



Recommendations on migrants at EU's external borders – emergency measures for Latvia, Lithuania and Poland

European Disability Forum
February 2022

Input to the European Commission's consultation on Migrants at EU's external borders - emergency measures for Latvia, Lithuania and Poland



This publication has received financial support from the European Union. The information contained in this publication does not necessarily reflect the official position of the European Commission.

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About the European Disability Forum

The European Disability Forum (EDF) is an independent umbrella organisation of persons with disabilities that defends the interests of more than 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe, run by persons with disabilities and their families. EDF is a member of the Social Platform and Human Rights and Democracy Network and works closely to the European institutions, the Council of Europe and the United Nations.

In the context of the crisis at the EU border with Belarus, EDF Board adopted a [resolution calling for the respect of the human rights of asylum seekers, refugees and migrants with disabilities](#) on 18 November 2021.

Background information

The EU and all its Member States are bound by the **United Convention on the Rights of Persons with Disabilities** (CRPD), including Article 11 on situations of risk and humanitarian emergencies.

The CRPD, including article 11, must always be applied, including in time of emergency such as the migration crisis faced by Latvia, Lithuania and Poland.

In 2015, the [CRPD Committee recommended](#) to the EU to:

- Mainstream disability in its migration and refugee policies
- Issue guidelines to its agencies and member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the Convention

In the **EU Strategy on the Rights of Persons with Disabilities 2021-2030**, the European Commission calls on EU Member States to:

- Implement the Common European Asylum System (CEAS) acquis taking into account the specific needs of vulnerable applicants for and beneficiaries of international protection, including persons with disabilities, with a view to ensure adequate protection in practice
- Facilitate the training of protection officers and interpreters dealing with asylum claims by vulnerable persons, including persons with disabilities, working very closely with the European Asylum Support Office

EDF feedback on the Proposal for a Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland

EDF considers that the proposal does not sufficiently take into account the rights and needs of persons with disabilities and do not fully comply with the CRPD ratified by the EU and all its Member States, including Latvia, Lithuania and Poland.

Consistency with the EU policies and other obligations

The Proposal for a Council Decision does not refer to the obligation of the EU, and Latvia, Lithuania and Poland to respect and implement the **CRPD**. While there are references to child rights, for example, no reference is made to the rights of persons with disabilities.

EDF recommends that the Council Decision specifically refers to the CRPD and the rights of persons with disabilities that must be respected at all times.

Emergency migration and asylum management procedure at the external borders

Asylum procedure at the external borders (Art. 2)

The Proposal for a Council Decision offers the possibility for Member States concerned to register an asylum application and offer the possibility for its effective lodging only at specific registration points

located at the vicinity of the border including the border crossing points designated for that purpose. The Proposal does not explain how the concerned Member States should provide information about the registration points.

EDF is concerned that restricting the lodging of application at limited registration points at the vicinity of the border may restrict the right to apply for asylum, including of asylum seekers with disabilities. **EDF recommends that the Proposal for a Council Decision require the establishment of sufficient number of registration points and the obligation to provide information about those points and ensure they are accessible to asylum seekers with disabilities.**

The Proposal for a Council Decision authorises the entry of “applicants whose state of health requires a support that cannot be ensured adequately at the border or in transit zones” in order for the application to be examined, without necessarily restarting the procedure.

EDF is concerned that national authorities, institutions and other relevant stakeholders such as border officers may lack knowledge on the rights and needs of applicants with disabilities, including in relation to identifying and treating underlying health issues. **EDF recommends that the concerned Member States allow entry to all applicants with disabilities to assess their healthcare needs and applications.**

Material conditions of reception (Art. 3)

According to the Proposal for a Council Decision, the concerned Member States may temporarily set modalities for material reception conditions different from those provided for in Article 17 and 18 of [Directive 2013/33/EU](#). This exception allows Latvia, Lithuania and Poland to not fulfil all the material conditions of reception required by the Directive except those related to the applicants’ basic needs, such as food, water, clothing, adequate medical care, and temporary shelter adapted to the seasonal weather conditions.

EDF recommends that the Proposal for a Council Decision clarify that the basic needs of persons with disabilities must be ensured and that the temporary modalities must comply with Articles 21 to 25 of Directive 2013/33/EU that set the provisions for “vulnerable persons” including asylum seekers with disabilities. In particular, the concerned Member States must continue to apply Article 22(1) by ensuring that “support provided to applicants with special reception needs (...) takes into account their special reception needs throughout the duration of the asylum procedure and (...) provide for appropriate monitoring of their situation.” Latvia, Lithuania and Poland must ensure that shelters and facilities, including sanitation, are accessible to asylum

seekers with disabilities. **EDF also recalls that detention in the context of migration and asylum seeking is not in line with international human rights law, including with the CRPD.**

Specific guarantees (Art. 5(1))

The Proposal for a Council Decision requires the concerned Member States to provide information to asylum seekers in a language which they understand or are “reasonably supposed to understand” about the measures applied, the dedicated points accessible for registering and lodging an application for international protection, in particular the nearest point where they can lodge an application for international protection, the possibility to appeal the decision, and the duration of the measures.

EDF is alarmed that the concerned Member States may fail to provide information in accessible formats to asylum seekers with disabilities and that such requirement based on presumed understanding may lead to the inability of the person to know and exercise their rights. **EDF recommends that the Proposal for a Council Decision require that the information is provided solely in language and format asylum seekers truly understand.** This should include sign language, easy to read and understand format, and Braille (when the information is provided in written). Support should be provided to all persons with disabilities, including persons with intellectual disabilities.

Cooperation and assessment

Data collection and statistics (Art.9(1))

The Proposal for a Council Decision requires the concerned Member States report all relevant data including statistics that are relevant for the implementation.

EDF is concerned by the lack of disaggregated data related to asylum seekers and migrants with disabilities, and recommends that the concerned Member States collect and share data disaggregated by age, gender and disability.

EDF additional recommendations concerning the situation of asylum seekers with disabilities at the EU borders

The Board of the European Disability Forum calls on the EU, EU member states and UN agencies to:

- 1. Provide urgent humanitarian attention and support to the asylum seekers, refugees and migrants with disabilities** who are currently on the European Union border without safety or shelter.
2. Ensure that all policies, legislation, plans, programmes, budgets and other activities relating to humanitarian disasters are **gender, age and disability responsive** and grounded in human rights-based principles,
- 3. Immediately gather information and data about the asylum seekers currently stranded at the EU borders** so that their most urgent needs can be identified and referred for support.
- 4. Take a human rights-based approach to conflict driven migration** by ensuring the EU and its members states receive asylum seekers, refugees and migrants with disabilities in dignified conditions.
- 5. Ensure all services open to asylum seekers and refugees are accessible to those with disabilities**, including shelters, medical care and the overall asylum-seeking procedures.
- 6. Allocate additional funding to cope with the refugee crisis** and consider the rights and needs of asylum seekers and refugees with disabilities in all EU, Member States and UN agencies' actions.
- 7. Ensure that humanitarian, human rights and Disabled People's organisations have access to hotspots, shelters and refugee camps** to provide assistance and monitor the human rights situations of asylum-seekers and refugees with disabilities.
- 8. Build the capacity of representative organisations of persons with disabilities and all partners** (including organisations of women with disabilities, LGBTI and child rights and women's rights organisations), including by providing them with adequate resources and funding, to implement an inclusive response and monitor adequately the rights of asylum seekers and refugees with disabilities and their access to humanitarian assistance.

9. **Work in cooperation with organisations representing persons with disabilities** both to develop and implement policies but also to provide advice, support and assistance to asylum seekers and refugees with disabilities, including by ensuring sufficient funding to do this work.

10. **Increase the visibility of persons with disabilities arriving in Europe**, through collection and analysis of disability data in any existing data collection processes, and through thorough assessment of protection risks.

11. **Involving the UN High Commissioner for Refugees (UNHCR), International Organisation for Migration (IOM) and other international bodies competent in this area** to provide support to countries receiving asylum seekers and collect information and analysis related to migrants, refugees and asylum seekers with disabilities globally to promote appropriate policies for protection of human rights of this population in situations of risk and emergency.

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