

# Draft laws will be submitted to the Saeima as a matter of urgency in order to clarify the rules on preventing illegal or attempted crossing of the State border

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On 23 May, the Cabinet of Ministers approved the further advancement of the draft law “Amendments to the Law on the State Border Guard” and the draft law “Amendments to the Law on the State Border of the Republic of Latvia” to the Saeima for urgent consideration. The draft law “Amendments to the Law on the State Border Guard” is justified by the need to clarify the right of the State Border Guard to prevent crossing of the State border outside the places and procedures established for legal entry. The draft law “Amendments to the Law on the State Border of the Republic of Latvia”, on the other hand, is drafted in order to introduce a special regulation for situations when it is necessary to implement a reinforced border protection regime.

The need for amendments has been particularly highlighted by the increasing trend of illegal border crossings and attempts, as well as the instrumentalization or hybrid attack on the external border of Latvia and the EU by the current regime in power in Belarus. In particular, the Belarusian authorities effectively stopped protecting their state borders with Latvia, Lithuania and Poland in 2021, thus allowing an uncontrolled flow of people across the state border in unintended places, in the direction of the so-called Schengen Agreement member states. The actions of the Belarusian authorities were assessed at international level as instrumentalization of persons or a hybrid attack with the aim of crossing the state border outside the places and procedures established for legal entry.

Border control is an essential state function within the European Union, serving not only to protect the external borders of a Member State, but also, by extension, of the European Union as a whole. Moreover, only lawful entry into a country or crossing a national border at the places and in the manner prescribed for that purpose is to be regarded as admissible. This principle is not absolute. In particular, humanitarian considerations, national interests or international obligations are among the grounds on which a person who is not a national of a Member State of the European Union is entitled to enter the country outside the places and procedures laid down for lawful entry.

Consequently, in response to the illegal crossing or attempted crossing of the State border as a way of entering the country

illegally, it is necessary to reword Section 5, Paragraph one, Clause 7 of the Law on the State Border Guard to provide that in order to ensure the performance of its functions, the State Border Guard shall prevent the illegal entry of persons. At the same time, the amendments also provide for the addition of a new Clause 1<sup>1</sup> to Section 16, Paragraph one of the Law on the State Border Guard, clarifying the right to use physical force to prevent illegal entry into the country. The amendments also provide for the addition of Clause 5<sup>1</sup> to Section 15, Paragraph one of the Law on State Border Guard, which would more clearly define the right of border guards to prevent a person from entering the country at an unintended place and time (if necessary, by providing primary security as far as possible) if there are no objectively justified circumstances of an immediate need for entry.

The draft law “Amendments to the Law on State Border Guard” has been drafted in compliance with the principle of non-refoulement, the principle of proportionality, as well as other principles laid down in human rights instruments binding on Latvia.

The draft law “Amendments to the Law on the State Border of the Republic of Latvia” provides for the right of the Cabinet of Ministers to declare a reinforced regime for the Border Guard System in order to normalize the situation when a disproportionately high number of cases of illegal or attempted crossing of the State border is detected.

On Monday, 22 May, 41 persons were not allowed to cross the Latvian – Belarusian border outside the border crossing points and procedures established for legal entry, compared to 3310 persons in total this year. This year 178 people were admitted for humanitarian reasons. The State Border Guard assesses and examines each case individually.

In 2022, a total of 5286 persons have been refused permission to cross the State border outside the border crossing points and procedures established for lawful entry, and from 11 August 2021 - 4045 persons.

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