

21st February 2025

SUBJECT: Submission to the 2025 report of the Special Rapporteur on the situation of human rights in Belarus to the Human Rights Council

Dear Special Rapporteur Muižnieks,

The European Network on Statelessness¹ ('ENS') welcomes this opportunity to contribute to the upcoming report on the situation of human rights in Belarus to the Human Rights Council. Please find below a summary of the research prepared by the ENS Secretariat on recent measures taken by the Belarusian authorities that enable the arbitrary deprivation of Belarusian nationality and restrict Belarusian nationals from accessing consular services abroad.

These measures pose a serious risk of statelessness, particularly for political dissidents and exiled opposition figures, many of whom have already fled Belarus. If enforced, they would violate fundamental human rights, including the right to nationality, as well as impact access to documentation and essential services. As such, urgent action is needed to prevent risks of statelessness, safeguard the right to legal identity, and prevent further human rights violations.

1. Deprivation of nationality

On 5th January 2023, amendments to the Law "On Citizenship of the Republic of Belarus" (No. 242-Z) were adopted, entering into force on 11th July 2023. The amendments permit the deprivation of Belarusian nationality as a sanction for "*participation in extremist activity or infliction of grievous harm to the interests of the Republic of Belarus*". The law was made possible by an amendment to Article 10 of the Constitution to allow for the termination of Belarusian nationality when acquired by birth.² Notably, the amendments also removed the safeguard against the deprivation of nationality for people who hold no other nationality, creating a significant risk of statelessness if this procedure is applied in practice. The removal of this safeguard is in direct contravention to the 1961 Convention on the Reduction of Statelessness³ and in disregard to Article 15(1) of the Universal Declaration of Human Rights.⁴

The law specifies that deprivation of nationality procedures may apply to individuals over 18 years old who commit at least one of the following acts recognised as crimes in the Belarusian Criminal Code, including: creation of an organised criminal group, creation of an extremist formation or participating in it, participation in mass riot, an act of terrorism or the threat of committing it, resistance to an officer or other person protecting public order, high treason, or insulting the President of Belarus.⁵ Notably, the law applies retroactively to past actions. Reports also indicate

¹ The [European Network on Statelessness](#) (ENS) is a civil society alliance of NGOs, lawyers, academics, and other independent experts committed to addressing statelessness in Europe. Based in London, it currently has over 180 members in 41 European countries. ENS organises its work around three pillars – law and policy development, awareness-raising, and capacity-building. ENS provides expert advice and support to a range of stakeholders, including governments.

² OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 3 February 2023, UN Doc. A/HRC/52/68, para. 51.

³ Article 8(1) of the 1961 Convention on the Reduction of Statelessness states that "[a] Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless". Belarus is yet to accede to the 1961 Convention, as well as to the 1954 Convention relating to the Status of Stateless Persons, despite a pledge to do so by the end of 2020 at the High-Level Segment on Statelessness in October 2019.

⁴ Article 15(1) of the Universal Declaration of Human Rights provides that "[e]veryone has the right to a nationality."

⁵ For reference to the Law "On Citizenship of the Republic of Belarus" (No. 242-Z), see: <https://perma.cc/9SES-TB8Y>

that Belarusian courts have interpreted “participation in mass riots” to include involvement in protests related to the 2020 presidential elections, while “the creation of an organized criminal group” has been used to prosecute individuals for establishing opposition groups on social media.⁶ The amendments therefore risk using citizenship stripping as an instrument of political repression against Belarusian dissidents, including where this would lead to statelessness.

Due to the significant number of Belarusian nationals who have fled the country since 2020, especially to other European countries, the possibility of *in absentia* trials and subsequent deprivation of nationality proceedings is a significant concern.⁷ This is because many European countries lack specific procedures for determining statelessness, meaning these individuals may not be recognised as stateless in their country of residence.⁸ For example, Poland and Lithuania – countries with large Belarusian exile communities – lack a dedicated statelessness determination procedure that leads to formal statelessness status.⁹ This may leave individuals in legal limbo, lacking a nationality, clear legal status, and access to fundamental rights.

Although it remains unclear whether such deprivation of nationality proceedings have taken place since the adoption of the amendments, there are reports that *absentia* trials for political opposition members began in 2023.¹⁰ The Belarusian Minister of Internal Affairs has also allegedly stated that “*in the future, an extremist who has lost Belarus’ citizenship might be banned from entering the country for up to 30 years*”,¹¹ reflecting an intent to implement the laws in practice.

The heightened risk of statelessness generated by the amendments has been identified and condemned on several occasions, including by the UN High Commissioner for Human Rights,¹² the UN Deputy High Commissioner for Human Rights,¹³ UNHCR,¹⁴ the European Union,¹⁵ and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).¹⁶ In June 2023, the Parliamentary Assembly of the Council of Europe issued Resolution 2499, urging member states

⁶ The Halina Nieć Legal Aid Center, Belarus: citizenship, foreign passports and information obligation, available at: <https://www.pomocprawna.org/en/belarus-citizenship-foreign-passports-and-information-obligation>

⁷ OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 15 March 2024, UN Doc. A/HRC/55/61, para. 48.

⁸ For more information on the need for statelessness determination procedures in Europe, see ENS, Thematic Briefing: Statelessness Determination and Protection in Europe, September 2021, available at: <https://index.statelessness.eu/node/206?language=nb>

⁹ Statelessness Index: Poland, available at: <https://index.statelessness.eu/country/poland>; UNHCR Fact Sheet on Lithuania, September 2024, available at: <https://www.unhcr.org/europe/sites/europe/files/2024-10/bi-annual-fact-sheet-2024-09-lithuania.pdf>

¹⁰ OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 15 March 2024, UN Doc. A/HRC/55/61, para. 48.

¹¹ OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 15 March 2024, UN Doc. A/HRC/55/61, para. 48.

¹² UN News, UN rights chief urges Belarus to promptly release political detainees, 17 March 2023, available at: <https://news.un.org/en/story/2023/03/1134702>

¹³ OHCHR, Statement on the situation of human rights in Belarus, 22 September 2023, available at: <https://www.ohchr.org/en/statements-and-speeches/2023/09/statement-situation-human-rights-belarus>

¹⁴ UNHCR, Observations on the proposed amendments to the “Law on citizenship of the Republic of Belarus” 1 September 2002 No. 136-3, December 2022, available at: <https://www.refworld.org/legal/natlegcomments/unhcr/2022/en/124205>

¹⁵ EEAS, Belarus: Statement by the Spokesperson on new law allowing to deprive Belarusians of their citizenship, 22 December 2022, available at: https://www.eeas.europa.eu/eeas/belarus-statement-spokesperson-new-law-allowing-deprive-belarusians-their-citizenship_en?s=51

¹⁶ OSCE, Deteriorating human rights situation in Belarus of utmost concern as crackdown continues, human rights office ODIHR says, 21 February 2024, available at: <https://www.osce.org/odihhr/563046>

to establish statelessness determination procedures to protect Belarusians deprived of their nationality, as well as condemning the amendments as a contravention of principles of international law and international human rights law.¹⁷

2. Access to consular services

The implementation of Decree No. 278,¹⁸ issued on 4 September 2023 by President Lukashenko, has introduced significant challenges for Belarusian nationals living abroad. This executive order altered the rules governing administrative procedures and notarial actions, particularly in relation to the services that consular officials can provide to Belarusian nationals outside the country. One of the most consequential changes is the inability of Belarusian nationals to renew their passports while abroad. Instead, Belarusians are now required to return to Belarus in person to receive, exchange, or renew a passport or other form of identity document.¹⁹

For many Belarusian nationals who have fled the country, returning to Belarus poses a grave and insurmountable risk of political persecution. Reports indicate that between 2022 and early 2023, at least 58 people were detained during passport checks at the border upon their return to Belarus.²⁰ Given the concerning reports of torture and inhumane treatment of political prisoners in Belarus, the requirement to return home for passport renewal places many Belarusians in an untenable situation.²¹ Given that the OHCHR estimates over 300,000 people have left Belarus since 2020, in part due to political repression, the impact of the decree is substantial and widespread.²²

Beyond the immediate risk of detention and persecution, the decree has broader implications for the legal status of Belarusian nationals residing abroad. Those whose passports expire may find themselves unable to prove their identity or nationality, which could lead to difficulties in maintaining legal residence in host countries, as well as access to essential services and the ability to travel.²³ Without the ability to acquire/reacquire valid proof of nationality, the decree also carries potential risks of statelessness in the longer term. In host countries where no specific procedures exist to mitigate such issues, affected Belarusian nationals who are unable to prove their nationality may be treated as having ‘undetermined nationality’ or as stateless, leaving them in a precarious legal limbo without effective routes to protection. The risk is particularly acute for children born outside Belarus to Belarusian parents, who may face barriers in obtaining birth certificates and identity documents due to the ban on consular services. As such, there is a

¹⁷ Council of Europe, Parliamentary Assembly, Resolution 2499, Addressing the specific challenges faced by the Belarusians in exile, adopted 20 June 2023, available at: <https://pace.coe.int/en/files/32899/html>

¹⁸ Decree No. 278, On the procedure for issuing documents and performing actions, issued on 4 September 2023: <https://president.gov.by/ru/documents/ukaz-no-278-ot-4-sentyabrya-2023-g>

¹⁹ OHCHR, Belarus: Presidential decree denying consular services puts Belarusians abroad at risk, 20 September 2023, available at: <https://www.ohchr.org/en/press-releases/2023/09/belarus-presidential-decree-denying-consular-services-puts-belarusians>

²⁰ Viasna Human Rights Centre, ‘Минимум 58 задержанных: как и за что преследуют белорусов, которые возвращаются домой из-за границы’ 1 February 2023, available at: <https://spring96.org/ru/news/110613>

²¹ OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 3 February 2023, UN Doc. A/HRC/52/68, para. 54.

²² OHCHR, Situation of human rights in Belarus in the run-up of the 2020 presidential election and in its aftermath, 15 March 2024, UN Doc. A/HRC/55/61, para. 48.

²³ OHCHR, Belarus: Presidential decree denying consular services puts Belarusians abroad at risk, 20 September 2023, available at: <https://www.ohchr.org/en/press-releases/2023/09/belarus-presidential-decree-denying-consular-services-puts-belarusians>

worrying prospect that this could lead to statelessness for children who may be unable to acquire/confirm their Belarusian nationality, in direct contradiction to their fundamental rights and best interests.

Some countries have adopted exceptional measures to assist Belarusian nationals with expired or invalid documentation. For example, Lithuania and Poland have allowed for Belarusian nationals with residence permits to obtain foreigners' travel documents,²⁴ while Germany has advised local authorities to issue travel documents to persecuted Belarusians on a case-by-case basis.²⁵ Similarly, the Swedish Migration Agency no longer requires valid documents for Belarusian nationals seeking to regularise their stay.²⁶ However, many countries have yet to implement similar solutions, leaving many affected individuals at risk of losing their residence status. Moreover, existing measures are often limited to those with valid residence status, excluding many Belarusian nationals whose stay abroad is legalised by visa, including humanitarian visas. In Europe, this issue is particularly concerning given the generally low acceptance of applications for refugee status determination for Belarusian nationals,²⁷ as well as the limited ability of the European Union to issue documentation on behalf of Member States.²⁸

In light of the above, we recommend the Special Rapporteur on the situation of human rights in Belarus to:

- Encourage Belarus to immediately repeal or suspend provisions in the Law on Citizenship that allow for deprivation of nationality on politically motivated grounds.
- Urge Belarus to reinstate safeguards to prevent the deprivation of nationality where it would result in statelessness, in line with international human rights law and international standards.
- Call on Belarus to reinstate consular services for Belarusians abroad, including for the renewal of passports, identity documents, and for the registration of births, to prevent statelessness and ensure the right to a nationality.
- Encourage European (and other) States to implement measures to facilitate access to (renewal of) residence and/or protection status, including by accepting expired documents as proof of identity and to facilitate access to rights and essential services to prevent legal precarity.
- Call on European States to introduce or strengthen statelessness determination procedures to ensure that there are clear mechanisms established in law and practice to

²⁴ Fragomen, Del Rey, Bernsen & Loewy LLP, Understanding Belarus' Decree No. 278: Implications and Impact on Documents and Consular Services, 12 September 2024, available at: <https://www.fragomen.com/insights/understanding-belarus-decree-no-278-implications-and-impact-on-documents-and-consular-services.html>

²⁵ German Federal Ministry of the Interior, 'Ausländerrechtliches Pass- und Dokumentenwesen: Zumutbarkeit der Passbeschaffung für Belarussinnen und Belarussen zur Erfüllung der Passpflicht', 16 November 2023, available at: https://www.nds-fluerat.org/wp-content/uploads/2023/12/20231116_Laenderschreiben_Zumutbarkeit-der-Passbeschaffung-zur-Erfuellung-der-Passpflicht.pdf

²⁶ Swedish Migration Agency, 'Rättsligt ställningstagande. Belarusiska medborgares möjligheter att skaffa pass - RS/003/2024', 26 March 2024, available at <https://lifos.migrationsverket.se/dokument?documentSummaryId=48177>

²⁷ Eurostat, available at: https://ec.europa.eu/eurostat/databrowser/view/MIGR_ASYDCFSTQ_custom_15316330/default/table?lang=en

²⁸ For further information, see EUNews, EU to states: 'Prevent Belarusians who have fled to Europe from becoming stateless', 25 June 2024, available at: <https://www.eunews.it/en/2024/06/25/eu-to-states-prevent-belarusians-who-have-fled-to-europe-from-becoming-stateless/>

identify where someone is stateless, determine their statelessness, and grant them protection and rights under the 1954 Convention Relating to the Status of Stateless Persons

- Conduct research to identify and map the risk of statelessness for Belarusian nationals, both in Belarus and abroad, in light of the measures adopted by the Government of Belarus.
- Conduct outreach with Belarusians affected by these measures to better understand the issues they are facing and facilitate their involvement in shaping and implementing solutions.