

# INVISIBLE REFUGEES ON THE BORDER OF BELARUS AND POLAND

2016–2017

Minsk, Belarus, 2017

**H**uman  
constant

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## Information about the Mission

The ongoing Mission of the Belarusian human rights organization Human Constanta (hereinafter — the Mission) started its work in Brest on September 6, 2016. The aim of the Mission is to provide assistance to foreigners who transit through Belarus and request refugee status in Poland. In September 2016, by various estimates, the number of the Russian citizens seeking to cross Belarusian–Polish border in Brest ranged from one thousand to three thousand people — and that fact is what marked the start of the Mission.

The Mission core tasks are the following:

- (a) monitoring the situation in Brest and at the border control point "Brest-Terespol";
- (b) preventing conflicts;
- (c) legal training and provision of legal assistance to asylum seekers;
- (d) international advocacy in order to bring the situation at the Polish border in compliance with international standards.

## Summary and main conclusions

The Report is created as an assessment of the situation as of October 2017. A year after the Mission has started its work, we see the necessity to supplement our first report with new facts and estimations on the basis of information obtained from open sources, media, state authorities, as well of data collected by the Mission members from asylum seekers transiting through Brest.

From September 2016 until October 2017 the Mission was providing consultations and humanitarian assistance to asylum seekers transiting through Belarus to the countries of the European Union (hereinafter — the EU). The majority of them are citizens of the Russian Federation from Chechnya and other republics of the North Caucasus (Dagestan, Ingushetia).

The largest flow of transiting refugees was witnessed at the Belarusian-Polish border close to the border control point "Brest-Terespol". A number of refugees attempted to go to Lithuania. As a result of the Polish border control policy, the majority of asylum seekers cannot get to Poland to apply for asylum and use other international guarantees.

The number of asylum seekers residing in Brest has decreased 6 times — from 3000 to 500 people — for the report period. Families live in Brest for months while attempting to cross the border and to get to Terespol. After dozens of unsuccessful attempts to file an application for asylum, they usually run out of money or the term of their permitted stay in Belarus expires. In such a case they are forced to return to the places they fled from, where they are still in danger. Then new ones come in their place. Apart from legal uncertainty asylum seekers face problems of humanitarian nature. There is a constant demand for warm clothes, medicines, food and shelter. Charitable initiatives in Belarus, Poland as well Chechen expat community in the EU just partially supply their need.

Residing in Belarus, asylum seekers also do not feel safe. In separate cases the Chechen law enforcement authorities request for arrest and extradition of asylum seekers residing in Belarus. Once people are handed over to Chechen authorities, there is no connection with them, their attorneys cannot obtain any information on their location and condition, as it happened in case of Imran Salamov.

The efforts of the Belarusian and Polish human rights advocates, as well as international organizations proved to be insufficient to influence the position of the Polish authorities. Poland ignored numerous complaints and court cases at the

national level, as well as the ECtHR's request to take urgent measures. Instead of creating an adequate system for the admission of refugees on the eastern border, the Polish government has made legislative proposals that, if accepted, can forever close the Polish border for asylum seekers, transiting through Belarus and Ukraine. Despite recognizing the massive violations of human rights in Chechnya, the Polish government refuses to recognize the reality in which such violations generate forced migration flows.

Article 33 of the Convention relating to the status of refugees of 1951 provides for direct prohibition to expel refugees to the frontiers of territories where their life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. Considering the open border with the Russian Federation and information on the secret presence of Chechen security agents (kadyrovtsy) in Brest, Belarus cannot be unequivocally deemed as a safe country for Chechen refugees.

We consider this situation to be a local migration crisis caused by the Polish authorities' failure to fulfil international obligations in the sphere of international refugee law. The Mission presented the initial assessment of the situation in September 2016 in the report "Invisible refugees on Belarus-Poland border".<sup>1</sup>

In the view of the Mission's experts, the current system of arbitrary acceptance of asylum requests and actions of the border control officers at the "Brest-Terespol" border violates the refugees' right to seek asylum and constitutes cruel and degrading treatment.

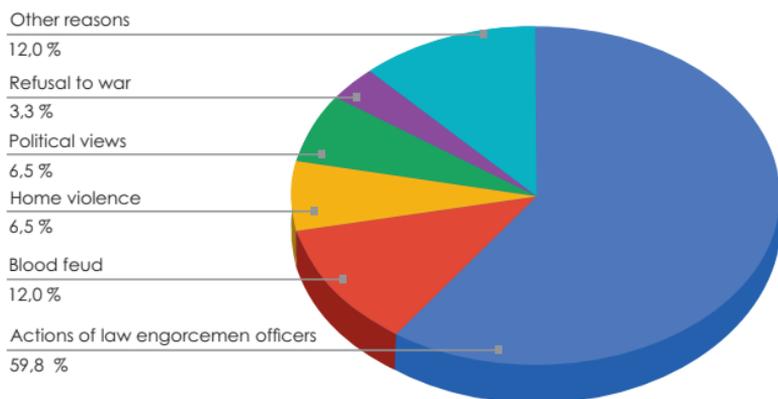
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<sup>1</sup> [https://docs.wixstatic.com/ugd/ce31b5\\_c08cedcfc2934fdcbb9b8ec86d3bf8c8.pdf](https://docs.wixstatic.com/ugd/ce31b5_c08cedcfc2934fdcbb9b8ec86d3bf8c8.pdf)

## Reasons for escape

From January until the end of August 2017, the Mission's members interviewed 105 forced migrants about the reasons to leave of their home country. The respondents were predominantly Chechen-born, but we also interviewed refugees from Ingushetia, Dagestan, Tajikistan, Iraq and Turkey. The diagram below shows the obtained statistic data.

Reasons to leave the country of origin



The majority of the respondents state the actions of the security agencies, allegedly aimed at fighting terrorism, as the reason for leaving their countries of residence. Among such actions the respondents name arbitrary detention of the relatives of alleged terrorists, or detentions in the course of law enforcement agencies' raids carried out immediately after the terrorist attacks in the districts where the respondents lived. In 37 cases, such detainees were subjected to torture. Among the purposes of these detentions and torture, are obtaining information about the location of the alleged terrorists (sometimes relatives or friends, or acquaintances of detainees) or receiving confessions about participation in terrorist organizations. Eleven respondents from Chechnya also told us that they had become victims of persecution because of their involvement in the armed formations opposing the Russian army during the Chechen wars.

A large group of the respondents (eleven people) represents those seeking to escape from blood feud. Blood feud is "a custom that has developed in a clan system as a universal mean of protecting honor, dignity and property of a clan. It is a duty of the relatives of the murdered person to revenge against the murderer or his family".<sup>1</sup>

All forced migrants who told us that they fled domestic violence are women from Chechnya. In all six cases, they had under-age children. They named the impossibility to obtain state or family protection as one of the reasons for escape. The lack of such protection is the consequences of actual subordinate status of women in Chechnya.

In six cases, the respondents named persecution because of political commitment or legal journalistic or advocacy activities as the reason for escape from the country of residence. We also included cases of persecution of relatives of political and public figures in this category.

Three respondents told us that they had left the country of residence because they, as standing soldiers of the Russian army, had refused to go to Ukraine or Syria to participate in the hostilities going on there. In all cases, such refusal caused persecution.

In thirteen cases, we discovered key inexplicable discrepancies in the recited stories, or such stories did not contain reasonable concerns about risks of persecution.<sup>2</sup> It should be noted that we are not competent to verify the recited stories' authenticity. The competent authorities of a country, to which a person applies for asylum, must perform such verification.

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<sup>1</sup> Caucasian Knot, "Blood feud — how do they now kill in the Caucasus", reference to the Big legal dictionary, "Blood feud", A.Y. Sukharev, V.E. Krutskikh edition, 2003; Grathoff S. Fehde and Institut für Geschichtliche Landeskunde an der Universität Mainz, [http://www.kavkaz-uzel.eu/articles/296137/#note\\_1](http://www.kavkaz-uzel.eu/articles/296137/#note_1)

<sup>2</sup> Article 1 (2) of the 1951 Refugee Convention (signed on 28 July 1951, entered into force on 22 April 1954) 189 U.N.T.S. 137.

## Why the refugees do not stay in Belarus?

According to official statistic data, from 2004 until the first half of 2017, 86 citizens of the Russian Federation applied for a refugee status, additional protection or asylum in Belarus.<sup>1</sup> None of them obtained any form of international protection.<sup>2</sup> We also know about cases when the applicants refused protection were the natives of the Chechen Republic and Dagestan.

The decisions on expulsion or deportation for various reasons are regularly made in relation to the citizens of the Russian Federation, involuntarily staying in Brest. As a result, they are forced to come back to the state of citizenship.

In addition to the official procedures of deportation, there are cases of "hand-over" of the Russian citizens in an expeditious manner.

We have several examples of expulsion carried out without performing an appropriate procedure.

### Murad Amriev

On July 7, 2017 Murad Amriev, a MMA fighter, citizen of the Russian Federation from Chechnya, was detained when leaving Belarus and moving to Ukraine because he was on interstate wanted list at the request of Russia on suspicion of committing an offence (forgery of documents). Earlier in 2015, Murad Amriev had left Russia and had appealed to the ECtHR on the ground of torture against him in Chechnya. Because of an error in the issued passport, he had been forced to return to Russia, where he was detained in Bryansk, but he was able to leave Russia after his lawyer interfered. After his detention on 7th of July at the Belarusian-Ukrainian border control point, Murad was taken to the District Directorate of Internal Affairs of Dobrush city in Belarus, where he was denied a meeting with Russian and Belarusian lawyers for 24 hours. There are video materials proving that Amriev was demanding an access to a lawyer, as well as international protection, but his requests were ignored.

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<sup>1</sup> <http://mvd.gov.by/main.aspx?guid=69883>

<sup>2</sup> Ibid.

A day later, Murad was taken to the Russian border and handed over to the Chechen police without clear explanation of the procedure. According to the official position of the Belarusian authorities this incident is not an act of extradition, which is clearly regulated in the legislation, that also provides for the scope of detainees' rights. According to the information stated in the official Belarusian media, it was the procedure of "handover".<sup>1</sup> The state authorities did not respond to the written requests to explain the undertaken procedure. Despite the Chechen authorities' statement that upon the arrival in Chechnya all charges against Amriev were dropped, Murad continued to be on the wanted list, his life was under threat and he and his family members were under the threat of torture.

## Imran Salamov

Imran Salamov wanted to leave for Poland through Brest eight times because of multiple detentions and torture in Chechnya. He was in possession of information that Chechen national security representatives are in search of him in Brest as well. On April 13 Belarusian police officers detained Imran when he was crossing the border. As it turned out, on April 6 Russia put him on the interstate wanted list on suspicion of participating in an illegal armed group. Immediately after detention, the decision on expulsion of Imran from Belarus was issued. Imran considered that in case of his return to home Chechen security officers would torture him. For this reason, he applied for international protection in Belarus. According to applicable laws, such application must delay the expulsion pending its consideration.

However, in late August, he was denied protection on the territory of Belarus. After he was informed about the decision to deny protection, Imran had 15 days to appeal this decision. Under the applicable laws, deportation must be suspended for the period of filing and reviewing the appeal. However, on September 5, 2017 (two days before the 15-days term's expiry) Imran was forcibly exiled to Russia. Subsequently, the prosecutor's office of Brest acknowledged the violations made in the course of performing the expulsion procedure.

After his expulsion from Belarus, which occurred on September 5, Imran was delivered to Grozny (Chechen Republic) only on 11th September. This day relatives and a lawyer had an opportunity to meet Imran. Since 11th September, neither relatives nor his lawyer have been allowed to visit Imran, they also do not have information about his condition and exact location.

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<sup>1</sup> <http://www.belta.by/incident/view/boets-mma-amriev-peredan-rossijskoj-storone-251852-2017/>

## Vladimir Egorov

On July 29, 2017, an activist from Russia Vladimir Egorov disappeared from the hostel in Minsk. In Russia Egorov was accused of publishing a post on a social network, which was deemed a call for extremist activity by an investigative agency. After assaults on his home, he left Russia for Ukraine and applied for international protection. However, the Ukrainian security services, in violation of the procedure, took Vladimir out of the territory of Ukraine. After that, he was forced to stay in Belarus. On August 1, it became known that he was in remand prison in Toropets (Tver region, Russia). It is known that Egorov was forcibly removed from the hostel by the officers of the Belarusian Committee for state security (KGB) and handed over to the officers of the Federal security service (FSB). Yet the authorities bodies in Belarus do not provide official information. It is stated in the criminal case of Vladimir Egorov that he was detained when trying to cross the border.<sup>1</sup>

It is important to understand that the border with the Russian Federation is open. Chechen security officials (Kadyrovtsy) have repeatedly visited refugees at a railway station in Brest questioning about different persons. After a report dedicated to that topic was broadcasted by the Belarusian television channel ONT, the Kadyrovtsy searched for the hero of the story. Since by that time he managed to cross the border, the situation, according to interviewees, had no consequences.<sup>2</sup>

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<sup>1</sup> <https://www.svaboda.org/a/28874570.html>

<sup>2</sup> <https://youtu.be/NWPIIMABfiE>

## Polish border officers' behavior: what have we discovered this year?

In our last year report, we mentioned that the Polish border control authorities in Terespol daily and arbitrarily deny the majority of asylum-seekers and send them back to Belarus.<sup>1</sup> During a year of monitoring, this situation did not change. In the summer of 2017, border officers accepted the maximum of one application for asylum from one refugee-family per day. Throughout August 2017, we told that there were days when applications were not accepted at all. It is worth mentioning that the number of people who apply for asylum daily has decreased greatly in comparison to the number existing during observation period until September 2016.

In the last report, we informed that some refugees "noted disrespectful and rude attitude and mockeries from the border control officers". During the year we did not fix any changes in the behavior of border control officers. We regularly received messages about mistreatment, mockeries, inappropriate comments and remarks. While interviewing refugees in Brest railway station for 10 days in July and August 2017, we registered stories of some refugees about what the border control officers told them in Terespol. Here there are some illustrative statements. For instance, one refugee was told to return home because "Poland does not need terrorists". Another one was told that "there are no Muslims and mosques in Poland" and he and his family should not seek asylum in Terespol.

Mockingly, border officers often tell refugees to go to China, Kazakhstan, Turkey and other countries. Sometimes they threaten to provide Kadyrov with information obtained from the refugees. Also we were made aware of several cases when refugees were beaten by Terespol border control officers.

During the year of work, we also detected other systematic violations in work of the Polish border control authorities in Terespol. For example, if border control officers deny an application for asylum, they try to give refugees a document saying that they were denied the entry to Poland because they did not have a valid visa. Refugees do not sign this decision and do not get a copy of it. Sometimes border

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<sup>1</sup> Report "Invisible refugees on the border of Belarus and Poland", p. 8-9, [https://docs.wixstatic.com/ugd/ce31b5\\_f1eaa1531938476ea14976b14565ba55.pdf](https://docs.wixstatic.com/ugd/ce31b5_f1eaa1531938476ea14976b14565ba55.pdf)

officers force refugees to sign certain documents in Polish language and do not explain their content. Even if the documents are signed, border control officers do not issue a copy.

We were informed about multiple cases when the border control officers collected refugees' mobile phones and looked through their content. In some situations, border control officers justified such behavior by the fact that since refugees were not Polish citizens, border control officers had the right to take their mobile phones.

We are aware of some cases when foreigners, who asked for asylum and did not know any language understood by border control officers, were denied an interpreter.

It is particularly disturbing that, when refugees feel sick in Terespol, border control officers refuse to call an ambulance or call one with delay, which may cost a refugee his/her life. In July and August only, in the course of 10 days we spent in Brest interviewing refugees, we were told about three such cases.

A separate problem that was mentioned in our first report is that border control officers do not allow refugees' legal representatives to accompany them while passing border control.<sup>1</sup> At the same time the status of a legal representative does not matter for border officers: lawyers and non-lawyers are equally not allowed (see section *Scope of the Mission's activities during the year*). Thus, the refugees in Terespol are deprived of the opportunity to use their right to legal assistance when passing border control procedures.

All these practices violate Polish and international law in the area of border control, as well as international human rights standards.

During a year of work, we learned that the problem described in the first report is not unique for the border control point in Terespol. Refugees we worked with in Brest, told that they had also tried to apply for asylum at the border control point "Peschatka" (the Belarusian-Polish border) and "Medyka" (Ukrainian-Polish border). The result was the same. In general, given that official position of Poland

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<sup>1</sup> Report "Invisible refugees on the border of Belarus and Poland", p. 8–9, [https://docs.wixstatic.com/ugd/ce31b5\\_f1eaa1531938476ea14976b14565ba55.pdf](https://docs.wixstatic.com/ugd/ce31b5_f1eaa1531938476ea14976b14565ba55.pdf)

is that refugees from Chechnya are simply economic migrants,<sup>1</sup> this situation is not surprising.

Moreover, we learned that it is not just Polish border control authorities that reject asylum seekers' applications for international protection. From April to October, we recorded six cases when the Lithuanian border control officers ignored applications for international protection and returned refugees to Belarus. In July, the Mission assisted one of the families, which sought asylum at three different Lithuanian border control points: Kena, Medininkai and at the railway station in Vilnius. We helped them to file a complaint with ECtHR. This complaint was registered and communicated.<sup>2</sup>

In conclusion, we must briefly mention the problem of the failure to implement the decisions of the ECtHR and the HRC on the application of interim measures (see section *Scope of the Mission activity during the year*).<sup>3</sup> From June to August 2017, these two international bodies obliged Poland not to expel seven families and one man (all of them repeatedly asked for asylum in Terespol) from the territory of the country before these bodies review their cases. However, in six cases out of eight Poland ignored its international obligations and refused to follow the orders of the ECtHR and the instructions of the HRC, expelling all of these people every time they appeared in Terespol with an application for asylum.

It appears that all these violations are the result of the policy pursued by the Polish government and the lack of constant independent monitoring of the actions of border control officers.

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<sup>1</sup> "Replies to the questions of the Human Rights Committee in connection with the presentation of the Seventh Periodic Report on the implementation by the Republic of Poland of the International Covenant on Civil and Political Rights", p. 7, [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/POL/INT\\_CCPR\\_AIS\\_POL\\_25651\\_E.docx](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/POL/INT_CCPR_AIS_POL_25651_E.docx); TVN24, "Czeczeni koczowali na granicy. Szef MSWiA: rząd PiS nie narazi Polski na zagrożenie terrorystyczne", <http://www.tvn24.pl/wiadomosci-z-kraju,3/szef-mswia-mariusz-blaszczak-o-czecenach-na-polskiej-granicy,672450.html>

<sup>2</sup> M.A. and others v. Lithuania (application No. 59793/17), <http://hudoc.echr.coe.int/eng?i=001-178422>

<sup>3</sup> Interim measures are binding requests of the ECtHR or HRC that usually consist of prohibiting a state to act in a way that may cause irreparable harm to the life or health of the applicant or indicating actions that a state must take to prevent such harm.

## Scope of the Mission's activities during the year

During the year, the Mission changed the format of its work several times. This was due to the fact that our understanding of the problem on the border was constantly expanding and the fact that circumstances required changes in the format of work.

### Monitoring and complaints' drafting

In September 2016, when we just started our work, we tried to understand what was happening in Terespol and why thousands of asylum seekers were "stuck" in Brest. That is why we interviewed forced migrants and tried to accompany several families to Terespol.<sup>1</sup>

At that time, we hoped that the crisis on the border could be resolved quickly by large amount of complaints on refusals of entry that Polish officers gave to all asylum seekers whose applications for asylum were ignored. During September and October, we sent more than 40 complaints to the head of the Polish border control service in Terespol. None of them was considered.

### Assistance in lodging applications for asylum

In December we created a mechanism which helped sixty asylum seekers' families file an application for asylum in Terespol. The Mission representatives and psychologists of the organization "International Humanitarian Initiative" (Poland) worked with asylum seekers conducting a series of interviews on the reasons for leaving their countries of residence. The interviews were recorded in detail and the information was verified as much as possible. On the basis of their stories applications for international protection or refugee status in Poland were made, with additional evidence such as photographs, official documents, testimonies

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<sup>1</sup> The results of the survey can be found in the report "Invisible refugees on the border of Belarus and Poland", [https://docs.wixstatic.com/ugd/ce31b5\\_f1eaa1531938476ea14976b14565ba55.pdf](https://docs.wixstatic.com/ugd/ce31b5_f1eaa1531938476ea14976b14565ba55.pdf)

of other people, reports of international organizations, enclosed. In some cases, an application was accompanied by an opinion of a psychologist. Asylum seekers and their families went to Terespol with these documents and presented them to the Polish border control officers. On the first, second or third try, the application was accepted, and the procedure for considering an application for international protection began with respect to the family. However, the border control officers kept asking the asylum seekers who helped them draft the documents, and suggested them to sign documents in the Polish language without explaining the documents' content.

The Mission worked in such format until March 17, 2017.

## Campaign in Terespol on March 17

In late February 2017, our colleagues from the Polish NGOs "Helsinki Foundation for Human Rights" (hereinafter — the HFHR) and the Association for Legal Intervention and the representatives of Warsaw Bar Association contacted the Mission. They proposed to hold a joint campaign in Terespol.

Essentially, within the proposed campaign 14 lawyers from the HFHR and the Warsaw Bar Association were to arrive at the border control point in Terespol on the same date and provide 14 asylum seekers' families with free legal assistance in the procedure of applying for asylum in Poland. The Mission together with the Polish NGO "International Humanitarian Initiative" prepared the required documents for these families.

On March 17, 2017, a group of lawyers and asylum seekers' families arrived in Terespol from different sides of the Belarusian–Polish border. The status of lawyers gave them the opportunity to represent the interests of the asylum-seekers before all administrative bodies with regard to issues of entry, stay and exit from the territory of Poland, as well as the refusal to entry and the application for international protection. In total, lawyers represented the interests of 51 people.

It should be noted that in September–October 2016 the volunteers of the Mission, having relevant written powers of attorney, tried to accompany families and represent their interests before the border control officers. Then none of the Mission

representatives was allowed to participate the interviews because, according to border control officers, law did not prescribe that.

On March 17, 2017, the Polish border officers did not permit any of the lawyers, despite their official status, to access their clients.<sup>1</sup> One lawyer received access to "her" family, but only after members of this family had already signed refusal of entry papers. All refugee families' asylum applications were denied and they were forced to return to Belarus.

According to the official statement of the Polish Border Service, issued on the same day, none of those arriving at the border applied for asylum.<sup>2</sup> This statement completely contradicted the information obtained by the Mission and all lawyers from their clients.

After March 17 none of this 14 families could submit an application for international protection in Poland, as the border control officers in Terespol created a "black list" of families who tried to get legal assistance that day. This information was confirmed by asylum seekers who participated in the campaign and who tried to file an application for international protection after March 17.

Lawyers in the Polish court now participate in at least five cases regarding the Polish border officers' wrongful actions. The cases of two families are being heard in the ECtHR (M.K. v. Poland (40503/17), M.K. and others v. Poland (43643/17)). In these cases, the campaign of March 17 became one of the key elements demonstrating the Polish authorities' policy in relation to asylum seekers, conducted at the border.

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<sup>1</sup> Wyborcza.pl, "Polscy adwokaci próbowali pomóc czeczeńskim uchodźcom w Terespolu. Straż graniczna wszystkich zawróciła na Białoruś", <http://wyborcza.pl/7,75398,21510327,adwokaci-walczą-o-prawa-czeczeńskich-uchodźcow-w-terespolu.html?disableRedirects=true>

<sup>2</sup> Komenda Główna Straży Granicznej, "Komunikat dotyczący sytuacji na przejściu granicznym w Terespolu", <https://www.strazgraniczna.pl/pl/aktualnosci/4674,Komunikat-dotyczacy-sytuacji-na-przejsciu-granicznym-w-Terespolu.html>

## Providing of information on staying in Belarus

After the campaign on March 17, Terespol border control officers actually blocked our work on drafting applications for international protection for asylum seekers. The border control officers stopped accepting applications for international protection from people who provided documents prepared by the Mission. As a result, we had to change the format of the work once again in order to adapt it to new realities.

Finally, we began to devote more time to consulting asylum seekers on their stay in Belarus. We provided clients with information on how to stay in Belarus on a legal basis, and what procedures they should go through. We also helped forced migrants to communicate with the Belarusian state authorities that control migration, representing the interests of foreigners in the Departments of Citizenship and Migration.

We rendered this types of assistance to 139 families of asylum seekers for the period from January to August 2017.

## Collection, delivery and distribution of humanitarian assistance

In the course of the work of the Mission, we tried to help asylum seekers not only by legal means, but also by providing them with humanitarian assistance. On September 23, 2016, we organized a large-scale distribution of clothes, shoes, blankets, medicines and baby diapers to forced migrants in Brest. From October to April, we regularly helped more than 40 families (about 150 people) to get necessary medicines, basic food supplies, clothes, baby nutrition and diapers, and regularly responded to separate requests for medicines, food and clothes. In autumn and winter, up to 50–60 forced migrants actually lived at the Brest railway station. We helped them with products that did not require cooking, and brought hot food to the station.

In autumn and winter, mass outbreaks of measles, mumps and pertussis among forced migrants' children were reported. Children and adults, in particular, those who lived at the station, were massively falling ill with colds, cystitis. Chronic cardiovascular diseases and gastrointestinal diseases were widespread.

Seven people reported that they had cancer; five people reported the necessity to get medicine for hepatitis C. Such neurological diseases as epilepsy were common for both children and adults. Epileptic seizure among forced migrants repeatedly happened at the Brest railway station, at the border crossing point in Terespol. Generally, people with acute and chronic diseases, as well as pregnant women, did not have access to medical care. Only one-time emergency care was provided free of charge, in some cases children with measles and mumps were hospitalized and brought to hospitals in the regional centers of Brest region. In some cases, we paid for medical consultations for forced migrants.

For the period from May to August 2017, humanitarian situation in Brest normalized a little. During the specified period, forced migrants did not massively and systematically lived at the Brest railway station. From May until August, we constantly helped eight families (about 40 people). All these families had been in Brest for a long period — seven months, on average. We provided them with targeted financial aid. In addition, upon the request of several families we provided them with basic food supplies and necessary medicines, clothes and shoes. All of them lived in rental apartments and they were forced to pay for apartments on a per day basis because property owners in Brest predominantly refused to rent apartments to migrants from the North Caucasus for an extended period at the regular rate. The rental cost per month for refugees could be two or three times as much as the actual market rent.

## Assisting with appealing to the ECtHR and the Human Rights Committee (the HRC)

From June to August 2017, the Mission helped four families of the asylum seekers to lodge complaints about actions of Poland, one family — about actions of Lithuania to the ECtHR, and one family — to the UN CHR.

All complaints to the ECtHR were preceded by requests for interim measures requiring Poland not to expel asylum seekers from the territory of Poland before the ECtHR considers their complaints. All requests were satisfied, but Poland enforced the court decision only in two cases out of four.

When applying to the HRC, the interim measures also were requested. This request was satisfied, but Poland did not enforce the HRC's decision.

The asylum seekers in their complaints claimed that their rights were violated. According to the applicants, Poland violated the prohibition of collective expulsion of aliens. Under the ECtHR and the HRC practice, collective expulsion of aliens also includes expulsion of aliens from the territory of the country without considering each situation individually and given particular circumstances of each case. In the applicants' view, each time when the border control officers made decisions to deny entry to Poland to the applicants, those decisions did not take into account the messages of the applicants that they need international protection. Thus, Poland systematically violated the right of the applicants to be free from collective expulsion.

The asylum seekers also considered that they were victims of the violation of the prohibition of inhuman and degrading treatment. In addition, Poland repeatedly returned them to the country where they were in danger of expulsion to the unsafe country of origin. All asylum seekers were forced to reside in the territory of Belarus in rough conditions. The latter factor significantly influenced families with under-age children. Moreover, when residing in Belarus the asylum seekers did not have a constant place of living, access to medical supplies and opportunity of legal employment that led to the lack of income, risk of homelessness and permanent stress.

The applicants also complained about the lack of effective legal remedies in the context of their illegal return to Belarus, numerous made by the Polish border officers. The asylum seekers argued that even if they filed a complaint about the decision on the forced return to Belarus, such a complaint did have a suspending effect on the implementation of this decision, i.e. the decision was enforced immediately. According to the forced migrants, the available means of appealing decisions on forced return to Belarus, for instance, addressing the head of the Polish Border Service, would not guarantee a fast solution. In addition, the applicants argued that the head of the Polish Border Service is not independent, as he is subordinate to the Minister of the Interior and thereby he executes the state policy. All these factors led to the absence of an opportunity to obtain justice in the Polish instances within a reasonable time.

In this report, we have already mentioned that Poland did not enforce the decisions of the ECtHR and the HRC on taking interim measures. Three families out of five that appealed to these bodies with the Mission's help were not admitted to the procedure of asylum despite the decisions of the ECtHR and the HRC

requiring the Polish authorities to accept applications for international protection. The applicants regarded this conduct of Poland as a violation of their right to lodge individual complaints under the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The violation resulted in the impossibility for the refugees to stay in a safe country, the applicants could not effectively use their right to file a complaint and the accompanying rights.

# Recommendations

## To Polish authorities:

1. To ensure that the norms of international and national law regarding the right of foreigners to seek asylum and escape persecution on the Brest–Terespól border control point are respected.
2. To immediately conduct an interagency inspection and assess the actions of the employees of the Polish border control service in Terespól.
3. To admit observers from international human rights organizations to the border control point.
4. To provide technical and organizational capacity to simultaneously accommodate for a large numbers of refugees based on the actual asylum applications flow.
5. To coordinate the actions to resolve the crisis with Belarusian authorities.
6. To implement interim measures as prescribed by the ECtHR and the HRC.

## To the Commissioner for Human Rights of the Republic of Poland:

1. Within the limits of existing powers to apply to the Ministry of Interior for an explanation of the situation.
2. To ensure that the continuous monitoring of the situation in the Brest–Terespól border point is performed, including direct staff presence in order to fix and prevent human rights violations.

## To the competent authorities of the European Union:

1. To pay attention to the problem and to encourage the Polish authorities to prevent human rights violations.
2. To provide the necessary support and resources in order to perform the activities needed to resolve the local migration crisis at the Brest-Terespol border point.

## To international organizations in the field of migration and asylum, and their Missions to Belarus and Poland:

1. To examine the situation, to conduct the continuous monitoring and to have the appropriate impact on Polish authorities to prevent human rights violations.
2. To provide legal, medical and humanitarian assistance to asylum seekers residing in Brest.

## To Belarusian authorities:

1. To take comprehensive measures to ensure safe hygienic conditions for migrants.
2. To provide, within available resources, the possibility of accommodation for the families of asylum seekers that are in transit for a short time (not more than 90 days). These can be gyms, public accommodations, rental housing.
3. To provide for effective legal remedies needed for the protection of foreign citizens and stateless persons in case they were forced to leave their countries of origin.
4. To abstain from expelling the citizens of the Russian Federation coming from the territory of North Caucasus based on the fact of their inclusion in the interstate wanted list, resort to extradition procedures in such cases.

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Institution «Consultation Centre  
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in Law "Human Constanta"») is a Belarusian human rights organization  
created in 2016 and registered in Minsk.

## **OUR MISSION**

Promotion of public interests and joint actions in response to contemporary human rights challenges in Belarus.

## **WHAT WE DO**

We help people to protect their rights, integrate best foreign practices and human rights standards into Belarusian laws and practice and spread knowledge by the means of educational campaigns.

## **MAIN ACTIVITIES**

Human rights protection.

Digital Freedoms Lab.

Rights of migrants and refugees.

Anti-discrimination.