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Access of refugees and asylum seekers to socio-economic rights in the Republic of Belarus

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In 2001 the Republic of Belarus acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Belarusian legislation currently in force¹ was brought into full compliance with generally recognized requirements in the field of protection of refugees' rights and freedoms stipulated in those international acts.

The rights of foreigners applying for protection are regulated by article 29 of the Law No. 354-Z. These persons were given an opportunity to settle on their own or reside in temporary accommodation facilities; they enjoy access to emergency medical care, right to apply to the Office of the United Nations High Commissioner for Refugees and right to withdraw the petition etc. Rights of these persons are equal to rights of foreigners temporarily residing in the Republic of Belarus.

Under the 2008 Belarusian law No. 354-Z, socio-economic rights of refugees² are equal to those of Belarusian citizens.

Rights of this category can be classified as follows³:

1. rights in the information field: receiving information about their rights and obligations; assistance of the Citizenship and Migration Department of the Belarusian Ministry of Interior in obtaining information about close relatives residing in the state of citizenship or previous residence;
2. freedom of movement: right to reside in the territory of Belarus for the period of being acknowledged as a refugee⁴ (with subsequent obtaining of permit for permanent residence in Belarus⁵), independent choice of settlement for residence, independent settlement in the family of a Belarusian citizen's family or a foreigner permanently residing in Belarus, right to reside at a temporary accommodation facility⁶; right to voluntary return to the state of citizenship or previous residence, departure for permanent residence in a different state;
3. social support: social protection, including social security on a par with Belarusian citizens, one-time and supplementary⁷ monetary assistance⁸;
4. family relations: right to family reunification, marriage, divorce;
5. medicine and healthcare: free-of-charge access to the national healthcare system;
6. education: free-of-charge access to the national education system, children of refugees have an opportunity to attend preschools;

¹Primarily article 12 of the 1994 Constitution which envisages the possibility of granting asylum in Belarus to persons persecuted in other states for political and religious beliefs or nationality; As well as the Law of Belarus of 23.06.2008 No. 354-Z (version of 03.07.2011) "On granting refugee status, supplementary and temporary protection in the Republic of Belarus to foreign citizens and stateless persons" // National Registry of Legal Acts of the Republic of Belarus.- 02.07.2008.-No. 158, 2/1451.

² As well as foreigners who were granted supplementary protection

³ Article 19 of the Law No. 354-Z

⁴ Supplementary protection

⁵ Refugees (as well as persons permanently residing in Belarus) depart from Belarus using their national (civil) passport; if they do not have one they are issued a Belarusian travel document that gives right to enter and depart from Belarus and proves one's identity for the purposes of entry to and departure from the Republic of Belarus

⁶ If independent settlement is impossible

⁷ Par. 1 of the Regulation of the Belarusian Cabinet of Ministers of 14.04.2009 No. 461 "Issues of granting refugee status, supplementary and temporary protection in the Republic of Belarus to foreign citizens and stateless persons"

⁸ One-time monetary allowance equal to one base line value is provided; as of today it is equal to 100 thousand Belarusian roubles or 11 U.S. dollars; size of additional monetary allowance is not determined, it is the foreigner who indicates the sum in his/her application for allowance (it can be granted to pay for travelling around Belarus, accommodation at a temporary accommodation facility or temporary housing, meals, clothes).

7. labor and property relations: right to work for hire, right to entrepreneurship, acquisition of movable property or real estate;
8. protection of rights and freedoms, safety: right to apply to Office of the United Nations High Commissioner for Refugees and judicial protection on a par with Belarusian citizens, non-refoulement of these persons is guaranteed (article 5 of the law No. 354-Z)⁹;
9. access to citizenship: persons who were granted refugee status can be naturalized seven years after obtaining this status;

Under valid legislation, this category of persons has a number of obligations and rights limitations:

1. in the legal field: obligation to comply with the Belarusian Constitution and other Belarusian legal acts, to respect national traditions of the Belarusian nation;
2. accommodation procedure: the need to get registered at the citizenship and migration division in the place of residence or temporary residence in Belarus, notify within seven days the citizenship and migration division about change of last name, first name, patronymic, family composition, marital status, acquisition of another state's citizenship;
3. freedom of movement: inform the citizenship and migration division about intention to depart for permanent residence outside Belarus; get registered at the citizenship and migration division when changing residence or temporary residence in Belarus.

The second category is called "persons applying for supplementary protection": foreigners or stateless persons present in the territory of Belarus who have no grounds for being granted refugee status, but have justified fear of facing upon return to the country of citizenship the threat of death penalty, torture and other cruel, inhuman or degrading treatment and punishment or threat to life that emerged due to violence during an international or non-international armed conflict and who cannot or do not want to return to the state of previous residence (citizenship) due to such fear.

There is only one key difference in the scope of rights and obligations compared to refugees: supplementary protection is granted only for one year with a possibility of extending it for the same period if the above-mentioned grounds are still present, and this person can obtain a permanent residence permit only after seven years of staying in the country. All other rights are absolutely equal.

The Citizenship and Migration Department of the Belarusian Ministry of Interior is a central government body of Belarus in charge of resolving all issues related to forced migration, including ensuring the rights of refugees¹⁰.

It is important to note that in Belarus, in addition to government bodies, work in the field of reception and accommodation of refugees and asylum seekers and their subsequent integration is efficiently carried out by offices of some international organizations, as well as certain non-governmental organizations (e.g., office of UNHCR in Belarus)¹¹.

⁹Exception from the 'non-refoulement' principle is stipulated for foreigners who pose a threat to Belarusian national security or committed a crime in Belarus that is classified as a grave crime or felony by the Belarusian Criminal Code

¹⁰Accepting foreigners' petitions for being acknowledged as refugees, considering these petitions and making decisions, exercising control over forced migrants staying in the Belarusian territory and their registration, explaining foreigners' rights and obligations to them, assisting in settlement, employment and offering other assistance

¹¹UNHCR provides financial and organizational support in granting legal, social, medical and material assistance to the most vulnerable and distressed persons among asylum seekers and in integration of refugees into the Belarusian society; IOM office in Belarus has successfully implemented a program of voluntary repatriation of migrants (illegal migrants and persons who were denied refugee status and supplementary protection) to their home country; Refugee consulting service based at the non-governmental association Belarusian Movement of Medical Personnel offers free-of-charge assistance to refugees and asylum seekers when they undergo procedure of refugee status identification, as well as during refugees' integration into the Belarusian society; Belarusian Red Cross Society provides assistance to the most vulnerable categories of refugees and asylum seekers

Persons who were granted refugee status in Belarus can face the problem of continuing education received in the country of previous permanent residence or recognition of their profession or qualification, if they do not have corresponding documents and it is impossible to recover them.

As for preschool and secondary education institutions, there are no problems with enrolment of these persons there. Let us examine enrolment into higher and secondary specialized educational institutions in greater detail. Under decree of the Belarusian President of 07.02.2006 No.80¹², persons with general secondary, vocational education or secondary specialized education confirmed by an education certificate can enter universities¹³. Persons with basic general education, general secondary education or vocational education confirmed by a corresponding education certificate can enter secondary specialized educational institutions (secondary specialized colleges)¹⁴. Mechanism for proof of education for such persons has not been developed and is not envisaged by normative legal acts. These persons can apply to the education division of the executive committee requesting a permission to pass the exams for the whole secondary school course without attending classes, after which they get a corresponding document.

As for employment of this category of persons, there are some difficulties. Under part 2 of article 26 of the Labor Code, employment without documents indicated in part 1 of that article is not allowed in Belarus¹⁵ (for instance, a document proving foreigner's identity, labor record, professional training certificate confirming the right to carry out a particular job etc.). The mechanism for confirmation of knowledge and qualification (without documents) is not regulated on the legislative level. Actual verification of the foreigner's qualification can be carried out by a Belarusian employer or foreign organization registered outside Belarus (rendering services in recruitment of personnel for Belarusian employers) in the form of testing of that foreigner (job applicant) for compliance with qualification and other requirements announced by employer.

In conclusion let us note that in the Republic of Belarus wide scope of rights is envisaged for refugees, and full-scale assistance and support are provided at the government level in the course of these persons' integration into the Belarusian society. Moreover, within a year from obtaining the refugee status a person can obtain a permit for permanent residence acquiring the corresponding legal status. It is important that refugees have access to mechanisms of rights protection envisaged by national and international legislation.

(Contd.) _____

International non-governmental association for research and outreach programs "Development" disseminates information about refugee protection principles and makes efforts to encourage positive attitude of the population to refugees

¹² Version of 30.12.2011 "On rules of enrolment into higher and secondary specialized educational institutions"

¹³ With general secondary education

¹⁴ With general secondary education

¹⁵ One can be fired for the violation of this ban, under par. 3 of article 44 of the Labor Code, due to violation of employment rules