



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

WITH LAWYERS
IN 21 COUNTRIES

Equality Privacy Social Rights
No Racism Peace No Torture No War
Self-Determination of Peoples Civil Rights Democracy
Human Rights Rights of Migrants

Bologna, Düsseldorf, London, Vienna, 05 December 2021

RESTORE REFUGEE RIGHTS AND HUMAN RIGHTS AT THE EU BORDER WITH BELARUS

The human tragedy at the EU border with Belarus is yet another example of the EU's failed refugee policy. The criminal treatment of refugees in Croatia recently revealed by the European Committee for the Prevention of Torture (CPT), the countless drowned refugees in the Mediterranean and recently in the English Channel, and the refugee prevention agreements with Turkey, Libya and Morocco provide further examples.

The EU can give the impression that it wants to use this refugee drama on the EU border with Belarus as a welcome distraction from its own inhumane refugee policy. Approximately 8000 refugees are stranded in the forests on the EU border with Belarus. They are subjected to terrible conditions there. For at least 12 of them, this has already ended in death.

While we condemn the irresponsible conduct of the Belarus leadership in weaponising migrants, we urge a lawful and humane response from the EU and its Member States which is in line with EU and international legal rights and obligations.

Highly vulnerable groups have become pawns in this struggle. They include pregnant women, young children, elderly and sick people who have fled war and persecution from Syria, Yemen, Afghanistan and Iraq, people who in the absence of safe migration routes have ended up as victims on the European border in freezing conditions.

ELDH therefore demands the following responses:

1. Access to people seeking asylum at the borders

Access to asylum in Poland, Lithuania and Latvia should immediately be restored, both in law and in practice in accordance with EU and international law, irrespective of the manner of arrival. All measures aimed at preventing people from accessing EU territory, (such as forceful pushbacks using water cannons and tear gas, prohibiting and limiting access to mechanisms for lodging of asylum claims from those who make it across the border into Europe) should cease.

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2. Withdrawal of non-compliant domestic legislation

The abandonment of refugees at the EU border with Belarus does not give the EU the right to endorse the temporary suspension of the application of the ECHR and international refugee law for the countries bordering Belarus.

ELDH calls on the European Commission to reverse its decision to endorse changes by Lithuania, Poland and Latvia to their domestic asylum legislation to render it incompatible with EU asylum policies, international treaties, the Charter for Fundamental Rights and international law. Whilst some of these changes are described as temporary, and have geographic restrictions, such derogations from human rights principles risks institutionalising unlawful practice.

For the 8000 migrants who have managed to cross the border to Lithuania, Poland or Latvia, ELDH calls on the EU to ensure that shelter, food and clothing are provided and not to endorse:

- automatic detention on arrival
- restriction of the right to claim asylum
- reduction in the standard of reception conditions
- restrictions on the right to seek legal advice
- removal to their country of origin or a third country after a person has applied for asylum without any examination as to whether that person's human rights will be breached on return.

This contradicts the international legal principle of *non refoulement* in international law. ELDH demands that infringement and disciplinary action should be taken.

3. Counteract repression of civil society, media and legal practitioners

Human rights activists providing humanitarian and legal assistance both on the border and in their own countries should not be criminalised. The border should be accessible to international media and monitored by independent experts to ensure that EU and international law is respected. Acts of violence by state enforcers and others should be condemned and investigated.