

(English version)

Question for written answer E-001941/25
to the Commission
Mariusz Kamiński (ECR)
(14 May 2025)

Subject: Countering the instrumentalisation of migration — legal framework

State actors are exploiting migrants to artificially create migratory pressure as a tool to achieve political goals and for destabilisation. Migratory pressure has been used in this way at the EU's external borders in Greece and Spain. However, it is the EU's eastern border that has borne the brunt of this phenomenon; Moscow and Minsk have been instrumentalising migrants — with no regard for the humanitarian cost — in order to achieve geopolitical goals. While Poland, the Baltic States and Finland have been decisive in their response to this situation, the EU's response has been, and continues to be, delayed and inadequate considering the scale of the threat.

I am certain that regulation (EU) 2024/1359 ⁽¹⁾, adopted a year ago, as well as the amendments to Regulation (EU) 2016/399 that are already in force ⁽²⁾ and the communication published in December 2024 ⁽³⁾ will do little to discourage Minsk and Moscow from continuing to engage in this kind of hybrid warfare. This is evidenced not least by the agreement Belarus has signed with Pakistan ⁽⁴⁾, as well as the latest wave of attacks on the Polish Border Guard ⁽⁵⁾. Against this backdrop, it is concerning that, in February, the Commission's 2025 work programme announced the withdrawal of its proposal for Regulation 2021/0427(COD) on addressing situations of instrumentalisation ⁽⁶⁾. As a Parliament rapporteur, my view is that the original draft was outdated and failed to meet expectations. No comprehensive alternative was provided for the withdrawn draft. It is particularly worrying that the instrumentalisation of migration was omitted from the proposal for Directive 2023/0439(COD) ⁽⁷⁾, as recognised by the Council ⁽⁸⁾.

1. Has the Commission consulted the countries that have been the target of instrumentalised migration, and does it consider the legal framework for countering this phenomenon to be adequate?
2. Why has the Commission omitted the issue of instrumentalisation from the proposal for Directive 2023/0439(COD)?

Submitted: 14.5.2025

Answer given by Mr Brunner on behalf of the European Commission
(8 August 2025)

The Commission has met and is in direct and constant contact with all Member States that have faced the instrumentalisation of migrants. As recalled in the Commission Communication adopted in December 2024 ⁽¹⁾, addressing the situation at the EU eastern external border, Member States may take exceptional measures to counter the threat of weaponisation of migration.

These measures must be temporary, limited to what is necessary, proportionate and apply only to well-defined cases, while respecting non-derogable rights and principles.

The Commission withdrew the proposal for Regulation 2021/0427 ⁽²⁾ following the adoption of Regulation (EU) 2024/1359 (the Crisis and Force Majeure Regulation) ⁽³⁾ and Regulation (EU) 2024/1717 (the Schengen Borders Code) ⁽⁴⁾.

The Crisis and Force Majeure Regulation provides for procedural derogations in relation to the asylum common rules that Member States may be authorised to apply in situations of crisis, including instrumentalisation.

The revised Schengen Borders Code allows Member States to temporarily close border crossing points in case of instrumentalisation, while guaranteeing access to international protection procedures.

¹ <https://eur-lex.europa.eu/eli/reg/2024/1359/oj/eng>

² <https://eur-lex.europa.eu/eli/reg/2016/399/oj/eng>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52024DC0570>

⁴ <https://www.rferl.org/a/lukashenka-belarus-pakistan-migrants-eu/33382244.html>

⁵ <https://wpolityce.pl/kraj/726559-atak-migrantow-na-straz-graniczna-wsrod-nich-bialorusin>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021PC0890>

⁷ https://eur-lex.europa.eu/procedure/EN/2023_439

⁸ <https://data.consilium.europa.eu/doc/document/ST-15916-2024-REV-1/en/pdf>

⁽¹⁾ Communication from the Commission to the European Parliament and the Council on countering hybrid threats from the weaponisation of migration and strengthening security at the EU's external borders, COM(2024) 570 final.

⁽²⁾ Proposal for a regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum, COM(2021) 890 final.

⁽³⁾ Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and *force majeure* in the field of migration and asylum and amending Regulation (EU) 2021/1147, OJ L, 2024/1359, 22.5.2024.

⁽⁴⁾ Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, OJ L, 2024/1717, 20.6.2024.

The Commission proposal for a directive laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union ⁽⁵⁾ also introduces the offence of public instigation to tackle the activities of smugglers that intentionally instigate migrants, to enter, transit across or stay irregularly in the EU. Instrumentalisation is proposed as an aggravating circumstance.

⁽⁵⁾ Proposal for a directive of the European Parliament and of the Council laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA, COM(2023) 755 final.