

Brussels, 12 December 2024
(OR. en)

16833/24

JAI 1865
ASILE 129
MIGR 461
FRONT 339
HYBRID 154
RELEX 1606

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 December 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2024) 570 final
Subject:	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

Delegations will find attached document COM(2024) 570 final.

Encl.: COM(2024) 570 final



Brussels, 11.12.2024
COM(2024) 570 final

**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**

Communication on countering hybrid threats from the weaponisation of migration and strengthening security at the EU's external borders

1. Challenges at the EU's external land borders with Russia and Belarus and the threat to the Union's security

In recent times, there has been a significant increase in the number of malicious activities targeting the European Union and exploiting global connectivity, supply chains, economic dependencies, legal loopholes, and the openness of our democratic societies. These activities have taken sophisticated forms such as acts of sabotage or cyberattacks to disrupt economic, energy or transport networks as well as foreign information manipulation and interference in political processes showing an increasing audacity in these hybrid attacks. The EU is taking steps to build its preparedness and resilience and the Commission is ready to support Member States to act on the various fronts.

In its conclusions of October 2024, the European Council emphasised that Russia and Belarus, or any other country, cannot be allowed to abuse our values, including the right to asylum, and to undermine our democracies. The European Council expressed solidarity with Poland and with other Member States facing these challenges and it acknowledged its determination to ensure effective control of the Union's external borders through all available means, including with the support of the European Union, in line with EU and international law. The European Council made clear that exceptional situations require appropriate measures ⁽¹⁾. In December 2023, the European Council had already condemned all hybrid attacks, including the instrumentalisation of migrants by third countries for political purposes, and expressed the Union's determination to counter any such attacks launched by Russia and Belarus ⁽²⁾. This Communication focuses on the EU's external land borders with Russia and Belarus, but the considerations set out in it may be applied elsewhere if duly justified by the particular circumstances.

Since February 2022, with its military aggression against Ukraine, Russia has been grossly violating international law, including the United Nations Charter ⁽³⁾, undermining European and global security and stability. Russia's war of aggression against Ukraine is also an attack on the values of democracy, rule of law and fundamental rights. Russia is not alone in its actions. Belarus has often aided and provided decisive support to Russian activities. This is especially the case since the imposition of sanctions on Lukashenka's regime, following the fraudulent presidential elections in 2020. At the time, Belarus supported by Russia launched an operation to create an artificial migration route through its land borders with Member States, notably Latvia, Lithuania and Poland, to other European countries.

Not only have Russia's actions brought war back to the European continent, but they have also created a sense of insecurity and instability. This is reinforced by the intensification of provocations and the use of hybrid warfare tactics, such as the weaponisation of migrants

⁽¹⁾ European Council conclusions, 17.10.24, EUCO 24/25, para. 38.

⁽²⁾ European Council conclusions, 15.12.23, EUCO 20/23, para. 30.

⁽³⁾ United Nations General Assembly Resolution ES-11/1, 01.03.2022, [n2227227.pdf](#).

whereby Russia and Belarus artificially and illegally ⁽⁴⁾ facilitate illegal migration flows towards the EU's external borders. Russia and Belarus take advantage of people, using human beings in an act of hostility, disregarding their vulnerability. Russia and Belarus use this hybrid warfare as a political tool with the objective of destabilising our societies and undermining the unity of the European Union. This jeopardises not only the national security and sovereignty of Member States but also the safety and integrity of the Schengen area and the security of the Union as a whole. The use of violence by individuals, in particular when acting in a group, against border guards in the context of some illegal entries into the Union further aggravates the situation and has a serious impact on EU society. Ultimately, the activities orchestrated by Russia and Belarus are also intended to weaken the support that the Union and its citizens provide to Ukraine in its legitimate self-defence efforts.

This year irregular arrivals at the EU-Belarusian borders have increased significantly (66% increase in 2024 compared to the same period in 2023), particularly at the Polish-Belarusian border. This is also due to the involvement of Belarusian authorities in facilitating crossings, *i.e.* authorising access to the border area and equipping migrants with ladders and other devices. Russian authorities are facilitating these movements, given that more than 90% of migrants illegally crossing the Polish-Belarusian border have a Russian student or tourist visa. Similar elements were observed in 2023 at the Finnish-Russian border, where the majority of migrants were in possession of a valid Russian visa and had already previously tried to enter the EU through Belarus. A recent agreement between Belarus and Russia on the mutual recognition of visas ⁽⁵⁾ could further facilitate movements of third country nationals between Russia and Belarus, including those intending to illegally cross the border to the EU. Moreover, the situation at the other parts of the Union's borders with Russia and Belarus remains of concern with persistent threats related to weaponisation of migrants.

To guarantee the security of the Union and territorial integrity of the Member States, it is necessary that Member States bordering Russia and Belarus are able to act decisively and firmly to effectively control the Union's external borders. Member States have the responsibility to maintain law and order and safeguard internal security within their national territories. They also have a duty to take all the measures necessary to efficiently control and manage the external borders in order to ensure a high level of security within the Union as required under EU law.

The right to asylum, the respect for human dignity and the principle of *non-refoulement* are important cornerstones. International law and EU law allow Member States to tackle situations decisively, where this is needed to uphold security and public order, while respecting the rights of any persons affected by the measures. In view of the serious nature of the threat, as well as its persistence, to the security of the Union and territorial integrity of the Member States, Member States may invoke Treaty provisions to exceptionally and under stringent conditions go further than what is currently provided for by EU secondary legislation, under the control of the Court of Justice.

⁽⁴⁾ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

⁽⁵⁾ The agreement between Russia and Belarus was ratified in February 2023 and set to enter into force on 8 December 2024. It provides that foreigners who have received a visa from Russia or Belarus can cross the borders of the other country without having to obtain an additional visa.

2. EU policy response and operational support

The European Union took a number of steps to counter the instrumentalisation of migrants when this practice was used by Belarus at its borders with Latvia, Lithuania and Poland in 2021 and by Russia at its border with Finland in particular. In addition to strong political support, the Union deployed financial, operational and diplomatic efforts, including with the countries of origin and transit, to respond effectively.

Since the instrumentalisation of migrants by hostile State actors often conflates with the actions of criminal organisations and migrant smugglers, the issue was addressed in the renewed EU Action Plan against Migrant Smuggling (2021-2025) ⁽⁶⁾. Moreover, in the legislative proposal for a directive on migrant smuggling ⁽⁷⁾, the Commission proposed a new offence of public instigation in order to tackle the activities of smugglers that intentionally instigate migrants (including in the context of instrumentalisation) to enter, transit through or stay illegally in the EU. The instrumentalisation of migrants is considered an aggravating circumstance which may increase the level of penalties. The revised Schengen Borders Code explicitly recognises that instances of instrumentalisation of migrants may justify the temporary closure of border crossing points at the external borders concerned. Member States may, where a large number of migrants attempt to cross their external borders in an unauthorised manner, *en masse* and using force, take the necessary measures to preserve security, law and order. The Regulation addressing situations of crisis and *force majeure* ⁽⁸⁾ allows Member States to derogate from certain procedural rules of EU asylum law, in order to deal with situations of instrumentalisation ⁽⁹⁾.

The Commission is now working with Member States to implement the rules contained in the Pact on Migration and Asylum including the Regulation addressing situations of crisis and *force majeure*. It supports Member States to prepare their National Implementation Plans, to be submitted by 12 December 2024. These implementation plans must provide for appropriate measures for Member States to also be prepared to address the issue of instrumentalisation as set out in the Regulation addressing situations of crisis and *force majeure* and could be complemented with other instruments that take into account exceptional situations at the EU's external borders, as described in this Communication, so as to guarantee the security of the Union and the territorial integrity of Member States.

In addition, the Commission continues to work in a number of areas to increase the Union's overall resilience and capacity to react to various kinds of hybrid threats. In this context, it has proposed new rules for the EU to be able to adopt measures against transport operators (air, sea, inland waterways, rail and road) that facilitate or engage in trafficking in human beings or smuggling of migrants. The Commission urges the European Parliament and the Council to

⁽⁶⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A renewed EU action plan against migrant smuggling (2021-2025)*, 29.9.2021, COM(2021) 591 final.

⁽⁷⁾ 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.

⁽⁸⁾ 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, PE/19/2024/REV/1, OJ L, 2024/1359, 22.5.2024.

⁽⁹⁾ For example, by increasing the duration of border procedures and extending its scope to all applicants for international protection, and by lengthening time limits to register asylum applications.

make swift progress on this proposal. To address the growing use of commercial means of transport by smugglers, including for the purpose of the instrumentalisation of migrants, in 2023 the Commission adopted, and is implementing, a Toolbox on transport operators to strengthen situational awareness and the exchange of information, both between Member States and EU Agencies, and with international partners, industry stakeholders, national authorities and international organisations.

The Commission is determined to address the online dimension of instrumentalisation to counter the dissemination of harmful content and foreign information manipulation and interference that polarises our societies and leads to radicalisation and violence. It will do so through the implementation of new legislation such as the Digital Services Act and cooperation with the tech industry. The EU is undertaking a broad range of actions across policy areas (including critical infrastructure and cybersecurity challenges) to counter hybrid threats and has a hybrid toolbox in place since 2022 as part of the EU's Strategic Compass for a Stronger EU security and defence ⁽¹⁰⁾.

EU Agencies are currently providing operational support at the EU's Eastern land border regions and are ready to step it up to help Member States counter security threats at our external borders. Frontex can support via Joint Operations, Rapid Border Interventions and by facilitating the exchange of information, technical support, capacity building and training, as well as by sending liaison officers. Europol guest officers can also be deployed to assist secondary security checks. The European Union Agency for Asylum (EUAA) is available to provide support with technical experts at the request of Member States, to strengthen reception and asylum services as necessary. Eurojust stands ready to support criminal investigations and prosecutions and joint investigation teams led by prosecutors to the affected Member States. In addition, the Union Civil Protection Mechanism is an effective tool used already in 2021 to support Lithuania confronted with instrumentalisation of migrants and which all concerned Member States can use to prepare for threats stemming from the weaponisation of migrants and provide effective support, including to people in need.

The Commission also increased financial support. In 2021, the Commission initiated a dialogue with Latvia, Lithuania, and Poland to provide them with financial support for border management, in addition to the amounts already allocated via national programmes under the Border Management and Visa Policy Instrument (BMVI) for the 2021-2027 period (EUR 360 million) ⁽¹¹⁾. Since then, the Commission has launched other specific actions under the BMVI Thematic Facility to increase Member States' border surveillance capabilities and address new challenges at external borders, including a call for EUR 150 million to support the countries neighbouring Belarus and Russia in facing new security threats.

In addition to the above, the Council has also established a framework for restrictive measures in response to Russia's destabilising actions abroad ⁽¹²⁾. This new framework allows the EU to target individuals and entities engaged in actions and policies, including the instrumentalisation of migrants by the government of Russia, which undermine the fundamental values of the EU

⁽¹⁰⁾ <https://www.consilium.europa.eu/en/press/press-releases/2022/03/21/a-strategic-compass-for-a-stronger-eu-security-and-defence-in-the-next-decade/>.

⁽¹¹⁾ Additional support, for a total amount of EUR 200 million, was granted in 2022 through a specific action under the BMVI Thematic Facility (and Emergency assistance (EMAS) for Lithuania).

⁽¹²⁾ Council Regulation (EU) 2024/2642 of 8 October 2024 concerning restrictive measures in view of Russia's destabilizing activities, ST/8744/2024/INIT, OJ L, 2024/2642, 9.10.2024.

and its Member States, their security, independence and integrity. Under this newly established framework, those targeted will be subject to an asset freeze and EU citizens and companies will be forbidden from making funds available to them. In addition, natural persons may also be subject to a travel ban.

3. Legal context

Under the Schengen Borders Code, Member States are required to protect the EU's external border. They have an obligation to preserve the integrity of the Schengen area by preventing unauthorised border crossings, countering cross-border criminality and taking measures against persons who have crossed the border illegally ⁽¹³⁾. It is the Member States that have, as a matter of principle, the right to control the entry, residence, and removal of aliens ⁽¹⁴⁾.

At the same time, while managing the EU's external borders, Member States must respect fundamental rights and the principle of *non-refoulement*. This principle is established in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol ("the Geneva Convention"), the Charter of Fundamental Rights, as well as in the Schengen Borders Code. It is part of customary law that is binding on all States, and it is enshrined in a series of international agreements, such as the Convention against Torture ⁽¹⁵⁾ and the International Covenant on Civil and Political Rights ⁽¹⁶⁾. The principle of *non-refoulement* protects persons for whom there are substantial grounds for believing that they would otherwise face a real risk of being subjected to torture or other inhuman or degrading treatment or punishment.

The Geneva Convention expressly provides for an exception to the principle of *non-refoulement* ⁽¹⁷⁾ within the meaning of that Convention, outlining certain exceptional situations in which said principle cannot apply. The exception relates to persons for whom there are reasonable grounds for regarding as a danger to the security of the country or that have been convicted of a particularly serious crime and constitute a danger to the community ⁽¹⁸⁾.

The Common European Asylum System (CEAS) is based on the full and inclusive application of the Geneva Convention ⁽¹⁹⁾. The Charter of Fundamental Rights ⁽²⁰⁾ enshrines the right to

⁽¹³⁾ Article 13 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification), OJ L 77, 23/03/2016, p. 1–52.

⁽¹⁴⁾ See ECtHR, *Abdulaziz, Cabales and Balkandali v United Kingdom*, 28.05.85, para. 67 and ECtHR, Grand Chamber, *N.D and N.T. v Spain*, 13.02.2020, para. 167.

⁽¹⁵⁾ Article 3, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10.12.1984, General Assembly Resolution 39/46.

⁽¹⁶⁾ Article 7 in conjunction with Article 2, International Covenant on Civil and Political Rights, 16.12.1966, General Assembly Resolution 2200A (XXI).

⁽¹⁷⁾ Article 33(1) of the 1951 Convention relating to the Status of Refugees: "*No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion*".

⁽¹⁸⁾ Article 33(2) of the 1951 Convention relating to the Status of Refugees: "*The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country*".

⁽¹⁹⁾ Article 78(1) of the Treaty on the Functioning of the European Union.

⁽²⁰⁾ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407.

asylum building on the norms laid down by the Geneva Convention ⁽²¹⁾ and the principle of *non-refoulement* ⁽²²⁾, which builds on Article 4 of the 4th Additional Protocol to the European Convention on Human Rights (“ECHR”), Article 3 ECHR and Article 15 ECHR. Fundamental rights in the Charter have the same legal value as the Treaties ⁽²³⁾ and must be respected when applying EU law.

At this moment in time, and at the EU’s external border with Russia and Belarus, it is clear that Member States are being subjected to a hybrid attack by hostile States that intend to destabilise a region via a war of aggression against Ukraine, whilst simultaneously weaponising migration to undermine the security of the Union. The Commission is committed to support Member States to prevent Russia and Belarus from attaining their objectives by using our principles and values against us. The persistent threat at these external borders and the effects that it has on the security of the Union and on the Member States in question, constitutes an exceptional and very serious situation. In fact, the security environment of the European Union has changed dramatically compared to the time when relevant international law instruments were enacted, and this may need to be taken into account in their application.

Guaranteeing national security is the responsibility of each Member State, as recognised by Article 4(2) TEU. This should be understood as comprising the integrity of essential State functions and the fundamental interests of society ⁽²⁴⁾, the safeguarding of territorial integrity and the maintenance of law and order. Article 72 TFEU recognises that, in exceptional circumstances, Member States may need to take measures for reasons of law and order or public security derogating from EU secondary legislation as confirmed by the Court of Justice of the European Union. Any such derogations should be exceptional and applied only in clearly defined cases ⁽²⁵⁾.

As expressed by the European Council, the Commission acknowledges that Member States must be capable of doing what is necessary to defend themselves against hybrid attacks carried out by Russia and Belarus, and safeguard their national security, public order, and sovereignty ⁽²⁶⁾. It is up to Member States to define their essential security interests and adopt the appropriate measures to protect them, whilst ensuring that they are in line with EU and international law ⁽²⁷⁾.

When counteracting hybrid attacks from Russia and Belarus, Member States are confronted with actions that, by their nature and significance, put national security at risk. Member States may need to adopt measures that could entail serious interferences with fundamental rights, such as the right to asylum and related guarantees, subject to the requirements laid down in

⁽²¹⁾ Article 18 of the Charter.

⁽²²⁾ Article 19 of the Charter.

⁽²³⁾ Article 6(1) of the Treaty on the European Union.

⁽²⁴⁾ Joined Cases C-511/18, C-512/18 and C-520/18 *La Quadrature du Net and Others v Premier ministre and Others*, ECLI:EU:C:2020:791, para. 135.

⁽²⁵⁾ Joined Cases C- 715/17, C- 718/17 and C- 719/17 *Commission v Poland, Commission v Hungary and Commission v Czechia*, ECLI:EU:C:2020:257, para. 143.

⁽²⁶⁾ European Council conclusions, 17.10.24, EUCO 24/25, para. 38.

⁽²⁷⁾ Joined Cases C- 715/17, C- 718/17 and C- 719/17 *Commission v Poland, Commission v Hungary and Commission v Czechia*, ECLI:EU:C:2020:257, para. 143.

Article 52(1) of the Charter ⁽²⁸⁾. In particular, the exercise of fundamental rights of the Charter can be limited ⁽²⁹⁾ if provided by law and only in so far as the essence of the rights is guaranteed, due regard is given to the principles of proportionality and necessity, and the restrictions meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others ⁽³⁰⁾.

The European Union has already faced a situation in which the limitation of fundamental rights enshrined in the Charter was necessary to counter hybrid threats posed by Russia. In March 2022, the Union temporarily prohibited certain state-controlled Russian operators from broadcasting on EU territory due to propaganda and disinformation targeted at civil society in the Union ⁽³¹⁾. The threat posed a serious risk to public order and security. Although the decision impacted the fundamental right to freedom of expression and information, as well as the freedom to conduct business, the General Court upheld its lawfulness, since it complied with the requirements laid down by the Charter ⁽³²⁾ and the aim of the measure, namely safeguarding the Union's values, notably security and public order, justified such a limitation ⁽³³⁾. Notwithstanding the obvious differences between the freedom of expression and the right to asylum, this precedent provides relevant guidance on the lawful conditions for restricting Charter rights.

The European Court of Human Rights ("ECtHR") has also recognised that certain exceptional situations impact the interpretation of the rights under the ECHR. In particular, it has determined that the conduct of migrants using force in large groups to storm a border fence ⁽³⁴⁾ or relying on large numbers to cross illegally ⁽³⁵⁾, while not making use of official entry procedures, can justify State action that would not be considered as violating the prohibition of collective expulsion.

4. Cooperation with the Union and other Member States

The Commission recognises that, in view of hybrid threats posed by hostile States, putting at risk the security and territorial integrity of the Member States, and the maintenance of law and order, Member States may adopt exceptional measures to defend themselves against external threats.

Russia's war of aggression against Ukraine and, in this context, the general hostility that both Russia, with the complicity of Belarus, have been maintaining towards the European Union have created insecurity for the Union. One of the most serious manifestations of this is the weaponisation of migration by continuously facilitating and encouraging migrants to reach the external Eastern land borders of the Union with the intention to put pressure on Member States and the Union.

⁽²⁸⁾ Joined Cases C-511/18, C-512/18 and C-520/18 *La Quadrature du Net and Others v Premier ministre and Others*, ECLI:EU:C:2020:791, para. 136.

⁽²⁹⁾ Except those rights of a non-derogable nature, including the principle of *non-refoulement*.

⁽³⁰⁾ Article 52(1) of the Charter.

⁽³¹⁾ Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 65, 2.3.2022, p. 5–7.

⁽³²⁾ T-125/22, *RT France v Council of the European Union*, ECLI:EU:T:2022:483, para. 145.

⁽³³⁾ T-125/22, *RT France v Council of the European Union*, ECLI:EU:T:2022:483, para. 202.

⁽³⁴⁾ ECtHR, Grand Chamber, *N.D and N.T. v Spain*, 13.02.2020, para. 231.

⁽³⁵⁾ ECtHR, *A.A. and Others v North Macedonia*, 05.04.2022, para. 123.

Faced with this situation, the Member States affected must be able to defend themselves, to ensure their territorial integrity, to maintain law and order and to safeguard their national security, as recognised by Articles 4(2) TEU and 72 TFEU, as well as the security of the Union as a whole. At the same time, actions by Russia and Belarus take advantage of people, some of whom are in a vulnerable position, and their fundamental rights, dignity and special needs must be preserved in accordance with EU and international law.

Actions taken by Member States to preserve national security in accordance with the Treaties must comply with the limits and conditions of EU law. The case-law of the Court of Justice of the European Union provides useful guidance as regards the conditions and limits that must be taken into account.

Any measure must be **proportionate** and suitable to address the threat posed by Russia and Belarus, and it must be **limited to what is strictly necessary** ⁽³⁶⁾. Member States must explain the necessity and provide justifications when adopting any measures that have as an objective to protect national security, in accordance with the Treaties ⁽³⁷⁾. Merely invoking the protection of interests, however fundamental, is not sufficient to satisfy the required reasoning ⁽³⁸⁾. The need to argue the suitability and necessity of the measures also requires Member States to explain why flexibility provisions already available under the *acquis* are not suitable to address the particular circumstances ⁽³⁹⁾.

Furthermore, measures which may result in limiting certain fundamental rights must be of a **temporary** nature. The fact that the measures would be limited in time is important when assessing whether the essence of the right at stake is respected ⁽⁴⁰⁾, as exceptional measures must be targeted, adapted to the specific circumstances and be limited only for as long as necessary.

The Commission encourages Member States to carefully weigh all the interests at stake and make use of all the possibilities afforded by the Union's legal order when taking exceptional measures to tackle hybrid attacks as outlined in this Communication. Given that these measures protect the common external border, as well as the internal and external security of the Union itself, and in light of the principle of sincere cooperation ⁽⁴¹⁾, Member States are invited to cooperate closely with the Union and other Member States. The Commission is ready to play its institutional role and ensure the protection of the general interest of the Union. Coordination among neighbouring Member States is necessary to ensure the consistency and effectiveness of any action.

In this context, it is important that Member States consult the Commission and inform the other Member States about exceptional measures that they intend to take and take to tackle the hybrid

⁽³⁶⁾ Joined Cases C-511/18, C-512/18 and C-520/18 *La Quadrature du Net and Others v Premier ministre and Others*, ECLI:EU:C:2020:791, para. 147; Case C-808/18 *Commission v Hungary*, ECLI:EU:C:2020:1029, para. 216 and 261; Joined Cases C- 715/17, C- 718/17 and C- 719/17 *Commission v Poland, Commission v Hungary and Commission v Czechia*, ECLI:EU:C:2020:257, para. 152.

⁽³⁷⁾ C-72/22 PPU *M.A.*, ECLI:EU:C:2022:505, para. 70; Case C-808/18 *Commission v Hungary*, ECLI:EU:C:2020:1029, para. 214.

⁽³⁸⁾ Joined Cases C- 715/17, C- 718/17 and C- 719/17 *Commission v Poland, Commission v Hungary and Commission v Czechia*, ECLI:EU:C:2020:257, para. 145.

⁽³⁹⁾ Case C-808/18 *Commission v Hungary*, ECLI:EU:C:2020:1029, para. 217 to 218.

⁽⁴⁰⁾ T-125/22, *RT France v Council of the European Union*, ECLI:EU:T:2022:483, para. 154.

⁽⁴¹⁾ Article 4(3) of the Treaty on European Union.

attacks carried out by Russia and Belarus. It would be important for Member States to inform of the measures to be taken, their duration and scope, legal basis and how they intend to comply with the principles and limits arising from EU and international law, including in respect of fundamental rights.

The Commission stands ready to engage with Member States taking such exceptional measures, to help ensure that all relevant considerations are taken into account. The Commission will always stand by Member States in their efforts to ensure a safe and secure Union with a fully functioning Schengen area, for the benefit of all EU citizens and in full respect of fundamental rights. The Union will not allow any hostile State to abuse European values.