



July 22, 2019

Poland continues arbitrary returns of asylum seekers to Belarus

Practices at the EU external border undermine the right of people to international protection

Marlene Auer

Too little has changed at the Poland-Belarus border despite repeated interim measures ordered by the European Court of Human Rights (ECHR) to allow asylum seekers access to an independent and fair proceeding of their claims.

In 2017, when numbers of asylum seekers in the EU rose, the often forgotten border between EU member state Poland and Belarus received some public attention. International human rights watchdogs and media called out Poland for denying people to seek asylum and forcibly returning them to Belarus, thereby violating not only [international law](#), but also the [EU Asylum Procedures Directive](#) and the [EU Charter of Fundamental Rights](#).



Terespol train station

The majority of protection seekers in Brest (Belarus) have fled the autonomous Russian republic of Chechnya, where according to [Human Rights Watch](#) (HRW) arbitrary detention, torture and collective punishment of suspects' families are a cruel reality. As Russian citizens they can legally enter and stay in Belarus for 90 days; once their time has run out, they face deportation. Without

a functioning asylum system and a government that maintains close ties with Moscow, Belarus is not a safe place for people in need of international protection. In June 2018 [Artur Aydamirov](#), a former Chechnyan police man, was abducted by four unknown men in Brest. According to [Amnesty International](#), he had fled Chechnya with his family to avoid military service in Syria. His whereabouts remain unknown.

Throughout the past three years, the city of Brest in southwestern Belarus has been a dead end for hundreds of people trying to seek protection in Europe. In the early morning, carrying all their belongings with them, families hurry to the train station to try their luck. Most of those boarding the

train to the Polish border town Terespol will be returned back to Belarus by Polish border officials the same day, their claim for international protection unheard.

In 2017 [Human Rights Watch criticized Polish authorities](#) for their non-compliance with so called interim measures ordered in June 2017 by the ECHR to prevent the return of six families until their cases were properly reviewed by the respective authorities. Not only did Polish authorities return those protection seekers to unsafe Belarus, they also [failed to implement](#) recommendations made by the international community to bring asylum procedures in Poland in line with international standards.

Now, two years on, even those who are able to voice their asylum claim to border officials are still summarily returned to Belarus. The logic behind those decisions is hard to understand, says a member of [Human Constanta](#), an NGO providing legal assistance and basic support to those stuck in a limbo in Brest. According to Human Constanta, entry permission is granted or rejected after 2-40 minutes long interviews. The apparent arbitrariness of the entire process makes protection seekers undertake the journey multiple times, some state they have made 30, 40 or even more attempts to cross the border. Despite the decrease in numbers from up to 3000 protection seekers in Brest during the peak of the influx in 2016 to currently around 150 persons, the situation remains hopeless for them.

Those who board the morning train to the border crossing in Terespol, Poland, can say almost with certainty that they will be rejected and returned with the rest of the group later the day. Bearing this in mind many protection seekers already purchase return tickets at the Brest railway station, which are cheaper in Belarus.

According to Human Constanta usually one family is allowed to submit their application for international protection on Polish territory per day. The decisions who is allowed to apply for asylum and who is rejected as an "economic immigrant" lack transparency and systematically neglect people's need for protection. Despite the pressure of NGOs and the ECHR, Polish border guards continue to take arbitrary measures regarding people's claims for international protection.

Interviews are conducted by either security guards, border guards, or representatives of the Polish migration office although according to Polish legislation, only the latter are supposed to assess asylum applications. According to Human Constanta, decision makers are hard to identify since officials conducting the interviews do not wear badges indicating their official position.

Other protection seekers are present in the room where asylum interviews are being conducted and testimonies can easily be overheard. Lack of privacy and fear of stigma can pose a major obstacle for protection seekers to reveal all relevant information.

However, in Terespol protection seekers' personal statements are not of much importance. The protection seekers who were returned to Belarus told volunteers and NGO workers that officials do not note down relevant information and that it is often misunderstood and documented falsely. On top of that, they describe a general disinterest by officials in the statements of protection seekers. The interview protocols are neither shown to the applicants nor NGOs assisting protection seekers. Interviews at the border crossing are conducted in Russian and lack official translators, instead other fellow applicants are being asked to translate when needed. Interview standards have been determined in Article 15 of the [EU Asylum Procedures Directive](#), but their implementation are no priority to the Polish administration.

Quite the contrary, the lack of confidentiality and safe environment to present asylum claims, paired with a general hostility by border authorities, result in systematic denials of the basic right to access asylum procedures. Simply ignoring people's claims for international protection and expelling them back to a third country has also become a common practice in other EU countries [such as Croatia](#). The failure and unwillingness of member states to ensure due process of asylum applications often goes along with inhumane treatment and violence against those seeking protection.

A member of Human Constanta said that protection seekers forcibly returned to Belarus told him they were also mocked and insulted by border guards. Forced to repeat their testimonies multiple times, they are exposed to a serious risk of psychological harm and re-traumatization. Some say that officials searched their phones and when they found Western European phone numbers of friends and family the officials said, "go there, but we will never allow you into Poland."

The lack of transparency and the high level of arbitrariness raise concerns among protection seekers that bribes are necessary to cross into Poland. Local NGO staff reported that recently a family confronted border officials and accused them of corruption, to which they responded by beating the man in the chest and pushing the woman to the ground. Border guards told them repeatedly that they would never let them cross the border. The couple later told NGO staff that they were forcibly removed from the border checkpoint, the stroller with their child inside carelessly dragged down the staircase and sent to return to Belarus.

According to Human Constanta, NGOs and civil society actors from Belarus, as well as their Polish counterparts, are excluded from the dialogue on cross-border issues and the situation of protection seekers at the border, leaving little room for them to directly advocate for a humane approach to border practice.

Over the past years under the rule of the conservative Law and Justice Party (PiS), the government has taken several steps to undermine civil society engagement, NGO work and the independence of the jurisdiction. In the [2016 UNHCR UPR submission on Poland](#) concerns were voiced about the situation at Poland's eastern border, stating the lack of a functioning mechanism to "identify people in need of international protection" and called on the government to ensure that people are not returned to a country where they face torture or ill-treatment.

Although the detention of asylum seekers in closed facilities, including children, was already criticized in 2017 by the [UN Human Rights Commissioner](#), the situation seems to worsen. In early 2017, the Polish government presented a draft amendment to the asylum law which would allow to process the asylum applications at the border — placing all applicants in detention — and enforce the removal of rejected applicants without sufficient possibilities to appeal against a negative decision. At the time of writing, the legislative process was still ongoing, but if the amendment is adopted it would directly breach several EU laws and regulations according to [Polish human rights defenders](#).

Poland further aims to widen the scope of supposedly safe third countries to include Belarus and Ukraine, and safe countries of origin to include the Russian Federation. This would lead the right to international protection in Poland ad absurdum since grossly [75% of asylum applicants in 2018](#) originated from the Russian Federation and Ukraine. Declaring countries with questionable human rights records and severe security issues as so called safe countries has become a strategy of several governments to nullify claims for asylum.

The Polish government is obligated under the EU law to comply with binding decisions of the ECHR. Summarily returns and the systematic denial of asylum procedures are a severe breach of EU and international law the international community should not ignore.

Given Poland's non-compliance with international law and failure to adhere to its responsibility to provide international protection, one would expect an outcry by other member states. But can people seeking safety in the European Union still expect the neighboring democracies to stand up for their rights? The politics of sealing the borders and externalizing their management to struggling and illiberal states such as Libya and Niger in the South only legitimizes the practices in the east. Ruthless pragmatism has long overruled the fundamental values the EU was built on, leaving its institutions powerless in the face of nationalist politics of isolation.

Kontakt

borderline-europe
Menschenrecht ohne Grenzen e.V.

<https://www.borderline-europe.de>
mail(at)borderline-europe.de