

Ref: CommHR/DM/sf 034-2023

Ms Mari RANTANEN
Minister of the Interior of Finland

Strasbourg, 4 December 2023

Dear Minister,

I am writing to you concerning the human rights of refugees, asylum seekers and migrants in the context of the full closure of Finland's Eastern land border for two weeks beginning from 30 November. I understand that this decision was taken as a result of concerns about the potential instrumentalisation by the Russian Federation of the movement of asylum seekers and migrants.

As I have previously expressed, including in my [letter](#) to the Finnish government of 27 July 2022, any instrumentalisation of migration movements by other states is to be condemned: such actions may place vulnerable people in a humanitarian or human rights emergency, while putting significant burdens on the receiving state. Nevertheless, it is crucial that Council of Europe member states, even when dealing with challenging situations at their borders, react in a manner that fully aligns with their human rights obligations. This is highlighted notably in a 2021 [Resolution of the Parliamentary Assembly of the Council of Europe](#). The actions of another state, as reprehensible as they may be, do not negate Finland's obligations under international refugee and human rights law, including as regards non-*refoulement*, the protection of the right to life, the prohibition of inhuman or degrading treatment, and the prohibition of collective expulsions.

In the above-mentioned letter, I expressed my concern about the human rights risks presented by a bill (subsequently passed) amending Section 16 of the Border Guard Act, which allows the government to restrict access to the border and to concentrate applications for international protection at one or more border crossing points under certain circumstances. In particular, I emphasised the need for specific safeguards to be put in place, in order to ensure that the rights of people arriving at Finland's borders remain adequately protected in the event that such measures are implemented. That provision now forms the basis of the decisions to restrict and subsequently close the Eastern land border.

In their [reply](#) and through subsequent, bilateral dialogue, the Finnish government provided certain assurances. Among other things, the government underlined that account must be taken of the actual possibility for persons to use an open border crossing point, and of specific measures to be taken, including the provision of guidelines and training of border guards in the event that Section 16 measures are activated.

Notwithstanding information that it will still be possible to seek asylum at ports and airports, the full closure of the Eastern land border raises concerns as regards genuine and effective access to means of legal entry in order to claim asylum, in accordance with the case-law of the European Court of Human Rights and other standards. I am concerned this step may lead to breaches of the principle of non-*refoulement* and of the prohibition of collective expulsion. I have noted in this regard the [position](#) of the Finnish Non-Discrimination Ombudsman that a previous decision to close all but one of the Eastern land border crossing points already "seriously jeopardises the right to seek asylum" – that assessment can have only aggravated as the result of a complete closure of the border. I further note that the UN High Commissioner for Refugees (UNHCR) has also [expressed concerns](#) in this regard.

I would therefore be grateful to receive information about any measures being taken to ensure the right to seek asylum, including, for example, whether and how individuals who arrive at the Eastern border are being assisted in order to exercise this right. In this respect, I would particularly appreciate clarifications about how people arriving at the border, including fenced-off parts of it, receive appropriate

information about the possibility to apply for asylum, any language and legal assistance they can access for this purpose, and how border guards are instructed to react when someone expresses an intention to claim asylum at that border. Additionally, I would be grateful to learn whether there are measures in place to subsequently transport people who have expressed an intention to apply for asylum to a place where they can submit their claim, and where this claim can be appropriately processed on the basis of an individual procedure.

Underlining my previous [Recommendations on pushbacks](#), I would further be grateful to hear about the way in which the authorities deal with those who, despite the closure of the border, enter Finnish territory irregularly and then attempt to seek asylum.

I find it positive that national legislation makes provision for exceptions where vulnerable people seek to present themselves at the border. However, I would appreciate information on what measures are being implemented to ensure that vulnerable persons are effectively identified at the border, bearing in mind that not all vulnerabilities are visible or self-evident. In particular, I would welcome information about the extent to which the Finnish border authorities are both sufficiently trained and have the possibility to carry out any vulnerability assessments, as well as how these may take shape in a practical way at the border.

Finally, I am concerned that the worsening weather conditions are creating considerable risks for the health and life of those who present themselves at the Eastern border. Given the above-mentioned considerations about vulnerability, I note that the current conditions might rapidly lead to people stuck at the border becoming extremely vulnerable, even if they were not upon arrival. In that regard, recalling the horrific incidents which have unfolded after migrants were stranded at the Belarussian border during the winters of [2021](#) and [2022](#), and noting also the vast area of Finland's so-called green border, it is crucial to take all necessary measures to ensure that a humanitarian crisis does not unfold at the Eastern border. I would like to request information on action being taken in this regard as well.

I look forward to our constructive dialogue on this matter.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a stylized flourish at the end.

Dunja Mijatović