



Iekšlietu ministrija

MINISTRY OF THE INTERIOR OF THE REPUBLIC OF LATVIA

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Ms. Dunja Mijatović,  
Commissioner for Human Rights,  
Council of Europe

F – 67075 Strasbourg Cedex

To: CommHR/DM/sf 004-2023, 27.01.2023.

Dear Ms. Mijatović,

First of all, let me thank you for the good wishes on my appointment as Minister of the Interior.

I would like to express my sincere gratitude for your continued interest in the human rights situation in our country, especially in the context of the state of emergency on the Latvian-Belarusian border. We appreciate the constructive contribution of your office, as well as other human rights actors and organizations, to the development of our services. The hybrid attack on our border, continued by the Belarusian regime, is a serious challenge for our services, and I would like to thank you once again for the attention you have paid to this situation.

I would like to point out that since November 2022 the number of attempts to cross the state border between Latvia and Belarus illegally has increased (429 in November 2022 and 1053 in December 2022). Also, the war against Ukraine launched by Russia and openly supported by Belarus can be seen as an additional risk factor and a possible motivation for Belarus to continue its efforts to destabilize the situation on its border with Latvia, thus putting pressure on the EU and NATO.

Information on illegal crossing of the border from the territory of Belarus is still received from the competent authorities of Lithuania and Poland. Thus, surveillance of Latvia-Belarus border in an enhanced regime should continue to be ensured. The fact that Poland has completed the construction of the permanent fence along the Polish-Belarusian border, while the construction of the permanent fence is already under way on the Lithuanian-Belarusian border, is also a significant factor.

Consequently, it is possible for Belarus to use the situation that a permanent fence has not been built along the Latvian-Belarusian border, thus increasing the number of persons illegally crossing the Latvian-Belarusian border.

Considering the above mentioned, on January 31, 2023, the Cabinet of Ministers has taken a decision to extend the state of emergency in municipalities, located next to the border with

Belarus (Ludza, Krāslava, Augšdaugava and Daugavpils municipalities), until May 10, 2023.

In our assessment, the current situation on the Latvian-Belarusian border is complicated, it is a serious challenge to democratic values. In such a situation, we appreciate the assessment made by the European Court of Human Rights not only in case *N.D. and N.T. v. Spain*, but also in case *A.A. and others v. North Macedonia*, which directly addresses the issues if not in identical situations at least in relatively similar situations.

I can confirm that the situation of the persons, who cross the border legally, is assessed with the utmost care. In case of illegal crossing of the border in order to enter the territory of Latvia and Schengen Member States illegally, including where there is obvious engagement of the Belarusian authorities, persons are provided with assistance due to their health threats or other disability. For example, the persons mentioned in your letter were considered as those, who have an objective and immediate need to be allowed to enter the country due to their individual circumstances (state of health). The persons were immediately provided with the necessary medical assistance.

At the same time, I would like to underline that prolonged emergency situation maintains the principle that, in the presence of objectively justified circumstances relating to the need for immediate entry of a person into a country outside the conditions laid down for lawful entry, persons may be allowed to enter the country and also apply for refugee or alternative status. Thus, the general framework provides for the implementation of the rights and legitimate interests of individuals at the designated border crossing points for lawful entry. At the same time, the special regime, established outside the designated border crossing points for lawful entry, does not prevent the exercise of the legal interests of persons.

I can also reiterate that proposed amendments to the Law on the State Border Guard only clarifies the rights and obligations of border guards and fully follows the principle that border controls are exercised in full compliance with a state's obligations, including principle of non-refoulement. The human rights of those arriving will be safeguarded even during challenging situation, however it should be noted that in the absence of the relevant objectively justified circumstances relating to the need for the immediate entry of a person into a country outside the procedure laid down for lawful entry, states are entitled, where appropriate, to refuse entry to the state, which does not constitute a breach of the principle of non-refoulement (see, for example, Paragraphs 178, 180, 184-185, 188, 200, 201, 210 of the European Court of Human Rights judgment of 13 February 2020 in cases 8675/15 and 8697/15 *N.D. and N.T. v. Spain*).

Madam Commissioner, I would like to stress that the staff of the institutions subordinate to the Ministry of the Interior strictly respect Latvia's human rights commitments when performing their professional duties in both daily and emergency circumstances. Officials of the State Border Guard evaluate obvious humanitarian conditions of persons attempting to illegally cross the Latvian-Belarusian border.

If necessary, persons discouraged from illegally crossing the border are provided with essential goods, food, water, as well as emergency medical assistance or such elements of assistance, which have also been emphasized by the European Court of Human Rights in its decision of 25 August 2021 in case *Ahmed and others v. Latvia* on the imposition of provisional protection

measures. At the same time, the European Court of Human Rights did not establish in the abovementioned decision an obligation to allow the relevant persons to enter the territory of the Republic of Latvia outside the border crossing points and procedures specified for lawful entry. The assistance measures established by the European Court of Human Rights were subsequently incorporated into the Cabinet's Order on the State of Emergency.

In addition, I would like to mention that the duty of the State Border Guard is not only to ensure border guarding, but also to respect humanity and protect human rights. Accordingly, the Cabinet's Order on the State of Emergency, other national legal framework and the State Border Guard in practice do not prevent non-governmental organizations from implementing their legal activities for the provision of the relevant assistance within the scope of their objectives.

I avail myself of this opportunity, dear Madame, to renew to the Council of Europe and to you personally the assurances of my highest consideration.

Yours sincerely,

Minister

Māris Kučinskis

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CONTAINS A TIME STAMP