

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report –**

**Universal Periodic Review:**

**BELARUS**

**I. BACKGROUND INFORMATION**

***Refugees and asylum seekers***

Belarus acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 2001 without reservation. The first Law on Refugees was adopted and came into force in 1995. It was amended in 1999, 2003 and 2006. The *Law of the Republic of Belarus of 23 June 2008 No. 354-Z, On Granting Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons*<sup>1</sup> (hereinafter – the Law on Refugees) was adopted in June 2008 and came into force in July 2009. The Law provides a single procedure for the consideration of refugee status and complementary protection needs. It also restates the *non-refoulement* principle in an all-inclusive manner. The law expressly stipulates access to health and educational facilities for children (asylum-seekers and refugees) on a par with Belarusian citizens. It provides for the right of asylum-seekers to contact UNHCR and to work without a work permit. The law also includes the right of refugees to family reunification.

In addition to the Law on Refugees, the Council of Minister adopted by its Decree No 143 dated 11 May 2009 the Instruction on the Procedure of Organization of Work on Provision of Refugee Status or Complementary Protection to Foreign Nationals and Stateless Persons in the Republic of Belarus, Loss and Cancellation Thereof (hereinafter – the RSD Instruction). Plus, existing laws and by-laws were amended in line with the Law on Refugees. Belarus is also a State party to major international human rights instruments.<sup>2</sup>

The Department of Citizenship and Migration (hereinafter – DCM) of the Ministry of Internal Affairs of Belarus (hereinafter – MIA) is the main state authority in charge of state RSD procedure. DCM has its detachments in the capital and in all regional administrative centres.

State RSD procedure is operating since 1997. Between 1997 and 31 August 2014 DCM granted refugee status to 899 persons and complementary protection to 60 individuals (in January – August 2014 inclusive: 27 persons obtained refugee status, 26 – complementary

<sup>1</sup> *Law of the Republic of Belarus of 23 June 2008, On Granting Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons in the Republic of Belarus*, No. 354-Z, 23 June 2008, available at: <http://www.unhcr.org/refworld/docid/493541fd2.html>.

<sup>2</sup> Including the International Covenant on Civil and Political Rights (ICCPR), the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the 1989 Convention on the Rights of the Child, the 1979 Convention on the Elimination of All Forms of Discrimination against Women and other international and regional agreements. Belarus is not a member of the Council of Europe and is not a party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

protection). The majority of refugees reside in urban areas, namely Minsk (the capital), Gomel and Gomel region, and Vitebsk and Vitebsk region.

According to official statistics, as of 1 July 2014 Belarus hosted 628 refugees, beneficiaries of complementary and non-refoulement protection.<sup>3</sup> The number of asylum claims submitted since 2011 has been increasing: 85 in 2011, 106 in 2012, 208 in 2013, and 538 from January to end June 2014. Asylum-seekers are mainly from Ukraine, Afghanistan, Georgia and Syria.

The year 2014 has been characterized by increase of asylum-seekers from Ukraine. Furthermore, as of 1 October 2014 there were approximately 30,000 nationals of Ukraine residing in Belarus on the basis of permits for temporary and permanent residence.<sup>4</sup> These persons should be considered as potential asylum-seekers, because they arrived in Belarus due to ongoing crisis in their country and may apply for asylum later, for instance, in case they fail to regularize their stay by the other means.<sup>5</sup>

A refugee is able to apply for Belarusian citizenship seven years after recognition of refugee status. 157 refugees were naturalized during the period of 2004 – 30 June 2014 inclusive.

#### ***Stateless persons and persons at risk of statelessness***

Belarus is not a party to the *1954 Convention relating to the Status of Stateless Persons* (hereinafter – *the 1954 Convention*) nor to the *1961 Convention on the Reduction of Statelessness* (hereinafter – *the 1961 Convention*) and the *1997 European Convention on Nationality*. In May 2011 during an official meeting with UNHCR, the Deputy of the MIA stated that his country would officially put on hold accession to the 1954 Convention and the 1961 Convention. Furthermore, in 2014 DCM officially stated to UNHCR that Belarus will not accede to either the 1954 Convention or the 1961 Convention this year. It is not clear whether it may take place in 2015 as there are a number of state authorities which are not still supporting country's accession to international statelessness instruments. Reasons given for reluctance to accede are the fear of a pull factor and the perceived lack of added value of acceding to the UN statelessness Conventions.

The citizenship legislation provides for some safeguards to prevent and reduce statelessness. The number of stateless persons is decreasing due to efforts of the Government to clarify their status. The stateless population with temporary or permanent residence permits in Belarus has decreased by 2.6% during first half of 2014: from 6,712 to 6,606 stateless persons as of 1 July 2014. The real number of stateless persons is likely to be higher as stateless persons, among them former Soviet citizens who never acquired a nationality after the fall of the Soviet Union, may not all have lawful residence in the country. There is no formalized statelessness determination procedure currently in place.

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<sup>3</sup> UNHCR receives this statistics from DCM on quarterly basis only while overall statistics on recognition – on monthly basis. From the provided figure the following categories of UNHCR PoCs are excluded: those who (a) received Belarusian citizenship, (b) left territory of Belarus (resettlement, voluntary repatriation and spontaneous departure) and (c) deceased.

<sup>4</sup> This statistics were spelled out by Belarusian delegation during the 2014 UNHCR ExCom.

<sup>5</sup> Ukrainian nationals are not obliged to undergo mandatory registration with the authorities of interior during 30 days after arrival in Belarus (other foreigners have to register within 5 days after arrival). Moreover, Ukrainians can reside legally in Belarus without any grounds for 3 months within 6-months period of time. The problem may arise in case a Ukrainian fails to find any grounds for legal residence in Belarus after expiration of mentioned 3-months period of time.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The Government of Belarus strives to uphold its international obligations and improve national asylum system, including state RSD procedure. Foreign nationals and stateless persons enjoy free and unhampered access to the territory of Belarus and asylum-seekers are not punished for illegal entry. There have been no reported instances of refoulement since 2007. In addition, DCM provides asylum-seekers whose claims have been rejected by the Government, but are nevertheless protected and being resettled by UNHCR, with a temporary residence permit (upon UNHCR request) until their final departure to a resettlement country.

### *State RSD procedure*

State RSD procedure is operational throughout the country and is being constantly improved, including by means of regular and continuous training of DCM personnel. UNHCR praises MIA's commitment to pay specific attention to enhancement of state RSD procedure and, in light of this fact, active involvement in the EU-funded project "Asylum Systems Quality Initiative in Eastern Europe and South Caucasus" (hereinafter – QIEE Project) and good level of cooperation.<sup>6</sup>

Furthermore, UNHCR notes Belarus' commitment to grant protection to applicants from Syria (both refugee status and complementary protection) and not to issue negative decisions upon asylum application of this category of asylum-seekers. This policy is being implemented since 2013 when Belarus started receiving many applications from nationals of Syrian nationals and persons who had been previously residing in Syria before arrival in Belarus.

### *Identification of persons in need of international protection*

UNHCR praises the good level of cooperation with DCM and non-governmental organizations (hereinafter – NGOs) in the identification of persons in need of international protection among ordinary and irregular migrants.<sup>7</sup>

Border Guards are sensitized on asylum related issues and are aware of the main protection principles including non-refoulement, which positively contributes to protection-sensitive border management in the context of the increasingly mixed nature of migration flows. This explains why there were no instances of refoulement during recent years and why since 2007/2008, 20-30% of all new asylum-seekers are identified as a result of protection monitoring activities.<sup>8</sup>

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<sup>6</sup> In practical terms it is implemented by means of UNHCR free access to DCM's personnel, personal files of asylum-seekers and interviews conducted with them. QIEE National RSD Specialist is directly involved into improvement of professional capacity of DCM staff members, in particular, through participation in eligibility interviews, elaborations of decisions and provision of relevant country of origin information (hereinafter – COI).

<sup>7</sup> Belarus is committed to observe UN High Commissioner 10 Points Plan of Actions and provides UNHCR and NGOs access to the detention centres managed by the MIA and the State Border Committee of Belarus (hereinafter – SBC). The latter is arranged through multipartite Memorandum of Understanding (adopted in 2008, parties – UNHCR, SBC, IOM and two NGOs) and Protocol of Intent (adopted in 2013, parties – UNHCR, MIS, IOM and two NGOs). Both provide the framework for protection monitoring and identification of persons in need of international protection among apprehended migrants.

<sup>8</sup> In 2007-2011 two phases of the EU-funded project "Strengthening the Protection Capacity in the Republic of Belarus" were implemented. Afterwards, in 2012 until September 2013, Belarus was part of a regional project entitled "Support to UNHCR activities in Eastern Europe (Belarus, Moldova and Ukraine) in the context of Regional Protection Programmes – Phase II". The aforementioned projects aimed, inter alia, at ensuring free and unhampered access of asylum-seekers to the territory and State RSD procedures, capacity building of State authorities in this sphere as well as assisting the Governments concerned in building protection sensitive border

### ***Accommodation for asylum-seekers, refugees and beneficiaries of complementary protection***

There are three temporary accommodation centres (hereinafter – TAC) for asylum-seekers (Brest, Gomel and Vitebsk) which provide shelter to asylum-seekers for the whole duration of state RSD procedure. They are able to accommodate approximately 70 individuals each. All of them were established with UNHCR’s involvement and their running costs are being borne by the Government.

### ***Belarusian asylum legislation***

Belarusian asylum legislation in general meets international and regional standards. In particular, it concerns the refugee definition, non-refoulement/non-expulsion provisions, exemption from punishment for illegal entry for asylum-seekers, confidentiality of information, cooperation with UNHCR and international organizations on asylum related issues. Article 5 of the Law on Refugees contains explicit protection against refoulement for asylum-seekers, refugees, as well as beneficiaries of complementary and non-refoulement protection. There is also an absolute ban on return or expulsion against the person’s will to a country where s/he will be in danger of torture. No instances of refoulement of UNHCR persons of concern were reported since 2007.

### ***Local integration of refugees***

UNHCR praises the Government of Belarus for adoption of the National Programme of Demographic Security for 2011-2015, which sets a strategy for the near future, including the integration of migrants and refugees in the Belarusian society (it addresses the issues of employment and livelihood, language training, accommodation and naturalization). It is also noteworthy that refugees enjoy socio-economic rights on a par with nationals of Belarus. Though beneficiaries of complementary protection have fewer rights, they are entitled to employment and medical treatment on the same level as refugees. It is also important to stress that underage asylum-seekers, refugees and beneficiaries of complementary protection are eligible for secondary education and medical treatment on a par with the Belarusians.

### ***Statelessness***

The Government of Belarus continues developing measures aimed at reducing and preventing instances of statelessness in the country, in line with the pledge it made at the Ministerial Intergovernmental Event on Refugees and Stateless Persons in December 2011.<sup>9</sup> It should be noted that DCM is steadily reducing the stateless population of the stateless population by means of naturalization. The number of stateless persons residing in Belarus has decreased from 7,799 on 1<sup>st</sup> January 2010 to 6,006 in 1<sup>st</sup> July 2014.

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management systems. That is why there has been an increase of the rate of new asylum-seekers identified at the border since 2008.

<sup>9</sup> “In our country, concrete measures are being taken to reduce statelessness, including legislative measures, allowing the creation of a steady trend of reducing the number of stateless persons permanently residing in the country. By the end of 2013, we expect that this trend will be strengthened through the implementation of measures aimed at facilitating the acquisition of Belarusian citizenship by this category of individuals.” UN High Commissioner for Refugees, *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, available at: <http://www.refworld.org/docid/50aca6112.html>.

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### ***Issue 1: Belarusian asylum legislation***

Although Belarusian asylum legislation meets international standards, there remains room for further improvement. Authorities have not yet considered introducing accelerated RSD procedure for manifestly well-founded claims, despite the increased number of asylum-seekers from Syria and Ukraine in 2013 – 2014. Some negative decisions on asylum claims are based solely on “additional” rejections clauses (though there is no widespread pattern).<sup>10</sup> Importantly, Belarusian asylum legislation should allow persons in need of international protection to enjoy unhampered access to the territory of the country and State RSD procedure. In order to have such a situation in place, existing gaps related to application for asylum from transit zone, including international airports, should be amended within the framework of upcoming amendments to the Law on Refugees (2014-2015). Border Guards (BG) can receive asylum applications only from persons who are detained for illegal crossing of State borders or illegal stay in Belarus. In cases when a foreign citizen or stateless person does not violate anything, the BGs are not formally obliged to take his/her application for asylum (for example, application for asylum submitted in the transit zone of international airport upon arrival in Belarus); currently such cases are settled on a case-by-case basis following UNHCR’s intervention.

Adult asylum-seekers,<sup>11</sup> children of beneficiaries of non-refoulement protection and UNHCR Mandate refugees with temporary residence permit do not currently receive medical treatment on a par with nationals of Belarus. The Committee on the Right of the Child has recommended that Belarus “*continue to strengthen efforts to improve the health situation of all children, including by guaranteeing free-of-charge medical treatment for all children (both foreign citizens and stateless persons) who hold a temporary residence permit in the State party.*”<sup>12</sup>

#### ***Recommendations***

UNHCR recommends that the Government of Belarus:

- Enable Border Guards to receive/record asylum applications from foreigners in the transit zone (including airports);
- Enable assessment of manifestly well-founded asylum application within the framework of State RSD procedure;

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<sup>10</sup> According to the Law on Refugees, additional rejection clauses include the following: (a) serious or particularly serious crime (according to the Criminal Code of Belarus) for which an asylum-seeker was convicted being within state RSD procedure; (b) fear of persecution is based on circumstances caused by deliberate actions of an asylum-seeker after s/he left a country of his/her origin; (c) manifestly unfounded and (d) abusive asylum applications.

<sup>11</sup> According to Belarusian legislation, nationals of Belarus and permanently residing foreigners are both entitled for free-of-charge emergency and regular medical treatment provided by state medical institutions. It is confirmed by Part 1 of Art. 5 of the Law of the Republic of Belarus on Healthcare: “*Foreign nationals and stateless persons permanently residing in the Republic of Belarus have the right for available medical treatment on a par with the citizens of the Republic of Belarus if the other is not envisaged by legislative acts of the Republic of Belarus and international treaties of the Republic of Belarus.*”

<sup>12</sup> Committee on the Right of the Child, 56th Session (17 January to 4 February 2011), Concluding Observations, paragraph 54, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2fPPRiCAqhKb7yhsng3QhcRVOo18YEahXg1g0FTTkU3TqQldFPV9nJWtR43QagjmwDvzhKXDJAUKTs7Vv4pmR%2bqk%2fuERG23HjWcGS1icU59jTnsDUWuExMjFHBb>

- Review the definition of complementary protection in order to enable coverage of wider groups of persons in need of protection;
- Only maintain in the Law on Refugees exclusion clauses which are in line with the provisions of the 1951 Convention; and
- Facilitate access of asylum-seekers, beneficiaries of non-refoulement protection and UNHCR Mandate refugees with temporary residence permit to medical treatment on a par with nationals of Belarus.

**Issue 2: Accommodation for asylum-seekers, refugees and beneficiaries of complementary protection**

Due to drastic increase amount of new asylum-seekers in 2014, state-run TACs they are fully packed since April – May 2014. As a result, asylum-seekers are forced to search for their own accommodation and pay for it. Limited Government assistance in coverage of renting fees (max. 150 US dollars per person per month) does not enable them to meet the needs of UNHCR persons of concern in all instances (it only tends to be sufficient for large families). Moreover, this assistance is not provided up front at once and state authorities only pay for asylum-seekers’ accommodation retroactively. Therefore, asylum-seekers have to use their own money in order to pay for the first month (though they get reimbursement afterwards). Those who do not have enough resources can count only on UNHCR’s assistance which is also limited.

**Recommendation**

UNHCR recommends that the Government of Belarus:

- Consider establishing a new TAC which will be able to accommodate more asylum-seekers.

**Issue 3: Issuance of CTD to refugees**

One of the gaps which still exist in Belarus is lack of CTD issued to refugees.<sup>13</sup> Although Belarus previously pledged to produce and introduce machine-readable travel documents designed in accordance with 1951 Convention and ICAO requirements, this commitment has not been fulfilled yet. A CTD sample was elaborated and adopted in 2011, but its introduction is being postponed since that time as the Government decided to introduce and start issuing all types of new IDs and travel documents with biometry at the same time. UNHCR is still concerned about lack of Convention Travel Document (CTD) for refugees: the Law on Refugees and relevant by-laws contains neither any reference to it nor any other provisions which establish procedure for CTD’s issuance. During the 2011 Ministerial Intergovernmental Event on Refugees and stateless Persons held in Geneva in December 2011, Belarus pledged to begin by the end of 2012 “*the process of granting refugees with machine-readable travel documents, which are designed in accordance with the 1951 Convention and the documents of the international Civil Aviation Organization.*”<sup>14</sup>

Currently, there is no specific travel document envisaged for beneficiaries of complementary protection. According to the Law on Refugees, beneficiaries of complementary protection receive back their national ID and/or travel document after recognition takes place (in

<sup>13</sup> There is a travel document which is issued to refugees, but it is not fully compliant with the 1951 Convention. Moreover, it is recognized as a travel document only by limited amount of countries.

<sup>14</sup> UN High Commissioner for Refugees (UNHCR), *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, page 52, available at: <http://www.refworld.org/docid/50aca6112.html>

addition to certificate of a beneficiary of complementary protection which can be used as a document only inside Belarus). As ID and/or travel documents will eventually expire and their holders are not in a position to resort of their embassies' assistance in relation to documents' extension, beneficiaries of complementary protection will finally end up without any valid documents enabling them to travel outside Belarus.

### **Recommendation**

UNHCR recommends that the Government of Belarus:

- Facilitate issuance of Machine Readable Convention Travel Document (in line with 1951 Convention and ICAO requirements) to refugees;
- Explore the possibility of issuing separate travel document to beneficiaries of complementary protection; and
- Reflect the new adjustment in the amended version of the asylum legislation.

### ***Issue 4: Local integration of refugees***

In spite of the fact that the Government of Belarus strives to integrate refugees through available mechanisms and the creation of an appropriate legislative regime and significant improvement in this area,<sup>15</sup> there are some problematic areas which should be further tackled. In particular, UNHCR has identified the following challenges (1) Shrinking UNHCR funds supporting integration related activities in Belarus and vague or even negative perspectives for receipt of sources from the EU for this purpose; (2) lack of realistic economic opportunities which should support and sustain sound and suitable legislation, and (3) lack of clear leadership of the government when it comes to enabling or supporting activities contributing to integration and self-reliance of persons of concern to UNHCR.

### **Recommendations**

UNHCR recommends that the Government of Belarus:

- Elaborate and adopt a local integration programme for refugees (with UNHCR participation);
- Take over steadily all integration related activities from UNHCR and its implementing partners;
- Eliminate certain legislative provisions which hampers effective integration of refugees, for instance, mandatory requirement to possess permanent registration (former "propiska") in order to be able to receive permanent residence document;<sup>16</sup>
- Facilitate refugees' integration by means of proactive efforts of State authorities and assigned personnel (e.g. search of housing and employment, language training, etc.); and
- Allocate more funds from the State's budget on integration to refugees and beneficiaries of complementary protection.

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<sup>15</sup> For example advanced legislation which provides refugees with socio-economic rights on a par with nationals of Belarus, adoption of the National Programme of Demographic Security for 2011-2015, which sets a strategy for the near future, including the integration of migrants and refugees in the Belarusian society, technical and expert assistance of UNHCR rendered within the framework of EU-funded projects "Local Integration of Refugees in Belarus, Moldova and Ukraine", etc.

<sup>16</sup> It can be alternatively replaced by "administrative permanent registration" according to the address of local department on citizenship and migration.

### ***Issue 6: Naturalization***

In spite of certain specific provisions related to naturalization of refugees, the Law on Citizenship does not exclude them from mandatory confirmation of cessation/termination of their former nationality. According to Article 14 of the Law on Citizenship, any foreigner (which includes refugees) will qualify for Belarusian nationality if he or she “does not have any citizenship or has lost citizenship of a foreign state in case of acquisition of Belarusian citizenship or approached competent state authority with the application for cessation of his/her current citizenship.” On the other hand, the Law on Citizenship provides one exception to this rule: “[...] except instances when cessation of citizenship of a foreign state is not possible due to reasons which are out of person’s control.”

Every applicant has to specifically confirm and justify in writing that he or she is not able to renounce or apply for renunciation of his or her nationality. In all instances, state authorities decide whether such explanations are sufficient and whether a person can apply for Belarusian citizenship without providing proof of the renunciation his or her former nationality. Failure to obtain Belarusian nationality after having lost the previous nationality might lead to statelessness and is known to have occurred on a few occasions.

No particular consideration is given to the specific circumstances of refugees who are not in a position to approach authorities of their countries of origin or to stateless persons who cannot submit proof of renunciation of a previous nationality. Although the Government tries to take into consideration the applications of refugees in relation to the requirement of the renunciation of their former nationality, the problem is tackled on case-by-case basis; usually with help of a UNHCR letter which explains the impossibility to request renunciation of the former nationality.

### **Recommendation**

UNHCR recommends that the Government of Belarus:

- Review its citizenship legislation and relevant by-laws to enable refugees, beneficiaries of complementary protection and stateless persons to be exempted from the requirement of confirmation of termination of their former nationality; and
- Facilitate the naturalization of refugees and stateless persons, especially by reducing the number of years of permanent residence required.

### ***Issue 7: Statelessness***

Stateless persons who satisfy the refugee definition contained in the 1951 Convention are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the situation of non-refugee stateless persons who are in need of international protection. In many countries, stateless persons are subject to discrimination, in particular where they do not enjoy a legal status in any country. The 1954 Convention and the 1961 Convention are important instruments to ensure the enjoyment of human rights by stateless persons.

The 1961 Convention establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. Stateless persons are often discriminated against in their enjoyment of economic, social and cultural rights. An increase in the number of States parties is essential to strengthening



international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

The 1954 Convention ensures minimum standards of treatment of stateless persons in respect to a number of economic, social and cultural rights. These include, but are not limited to, the right to education, employment, housing, and public relief. Importantly, the 1954 Convention also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

Accession by Belarus to the 1954 Convention and the 1961 Convention was put on hold in May 2011.

Currently, Belarus does not consider any need in establishment of formal statelessness determination procedure (hereinafter – SDP), as the Government fears this may create a pull factor. According to the Ministry of Foreign Affairs of Belarus and the Ministry of Healthcare of Belarus, such procedures will attract many stateless to come to Belarus and create a heavy burden on its budget (through free-of-charge medical and other services provided). So far the MIA executes a quasi-determination of statelessness: state authorities confirm citizenship of a person through interviews and the establishment of country (-ies) with which a person had ties with in the past. If requested States confirm that the person does not possess the nationality of that State or is not entitled to (automatic) acquisition of that nationality, the person is considered as stateless and documented with a residence permit and a travel document for stateless persons. According to the MIA, any person who considers him/herself as stateless may freely approach the Government asking its assistance in this respect.

Belarusian legislation on nationality is generally in line with international standards on the prevention of statelessness. It fails however to safeguard adequately against statelessness among children born in the territory, of parents who do not have permanent residence, and who would otherwise be stateless.

### **Recommendation**

UNHCR recommends the Government of Belarus:

- Accede to *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*;
- Seek UNHCR support on issues relating to statelessness owing to its expertise and mandate on the issue;
- Establish and operationalize a statelessness determination procedure; and
- Ensure automatic acquisition of Belarusian nationality by all children born in the country who would otherwise be stateless.

**Human Rights Liaison Unit**  
**Division of International Protection**  
**UNHCR**  
**October 2014**

## Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

### - Universal Periodic Review:

#### BELARUS

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports as well as Universal Periodic Review report and responses relating to issues of interest and persons of concern to UNHCR with regards to Belarus.

#### I. Treaty Bodies

##### Committee on Economic, Social and Cultural Rights

[E/C.12/BLR/CO/4-6](#)

13 December 2013

3. The Committee welcomes the State party's ratification of, or accession to, various human rights instruments since the last dialogue with the State party in 1996:

- (e) 1951 Convention relating to the Status of Refugees and its 1967 Protocol, on 23 August 2001;
- (b) Entry into force in 2009 of the Law (No. 354-Z) on Granting Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons;
- (c) Adoption in 2010 of the Law on the Legal Status of Foreign Nationals and Stateless Persons;

10. The Committee is concerned that the State party has still not adopted a comprehensive national integration plan for refugees (art. 2, para. 2).

**The Committee recommends that the State party step up its efforts to adopt a comprehensive national integration plan for refugees with time-bound measures and disaggregated indicators to monitor its implementation as a durable solution to enable refugees to fully enjoy the rights enshrined in the Covenant.**

23. The Committee notes with concern the lack of adequate access to subsidized/social housing by disadvantaged groups, in particular young families, families with many children, older persons, persons with disabilities and refugees, and the long waiting list for social housing which deprives many people of their right to adequate housing (art. 11, para. 1).

**The Committee recommends that the State party adopt all adequate measures to address the problem of the long waiting lists in respect of social housing and ensure access to adequate housing for disadvantaged groups, including by ensuring that sufficient resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies, taking into account its general comment No. 4 (1991) on the right to adequate housing.**

**Committee on the Elimination of Racial Discrimination**

[CERD/C/BLR/CO/18-19, 83<sup>rd</sup> Session](#)

23 September 2013

**B. Positive aspects**

4. The Committee notes the State party's ongoing efforts to revise its legislation in areas of relevance to the Convention, including:

- b) The entry into force on 3 July 2009 of the Act on the Granting of Refugee Status and Subsidiary or Temporary Protection to Foreign Nationals and Stateless Persons in Belarus;
- c) Adoption on 4 January 2010 of the Act on the Legal Status of Foreign Nationals and Stateless Persons in Belarus;
- g) Adoption in January 2012 of the Trafficking in Persons Act.

6. The Committee also welcomes a number of positive developments, activities as well as administrative measures taken by the State party to fight racial discrimination and promote diversity, including:

- a) Adoption of the National Policy and Action Plan on Trafficking and Illegal Migration 2010-2013";
- b) Establishment of the National Rapporteur on Human Trafficking under the Ministry of the Interior;
- c) International technical assistance project on combating human trafficking in Belarus carried out by the International Organization for Migration (IOM);

**Situation of the Roma**

16. While noting the steps taken by the State party to improve the situation of the Roma community, in particular in the field of education, the Committee is concerned that the general level of education, in particular secondary and higher, of members of the Roma community is insufficient and that they are employed almost exclusively in the private sector. It is also concerned at possible negative stereotyping of members of the Roma community in the media and reports of police violence against the Roma for lack of identity documents. (arts. 2 and 5)

**In light of its general recommendation 27 (2000) on discrimination against the Roma, the Committee requests the State party to provide further information on measures taken to ensure that members of the Roma community are not discriminated against and have equal access to education at all levels, employment, including the state sector, housing, identity documents, access to public places, social and other services and that there is no negative stereotyping of Roma in the media. The Committee encourages the State party to continue the positive practice of working with Roma parents in order to encourage them to send their children to school at the age of six. It invites the State party to consider taking special measures to improve the situation of the Roma community in accordance with article 2 (2) of the Convention.**

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## Combatting human trafficking

While commending the efforts of the State party to combat trafficking in persons, including through the adoption of legislation, and the important results achieved so far, the Committee is concerned that Belarus continues to be a source and transit country for human trafficking, both for purposes of sexual exploitation and forced labour. (arts. 5, 6 and 7)

The Committee recommends that the State party:

- a) Continue and enhance its efforts to combat human trafficking and take preventive measures to address its root causes, including the link to the prostitution and sexual exploitation, in particular of women belonging to ethnic minorities;
- b) Provide assistance, protection, temporary residence permits, rehabilitation, shelter as well as medical, psychological and other services and assistance to victims of trafficking and ensure that they are not prosecuted;
- d) Consider concluding bilateral agreements with other countries in order to strengthen prevention of and combat trafficking;
- e) Provide training of law enforcement officials, including police officers, border guards and immigration officials, in the identification, assistance to and protection of victims of trafficking;

## Committee against Torture

[CAT/C/BLR/CO/4, 47<sup>th</sup> Session](#)

7 December 2011

### B. Positive aspects

5. The Committee notes the ongoing efforts by the State party to reform its legislation, policies and procedures in areas of relevance to the Convention, including:

- c) Adoption of the new Law on Provision of Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons, in 2008.

### C. Principal subjects of concern and recommendations

#### Trafficking in persons

23. While welcoming efforts by the State party to addressing trafficking in persons and bringing perpetrators to justice, the Committee is concerned at reports that trafficking in persons, particularly women, remain a considerable problem and that Belarus remains a country of origin, transit and destination for victims of trafficking. (arts. 2, 10 and 16)

**In light of the recommendations made by the Special Rapporteur on trafficking in persons following her visit to Belarus in May 2009 (A/HRC/14/32/Add.2, paras.95 et**

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seq.), the State party should undertake effective measures, including through regional and international cooperation, to address the root causes of trafficking in persons, in particular its close link to sexual exploitation, continue to prosecute and punish perpetrators, provide redress and reintegration services to victims, and conduct training for law enforcement officials, particularly border and customs officials.

### Refugees and asylum-seekers

26. While welcoming the adoption, in 2008, of the new Law on Provision of Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons in Belarus, the Committee notes that the legislation and practice of its implementation need to be further revised in order to be fully in line with international human rights and refugee law. (art. 3)

The Committee recommends the State party to revise its current procedures and practices in the area of expulsion, refoulement and extradition in order to fulfill its obligations under article 3 of the Convention. The State party should guarantee better protection for asylum seekers, refugees and other persons in need of international protection, improve the quality of the State's Refugee Status Determination (RSD) procedure, and consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

### Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

[CRC/C/OPAC/BLR/CO/1, 56<sup>th</sup> Session](#)

28 April 2011

### Data

9. The Committee recommends that the State party establish a central data collection system with a view to collecting information and statistics on the implementation of the Optional Protocol, and for the identification and registration of all children under its jurisdiction who may have been recruited or used in hostilities by non-State armed groups abroad, including refugee and asylum-seeking children, and to provide information on the implementation of this recommendation in its next periodic report under the Convention.

### Measures adopted to protect the rights of child victims

18. The Committee notes that the State party implement a project for the socialisation and adaptation of child refugees in Belarus. However, the Committee regrets the lack of information on measures taken to identify children, including refugee and asylum-seeking children, who may have been recruited or used in hostilities abroad, as well as information on measures taken for their physical and psychological recovery and social reintegration.

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## **Committee on the Rights of the Child**

**Concluding observations (2011) CRC/C/BLR/CO/3-4, 56<sup>th</sup> Session**

8 April 2011

### **Data collection**

18. The Committee appreciates the State party's efforts to strengthen data collection in areas concerning children, notably through the creation of a national social and economic database, BelarusInfo. The Committee is, however, concerned at the lack of information on a number of specific areas covered under the Convention, such as the situation of children belonging to minority groups, in particular Roma children, as well as on stateless children, and violence against children.

**19. The Committee recommends that the Committee strengthen the collection of disaggregated data, with special attention to violence against children, juvenile delinquency, child labour, abandonment, migration, children belonging to minority groups, particularly the Roma, stateless children, and women and children infected and affected by HIV.**

### **Best interests of the child**

29. The Committee is concerned that the principle of the best interests of the child is not systematically reflected in the State party's legislation, in particular the 2008 Law on granting refugee status and additional and temporary protection to foreign citizens and stateless persons.

**30. The Committee recommends that the State party conduct a review to ensure that the principle of the best interests of the child as contained in article 3 of the Convention is reflected in all legislation, regulations and judicial and administrative procedures that affect children, and ensure that in practice the best interests of the child are a primary consideration in all actions concerning children.**

### **Name and nationality**

33. The Committee notes the high number of stateless persons in the State party, and is concerned at the lack of data on the number and condition of stateless children residing in the State party.

**34. In accordance with article 7, the Committee urges the State party to ensure the implementation of the right of all children to acquire a nationality, as far as possible, in order to prevent statelessness. Inter alia, it should collect data on stateless children. In this regard, the Committee encourages the State party to seek technical assistance from UNHCR. The Committee further recommends that the State party consider ratifying the 1954 United Nations Convention relating to the Status of Stateless Persons, the 1961 United Nations Convention on the Reduction of Statelessness, as well as the 1997 Convention on Nationality and the 2009 Convention on the avoidance of statelessness in relation to State succession of the Council of Europe.**

### **Health and health services**

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53. The Committee welcomes measures to raise the standard of health among children, notably the reduction of maternal and newborn mortality. The Committee is nevertheless concerned that the morbidity rate for children remains high, mainly attributable to respiratory diseases (72% in 2008), followed by accidents, injuries and poisoning. It is further concerned that foreign and stateless children who hold temporary residence permits face difficulties in availing themselves of free-of-charge regular medical treatment, despite the fact that article 5 of the Law on the Rights of the Child provides for free-of-charge medical treatment to children.

**54. The Committee recommends that the State party continue to strengthen efforts to improve the health situation of all children, including by guaranteeing free-of-charge medical treatment for all children (both foreign citizens and stateless persons) who hold a temporary residence permit in the State party.**

#### **Asylum-seeking and refugee children**

67. The Committee welcomes the adoption in 2008 of the Law on granting refugee status, additional and temporary protection to foreign citizens and stateless persons, which expressly provides for equal access to health and educational facilities for asylum-seeking and refugee children on par with Belarusian citizens, as well as the right of refugees to family reunification. It regrets, however, that this law does not include gender-related persecution as a legitimate ground for asylum, and it does not reflect the principle of the best interests of the child.

**68. The Committee recommends that the State party:**

- a) **Expressly identify the best interests of the child as a primary consideration when examining asylum applications of undocumented, unaccompanied or separated children, and refrain from placing these children in detention centres;**
- b) **Train asylum- and migration officials in the application of the legislation governing asylum and complementary protection, including training in taking into consideration child-specific forms of persecution;**
- c) **Ensure, including through the signing of bilateral agreements containing appropriate safeguards, that decisions for return and re-integration of unaccompanied Belarusian children are carried out with the primary consideration of the best interests of the child; and**
- d) **Take into account the Committee's views contained in its General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).**

#### **Committee on the Elimination of Discrimination against Women**

**[Concluding observations \(2011\) CEDAW/C/BLR/CO/7, 48<sup>th</sup> Session](#)**

6 April 2011

#### **Positive aspects**

6. The Committee notes with appreciation the measures adopted by the State party to prevent and combat trafficking in human beings, in particular women and girls, such as:

- (a) Presidential Decrees No. 3 of 9 March 2005 on measures to combat human trafficking and No. 352 of 8 August 2005 on averting the consequences of human trafficking;

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- (b) The introduction of higher penalties for trafficking in human beings and related offences in the Criminal Code and in the Code on Administrative Offences by virtue of Act No. 15-3 of 4 May 2005; and
- (c) The adoption by Presidential Decree No. 624 of 6 December 2007 of a State Programme on Combating Human Trafficking, Illegal Migration and Related Illegal Acts for 2008-2010 aimed at reducing crimes related to trafficking, protecting and rehabilitating victims, and strengthening international cooperation in efforts to counter human trafficking.

### **Trafficking and exploitation of prostitution**

21. While noting that the State party gives high priority to combating trafficking in human beings, in particular women and children, the Committee remains concerned about the reported lack of preventive measures to address the root causes of trafficking, including its close link to prostitution and sexual exploitation of women and girls, the lack of assistance, rehabilitation, protection and temporary shelters, especially for victims of trafficking who are unable or unwilling to cooperate with the prosecution authorities, and the lack of funding for and cooperation with NGOs providing assistance and temporary shelter to victims of trafficking.

### **22. The Committee recommends that the State party:**

- (a) **Expedite its efforts with a view to adopting the draft Law on Countering Human Trafficking;**
- (b) **Take preventive measures that address the root causes of trafficking in women and girls, in particular its close link to prostitution, sexual exploitation and domestic violence, including through social rehabilitation and reintegration programmes and inform the Committee thereof in its next report;**
- (c) **Provide adequate assistance and protection to all victims of human trafficking, as well as temporary residence permits to victims from third countries, irrespective of their capacity or willingness to cooperate in the legal proceedings against traffickers;**
- (d) **Increase the number of State-run temporary shelters for victims of trafficking and enhance the responsiveness of territorial centres to their needs; and**
- (e) **Strengthen its cooperation with and funding for NGOs providing temporary shelter and rehabilitation and reintegration services to victims of trafficking.**

## **II. Special Procedures**

### **Report of the Special Rapporteur on the situation of human rights in Belarus**

Addendum: Mission to Belarus  
Human Rights Council, 23<sup>rd</sup> Session  
[A/HRC/23/52, 18 April 2013](#)

### **C. Human trafficking**

26. Belarus is addressing concerns that it is both a source and transit country for women, men and children subjected to human trafficking for both sexual exploitation and forced labour. Belarus was one of the first CIS member States to devise activities and legal tools, both nationally and in cooperation with international bodies, on this issue.<sup>14</sup> The Special Rapporteur recalls the request made by Belarus on 30 December 2009 to accede to the



Council of Europe Convention on Action against Trafficking in Human Beings, and within that agreed to the terms of the Group of Experts on Action against Trafficking in Human Beings, its monitoring mechanism.

**Report of the Special Rapporteur on trafficking in persons, especially in women and children**

Addendum: Mission to Belarus  
Human Rights Council, 14<sup>th</sup> Session  
[A/HRC/14/32, 23 April 2010](#)

**C. Identification, protection and assistance to victims of trafficking**

**1. Identification**

53. The State Border Committee reported on its procedures for dealing with victims or possible or potential victims of trafficking. When border officials encounter such individuals, they inform the Ministry of the Interior, the La Strada programme of the Belarus Young Women's Christian Association (YWCA) and the Belarusian Red Cross. While border officials attempt to identify potential victims, psychologists are already working with them. They try to convince them not to cross borders by explaining the dangers of what lies ahead for them. The individuals then either remain in a shelter or other form of accommodation or are sent to the Ministry of the Interior. Representatives informed the Special Rapporteur that they have joint projects to improve the psychological services available within the border service. The border officials work within the framework of the presidential decrees on combating trafficking in human beings.

56. The Special Rapporteur learned that the Office for Democratic Institutions and Human Rights of OSCE is engaged in a project with the Belarus YWCA, IOM and the Ministry of the Interior with a view to assessing the anti-trafficking structures in Belarus, to identify and refer trafficked persons to support services, provide assistance and protection and assess the need for a national referral system on trafficking. The plan for such a mechanism is reportedly being discussed. An effective national referral mechanism must ensure an intersectoral approach to identifying and assisting victims of trafficking, sharing adequate and timely information and ensuring that trained professionals are at points of contact with individuals who could be potential victims of trafficking or who are already victims, and can be referred to relevant associations or authorities depending on the type of assistance or protection required.

57. Identifying victims and, more specifically, separating them from the perpetrators of the crime of trafficking is a complex process. One concern expressed to the Special Rapporteur is that in efforts to clamp down on trafficking, there is a risk that the Government treats certain individuals recovered in a trafficking operation as criminals rather than properly identifying them as victims. Article 6 of the Palermo Protocol provides that States parties shall provide assistance to and protection of victims of trafficking in persons. Furthermore, guideline 4, paragraph 4, of the Recommended Principles and Guidelines on Human Rights and Human Trafficking provides that States should ensure that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as trafficked persons. This guideline is reflected in Decree No. 352 (art. 7), but the Special Rapporteur

recalls the importance of a multisectoral approach to the identification and treatment of victims of trafficking, in order to ensure effective implementation of the Decree.

## **2. Protection and assistance**

69. IOM had suggested to the Government that it should establish a State-run centre, with funds allocated for reintegrating victims, but there is still no clear answer on this from the Government. The Ministry of the Interior informed the Special Rapporteur that a presidential directive (2009) was being developed to provide for a more effective system for State rehabilitation of victims of trafficking.

70. Lastly, the Special Rapporteur echoes concerns expressed by some stakeholders to the effect that the Government should increase efforts to break down the stigma of being a victim of trafficking. To achieve such an objective, support to local NGOs, social services centres and other community organizations should increase through the provision of training on trafficking, its causes and consequences, which can be channelled into effective awareness-raising programmes at the grass-roots level. The work of territorial centres needs to expand and be more effective at the local level.

71. In view of the above, the Special Rapporteur acknowledges the efforts undertaken to provide protection and assistance to victims of trafficking. Nevertheless, she shares concerns that the burden on international and civil society organizations is extremely heavy in ensuring these services, especially given the limited financial resources at their disposal.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
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