

Report on the situation with the refugees and asylum-seekers from the Middle East in Belarus, October 2022

This report is prepared by the human rights organisation [Human Constanta](#), which has been protecting the rights of foreigners and stateless people in Belarus for more than five years. Human Constanta is constantly working on monitoring and reporting on the human rights situation of migrants and refugees in Belarus, including the humanitarian crisis at the border between Belarus and the European Union countries (hereinafter the EU), which has unfolded in the summer 2021.

By now, [several thousand](#) refugees in transit have already been taken to their home countries on the evacuation flights, some refugees managed to cross the border and seek protection in the EU countries, and others remain in Belarus. The route through Belarus has become well known and new people continue to arrive in Belarus, for instance, from Cuba, Senegal, Yemen. The total number of refugees in transit, who are still in Belarus, is unknown.

This report highlights key problems that refugees in transit face in Belarus in the context of the humanitarian crisis. The report can serve as a basis for a new policy of cooperation in the topic of forced migration in Belarus.

Overall human rights situation in Belarus

Following the [fraudulent presidential elections in 2020](#) and the post-election peaceful protests, Belarusian authorities attempted to silence any and all dissenting voices by engaging in mass political repressions. There are continuing cases of arbitrary detention and arrest, torture and cruel, inhuman, or degrading treatment, sexual violence, and unfair and closed trials on trumped-up charges against persons perceived by the authorities as being critical of the government.

As of November 2022, [1390 prisoners](#) are recognized as “political prisoners.” However, the number of those imprisoned for political reasons is much higher. Torture and ill-treatment of those imprisoned and detained on administrative, rather than criminal grounds continue, with the objective of eliciting forced “confessions,” punishing, and silencing those carrying out human rights and civic activities.

Intimidation of human rights defenders and civil society activists in Belarus

In 2021, Belarusian civil society came under [prolonged systematic attack](#) by the authorities. Authorities have initiated criminal cases against several human rights defenders, journalists, media workers, and lawyers, who were representing defendants in politically sensitive cases. During 2021, the government liquidated at least 275 civil society organisations, including all independent human rights

organisations (including Human Constanta). Legislative amendments to the Belarusian Criminal Code adopted in December 2021 re-introduced criminal liability for "acting on behalf of unregistered or liquidated organisations." The liquidation of all independent human rights organisations by the authorities has, therefore, led to a *de facto* criminalisation of human rights work.

In this situation, a huge number of Belarusian human rights defenders were forced to leave the country. Now Belarus is considering introducing new amendments to the Law on Citizenship, according to which Belarusians who fled the country may be deprived of Belarusian citizenship. In addition, criminal proceedings *in absentia*, with implications for those who have fled the country, have been already introduced in Belarusian laws.

The situation of those human rights defenders who decided to stay in Belarus or cannot leave it because of criminal prosecution is even worse. Belarusian authorities continue to detain and arrest human rights defenders. If there are no grounds for criminal prosecution, administrative cases are initiated with subsequent arrests and fines.

For instance, on [21 September 2021](#) Belarusian authorities were supposed to release human rights defender Nasta Lojka after having served her 15-day administrative sentence for "petty hooliganism." However, on the same day she was detained again and once again sentenced to 15 days in jail for "petty hooliganism" under Article 19.1 of the Code of Administrative Offences. Her motions to be represented by a lawyer and to defer the second sentence to consult medical specialists were not sustained by the judge. Throughout her administrative sentence Nasta was unable to receive parcels with warm clothes and hygienic essentials. Such restrictions are inhumane and disproportionate and are applicable to all detainees in politically motivated cases.

If the authorities still succeed in opening criminal cases against human rights activists, the latest sentences testify the brutality of the repressions being carried out. On 6 October 2022, human rights defender and coordinator of the volunteer service of the Belarusian Human Rights Centre Viasna, was sentenced to [15 years in prison and fined](#).

Our work and obstacles to monitor humanitarian crisis in Belarus

After its liquidation in 2021, Human Constanta was forced to work in secret. As many other human rights defenders and civil society activists we faced [stigmatisation and hate speech](#) in pro-government mass media and public statements of government officials. This, as well as administrative and criminal prosecution, has led to significant decrease of people who are able to help migrants and refugees on the ground, difficulties in building trust with migrants and refugees, absence of access to the border regions, where rescue missions have always been essential.

In the first months of the humanitarian crisis our work mainly consisted of receiving numerous reports on people stranded in the forest in the border regions with no access to food, water, shelter, and medical care. We forwarded such reports to the UNHCR and the IOM in Belarus, NGOs in Poland, and Belarusian State Border Committee, if needed. We were communicating with relatives and friends of refugees in transit and updating them about the situation in Belarus. In autumn 2021, we started documentation of the humanitarian crisis on the basis of interviews with refugees in transit in Minsk and other information collected in open sources. Human Constanta made a [report](#) on the humanitarian crisis at the border between Belarus and the EU covering the period from the presumed beginning of the crisis till February 2022.

We are still not able to communicate with the authorities, make requests about the statistics, and represent refugees in transit in state bodies. But we continue to monitor the situation and provide refugees in transit with legal advice and humanitarian assistance.

Humanitarian crisis and lack of response

In September 2022, we obtained several reports about the escalation of the situation in the border region and increase in the number of people trying to cross the border between Belarus and the EU. This information could not be verified as of absence of access to the border region and the opportunity to monitor the border on the permanent basis. At the same time we documented the expansion of the geography of countries from which refugees in transit come to Belarus – as of recently, such countries have come to include Cuba, Senegal, and Yemen. According to the interviews with refugees, in 2022 the majority of refugees came from the territory of Russia, since there is no patrolled land border between two countries.

As of November 2022, we collected at least 150 brief surveys with refugees in transit on the territory of Belarus. Refugees answered a series of basic questions about their country of origin, reasons for migration, their experience of crossing the border between Belarus and the EU countries, as well as about their future plans and humanitarian assistance. According to the collected data, the majority of people, especially at the first stages of the humanitarian crisis, came from Syria, Iraq, Iran, Yemen. But the geography is much broader and includes people from Cuba, Liberia, Afghanistan, Pakistan, Sudan, Somalia, Eritrea, Togo, among others. At least a quarter of respondents were women, others came to Belarus with their families which also include women and children. The reasons that caused people to become forced migrants vary. 59 refugees indicated that they were trying to escape physical threats and menaces in their home countries, 26 refugees were tortured or feared such a threat in the future. At the same time, people said that they did not have the opportunity to work in their home countries, that the infrastructure in their hometowns was destroyed, and that the children had no access to education. Some of the

respondents came with children who had serious diseases, which could not be treated at home and indicated seeking medical help as a reason for migration.

We worked with several cases of pregnant women who were facing harsh physical conditions, lack of medical help and security, and legal obstacles in Belarus. These women preferred not to ask for help in medical institutions out of fear of being detained before or right after delivery and losing their children. At the moment, there is legal uncertainty regarding newborn children of refugees in transit, which is accompanied by threats from the Belarusian state authorities.

According to public resources, including the Telegram channel of Belarusian State Border Committee, during the last two months at least one refugee [died](#) at the border between Belarus and Poland and several people were found injured or in bad physical condition at the border with the EU. We continue to receive numerous requests about warm clothes and food. As the winter is coming, the situation at the border is likely to deteriorate, as people are still not prepared for low temperatures and do not have access to shelter, warm clothing, food, and water in the forest. This risk is especially important to consider in relation to children, pregnant women, and people with disabilities and diseases.

In the process of documentation of the crisis we found out that refugees in transit are still mostly ignored by the Belarusian authorities, while the existing organisations do not help all refugees in transit. In these conditions people face a lot of difficulties and threats which can be summarised in the following categories:

- **Access to medical help.** According to Belarusian laws, foreigners entering Belarus must have medical insurance policies to receive emergency medical care in Belarus. Most of the refugees in transit who arrived in Belarus with tourist visas have already violated the terms of their stay. Others, who entered Belarus illegally from the territory of Russia, also have no corresponding documents. This means that they do not have a valid medical insurance. The absence of medical insurance prevents people from applying to Belarusian medical institutions even in emergency life-threatening cases, as they have to pay for emergency medical care and put themselves at risk to be arrested.

We continue to receive reports about people in bad physical condition who are stranded in forests in the border regions. Because of staying in unacceptable living conditions in the forests and lowering temperatures, intimidation and beatings by the authorities on both sides of the border, aggravating chronic diseases, the refugees quite often cannot move independently and require transportation to medical institutions. In most cases we received refusals from ambulance teams or border guards to evacuate people from the forests. The Group of Doctors without Borders working in Belarus is an almost unique option for this target group to receive medical help.

- **Access to humanitarian aid and assistance.** Most Belarusian independent NGOs were liquidated in 2021-2022 years. Remaining organisations have limited mandates and access to refugees in transit (the UNHCR mandate only covers those, who decided to apply for international protection in Belarus; the IOM mandate covers only those who agreed to be voluntarily returned to their home countries; the Belarusian Red Cross mandate covers only the cases sanctioned by the state authorities). In July 2022, we became aware of the suspension of the IOM programme on assisted voluntary return. For refugees that means a risk of long-term detention in Belarusian jails in the absence of opportunity to pay for the return tickets. However, it should be stated that even with the increase of resources of these organisations, they are operating under full state control and most probably will provide support only according to state interests.

We also documented that many refugees are not aware of options of help that they can obtain in Belarus. They do not have Belarusian SIM cards and feel unsafe to visit offices of organisations in person. As a result, there are fewer options to receive humanitarian assistance by refugees in transit.

- **Access to legal help.** Legal help to people in Belarus could be provided by lawyers holding a valid licence issued by the Ministry of Justice. Due to political pressure, [73](#) lawyers were deprived of their licence, twelve lawyers remain under criminal persecution, including two already convicted. In the framework of criminal process, detainees have a guaranteed right for a lawyer and, if necessary, a lawyer must be provided by the state. However, the state does not provide foreigners with a defender in the administrative process, for example, in the case of deportation. Article 2.8 of the Procedural and Executive Code of Administrative Offences stipulates that “an individual against whom administrative proceedings are initiated has the right of defence. This right may be exercised by the person in question or by the lawyer.” When foreigners are detained and placed in custody in Belarus, they may be subjected to a forced deportation or expulsion order.

Deportation is regulated by the Code of Administrative Offences. Article 4.5 of the Procedural and Executive Code of Administrative Offences provides that the lawyer’s authority is confirmed by a lawyer’s certificate and a power of attorney issued in simple writing form, or a warrant. At the same time, in accordance with paragraph 4 of the Decree of the Ministry of Justice of the Republic of Belarus No. 37 “On approval of Instructions on the procedure for issuing, recording and storing orders” of 3 February 2012, the grounds for issuing a warrant to a lawyer to represent his/her client are a contract for legal assistance signed between a lawyer or a law office and a client. Therefore, a foreigner who is detained in the course of an administrative process must call

a lawyer to the place of detention in order to sign a contract for legal assistance or to issue a power of attorney. Only then the lawyer can defend the detainee. At the same time, a lawyer will not be allowed to enter a place of administrative detention without a warrant.

In practice, we have encountered situations where foreign detainees who do not speak Russian or Belarusian, and who do not have contacts in Belarus, cannot exercise their right to defence due to the complexity of the procedure for accessing legal assistance. Effectively, the access to legal aid is completely denied to the migrants.

- **Access to international protection procedures.** The mechanism of providing international protection in Belarus does not always guarantee respect for human rights. In some cases, there is no real possibility of using the right to asylum due to the failure to receive information about such a procedure during detention, the lack of the possibility of using the services of an interpreter or a lawyer. The procedure for considering an application for protection is complex and non-transparent, and with a deviation from the presumption of trust in the applicants. Cases of refusals to grant refugee status and the expulsion of persons to countries with military conflicts, direct threat of death penalty, torture, and persecution (Iran, Afghanistan, Russia, Turkey) are recorded. The percentage of positive decisions on granting refugee status or other forms of protection in Belarus is low. Applicants often face unprofessional treatment of employees at the local level, discrimination and lack of political will to establish an effective system for providing international protection in Belarus. In its [annual reports](#) on the human rights situation in the world, Amnesty International repeatedly stated that Belarus does not yet have a functioning asylum system and that the country had repeatedly extradited people in need of international protection to the authorities of countries, where such individuals faced a real risk of torture or other ill-treatment.

Amid the current humanitarian crisis, Human Constanta has not documented any successful cases of applying for asylum in Belarus. We observed that several international protection applications, submitted by refugees in transit, were unreasonably denied, while other migrants were just too afraid to apply to migration offices, which form part of the law enforcement system. Some people, who applied to the migration offices, were forced to sign documents on the “voluntary return,” while they were not explained the content and meaning of the signed text.

- **Intimidation, violence and illegal practices by Belarusian border guards.** According to the numerous reports from the refugees in transit, Belarusian

border guards are directly pushing them to illegally cross the border. In case of unsuccessful attempts to cross the border, refugees in transit find themselves stranded in the forest, trying to survive without shelter, food, water, or access to medical care. Many remain in the forest and experience daily abuse from the Belarusian border guards, who use dogs and violence to force people to cross the border into the EU countries. We recorded several stories of refugees that were actually robbed by Belarusian border guards. Our appeals to the Belarusian state border committee with a request to evacuate people from the forest on the border were often ignored. However, the only agency that can directly help migrants in the restricted border zone is the State Border Committee.

- **Threat of expulsion to an unsafe country.** The principle of non-refoulement is not usually followed by the Citizenship and Migration Department when considering the issue of expulsion. The situation related to the closure of European airspace after the incident with the forced landing of Ryanair aircraft at Minsk airport had a significant impact on the issues of voluntary and forced expulsion.

As a result of the increase in costs of ticket prices and lack of direct flights to the countries of citizenship, some foreigners who had to be expelled from Belarus, could not leave Belarus within the time specified in expulsion decisions. At the same time, the Citizenship and Migration Departments not only disregarded the objective difficulties with departure, but also threatened foreign citizens with detention and placement in the temporary detention facilities to forcibly expel them.

Belarusian law permits to detain foreigners to secure their deportation or expulsion. It is permissible to detain foreigners for a term necessary to carry out expulsion. This term shall not exceed one year. Thus, if a foreigner has no money to buy return tickets or there are any problems with transport logistics, she/he can stay in detention in conditions which are not designed for long-term detention for up to one year.