

Does the Closure of the Border between Finland and the Russian Federation Contradict EU Law?

Alexander Kasparov

Leiden University (alumnus)

Abstract:

Only 10 years ago irregular migration by sea was the most politicized issue in the EU's policy on migration and asylum and the Union's authorities contemplated over a 'model of concentric circles of migration policy' which had been based on the idea that neighboring countries would halt migrants before their arrival in the Union.¹ But in 2022 that concept was totally ruined. The Russian invasion of Ukraine made Europe feel the threat from the eastern neighbor. In particular it concerned those member states which have a common border with the Russian Federation and the Republic of Belarus, because both countries suddenly changed from the partner into the one of the main sources of illegal migration to the Union.

In this new situation those Member States started to take measures which, in the judgment of their governments, could provide for their safety: construction of steel barriers along the borders with the Russian Federation and Belarus, turning into minefields areas which adjoined those borders. One of such measures became total closure of the borders with Russia.

The latter measure was carried out to some extent by Finland, Estonia, Latvia, Lithuania. For example, Baltic States applied total border closure in days of mobilization in Russia. Also, the Republic of Poland does not rule out the possibility of closing its borders not only with the Russian exclave of Kaliningrad but also with The Republic of Belarus.

This Thesis analyses the compliance of the border closure carried out by Finland with the relevant provisions of EU law, and inferences of that assessment can be applied also to the identical measures which were implemented by Baltic States and by Poland.

Finland is a democratic state which shares values of the European Union. Moreover, it is worth mentioning that in the opinion of the scholars the standard of protection of constitutional rights in Finland 'is generally at a higher level than the fundamental rights standard under EU law'.²

Nevertheless, Finland closed its border with Russia for an indefinite period of time and explained taking of such measures by accusing Russia of weaponising migration against the Nordic Nation.³ For its part the Russian Federation denied all those accusations. The press-secretary of Russian President D. Peskov characterized closure of the border as 'excess' measure and declared that 'there is no threat and no intensity in reality'.⁴ Thus, both parties made directly contrary statements about the border closure.

¹ J. Rijpma and M. Vermeulen 'EUROSUR: saving lives or building borders?', 24 (3) *European Security* (2015) p. 454 at p. 455-456.

² T. Ojanen, 'EU Law and the Response of the Constitutional Law Committee of the Finnish Parliament', 52 *Scandinavian Studies in Law* (2007) p. 204 at p. 208.

³ E. Lehto 'Finland extends Russia border closure indefinitely', 4 April 2024, <https://www.reuters.com/world/europe/finland-extends-russia-border-closing-indefinitely-2024-04-04/>, visited 20 March 2025.

⁴ Н. Портякова 'Финляндия отгородилась', [Finland fenced itself off], *Kommersant*, 30 November 2023, <<http://www.kommersant.ru/doc/6367314>>, visited 20 March 2025.