

Situation on the Polish- Belarusian border July – October 2022

The Humanitarian Aid Border Group (Grupa Granica) brief
10 października 2022

Introduction

The construction of the wall and the partial abolition of the exclusion zone have not reduced the scale of the humanitarian crisis.

Along the Polish–Belarusian border, numerous human rights violations and abuses may still be observed. If the situation does not change, we may expect more cases of deaths from hypothermia this winter as well.

The Humanitarian Aid Border Group as an informal coalition, supported in specific areas by NGOs, institutions and individuals, has been operating continuously since August 2021. During this time, together we have been able to establish, among other things, mechanisms for humanitarian, legal and medical assistance provided in very difficult conditions related to the humanitarian crisis, the systematic violation of the law by state officials and the accompanying criminalisation of migration and the humanitarian aid. The activities carried out by the informal coalition made it possible to support many migrants and, in some cases, prevented further deaths in the Polish–Belarusian border area. After the decision to partially lift the exclusion zone was implemented and the wall along most of the border line with Belarus was constructed, the scale of the humanitarian crisis remains high. This is due to, inter alia, the lack of appropriate policies aimed at de-escalating violence against migrants, and the actions of the officials. The latter consist, among others, of the use of illegal push-backs, prevention of access to humanitarian and lawful administrative procedures or violation of the rights to decent treatment, freedom from torture, personal safety... We remind you that these rights also apply to those who have crossed the border irregularly.

Since August 2021, we have provided humanitarian assistance to 13,000 people, which included many women and children. In a situation where humanitarian aid, including medical aid, is the responsibility of civil society, we are unable to keep precise statistics. Large and professional humanitarian organisations are only now beginning to take a stronger interest in the situation on the Polish–Belarusian border, supporting our advocacy efforts or proposing the entry of specialised medical and rescue teams.

Scale of the crisis after the partial lifting Of the zone

Figures – scale of the crisis. Between 1 July and 10 October:

- we received humanitarian requests from **1,642 people**, including **68 children**,
- we were able to assist **1172 people**, including **56 children**,
- we provided **1119 people** with humanitarian assistance, **55** with legal assistance and **199** with specialised medical assistance (with most interventions accompanied by basic medical assistance),
- we also documented **254** push-backs,
- we registered the disappearance of **22 persons**.

At least **26 deaths** have been confirmed since the beginning of the humanitarian crisis (we will never know how many people really died at the border).

In conclusion, the months from July to October have proven to us that the humanitarian crisis will be a long-term phenomenon. We assume that the policies of instrumentalisation of migration and the use of civilians for political pressure by the Belarusian regime and Russia will continue for months to come. These strategies are based, inter alia, on deliberately misleading migrants fleeing their countries of origin or residence and restricting their freedom, subjecting them to torture and exploiting their subordinate situation. In these conditions, we act on the basis of the fundamental principles of humanitarianism and the protection of universal human rights, bringing the necessary humanitarian assistance to those in the worst situation, who have often been victims of violence and are seeking safety within Europe.

The wall and the situation after the restriction of the exclusion zone to 200 metres along the border

The barrier, on which the Polish state has spent more than one and a half billion PLN, will not stop people seeking safety and shelter. Increasing number of forced migrants are suffering from razor wire injuries and falls from the wall, which includes deep wounds, fractures and lacerations. Judging by the past few months, we can see that the Polish-Belarusian border barrier is only effective as a tool for inflicting pain – after the lifting of the zone, more and more humanitarian interventions include providing medical assistance to people with broken or dislocated limbs. Women, children, the elderly and men alike are suffering. Systemic ambulances are rarely called, as the Border Guard is also using illegal push-backs for those in hospitals.

The end of the zone is not the end of the humanitarian crisis

The approaching winter brings an increased risk of further casualties and deaths from hypothermia. Our appeal to international humanitarian, medical relief organisations remains relevant. In October, recruitment began for teams from INTERSOS, an Italian organisation with experience in providing humanitarian assistance in emergency conditions. Information on recruitment can be found here:

<https://www.facebook.com/grupagranica/posts/pfbid02zTU6K79oJ4Edk6raGHCgWxkX-mftKiSwizj7ntJRmH8T3hZ7BUdwwfCGR47Kqfp22I>

The level of dehumanisation, violence and brutality of the Security Guard is increasing and being normalised, one example of which is the situation on 6 October, during which uniformed officers abused a man hanging head down from a 5m high border wall. The Border Group's commentary can be found here:

<https://www.facebook.com/grupagranica/posts/pfbid0T8kzGBg98uUJwKU7gy6Sa2A9g-ic8BRLAXak3mAqEDo8PmcSDXiVSakPBoQA7QdtUI>

PUSH-BACKS

July to October 2022

Relying on legislation adopted over the past year that is incompatible with the EU and international law, Polish services continue to carry out illegal push-backs, sending migrants to Belarus without initiating the administrative procedures provided by the law. In an increasing number of cases, officers mislead migrants, depriving them of the possibility to use an interpreter, legal assistance or creating pressure and forcing them to sign documents on "voluntary" leaving the territory of the Republic of Poland.

There are still many cases of Polish services ignoring the migrants' declared desire to apply for international protection, which leads to violations of the right to asylum. The same happens when Polish services force migrants to cross the border to the Belarusian side outside border crossings through razor fences or border rivers. Not only has this approach no legal basis, but it is also highly inhumane and in many cases leads to putting in danger the pushed-back persons.

There is a very high risk of human trafficking and abuse of persons who, according to the law, should automatically receive special protection in Poland – such as unaccompanied minors, disabled persons or victims of human trafficking.

Despite the well-documented violence that migrants experience at the hands of Belarusian officers, push-backs continue, in violation of the principle of non-refoulement, according to which people cannot be pushed back to countries where they may be in danger.

Especially in winter, push-backs can be a deadly threat. So far, the cause of most deaths at the border has been hypothermia.

How can you help at the border?

Doctors and paramedics can apply to participate in the INTERSOS recruitment, or contact us directly through the Border Group social media.

We are still asking you to support our crowdfunding platform (zrzutka.pl/GrupaGranica), as the needs at the border are not diminishing, especially during the winter period. We also encourage you to share information appearing on Grupa Granica profiles, or to join the ongoing campaign to prepare for next winter "Help is Legal", which aims to raise funds to continue humanitarian aid.

Details can be found on the Facebook page of the Border Group. We hope that journalists will continue to cover the Polish–Belarusian border zone while playing an important social role.

In the Polish–Belarusian border zone, humanitarian aid in the form of providing food, water, medical assistance, as well as legal aid, is provided to people fleeing countries affected by armed conflicts, famine, dictatorial rule. Often they choose this route as their only means of escape.

Countries of origin

The majority of people on the Polish–Belarusian border come from conflict-affected countries in Africa and Asia, which includes Yemen, Somalia, Cameroon, Ethiopia. There are also many people from Syria, Afghanistan and Iraq. More and more people will also be fleeing Russia.

The most important judicial rulings

Rulings in which Polish courts have found unlawful the actions taken by the authorities on the Polish–Belarusian border since August 2021.

After more than a year, we have several court rulings confirming the unlawful and inhumane actions of the Polish services, dozens of complaints against Poland to the European Court of Human Rights for illegal push-backs and no one held accountable.

Already in four cases, the European Court of Human Rights has found that Poland has violated the rights of refugees by not allowing them to undergo proper asylum procedures at border crossings.

One of the most important verdicts in recent months was issued by the Provincial Administrative Court (WSA) in Białystok, which ruled that the push-back to Belarus of an Iraqi family with children by the Polish Border Guard was unlawful!

The case concerns three adults and four children who were detained by the Polish Border Guard and pushed back to Belarus in September 2021. The push-back occurred despite the fact that the family had declared their intention to apply for international protection. When pushing the family back to the Belarusian side, the Border Guard did not investigate whether they would be subjected to violence by officers there (which did happen). When the family and their children

managed to reach Poland again, they applied for international protection.

In its judgement, the court in Białystok shared all the allegations made by the family, as well as by the Ombudsman, who filed his own complaint in this case.

It was pointed out, inter alia, that the legal basis of the action taken was defective and that the regulation on the rights of refugees present, among other documents, in the Constitution of the Republic of Poland, the Geneva Convention and the Charter of Fundamental Rights of the EU were violated.

Consequently, according to the Court in Białystok, the applicants were deprived of the possibility to apply for international protection in Poland. Nevertheless, even if the family had not submitted such an application, it was still the duty of the Border Guard to initiate administrative proceedings to oblige the family to leave the Polish territory, as well as to examine whether they would not be exposed to danger in the event of push-back, which was not done contrary to the legal obligation.

Another decision concerns unjustified repressions against humanitarian aid workers in the border area – the Public Prosecutor's Office discontinued an investigation into volunteers of the Club of Catholic Intelligentsia (KIK)!

The investigation, which had been ongoing for more than half a year, concerning volunteers of the KIK – Club of Catholic Intelligentsia providing humanitarian aid in the Polish-Belarusian borderland, has been discontinued, and this decision has become legally binding. The prosecutor's office concluded that there was no substantiated data to indicate that a crime had been committed. In mid-December last year, uniformed officers arrived at a humanitarian aid post run by the KIK and seized, among other things, mobile communication devices, including phones and computers – both private and those used for the daily work of the post. The KIK volunteers were accused of smuggling people across the border, which carries a maximum sentence of six months to eight years in prison. This action was intended to have a chilling effect and discourage activists from providing humanitarian aid. We consider the discontinuation of this particular case a success, but the criminalisation of humanitarian aid workers is still high.

Our main demands

01:

Putting an end to unlawful push-backs that are not only a violation of international and EU law, but also a direct threat to the health and life of migrants;

02:

Repealing of the provisions of the Polish Ministry of the Interior and Administration Ordinance of August 2021 introducing the possibility to push back a foreigner to the state border line and the provisions on issuing orders to leave the territory of the Republic of Poland introduced by the amendment of the Act on foreigners in October 2021;

03:

Creating dignified and safe conditions for lawful applications for international protection at the Polish-Belarusian border, including zones outside of official border crossing points, with respect for international and EU law;

04:

Observing the procedures provided for by law, involving acceptance of applications for international protection or initiation of proceedings to oblige the return of foreigners who have crossed the Polish border in an irregular manner;

05:

Introducing the identification mechanisms in order to provide special protection to vulnerable groups, including in particular children, victims of trafficking in human beings, victims of torture, pregnant women, elderly people, the sick and persons with disabilities; preventing and reacting decisively to any instances of overstepping of powers or failure to comply with duties by officials on duty at the Polish-Belarusian border.

06:

Providing reliable information to the public on the situation at the Polish-Belarusian border and putting an end to presenting the migration phenomenon only as a threat to state security.

07:

Providing support to the inhabitants and residents of the border area and implementing recovery programmes to reverse the negative effects of the humanitarian crisis.

There are no illegal migrants

In view of the widespread use of the phrase 'increasing scale of irregular migrants', it is worth recalling the incorrectness of this statement. From a semantic point of view, only the scale of migration, not of migrants, can be increasing. Moreover, illegality can only refer to an act and not to a person, just as a person convicted of theft or robbery cannot be called illegal. The use of such a term for migrants is common, which justifies the rhetoric of criminalisation of migration. Irregular border crossing has its consequences as defined in criminal and migration law, but it does not make a migrant illegal.