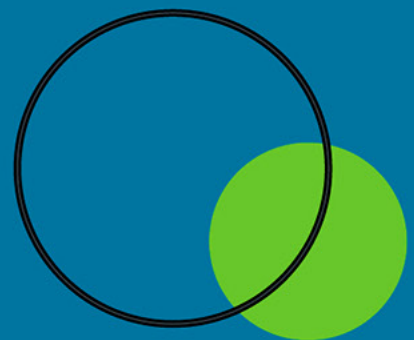


Free legal office

for the protection of the rights
of foreign citizens
and stateless persons

Human Constanta



Report for 2021



In 2017, **Human Constanta** opened a free legal office for the protection of the rights of foreign citizens and stateless people in Belarus. Legal services are provided in two cities of Belarus: in Brest, covering requests from the city and the Brest region and Minsk, covering requests from the rest of the country. In 2021, despite the large-scale attacks on civil society in Belarus, we continued to advise foreigners and stateless people in difficult situations on the territory of Belarus for free.

In 2020, challenges related to the COVID-19 pandemic and protests in Belarus, the consequences of which affected appeals in 2021, were added to the traditional range of issues on procedures for obtaining permanent and temporary residence permits, marriage registration and employment.

In 2021, we also faced a new humanitarian crisis on the border of Belarus and the countries of the European Union (EU), which began in the summer of 2021 and is continuing at the time of writing this report.

This report is an overview of the activities of the free legal office, the specifics of the appeals and a description of the legislative and law enforcement problems that we faced in 2021.

MAIN CONCLUSIONS

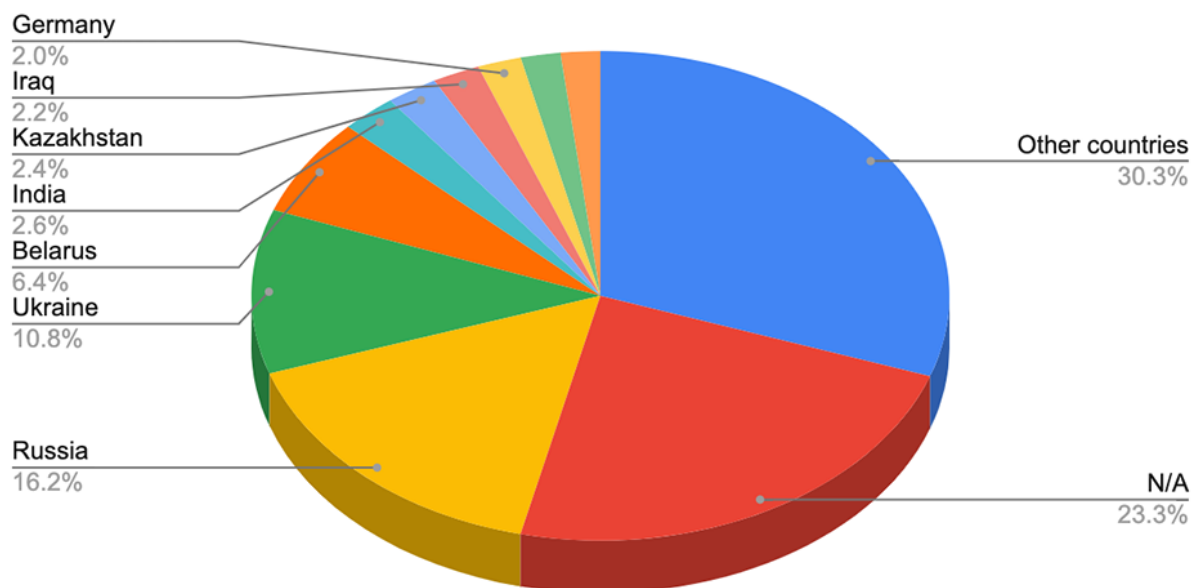
- In 2021, free legal offices in Minsk and Brest provided legal assistance to 634 foreign citizens, stateless persons and Belarusians in the interests of foreign citizens from at least 62 countries.
- Most of the appeals were traditionally from citizens of Russia, Ukraine and Belarus.
- Most of the requests traditionally concerned issues related to obtaining permits for permanent and temporary residence in the Republic of Belarus and their cancellation. Next on the list are various requests related to the marriage between foreign citizens and citizens of the Republic of Belarus, between foreign citizens on the territory of the Republic of Belarus and appeals concerning the employment of foreign citizens in the Republic of Belarus.
- In Brest, as usual, the main topic of requests was the procedure for obtaining international protection in the countries of the European Union.
- A number of problems addressed by foreign citizens are of a “chronic nature”, but some are new challenges and are caused by the consequences of the events in the socio-political life of Belarus after August 2020.
- Arbitrary forced expulsions took place, when the reason was a single administrative offense and even when cases on administrative offenses were dropped. Many people had objective problems with voluntary expulsions due to a significant reduction in the number of flights from Belarus after the forced landing of the Ryanair plane, but the state authorities not only did not take into account these reasons as valid, but also threatened foreign citizens with detention before forcibly expelling them.
- The state authorities actively reviewed the citizenship issued in the 90s and repeatedly recognized that citizenship was issued mistakenly. And since Belarus has not yet joined the Convention on the Reduction of Statelessness, a number of citizens deprived of citizenship in this way can simply become stateless people.

- The humanitarian crisis on the border of Belarus with the European Union has manifested itself for irregular migrants with problems of access to humanitarian, medical assistance and international protection. Most migrants do not have information and understanding of how they can be legalized in Belarus, what the procedure for applying for protection is, whether they are able to get their children to school, whether there are programs for social integration, and they are also afraid of forced return if they apply to migration authorities.
- The liquidation of the Human Constanta organization in Belarus, the criminalization of activities on behalf of an unregistered public organization, and the restriction of access to the Human Constanta website deprived the free legal office of many tools that previously allowed more effective assistance to foreign citizens in solving their requests, but foreign citizens continue to apply and the reception continues its work.

GENERAL DATA

In 2021, 544 people from 60 countries of the world applied to the free legal office of Human Constanta in Minsk for legal assistance. Part of the applicants (127 people) did not indicate their citizenship in the request, therefore the geography of appeals can be much wider. Consultations were conducted by phone and e-mail. The reception of people at the office in Minsk was completely suspended due to the COVID-19 pandemic, as well as the forced liquidation of the organization in Belarus in the summer of 2021. Foreigners received initial consultations on general issues related to arrival and stay/residence in Belarus, as well as assistance in matters of human rights violations of foreigners and stateless persons in Belarus. A separate topic for consultations in 2021 was the humanitarian crisis on the territory of Belarus, as well as on the border of Belarus and the EU states, associated with the arrival of a large number of transit refugees, mainly from the Middle East.

CITIZENSHIP OF FOREIGNERS WHO APPLIED TO THE FREE LEGAL OFFICE

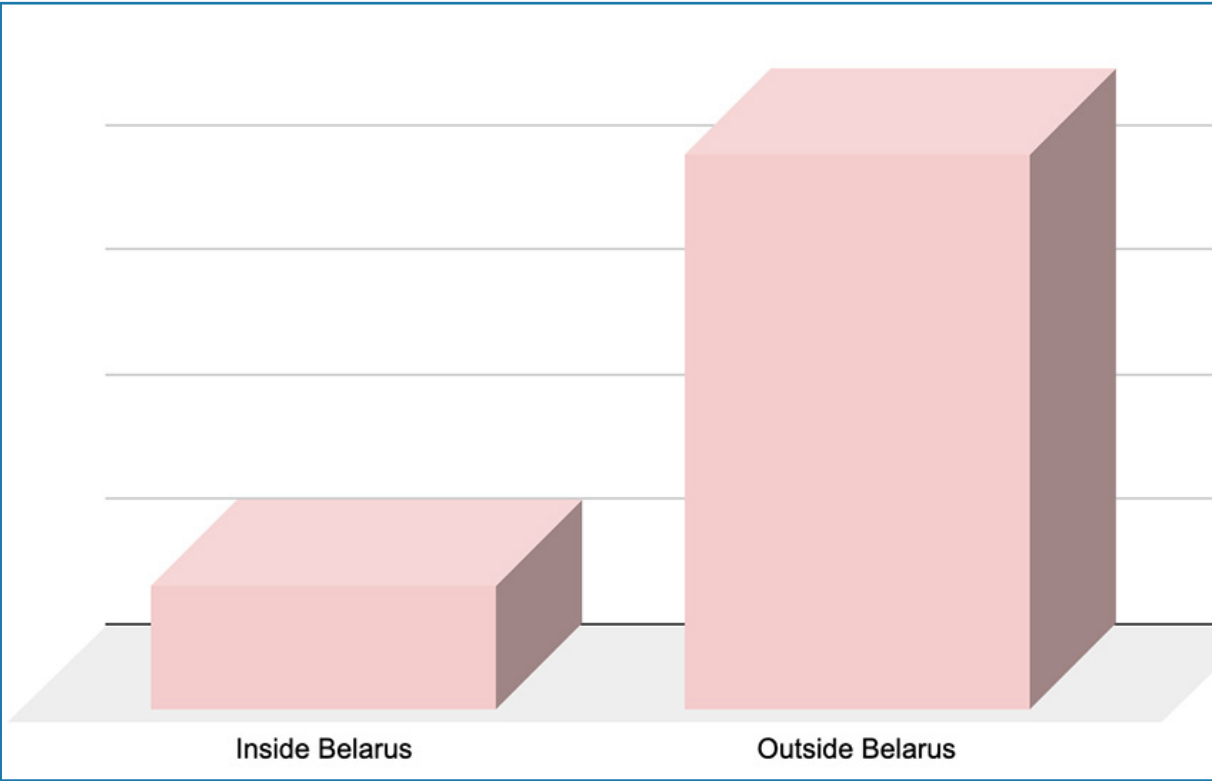


According to the statistics, the largest number of appeals came from citizens of the Russian Federation (88), Ukraine (59) and the Republic of Belarus (35).

Citizens of India (14), Kazakhstan (13), Iraq (12), Germany (11), Tajikistan (10), Turkmenistan (10), Turkey (10), Azerbaijan (9), Poland (9), Syria (9), Uzbekistan (8), Armenia (7), Nigeria (7), Congo (7), Lithuania (7), Moldova (6), Iran (6), Canada (6) also actively applied.

There were also requests from citizens of France (5), Spain (5), Pakistan (4), Kyrgyzstan (4), UAE (4), China (3), Egypt (3), Great Britain (3), Israel (3), Georgia (3), Czech Republic (3), Vietnam (2), Croatia (2), USA (2), Latvia (2), Switzerland (2), Bulgaria (1), Estonia (1), Romania (1), Austria (1), Benin (1), Ecuador (1), Hungary (1), Venezuela (1), Portugal (1), Cyprus (1), Gambia (1), Senegal (1), Ghana (1), South Africa (1), Sri Lanka (1), Mexico (1), Norway (1), Cuba (1), Ethiopia (1), Australia (1), Estonia (1), Guinea (1).

**THOSE WHO APPLIED TO THE FREE LEGAL OFFICE
INSIDE BELARUS AND OUTSIDE**



TOPICS OF APPEALS

The topics of appeals to the free legal office are very diverse.

Most of the requests usually concern issues related to obtaining and canceling permanent/temporary residence permits in the Republic of Belarus (182).

Various requests related to marriage between foreign citizens and citizens of the Republic of Belarus were in second place. Also, we got requests about marriage between foreign residents on the territory of the Republic of Belarus (75).

The third place is taken by appeals about the employment of foreign citizens in the Republic of Belarus (60).

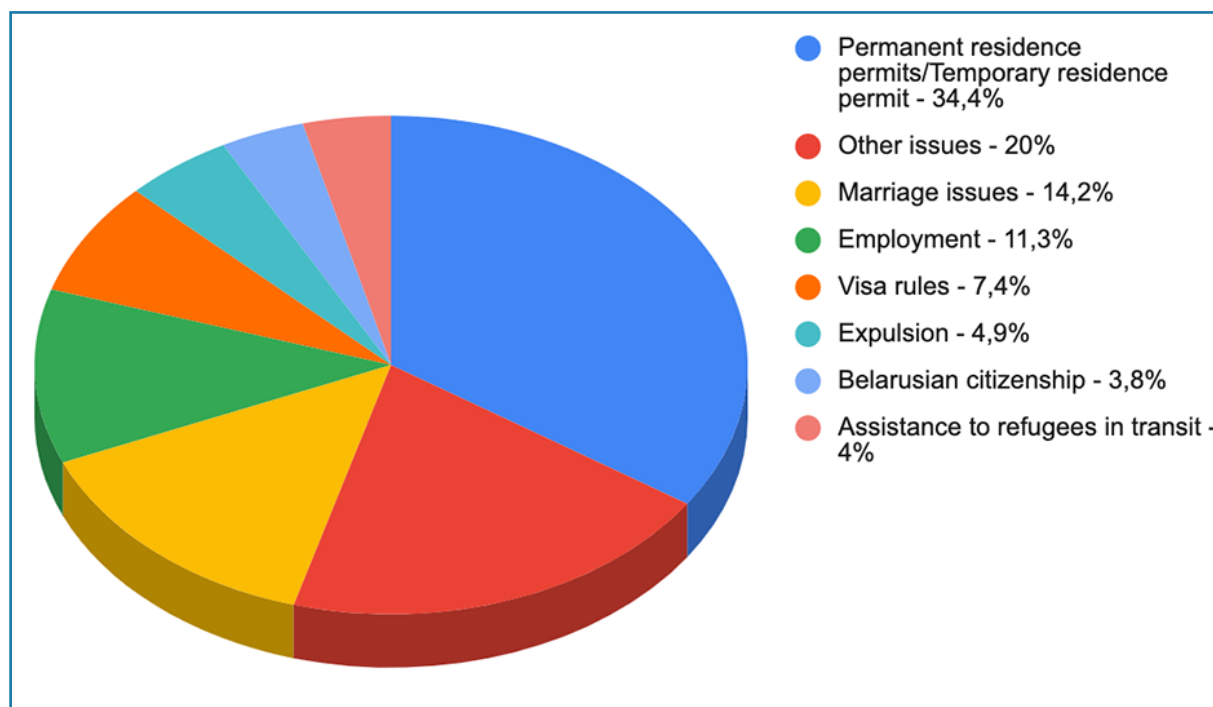
Issues related to visa regulations (39), the expulsion of foreign citizens from Belarus (26). As well as those related to the obtaining and termination of citizenship of the Republic of Belarus continue to be relevant (20).

The rest of the questions received by the free legal office are:

- rules for leaving the Republic of Belarus (14);
- registration at the place of residence (14);
- rules of entry to the Republic of Belarus (8);
- legalization of documents (12);
- reduction of the term of the ban on entry into the Republic of Belarus (10);
- responsibility for violation of legislation on foreign citizens (9);
- receiving international protection in the Republic of Belarus (8);
- acquisition of real estate in the Republic of Belarus for the legalization of stay (5);
- medical assistance on a paid and free basis (5);
- threats from the Belarusian authorities (5);

- obtaining international protection in other countries (Poland, Lithuania) (4);
- military registration obligations (3);
- detention of foreign citizens (1);
- the arrest of Belarusian citizens in the Russian Federation (1);
- other cases (7).

Due to the increased flow of irregular migrants through the territory of Belarus towards the EU countries and the ensuing humanitarian crisis in Belarus and on the border with the EU countries, in the 4th quarter of 2021, there were requests regarding the provision of legal and humanitarian assistance to such migrants(21).



FREE LEGAL OFFICE IN BREST

Since 2016, the free legal office in Brest has been monitoring the situation on the Belarusian-Polish border in Brest, where transit refugees from different regions of Russia (as well as from other countries) come. Before the closure of the railway connection between Belarus and Poland in March 2020 due to the COVID-19 pandemic, people mainly tried to cross the border by train and apply for asylum in Poland at the Terespol border crossing point. In 2021, transit refugees will only be able to use the motor vehicle crossing points on the border of Belarus and neighbouring EU states to apply for international protection.

In addition to monitoring, the free legal office in Brest is engaged in advising on the protection of the rights of foreigners and stateless people in Brest and the region. In 2021, the total number of requests for legal assistance in Brest amounted to 70. In most requests people were interested in the procedure for obtaining international protection in the EU countries (43 requests); in addition to the practice of regular unjustified refusals to accept applications for protection and coronavirus restrictions, a new challenge for protection applicants has appeared. It was a humanitarian crisis on the border of Belarus and neighbouring EU countries, the active phase of which fell on November 2021.

The traditional cases of requests are issues related to legalization in Belarus (10 appeals), obtaining refugee status in Belarus (7 appeals) and the procedure for appealing decisions on expulsion (7); also 3 citizens applied to the free legal office for assistance on the issue of unjustified detention on the border of Belarus and Poland.

Most of those who requested assistance were citizens of the Russian Federation (43); 4 requests were received from residents of Iraq and Tajikistan; 3 requests from citizens of Ukraine; 2 requests from citizens of India, Kazakhstan and Azerbaijan; one request came from residents of Uzbekistan, Guinea, Turkey, Cameroon, Nigeria, Georgia, Afghanistan, Pakistan and Poland.

REQUESTS ANALYSIS

The analysis of applications allows us to determine the most critical problems that foreign citizens faced in Belarus in 2021. Some problems are of a “chronic nature”, some are due to the results of the events in the social and political life of Belarus after August 2020.

GENERAL ADMINISTRATIVE PROCEDURES

Since January 2020, the free legal office has changed the format of work, moving the focus from providing general advice on staying in Belarus to providing legal assistance on violations of the human rights of foreigners and stateless people in Belarus. However, in 2021, we continued to provide initial consultations on general issues related to the stay and residence of foreigners in Belarus and general consultations in cases where foreigners could not receive qualified assistance from the relevant Belarusian authorities.

Foreign citizens still experience difficulties with the procedure of the electronic registration system for persons temporarily staying in the Republic of Belarus, the purpose of which was to simplify the registration procedure.

A frequent result is the failure to apply for registration within the time limit that is defined by the statutory. As a consequence, this becomes the basis for getting administrative responsibility for violation of the legislation on the legal status of foreign citizens/stateless people, and later — deportation from the Republic of Belarus.

A resident of Kazakhstan applied to the free legal office. Due to technical reasons, he was unable to pass electronic registration. He applied to the Department of Citizenship and Migration after the 30 days of stay (it's established for citizens of Kazakhstan). As a result, he was brought to administrative liability under Art. 24.35 of the Code of Administrative Offenses (CAO), which served as the basis for the decision to expel on a voluntary basis.

The Citizenship and Migration authorities continue to refuse foreign residents to accept documents for obtaining a temporary residence permit (it is not provided by law). It's because citizens arrived in Belarus under a visa-free regime and they do not have an entry visa.

As can be seen from the statistics, foreign citizens regularly continue to face problems related to the legalization of documents, which are required to go through administrative procedures.

Despite the existing international treaties on the recognition of state documents, the registry offices, OGI in some cases continue to require foreign citizens to affix an apostille on documents (for example, a certificate of no criminal record issued in Moldova).

The problems with obtaining information from the relevant state bodies on the grounds for making a decision on a ban on entry into the Republic of Belarus in relation to a foreign citizen remain relevant.. Even with the help of lawyer requests, this information is difficult to obtain.

At the same time, the provision of such information is essential for the preparation of applications for a reduction in the terms of the ban on entry, complaints about the misconduct of state bodies after the formal consideration of such applications. Thus, a citizen of Armenia, who was expelled from Belarus to the country of citizenship after serving his sentence by a court verdict, turned to the free legal office. He asked to help him prepare a petition to reduce the period of the ban on entry into Belarus. The citizen was recommended to apply to the Department of Citizenship and Migration with an application for information on the grounds for the accepted restriction in the form of a ban on entry, but the application was denied.

EXPULSIONS OF FOREIGNERS FROM BELARUS

After the presidential elections in Belarus in August 2020 and mass repressions against the population that followed, many foreign citizens were brought to administrative liability under “people’s” articles 23.34 (violation of the procedure for organizing or holding mass events), 23.4 (disobedience to a lawful order or a request of a public official at execution of their authority) of the Code of the Administrative Offences of Republic of Belarus. In all cases this became the basis

for expulsion/deportation with a ban on entry, often for the maximum period allowed by the law.

At the same time, foreign citizens living in Belarus were also affected by thorough inspections by government authorities. As a result, decisions on expulsion or deportation were made even in cases of a single administrative prosecution, including for minor offenses that do not infringe on public order.

Thus, citizens of the Russian Federation (9), Ukraine (2), Congo (4), Iraq (1), Sri Lanka (1), Iran (1), Tajikistan (2), Kazakhstan (1), Cuba (1) appealed to the free legal office with questions about lodging a complaint against decisions on expulsion with a ban on entry to Belarus for different periods.

All foreign citizens were provided with the necessary support in the form of consultations, preparation of complaints to higher DIAs and courts.

In almost all cases multiple violations of the rights of foreign citizens were recorded during the process of complaint and the consideration and decision-making on the expulsion. Thus, the citizenship and migration authorities do not notify foreigners in a timely manner about the consideration of the issue of expulsion, and therefore they do not have the opportunity to participate in the consideration and protect their rights; taking advantage of the fact that the law does not contain a direct order to issue an expulsion order, they do not issue it (at best, they hand over a notification); they do not provide an opportunity to get acquainted with the materials that serve as the basis for considering the issue of expulsion. In some cases decisions on expulsion are taken in the absence of grounds provided for by the current legislation.

Thus, in the course of assisting an Iranian citizen in the preparation of a supervisory complaint, it was established that the decision on expulsion was based on the fact of imposition of administrative responsibility that took place 7 years ago, as well as on a discontinued proceeding of an administrative offense under Article 23.34 of the Code of the Administrative Offences of the Republic of Belarus.

Thus, according to the prevailing practice, the very fact of the initiation of an administrative process for participation in an unauthorized mass event is sufficient for expulsion regardless of the outcome of the case.

In relation to a citizen of Congo, the decision on expulsion was made on the basis of the fact of a single administrative prosecution for petty hooliganism.

When considering the issue of expulsion, a citizen of Congo was deprived of the opportunity to personally attend the consideration and present evidence, his basic rights were violated.

Violation of the established procedure for making a decision on expulsion and gross disregard for the rights of foreign citizens by the Citizenship and Migration Department took place in almost all the cases that were under consideration by the free legal office.

In addition, when making decisions on expulsion, as a rule, stable family ties with citizens of the Republic of Belarus, the presence of joint minor children, a long period of residence in Belarus, the absence of any ties with the country of citizenship are not taken into account, which violates the right to family and the prohibition of intentional breaking of family ties.

The principle of prohibition of expulsion to states where the life or freedom of a foreign citizen may be in danger upon return is not usually followed by the Citizenship and Migration Department as well when considering the issue of expulsion.

Thus, a citizen of Congo presented evidence that his life was in danger in case of return to his homeland, but the Citizenship and Migration Department did not take it into account.

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 expulsion.

As a result of the increase in costs of ticket prices and lack of direct flights to the country of citizenship, some foreigners that had to be expelled from Belarus, could not leave Belarus within the time specified in such decisions on expulsion. 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 before forcibly expelling them.

DEPRIVATION OF BELARUSIAN CITIZENSHIP

In 2021, the free legal office repeatedly received requests related to the verification of the grounds for acquiring Belarusian citizenship conducted against Belarusian citizens.

The frequency and similarity of such appeals from citizens of the Republic of Belarus allows us to make an assumption that this is one of the options for a mass check of citizens after the events of 2020, as a result of which there can be identification of people that are undesirable on the territory of Belarus.

Thus, a citizen of the Republic of Belarus who acquired her citizenship in 1996, made an appeal to the free legal office, where she indicated that the Department of Internal Affairs informed her that she was granted citizenship “mistakenly” and was urgently required to hand over her passport. As a result of long consultations and communication with the migration authorities, in this case, citizenship was preserved.

Also in June 2021, a new version of the Law of the Republic of Belarus No. 136-3 of August 1, 2002 “On Citizenship of the Republic of Belarus” (hereinafter referred to as the Law) came into effect, according to which it is possible to lose Belarusian citizenship for participating in extremist activities or for causing serious harm to the interests of the Republic of Belarus. Only adult citizens who have acquired citizenship not by birth, in respect of whom there is a verdict of a national, foreign or even international judicial instance that has entered into force confirming their participation in such activities, can lose their citizenship in this way. The legislators do not explain what happens to a person after they lose their citizenship of Belarus. If a person is located in Belarus, then it’s most likely at the time of the loss of citizenship they will be serving a criminal sentence. After the release, their fate remains unclear, especially if the procedure of expulsion from Belarus is initiated against them. It is also important to note that despite the promises, Belarus has not yet joined the Convention on the Reduction of Statelessness (UN). Therefore, in case of deprivation of Belarusian citizenship, the state and state bodies will not be concerned about leaving a person stateless.

At the moment, we have not identified the practice of usage of the new article of the Law as a basis for the deprivation of Belarusian citizenship. However, taking into account the increasing number of crimes recognized as “extremist”, it is expected that similar requests will be received in the future.

HUMANITARIAN CRISIS IN BELARUS

Issues related to the state-organized migration flow from the Middle East to Belarus have occupied a special place in the work of the free legal office since the summer of 2021. In the autumn of 2021 these actions of the Belarusian authorities, designed to destabilize the situation on the border of Belarus and the EU countries, led to a humanitarian crisis both on the border and inside the country itself.

In August 2021, in cooperation with Polish human rights organizations, an analytical note describing the situation with forced migration in Belarus was prepared for submission to the European Court of Human Rights (ECHR) on behalf of a group of Afghan transit refugees. This document collected the experience of the free legal office, as well as available official statistics, which allowed us to conclude that Belarus is no longer a safe country for forced migrants.

In autumn 2021, as a result of the aggravation of the humanitarian crisis, when many migrants were «stuck» on the Belarusian–Polish border, requests for assistance (from legal to humanitarian (food, clothing)) appeared. For each request, the maximum possible assistance was provided in the existing conditions. Several Syrian citizens reported health problems after failed attempts to cross the border (frostbite, fractures). The free legal office established contact with representatives of the Doctors Without Borders mission in Belarus, who provided Syrian citizens with the necessary medical care.

The issue of granting international protection in the Republic of Belarus turned out to be the most difficult one. In autumn, the free legal office conducted a series of interviews with transit refugees in Belarus. Some people, especially those who have already made several unsuccessful attempts to cross the border with EU countries, began to consider the possibility of applying for international protection in Belarus or being legalized in some other way. At the same time, a number of obstacles were revealed: people do not have information and understanding of how they can be legalized in Belarus, what is the procedure for applying for protection, whether they will be able to get their children to school, whether there are programs for social integration. Some are simply afraid to apply to the migration services, since their Belarusian visa has expired and there is a risk of forced return to the country of citizenship. Others have already applied to the local citizenship and migration departments, but their applications for protection were refused and a deadline during which they were obliged to leave the territory of Belarus was set.

DIFFICULTIES IN THE WORK OF THE FREE LEGAL OFFICE

It is also necessary to note the difficulties with the effectiveness of work of the free legal office after the liquidation of the organization Human Constanta in Belarus. The lack of registration, criminalization of activities on behalf of an unregistered public organization, and restriction of access to the Human Constanta website have certainly deprived the free legal office of many tools that previously allowed more effective assistance to foreign citizens in solving their requests.

At the same time, foreigners continue to turn to the free legal office for help, many cases have been worked on for a long time, and therefore the activities of the free legal office continue to be productive and needed despite the difficult political situation in Belarus.

Human Constanta — is a human rights organization.

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 freedoms and rights.

Our mission

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

What are we doing?

- Help others to protect their rights.
- We compare Belarusian laws and practices with the best foreign examples and human rights standards.
- We share this knowledge through awareness-raising and educational activities.

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