

## Overview of the situation with the refugees and asylum-seekers from the Middle East in Belarus, July 2022

This note is prepared by the human rights organisation [Human Constanta](https://www.humanconstanta.org), which has been protecting the rights of foreigners and stateless people in Belarus for more than five years.

Belarus is undergoing the largest political and human rights crisis in its modern history, that started from the [fraudulent presidential elections in 2020](#). More than a [thousand](#) people are officially recognized as political prisoners in Belarus. More than [35 000](#) have been subjected to arbitrary detention in degrading conditions. At least [4690](#) criminal cases have been initiated in connection with “mass riots” and at least [4200](#) – in connection with “extremism and terrorism.” There have been at least [4000](#) allegations of use of force, including torture, without a single criminal case initiated to investigate reports of systemic and widespread torture of peaceful protesters. The human rights crisis has led to rule of law backsliding in all spheres, including the rights of foreigners and stateless people.

Starting from the summer 2021, a humanitarian crisis began to unfold in Belarus and on the border with neighbouring EU countries. [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 and Senegal. The total number of refugees in transit, who are still in the territory of Belarus, is unknown. In the process of our documentation and analytical work we managed to identify the following most important challenges they face in Belarus now:

**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 violated the terms of their stay, which means that they do not have a valid medical insurance. Other refugees entered Belarus illegally from the territory of Russia and found themselves in the same conditions. 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.

**Access to humanitarian aid and assistance.** Most Belarusian independent NGOs were liquidated in 2021-2022 years. The criminal responsibility for the activities on behalf of non-registered organisations was reintroduced in the Criminal Code (Article 193-1), making any activism a risky endeavor with potential risk of facing imprisonment. 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 license issued by the Ministry of Justice . Due to political pressure, 60 lawyers were deprived of their licence, five 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-Executive Code of Administrative Offences stipulates that “individual against whom the administrative procedure is initiated has the right to protection. 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-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 dated 03.02.2012 No. 37 "On approval of Instructions on the procedure for issuing, recording and storing orders", the grounds for issuing a warrant to a lawyer 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 lawyers. In fact, they are denied access to legal aid.

**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 nontransparent, and with a deviation from the presumption of trust in the applicants. In the current humanitarian crisis Human Constanta doesn't fix any successful cases of applying for asylum in Belarus. We recorded that several refugees in transit were unreasonably refused to accept their applications, others were just afraid to apply to migration offices, which are part of the law enforcement system. Some people who applied to the migration offices were forced to sign documents on "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 attempt 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 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 border zone is the Border Committee.

**Threat of expulsion to an unsafe country.** The principle of non-refoulement is not usually followed by the Citizenship and Migration Department as well 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 country of citizenship, some foreigners who 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 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, he/she can stay in detention in conditions which are not designed for long-term detention up to one year.