

United Nations Country Team in Belarus's report for the Universal Periodic Review – Belarus – Eight Session, May 2010

Introduction

1. This report is drafted by the United Nations Country Team in Belarus on the basis of submissions from the UNHCR, UNICEF, UNDP, UNAIDS and IOM.

I. Background and framework

A. Scope of international obligations

2. The Republic of Belarus acceded to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees in August 2001 without reservations. Belarus is not party to the 1954 Convention relating to the Status of Stateless Persons, 1961 Convention on the Reduction of Statelessness, 1997 European Convention on Nationality. The Government, assisted by UNHCR, lobbying efforts in the field of statelessness, has recently started considering accession to the Statelessness Conventions. Belarus did not sign any readmission agreements with other countries.

3. The Republic of Belarus remains highly committed to the protection of migrants rights, particularly those of the victims of trafficking. The most recent instrument at the UN level is the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (adopted on 15 November 2000 by the UN General Assembly and signed by 80 states in Palermo in December 2000).

4. The Convention and the Protocol have been ratified by the Government of the Republic of Belarus on May 3, 2003. These are primary instruments promoting cross border cooperation between governments and ensuring that all countries have adequate legislation to address these crimes. Nonetheless, despite signing both Protocols – on THB and Smuggling in Persons – only the first one is fully complied with by the Republic of Belarus, whereas the problem of human smuggling is not given enough attention and proper counteraction by the Government.

B. Constitutional and legislative framework

5. Protection from violence, cruel treatment, exploiting, trafficking in human beings and loss of parental custody have been of tremendous importance for all aspects of survival, growth and development of children. It should be noted that a lot has already been done in Belarus for preventing and counteracting domestic violence. Objectives on children's protection from violence, trafficking and all types of exploitation have been included into the Law "On Child's Rights", National Action Plan on improvement of children's status and improvement of their rights in 2004-2010 and other programmes. Article 14 called "Main preventive arrangements aimed at prevention of domestic violence" was included into the Law of the Republic of Belarus "On Basic Activities Aimed at Prevention of Violation of the Law" passed in November 2008.

6. The Republic of Belarus implements the Declaration of Commitment to Fight HIV/AIDS (2001) and Political Declaration on HIV/AIDS (2006). According to the international obligations Belarus set the national Universal Access targets for HIV prevention, treatment and care. The national targets envisage provision of universal access of Belarusian citizens, including people living with HIV, to the key commodities in prevention, treatment and care based on non-discriminative and equality policies. Based on non-stigmatizing principles there

are no special laws and provisions protecting the rights of people living with HIV. All rights specified in the Constitution of the Republic of Belarus for its citizens apply to this population as well. As in the case of other citizens, legal acts of the Republic of Belarus (Law on Health Care, Law on Social Allowances to Child-Raising Families, Code of Marriage and Family) protect the rights of people living with HIV, e.g. Constitution of the Republic of Belarus, art. 22: “All people are equal before the law and are entitled to equal protection of rights and lawful interests without any discrimination”.

7. The specific non-discriminative and equality laws and regulations exist for the following vulnerable groups: women (Constitution of the Republic of Belarus, Art. 32.), young people (Labor Code of the Republic of Belarus of July 26, 1999 No. 296-3, Chapter 20), inmates (Law of the Republic of Belarus No. 215 on Procedure and Conditions of Confinement of June 16, 2003, Art. 2.), persons with disabilities (Law of the Republic of Belarus No. 1224-XII On the Social Protection of Persons with Disabilities of November 11, 1991, Art. 1.) and migrants/mobile population (Law of the Republic of Belarus No. 2339-XII On the Legal Status of Foreign Citizens and Stateless Individuals in Belarus of June 3, 1993, Art. 13. Right to Health Care).

8. The known endangering of a person to a risk of HIV transmission is persecuted by the Criminal Code Article 157 and punished by a fine or up to a 3 year imprisonment. The same article envisages 2 to 7 year imprisonment for HIV transmission.

9. Belarusian laws and regulations forbid HIV testing for employment, promotion, education and training, contract termination.

10. Considerable progress has been achieved in establishing a national asylum system. First Law on Refugees was enacted in 1995. The country adopted the national legislation and established administrative structures for its implementation. A new Law on Refugee Status and Complementary and Temporary Protection was adopted in June 2008 and came into force as from 3 July 2009. The new legislation mostly complies with international standards and significantly improves the legislative framework protecting refugees and asylum-seekers. In particular it introduces complementary protection and absolute ban on return to torture. Thus, it can be considered as one of the best examples of refugee legislation on the territory of Eastern Europe and CIS. At the same time, some matters still need to be developed: in particular, regarding providing refugees with travel documents in compliance with the standards as set forth in the 1951 Convention. While recognizing the efforts and successes of Belarus in creation of such a system, the overall approach to asylum issues is influenced by the perception that asylum is part of a system for restrictive migration control.

11. Belarus is a country of both origin and transit of trafficking in human beings (THB). At the same time it is becoming a country of destination for THB victims from Ukraine, Russia and other CIS republics. In 2008, 42 cases of trafficking were encountered inside Belarus. The scale of this phenomenon is increasing each year. In accordance with the information of the Ministry of Interior (MoI) and the IOM statistics of assisted victims of trafficking (VoT) cases, in 2008 persons from Belarus were mainly trafficked to Russia, Poland, United Arab Emirates, Turkey, Cyprus, Germany, Czech Republic, Lebanon, Lithuania, Israel, Austria, Italy, Spain, United Kingdom, Netherlands, Greece and other countries. The number of VoTs registered in Belarus started slightly to decrease since 2005 – a year when the largest number of criminal cases (159) in the field of THB was revealed, due to the fact that several traffickers' organizations were shut as a result of several years of work.

12. Having acknowledged the considerable growth in trafficking cases and necessity to oppose the accompanying negative processes, the Government of the Republic of Belarus adopted two sequential State Programmes on Countering Human Trafficking – the first one for 2002-2007 and the second covering 2008-2010. The programmes delegate responsibilities for common counter trafficking efforts to the designated ministries. They also include a set of measures directed towards gathering national and international knowledge on the issue of trafficking in order to conform to the international law, standards, experience and best practices. So far, over 3,000 VoTs were recognized by Belarus out of which 1,819 received reintegration assistance through IOM Minsk and its local NGO partners.

C. Institutional and human rights structure

13. In order to protect children from violence and cruel treatment Belarus has established a system of rendering assistance to children, who have become victims of violence. Such system includes childhood protection agencies, social/pedagogical centres and children social asylums, social/pedagogical and psychological services of educational institutions. Systematic work has been carried out for improving registration system of cases of physical, psychological and other violence towards children as well as for improvement of public awareness.

14. In order to improve children rights' protection efficiency, on 16 November 2006 the President of Belarus signed an Edict No.675, which has significantly expanded composition, authority and functions of the National Commission on Rights of the Child set up in 1996. Being an inter-ministerial steering committee, National Commission on Rights of the Child is entitled with drafting proposals on amending and improvement of the legislation on children's rights, control and analysis of performance of the public authorities and other organizations, providing protection of children's rights and legitimate interests and monitoring of implementation of the national programmes on support to children and families.

15. In order to work with children's and adults complaints in child rights' protection sphere, permanently operating public reception offices of the National Commission were opened in 5 oblasts and the city of Minsk. Minors and their legal representatives may approach them with particular complaints on child rights' violation and make proposals on child protection work improvement, etc.

16. As reported in the National Report on Implementaiton of the Declaration of Commitment to Fight HIV/AIDS (2006-2007) the Republic of Belarus does not have 1) independent national institutions for the promotion and protection of human rights, including human rights commissions, law reform commissions, watchdogs, and ombudspersons which consider HIV-related issues within their work; 2) focal points within governmental health and other departments to monitor HIV-related human rights abuses and HIV-related discrimination in areas such housing and employment; 3) performance indicators or benchmarks for compliance with human rights standards in the context of HIV.

17. In the national HIV/AIDS Monitoring and Evaluation Plan Belarus set performance indicators for assessing efforts in reduction of HIV-related stigma and discrimination. The indicators allow assess stigma impact on access to employment, medical services, education. In 2009, Belarus became the first country in the region to apply the internaitonal methodology in stigma assessment – Stigma Index Survey.

D. Policy measures

18. Belarus applies participatory principles to development of the state HIV prevention and mitigation policy through involvement of civil society and PLHIV representatives in the multi-disciplinary policy-making boards (eg. The Republican Interdepartmental Council to Fight HIV/AIDS, STIs and TB, oblast and local HIV Councils).

II. Promotion and protection of human rights on the ground

A. Cooperation with international human rights mechanisms

B. Implementation of international human rights obligations

Rights of persons living with HIV/AIDS

19. Belarus provides free access (currently co-funded by GFATM¹) to HIV prevention, treatment and care commodities.

20. As reported in the National Report on Implementation of the Declaration of Commitment to Fight HIV/AIDS the existing policy, laws and regulations in the field of HIV/AIDS related protection of human rights was assessed by the civil society on the level of “8” (10-degree scale, 10 is the highest) and implementation of the existing policies and regulations on the level of “7”.

Rights of refugees, asylum-seekers, and stateless persons

21. Since the Law on Refugees came into force in 1995, 3,265 foreigners submitted applications for asylum: during 1995-2000 – 2,220 persons, 2001-2004 – 649 persons, 2005-2008 – 354 persons. The trend of the declining number of asylum-seekers (950 persons in 1998, 434 persons in 2000, 151 persons in 2004, 54 persons in 2007) was reversed in 2008.

22. The total number of asylum applications in 2008 was 91, which is 40% more than in 2007, and 90 in the first 9 months of 2009, indicating a rising trend that in UNHCR’s opinion can be attributed to the improved access of asylum-seekers to the territory and to status determination procedure. The majority of asylum-seekers in 2008 originated from Afghanistan (31 persons), Georgia (14 persons), Ukraine (10 persons) and Iran (9 persons).

23. According to the state statistics the cumulative number of recognized refugees reached 812 persons as of 1 October 2009, including 205 children. Of this population 357 persons still remain in the country. The vast majority of recognized refugees reside in Minsk. So far, Belarus has granted citizenship to 106 recognized refugees.

24. In general, recognized refugees have access to social and economic rights equally with citizens and/or foreigners. Children of both asylum-seekers, while in the procedure, and recognized refugees have full and free of charge access to primary and secondary education, and have access to higher education on par with nationals (i.e. qualified students can benefit from free education and those who do not meet the necessary requirements of given educational institutions have to pay for registration/tuition fees). All recognized refugees with permanent registration (former *propiska*) have access to public health facilities on par with Belarusian nationals while asylum-seekers have free of charge access to emergency care. However, children under 18 of asylum-seekers and migrants have free access to all public medical services. Like nationals, permanently registered recognized refugees who have large

¹ Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria.

families (a large family defined as having three and more children) can apply for social housing, meaning entirely for free or at considerably reduced fees. In 2008, 13 such large families of refugee community received social housing. Several others are in the queue. Access to affordable, decent housing however, remains one of the problems constantly raised by refugees and considered one of the obstacles to their sustainable integration. The root cause of this problem lies in refugees' constraints in accessing legal and adequately paid employment. The reasons generally include: lack of command of the language; lack of adequate academic qualifications or vocational skills; low level of wages/salaries for legally acquired jobs; unwillingness of some refugees to accept low-paid jobs in rural areas and, in some cases, the negative attitude of employers towards foreigners.

III. Achievements, best practices, challenges and constraints

25. In 2008, State Border Committee signed a Memorandum of Understanding (MOU) with UNHCR, IOM, Belarusian Red Cross Society and NGO Belarusian Movement of Medical Workers on border monitoring. The MOU set out the procedures and roles of respective partners in the border monitoring process. Although this border monitoring mechanism is up and running it still needs to be strengthened.

26. In Belarus currently there are several reception facilities for asylum-seekers in the country: of open type in Vitebsk and in Gomel (30 and 26 places respectively), and of semi-open type (entry/exit by permission) in Brest and the Minsk-2 International airport (12 and 12 places respectively). The existing infrastructure is run by the Government and is in good condition, although the employees of these centers need more training especially in understanding the psychological state of refugees and in giving them proper counseling. The state assistance during the refugee status determination procedure is limited and insufficient to cover all the needs of asylum-seekers and therefore remains somewhat dependent on international assistance.

27. The majority of the successful applicants for refugee status continue to be from outside the CIS. The refugee population therefore largely has a different ethnic and socio-economic background as compared to the local population. Moreover, their social integration is constrained by a different level of education, professional qualification and economic experience of participation in public production and household running. Many refugees suffer from bureaucratic obstacles which is partially due to unawareness and insufficient knowledge amongst government authorities, the local communities and refugee themselves. The level of awareness on refugee rights amongst officials therefore needs to be further increased.

28. According to the Law on Citizenship of 1 August 2002, citizenship may be granted to a person, if he/she, among other conditions, has resided permanently on the territory of the Republic of Belarus for seven years. The Law contains a requirement for mandatory renunciation of former citizenship by application to the country of citizenship. No particular consideration is given to the specific circumstances of refugees who are, as a rule, not in a position to approach the authorities of their country of origin. Besides that, such a provision creates a risk of statelessness if a person renounces his/her former nationality but does not acquire the Belarusian one. Another provision allows the State to deny a naturalization request "taking into account interests of the Republic of Belarus" even though all other requirements are met. Such a provision creates uncertainty in the procedure and allows for denials of nationality without clearly stated reasons.

29. Lack of employment and housing opportunities represent the most stringent problems faced by refugees living in Belarus. However, for the most vulnerable the Government is able to

provide a notable assistance. In 2007-2008, 13 families (79 persons) obtained free of charge (or by significantly reduced costs) social housing from the state. Although until now, the Government has not established a state programmes aimed at integration of recognized refugees, there is a growing interest in and recognition of the need for such a programme. An indication of this interest/ commitment is the active and direct involvement of the Government and their cooperation with UNHCR in developing and securing funding from the EU for the implementation of a regional project, *Local Integration of Refugees in Belarus, Moldova and Ukraine*, whose phase I will be implemented in 2009-2010. Ministry of Internal Affairs, in the capacity of National Coordinator, has been the engine of this project.

30. UNHCR has been operating in Belarus since 1995 under a framework agreement concluded between the United Nations and Belarus in 1992, as a structure of the UN Representation in the country, and thus benefiting from nearly all immunities and privileges offered to members of diplomatic missions. In September 2009 the Ministry of Internal Affairs, representing the Government, and UNHCR finalized and initialized the text of a Country Agreement which is now waiting for the signature.

31. The Republic of Belarus has been a vocal advocate of the need for better international cooperation in the field of anti-trafficking. Over the course of the last year it has tabled two draft resolutions at the United Nations General Assembly calling for more rational and effective coordination mechanisms at the international level. Belarus is also active in ensuring that trafficking in persons stays high on the agenda of the Collective Security Treaty Organization (CSTO) and the Commonwealth of Independent States (CIS). Indeed Belarus was a prime mover behind the drafting of the 2007–2010 CIS Programme of Cooperation on Trafficking in Persons.

32. Belarus has thus made considerable progress in combating human trafficking during the last five years. Among the main results is constant access of the general public to reliable information on safe travel and stay abroad through the toll-free hot-line, expanded and strengthened network of partner NGOs rendering reintegration services and conducting prevention activities, increased NGOs' professional and technical capacities and problem awareness. However, the most successfully progressing component over these years has been in the field of prosecution and criminalization, due to the strong commitment of the Government of Belarus to fight this modern form of slavery, both at a national and an international level. Within this component the following results have been achieved:

- Specialized counter-trafficking (CT) units' establishment in each oblast and Minsk (7 CT units) and the appointment of CT focal points in each oblast and Minsk;
- Highly increased professional capacity of national law enforcement, judges, prosecutors and border guards through a series of trainings and networking visits, as well as an educational CT program at Gomel State University;
- Increased number of prosecutions and convictions;
- Improved direct cooperation and frequent information exchange between Belarus and CIS countries and EU on best CT practices. Cooperation with the Russian Federation has been extended, as it has become a significant country of destination;
- Establishment and launch in operation of the "International Training Centre for Education, Vocational Training and Specialization in the Field of Counter-Trafficking and Illegal Migration (under the auspices of the MoI Academy of Belarus)", which has already turned into the CIS basic educational institution for training LE personnel in migration and combating trafficking;

33. Nevertheless, there remain certain gaps that need to be further addressed by the Government of Belarus in order to make fight against human trafficking more effective:

➤ One of the main stipulations of the effective implementation of the right of the VoT for reintegration and rehabilitation is institutionalizing the mechanism between governmental institutions, international and non-governmental organizations in establishing so called National Referral System (NRS), where every agency is assigned its own responsibility within the process of VoT identification, referral and further reintegration; the main stipulation in this process is creation of the State-owned Rehabilitation center for VoTs.

34. It should foresee the following possibilities:

- complete confidentiality of victims to the personnel of the medical establishment;
- rendering direct assistance, regardless of the nature of disease (except for socially dangerous diseases, defined by the legislation);
- accommodating non-residents from the whole republic;
- accommodating women with children, as well as pregnant women;
- accommodating without discrimination victims with diseases and infections (except for communicable diseases, defined by the Republic of Belarus legislation);
- accommodating male victims of trafficking;
- accommodating foreign citizens or stateless persons, for whom Belarus is either a country of destination or transit;
- accommodating minors with the parental permission or those acting in loco parentis.

➤ Rights of the VoTs for legal assistance by the governmental bodies, including their protection during investigation and court proceedings;

➤ Rights of VoTs for confidentiality;

➤ Rights of VoTs to compensation of both moral and physical damages, and establishment of the comprehensive compensation system in Belarus.

35. Assisted Voluntary Return (AVR) – is one of migration management tools IOM offers to migrants and governments worldwide. It is a key component of IOM’s recommended response to help countries deal with irregular flows of migrants and assist stranded and destitute migrants. For irregular migrants, AVR avoids the stigma of deportation and legal exclusion from future return to the country of destination (re-entry ban), while assisting countries to manage the presence of irregular migrants in their territory in a humane and cost-effective manner. Voluntary return helps minimize risk of human rights violation and facilitates respect for international principles to migrants in irregular situations. In the return process the Government of Belarus complies with an obligation to respect the human rights of migrants enshrined in international law, as well as those provided for under national laws.

36. Before the last parliamentary elections (2004) President publicly expressed his opinion that women should comprise 30% of the parliament. The elections resulted in women holding 30.4% of the seats, which is good for the empowerment of women. As a result of the elections in 2008, women comprise 31.82% of all parliamentarians.

37. The government has furthermore introduced a plan for gender equality for the years 2008-2010 and established a National Council on Gender Policy to supervise its implementation. High-level officials have furthermore indicated that it may be interested in developing legislation on violence against women, which Belarus currently does not have.

IV. Key national priorities, initiatives and commitments

38. According to the national-scale survey undertaken with the assistance of the UNICEF and Ministries of Education, Health, Interior, Labour and Social Protection in 2007-2008, almost 50% of interviewed children have suffered from violence and cruel treatment on behalf of their

parents. That survey confirmed previously obtained data on social acceptance of domestic violence. Domestic punishments humiliating children's dignity are often practiced under the pretext of education. Consequently, based on the survey's results, further systematic work on legislation improvement is required, including prohibition of corporal physical punishment, efficiency improvement of domestic violence prevention, improvement of identification system of children, who have suffered from violence, strengthening the system of assisting children, who have been victims of witnesses of violence, including psychological/psychotherapeutic rehabilitation.

39. There is still a continued demand for capacity building support to the government and NGOs providing protection and assistance to refugees. This is especially true in view of the fact that Belarus has not developed a policy supplemented by a state programme aimed specifically at integration of recognized refugees that takes into account their special situation in order to pro-actively manage the situation.

40. The State Programme on Countering Trafficking in Human Beings, Irregular Migration and Related Illicit Activities for 2008-2010 is enacted by the Decree of the President of the Republic No 624 of Belarus as of December 6, 2007. The Programme targets the following main objectives:

- decreasing crime rate, related to THB, irregular migration, spread of prostitution and child pornography;
- protection and rehabilitation of VoTs;
- enhancing the efficiency of the state authorities' performance in prevention, and suppression of THB, irregular migration and related illicit activities;
- amending legislation in the sphere of combating trafficking in human beings, irregular migration, spread of prostitution, child pornography, based on practical experience and international instruments;
- developing cooperation with concerned states, international, intergovernmental and non-governmental organizations.

41. To ensure the freedom of movement of travelers and migrants and make migration more orderly and secure, thus protecting the travelers' rights, the Government has adopted in 2007 the State Concept on the new generation of travel documents, envisaging potential implementation within 2-2.5 years (after the decision is taken by the President) of the national programme for e-passports and visas, containing biometric features of holders.

V. Capacity-building and technical assistance

42. Since recently Belarus has adopted a number of legal instruments on protection of children in conflict with law, based on the best international practice. More often courts have made decisions on alternatives to deprivation of liberty. However, deprivation of liberty for children in conflict with law has not become a last resort measure and exclusively towards those, who represent a real danger to the society. Educational work in special institutions of closed type and penitentiary institutions requires further improvement. It's time to develop the system of social rehabilitation of children and minors upon their release from those institutions. The juvenile justice system, which is currently at the stage of its transient build-up, would get a new impetus for development, if the concept paper of juvenile justice in the Republic of Belarus that was developed on inter-agencies basis is approved.

43. The Joint UN Team on AIDS provided technical assistance to the Republic of Belarus in:
- GFATM fundraising for implementation of the State HIV prevention policy (including financial provisions for rights to treatment and care);

- Independent review of the national HIV/AIDS related legislation;
- Development a system of financial monitoring of HIV/AIDS expenditures (financial gurantees to implementaiton of human rights to prevention, tretament and care);
- Application of human rights based approach to the national HIV/AIDS strategic planning;
- Harmonization of the approaches to evaluation of stigma and discrimination within the national HIV/AIDS M&E system (realization of Stigma Index Survey);
- Support to equal partiapiation of civil society and PLHIV representatatives in policy-making, strategic planning and monitoring (through capacity building and enhanced involvement in multi-sectorial councils) and creating platforms for partnerships;
- Building capacity of the national system and PLHIV in exercising rights for reproductive health;
- Developing access to HIV and AIDS evidence-based analytical informaiton.

44. With a changing political geography on Belarus' western/northern borders, as well as the EU greater involvement in border management and asylum issues, UNHCR continues to ensure that the central role of asylum in the Belarussian national migration system is recognized and developed. UNHCR assists the Government of Belarus in capacity building, provision of technical expertise, increased cross-border and sub-regional cooperation in refugee and migration related areas with its neighboring countries, as part of the Soderkoping Processes². UNHCR continues to work with the Ministry of Internal Affairs as its main partner, and in particular with the Department on Citizenship and Migration of MIA, and State Border Committee. UNHCR relies on Belarussian Red Cross and four local NGOs as implementing partners that complement the role of the Government in such areas as: legal assistance, education for refugee children, public awareness building, provision of social services for the vulnerable persons, and integration.

45. UNHCR continues to consider the best durable solution for refugees on an individual case basis. UNHCR assists refugees in voluntary repatriation and identifies refugees with specific needs for resettlement. However for the majority of recognized refugees local integration is the most viable option. UNHCR continues to allocate funds to cover the needs of most vulnerable refugees and asylum-seekers.

46. The UNHCR focus in 2009 is on providing assistance to the Government in developing relevant by-laws to the new Law on Refugees and Complementary Protection and strengthening the administrative capacities of the relevant structures for its implementation. Capacity building interventions (training, study visits, targeted technical assistance projects) will be implemented in co-ordination with the Government and involve all the regions.

47. Currently, UNHCR is involved in realization of two UNHCR-EU projects:

- "Strengthening Protection Capacity in the Republic of Belarus – phase II" ("Protection Monitoring");
- "Local Integration of Refugees in Belarus, Moldova and Ukraine (Phase I)".

48. Among activities planned under IOM annual programme, are assistance for permanent shelter for recognized refugees, support for gainful employment through vocational and language training, facilitation of social entrepreneurship and public information activities to

² "To address the cross-border co-operation issues arising with the EU enlargement eastwards and to promote dialogue on asylum and irregular migration issues among the countries situated along the EU eastern border, a pro-active initiative 'The Soderkoping process' was launched in early 2001. The process encompasses Belarus, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, and Ukraine, and is supported by the European Commission (EC), the Swedish Migration Board, the United Nations High Commissioner for Refugees, and the International Organization for Migration." From web-site of the Cross-Border Co-operation/Soderkoping Process: <http://soderkoping.org.ua/>

make the public opinion receptive towards the integration of recognized refugees. UNHCR will also continue to provide legal and social assistance to persons of concern.

49. With a view to strengthening the asylum system in the Republic of Belarus it is recommended to enhance and develop a system of protection monitoring system including in border areas and detention facilities with a view to assisting the authorities to better distinguish between various categories of migrants and to provide the necessary protection and assistance to persons in need of protection, including refugees.

50. It is recommended to continue work on asylum legislation to bring it fully in line with international standards, in particular by adopting a travel documents for refugees in accordance with the standards set out by 1951 Convention relating to the Status of Refugees.

51. In order to reduce current and future risks of statelessness it is recommended that Belarus accedes to Statelessness conventions and amends its legislation to ensure that citizenship to refugees can be conferred without requirement of renunciation of their initial citizenship. A clear criteria for refusal in naturalization is also needed when the decision is made “in the interests of the Republic of Belarus” as well as the tangible opportunity for appeal of such a decision.

52. In view of the lack of employment and housing opportunities for refugees it is recommended that the Government elaborates an integration programme for refugees.

53. It could be recommended to work further on issues such as migration and Human Rights and Justice. There is a certain interest in both areas from government entities and it is possible that future collaboration with government entities and civil society could have an impact in terms of strengthening a human rights based approach to these issues.

54. A project “Promotion of a wider application of international human rights standards in the administration of justice in Belarus”, funded by the European Union, was implemented by the UNDP, UNICEF and the Ministry of Justice of Belarus between April 2007 and September 2009. The Ministry of Foreign of Latvia and Federal Department of Foreign Affairs of the Swiss Confederation provided additional co-financing of the project component related to the promotion of juvenile justice. Total project expenditures comprised US\$ 850,000. Major national project partners were the Constitutional Court, Supreme Court, General-Prosecutor’s Office and National Bar Association.

55. The aim of the project was to contribute to the improvement of the administration of justice in Belarus through better access for justice sector professionals to information about international human rights standards and relevant case-law, familiarization with best international practices, and development of recommendations to further improve the national legislation and law enforcement in the area of administration of justice. The project allowed justice sector professionals and government officials to discuss most pertinent issues and to observe best practices of European countries. Within the project a team of national and international experts developed a set of recommendations how to improve national legislation and law enforcement in the 11 areas: “Judicial system and the status of judges”, “Judicial system and the status of lawyers”, “Judicial system and the status of prosecutors”, “Controversy in the criminal process”, “Guarantees of implementation of the constitutional right to judicial protection”, “Constitutional control and the judicial system”, “Application of the international human rights standards in the administration of justice”, “Alternative sentencing”, “Legal assistance”, “Implementation of court decisions”, and “Effective performance indicators for the justice system”.

56. A 4-volume 3,200-page compendium of the international human rights standards and case-law of the European Court of Human Rights and the UN Human Rights Committee was published within the project in 8,000 copies and distributed across the country to cover each and every judge and lawyer of Belarus, as well as prosecutors, legislators other government institutions, libraries, universities and NGOs. Finally, an electronic CD-based and Internet-based database of the documents included in the compendium was prepared and distributed on 10,000 CDs.

57. IOM programme to combat trafficking in the Republic of Belarus is underway since September 2002. The Organization's programmatic approach addresses three interrelated aspects: protection and reintegration, prosecution and criminalization and prevention and advocacy:

- Prevention by dissemination of information to increase public awareness about the phenomenon of trafficking in human beings and its main consequences.
- Prosecution and criminalization by encouraging law enforcement and judicial structures to act more effectively against crimes in the field of trafficking in women.
- Protection and reintegration by providing assistance and support to the victims of trafficking, returning to Belarus. So far, 1819 VOTs received reintegration assistance from IOM Minsk and its local NGO partners.

58. In 2007–2009, IOM has implemented a joint IOM/EC project “Strengthening migration management in the Republic of Belarus (MIGRABEL)”. This pilot project featured international response to the official initiative of the Government of Belarus for the exploration of technical and legal aspects of introducing in Belarus e-passports, containing holders' biometric features. Within the project's framework leading international experts in IT/Biometrics and Law launched a complex assessment of the current technical infrastructure and legislative base of Belarus in light of the future transition to e-technologies in passports. Moreover, state experts, representing various ministries and institutions, engaged in 5 networking visits to EU Member States, where they familiarized with the work of the world's leading manufacturers of e-passports, chips and personalization equipment. Belarusian experts also thoroughly examined various countries' experience in transiting to biometric IDs. IOM has also organized four international educational events, dedicated to biometrics, and purchased equipment to modernize the existing national passport issuance system.

59. IOM Minsk also implements the Assisted Voluntary Return Programme (AVRP) as a sub-project of the EC funded joint IOM-UNHCR project “Strengthening Protection Capacity in the Republic of Belarus”. The programme pursues the overall strategic objective of the Republic of Belarus to establish a comprehensive migration management system facilitating the flow of legal migration and enhancing control over irregular and illegal migration. Through the AVR training measures the programme aims to develop processes so that relevant authorities in Belarus have the tools and knowledge to build up and operate a sustainable voluntary return assistance system based on the identified best practices and ensuring that the rights of migrants wishing to return to their countries of origin are being upheld. Along with the capacity building measures, vulnerable individuals receive assistance in safe and dignified return to their home countries, through an integrated approach of direct counseling and return transportation assistance.

60. Since the beginning of the programme (May 2007), 202 migrants were counseled on the AVR option. The AVR assistance was provided to 109 persons, including 38 – to Georgia, 18 – to Vietnam, 13 – to Pakistan, 6 – to Afghanistan, 6 – to the Russian Federation, 5 – to China, 5 – to Lebanon, 4- to Ghana, 3 – to Bangladesh, 2 – to Turkey, 1 – to Sri-Lanka, 1 – to Egypt,

1 – to Iran, 1 – to Ukraine, 1 – to Iraq, 1 – to Kyrgyzstan, 1 – to Serbia, 1 – Nigeria, 1 – to Armenia.

61. In addition to the implementation of the AVRIP IOM participates in the establishment of the UNHCR - IOM - NGO border monitoring mechanism aiming to ensure that irregular migrants and asylum seekers have access to the appropriate procedures either to enable them to return safely to their countries of origin or receive the protection of Belarus.

62. A joint EC/UNDP project “Combating Trafficking in Women in the Republic of Belarus” (2003-2005) assisted Belarus in the fight against women trafficking. This three-year project, funded by the European Commission, has been implemented by the Ministry of Labour and Social Protection in close cooperation with the State Border Committee, Ministry of Interior (MoI), Ministry of Justice and several NGOs as well as IOM and the Office of the United Nations High Commissioner for Refugees (UNHCR). The project has brought together the government, civil society and international organizations in a successful partnership, which significantly contributed to strengthening the national capacity, consolidating efforts to combat women trafficking and reduce illegal migration. It has also facilitated cross-border cooperation on anti-trafficking activities between Belarus and the European Union (EU).

63. The new ongoing project “Preventing, fighting and addressing the social consequences of trafficking in human beings in the Republic of Belarus” is following-up the work done by the first EC/UNDP project. The project’s focus is on preventive measures and better protection and rehabilitation of trafficked victims. In particular, the project aims to improve coordination and information-sharing among responsible agencies and NGOs; to scale-up advocacy, training and awareness-raising campaigns geared at various target groups; to develop victim protection and reintegration programmes based on best international experience; to enhance the capacity of rehabilitation centres, NGOs and local centres for social assistance to provide prevention services. The project will also contribute in generating part-time and long-term employment for women and young people.

64. The following issues need to be particularly addressed by the Government: i) Introduction of the State Compensation Fund for VoTs; ii) Establishment and state-sustained operation of the State Rehabilitation Center for VoTs, iii) Modernization of the current National Referral System (NRS).

65. As far as a formal NRS is concerned, it is expected to be a government led system expanded throughout the country with the active participation of all civil society actors in every Oblast in the field of identification, referral and reintegration of VoTs and at-risk groups. While it formally exists and works to some extent throughout Belarus, it is not institutionalized and legally recognized yet. Also, there is no/limited state funding allocated to reintegration and rehabilitation of VoTs. As a result, all reintegration efforts are carried out by the local civil society partner network with the support of the international donor community. This is a most vulnerable component, as this network is not self sustainable without government and donor funding. Therefore, a formal NRS needs further development through active involvement of central and local state authorities.

66. The Republic of Belarus has yet to follow more closely the Protocol on Human Smuggling it ratified in the past, and so far it has not ratified the Convention on Labour Migrants Rights.

67. With most of the neighboring countries either already or shortly moving to biometrics in IDs and visas, it is highly recommended that the Republic of Belarus, based on the findings, recommendations and technical assistance, built within MIGRABEL project, finally

determines to undertake next series of steps en route to the full-fledged national e-passport programme.

68. As a country of destination and transit for all types of migrants the Republic of Belarus must ensure that their intrinsic rights are adhered to:

- The right of migrants to return to their own country. (This right is articulated in the Universal Declaration of Human Rights, Art 13; International Covenant on Civil and Political Rights (ICCPR), Art. 12; Convention on the Elimination of Racial Discrimination, Art.5(d)(ii); American Convention of Human Rights, Art. 22.)
- The right of migrants not to be returned to a country where they would be persecuted, or tortured, or not have access to adequate protection. (1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees.)
- The right to seek protection, where desired by the person. (1951 Convention relating to the Status of Refugees.)
- The right to health and to access to social and health care services.
- Protection against arbitrary detention: where the migrant is subject to detention prior to removal
- Rights of the child in accordance with international human rights norms, in particular, the Convention on the Rights of the Child, inter alia, this includes the "best interest" principle, the right to education, and special protection for unaccompanied minors.
- The obligations of countries to strive for non-discriminatory treatment on grounds inter alia of race, religion, and gender.
- The right not to be expelled from a country except pursuant to a decision reached in accordance with law (in cases where there are compelling reasons of national security); and to be allowed to submit reasons against his/her expulsion and have his/her case reviewed by the competent authority.

69. As a country of origin Belarus should pay more attention to the observance, where applicable, of the following rights:

- The obligation to accept back their returning nationals.
- The responsibility to allow their nationals to return in safety and with dignity without fear of harassment or discrimination.
- The right of migrants to fair and humane treatment on their return. Punitive measures based solely on the person's departure should not be imposed by the State.