



Departament Spraw Międzynarodowych i Migracji

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Warszawa, dnia 19 listopada 2021 r.

Mr. Hugh Williamson

Director,
Europe and Central Asia Division
Human Rights Watch

Dear Mr. Williamson,

in response to your letter of 15 November 2021 concerning the situation on the Polish-Belarusian border, kindly be informed about the following.

1. "Official statements by the Polish Border Guards refer to episodes in which Polish border officials have "prevented attempts" to cross the border. We would be grateful for information on the range of actions that are considered "prevented attempts". We would also be grateful for information about how such prevented attempts are documented."

The Polish Border Guard is authority established to protect integrity of the Polish state border, including the external border of the EU. One of the main tasks of this service is preventing illegal border crossing attempts. The means, that officers do not allow any person to cross state border with breach of the law (especially using force or deception) and takes actions to prevent it.

However, in response to the systematic influx of number of foreigners trying to forcefully and illegally cross the Polish border, on 26th October, 2021 the amendments of act on foreigners were introduced. This amendments provide a new legal instrument, a ruling on leave the territory of the Republic of Poland. This ruling can be issued in the event of immediate apprehension of the foreigner who crossed the external EU border in violation of the law. This legal instrument allows officers to execute such order immediately.

Importantly, the issuance of the ruling on the leave territory of Republic of Poland is excluded in the case when a person express a will to apply for the international protection – in this case any return order (or decision) cannot be issued till the end of the asylum procedures. The Polish Border Guard helps foreigners with filling the applications and forwards the applications to the Foreigner's Office, which is the authority responsible for the examining the applications. However, this can be done only when a foreigner wants to submit application for international protection to Polish authorities. In every case, before executing the ruling to leave territory of Republic of Poland foreigners are asked by Polish Border Guard officers if they will to apply for international protection. The foreigners have been informed by officers of possibility to lodge an application.

These rules apply only to the persons, who are under disposal of Polish Border Guard.

2. "Please provide the total number of migrants and asylum-seekers who have been detained crossing the Belarus – Poland border since August 1, 2021."

The situation on the Polish-Belarusian border since beginning of 2021 is tense. Since the start of 2021 till 16th of November 2021, there were 34 611 attempts of illegal crossing Polish state at this section of the border. The tendency is increasing with every month. In 29 921 cases, these attempts were prevented, which means that Polish officers didn't allow to illegally cross borders. In 1394 cases the ruling on the leave territory of Poland has been issued.

Since 1st August 2021 till 16th November 2021, 374 persons who illegally crossed the border, have applied for international protection at the Border Guard Posts on the Polish state border with Belarus.

3. "Regarding cases in which families were separated, what effort are Polish authorities making to locate family members, who were pushed back to Belarus, and reunite them with their loved ones in Poland?"

The Polish Border Guard officers do not separate families, especially they do not separate children from their parents. When the foreigners are together and from the situation context, or their claims derives, that they are family or in relationship, then officers are not going to separate this persons. They respect family bonds only when they have any information or signals that apprehended persons are related – in case the foreigners hide such information from officers, then officers are unable to guarantee inseparability of apprehended group of people.

4. "What measures does the Polish government take to ensure that the principle of non-refoulement and the right to seek asylum is respected when returning asylum seekers to Belarus?"

5. "What steps are Polish border taking to ensure that people at Poland's border with Belarus who state that they want to seek asylum are afforded the opportunity to do so."

Poland respects non-refoulement principle and in any case does not conduct returns of foreigners with breach of this rule. It should also be noted that the protection of the state border and the external border of the European Union does not contradict the Geneva Convention on Refugees and the principle of non-refoulement. Pursuant to the Convention, states-parties are obliged not to expel or return refugees to the border of states where their lives would be endangered due to race, religion, citizenship, belonging to a specific social group or political opinion, except when they pose a threat to state security - party.

Additionally, many of the foreigners are in possession on a tourist visa issued by Belarusian authorities, which means that these people came to Belarus willingly. We would like to emphasize that in every case of disclosure person who illegally crossed Polish border, officers inform such person about right to apply for international protection. It is up to the foreigner's decision whether to apply for international protection, and officers cannot influence on this decision.

6. "What steps does the Polish government take to ensure that migrants and asylum seekers are treated with dignity by police and guards in border stations and at the border with Belarus?"

The recruitment process to the Polish Border Guard includes checking general knowledge and foreign language skills, as well as medical and psychological examination. During the basic training officers learn and acquires knowledge of human rights, other cultures and how to proceed with respect of

others people dignity. Officers are capable to work under stressful conditions and are professionals. They pay special attention to the people belonging to sensitive groups (like unaccompanied minors, people with bad health conditions, pregnant women).

Yours faithfully,

dr Mariusz Boguszewski

Director

/signed electronically with a qualified certificate/