



# OPINION

European Economic and Social Committee

## Restrictions for transport operators in Belarus

**Proposal for a Regulation of the European Parliament and of the Council on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the European Union**

[COM(2021) 753 – 2021-387-COD]

**REX/546**

Rapporteur-general: **Cristian PÎRVULESCU**

[www.eesc.europa.eu](http://www.eesc.europa.eu)

**EN**

Referral	European Parliament, 13/12/2021 Council, 16/12/2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	09/12/2021
Section responsible	External Relations
Adopted at plenary	09/12/2021
Plenary session No	565
Outcome of vote (for/against/abstentions)	159/15/09

## 1. Conclusions and recommendations

- 1.1 The Committee welcomes the proposal and considers possible sanctions on transport operators to be a justified action to be taken by the EU and the Member States.
- 1.2 However, it points out that the crisis that triggered the legislative response – the one at the Belarus-EU border – is more complex and has far wider implications that need to be addressed beyond the proposed instruments.
- 1.3 The Committee is very concerned about the authoritarian trajectory of the Belarusian government and condemns any act of repression and intimidation against citizens, the media, political parties, CSOs and the social partners. It also condemns the way the Belarusian government organised the transfer of persons from third countries to its own territory with the aim of forcing the crossing of EU borders. This is an unacceptable act of exploiting the lives and aspirations of vulnerable persons and endangering their health and safety.
- 1.4 The EESC puts at the centre of its concern the respect for the dignity of all persons and the protection of their fundamental rights. The EU should respond first by restoring the dignity and rights of those affected.
- 1.5 Thus, the EESC calls for an immediate end to push-backs from the EU territory to a country where the safety of people is in danger. All persons crossing the EU border need to be able to make an asylum claim, if they so wish.
- 1.6 The EESC urges the Belarusian government to ensure that people present on its territory are not mistreated, can make an asylum claim, and are not returned to their countries of origin if their life and safety is endangered there, in full compliance with the non-refoulement principle.
- 1.7 The EU institutions must engage with Belarus on a multilateral basis, ensuring that the country observes the international treaties regulating asylum and human rights protection.
- 1.8 According to Frontex, from January to October 2021, approximately 6 571 people crossed the eastern EU border, 3 868 of them being Iraqi citizens<sup>1</sup>. Iraqi citizens have one of the highest rates of recognition of the right to receive international protection (44% positive first instance decisions in 2020, according to the EASO)<sup>2</sup>. Thus, the Commission's proposal should fully explore the complementarity with the New Pact for Migration and Asylum and consider the persons involved as possible beneficiaries of international protection.
- 1.9 The EESC emphasises the need to create safe routes for applying to receive international protection and safely migrating under EU, national and international law. The development of safe routes will decrease the need for smugglers and traffickers, and will better protect the safety and rights of all persons involved.

---

<sup>1</sup> Frontex Migratory Map, <https://frontex.europa.eu/we-know/migratory-map/>. Accessed 01.12.2021

<sup>2</sup> EASO Asylum Trends – 2020 Overview, <https://www.easo.europa.eu/asylum-trends-easo-asylum-report-2021>. Accessed 01.12.2021

1.10 The EESC urges the EU institutions to devise a more comprehensive system of sanctions against the Belarusian government for its role in this crisis, in which the participation of transport carriers is just one component. The actions on the territory of Belarus could not have been organised without the approval of the highest levels of government and the participation of various state forces, including the border police.

## 2. **General comments**

2.1 The EESC welcomes the direction taken by the Commission in basing the action on existing international regulations: the United Nations Convention Against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

2.2 It also points out that there are other international regulations that are relevant to this situation: the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, read in conjunction with the Universal Declaration of Human Rights. We should also bear in mind the content of the European Convention on Human Rights and Fundamental Freedoms. The EU has one of the most comprehensive fundamental rights protection regimes in the world, and all its regulations and actions should be in line with the Charter of Fundamental Rights.

2.3 Regarding the consistency with other EU policies, the proposal indicates the complementarity with the Union's external action including its common foreign and security policy, without being specific on the supporting measures and actions in this field. The proposal also mentions that appropriate humanitarian measures should accompany the measures, but they are not specified. The EESC suggests that the section be amended to include the complementarity with the New Pact on Migration and Asylum and as well with the European Neighbourhood Policy. The proposal needs to be amended to specify the humanitarian measures envisaged.

2.4 In this context, the EESC calls for effective European solidarity with the EU Member States situated at the border and direct support for them in facing the current crisis. At the same time, they should be reminded that protecting the fundamental rights of persons, including migrants and possible refugees, is a responsibility enshrined in the EU Treaties and the Charter of Fundamental Rights.

2.5 All of the possible actions against transport operators – the prevention of any further expansion or the limitation of current transport operations, the suspension of licences or authorisations granted under Union law, the suspension of the right to fly over the Union, transit through the territory of the Union or call into Union ports, the suspension of the rights to refuel or carry out maintenance within the Union or the suspension of rights to operate to, from and within the Union – should be used in a proportionate and targeted manner, bearing in mind the overall objective of limiting trafficking in persons and smuggling of migrants.

- 2.6 The proposal indicates that the overall aim of the Regulation is to limit trafficking in persons and smuggling of migrants. According to Frontex, from January to October 2021, 6 571 people crossed the eastern EU border, 3 868 of them being Iraqi citizens. Iraqi citizens have one of the highest rates of recognition of the right to receive international protection. On the basis of these figures, these persons need to be considered not just regular migrants but potential legitimate seekers of international protection. Thus, the proposal should be updated to recognise this fact. The proposal should also contain very specific measures to allow persons in Belarus and the EU countries to apply for international protection.
- 2.7 The EESC is increasingly worried that using the term "migrant" has a discriminatory and derogatory connotation. Migrants are human beings whose fundamental rights are to be protected, including their dignity. Most of them leave their countries for very serious reasons, including fear for their lives, and in these cases, they should have the right to seek international protection, and be well treated throughout the journey and application process.
- 2.8 The proposal adequately builds a framework for targeting transport operators but fails in acknowledging the responsibility of state and government actors. In the case of Belarus, the national carrier is a company working under direct government supervision. Several government and state bodies were directly involved in the process of flying people to Belarus and bringing them to the border.
- 2.9 The sanctions need to be extended and directly target the public and state players responsible for organising the actions referred to in the Regulation. Ultimately, the government has all the legal and institutional means to stop such actions by transport operators and an even clearer responsibility when they are directly involved. Thus, targeting the transport operators only is not targeting the causes of the crisis but its instruments.
- 2.10 The EU has been the largest grant donor in Belarus. Since 2016, the financial allocation for Belarus has amounted to around EUR 30 million in annual grant assistance, with a current portfolio standing at close to EUR 135 million of commitments. The EESC welcomes the launch of a comprehensive in-depth review of EU-Belarus relations, which includes financial cooperation, and hopes that the review will lead to renewed and more effective pressure on Belarus to respect the rule of law, democracy and human rights, and also work as a deterrent to further actions that could lead to a similar crisis at the EU border.

Brussels, 9 December 2021

Christa Schweng  
The president of the European Economic and Social Committee