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A sudden influx of migrants at the EU's eastern borders during 2021 added pressure on national asylum systems, especially in countries which had never experienced such high numbers of third-country nationals trying to enter their territory. The European Commission proposed temporary asylum and return measures to assist Latvia, Lithuania and Poland to manage the emergency situation and adequately react to a hybrid attack by Belarus in instrumentalising asylum seekers *(see Section 2)*.901 During the escalations on the borders of Belarus, there were reports of hindered access to procedures *(see Section 4.1)* and access to legal information and assistance in Lithuania and Poland. Since August 2021, civil society organisations, international organisations and European institutions continuously called on these two countries to respect the right to asylum and to grant lawyers and other stakeholders access to the border and transit zones *(see Section 4.1)*.902

In an effort to address the growing concern, the ECtHR adopted interim measures between 20 August and 3 December 2021 in cases submitted by asylum applicants against Poland and Lithuania.903 In one application against Poland, the ECtHR indicated to the authorities to allow direct contact between lawyers and applicants when the applicants were physically present on Polish territory or to grant access to the applicant's lawyer to the Polish border zone. In other cases, interim measures were lifted or not extended because representatives lost contact with the applicants or failed to respond to court requests.

The Law on the Legal Status of Aliens, Article 71(1) was modified in Lithuania in July 2021,904 allowing restrictions to be placed on contact between legal service providers and asylum applicants during a state of emergency. The legislative amendment received high criticism from national and international actors for breaching fundamental procedural safeguards defined in international and EU laws by making it excessively difficult for third-country nationals to access the asylum procedure.905 ECRE highlighted that these restrictions interfere with the provision of legal aid and limit the ability of an asylum applicant to properly prepare and cooperate with the authorities.906 In addition, UNHCR commented on other amendments, namely the shorter appeal deadline against a negative decision, affecting access to an effective remedy and access to legal aid. It recommended an extension to 15 days for an appeal to allow applicants enough time to seek qualified legal counselling *(see Section 4.5)*.907 However, this article was repealed on 1 January 2022.

Similarly in Poland, international and civil society organisations denounced restrictions on accessing the border and transit zones, which were put in place through legislative amendments in August 2021.908 The Council of Europe's Commissioner for Human Rights reiterated concerns over the lack of explicit guarantees on accessing lawyers at the border zones,909 while UNHCR noted that the legislative changes meant that third-country nationals would be subject to the return procedure without receiving free legal aid to appeal a return decision.910 The National Bar Association in Poland condemned the practice of the Border Guard officers who hinder access to legal assistance and the right to an effective remedy by conducting, for example, unnecessary verifications on the validity of power of attorneys.911

The Polish Border Guard underlined that during this time there were many attempts to cross the border by force and with the use of dangerous items. There were also provocations by the Belarusian special services which were addressed to the Polish Border Guard officers and Polish Armed Forces. The provocations included: incidents of Belarusian officers aiming weapons at people on the Polish side, marked shooting or firing likely with the use of blank ammunition and the use of pyrotechnics.

Earlier in the year, an amendment to the Law on the Legal Status of Aliens entered into force in Lithuania in March 2021, clarifying the scope of free legal assistance as covering solely asylum procedures at the national level and thus excluding cases submitted before European courts. In practice, in a recent report following a visit to the Kybartai Foreigners Registration Centre, the Lithuanian Ombudsperson noted unclarities and a lack of information on the appointment of state-funded lawyers and reiterated that the right to receive free legal aid must be put into practice.912

In Latvia, a reception centre was placed under quarantine in the context of COVID-19 measures, hindering the access of legal counsellors and interpreters to the facility and to applicants. They could resume their work as soon as the pandemic allowed.913

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- 901European Commission. (2021, December 1). Asylum and return: Commission proposes temporary legal and practical measures to address the emergency situation at the EU's external border with Belarus [Press release]. https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6447
- 902Council of Europe, Commissioner for Human Rights. (2021, November 19). Commissioner calls for immediate access of international and national human rights actors and media to Poland's border with Belarus to end human suffering and violations of human rights. https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-immediate-access-of-international-and-national-human-rights-actors-and-media-to-poland-s-border-with-belarus-in-order-to-end-hu; Council of Europe, Commissioner for Human Rights. (2021, August 24). Lithuania: safeguards in asylum procedures and preventing pushbacks should be central to response to migration challenges. https://www.coe.int/en/web/commissioner/-/lithuania-safeguards-in-asylum-procedures-and-preventing-pushbacks-should-be-central-to-response-to-migration-challenges; Council of Europe, Commissioner for Human Rights.

(2021, August 25). Poland should take immediate action to protect the human rights of people stranded at its border with Belarus. https://www.coe.int/en/web/commissioner/-/poland-should-take-immediate-action-to-protect-the-human-rights-of-people-stranded-at-its-border-with-belarus; European Council on Refugees and Exiles. (2021, November 26). Joint Statement: Call on the EU: Restore Rights and Values at Europe's Borders. https://ecre.org/joint-statement-call-on-the-eu-restore-rights-and-values-at-europes-borders/; European Union Agency for Fundamental Rights. (2021). Migration: Key fundamental rights concerns: 1.7.2021-30.9.2021. Quarterly Bulletin. https://fra.europa.eu/sites/default/files/2021-12/fra-2021-migration-bulletin-3_en.pdf European Council on Refugees and Exiles. (2021, October 1). Poland: More Deaths at the Border, Poland Extends State Of Emergency, Neither ECtHR nor Commissioner Persuade Poland to End Pushbacks. https://ecre.org/poland-more-deaths-at-the-border-poland-seeks-to-extend-state-of-emergency-neither-ecthr-requests-nor-commissioner-visit-persuade-poland-to-end-pushbacks/; United Nations High Commissioner for Refugees. (2021, August 24). UNHCR apeluje o zakończenie impasu na granicy polsko-białoruskiej [UNHCR calls for an end to the impasse on the Polish-Belarusian border]. https://www.unhcr.org/pl/13303-unhcr-apeluje-o-zakonczenie-impasu-na-granicy-polsko-bialoruskiej.html; United Nations High Commissioner for Refugees. (2021, September 21). UNHCR and IOM shocked and dismayed by deaths near Belarus-Poland border. https://www.unhcr.org/news/press/2021/9/6149dec74/unhcr-iom-shocked-dismayed-deaths-near-belarus-poland-border.html; United Nations High Commissioner for Refugees. (2021, October 22). UNHCR urges States to end stalemate at Belarus-EU border and avoid further loss of life. https://www.unhcr.org/news/press/2021/10/6172af254/unhcr-urges-states-end-stalemate-belarus-eu-border-avoid-further-loss-life.html; United Nations High Commissioner for Refugees. (2021, November 9). UNHCR and IOM call for immediate de-escalation at the Belarus-Poland border. https://www.unhcr.org/news/press/2021/11/618a63674/unhcr-iom-call-immediate-de-escalation-belarus-poland-border.html; United Nations High Commissioner for Refugees. (November 2021). IOM and UNHCR provide emergency aid to asylum-seekers and migrants at the Belarus-Poland border, call to ensure well-being of people and prevent loss of life. https://www.unhcr.org/news/press/2021/11/618e20c34/iom-unhcr-provide-emergency-aid-asylum-seekers-migrants-belarus-poland.html?query=legal%20aid; United Nations High Commissioner for Refugees. (2021, September 21). UNHCR and IOM shocked and dismayed by deaths near Belarus-Poland border. https://www.unhcr.org/news/press/2021/9/6149dec74/unhcr-iom-shocked-dismayed-deaths-near-belarus-poland-border.html; Amnesty International. (2021, September 30). Poland/Belarus: Amnesty International reconstructs suspected illegal pushback of a group of 32 Afghans in August. https://www.amnesty.org/en/latest/research/2021/09/poland-belarus-border-crisis/; Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (September 2021). Legal Analysis of the Situation on the Polish-Belarusian Border: Situation on: 9 September 2021. https://www.hfhr.pl/wp-content/uploads/2021/09/Legal-analysis-ENG.pdf

- 903Council of Europe, European Court of Human Rights. (2021, December 6). Requests for interim measures concerning the situation at the Polish-Belarusian border. https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-7202976-9785391%22]}

- 904Ministry of the Interior | Lietuvos Respublikos vidaus reikalų ministerija. (2021, July 13). Ministrė A. Bilotaitė: priemonės, sprendžiant migracijos krizę, turi būti greitos, atgrasančios ir vieningos [Minister A. Bilotaitė: Measures to solve the migration crisis must be rapid, dissuasive and united]. https://vrm.lrv.lt/lt/naujienos/ministre-a-bilotaite-priemones-sprendziant-migracijos-krize-turi-buti-greitos-atgrasancios-ir-vieningos
- 905Council of Europe, Commissioner for Human Rights. (2021, August 24). Lithuania: safeguards in asylum procedures and preventing pushbacks should be central to response to migration challenges. https://www.coe.int/en/web/commissioner/-/lithuania-safeguards-in-asylum-procedures-and-preventing-pushbacks-should-be-central-to-response-to-migration-challenges; Office of the Seimas Ombudsmen | Lietuvos Seimo Kontrolieriai. (2021, July 12). Regarding the draft Law amending and supplementing the Law of the Republic of Lithuania on the legal status of aliens. https://www.lrski.lt/wp-content/uploads/2021/07/assessment-of-the-proposed-legal-regulation.pdf; United Nations High Commissioner for Refugees. (2021, July 28). UNHCR legal observations on the amendments to the Law of the Republic of Lithuania on Legal Status of Aliens (No XIV-506). https://www.refworld.org/docid/610d26971a1.html
- 906European Council on Refugees and Exiles. (2021). Extraordinary Responses: Legislative Changes in Lithuania, 2021. Legal Note 11. https://ecre.org/wp-content/uploads/2021/09/Legal-Note-11.pdf
- 907United Nations High Commissioner for Refugees. (2021, September 27). UNHCR observations on draft Amendments to the Law of the Republic of Lithuania on Legal Status of Aliens (No 21-29207). https://www.refworld.org/docid/615322844.html
- 908Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2021, September 6). Uwagi Helsińskiej Fundacji Praw Człowieka do projektu ustawy o zmianie ustawy o cudzoziemcach oraz ustawy o udzielaniu cudzoziemcom ochrony na terytorium rzeczypospolitej polskiej (druk nr 1507) [Comments of the Helsinki Foundation for Human Rights on the draft law amending the Act on Foreigners and the Act on granting protection to foreigners on the territory of the Republic of Poland (Document No 1507)]. https://www.hfhr.pl/wp-content/uploads/2021/09/HFPC-uwagi-do-projektu-ustawy-o-cudzoziemcach-i-o-udzielaniu-ochrony06092021.pdf; Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights. (2021, September 10). Urgent opinion on draft amendments to the Aliens Act and the Act on granting protection to aliens on the territory of the Republic of Poland and Ministerial Regulation on temporary suspension of border traffic at certain border crossings. https://bip.brpo.gov.pl/sites/default/files/2021-09/Opinia_ODIHR_10.09.2021_(jez.angielski).pdf; Commissioner for Human Rights | Rzecznik Praw Obywatelskich. (2021, August 26). Zmiany w rozporządzeniu w sprawie czasowego zawieszenia lub ograniczenia ruchu granicznego sprzeczne z Konwencją Genewską i Konstytucją RP. Wystąpienie RPO do MSWiA [Amendments to the regulation on the temporary suspension or restriction of border traffic contrary to the Geneva Convention and the Constitution of the Republic of Poland. Statement by the Commissioner for Human Rights to the Ministry of the Interior and Administration]. https://bip.brpo.gov.pl/pl/content/rpo-mswia-granice-azyl-ochrona-cudzoziemcy
- 909Council of Europe, Commissioner for Human Rights. (2021, December 1). New legislation perpetuates restrictions and obstacles to protection of human rights on Poland’s

eastern border. https://www.coe.int/en/web/commissioner/-/new-legislation-perpetuates-restrictions-and-obstacles-to-protection-of-the-human-rights-of-migrants-and-refugees-on-poland-s-eastern-border

- 910United Nations High Commissioner for Refugees. (2021, September 16). UNHCR observations on the draft law amending the Act on Foreigners and the Act on Granting Protection to Foreigners in the territory of the Republic of Poland (UD265). https://www.refworld.org/docid/61434b484.html
- 911Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2022). Input to the Asylum Report 2022. https://euaa.europa.eu/sites/default/files/2022-03/helsinki_foundation_for_human_rights.docx; Polish National Bar Association | Naczelna Rada Adwokacka. (2021, September 10). Stan wyjątkowy nie ogranicza prawa do obrony - stanowisko Prezesa NRA i Dziekan ORA w Białymstoku [The state of emergency does not limit the right to defend oneself - the position of the President of the NRA and the Dean of the ORA in Białystok]. https://www.adwokatura.pl/z-zycia-nra/stan-wyjatkowy-nie-ogranicza-prawa-do-obrony-stanowisko-prezesa-nra-i-dziekan-ora-w-bialymstoku/
- 912Office of the Seimas Ombudsmen | Lietuvos Seimo Kontrolieriai. (2022, January 24). Ataskaita dėl užsieniečių žmogaus teisių ir laisvių užtikrinimo Valstybės sienos apsaugos tarnybos prie Lietuvos Respublikos vidaus reikalų ministerijos Kybartų užsieniečių registracijos centre [Report on ensuring the human rights and freedoms of foreigners at the Kybartai Foreigners Registration Centre of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania]. https://www.lrski.lt/wp-content/uploads/2022/01/Final_Ataskaita_Kybartai_2021.pdf; Office of the Seimas Ombudsmen | Lietuvos Seimo Kontrolieriai. (2021, October 7). Report on ensuring human rights and freedoms in places of temporary accommodation of froreigners having crossed the border of the Republic of Lithuania with the Republic of Belarus. http://hrmi.lt/wp-content/uploads/2021/10/E5339-Ataskaita_Migrantai_2021_RED_EN-1-2.pdf
- 913European Union Agency for Fundamental Rights. (2021). Migration: Key fundamental rights concerns: 1.7.2021-30.9.2021. Quarterly Bulletin. https://fra.europa.eu/sites/default/files/2021-12/fra-2021-migration-bulletin-3_en.pdf

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