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Addressing the specific challenges faced by the Belarusians in exile

Report[1]
Committee on Migration, Refugees and Displaced Persons
Rapporteur: Mr Paul GALLES, Luxembourg, Group of the European People's Party

Summary

Several hundred thousand Belarusians, forced to flee their country to escape the repression exercised by the regime of Aliaksandr Lukashenka following the rigged elections of 9 August 2020, have found refuge in Council of Europe member States. This situation of forced exile has created numerous situations resulting in the non-respect of their fundamental rights.

The report examines the various challenges faced by Belarusians in exile, from visa applications and legalisation of residence to access to education, employment and health care. The consequences of these obstacles to daily life can be dramatic, in addition to the risks of reprisals on family members who remained in Belarus. It stresses the importance of distinguishing Belarusians from the regime they have fled, and notes the fundamental role played by Sviatlana Tsikhanouskaya and the various bodies created by the democratic forces to meet the needs of their compatriots. Another key aspect highlighted in the report is the revival of the Belarusian language and culture as vital elements of sovereignty and the need to support it.

Noting that the closer the host countries are geographically to Belarus, the more the respective authorities try to meet the needs of Belarusians in exile through the adoption of laws and the implementation of adequate practices, the report calls on Council of Europe member States to put in place, in close consultation with the democratic forces, measures that will make the exile of Belarusians less painful for them until their return to a democratic Belarus.

1. Reference to committee: Doc. 15593, Reference 4680 of 10 October 2022.

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A. Draft resolution[2]

1. The Parliamentary Assembly is deeply concerned by the fate of hundreds of thousands of Belarusians who are in exile because they had no other choice than to flee the repressive regime of Aliaksandr Lukashenka. If any doubts remained about the nature of the latter, the rigged presidential election of 9 August 2020 haS shown its true character, turning Belarus into an open-air prison where human rights have been reduced to nothing.

2. The Assembly recalls Resolution 2433 (2022) "Consequences of the Russian Federation's continued aggression against Ukraine: role and response of the Council of Europe" in which it expressed its resolve "to intensify its engagement with Belarusian ... civil society, human rights defenders, independent journalists, academia and democratic forces respecting the values and principles of the Organisation".

3. The Assembly is impressed by the resilience, courage and determination of the Belarusians in exile who are fighting for democracy to prevail in their country. It is conscious that a new obstacle for them has emerged on 24 February 2022 with the large-scale aggression of the Russian Federation against Ukraine to which the Lukashenka regime actively participates. It regrets that the more time that passes since 9 August 2020, the day Lukashenka in reality lost the elections, the further away in time the return of the Belarusians who find themselves in exile becomes.

4. The Assembly is convinced that a democratic Belarus will contribute to ensuring security in Europe. Without prejudging the outcome of the current situation, and recognising that the Belarusians in exile should be part of the crisis solving process, the Assembly can only be impressed by the work and initiatives of Sviatlana Tsikhanouskaya, the very likely successful candidate against Aliaksandr Lukashenka in the 2020 election, which aim at providing her compatriots with the services the regime deliberately withholds.

5. Recognising that the Belarusian people cannot be equated with the Lukashenka regime, the Assembly considers that Belarusians in exile should not be treated in a discriminatory manner because of the participation of that regime in the war against Ukraine.

6. The Assembly emphasises that while most of the Belarusians who have been forced to leave their country in the context of the 2020 presidential election have only one wish: to return to a democratic Belarus, it is important that their host countries do their utmost to ensure that they can stay legally and are welcomed in dignified conditions respectful of their fundamental rights, as guaranteed by the European Convention on Human Rights (ETS No. 5) and other relevant Council of Europe instruments, pending the establishment of a democratic regime in Belarus.

7. The Assembly deeply deplores that the Lukashenka regime is continuing to exercise pressure on those who have left the country, notably by refusing to provide consular services to its citizens and by threatening their security.

8. While many European countries have opened their borders to Belarusians, the Assembly notes that the closer those countries find themselves to Belarus, the greater is their understanding of the situation of those fleeing.

9. Applauding Lithuania's and Poland's efforts to find legal and practical solutions to welcome the Belarusians in exile, the Assembly notes that more can be done.

10. Regretting that too many obstacles and hurdles continue to affect those who have found themselves in other countries, the Assembly is convinced that better knowledge of the situation in Belarus and political will are the prerequisites to adopting measures which will alleviate as much as possible the fact of being in exile.

11. It calls upon member States to recognise the unique situation in which the Belarusians in exile find themselves, requiring out of the box solutions to ensure that they can live their lives as unimpeded as possible pending their return to a democratic Belarus.

12. The Assembly hails the establishment by the Committee of Ministers of a Contact Group on co-operation between the Council of Europe and the Belarusian democratic forces and civil society. This *sui generis* co-operation model, the first established with the Belarus democratic forces by an international organisation, aims to provide the Organisation's support and expertise to strengthen Belarusian democratic society in line with Council of Europe core values. The Assembly is also delighted to welcome representatives of the Belarus democratic forces in the work of its committees by decision of the Bureau of the Assembly.

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2. Draft resolution adopted unanimously by the committee on 11 May 2023.

13. The Assembly strongly believes that it is high time to translate the political support that the democratic forces of Belarus enjoy among the member States into concrete actions and that measures taken against the Lukashenka regime should not affect the people fighting it.

14. The Assembly is convinced that in order to ensure full respect for human rights of the Belarusians while they are in exile and ultimately to contribute to the democratic transition in their country, the Council of Europe member States should put in place relatively simple and non-costly measures within their own jurisdiction for those persons.

Legal entry and stay

15. While respecting visa requirements and ensuring the necessary security checks, member States should seek to keep their borders open for those fleeing the Lukashenka regime by taking *inter alia* the following measures:

15.1. issuing humanitarian visas in all embassies and consulates still operating in Minsk and expanding the eligibility criteria for such visas to relatives of political prisoners;

15.2. opening up and guaranteeing the possibility of granting visas to EU countries in those member States where a visa is not required for Belarusian citizens, without requiring a residence permit in those countries;

15.3. issuing multiple-entry Schengen visas for relatives of Belarusians in exile who come to visit them on a short-term and temporary basis;

15.4. issuing longer duration multiple-entry visas to be used as a back-up option for those who are at risk of arrest in Belarus.

16. Member States should also facilitate expert to expert talks between their relevant migration authorities and the relevant representatives of the Belarus democratic forces in exile to solve problems as they arise in a pragmatic way.

17. Member States are encouraged to put in place measures to ensure transparency in the decision-making process where credentials are issued by non-governmental organisations to support the issuance of visas or the legalisation process.

18. Those member States which have yet not done so should rapidly develop legal instruments allowing for the legalisation of the stay of the Belarusians in exile.

19. Recognising the importance of psychological stability and the feeling of safety for those who left their home involuntarily or forcibly, the Assembly calls upon member States to provide long-term legalisation for the Belarusians in exile, thus avoiding unnecessary hurdles and stress.

20. In order to support the work of their relevant migration offices, member States are encouraged to prepare a Belarus country factsheet and provide training for their staff on the actual situation in this country, so as to enable them to take prompt and sound decisions on individual cases.

Freedom of movement

21. Member States are encouraged, in co-operation with the European Commission, to identify adequate solutions to allow Belarusians in exile to travel within the European Union, notably through systematising the use of foreigners' passport and/or continuing to recognise Belarus passports which have expired.

22. The Assembly also invites member States, again in close co-operation with the European Commission and the International Civil Aviation Organization (ICAO), to discuss with the relevant representatives of the Belarus democratic forces in exile the possibility to issue a passport for Belarus citizens in exile which would be recognised among member States.

Safety and security

23. Underlining that deprivation of nationality should not lead to statelessness and that even if Belarus is not a State party to the United Nations Statelessness conventions, these are principles of international law and human rights law, which should be observed by all States; recalling that Belarus has accepted Georgia's recommendation under the 3rd cycle of the United Nations' Universal Periodic Review; and noting that Belarus pledged to accede to both United Nations statelessness conventions at the High-Level Segment on

Statelessness in 2019, the Assembly strongly encourages member States to do their utmost to recognise the importance of establishing statelessness determination procedures, which in turn would provide protection in host States to those rendered stateless.

24. As addressing a request to a Belarus consulate, such as for certification of a clean criminal record necessary for the legalisation process, or the prolongation of a passport, can lead to reprisals or threats against the applicants' relatives who stayed in Belarus or to the applicants themselves, member States are strongly encouraged not to require documents obtainable only through Belarus official channels.

25. Member States should abstain from extraditing Belarusian citizens in exile on the basis of Red Notices issued by Interpol at the request of the Lukashenka regime, given the use of criminal prosecutions for political purposes. If in doubt, they are encouraged to verify Interpol requests from Belarus through the Law and Order Restoration Office of the United Transitional Cabinet of Belarus, which includes former law enforcement officers staff dismissed for political reasons, thus possessing the necessary qualifications, experience, and access to databases.

26. The Assembly is concerned that information transferred by European banks to Belarus banks has been used by the Belarus Security Services to target human rights defenders in Belarus. The Assembly calls on member States to encourage the private sector to pay due heed to human rights issues in their operations and undertake the necessary due diligence to protect Belarusian human rights defenders who are their clients from risks of further persecutions as a result of their operations or information exchanges. Furthermore, member States should do their utmost to prevent the misuse of international criminal co-operation measures by the Lukashenka regime as an additional tool for repression.

27. More generally, member States should not deem Belarus to be a safe country. They are encouraged to send referral letters to the Prosecutor of the International Criminal Court expressing their concern for the situation in Belarus and asking him to respond to a Communication under Article 15(2) of the Rome Statute of the International Criminal Court entitled "The Situation in Belarus/Lithuania/Poland/Latvia and Ukraine: Crimes Against Humanity of Deportation and Persecution" filed by International Partnership for Human Rights, Norwegian Helsinki Committee, Global Diligence LPP and Truth Hounds on 19 May 2021.

Democratic forces in exile

28. Given the tremendous role that the People's Consulates can play, notably as communication channels with national authorities, the Assembly strongly believes that member States should establish working relationships with them, as representatives of democratic Belarus, and envisage supporting them through the provision of organisational, information and material assistance, with the aim of developing their competences and sustainability.

29. The Assembly strongly encourages the parliaments of those member States which have not yet done so, to establish a parliamentary friendship group to create a network to exchange on the best measures to support the Belarusians in exile. It is convinced that such a network would also facilitate the dialogue with the Belarus democratic forces in exile, including the Office of Sviatlana Tsikhanouskaya, the United Transition Cabinet of Belarus and the Coordination Council.

30. The Assembly also invites member States to provide funds for and contribute to the activities agreed in the framework of the Council of Europe Contact Group on Belarus, in particular taking advantage of the activities proposed by the Secretariat of the Assembly on "Strengthening political dialogue".

Support to civil society

31. The Assembly is convinced that it is indispensable to create conditions to ensure the sustainability of Belarusian civil society organisations in exile, in particular by providing them with the tools and means to mobilise their compatriots in exile, to carry out their activities and to remain visible. This should be particularly the case for organisations aiming at developing and strengthening the Belarusian language and culture.

32. Underlining the role played by the Expert Council on NGO Law of the Conference of International Non-Governmental Organisations of the Council of Europe (Conference of INGOs) in supporting freedom of association in Europe, the Assembly strongly encourages member States to request its opinions on measures adversely affecting the operation of Belarusians NGOs in exile and to adopt policies accordingly.

33. It also encourages the constituent members of the Conference of INGOs to co-operate and assist Belarusian NGOs in exile.

Support to lawyers in exile

34. In the light of the repression faced by the legal profession in Belarus and the fact that many lawyers are in exile abroad, the Assembly calls for the recognition of the Belarusian Association of Human Rights Lawyers as the organisation entrusted with the promotion and protection of the human rights of lawyers deprived of the right to exercise their profession in Belarus, and with improving provision of legal assistance.

Access to education and culture

35. Recognising that children can be adversely affected by the forced exile of their parents, the Assembly encourages their prompt integration in the host country while strengthening their national identity and culture. When integrating recently arrived Belarusian children in ordinary classes, the Assembly recalls the pertinence of the language education and linguistic integration tools for children developed by the Council of Europe. At the same time, it also supports the creation of classes in Belarusian in schools where there are sufficient Belarusian children, open not only to members of the Belarusian national minority but also to those who have recently arrived.

36. The Assembly, impressed by the renaissance of the interest for Belarusian language and culture, strongly supports the initiatives by civil society organisations to preserve and strengthen these among the members of long-lasting diaspora and the more recent arrivals. It therefore strongly encourages member States to facilitate the creation of publishing houses in Belarusian, the teaching of Belarusian language and culture in universities, the development of new tools supporting the dissemination of Belarusian language and culture among those in exile but also within Belarus. It believes that it is crucial for Belarusian statehood that its culture and language find again their rightful place.

37. The Assembly, aware that academic freedom has been under attack for some years in Belarus, would welcome the creation of a scientific journal for liberal-minded scholars both in exile and in Belarus to be included in influential citation databases, such as Scopus, Web of Science or Google Scholar.

38. Recognising the role played by the European Humanities University, the only Belarusian university able to operate on the basis of academic freedom and adherence to European values, in exile in Vilnius since 2005, the Assembly invites member States, as well as the European Union, to further support this institution and open up further opportunities so that it continues to develop creative, free and critical thinking among Belarusian students and is in a position to attract scholars and students from Eastern Partnership countries.

39. Understanding the importance of terminology and adequate transliteration from Belarusian, the Assembly strongly encourages member States to correctly transliterate all terms relating to Belarus.

Access to financial services and the pursuit of economic activities

40. Recognising the difficulties faced by individuals, businesses and civil society organisations to open a bank account in some member States, the Assembly asks the member States to encourage their banks to make the distinction between the Lukashenka regime and the people who have fled it, in particular by allowing the “Know Your Customer” procedure due diligence to be carried out by appropriate and relevant structures designated by the Belarus democratic forces in exile.

41. The Assembly is concerned that the bank accounts of Belarusian journalists who had found shelter in Ukraine and continued to provide independent information from there have been blocked since the large-scale war was launched by Russia against Ukraine. Some have now been deblocked, and the Assembly strongly encourages the Security Service of Ukraine to allow for the deblocking of the remaining 50 bank accounts which their legal owners cannot access.

42. The Assembly welcomes the fact that many businesses were able to relocate from Belarus in particular to Georgia, Lithuania and Poland, but notes that difficulties persist. The Assembly encourages measures to be taken which will ease processes of transfer, accreditation, acquisition, access to credit, to audit services etc. In this context, it believes that the Poland Business Harbour could serve as a promising practice to be emulated by other member States. Ultimately, the Assembly trusts that these businesses, be it in the IT, retail, logistics, small services or construction sectors, if allowed to operate and pay tax, will contribute to the economy of their host countries and alleviate the efforts made by them to welcome the Belarusians who found shelter from repression and violence.

B. Explanatory memorandum by Mr Paul Galles, rapporteur

1. Introduction

1. The number of Belarusians forced to flee their country as a result of the repression unleashed in the context of the rigged presidential election of 9 August 2020 remains uncertain. Figures vary between 300 000 and 500 000, undoubtedly the largest migration movement in the history of Belarus since Second World War. While most of them have a common wish – to return as rapidly as possible to a democratic Belarus – they do not necessarily describe themselves in the same way. However, whether they are migrants, diaspora, or refugees, these Belarusians now living abroad face common challenges stemming precisely from the very reasons which led them to leave their country. This is the reason why I use the notion of "exile" in my report, as the Belarusians who left their country did so against their will, and because staying in Belarus would have led to their life, safety and security being seriously put at risk.[3]

2. All Belarusians in exile are not necessarily human rights defenders. The situation of the latter has already been well documented, notably by the Council of Europe Commissioner for Human Rights in a recent Comment, in which she proposes a number of measures as the way forward.[4] However, the situation of other categories of persons; such as journalists and media workers, political opponents, lawyers, writers and artists, relatives of political prisoners, students and academics, businesspeople and athletes; who also face challenges preventing them from living a normal life, is less known and acknowledged.

3. The first hurdle which Belarusians in exile must clear is to gain acceptance that being Belarusian does not make them representatives or supporters of the Lukashenka regime. Perception has been a key factor contributing to the violation of the rights of the Belarusians in exile. Applying a generic treatment to Belarusians is illustrative of the absence of an individualised understanding – and therefore assessment – of their situation, making the entire group face risks of discrimination and other human rights violations because of their mere nationality and presumed political affiliations.

4. Recent developments in Belarus – notably the regime's involvement in the war against Ukraine, but also the signature on 6 February 2023 by Aliaksandr Lukashenka of Decree No. 25, creating a special commission to work with "political" emigrants who want to return to their homeland – are clear indicators that those who found safety abroad are unlikely to be able to return home in the near future.[5]

5. The plight of Belarusians in exile and a severe humanitarian crisis in Belarus have been somewhat overshadowed by the terrible consequences of the Russian aggression against Ukraine. My report aims at highlighting the challenges which they face, the specific needs they have in the host countries, and more importantly, at proposing ways to address these, based wherever possible on already existing good practices. I believe that our Assembly is well placed to propose concrete solutions to Council of Europe member States so as to ensure that those seeking shelter can stay legally in the country of asylum/exile and are hosted in dignified conditions respectful of their fundamental rights as guaranteed by the European Convention on Human Rights (ETS No. 5), pending the establishment of a democratic regime in Belarus.

6. During the preparation of this report, I have been impressed by the courage, determination, creativity and resilience of the Belarusians in exile I met, starting with the leader of the democratic forces, Sviatlana Tsikhanouskaya. I have no doubt that the Belarus people's aspiration to democracy, human rights and the rule of law, of which they have been deprived for far too long, will one day soon be realised. I consider that it is our duty, as fellow Europeans, to help them on this path, and I hope that my report will contribute to this.

7. In order to prepare this report, the Committee on Migration, Refugees and Displaced Persons held a number of exchanges of views and authorised me to carry out a fact-finding mission to Warsaw and Vilnius (27-30 March 2023). I am very grateful to all my interlocutors among the Lithuanian and Polish authorities as well as the Belarusians in exile themselves, who shared with both precision and passion their worries and hopes with me. I hope that my report not only reflects their views, but also provides concrete solutions to help them rebuild their lives in Europe while the regime, which has destroyed all civil and political institutions, is still in place. I have taken every precaution not to include information which could endanger them or their relatives.

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3. In the French version of the report, the use of the 3rd person plural in the masculine refers also to the feminine gender.
4. "Support Russian and Belarusian civil societies and human rights defenders" – Commissioner for Human Rights (coe.int).
5. https://president.gov.by/ru/events/podpisan-ukaz-o-rassmotrenii-obrashcheniy-nahodyashchihsya-za-rubezhom-grazhdan-respubliki-belarus-po-voprosam-sovershenija-imi-pravonarusheniy.

8. Sviatlana Tsikhanouskaya, whom I met in Vilnius underlined the importance of this report, stressing that the challenges faced by the Belarusians in exile is an overlooked issue. Addressing it might help clarify the fact that the Belarusian people are not to be confused with the Minsk regime. She expressed her concern that since the Russian aggression against Ukraine, Belarusians in exile have faced higher risks of discrimination if not threats to their security, as they are identified with the regime, ally to the Russian Federation. She hoped that the report will contribute to alleviate the hurdles her compatriots face by enlightening the Council of Europe member States on ways to remedy existing shortcomings in law and practice in the welcoming of Belarusian people who did not choose to leave their country but were obliged to do so by a violent, dangerous and unpredictable regime.

2. General context

9. Estimates on the number of Belarusians living abroad[6] vary depending on the sources. While Belsat gives a figure of 177 000 Belarusians who left the country between 1995 and 2016, other sources estimate this figure between 1,5 million and 3, 5 million for a total population of 9 349 645 as of 1 January 2021.[7]

10. Most of those who left their country in the context of the 2020 presidential elections have chosen to stay in neighbouring countries, Lithuania and Poland. While it is difficult to know with certainty their number, because of the high fluidity of arrivals and the absence of clear migration data, it is estimated that there are about 49 000 Belarusians in Lithuania at present and well above 100 000 in Poland.[8]

11. As Belarusians do not need any visa to enter Georgia, this country has become a haven for a huge inflow of Belarusians escaping the 2020 State repressions and the 2022 Russian aggression against Ukraine. Thus, in March 2022, 19 898 Belarusians entered Georgia from Ukraine, of which 14 030 remained. In March 2022, compared to March 2019, the rate of entry of Belarusian citizens to Georgia had increased by 555%.[9]

12. Many Belarusians in exile had to leave their first country of destination due to visa issues, personal security reasons or the outbreak of the war in Ukraine. In other words, they experienced a double or triple displacement. According to a recent quantitative and qualitative analysis carried out by Vałdzis Fuhaš, one of the founders of the human rights organisation “Human Constanta” and speaker at the meeting of the Committee on Migration, Refugees and Displaced persons on 24 January 2023, the average amount of displacements per country per group was 2.1.

13. The moment Aliaksandr Lukashenka refused to admit his defeat at the presidential elections of 9 August 2020 marked the beginning of profound changes among Belarus society and the country itself. His support and participation in the war in Ukraine has only exacerbated the fact that the Minsk regime is not in place to serve the people of Belarus, but to protect its own position and privileges. At the same time, it is putting the independence and sovereignty of Belarus in jeopardy. Meanwhile, the most likely winner of the election, Sviatlana Tsikhanouskaya, who was forced out of Belarus, has taken her role as leader of the democratic forces with all the commitment and competence appropriate for such a position. More than two years after the elections, while in exile in Lithuania, she has turned her Office and the United Transitional Cabinet into a *de facto* government in exile, and with the limited means available, she carries out the functions which the Lukashenka regime fails to perform, for the sake of her compatriots who live abroad. In practice, modern technologies are helping her to build a parallel State pending the establishment of a democratic regime in Belarus. On 6 March 2023, a court in Minsk sentenced Ms Tsikhanouskaya *in absentia* to 15 years of imprisonment.

14. The expulsion of the Russian Federation from the Council of Europe following the aggression of Ukraine led the Committee of Ministers also to suspend all relations with Belarus on 17 March 2022.[10] This decision has opened the door to discuss co-operation with the democratic forces. Sviatlana Tsikhanouskaya was then invited to address a high-level panel discussion organised by the Assembly on 21 June 2022, and several weeks later, on 7 July, to address the Committee of Ministers. On this occasion, she encouraged the Committee of Ministers to think outside the box by establishing a formal channel of communication between the Organisation and the democratic forces of Belarus with the aim to “bring more Belarus into Europe and

6. Bipart – The Art of public administration “Civil Society in Belarus in the Context of a Political Crisis: Current State and Challenges Research report”, 2021.
7. Belarus in figures | Official Internet Portal of the President of the Republic of Belarus.
8. Eastern Europe Studies Centre, “Belarusian migrants in Poland and Lithuania: general trends and comparative analysis 2022”, 30 November 2022 and https://news.zerkalo.io/life/36903.html.
9. https://idfi.ge/ge/border_crossing_statistics_of_citizens_of_ukraine_russia_and_belarus.
10. “Committee of Ministers suspends relations with the Belarusian authorities” – Portal (coe.int).

more Europe into Belarus".[11] This has resulted in the establishment by the Committee of Ministers of a Contact Group on co-operation between the Council of Europe and the Belarusian democratic forces and civil society, whose aim is to provide the Organisation's support and expertise to strengthen Belarusian democratic society in line with Council of Europe core values. The work of the Contact Group has already resulted in the launching on 1 February 2023 of a 15-point action plan to support civil society and democracy representatives working towards a future free and democratic Belarus.[12]

15. Since October 2020, the European Union has progressively imposed restrictive measures against Belarus. The measures were adopted in response to the fraudulent August 2020 presidential elections. A total of 195 individuals and 34 entities have been designated under the sanctions regime on Belarus, including key figures of the political leadership and of the government, high-level members of the judicial system and several prominent economic actors.[13] The European Union has also imposed restrictive measures on Belarus following its involvement in Russia's military invasion of Ukraine on 24 February 2022. Not only were prominent Belarusians hit by the freezing of their assets and travel bans, but the European Union also restricted financial, trade and technological flows with Belarus.[14] On 27 February 2023, the Council of the European Union decided to extend the application of sanctions so far imposed for an additional year, due to the "persistent gravity of the domestic situation in the country and Belarus' ongoing involvement in the Russian aggression against Ukraine".[15] Also, as of 28 June 2021, Belarus has suspended its participation in the Eastern Partnership.

16. On 24 November 2022, the European Parliament adopted a Resolution on "the continuing repression of the democratic opposition and civil society in Belarus", which *inter alia* highlighted the continued need "to continue assisting the democratic opposition, civil society and human rights defenders, trade union representatives and independent media in Belarus and abroad". It also reiterated its call on the Commission and the Member States "to prepare rules and procedures to deal with cases where human rights defenders and other civil society activists are stripped of their citizenship in Belarus, as well as to provide support to those Belarusians residing in the EU whose identity documents are about to expire and who have no means of renewing them, since they cannot return to Belarus".[16]

17. For many years, the only international protection mechanism afforded to Belarusians was through communications to the United Nations Human Rights Committee. This avenue is no longer possible following Belarus' withdrawal from that procedure in November 2022.[17] However, those Belarusians who find themselves under the jurisdiction of any of the 46 Council of Europe member States, are protected under Article 1 of the European Convention on Human Rights.

18. In her last report to the UN General Assembly, the UN's Special Rapporteur on Belarus, Anaïs Marin, has focused on "the situation of human rights of Belarusian nationals compelled to leave their country and unable to safely return home due to human rights violations".[18] As she provided a thorough analysis of the targeted persons and groups who were forced to leave their homeland by the regime in place, I invite interested readers to read her thorough report. I also had the pleasure of meeting her during my mission and am very grateful for the additional insight this provided.

3. The situation of the Belarusians in exile

19. The nature of the Belarus diaspora is diverse. While until 2020, diaspora organisations of various orientations existed, some promoting a democratic agenda and others being loyal to the Minsk regime, the vast majority of those who fled in the context of the 2020 elections are democratically oriented and many of them – without necessarily having been engaged in civil society movements in Belarus – have become *de facto* activists.

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11. "Establish a governing committee on relations with Belarus". Sviatlana Tsikhanouskaya addressed the Committee of Ministers of the Council of Europe / Official web-site of Sviatlana Tsikhanouskaya.
12. "Council of Europe launches action plan to support Belarusian democratic forces and civil society" – Directorate of Programme Co-ordination (coe.int).
13. "Belarus: EU prolongs restrictive measures for a year" – Consilium (europa.eu).
14. "Belarus' role in the Russian military aggression of Ukraine: Council imposes sanctions on additional 22 individuals and further restrictions on trade" – Consilium (europa.eu).
15. "Belarus: EU prolongs restrictive measures for a year" – Consilium (europa.eu).
16. Texts adopted – "The continuing repression of the democratic opposition and civil society in Belarus" – 24 November 2022 (europa.eu).
17. www.ohchr.org/en/press-releases/2022/11/belarus-withdrawal-individual-complaints-procedure-serious-setback-human.
18. A/77/195 (undocs.org).

20. The poet in exile Dmitri Strotsev visited the Assembly Secretariat on the occasion of a trip to Strasbourg to present the French translation of his latest poetry book.[19] Prior to this, he launched an appeal on his Facebook page calling for testimonies from Belarusians in exile. In only few hours, he received more than 50 messages relating to individual experiences, which capture the issues that are outlined in this respect.

21. His own experience is illustrative of some of the "Kafkaesque" situations faced by exiled Belarusians. Dmitri Strotsev currently lives in Germany. He was unable to extend his visa there or receive a new one, as Germany required that he return to the first country of visa issuance, namely Sweden. However, to get a Swedish visa, he would have been required to leave the European Union. Eventually, Mr Strotsev received a visa in Lithuania thanks to the organisation Freedom House, which vouchsafed for him. Such a guarantee provided by a non-governmental organisation is feasible in Lithuania, where the Ministry of Foreign Affairs specifically delegated the task of vouching to this organisation, and where Sviatlana Tsikhanouskaya's Office is based, but not in other Council of Europe member States. This individual example reflects well what I heard in my exchanges with Belarusians in exile, be it in exchanges of views held with the committee or during my fact-finding mission.

22. Other forms of discrimination may occur though insults and threats, denials of services, difficulties in accessing healthcare assistance, obtaining proper accommodation, getting a job contract or opening a bank account. According to a recent quantitative analysis, 39% of the surveyed exiled Belarusians in Georgia, 31% of those in Poland and 16% of those in Lithuania affirmed to have experienced various forms of discrimination in their countries of destination, especially since the Russian aggression against Ukraine. Such cases have also been registered in other member States of the Council of Europe.[20]

23. An array of challenges is facing this diaspora, both in legal and practical terms stemming from legislation, administrative procedures or practice in the host countries. These problems may start from birth, like in the case of children born from parents under a temporary visa regime: because they cannot obtain Belarusian documents, they are actually undocumented minors and at a risk of statelessness. Other challenges are related to important milestones in life such as birth, marriage, or divorce, but also to everyday hassles such as changing a Belarusian driver's license with an expired expiry date.

24. Belarusian women in exile may experience more forms of discrimination and barriers to integration than Belarusian men abroad. These mainly revolve around difficulties in finding jobs, legalising their status, learning the local language or accessing healthcare services. At times, their financial dependence on their husbands further magnifies these obstacles.[21]

25. Belarusians are determined to help themselves in the first place. As I write this report, the foundations are being laid to build a Digital State for Belarus though which medical doctors, lawyers, schoolteachers etc. who were fired by the regime could be hired to provide online services. This would also allow for better access to independent media within Belarus and for the development of tools for small businesses to increase their services. These initiatives will allow remote jobs for people in and outside Belarus to be created.

26. An amendment to the Law on "Citizenship of the Republic of Belarus" of 10 January 2023 signed by Aliaksandr Lukashenka, which will enter into force on 10 June 2023, introduces the possibility of revoking the citizenship of a person residing abroad and convicted by a final judgment by a Belarus court for "extremist" activities or other acts threatening the security of the State. Lukashenka himself will decide personally about such matters. When this legislation is applied, many Belarusians in exile will face the risk of becoming stateless. This will be a particular problem for Belarusians living in countries such as Poland, which have not ratified the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.[22] In its observations of December 2022, UNHCR's key recommendations were that deprivation of nationality should not lead to statelessness and that even if the country (as is the case for Belarus) is not State party to the UN Statelessness Conventions, these are principles of international law and human rights law, which should be observed by States.[23] It should be noted however that Belarus pledged to accede to both UN statelessness conventions at the High-Level Segment on Statelessness in 2019.[24]

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19. *Où j'étais pendant les quinze dernières années. Je criais*, Le Ver à soie, 2023.
20. 19509.pdf (fes.de).
21. Volha Kavalskaya, "Life in exile – a report on Belarusian women abroad", *New Eastern Europe*, 31 May 2022.
22. UNHCR – UN Conventions on Statelessness (unhcr.org), and Convention on the Reduction of Statelessness, 1961 (un.org).
23. "UNHCR Observations on the proposed amendments to the 'Law on citizenship of the Republic of Belarus'", Refworld, 1 September 2002, No. 136-3.
24. Results of the High-Level Segment on Statelessness (unhcr.org).

27. On 21 May 2021, International Partnership for Human Rights (IPHR), Norwegian Helsinki Committee, Global Diligence LPP and Truth Hounds filed a Communication under Article 15(2) of the Rome Statute to the International Criminal Court (ICC) entitled "The Situation in Belarus/Lithuania/Poland/Latvia and Ukraine: Crimes Against Humanity of Deportation and Persecution".[25] The communication requested the ICC Prosecutor to launch an investigation into the situation in Belarus, notably regarding the fact that the regime has forcibly displaced thousands of civilians beyond its borders, through violence, intimidation and other forms of coercion. Whilst Belarus is not a State party to the ICC, the ICC has jurisdiction over Rome Statute crimes that take place – at least in part – on the territory of its neighbours. The Communication requests the ICC Prosecutor to open a preliminary examination into the situation in Belarus (and in Lithuania, Poland, Latvia and Ukraine) with a view to investigating and prosecuting the alleged crimes. This request has remained unanswered so far.

28. National parliaments in Europe and beyond have played a significant role in supporting the democratic forces of Belarus. Many parliamentarians, including members of our Assembly, have become godparents of political prisoners. Furthermore, an increasing number of national parliaments, 17 to date, such as Belgium, Estonia, Georgia, France, Latvia, Lithuania and Ukraine, have established friendship groups with the democratic forces of Belarus. A network is being built to unite them and co-ordinate their efforts.

3.1. Legal entry and stay

3.1.1. Access to visa

29. Obtaining a visa to travel to EU member States has always been a challenge for Belarusians. The mass repressions after the fraudulent 2020 elections impaired diplomatic relations between the European Union and the regime. This has led to the downsizing of the staff of some embassies of EU member States, affecting their capacities to process visa applications.

30. When the massive repressions started after the elections, some neighbouring countries opened their borders to those fleeing, regardless of the Covid-19 pandemics still going on and sometimes in the absence of a valid visa. Thus, a humanitarian corridor was opened by Lithuania, where people were admitted without a visa, after the US-funded organisation Freedom House provided a guarantee voucher for the persons concerned to the Ministry of Foreign Affairs, which in turn informed the respective border control points. On behalf of the Ministry of Foreign Affairs, Freedom House continues to vouch for those seeking visas and temporary permits.[26] Verifications are carried out in co-operation with Belarus NGOs, such as Human Constanta, the Belarus Helsinki Committee and Viasna. Not all requesting a voucher from Freedom House receive it. The issuance of visas by Lithuania will be significantly reduced after the entry into force of the laws on restrictive measures, aiming to safeguard Lithuanian national security and foreign policy interest (see *infra*).

31. Poland's aim is still to keep its border open for Belarusians. The authorities make the distinction between the Minsk regime and the people who do not support Lukashenka. However, after the expulsion of Polish diplomats, there is objectively a lesser capacity to issue visas in Minsk and the two Polish consulates in Brest and Grodno. According to statistics provided by the Polish Ministry of Foreign Affairs, between 10 August 2020 and 31 December 2022, Poland issued 509 701 visas to Belarusians. In 2022, of the 278 181 visas issued, 259 427 were of type D (domestic visas) et 18 754 of type C (Schengen visas). The repression against Belarusians belonging to the Polish minority has exacerbated the tension between the two countries and has led to only one border crossing, at Tiraspol, remaining open for individuals, while freight crossings have been closed by Poland.[27]

32. For other European countries, most of them had already reduced their consulate capacities by June 2021.[28] Council of Europe countries which do not require a visa for entry are Armenia, Azerbaijan, Georgia, Türkiye and Ukraine. This explains why many Belarusians went to Georgia and Ukraine, along with the quasi-absence of a language barrier (see *infra*).

25. "The Situation in Belarus: Crimes Against Humanity of Deportation and Persecution" – IPHR (iphronline.org).
26. Freedom House | Expanding freedom and democracy.
27. Notably after the 8-year prison sentence for incitement to hatred of Andrzej Poczobut, figure of the Polish minority.
28. UN General Assembly, A/77/195, "Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin", 20 July 2022, p. 6.

33. According to the United Transitional Cabinet of Belarus, since the start of the war against Ukraine, some member States have introduced new restrictions against Belarusian citizens. In Latvia, Lithuania, Estonia, Finland, Poland, Norway and Sweden, Schengen visas are not issued or eligibility is limited, including to close relatives living in the European Union. No visas are issued for Denmark and the Czech Republic. Visas for Austria, the Netherlands, Portugal, Spain and Sweden can only be obtained in Moscow. France, Germany, Greece and Italy issue visas after a long wait (up to 6-8 months), with excessive fees to be paid to officially assigned intermediaries (up to 450 Euros) and for a short duration, such as 15 days.[29]

34. Some countries still consider Belarus as a safe country. For example, Sweden has not updated its Belarus country report since 2019 and considers Belarus as a safe country. As a result, people can be returned there, or can have their refugee status denied. Belarusians in Germany also report that they are told that they can return safely to Belarus.

35. Finally, the stringent visa regime applicable to Belarus citizens is detrimental to family reunification as there are no specific arrangements to facilitate it, even less the possibility for relatives to visit their family members who live abroad on a short-term basis. A number of my interlocutors complained that no family reunification was possible on the basis of a humanitarian visa but only on the basis of a Schengen visa, which is difficult to obtain, and then only for a 90-day duration. In some countries, such as Germany, the authorisation of landlords is needed to be able to request a visa. People feel that they are hostages of chance situations preventing them from enjoying their right to family life.

36. All in all, Belarusians' chances to relocate outside of Belarus and to freely circulate within the European Union have significantly decreased since 2020, while the need to do so is more important than ever.

3.1.2. Legalisation of stay

37. When they left in the aftermath of the elections, most of the Belarusians thought that they would be back in a couple of weeks, believing that reason would dictate that democracy prevail. This was without counting on Lukashenka's determination to stay in power at any cost and Vladimir Putin's help to him do so (at the cost of losing the country's sovereignty). However, after some time, it was clear their exile might last for some time and that they needed to legalise their stay abroad. I can draw two clear conclusions from my work on this report. First, the more time passes, the further away the prospects of Belarusians returning to their home country become, especially since 24 February 2022. Second, the closer countries are to Belarus, the better they understand the issues at stake and are ready to adapt their legislation and practice to welcome those who try to escape the violence of Lukashenka's regime.

38. Thus, some good practices of legalisation can be found in Lithuania and Poland, where the largest numbers of Belarusians in exile live, and which authorities have a deep understanding of "what a headache it is to have such an unpredictable neighbour" as one of my Lithuanian interlocutors told me. Let's remember that Belarus is situated less than 40 km from Vilnius.

39. Lithuania adopted favourable visa conditions after the 2020 elections granting 6-month visas for free, humanitarian permits for those politically repressed, as well as national visas giving right to a temporary residence permit. The procedure for transferring businesses (mostly IT) was also eased, allowing for the transfer to Lithuania for all employees.

40. The number of Belarusians living in Lithuania has steadily increased in the last years: there were 18 000 in 2020, 31 000 in 2021 and 49 000 in 2022. There are three grounds for regularisation: with a work permit; on humanitarian grounds; or with a refugee status. Different rights are attached to each status. Very few Belarusians have asked for refugee status; 160 only because of a lengthy procedure, lasting from 12 to 15 months during which working is not permitted. The temporary residence permit needs to be renewed every year, a cumbersome and costly procedure, which effectively prevents freedom of movement as the foreigner's passport is attached to it.

41. My Belarusian interlocutors underlined how Lithuania had demonstrated huge solidarity towards their people, who had fled in standing for democracy and human rights, by welcoming them after the rigged elections. However, the new draft legislation which was being discussed at the time of my visit in Vilnius, concerning restrictive measures to be adopted as a consequence of Russia's aggression against Ukraine, triggered deep concerns among them, because it was seen as "putting the Belarus people and the Minsk

29. Non-paper prepared by the United Transitional Cabinet of Belarus, February 2023.

regime in the same basket". Belarusians in Lithuania were worried because they took it literally as a reaction to them being in Lithuania. One of them formulated it with this question: "why is Lithuania punishing us, what did we do wrong?"

42. The representatives of the Ministry of Interior I met in Vilnius reassured me that the authorities do not aim to negatively affect the lives of those people who are resisting the Minsk regime, who have found shelter in Lithuania, living, learning and working there, but that they had to take measures to preserve their national security after the Russian aggression against Ukraine. For them, the Russian and Belarusian regimes are equally responsible for the war in Ukraine.

43. On 20 April 2023, rejecting a veto by the President, the Lithuanian Parliament adopted the Law on restrictive measures, aiming to safeguard Lithuanian national security and foreign policy interest.[30] A previous draft established serious restrictions on Belarusians as regards the possibility of obtaining visas, applying for residence permits, citizenships, e-residency statuses and obtaining electronic signatures.

44. The law, as amended by the parliament, in the end does not affect those Belarusians already living in Lithuania. Rather, it introduced limitations for Belarus citizens who do not reside in Lithuania. Thus, it no longer provides for: visa applications at Lithuanian visa services abroad, unless the Ministry of Foreign Affairs mediates; national visa applications through an external service provider abroad (this restriction will enter into force on 1 July 2023); and applications for electronic resident status (except those who have Lithuanian permanent or temporary residence permit). This new legislation thus will affect possible newcomers, including relatives of those already residing in Lithuania.

45. In a meeting held on 5 April 2023, the Ministry of Interior and Sviatlana Tsikhanouskaya's Office agreed to form a working group to simplify procedures and address other practical issues of Belarusians in Lithuania. This physical proximity is undoubtedly conducive to solving potential problems at their source.

46. Such an *ad hoc* team for solving the problems of Belarusians in exile in Poland has already been in place since March 2022. During my visit to Warsaw, the Ministry of Internal Affairs provided me with detailed information and statistical data. Legislation and practice have been amended to allow Belarusians fleeing the regime to stay and work legally in Poland. Since January 2023, Belarusians who came to Poland on the basis of a humanitarian visa have been allowed to legalise their continuing stay on the basis of a temporary residence permit.

47. This has opened up the possibility of granting them a Polish foreigner's travel document, usually issued to foreigners staying in Poland on the basis of indefinite residence permits in a situation when they have lost their travel document or it has been destroyed or has expired, and it is not possible to obtain a new travel document.[31]

48. Moreover, pursuant to the Act of 9 March 2023 amending the Act on Foreigners and Certain Other Acts, as of 1 June 2023, the possibility of issuing this document will also be open to Belarusians staying in Poland on the basis of any temporary residence permit, subsidiary protection or a residence permit for humanitarian reasons. The document, valid for one year, will be issued by the *voivode*[32] free of charge.

49. Poland and Lithuania are the two only countries, which have adopted specific provisions to address the large number of arrivals of Belarusians. Their efforts and good will have not, however, removed all the worries and hurdles which Belarusians have to endure. What to say then, about those who live in other Council of Europe member States, where there is no deep understanding of the situation in Belarus? Most of them lack favourable legislation to legalise Belarusians on the humanitarian grounds on which they entered the European Union or to provide for the possibility to obtain legal grounds of stay on the basis of studies or work, including for highly qualified specialists.

50. Let us never forget that if these persons left, it is because they had no other choice. Many faced imprisonment, torture and threats. They have one wish: return to their homeland to build a new democratic State. Their life, while they are obliged to live abroad, should be facilitated as much as possible by the host countries. There are numerous examples when delayed departure of experts, activists, journalists, human rights defenders, reluctant to leave their native country, resulted in arrests and lengthy imprisonment terms.

30. XIV-1868 Lietuvos Respublikos ribojamųjų priemonių dėl karinės agresijos prieš Ukrainą nustatymo įstatymas (lrs.lt).
31. Article 186, paragraph 1, point 9 of the Act on Foreigners.
32. The Governor of a region.

3.1.3. Asking for refugee status or not?

51. Very few Belarusians in exile have requested refugee status as they do not wish to sever their links with their home country which they did not leave by choice. Getting refugee status also has practical consequences, such as making it impossible to sell real estate in Belarus.

52. In Poland, for example, which has a very liberal regime for granting international protection, between 9 August 2020 and 31 December 2022, 5 775 Belarusians applied for international protection. This represents only 5% of the Belarusians applying for different types of residence permits in Poland. More than 99% of the requests were accepted, while those dismissed were based on security concerns. Poland has registered around 70% of applications for protection in Europe from Belarusian citizens. Lithuania and Germany have accepted each about 10% of the other requests.

53. But for those who wish to seek international protection, national internal rules and procedures often make it a lengthy journey during which working is not allowed. In Lithuania, a country expensive for Belarusians, some are obliged to use illegal ways to earn money to survive during the procedure of obtaining refugee status, which takes more than a year, despite their wish to respect the law and pay taxes.

54. In countries such as France, Spain and Portugal, it is almost impossible to receive refugee status because the respective authorities are not aware of the situation in Belarus. A migration officer once asked an applicant "what is the problem with Belarus?".[33] As long as national authorities and civil servants dealing with immigration files from Belarus applicants are not aware of the dire situation in Belarus, the situation is unlikely to improve.

3.2. Threats to freedom of movement

55. A very sensitive issue affecting many Belarusians abroad is their freedom of movement. Even those who fulfil the necessary requirements to travel abroad face after some time a practical challenge: either their passport is expiring or does not contain sufficient pages for stamping. We who are citizens from the Schengen area have almost forgotten what it is to have your passport stamped at each border crossing, but if we remember what it means, we realise how important blank pages can be in a valid passport.

56. This situation does not concern the beneficiaries of international protection who have a Geneva travel document and those with a temporary residence permit accompanied by a foreigner's passport of the same duration, like in Lithuania and Poland. However, they constitute a minority.

57. There is significant anecdotal evidence that Belarusian consulates abroad decline requests to prolong the validity of the passports of their citizens. Instead, they require that they return to Belarus to get a new travel document. This is of course not feasible for all those who escaped the regime in place. There have already been too many examples of Belarusians arrested upon their return, despite Lukashenka's siren song to lure them back home. For the regime, keeping control of the passports is clearly used as a leverage to control the lives of those who live abroad. This practice also constitutes a *de facto* refusal by Lukashenka's regime to provide one of the fundamental services of the State – documenting its citizens.

58. This dependence is detrimental to Belarusians living abroad, who have shown that they do not want to lose their citizenship. Their passports should not be used as an instrument by the authorities to control their lives.

59. A possibility could be to allow Belarusian citizens to continue to use their travel documents even when expired. However, the European Union treats the issuing of travel documents and their credibility with extreme caution. The documents must also comply with the strict requirements of the International Civil Aviation Organization (ICAO) for travel safety. Also, extending the period of validity of a travel document is an extremely time-consuming and delicate task to carry out in the European Union. This would be against the rules of ICAO, which are applied world-wide and foresee no derogations.

60. In order to respond to the people's demand not to be held hostage by an illegitimate regime preventing them from enjoying freedom of movement, Sviatlana Tsikhanouskaya's Office and the United Transitional Cabinet of Belarus have come up with the idea of creating a new Belarusian passport which would be issued by them. Many political, practical, financial, and security difficulties are attached to such an initiative, but the current situation where a *de facto* Belarus State in exile is being created, is unique. It therefore requires a solution outside the box and I believe that Council of Europe member States, as well as the European Union, could find original ways to support these efforts.

33. Exchange of views, 15 March 2023.

3.3. Denial of consular services

61. Consular services are also denied when an apostille is needed, notably for the legalization process. I was told that after waiting in long queues, people are either told that they need to return to Belarus, which is of course not feasible since, as already noted, they would risk immediate arrest, or their request is never answered.

62. There is a particular concern regarding children born abroad who cannot obtain documents because consulates cannot deal with this issue. As their parents are not in a position to go back to Belarus to ensure proper documentation, there is a risk that these children born abroad become stateless.

63. Because the regime continues to use this leverage against its citizens and because the host countries require documentation that is effectively impossible to obtain, Belarusians in exile find themselves either forced to return and risk being arrested for political reasons, or are unable to legalise their stay, or have their diplomas recognised and are denied access to social and healthcare services. There is a contradiction in demanding an apostille from a non-recognised regime, and solutions should be found to avoid having to have recourse to consular services.

3.4. Threats to safety and security

64. Crossing the border is not always sufficient to ensure safety and security to those Belarusians who have fled the regime, but the bigger security risks remain for those who stayed behind. Clearly, Belarus has become an immense open-air prison, where anyone could become the target of the regime, except for those who remain loyal to it. Maintaining relationship with relatives and friends who stayed behind is difficult, precisely, because contact may put them in danger. Many of my interlocutors underlined how one of the challenges is to reconnect Belarusians outside the country with those still in it.

65. Simple communication becomes a real challenge. The French sociologist Roman Hervouet tells a wonderful and touching example in his latest book, where he recounts his correspondence with an old friend who still lives in Minsk, and who feels like Charles Baudelaire's Albatross, "exiled on earth".[34]

66. All Belarusians in exile fear trying to return back home, as any public statement or personal message could be used as evidence for their detention. Every day, in Belarus, around 15-20 people get arrested, and, in 2022 alone, 5 000 politically motivated detentions were registered. However, Belarusians in exile not only fear for their own lives, but also for any possible State reprisals against their relatives who are still inside the Belarusian territory. Once Belarusians in exile are sentenced *in absentia* to imprisonment or civil sanctions, the authorities undertake whatever action they consider necessary to force them to return to Belarus for immediate arrest. For instance, there have been cases of the relatives of Belarusians in exile being kidnapped or detained.[35] Sometimes, relatives are tortured to force them to give information on the Belarusians abroad. In other cases, the houses of Belarusians in exile were destroyed or searched for any evidence that could be used in their trials, while NGOs' offices were raided as a threatening message.[36]

67. The organisations that support activists and political prisoners' families by providing them with financial support in the country have to operate very carefully to avoid the risk of the recipients getting arrested. Some were recognised as "extremist organisations" and when Belarus banks leaked the list of people who have been donating through this channel, they were proclaimed extremists as well, resulting in arrests and blackmail.

68. There are sufficient high-profile cases indicating that digital security is not addressed properly. For example, the content of the computer and phone of the journalist Raman Pratasevich was used as evidence to arrest him and prosecute him after the hijacking of the Athens-Vilnius Ryanair flight in April 2021.

69. I heard two different stories about the book "I am going out" containing pictures of the demonstrations held after the 9 August 2020 election[37]: that the pictures are used by the authorities to identify opponents to the regime and to arrest them, using the photos as evidence that they participated in anti-Lukashenka demonstrations, and on the contrary, that Freedom House uses the photos to find evidence that those seeking to enter Lithuania are genuine opponents to the regime, and not infiltrated agents.

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34. Ronan Hervouet, *La Révolution suspendue, les Bélarusses contre l'Etat autoritaire*, Plein Jour, 2023.
35. Pavel Slunkin, "A prison of the mind: Lukashenka's pursuit of exiled Belarusians", *European Council on Foreign Relations*, 30 January 2023; see also UN General Assembly, A/77/195, *op cit.*, pp. 10-12.
36. UN General Assembly, A/77/195, *op cit.*, p. 13.
37. https://euroradio.fm/ru/v-minske-semeynuyu-paru-osudili-za-protesty-po-foto-iz-knigi.

70. How much Belarusian special services are active abroad is difficult to say but I was told in different contexts that the use of false and discrediting narratives against activists is on the rise, which contributes *inter alia* to creating a feeling of distrust among different organisations.

71. In one case, a Lithuanian lawyer was accused of being recruited by the KGB to spy on a organisation based in Vilnius.[38] I was also told there are cases of Belarusians in exile being recruited by the Belarusian KGB in exchange for a safe return to Belarus and acquittal of any possible charges against them. According to one source, in December 2022 alone, 58 Belarusians in exile were arrested once they entered Belarus despite having been promised a safe return by the authorities.[39]

72. The criminal procedures instigated in Belarus against political opponents can have huge repercussions for the lives of Belarusians in exile if Interpol issues a Red Notice at the request of the Lukashenka regime. There have been already many cases where criminal proceedings were started as a pretext for political persecution. For example, the prosecution of alleged economic crimes such as failure to pay taxes, giving or taking bribes, fraud, and money laundering is used to persecute political opponents both inside Belarus (at least 15 political prisoners were convicted under these respective provisions of the Criminal Code, including Nobel laureate Ales Bialiatski) and outside Belarus (Dmitri Glazer was accused of taking bribes but was released by a Slovenian court).[40] Furthermore, criminal cases alleging threats to national security, extremism, high treason, inciting national hatred, disturbing public order, etc. are filed against political opponents and journalists protesting against the war in Ukraine.[41]

73. Following legislative amendments, since May 2022, the death penalty can be imposed not only for committing a terrorist act but also for preparing one. The list of so-called terrorists in Belarus includes participants in the 2020 protests, including Sviatlana Tsikhanouskaya and Paval Latushka. In 2022, people were detained for sabotaging the railway to prevent Russian military trains from traveling to Ukraine. Most of those detained were charged with either an act of terrorism or preparation for it.

74. Belarusians in exile can only feel safe if they know with certainty that they do not risk extradition as a result of an Interpol Red Notice. Providing adequate information to the respective national authorities to which these Red Notices are addressed is therefore key. Ministries of Justice and Internal Affairs should systematically be acquainted with relevant reports, which will justify a negative reply to an Interpol Red Notice or a request for extradition.[42]In this connection, it should be noted that Belarus is the only European country where a request to Interpol does not require a court decision; the Prosecutor's Office uses this loophole to pursue political opponents.

3.5. Solidarity with Belarus

75. The links between the Belarusians in exile and their compatriots who have not left the country remain very tight even in the absence of physical contacts. Social media and modern technologies have been instrumental in that respect. There are many initiatives aiming at supporting different groups in Belarus, of which I will not compile a catalogue, they deserve a report in themselves.[43]

76. Valentin Stefanovic, Viasna deputy chair, vice-president of the International Federation for Human Rights (FIDH) and long-term partner of the Council of Europe on the abolition of the death penalty, sentenced to 9 years in a colony, wrote in April 2023, “[i]mprisonment is like death … You’re maybe not dead, but you’re erased from life for a long time, and life goes on; it goes on but without you. But I firmly intend to endure it all and return to this world”.[44]

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38. Our House, “Extraterritorial attacks of special services of Russia and Belarus against Belarusian women human rights. defenders, journalists and activists in exile in the territory of the Republic of Lithuania”, 24 October 2022.
39. Our House, “Europe’s New Berlin Wall: invisible Belarusian Refugees Between Minsk and Vilnius”, 1 March 2023.
40. www.24ur.com/novice/slovenija/slovenska-policija-pridrzala-belorusa-na-katerega-je-razpisana-tiralica.html.
41. www.dw.com/ru/10-sutok-za-zhelto-golubye-cvety-kak-sudili-belorusov-zaderzhannyh-za-akcii-protiv-vojny/a-61001758; https://humanconstanta.org/obzor-borby-s-ekstremizmom-v-belarusi-za-oktyabr-dekabr-2022/; https://prisoners.spring96.org/ru/person/vjaczaslau-lazarau.
42. The information pack could include the following: OSCE Rapporteur’s Report under the Moscow Mechanism on Alleged Human Rights Violations Related to the Presidential Elections of 9 August 2020 in Belarus, OHCHR examination of the human rights situation in Belarus, Actions for which Belarusian citizens can be held criminally liable, Cases of political persecution of Belarusian activists through requests to Interpol.
43. See for example https://inicyjatyva.com/initiatives.
44. Valiantsin Stefanovic: “I firmly intend to endure it all and return to the free world” (spring96.org).

77. With the daily increasing number of political prisoners, it has become of paramount importance to support them as well as their relatives. Apart from the mere horror of being imprisoned, there are also many difficulties to endure after release. The list of the different types of material support needed is endless, from food to money (to pay the bills of gas and electricity accumulated during the period of imprisonment), clothes, medicines etc. A regular influx of donations is needed to be able to support all those in need, bearing also in mind that some 300 to 400 political prisoners who were sentenced in the aftermath of the elections to 2 or 3 years of prison should be released in 2023 - 2024.

78. After release, the mental and physical health of the political prisoners is often broken, and huge efforts are made to ensure their resocialisation. I was told that because of their poor detention conditions, many have lost their teeth, and replacing them is seen as an important step towards resocialisation.[45]

79. Another category of persons who need support from their compatriots abroad are those who were dismissed from employment and find themselves without any source of regular income, such as doctors and teachers.

80. Secure and safe alternatives are being put in place to transfer money to Belarus to overcome obstacles linked to security concerns, bank regulations and sanctions. The volume of money involved, divergent priorities and competing initiatives have caused some tensions between some of the Belarusian non-governmental organisations in exile.

3.6. Access to education

81. Forced to flee the country without previously organising their departures, many Belarusians often left behind their diplomas and did not apostille their professional certificates. The lack of official documentation thus represents an important barrier for Belarusians in exile to access qualified labour market or educational programmes. In addition, not knowing local language(s) or needing to adapt to new contexts, Belarusians in exile often encounter difficulties in finding suitable schools for their children.

82. Cases of discrimination have been registered in schools and academia, as well. In particular, European universities have sometimes denied the possibility to Belarusians to enrol on their university courses, for instance by advancing security reasons. Others are discussing the possible expulsion of Belarusians students in exile already enrolled in them.[46]

83. The pupils of the Pranciskaus Skorinos Gymnasium have the privilege to study in the only 10-class school where teaching is carried out in Belarusian outside Belarus. They follow the Lithuanian curriculum but in their language. First opened in 1919, closed in 1944 and reopened in 1994, it has for this academic year 381 pupils, half of them having arrived after the 2020 elections. Apart from their native language and Lithuanian, they learn English and Russian.[47] Some of their teachers are themselves Belarusians in exile. Integration is not an issue there, contrary to other schools where Belarusian pupils have to adapt to a new language and a new curriculum. In Poland, for the current academic year, some Belarusians have studied in adaptation classes together with Ukrainian children, which has caused tensions and bullying episodes in a number of cases. I was also told that the classes for the Belarusian minority in Poland are not opened to the newcomers.

84. Because the Belarus science and academic world has existed in isolation for years, functioning with its own criteria, Belarusian scholars could almost never take part in international scientific projects. As a result, they have no connections with their peers internationally, their CVs are irrelevant for the requirement of academic institutions outside of Belarus, and the recognition of their diplomas is problematic. This has caused difficulties in relocating and working for the academics in exile.

85. Deferment from military service will not be possible from this year for young men who study abroad. Consequently, either the students will go to the army at the age of 18 and return to study two years later or, if they remain in their university, be considered as having evaded their military service. The European Humanities University, the unique Belarusian university able to operate on the basis of academic freedom and adherence to European values, in exile in Vilnius since 2005, is particularly worried that the visas and residence permits of these young men will expire once they graduate.

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45. https://bysol.org/ru/private/formerpoliticalprisonerinneed.
46. European Students' Union, "BM81: Resolution on inadmissibility of discrimination against students from Belarus", 15 July 2022.
47. P. Skorinos Gymnasium (skorinosgimnazija.lt).

3.7. Pursuing a professional career in exile

86. Apart from structural barriers, Belarusian exiles often experience discrimination at work on account of their nationality. They report cases of increased workload, false information being spread about them and their applications for work being rejected.[48] According to a recent quantitative analysis, 17% of surveyed Belarusians in exile in Poland experienced being refused employment.[49]

3.7.1. Businesses

87. More than 80 % of Belarus companies in exile are based in Poland thanks to the Poland Business Harbour. Another 10% are based in Lithuania and the remainder, elsewhere in the world, particularly in Georgia with a large number of small businesses and self-employed persons.

88. Relocating IT companies has usually been a success story. For example, among the top three IT companies in Lithuania, two are Belarusian. However, the majority of the relocated Belarusian businesses are in the retail sector, logistics and transport, small services, as well as construction.

89. International sanctions against the regime of Lukashenka have been welcomed by the democratic forces. However, they have also impacted on the operation of businesses run by Belarusians not affiliated with the Minsk regime who have moved out of the country.[50]

90. Opening a bank account is the biggest challenge faced by these businesses. Although two Polish banks are prepared to open accounts for these businesses, should an application be rejected, the business would be placed on a blacklist, and a new application will in effect require a new company to be created. Moreover, temporary addresses are not accepted, which is a particular challenge for IT companies that often function in a nomad mode. The limitation on deposits is also problematic, affecting those who want to repatriate funds from the sale of property in Belarus to their host country. This not only affects businesses but also those political prisoners who have been released and left the country.

91. Belarus companies are less competitive because it is difficult for them to obtain a credit or accounting services. Furthermore, in some countries such as Estonia or Latvia, local shareholders become the main shareholders because it is practically impossible for Belarusians to own a company there.

92. The Association of Belarus Businesses Abroad, established in 2021, provides support to Belarus businesses who wish to relocate or already have relocated.[51] A system of accreditation has been developed, where companies who wish to join need to sign a code of ethics, confirming that they are against the war in Ukraine and support democratic values. Three of their members are part of Sviatlana Tsikhanouskaya's economic team and participated in the 2023 Davos Forum to present the needs of the Belarus private sector in exile. While the association fully supports the EU sanctions against Belarus, it believes that those who are against the Lukashenka regime should be supported and allowed to pay taxes in their host countries.

3.7.2. Journalists

93. The Belarusian Association of Journalists (BAJ) is a professional association of journalists from independent media, created in 1995 to protect freedom of speech, freedom of information, promote the professional standards of journalism, conduct monitoring of Belarusian press, and offer legal support to all media workers.[52] Some 400 to 500 out of 1 300 of its members left the country after the BAJ offices were searched in February 2021. In August 2021, the Supreme Court of Belarus accepted the claim of the Ministry of Justice that it should be liquidated, but the association, of course, continues to function in exile. In March 2023, BAJ and staff were designated as an "extremist formation" by the authorities.[53]

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48. Oleg Alampiyev and Philipp Bikanau, "Belarusians in Poland, Lithuania, Georgia: attitude to the war, help to Ukraine, discrimination", *Friedrich Ebert Stiftung*, August 2022, p. 17, and Volha Kavalskaya, "Life in exile – a report on Belarusian women abroad", *New Eastern Europe*, 31 May 2022.
49. Oleg Alampiyev and Philipp Bikanau (2022), *op. cit.*, p. 13.
50. "Map of Belarusian Business Abroad Has Appeared", Belarusian News, charter97.org, and www.txtreport.com/business/2022-02-23-belarus-business-harbor-in-baltics-business-forum-takes-place-in-vilnius.ryiV22ml5.html.
51. ABBA – Association of Belarusian Business Abroad (abbabusiness.org).
52. Belarusian Association of Journalists | baj.by.
53. www.hrw.org/news/2023/03/10/belarus-equates-rights-protection-extremism.

94. Most of the journalists in exile are in Georgia (some 50), Germany (between 20 and 30), Lithuania (some 150) and Poland (more than 200). They work for Belarus media, their main aim being to provide objective and verified information within Belarus in order to break the propaganda machine. For those who are not already imprisoned – 33 are political prisoners – working as an independent journalist in Belarus has become impossible, the risks are too high.[54]

95. The journalists face the same challenges as their other compatriots in terms of legalisation, access to bank accounts etc. There are frequent instances when their salaries are blocked until anti-money laundering checks are done. During that time, they have no access to their salary.

96. What would undoubtedly help their endeavours to keep their compatriots informed would be that search engines, such as Google, ensure that their news, rather than that from official sources, come at the top of searches. The fact that Belarus is a small market should not deter the big IT companies from contributing to ensuring a fair and safe internet in Belarus itself by allowing independent and objective information to circulate.

3.7.3. Lawyers

97. Lawyers are a professional category particularly under threat in Belarus. They are being subjected to a wide range of attacks by the regime: misuse of disciplinary proceedings; arbitrary detention and criminal prosecution; treating their Telegram chats as "extremist"; interference with the confidential lawyer-client communications; and stripping them of their licence to practice.

98. As a result, many of them have been forced to leave Belarus and now find themselves in exile. Apart from the legalisation issue, their main challenge is to have their licence to practice recognised in their host country. While there is no obvious simple solution, the recognition of the Belarusian Association of Human Rights Lawyers, a new type of bar association established in the territory of other States, could allow lawyers in exile to continue to provide legal services to their clients in Belarus. Its main goal is to promote and protect the human rights of lawyers deprived of the right to exercise their profession in Belarus, as well as to raise the standards of legal assistance.

99. The report "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" initiated by the Center for Constitutionalism and Human Rights of the European Humanities University in partnership with the "Right to Defense" project (defenders.by), the human rights organisation "Human Constanta", and the Polish Helsinki Foundation for Human Rights contains an interesting "Action Program for the Restoration of the Institute of Advocacy in Belarus" and is thus a valuable road map for the future.[55]

3.8. Preserving Belarusian identity and culture

100. For many years, Belarus language and culture have been in the shadow of Russia's. Even its name was not properly transliterated into foreign languages, since there was no distinction made between «руський / рускі», which designates the people, languages, cultures and religion of the Eastern Slavs at the time of Rus', and «російський / расейскі», which designates today the people, language, culture and Russian State. Thus, many countries still erroneously refer to Belarus as "Belorussia" or "White Russia" instead of Belarus/Belarusian which is the correct transliteration of Беларусь/ Беларускі in English.

101. The political crisis born after the 2020 elections has led to a renaissance of the interest for Belarusian language and culture among Belarusians in exile, while at the same time, it has been repressed in Belarus itself. Thus, many artists and writers who joined the mass protests after the elections were detained on administrative charges or criminally prosecuted. The regime has censored and prohibited the publishing of specific books considered as extremists, such as those of Sviatlana Aleksievich, Nobel Laureate for literature.[56]

102. A number of initiatives have been launched to promote the learning of Belarusian language, history and culture, notably in the Belarus Youth Club, whose aim is to ensure that the Belarusians who will return to Belarus will do so with increased knowledge and competences.[57] The Hub's priority is to preserve and

54. Рэпрэсіі супраць журналістаў і медыя ў 2023 годзе, спіс зняволеных | baj.by.
55. "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" [Центр Конституционализма и Прав Человека (cchr.online)].
56. UN General Assembly, A/77/195, *op cit.*, p. 16.
57. HELP REFUGEES! (byhub.org).

strengthen the Belarusian identity among the Belarusians in exile and their children. Apart from languages and music classes, the production of cartoons in Belarusian available on YouTube is one of its successful initiatives.

103. The Belarusian Council for Culture is a non-governmental organisation that unites cultural actors forming the sustainable infrastructure of the free Belarusian culture. Its activities focus on the promotion of Belarusian culture (patronage of artists, performers, and art managers), development of new cultural projects, unification of the culture community, and promotion of Belarusian culture across the globe. It is preparing a roadmap for the European Commission on the preservation of Belarusian culture, created to outline the needs of Belarusian civil society in the sphere of culture, to explain why this demand corresponds to the interests of European citizens, and to recommend to the donors how to act – how much money to allocate to this sphere, how to structure the aid and what results to expect. The aim is that this proposal will be taken into consideration in the programming period of the European Commission for the next three years.[58]

104. Meanwhile, Belarusian literature and books in Belarusian have been practically erased in Belarus. Efforts are being made to establish an Institute of the Belarusian Book abroad with the aim of making known Belarus literature and of translating more books into Belarusian. A number of authors, illustrators and publishers are discussing the status of such an organisation, which would in the initial stage take the form of a platform. Practical problems are facing the initiators of the Institute, such as the lack of space to store the books, but the first one is a financial one: which investors would be interested in investing in the very small Belarus book market?

105. Culture should not be market-driven; it cannot be translated into figures on an Excel sheet. It is crucial that support is given to allow theatre troops to perform their plays, musicians to play, books to be published and read, so that art becomes the cement of Belarusian identity, and that Belarusian language and culture again find their place in the sun, as they are key to Belarusian statehood.

3.9. Double exile after fleeing Ukraine

106. Ukraine was one of the countries which welcomed a large number of Belarusians, notably because of its visa free regime and of the absence of a serious language barrier. It is estimated that 20 to 30 000 Belarusians crossed the border monthly from Belarus after the 2020 elections and that some 171 000 Belarusians lived there in 2021. I was told that some 50 000 went to Poland after the Russian aggression against Ukraine, a large number to Georgia and Lithuania, and that perhaps 5 000 still remain in Ukraine.

107. Initially, Belarusians were allowed to stay in Ukraine for 90 days, but after some campaigning by civil society organisations, this duration was extended to 180 days, and then extended again, a year later.[59] Despite a complicated legalisation process, most of the Belarusians who lived in Ukraine before the war integrated well and had no intention to leave. They were forced to do so as a result of the Russian attack.

108. Like other third country nationals who fled Ukraine, these Belarusians did not get access to the same protection and reception scheme as provided to Ukrainian citizens by the EU Directive 2001/55/EC (Temporary Protection Directive) and found themselves in a situation of double exile.

109. However, some Belarusians stayed in Ukraine to help the Ukrainians resist the Russian aggression, notably the Kastuś Kalinoŭski Regiment and others.

110. There were about 100 Belarusian journalists in exile in Ukraine when the war started. Most of them have left but a number of correspondents remain, covering the war for Belarusian media in exile, such as Belsat, Nasha Niva and Zerkalo. I was alerted to a very specific problem affecting those journalists who live in Ukraine; their bank accounts were blocked by the Ukrainian security services, the SBU, and they could not access their money. About half of these accounts have since been deblocked, but some 50 others continue to be inaccessible to their owners. Different attempts have been made to reach out to the Ukrainian authorities on their behalf but so far without success. I trust that if the accounts are properly checked and that there are no irregularities, they will be made accessible to their owners, whose situation of double exile makes access to their own resources even more crucial.

111. The participation of Lukashenka's regime in the war in Ukraine, the security threat he poses to Ukraine and beyond, with his agreement to host Russian nuclear tactical weapons, should not be seen as a justification to impose discriminatory measures on Belarusians, especially those who left the country for

58. Belarusian Council for Culture (byculture.org).
59. Interview with the Free Belarus Centre.

political reasons, in response to a situation for which they are not responsible. The Belarusians have not spared their efforts to provide support to the Ukrainians, notably through fund-raising carried out by organisations in exile.[60] While Ukraine understandably fears the opening of a northern front, it should acknowledge that the majority of Belarusians do not support Russia's aggression against Ukraine.[61]

4. Conclusions and recommendations

112. Belarusians who left their country after the rigged presidential elections of August 2020 were forced to do so by the Lukashenka regime. This imposed exile has led them to becoming victims of human rights violations in the host countries where they have found shelter, sometimes as the involuntary consequence of the sanctions imposed on the Lukashenka regime.

113. While their main wish is to return to a democratic Belarus, the more time passes, the more distant this prospect seems. Removing the legal, administrative and practical obstacles they face and providing support to Belarusians in exile should be a priority for the Council of Europe member states because a democratic and safe Belarus is part of the solution to security in Europe.

114. One cannot ignore the fact that the democratic forces are seeking to create "a new Belarus" in exile. Their efforts to alleviate the challenges their compatriots face should be supported. At the same time, integration of Belarusians in exile in the host societies remains key to avoid ghettoization and psychological alienation.

115. This report offers pragmatic and practical proposals to member States where Belarusians fleeing the Lukashenka regime have found refuge so that they can live as normally as possible, at least without any obstacles to the enjoyment of their fundamental rights. It should be seen as a basis for the national parliaments of the States concerned and the competent authorities so that all 46 Council of Europe member States provide an equivalent, if not harmonised, level of protection to Belarusians in exile, enabling them to integrate while preserving and strengthening their national identity.

60. HELP REFUGEES! (byhub.org), Free Belarus Center.
61. Rethinking Western policy towards Belarus | Chatham House – International Affairs Think Tank.