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Dear Mr Nowicki,

Thank you for your letter of 24 September 2021 on the very worrying situation of asylum seekers at the border between Belarus and Poland, in particular a group of thirty refugees stranded in the border zone between both countries.

The situation at the EU's external borders with Belarus is serious and unprecedented. As you are aware, we consider this situation not as a migration crisis *per se*, but an instrumentalisation of people for the political purposes of the Belarusian regime. This year already more than 6 000 irregular arrivals from Belarus took place, with people originally from Iraq, Afghanistan, Congo, Cameroon, Syria and other countries used for such political purposes. This has resulted in a high migratory pressure affecting Poland, Latvia and Lithuania.

Naturally, the Commission is in close contact with the Polish authorities. In particular, we are assessing the exact terms of the Emergency State Law that entered into force on 2 September to ensure its compliance with the EU law. We also asked the authorities for clarification on the practices at the Polish border with Belarus, in particular as regards access to the border area, the provision of basic assistance and the protection of vulnerable migrants.

I was very saddened to hear the reports of deaths at the Polish-Belarus border. Regardless of the legal situation, saving human lives must always be the priority. We have asked the Polish authorities to carry out thorough investigations in order to ascertain what had happened and to prevent such tragedies from recurring.

*Maciej Nowicki*  
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On 30 September, I visited Poland and reiterated the EU support against the practices of the Belarusian regime at the Polish border, which is also an EU external border. At the same time, I underlined that all laws, policies and practices in Poland concerning the border protection must be in line with EU law. I called on the Polish authorities to engage in a regular bilateral exchange on the situational picture, the evolving needs, the legal environment and the humanitarian support at the border.

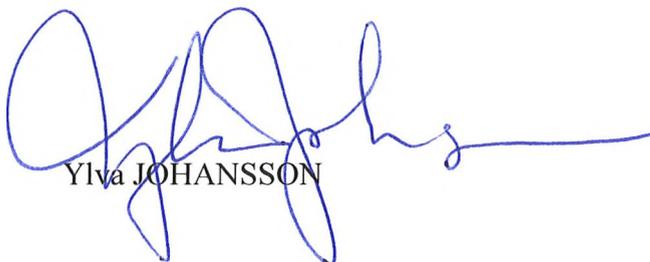
On 6 October, my services visited Poland to discuss at expert level the situation at the border and areas of potential EU support, including EU funding and operational support from EU agencies such as the European Border and Coast Guard Agency (Frontex) and the European Asylum Support Office (EASO). My services emphasised that the humanitarian situation at the border needs to be addressed adequately and stressed the absolute need to prevent further deaths. My services visited again Poland on 21 and 22 October to continue the dialogue with the Polish authorities and work on the different ways in which the European Commission can assist to manage the crisis at hand.

Meetings with civil society and international organisations took place in both occasions. I am pleased that my services had a constructive exchange with representatives of your organisation on how to avoid a possible humanitarian crisis.

The amendments to the Polish Act on Foreigners, which would allow authorities to disregard asylum applications made by those who crossed the border irregularly, were adopted on 14 October and will enter into force upon their publication. During our visits, we have repeatedly raised with the authorities our preliminary concerns regarding their compliance with EU rules. We have emphasised that the management of the EU's external borders and return procedures have to be conducted in line with EU law, including the respect for fundamental rights, ensuring effective access to the asylum procedure and respecting the principle of *non-refoulement*. Now that the amendments are in force, we are assessing them in light of these rules and principles.

The cooperation with all EU Member States at the border with Belarus will continue as long as this crisis persists. Our objective remains to avoid any loss of life and to ensure a treatment of migrants in line with the provisions and guarantees provided for in EU legislation.

Sincerely,



Ylva JOHANSSON  
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Helsinki Foundation for Human Rights