

Free legal office for the protection of rights of foreign citizens and stateless persons

Report for 2020

In 2017, Human Constanta opened a free legal office for the protection of the rights of foreign citizens and stateless persons in Belarus. In 2020, we continued to provide free consultations to foreigners and stateless persons who find themselves in difficult situations on the territory of Belarus. The traditional range of questions about the procedures for obtaining a permanent and temporary residence permit has been supplemented with questions related to new challenges — the COVID-19 pandemic and protests in Belarus.

This report provides an overview of the office's activities, the specifics of appeals, and a description of the legislative and law administration problems we faced in 2020.

MAIN CONCLUSIONS

In 2020, 566 foreign citizens and stateless persons from 58 countries received assistance at the Human Constanta free legal office. More than a third of the applicants are citizens of Russia and Ukraine.

The consultations covered a wide range of issues related to arrival and stay / residence in Belarus. Other topics for consultations in 2020 were also issues related to restrictions due to the COVID-19 pandemic and the negative consequences of the presidential elections on the staying of some foreigners in Belarus.

There are still problems in the processing of basic administrative procedures by foreigners, namely, the unjustified refusals of the Citizenship and Migration Departments to issue invitations for citizens of states, which are included in the list of countries that are unfavorable in terms of migration; refusals to accept documents for issuing temporary residence permits for foreigners who arrived in Belarus under a visa-free regime; refusals to accept documents issued in other states.

The spread of COVID-19 has had a great impact on the staying of foreigners in Belarus. With the introduction of restrictive measures at border crossings and the suspension of transport links, many foreigners “got stuck” on the territory of Belarus, but the government of Belarus refused to introduce any additional measures to resolve the situation. The legal documents governing the procedure for extending the temporary stay (registration) of foreigners in Belarus, expulsion (deportation/expulsion/extradition) of foreigners from the territory of Belarus weren’t issued.

After the presidential elections on August 9, at least 170 foreigners from more than 17 countries who came to Belarus as tourists or have long lived in Belarus were detained and subsequently brought to administrative liability in connection with their actual or alleged participation in peaceful protests all over Belarus. The detentions in violation of the law were not reported to the responding consulates. The foreigners were subjected to torture, cruelty and inhuman treatment. After the arrests, many foreigners were subjected to double jeopardy — expulsion from the country.

The procedure for identity identification of foreign citizens, whose documents have not been found, remains problematic. Such foreigners are detained, and the detention period of such foreigners is not limited by the law. The detention in the isolation ward

is not subject to periodic review and judicial review. In addition, temporary detention facilities are not designed for a long-term stay.

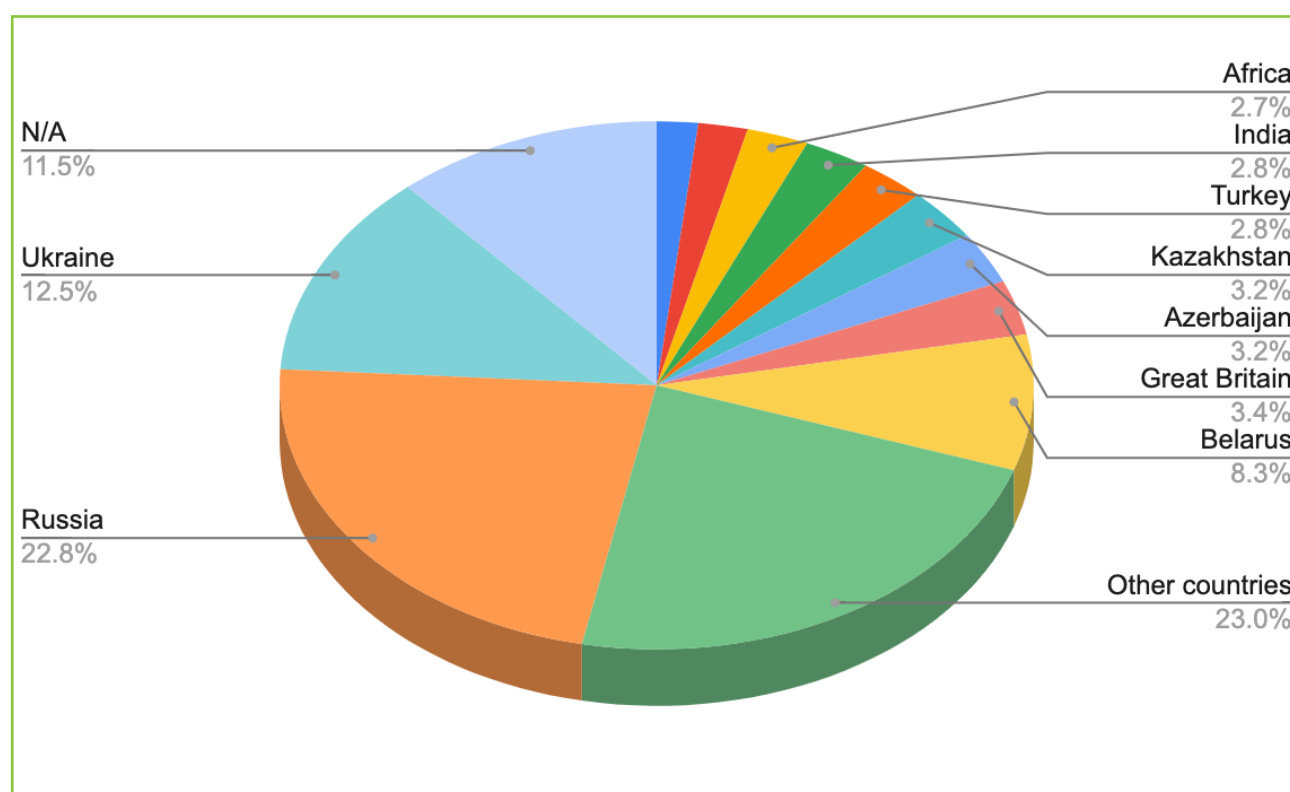
The mechanism for extraditing foreigners has been worked out in sufficient detail in the criminal procedure legislation of Belarus. Nevertheless, in practice, problems arise with the delay in the extradition procedure and with the conflicts between the laws of different states, ignoring the ban on the extradition of foreigners to countries where they are in danger. In 2020 one positive case was recorded for Nikolai Makhalichev, whom Russia wanted to bring to criminal responsibility for belonging to a Jehovah's Witnesses religious group. Belarus refused to extradite and granted Nikolai a refugee status. A negative practice is the case of a Kurd of Turkish origin, Hijri Mamasha, whom Belarus extradited to Turkey despite the threats of torture in Turkey and the urgent measures taken by the UN Human Rights Committee.

Despite the epidemic and closed borders, the free legal office in Brest continued to work in priority areas, namely to provide advice to transit refugees who tried to cross the border at the Terespol border checkpoint and apply for asylum in Poland. In 2020 specialists from the free legal office consulted 77 transit refugees on how to draw up an application for international protection/refugee status and appeal against a refusal to cross the border.

GENERAL INFORMATION

In 2020, our free legal office for foreign citizens and stateless persons consulted 566 people from 58 countries. The consultations were carried out by phone, e-mail, as well as in the office in Minsk, and touched upon a wide range of issues related to arrival and stay/residence in Belarus. Separate topics for consultations in 2020 were also issues related to restrictions due to the COVID-19 pandemic and the negative consequences of the presidential elections on the situation of foreigners in Belarus.

Foreigners by nationality who applied to the office

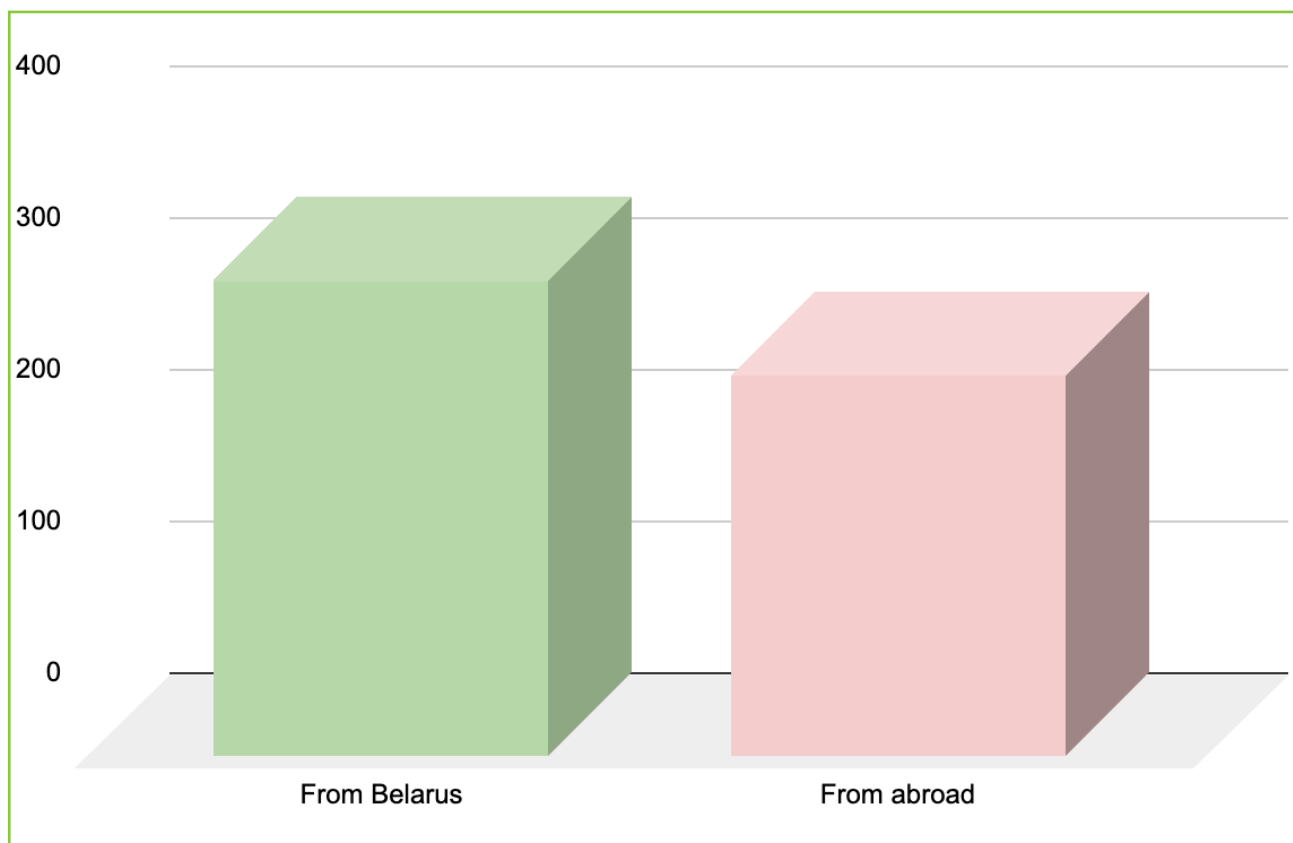


More than a third of foreigners who applied for legal assistance are citizens of Russia and Ukraine. Last year, we also recorded a large number of applications from citizens of these particular countries.

An important factor in the work of the office was the events following the presidential elections in Belarus in 2020. We have encountered a large number of appeals from Russians and Ukrainians who live in Belarus on a permanent basis and have been brought to administrative responsibility for their actual or alleged participation in protest actions throughout Belarus.

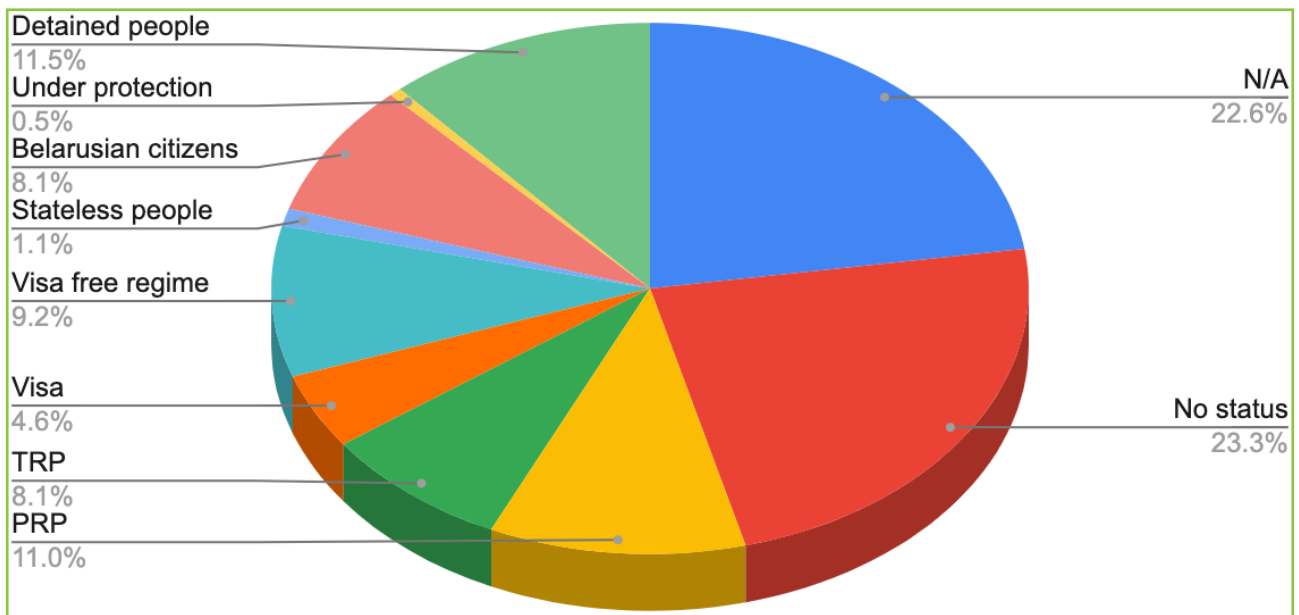
In 2020, the number of applicants from Belarus prevailed over the number of applications from abroad (55,5 % to 44,5 %, respectively). Such an increase in applications from Belarus is associated, among other things, with the abrupt closure of borders by other states in order to prevent the spread of COVID-19. In the middle of the pandemic, some foreigners stuck on the territory of Belarus and were forced to seek legal assistance.

People who applied for counselling from Belarus and from abroad



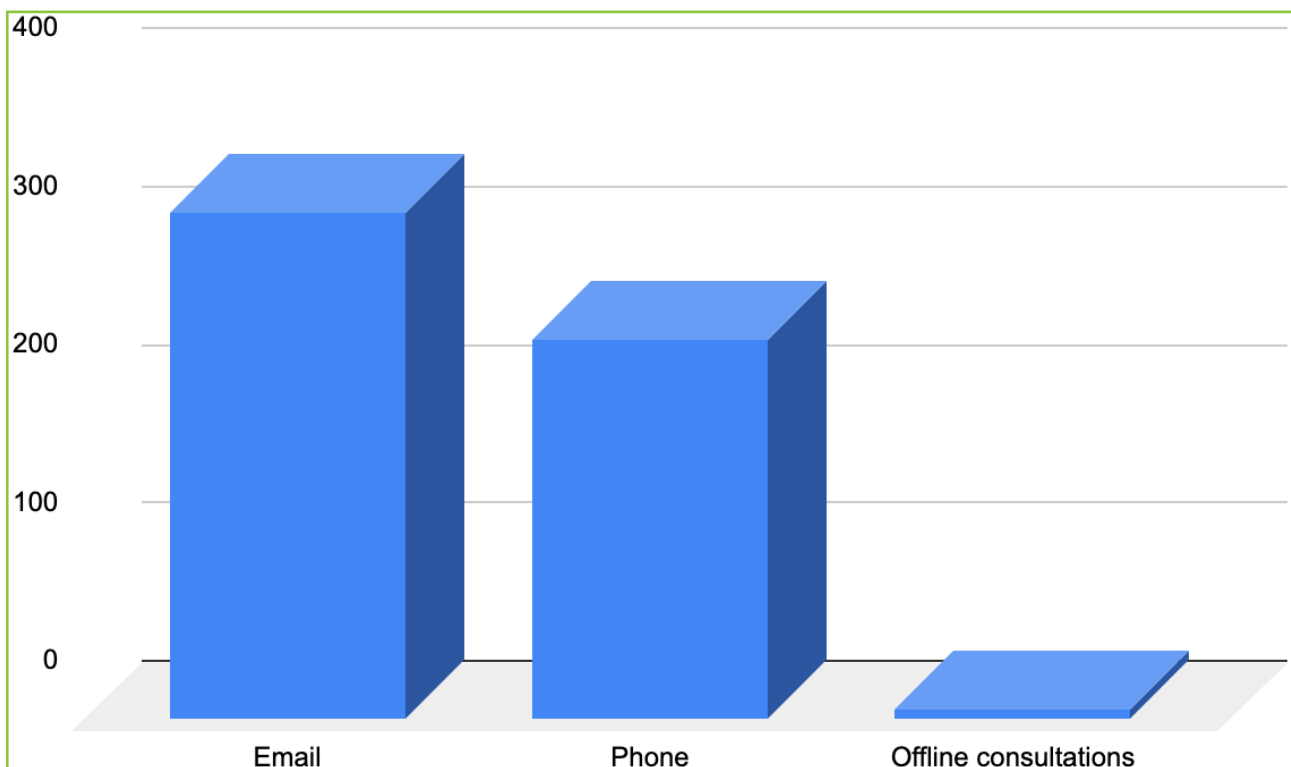
In 2020 the number of foreigners who applied for assistance and who come to Belarus under the visa-free regime has increased. Those who applied from Belarus mainly had permits for temporary or permanent residence. The number of foreigners temporarily or permanently residing in Belarus has also increased, who have applied to us in the status of detainees mainly in cases related to their alleged participation in peaceful actions.

Status of foreigners applying to the office



Most of the requests came to us via email, including a special form on the website. We were also contacted by phone, including WhatsApp, Telegram, Signal messengers. Additionally, we also provide consultations to foreigners who have applied in our office in Minsk.

Way of applying to the reception



SUBJECT OF APPEALS

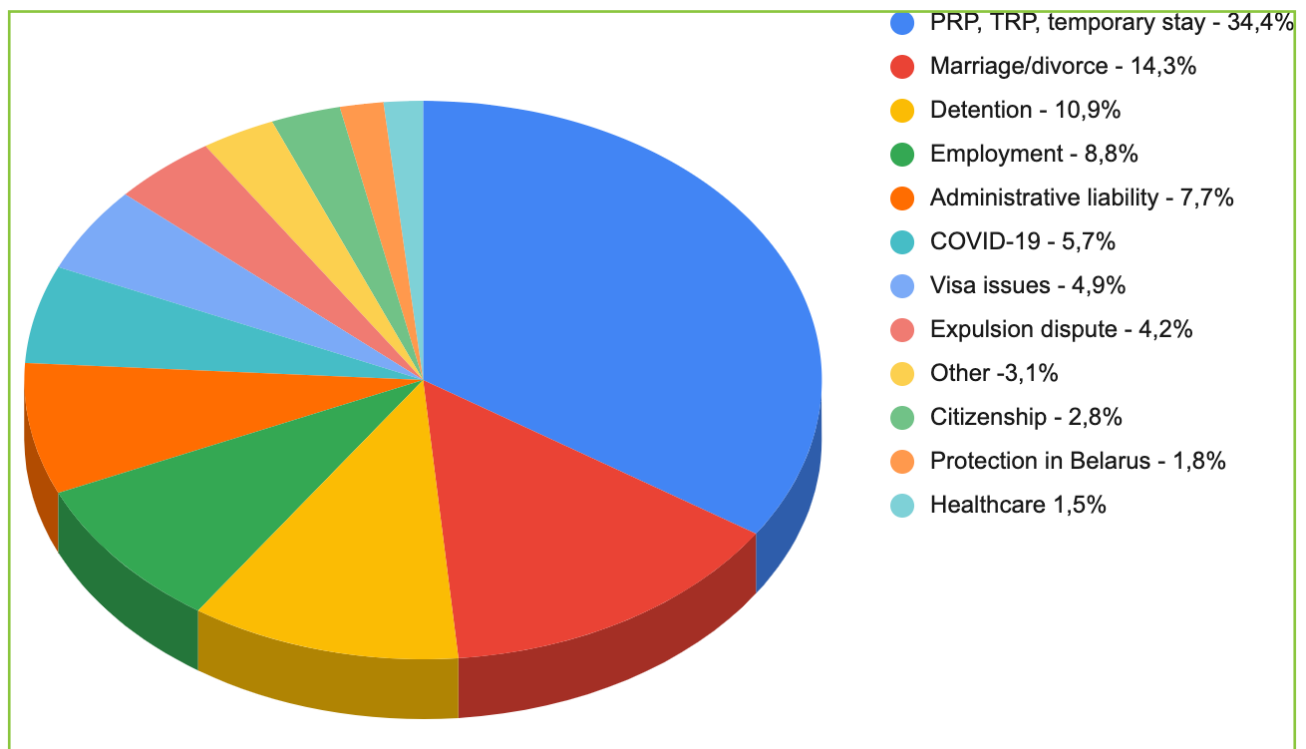
In 2020, in the work of the free legal office, special attention was paid to the issues of human rights violations in Belarus, particularly the issues of illegal detention of foreigners, their expulsion from the territory of Belarus, violation of their rights by state authorities, denial of legal assistance. A separate topic for consultations was connected to the restrictions imposed by the COVID-19 pandemic. At the same time, we continued with giving initial consultations on general issues of stay and residence of foreigners in Belarus.

We provided consultations for foreigners on the following subjects:

- Appeal against decisions on deportation, expulsion, extradition, reduction of the period of stay, or inclusion in the List of individuals whose entry into the republic of Belarus has been banned or deemed undesirable.
- Appeal against illegal detention of foreigners, imposition of administrative sanctions, conditions and duration of the detention of foreigners.
- Restrictions, imposed by the COVID-19 pandemic: the procedure of crossing the state border, extending the period of temporary stay resulting from closed borders, receiving specialized medical care.
- Visa-related issues: obtaining visas to the Republic of Belarus (entry and exit), visa extension, visa-free regime.
- Issuance of invitations to Belarus for foreign citizens.
- Citizenship-related issues: obtainment/restoration/cancellation.
- Registration of marriage with a foreigner in Belarus.
- Employment-related issues: obtaining a permit for employment of foreign citizens, opening a business.
- Medical issues: health insurance for foreigners, obtaining first aid and planned medical care.
- Obtaining or rejecting protection in Belarus: refugee status, additional protection.

- Residence registration and prolongation, change of address.
- Registration and prolongation of TRP and PRP: reasons for approval or cancellation, procedure, rejection of application.
- Other issues: receiving pensions and compensations, inheritance, burial on the territory of Belarus, getting a driver's license, registration in the consular department of the embassy, processing of maternal leave, etc.

Applications to the free legal office by subject



GENERAL ADMINISTRATIVE PROCEDURES

Since January 2020, the free legal office has changed the format of work, shifting the focus from providing general consultations on stay in Belarus to providing legal assistance on violations of the rights of foreigners and stateless persons in Belarus. However, we continued with giving initial consultations on general issues related to the stay and residence of foreigners in Belarus, and general consultations in cases when foreigners could not receive qualified assistance from the relevant Belarusian authorities.

In 2020, the same problems, which we have already encountered in previous years, exist when foreigners go through the administrative procedures:

- unreasonable refusals of the Departments of Citizenship and Migration to issue invitations for the citizens of countries that are included in the list of unreliable countries in terms of migration;
- refusals to accept documents for issuing temporary residence permits for foreigners who arrived in Belarus under visa-free regime conditions;
- refusals to accept documents issued in other countries.

When going through many of the administrative procedures, foreigners need to submit foreign documents to the Belarusian state bodies. Many countries are willing to make the procedures for the recognition of foreign documents easier. Belarus is a party to several multilateral and bilateral agreements that abolish the requirements for the legalization of foreign documents. Nonetheless, in practice, state bodies often refuse to accept documents from the foreigners that do not have an apostille on them, therefore ignoring existing international agreements. Thus, over the year, we were approached three times by the citizens of Moldova, whose official documents issued by the competent authorities of Moldova werenot accepted in Belarus without an apostille on them. At the same time, there is an agreement on mutual legal assistance between Belarus and Moldova, which allows to accept official documents without additional legalization. Such cases of violation of the rights of foreigners are often connected with the low awareness of employees of Belarusian state bodies.

The free legal office has encountered cases when violations of the rights of foreigners occur as a result of not just low awareness, but the direct intent of state officials. Thus, in 2020, we were approached by a citizen of Turkmenistan, who has been living in Belarus for a long time on the basis of a temporary residence permit. The woman was repeatedly summoned to the Department of Citizenship and Migration in the area of her registration, where she was intimidated by the employees, who wrote protocols of an administrative offense without explaining the essence of the violations. The woman was not given any procedural documents, she was only provided with requisites for paying administrative fines. Such illegal practice of the Citizenship and Migration Department stopped only after a complaint had been sent to a higher authority.

Another subject that we worked with earlier and continued to work with in 2020 is the obtaining of planned medical care by foreigners living in Belarus on the basis of a residence permit. Belarusian legislation provides for the right of permanently residing foreigners to receive planned medical care free of charge in state polyclinics and hospitals. However, CIS citizens fall under the exception and are forced to pay for any medical services that are not emergency or urgent enough. This state of things directly violates the rights of foreigners who, after obtaining a Belarusian residence permit, receive almost all the rights of Belarusian citizens, work and pay the same taxes to the budget of Belarus, but are forced to pay additionally for medical services.

In 2020, we also paid a lot of attention to the problem of statelessness in Belarus. The exchange of information with the Department for Citizenship and Migration of Belarus, the UNHCR office in Minsk, the International Organization for Migration helped to solve the problem with the documents for several stateless people born in Russia and Pakistan.

COVID-19

The spread of the coronavirus infection COVID-19 had a great impact on the status of foreigners in Belarus. With the introduction of restrictive measures when crossing the border and the suspension of transportation, many foreigners “got stuck” on the territory of Belarus. We received a big number of requests from foreigners, who could not leave Belarus because of the cancellation of flights to their country of citizenship or permanent residence, because of the closure of borders by a number of countries, and because of being infected with the coronavirus. Many foreigners who arrived in Belarus under the visa-free regime conditions through the Minsk airport were forced to leave Belarus through ground border checkpoints. At the same time, foreigners had to apply for exit visas at the Citizenship and Migration Department, which led to additional costs and required more time. The government of Belarus refused to introduce any additional measures to resolve the situation. At the official level, no normative legal documents have been adopted, governing the procedure for extending the temporary stay (registration) of foreigners in Belarus, expulsion (deportation / extradition) of foreigners from the territory of Belarus in the situation with closed state borders of other countries.

At the end of March 2020, the head of the Department of Citizenship and Migration of Belarus announced the introduction of the practice of extending the periods of temporary stay (registration) of foreign citizens in Belarus, who were unable to leave the territory of Belarus before other countries introduced restrictive measures. Despite the declaration of such positive measures, the absence of a special normative legal act led to the fact that, in practice, some Departments of Citizenship and Migration refused to extend the period of temporary stay in Belarus for foreigners who were unable to leave the country amid the pandemic.

Thus, we were approached by a citizen of Azerbaijan, who was refused to extend the period of stay in Belarus by one of the Departments of Citizenship and Migration in Minsk. The situation was resolved only after an appeal was sent to the Department of Citizenship and Migration with a request to convey the announcement of the head of the Department about the extension of the period of stay to the attention of employees of lower state bodies. In another case, an Indian citizen got infected with coronavirus in Belarus and was placed in self-isolation until full recovery. During this time, the period of his temporary stay in Belarus expired, and he applied to the

Department of Citizenship and Migration for the extension of his registration. The Department employees refused to extend the registration and demanded his personal presence at the Department of Citizenship and Migration, which was impossible to do without violating the rules of self-isolation and creating a risk of infecting other people.

On May 19, the President of Belarus signed a decree according to which a number of documents and certificates issued by Belarusian state bodies, which expire from April 30 to July 31, automatically continued being valid for another three months. This also applies to the registration of foreigners permanently residing in Belarus or those who work in diplomatic missions or international organizations. Thus, the rest of the foreigners, including those who came to Belarus obtaining a visa, or under the visa-free regime conditions, or those temporarily residing in the country, had to still apply directly to the Departments of Citizenship and Migration.

Because of the COVID-19 pandemic and closed borders, not only foreigners in Belarus, but also foreigners who were unable to return to Belarus appeared in a difficult situation. According to the Belarusian legislation, a permanent residence permit can be cancelled if a foreigner holding such a permit has spent more than 183 days outside Belarus during a calendar year. Thus, a citizen of Ethiopia with a Belarusian residence permit had been in the country of his citizenship for a long time and could not return to Belarus because of the closed borders before the expiration of the specified 183 days. In relation to him, the Department of Citizenship and Migration started the procedure for canceling the Belarusian residence permit. A citizen of Russia and a citizen of Kazakhstan also contacted us with a similar problem.

We also found out a problem with the obtaining of official documents from abroad by foreigners in cases when such documents cannot be obtained through the diplomatic missions of the countries of citizenship. As a result, some foreigners could not carry out administrative procedures (for example, marriage registration, obtaining a permanent residence permit) in Belarus and are still forced to be in uncertainty until the epidemiological situation improves. Thus, we were approached by citizens of Moldova, Canada, Russia, Norway, who wanted to register a marriage on the territory of Belarus. At the moment, not all of them can obtain documents from the country of their citizenship, since consular departments on the territory of Belarus do not carry out such procedures. The procedure for obtaining a Belarusian permanent residence permit is also complicated, since, according to the law, a foreigner is required to provide a certificate of no criminal record obtained in the country of citizenship. According to the procedure, the Department of Citizenship and Migration can request the information on the absence of a criminal record if the foreigner cannot provide them on his own. However, there were cases when employees of the Department of Citizenship and Migration refused such an option, despite the fact that foreigners could not freely leave for the country of their citizenship and get this specified record.

The state authorities also did not take any additional measures in order to simplify the situation of foreigners who got infected with COVID-19 in Belarus. Foreign citizens living and staying in Belarus on a visa basis or under visa-free regime condition could receive medical care in the usual way on a paid basis. Since the coronavirus infection was included in the list of diseases that pose a threat to public health, foreigners who refuse treatment may be deported from Belarus.

With the introduction of restrictive measures because of the COVID-19 pandemic, there suddenly appeared a problem with timely expulsion (deportation/expulsion/extradition) of foreigners from the territory of Belarus in conditions of closed borders. At the official level, no attempts were made to resolve this problem — there wasn't anything announced either about the special agreements with other countries, or about the organization of separate flights, etc. Such inaction created the risk of delaying the expulsion date and prolonged detention of foreigners in unacceptable conditions. We have received information about a citizen of Bangladesh, who has been in the center of isolation of offenders for almost a year, waiting for the execution of the decision on his expulsion to the country of his citizenship. The state authorities explained that the delay in expulsion is connected precisely with the lack of agreements with other countries and the impossibility to organize the transfer of a Bangladesh citizen to the country of his citizenship.

MASS ARRESTS AND DEPORTATIONS OF FOREIGNERS AFTER THE ELECTIONS

After the announcement of the victory of Alexander Lukashenko in the presidential elections in August 2020, mass peaceful protests of citizens defending their votes began in Minsk and other cities of Belarus. In the first few days after the election, several thousand people were detained. A large number of foreigners who came to Belarus as tourists or have been living in Belarus for a long time have also been detained and subsequently brought to administrative responsibility. We have become aware of more than 170 cases of detention and administrative prosecution of foreigners from more than 17 countries in connection with their actual or alleged participation in peaceful protests all over Belarus.

The detentions of foreigners were accompanied by a large number of additional problems. For example, the Belarusian legislation prescribes that the body that detained a foreigner must notify the Ministry of Foreign Affairs no later than one day at the request of the foreigner to notify the consulate of the country of citizenship of such a foreigner. However, we have become aware of cases of failure to inform the representatives of foreign states about the facts of the detention of their citizens. That is, in fact, by such failure to inform the Belarusian authorities prevented foreign states from performing the functions of protecting their citizens in Belarus.

One more problem foreigners detained during this period faced was torture and inhumane treatment. In some cases, the fact of foreign citizenship was simply ignored by law enforcement officials, in others it became the basis for more cruel treatment. We are aware of several cases of detention of Russian citizens and targeted particularly cruel treatment of them by law enforcement officers, “because they are Russians.” In one of the district departments of internal affairs of the city of Minsk, employees directly asked the detainees whether there were citizens of Russia or Ukraine among them. When the Russian was found, he was separated from the other detainees and began to be particularly severely beaten because of his citizenship. In another case, an employee of the Grodno prison No. 1, having learned about the Russian citizenship of the detainee, directly gave the order: “beat the Russian”. Thus, in some cases,

foreigners were subjected to additional psychological and physical violence because of their citizenship.

The wave of arrests and administrative or criminal charges was followed by a wave of deportations of foreigners from the territory of Belarus. In fact, foreigners found themselves in a situation of double responsibility for their actual or alleged participation in unauthorized mass actions. Some foreigners, mainly journalists, were not allowed to enter Belarus, others were expelled from the country immediately after their release from a temporary detention facility, and others received a decision to expel them even a month after an administrative trial. The legislation provides for a wide range of mechanisms for expelling foreigners from Belarus — deportation, expulsion, issuance, cancellation of temporary or permanent residence permits.

Most often, in the period after the presidential election, the citizenship and migration departments resorted to the mechanism of expulsion on a voluntary basis. The decision on expulsion is made by the internal affairs bodies independently, this procedure is not a part of the administrative process. From the state's point of view, expulsion is the fastest, easiest and most effective way to expel foreigners from the territory of Belarus. As a result, since September 2020, citizenship and migration departments across the country have been actively sending out notifications to foreigners about the consideration of their expulsion from Belarus in the interests of public order. Often, such notifications were received by foreigners just a day before the consideration of their cases, which deprived them of the opportunity to prepare for the procedure and collect the necessary documents. Thus, a Russian citizen received a notification that tomorrow the issue of his expulsion from Belarus will be considered. OGIIM decided to expel him on a voluntary basis with a ban on entering Belarus for 10 years. This decision was made without taking into account the fact that the Russian lived in Belarus from an early age with his family. With the country of citizenship, the Russian did not have any ties — economic, cultural, social. However, this did not prevent the authorities from making a decision to ban returning to Belarus for 10 years. Thus, the OGIIM continued the practice of ignoring the circumstances that should be taken into account as mitigating when making decisions on expulsion, namely: the length of residence on the territory of Belarus, the presence of close family members — citizens of Belarus (taking into account the right to a family and the prohibition of intentional severance of family ties), the protection of children's rights.

On July 1, 2020, a new version of the Law on Foreigners entered into force, according to which the deadline for filing a complaint against a decision on expulsion was reduced from 1 month to 5 working days. In practice, this has had a twofold effect: on the one hand, many foreigners have not been able to file complaints against expulsion decisions in time, on the other hand, the practice of expelling foreigners before the deadline for appeal has ended.

FOREIGNERS IN CLOSED INSTITUTIONS

In addition to a large number of detentions of foreigners related to participation in unauthorized mass events, during 2020 we also received information about foreigners and stateless people detained in Belarus for a variety of reasons. We made requests to the diplomatic missions of the States of nationality of the detainees, the Belarusian penitentiary authorities and the representative offices of international organizations to get information about the condition and needs of the detainees, and also passed such information to their relatives and friends.

The main problems associated with the detention of foreigners remain the failure of diplomatic missions to inform them of the detention of citizens of other countries, the long periods of detention in unacceptable conditions, the lack of information about the detained foreigners and the lack of communication channels between them and their relatives who are looking for them.

Often, detained foreigners do not have valid identity documents with them. Until their identity is established, they are held in temporary detention facilities together with administratively detained citizens. The procedure for establishing and confirming the identity of a foreign citizen is complicated by the fact that communication between the Belarusian authorities and the representative offices of foreign states is not established. This leads to a prolonged period of detention of foreigners.

We became aware of the prolonged detention of a citizen of Ukraine, a citizen of Bangladesh, two Russian citizens, and two citizens of Afghanistan, who were in the process of establishing their identity. In Belarus, the term of detention of such foreigners is not limited by law. The detention in the detention center is not subject to periodic review and judicial control, which often leads to a long-term imprisonment of people who are not even accused of anything. In addition, temporary detention facilities are not designed for long-term detention. There is no possibility of communication with relatives, and the conditions of detention are unfavorable for life and health. The low level of medical care or its complete absence for detainees, as well as conditions of detention that are incompatible with the principle of humane treatment, are a systemic problem. We have contacted the embassies of the respective countries, as well as the UNHCR office, to speed up the procedures and to obtain certificates for foreigners to return to their home countries.

EXTRADITION OF FOREIGNERS

In 2020, we worked with several cases of extradition of foreigners to states where they have been suspected or accused of committing criminal offenses. Unlike other procedures of foreigner expulsion, the mechanism of foreigners extradition is elaborated in Belarusian criminal procedure law with sufficient detail. Nevertheless, in practice problems arise with delaying the terms of the extradition procedure, conflicts between the laws of different states, ignoring the ban on the extradition of foreigners to countries where they are at risk.

As far as back in 2019 we were notified of the detention of a Turkish citizen Hijri Mamash in Belarus, in relation to whom a request was received for extradition to Turkey for criminal prosecution under Article 302/1 of Turkish Criminal Code (“attempt on the unity and territorial integrity of the state”). On April 23, 2020, Deputy Prosecutor General of the Republic of Belarus Alexey Stuk granted the request of the Ministry of Justice of the Republic of Belarus and allowed the extradition of Hijri. Hijri claimed that he did not commit such crimes in Turkey and that he was being persecuted for political reasons since he took part in peaceful protests and agitated young people to join the Peoples’ Democratic Party, which he was a member of for some time. Mamash asked for international protection in Belarus. On February 5, 2020, the Citizenship and Migration Department of Belarus refused to grant international protection, despite the State Security Committee of Belarus having concluded that there were no reasons to prevent Hijri from gaining international protection.

The delicacy of this case lies in the fact that the Belarusian state authorities and courts ignored the fact that Hijri Mamash was threatened with torture and politically motivated persecution in his homeland. The courts refused to settle claims against the decision on extradition, thus violating article 17-1 of the Law on Foreigners, which states that “foreigners cannot be expelled from the Republic of Belarus to a foreign state that puts them at risk of torture”. The Convention against Torture and Other Cruel and Degrading Treatment or Punishment, to which the Republic of Belarus is a party, also establishes the principle of non-refoulement: «No State Party shall expel, return (“refouler”) or extradite a person to a state if there are serious grounds for believing that he or she would be in danger of being subjected to torture there.”

In May 2020, we reached out to the UN Human Rights Committee for urgent protection measures in regard to Hijri Mamash. The Committee granted the request

and required the Belarusian Government to suspend the extradition of Mamash until the Committee had effectively considered the complaint. However as a rule Belarusian authorities do not comply with the Committee's decisions, and in Hijri's case, they ignored communication with the Committee, executing the extradition before considering the complaint.

Another case of extradition in 2020 was resolved positively for Nikolai Makhlichev, a citizen of the Russian Federation. The Russian was detained in February 2020 on the territory of Belarus by employees of the road safety unit. Upon checking the documents, it turned out that Nikolai is on the international wanted list upon request of Russian Federation. Makhlichev himself claimed that he did not even know that in January 2019, a criminal case was launched against him under the articles on organization and financing of the activities of an extremist organization. After his arrest, he was placed in the pre-trial detention center no. 2 in Vitebsk and documents from Russian law enforcement agencies were requested, on the basis of which the Prosecutor General's Office of Belarus would decide whether to extradite him to Russia.

At home, Nicholas was in actual danger of unjustified criminal prosecution only because of his confession (Nicholas was a follower of the community of Jehovah's Witnesses). Jehovah's Witnesses were recognized as an extremist organization in Russia back in 2017. Since then, more than 100 members of the faith community have been convicted in different regions of Russia. The decision on extradition would contradict article 17 of the Law of the Republic of Belarus on foreigners and other international agreements.

To permit the extradition, the Prosecutor's Office of Belarus assessed whether the offense of which Nikolai is accused in Russia is criminally prosecuted in Belarus. In Belarus, the Church of Jehovah's Witnesses is not banned and, moreover, is not an extremist organization. The Belarusian prosecutor's office assessed the criminal act in accordance with local legislation and decided not to extradite Nikolai to Russia. In this case, the conflict of legal norms of the two countries played in favor of the foreigner, and the Belarusian authorities did not need to assess whether the Russian was really in danger at home because of his religion.

WORK OF THE COUNSELING OFFICE IN BREST

Since 2016, we have been monitoring the situation on the Belarusian–Polish border in Brest, where transit refugees come from different regions of Russia as well as other countries. They try to cross the border at the Terespol border checkpoint and apply for asylum in Poland.

In 2020, the free legal office in Brest consulted 103 people from 10 countries. The topic of consultations remained the same — the majority of the citizens who applied were interested in the procedure of applying for asylum in Poland (77 people). Main topics on which consultations were held include:

- drafting an application for international protection/refugee status;
- appeal against refusal to cross the border;
- appeal to the commandant with information about the status of refugees on the Belarusian-Polish border.

The office also provided 26 consultations on various aspects of the residence of foreign citizens in the Republic of Belarus: 22 citizens were provided with information on the procedure for obtaining a temporary/permanent residence permit in the Republic of Belarus; 4 foreign citizens received consultations on the topic of appealing decisions against voluntary expulsion from the Republic of Belarus. The provision of consultations on the subject of expulsion from the Republic of Belarus was a consequence of the fact that the internal affairs bodies began to resort to the practice of expulsion of foreign citizens as a reaction to the mass detentions of participants in peaceful assemblies held throughout the country after the presidential elections

Since January 2020, behavior of the migration authorities of Brest in relation to transit refugees has changed. In particular, there were cases when employees of migration authorities visited people at the place of actual residence or registration, exerting psychological pressure on people. It is worth noting that many transit refugees have suffered from harassment by law enforcement agencies in their countries of citizenship, and such attention has had a negative impact on their psychological state.

In January 2020, the procedure for reducing the term of stay of foreign citizens has resumed. Belarusian law enforcement officers began to apply this practice to citizens of Tajikistan, Kyrgyzstan and Kazakhstan. When “in contact” with transit refugees, migration officers withdraw their passports and tell them to come to the department of citizenship and migration address later. This leads to foreigners actually violating the legislation of Belarus, which implies administrative liability for being in Belarus without identity certifying documents. In addition to that, at the moment when a transit refugee comes to the department of citizenship and migration to state the circumstances of his stay in Belarus, his passport already has a mark on reduction of the stay period, up to the obligation to leave the country within 3 days. So actually foreigners are deprived of the right to defend themselves, both orally and in writing.

The most significant event that has radically changed the status of transit refugees in Brest was the decision of the Polish authorities to close the border with Belarus due to the COVID-19 pandemic. In practice, representatives of the Polish side stopped accepting applications for international protection starting from March 12, 2020, although the formal closure of the border occurred on March 15.

Starting from March 15, 2020, ticket sales for trains to Terespol station had stopped. Thus, transit refugees lost the opportunity to apply for protection on the territory of Poland. Arrival by train is the only opportunity when the Polish side meets at least the minimum formal requirements for starting the procedure of obtaining refugee status: it determines the purpose with which the applicant arrived; conducts an interview, during which the circumstances that forced the transit refugees to seek protection in Poland are clarified. Pedestrian or automobile crossings to the Republic of Poland do not provide even the minimum opportunities that exist when using a railway connection. In addition to the aforementioned circumstances, drivers refuse to take transit refugees because they do not have a visa, which further complicates the application procedure in the context of the pandemic. Even a successful transfer to the border checkpoint does not guarantee the successful passage of the border for transit refugees: in no cases known to us (after March 15, 2020) applicants were allowed from the Belarusian side through the automobile crossing the first time. In subsequent appeals to the counseling office, the transit refugees indicated that during the border crossing, representatives of the Belarusian side threatened the applicants with deportation if they were denied asylum in the Republic of Poland.

The status of transit refugees worsened even more after new restrictive measures regulating the crossing of the border of the Republic of Belarus in the context of the COVID-19 pandemic came into force on December 21, 2020. The most obvious

evidence of the impact of restrictive measures on transit refugees is the fact that of the 77 consultations on asylum in Poland conducted by our free legal office in 2020, only 7 occurred after March 15, 2020. In return, the total number of transit refugees in the city decreased from 100 in March 2020 to 20–25 in June 2020.

The closure of borders in order to protect the population from the pandemic does not negate provisions of various international and national regulations aimed at the protection of human rights and freedoms. In such critical situations, the main characteristic of the “transit refugees” in Brest becomes even more pronounced — their invisibility both for the local community with their local problems, and for the international community, puzzled by the problem of fighting the virus.

Human Constanta is a Belarusian human rights organization. We registered in 2016 in Minsk. We work with human rights in three main areas:

- protection of the rights of foreign citizens and stateless persons;
- Promotion of anti-discrimination and human rights education;
- digital rights and freedoms.

Our mission

Promotion of public interests and joint actions in response to modern challenges in the field of human rights in Belarus.

What are we doing?

- Helping others protect their rights.
- Comparing Belarusian laws and practice with the best foreign examples and standards of human rights.
- Transferring this knowledge through educational and educational activities.

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