia, Lithuania and Poland in particular have been confronted with a hybrid threat in the form of **instrumentalisation of human beings**. This has resulted in an unprecedented increase in the number of unauthorised border crossings from Belarus.

Because of this instrumentalisation, 7 831 third country nationals have entered the territories of Latvia, Lithuania and Poland from Belarus in an unauthorised manner, compared to 257 in the entire 2020. There have been 2 676 asylum applications in Lithuania, 579 applications in Latvia and 6 730 applications in Poland. In addition, 42 741 attempts to cross were prevented by the three Member States. While an exact estimate would be difficult to give, up to 10 000 more migrants may be currently stranded in Belarus with further arrivals on a daily basis.

This instrumentalisation has led to a serious situation for these migrants at the EU's external borders with Belarus. Belarus' actions have created a humanitarian crisis, with a number of deaths already confirmed.

The EU has strongly condemned, at the highest level, this instrumentalisation of vulnerable migrants and refugees. In her State of the Union address, President von der Leyen described Belarus' actions as a **hybrid attack to destabilise Europe**.

Based on Article 78(3) of the Treaty on the Functioning of the European Union (TFEU), this proposal follows the invitation to the Commission by the European Council to propose any necessary changes to the Union's legal framework as well as concrete measures to ensure an immediate response to the hybrid threat, in accordance with Union law and international obligations. These measures would aim at further assisting Latvia, Lithuania and Poland to manage the current situation in a controlled and timely manner, while fully respecting fundamental rights and international obligations.

CONTENT: the proposal provides for **provisional measures for the benefit of three Member States** (Latvia, Lithuania and Poland) which are confronted with an emergency situation characterised by a sudden influx of third-country nationals and generated by the instrumentalisation of migrants.

The proposed measures are of an extraordinary and exceptional nature. They should apply for a **period of six months**, unless extended or revoked, to third-country nationals who have entered the EU irregularly from Belarus and are in the vicinity of the border or present themselves at border crossing points. These measures include the following elements:

(1) Emergency migration and migration management procedure at the external borders

The main features of this procedure are the following:

- the possibility for the Member States concerned to register an asylum application and to allow its effective lodging only at **specific registration points** close to the border, including at designated border crossing points;
- a **maximum of four weeks for the registration** of applications for international protection (for comparison, the Asylum Procedures Directive sets a time limit of three or six days and, in the event of a mass influx, up to 10 days);
- the possibility to apply the **accelerated procedure at the border** to decide on the admissibility and substance of all applications, except in cases where it is not possible to provide appropriate support to applicants with particular health problems;
- the possibility to apply **simplified and faster national procedures** for the return of persons whose application for international protection has been rejected;
- **specific provisions for material reception conditions**, focusing on the coverage of basic needs, including temporary shelter adapted to winter weather conditions, food, water, clothing, appropriate medical care, and assistance to vulnerable persons, in full respect of human dignity. These measures are accompanied by a series of safeguards, including the best interests of the child, emergency medical care, the needs of vulnerable persons and the use of coercive measures;

(2) Operational support by EU agencies

The proposal includes a chapter on operational support with a view to a possible reinforcement of the support provided by EU agencies at the request of the three Member States concerned.

This concerns in particular (i) the **European Asylum Support Office (EASO)** which can help register and process the applications, to ensure the screening of vulnerable migrants and in the management, design and establishment of adequate standards of reception facilities, (ii) **Frontex**, which can support border control activities, including screening and return operations, or (iii) **Europol**, which can provide intelligence.

The proposal also contains provisions on **cooperation** between the Commission, Member States and EU agencies, as well as the obligation for Member States to continue to report relevant data and statistics through the EU Crisis Management and Preparedness Network and for the Commission to regularly assess the situation.

Budgetary implications

The proposal will be accommodated within the budget of the existing EU funding instruments for the period 2014-2020 and 2021-2027 in the field of migration, asylum and border management. If the situation aggravates further, the flexibility mechanisms foreseen in the 2021-2027 MFF could be used.

In addition to the **EUR 360 million** foreseen for these Member States under the Border and Visa Management Instrument (BVI) for the financial period 2014-2020, an additional amount of around EUR 200 million will be available for 2021 and 2022, within existing resources, mainly under the envelope of the BVI thematic facility envelope.