

FREE LEGAL OFFICE

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

Report for 2022

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In 2017, Human Constanta opened a Free legal office for the protection of the rights of foreign citizens and stateless people in Belarus. The Free legal office works in two cities of Belarus: in Brest, covering requests from the entire Brest region, and Minsk, on requests from the rest of the country.

In 2021, Human Constanta, like many other civil society organizations in Belarus, was subjected to unjustified harassment and forced liquidation, which significantly hampered human rights and humanitarian work in the country.

The physical offices in Minsk and Brest were closed, so the personal reception of people was stopped. However, in 2022 we continued to provide free consultations to foreigners and stateless people on the protection of their rights in Belarus and to work with the humanitarian crisis on the border between Belarus and the countries of the European Union (EU), which began in the summer of 2021 and continues at the time of writing this report.

This report provides an overview of the activities of the Free legal office, the specifics of applications and a description of the legislative and enforcement challenges that we faced in 2022.

Main conclusions

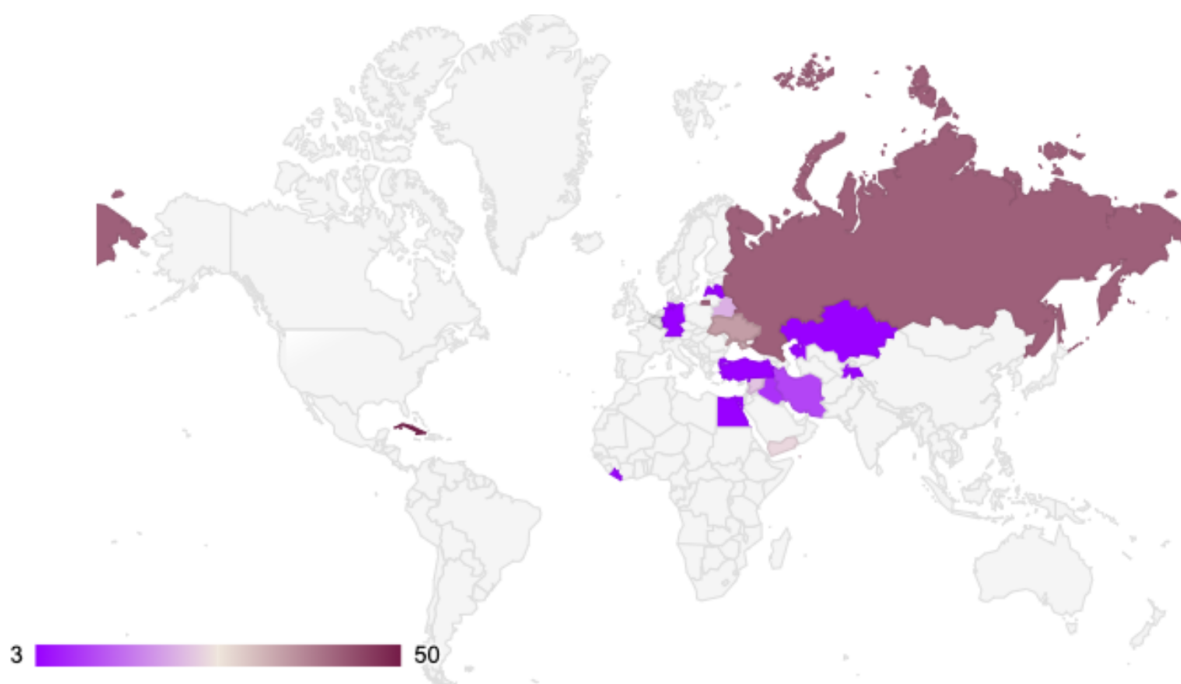
- In 2022, 264 foreigners from 27 countries of the world received assistance at the Free legal office of Human Constanta in Minsk and Brest. As before, mostly citizens of Russia and Ukraine applied to the Free legal office. However, in 2022, the largest number of applicants was from Cuba, due to the ongoing migration flow and the humanitarian crisis.
- The main topics of appeals to the Free legal office were related to the humanitarian crisis on the territory of Belarus and the border between Belarus and the EU countries, which began in 2021, Russia's military aggression against Ukraine and the arrival of refugees from Ukraine, military mobilization in Russia.
- The number of applications on general issues related to arrival and stay/residence in Belarus has decreased significantly.
- The Belarusian authorities continued to ignore the problems and needs of transit refugees. In general, people faced a lack of systematic humanitarian and medical support, legal assistance and legal certainty.
- Those foreigners, including refugees from Ukraine, who were already in the procedure for obtaining international protection in Belarus or received such protection, also faced the lack of adequate support from the state.
- Despite the announcement by the Belarusian authorities of broad support for refugees from Ukraine, people faced a number of difficulties and legal uncertainty at different stages of their stay in Belarus. People were also interested in issues of further integration into Belarusian society, employment and medical care.
- The Ministry of Health of the Republic of Belarus, as a result of the request of our client, initiated the adoption of a regulatory legal act giving citizens of Ukraine and stateless people who arrived in the Belarus after February 24, 2022, and who do not have a permit for temporary or permanent residence, the right to affordable medical care on an equal basis with citizens of the Belarus.

- In 2022, we noted an increase in requests from Russian citizens from Chechnya for the first time since the start of the COVID-19 pandemic and the termination of the Brest (Belarus) — Terespol (Poland) railway connection in 2020. This is due to Russian military aggression against Ukraine and mobilization in Russia, as well as a decrease in the control of irregular migration by the Belarusian border services.
- On September 21, a draft law was published amending the Law of the Republic of Belarus No. 136-3 of August 1, 2002 “On Citizenship of the Republic of Belarus” (the Law was adopted on January 5, 2023). According to the new version of the Law, the authorities can deprive of the Belarusian citizenship those citizens who have reached the age of 18, against him/her there is a valid court verdict confirming participation in extremist activities or causing grievous harm to the interests of the country, and at the time of such a decision, he/she is located outside of Belarus. Such innovations threaten the principle of reducing statelessness, to which all modern states aspire. Moreover, the question arises of how fair and justified the procedures for the loss of citizenship for “extremism” and “terrorism” will be applied in practice.
- In 2022, in addition to legal advice, the Free legal office also processed 100 requests for humanitarian assistance for transit refugees and citizens of Ukraine.

Total information

In 2022, 264 people from 27 countries of the world turned to the Human Constanta Free legal office. Some of the applicants (8 people) did not indicate their citizenship in the request, so the geography of applications may be wider. Consultations were held in person, by phone and by e-mail. In 2022, we continued to advise on general issues related to arrival and stay/residence in Belarus. However, the number of such applications has decreased significantly. The main topics of appeals are related to the humanitarian crisis on the territory of Belarus and the border between Belarus and the EU countries, which began in 2021, Russia's military aggression against Ukraine and the arrival of refugees from Ukraine, military mobilization in Russia.

Geography of the countries of citizenship of those who applied to the Free legal office



According to statistics, the largest number of applications came from citizens of Cuba (50), the Russian Federation (42), Ukraine (35), Yemen (25), Syria (23) and the Republic of Belarus (21).

Citizens of Iran (10), Iraq (8), Egypt (3), Latvia (3), Germany (3), Turkey (3), Kazakhstan (3), Tajikistan (3), Liberia (3) also actively applied.

There were also single requests from citizens of China (1), Afghanistan (1), Pakistan (1), Moldova (1), Cyprus (1), Poland (1), Philippines (1), Morocco (1), Romania (1), Lebanon (1), Turkmenistan (1), India (2).

Topics of appeals

The majority of requests to the Free legal office in 2022 related to issues of obtaining international protection in Belarus (59) and EU border countries (39). The new specificity of appeals is primarily related to the humanitarian crisis in Belarus and on the border with the EU countries, which began in 2021. Refugees in transit who made several unsuccessful attempts to cross the border between Belarus and EU countries ultimately decided to apply for protection in Belarus and needed clarification of the procedure, as well as their rights and obligations, after applying for protection.

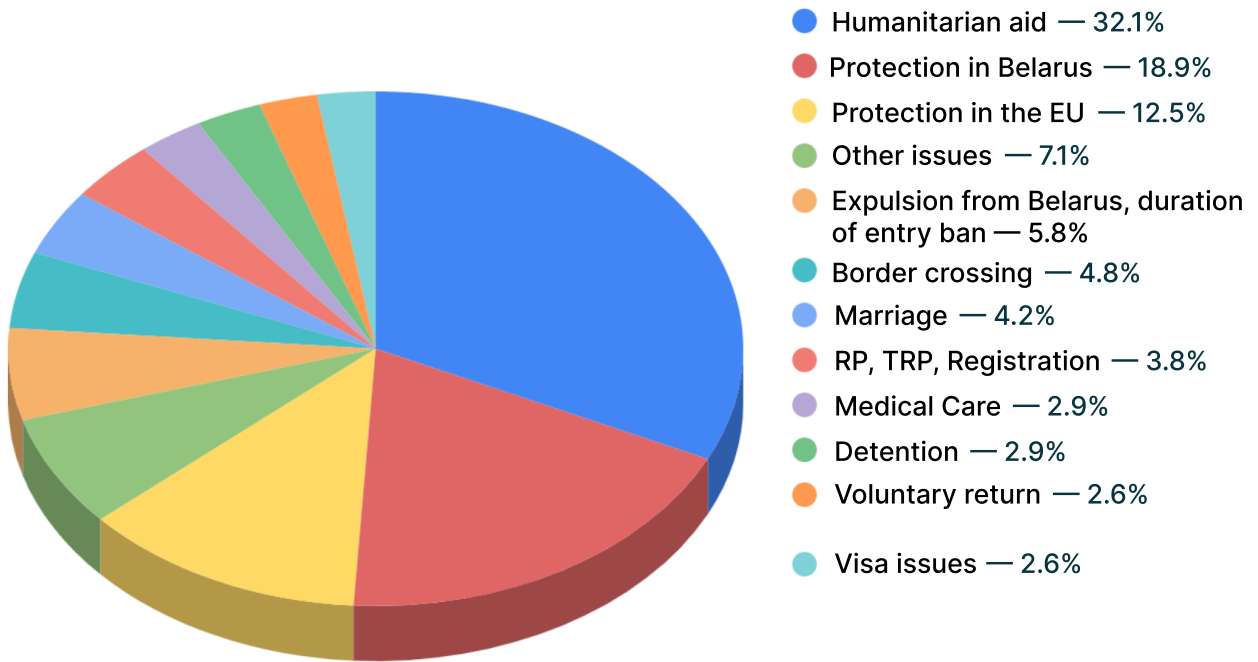
We should mention an increase in requests from Russian citizens from Chechnya for the first time since the start of the COVID-19 pandemic and the termination of the Brest (Belarus) — Terespol (Poland) railway connection in 2020. This is due to Russian military aggression against Ukraine and mobilization in Russia, as well as a decrease in the control of irregular migration by the Belarusian border services. A new round of Russia's war against Ukraine also led to an increase in the number of refugees from Ukraine.

In 2022, Ukrainian citizens transited Belarus and inquired about the rules for crossing the border with Russia and EU countries, came to Belarus for temporary or permanent residence on the basis of international protection and on other grounds sufficient to obtain residence permits in Belarus.

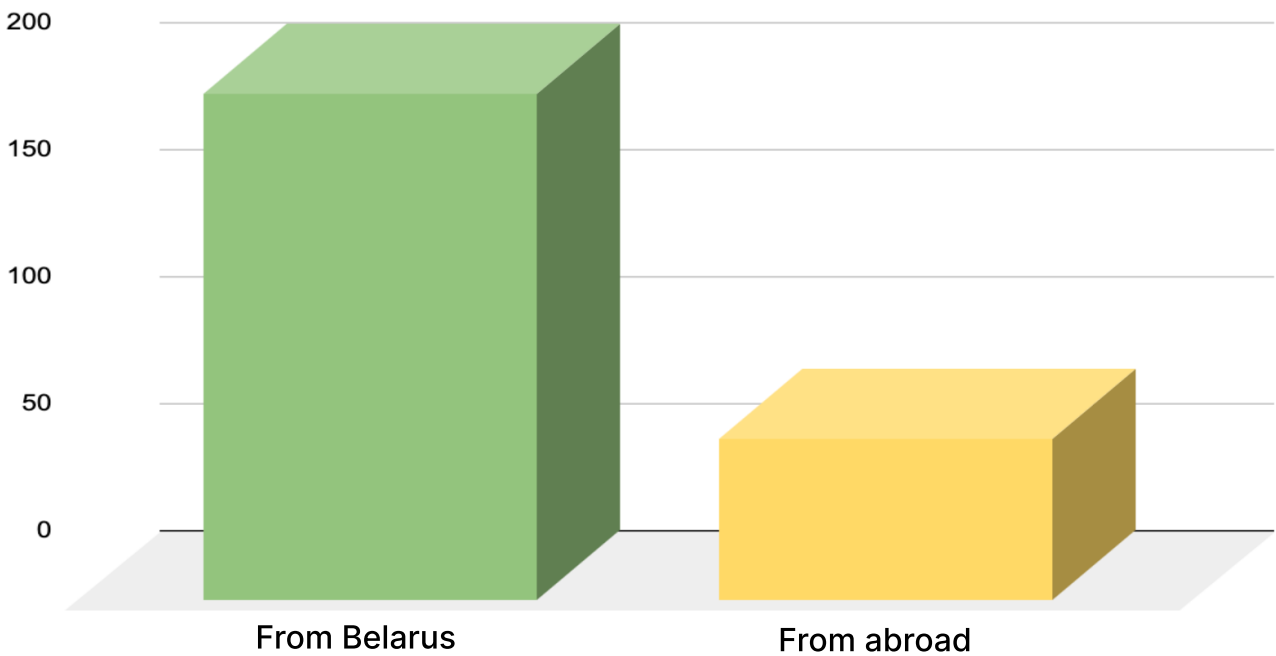
Foreigners also applied to the Free legal office on issues of crossing the border with the EU countries (15), for example, what consequences may occur in case of crossing the border in violation of the established rules, what is the procedure for applying for international protection in case of crossing the border in violation of the established rules. We also received requests to search for missing transit refugees at the border of Belarus (5), about detained transit refugees in Belarus (9), to help in the voluntary and safe return of transit refugees to their home countries (8). We were approached, mainly by refugees in transit, for clarification on the restoration of lost documents (4) and the procedure for obtaining visas to the EU countries (6).

The humanitarian crisis led to the receipt of new requests not related to legal advice to the Free legal office. A large number of transit refugees applied for humanitarian assistance — clothing, food, hygiene products. In 7 months of 2022, we processed at least 100 requests for humanitarian assistance, as well as 9 requests for the organization of affordable medical assistance due to serious injuries received while trying to cross the border or exacerbation of chronic diseases.

In 2022, we also worked with our “traditional” topics — voluntary and forced expulsion from Belarus (16), marriage between foreigners and citizens of Belarus (13), acquisition and termination of citizenship of Belarus (1), issuance of an exit visa from Belarus or invitations for issuing a visa to a foreigner (2), processing documents for residence in Belarus (12), etc. (12).

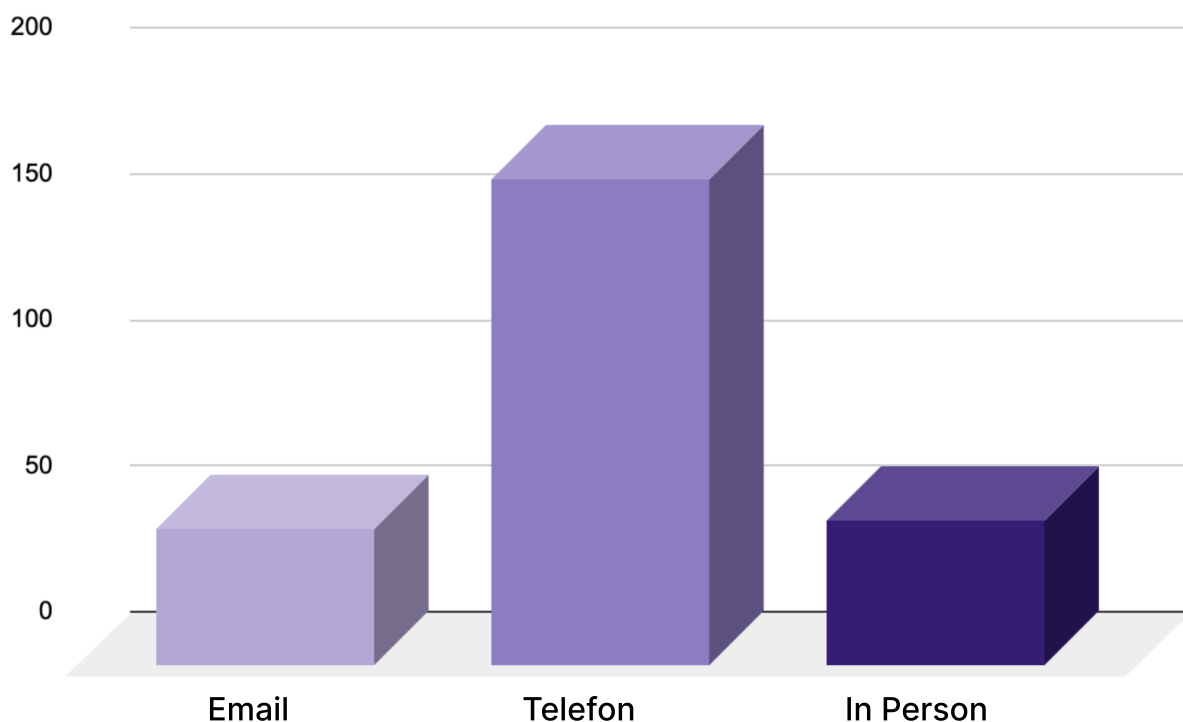


Appeals to the Free legal office from Belarus and from abroad



In comparison with the previous year, the geography of applications has changed — the number of applications from people who are inside Belarus has increased dramatically. This is due to the fact that in 2022, mainly transit refugees located on the territory of Belarus applied to the Free legal office.

Channels of appeals to the Free legal office



The analysis of appeals

The analysis of appeals allows us to identify the systematic problems that foreigners and stateless people faced in 2022 in Belarus, as well as new trends due to the political situation in the country and the region — a humanitarian crisis, Russia's war against Ukraine, restrictions on entry into certain EU countries for citizens of Russia.

Humanitarian crisis

The humanitarian crisis, which began in the summer of 2021, has become the main focus of the Free legal office in 2022. This is primarily due to the fact that transit refugees who were on the territory of Belarus between attempts to cross the border with the EU countries often had already expired visas and had no other legal grounds for staying in Belarus, which made their situation even more vulnerable. At the same time, the Belarusian authorities mostly ignored transit refugees and their needs. People faced a lack of systematic humanitarian and medical support, legal assistance and legal certainty. We also worked with those who decided to stay in Belarus and apply for international protection here, and those who decided to return to their country of citizenship, asking for help in returning home safely.

In March 2022, the temporary accommodation center for migrants in Bruzgi was disbanded by the Belarusian authorities. The Border Committee of Belarus reported that 98 refugees voluntarily took a flight from Minsk to Erbil. The authorities did not report what happened to several more hundred refugees. In the course of our work, we found out that many refugees from the camp were forced to move to different cities of Belarus and continue their attempts to cross the border with the EU. In the spring, we also began to receive information about migrants arriving from Russia along the land border. Basically, people needed medical and humanitarian assistance. Many refugees in transit were afraid to go to state medical institutions, so the Médecins Sans Frontières mission in Belarus provided them with the necessary primary medical care and referred them to specialized institutions in severe or emergency cases.

The need to provide humanitarian assistance was dictated by the fact that none of the organizations operating in Belarus provided support to transit refugees, referring to the lack of a mandate or simply ignoring incoming requests. Thus, we have repeatedly appealed to the representative offices of the Belarusian Red Cross Society with a request to organize systematic humanitarian assistance to transit refugees in Belarus. We did not receive an answer. Our Free legal office, in turn, processed 100 requests for humanitarian assistance — clothes, food, hygiene products.

While working with requests from people who were already in the procedure for obtaining international protection in Belarus, we found out that these people also faced a lack of adequate support from the state. According to Belarusian legislation, foreigners applying for protection in Belarus automatically receive one-time assistance from the state in the amount of one basic unit (32 rubles as of December 2022). They can also write a statement and ask for additional assistance on:

1. payment for travel to the migration authorities — in an amount not exceeding the cost of travel to the destination at the rate of a rigid second-class carriage of a passenger train;
2. payment for accommodation in a temporary settlement point or place of temporary settlement — in the amount of actual living expenses;
3. payment for accommodation in case of self-settled settlement — in the amount of actual living expenses not exceeding ten basic units per month (as of December 2022, 320 rubles);
4. food — in an amount not exceeding five basic units (as of December 2022, 160 rubles);
5. purchase of clothing — in an amount not exceeding four basic units (as of December 2022, 128 rubles).

The question of the actual provision of such assistance and its amount is decided by the employees of the migration services at their own discretion. It follows that proper assistance from the state is not guaranteed. In practice, people try not to stay in Belarus and seek protection in other countries where they will be guaranteed at least minimal conditions of support.

In the course of communicating with people, we also collected general information about their situation and needs and provided legal advice. The most frequent requests related to obtaining international protection in Belarus or EU countries, crossing the border and voluntarily returning to the country of citizenship. Thus, we received questions from citizens of Yemen, Cuba, Syria, Iraq about the procedure for applying for protection in Belarus. In most cases, people needed an initial consultation - clarification of the application procedure, identification of state bodies for appeal. We recorded several cases of denial of protection in Belarus. Thus, an Egyptian citizen was detained and placed in the temporary detention center of the Minsk region, where he filed an application for international protection in Belarus.

As grounds for granting protection, the Egyptian citizen indicated that he was a Coptic and professed Christianity. At home, he had a relationship with a Muslim woman, which caused the anger of her relatives and death threats. The Coptic community is the largest religious minority in Egypt and has been persecuted and restricted by the Muslim majority for many years. We have prepared a complaint about the denial of protection in Belarus, describing the persecution of Copts in Egypt, based on reports from international organizations. Despite the presence of well-founded fears, after a year of being in a temporary detention center in Belarus, an Egyptian citizen was deported to his homeland.

In 2022, we also faced the problem of legal uncertainty regarding minor children of transit refugees who may be detained in Belarus for violating the rules for the stay of foreigners with the aim of further expulsion from the country. Thus, a citizen of Liberia at the age of 8 months of pregnancy approached us under the threat of deportation from Belarus with a question whether she could be expelled after the birth of the child and what would happen to him if she was detained. We turned to the Department of Citizenship and Migration (hereinafter referred to as the DCM) for clarification on the status of minor children of detained foreigners, in respect of which a decision was made to deport from the Republic of Belarus, whether such a child can be taken away from his parents. According to the official position of the DCM, when considering administrative cases in relation to foreigners with dependent minor children, official bodies mainly impose penalties in the form of fines. If it comes to

deportation, then a decision is made on voluntary deportation in order to avoid the need to detain a foreigner. However, in practice, refugees in transit faced threats from employees of medical institutions, migration or law enforcement agencies. The procedure for removing the children was not explained to them.

In July 2022, the UN Special Rapporteur on the human rights of migrants visited Poland and Belarus with a focus on the situation on the border between the two countries. Since the Special Rapporteur did not have the opportunity to meet with any of the transit refugees, our Free legal office sent him a report describing the situation and problems faced by transit refugees in Belarus. In June 2023, the final report of the Special Rapporteur on the results of his visit is expected to be published, taking into account all the information collected.

Refugees from Ukraine

According to the State Border Committee of Belarus, as of December 2022, 74,432 citizens of Ukraine arrived in Belarus from Ukrainian territory: 15,890 through the Ukrainian-Belarusian border, 46,321 in transit through Poland, 10,070 through Lithuania, and 2,151 through Latvia. According to the DCM, in 2022, only 2,352 citizens of Ukraine applied for protection in Belarus. This is largely due to the fact that not all of those who arrived remained in Belarus and other opportunities to legalize their stay.

Despite the announcement by the Belarusian authorities of broad support for refugees from Ukraine, people faced a number of difficulties and legal uncertainty at different stages of their stay in Belarus. We received questions about crossing the Belarusian border in different directions, the procedure for international protection in Belarus, obtaining documents in Belarus from Ukraine, employment and medical assistance, requests for humanitarian assistance, and others.

The military aggression of the Russian Federation against Ukraine in 2022 forced thousands of people to leave their homes and travel to neighboring countries. Often, people did not have the documents they needed to cross the border or go through other administrative procedures. So, we received requests from citizens of Ukraine who came to Belarus on how to cross the border with Poland with an

expired passport, an old-style passport, or only an internal passport. We were also approached by people who after the beginning of the war immediately left for Poland and are intending to come to Belarus with the question of what to do with the Polish side's ban on passing through the border without a biometric passport. Some people went to Belarus through Russia or vice versa. So, we were approached by a citizen of Ukraine, who came to Belarus from the territory of Russia in order to apply for international protection. When entering Russia, and then to Belarus, they did not fill out a migration card and were afraid that this could be the basis for imposing administrative liability.

The procedure for granting international protection in Belarus also raised many questions for asylum seekers from Ukraine. So, we were approached with questions about what grounds and supporting documents should be for applying for protection, whether it is possible to change the place of residence during the consideration of an application for protection, what rights a person has during the period of consideration of his/her application for protection. Two Ukrainian citizens asked if they could collect their documents from the migration service during the period of consideration of their application for protection in Belarus in case it also becomes dangerous in Belarus and they decide to leave.

Despite the memos about the protection procedure for Ukrainians on the websites of individual citizenship and migration departments, many aspects remained incomprehensible to the applicants and required additional efforts on the part of the migration service employees. In the absence of explanations from the authorities, people turned to our Free legal office.

The refugees were also interested in the issues of further integration into Belarusian society, employment and medical care. For example, a citizen of Ukraine asked us where to turn for help in finding a job. In Belarus, she applied to the employment center, but they refused to provide her with any assistance in finding a job. Employers also refused to hire, as they did not want to issue special work permits for foreigners. The migration service advised the woman to apply for a residence permit, which would allow her to find a job without a special permit. Another refugee family from Ukraine also complained that they faced “dishonesty, involvement in financial dependence and violations” during employment.

People were looking for trusted employers because they feared that their rights would be violated or that they themselves might become violators of local laws. It is obvious that the problem of abuse by employers and discrimination of foreigners in the labor sphere is extensive and ignored by the state.

On the issue of obtaining medical care in Belarus, we worked with several cases where people were in the procedure for obtaining protection in Belarus or had already received subsidiary protection status and needed additional treatment or provision of medicines. So, we were approached by a citizen of Ukraine, who was in the procedure for obtaining protection, which, in order to maintain the normal functioning of the body, needed to be provided with a program of hemodialysis. She received this procedure in one of the state medical institutions of Belarus on a paid basis. We helped her to apply to the Ministry of Health of the Republic of Belarus with a request to consider the possibility of providing medical care in the form of scheduled hemodialysis free of charge.

After our appeal, the Ministry initiated the adoption of a regulatory legal act granting citizens of Ukraine and stateless people who arrived in the Republic of Belarus after February 24, 2022 “due to the socio-political situation that is developing on the territory of Ukraine”, and who do not have permission for temporary or permanent residence, the right to affordable medical care on an equal basis with citizens of the Republic of Belarus. Prior to the adoption of this act, the Ministry agreed on the provision of medical care to our client on a par with citizens of the Republic of Belarus.

We also provided humanitarian assistance in the form of food packages, clothing, and hygiene products to people who were in the process of considering their applications for protection and to those who had already received such protection. The applied refugees from Ukraine received from the state only a one-time payment in the amount of 1 basic unit (32 rubles as of December 2022) and one-time assistance from the Belarusian Red Cross Society. Migration officials did not explain to people their right to apply for additional assistance from the state.

Russian citizens

The political situation in the region, the beginning of the war in Ukraine and the mobilization in Russia affected the situation of migrants from Russia. In past years, we mainly worked with transit refugees from Chechnya and other regions of Russia who wanted to apply for protection in Poland, labor migrants. People mainly faced issues of administrative procedures, forced expulsion from Belarus or obtaining international protection in Belarus or Poland.

It should be noted that in 2022 the number of requests from Russian citizens from Chechnya and Ingushetia, who come to Belarus in transit to apply for international protection in Poland, increased again compared to 2021. Refugees in transit from Russia turned to us for help in explaining the procedure for granting international protection in Poland, the situation on the border between Belarus and Poland in connection with the humanitarian crisis and entry restrictions imposed by a number of European Union countries for Russian citizens, humanitarian assistance for those who “stuck” on the territory of Belarus.

For example, we helped a Russian citizen to draw up an application for protection in Poland, and with the participation of colleagues from Polish human rights organizations, the Polish Border Service accepted the application and allowed the Russian to enter its territory. We also applied on behalf of transit refugees, whose applications for protection were unreasonably rejected, with a collective letter to the border committee of Poland. The Border Committee did not respond to this letter and did not stop the practice of unjustified refusals to accept applications for protection.

Even Russian citizens with valid visas of the Schengen countries encountered problems when crossing the border. So, we were approached by citizens of Russia who had visas to Germany, invitations and other documents confirming that they were going to Germany. They were not let through at the Polish border point, citing covid restrictions, which had already been canceled at that time. Despite the fact that people were able to pass through the Lithuanian border, this situation was another example of the illegal practices of the Polish border guards. We were also approached by Russian citizens fleeing mobilization.

Basically, they tried to transit Belarus and get to the countries of the European Union. At the same time, one of the requests from a Russian citizen fleeing mobilization concerned assistance in finding safe housing on the territory of Belarus. In such cases, the situation is complicated by the fact that in many countries, including Belarus, mobilization is not a basis for granting international protection. Formally, such actions are recognized as violations of the law, and Russian citizens were at risk of being detained and extradited back to Russia.

Changes in legislation on foreigners and citizenship in 2022

In 2022, a number of legal documents regulating the legal status of foreigners and citizenship of Belarus were amended. Below we consider the main ones.

On September 14, 2022, Presidential Decree No. 420 of August 30, 2014 “On Persons Arriving in the Republic of Belarus”, adopted after the start of the Russian war against Ukraine in 2014 to provide assistance to citizens of Ukraine affected by the military conflict, expanded its scope in terms of simplified registration of residence permits in Belarus for all citizens of Ukraine (previously, these provisions were valid only for residents of the Luhansk and Donetsk regions). Citizens of Ukraine who arrived in Belarus after February 24, 2022 received the opportunity to receive medical services on an equal basis with citizens of Belarus, that is, free of charge or paid according to the price list for citizens of Belarus. This change had a positive impact on access to medical care for Ukrainian citizens affected by the war. However, it does not affect Ukrainians who have long lived in Belarus on the basis of permanent residence permits and are served in medical institutions at a price list for foreigners, which often makes obtaining medical care almost impossible.

On September 21, a draft law was published amending the Law of the Republic of Belarus No. 136-3 of August 1, 2002 “On Citizenship of the Republic of Belarus”. The bill passed consideration in two houses of parliament and entered into force in early 2023. The new version of the law significantly worsens the situation of Belarusian citizens, both naturalized and born in Belarus, and may become an instrument of repression by the authorities.

Now the authorities can deprive Belarusian citizenship of those citizens who have reached the age of 18 and against him/her there is a valid court verdict confirming participation in extremist activities or causing grievous harm to the interests of the country. At the same time, a person at the time of making such a decision must be outside Belarus. The Belarusian authorities intend to make such decisions in relation to any citizens of Belarus, even if they do not have citizenship of any other country. Such innovations threaten the principle of reducing statelessness, to which all modern states aspire. Moreover, the question arises of how fair and justified the procedures for the loss of citizenship for “extremism” and “terrorism” will be applied in practice.

Among other important changes, it should be noted that Belarusians who have received citizenship or a permanent residence permit in another state must notify the Ministry of Foreign Affairs or the Ministry of Internal Affairs of Belarus within three months from the date of its receipt.

Difficulties in the work of a Free legal office

After the forced liquidation of Human Constanta in 2021 in Belarus, our Free legal office has faced many obstacles in its work. The lack of registration in Belarus means the risks of administrative and criminal prosecution of employees and volunteers who help foreigners and stateless people on behalf of the organization. This situation does not allow the full use of the previous tools of the Free legal office and in full measure to protect the rights of vulnerable groups in Belarus.

However, the absence of other actors in Belarus who systematically protect the rights of foreigners and stateless people, as well as the number of calls to the Free legal office in 2022, show the relevance of our work and the need to continue it.



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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