

ENNHRI Statement on urgent and critical human rights concerns at the Eastern Borders of the European Union

ENNHRI expresses its serious concerns at the human rights violations against migrants at European Union (EU) external borders with the Republic of Belarus. Our members have provided reports of indiscriminate and disproportionate use of violence, systematic denial of the right to asylum, exposure of migrants to inhuman and degrading treatment, pushbacks, and even deaths. Human rights must always be respected, including at borders and regardless of a person's migratory status.

We reiterate the findings, concerns, and recommendations of ENNHRI members, particularly the NHRIs in Poland (Polish Commissioner for Human Rights), Lithuania (Lithuanian Seimas Ombudsmen's Office), and Latvia (Ombudsman's Office of the Republic of Latvia). We also echo the concerns of other international actors, such as the Council of Europe [Commissioner for Human Rights](#) and the [UN Refugee Agency](#) regarding the situation on the ground. ENNHRI regrets the [instrumentalisation](#) of migrants for political purposes on both sides of the borders.

Human rights concerns

In response to the increase in migrants trying to reach EU countries through the Belarussian border, national authorities in Poland, Lithuania and Latvia have implemented substantial changes in policies and legislation, including the introduction of states of emergency. The substance and implementation of many of these policies and legislation are found to be contrary to international human rights obligations, and contribute to human rights violations being perpetrated at borders on a daily basis. As a result, the EU now faces a human rights, rule of law and humanitarian crisis at its Eastern Borders, which requires an immediate reaction by national authorities, the EU, and international organisations.

Under their legal or constitutional mandate to promote and protect human rights, NHRIs working in the region have reported on the humanitarian and human rights situation of migrants at borders. They have observed a lack of access to necessities such as food, water, clothing, and basic shelter. Moreover, the practice of pushbacks led to migrants, including families and children, being stranded in forested border areas in precarious conditions, which has even tragically resulted in the loss of lives. NHRIs have emphasised the need for authorities to provide temporary

humanitarian assistance to migrants stuck at the border, as well as to those who have crossed the border and are being held in immigration detention.

The right to asylum and the principle of *non-refoulement*, guaranteed under EU and international law, are also being systematically violated. It is crucial that the circumstances of all migrants entering the EU are individually assessed before returns are initiated, in accordance with applicable binding standards of human rights and refugee law. Under no circumstances may migrants, asylum seekers, and refugees be returned to states where they risk being subjected to torture or inhuman and degrading treatment.

As evidenced in the annex, the NHRIs in Poland, Latvia and Lithuania have been active in speaking up against the current situation of human rights violations at the EU's Eastern Borders. For instance, the Polish NHRI has opposed and underlined the lack of human rights compliance of legislative changes authorising pushbacks and collective expulsions. The Polish NHRI has also spoken out against legislative changes that allow authorities to refuse or to leave claims for international protection unexamined, which is in contravention to the 1951 Refugee Convention. The Latvian NHRI has similarly recalled the need for individual assessments at borders, highlighted that particular care needs to be taken in cases concerning vulnerable migrants, and stressed that excessive use of force must be avoided. The Lithuanian NHRI has raised numerous concerns regarding the legislative amendments impacting on migrants' rights and provided urgent recommendations to relevant authorities to address human rights violations at borders.

ENNHRI underlines that non-derogable human rights obligations continue to apply, even when a state of emergency is declared and regardless of the migratory pressure states may face. No derogation is possible from the principle of proportionality and the prohibition of torture and inhuman or degrading treatment, as well as the principle of *non-refoulement*.

ENNHRI underlines that any methods to address the current situation must not breach the right to access asylum determination procedures. National authorities must provide protection for vulnerable groups such as families, unaccompanied minors, and victims of human trafficking, including through fair and efficient asylum procedures.

National authorities have an obligation to provide individuals with legal and procedural safeguards during returns procedures and to provide them with opportunities to lodge appeals with an automatic suspensive effect. ENNHRI urges national authorities to review current policies and practices, and to implement a human rights-sensitive approach to border governance.

Rule of law concerns

One of the actions taken by governments in Poland, Lithuania and Latvia has been the declaration of states of emergency in border zones. In some cases, this allows for exceptional measures to be applied at borders, such as heavy deployment of army personnel with extended powers, limitations in freedom of movement and of information in the region, and the removal of humanitarian and healthcare support. Such actions have a serious impact on the already fragile environment for human rights protection and accountability at borders.

The significant restriction to the possibility of human rights defenders and journalists to monitor and report on what happens at borders is a serious concern regarding rule of law. Without independent oversight and accountability, violations at borders will continue to occur. This is a substantial deficit to the checks and balances on authorities' power, which is vital for a well-functioning, healthy environment for democracy and the rule of law.

ENNHRI underlines the [crucial role](#) that NHRIs have in monitoring and reporting on human rights, issuing recommendations to state authorities, and protecting individuals' rights. NHRIs also actively promote public awareness of migrants' rights at borders. It is crucial that NHRIs in the region have access to the impacted people and areas, including when they are under a state of emergency. ENNHRI expresses deep concern following retaliation, abuse and attacks by politicians against NHRIs and their individual staff carrying out their duties at borders. They must be allowed to exercise their mandate in an effective and independent manner, including if relevant by publicising the findings of their visits.

Recommendations: ensuring the primacy of human rights at borders

Regardless of migratory concerns, legislative and policy changes must not dismantle human rights-based and protection-sensitive asylum and border systems. States have voluntarily committed at the international and EU level to respect human rights, including the right to life and the right to asylum. These obligations were made further explicit in the jurisprudence of the European Court of Human Rights and Court of Justice of the European Union.

The European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, as anchored in [Article 2 of the Treaty on European Union](#). Therefore, what is at stake today is the very fundament of the EU.

ENNHRI recalls its [ten recommendations](#) towards human rights protection at borders, in particular the obligation to take human rights seriously to stop impunity and foster accountability at borders, and the need to ensure independent and effective human rights monitoring at borders.

States must cease with all threats, attacks, and intimidations against Human Rights Defenders, including NHRIs, working at borders. All national authorities must respect the mandate of and work constructively with NHRIs at borders, as required by international standards, including the recent Council of Europe's Committee of Ministers [Recommendation on NHRIs](#).

We urge the EU and its Member States to ensure that legislation, policy, and practice applicable at borders do not overshadow their obligations to protect human rights. European NHRIs stand ready to support all efforts to restore protection-sensitive national frameworks and to pursue a sustainable and fair approach to migration in the region.

About ENNHRI

ENNHRI, the European Network of National Human Rights Institutions, brings together 47 NHRIs across Europe. ENNHRI's goal is to enhance the promotion and protection of human rights across the European region. It carries this out through assisting in the establishment and accreditation of NHRIs; coordinating exchange of information and best practice between members; facilitating capacity building and training; and engaging in advocacy on legal and policy developments at a European level.

Annex: Information from NHRIs in the region

Latvian NHRI (Ombudsman's Office of the Republic of Latvia)

Latvian NHRI, Regarding the emergency situation on the border of Latvia and Belarus, available in English [here](#).

Latvian NHRI, Letter from the Latvian Ombudsman to the Saeima (Parliament) and to the Cabinet of Ministers on the emergency situation on the Latvian-Belarusian border, available in Latvian [here](#).

Latvian NHRI, Regarding the information on the media about the situation on the Latvian-Belarusian Border, available in English [here](#).

Latvian NHRI, Representatives of the Ombudsman's Office visit the Latvian-Belorussian state border, available in English [here](#).

Latvian NHRI, The Minister of the Interior discussed the situation on the Latvian-Belarusian border with the Ombudsman, available in Latvian [here](#).

Lithuanian NHRI (Lithuanian Seimas Ombudsmen's Office)

Lithuanian NHRI, Report on ensuring human rights and freedoms in places of temporary accommodation of foreigners having crossed the border of the Republic of Lithuania with the Republic of Belarus, available in English [here](#).

Lithuanian NHRI, Formal letter regarding the draft Law amending and supplementing the Law of the Republic of Lithuania on the legal status of aliens, available in English [here](#).

Lithuanian NHRI, Formal letter on ensuring human rights and freedoms of foreigners having crossed the state border of the Republic of Lithuania, available in English [here](#).

Lithuanian NHRI, Formal letter on the situation relating to human rights and freedoms of foreigners having crossed the state border of the Republic of Lithuania and in places of temporary accommodation, available in English [here](#).

Lithuanian NHRI, Formal letter on ensuring human rights and freedoms of foreigners who are members of the LGBTQ+ community in temporary accommodation places, available in English [here](#).

Polish NHRI (Polish Commissioner for Human Rights)

Polish NHRI, Opinion of the Ombudsman addressing the Senate on the Amendment to the Act on Foreigners, available in Polish [here](#).

Polish NHRI, Ombudsman's speech to the Prime Minister on irregularities in the Government's Order on the state of emergency, available in Polish [here](#).

Polish NHRI, Remarks of the Ombudsman that the Act on building a wall on the border is partially unconstitutional, available in Polish [here](#).

Polish NHRI, Statement of the Ombudsman and answer of the Ministry of Interior and Administration refusal to accept applications for international protection in the border area, available in Polish [here](#).

Polish NHRI, Intervention by the Ombudsman on the arrest at the border of the television crew of *Arte*, available in Polish [here](#).

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