



Belarus
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The Battle Against Forced Statelessness of Belarusians

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I. The ordeal of state-engineered statelessness for Lukashenka dissidents

In a move intensifying pressure on government critics, the one-man ruler of Belarus Aliaksandar Lukashenka has implemented a new decree requiring citizens to renew their passports domestically. This rule creates a significant risk for exiled dissidents who criticise his regime.

In 2023, Lukashenka, notorious for his authoritarian grip, endorsed a contentious policy revoking the citizenship of political dissenters living abroad. Adding to his tight control, he issued a decree preventing Belarusian diplomatic missions from providing official documents to citizens residing overseasⁱ. This decree cuts off Belarusians abroad from essential services like passport renewal, birth, divorce, or marriage registration, and property dealings, compelling them to return to Belarus and potentially face arrest.

Belarus's Security Council claims this decree aims to reduce the diplomatic missions' workload. However, Oleg Gaidukevich, deputy and head of the pro-government Liberal Democratic party, termed it **"a deliberate strike against regime opponents"**, asserting that **"law-abiding citizens shouldn't have issues updating their passports"** and implying that **"those opposing the decree might be extremists fearing legal repercussions in Belarus"**ⁱⁱ.

Ranked by reporters without borders as Europe's most dangerous country for journalists and one of the world's most repressive regimes, alongside Myanmar, Russia and China, Belarus is known for its draconian tacticsⁱⁱⁱ. The country currently holds over 1,500 political prisoners, including 34 journalists. This situation has left many Belarusians abroad anxious about the dangers of returning home.

More than 1.5 million Belarusians have relocated overseas, with over half a million escaping their homeland following the crackdown on the 2020 protests. These demonstrations persisted for several months before security forces suppressed them, sparking an exodus from the country. Now, thousands of Belarusians are seeking asylum around the globe. A critical issue looms for Belarusian expatriates: their passports are

set to expire, posing legal challenges concerning their status. Under Belarusian law, citizens face penalties for not renewing expired passports, even while living abroad^{iv}. Also, those with unpaid penalties are at risk of having their assets and property in Belarus confiscated.

“The decree is a blow to Lukashenka’s opponents,” Belarusian political scientist Valery Karbalevich, who is based in Lithuania, told IWPR^v. **“The state has abandoned one of its fundamental responsibilities: protecting its citizens abroad. The expulsion [or forced exile] of the regime’s critics was merely the first phase of purging disloyal citizens. The next step is revoking their citizenship and [confiscating] assets belonging to those who have left. [Many] Belarusians may now consider applying for residency, asylum, or citizenship in other countries.”**

As a response, the United Transitional Cabinet – Belarus’s opposition in exile – is discussing with the EU the possibility of a substitute for the traditional Belarusian passport. This new document aims to serve as a travel credential for Belarusians who have left their homeland, allowing movement within the Schengen area. However, these passports will not facilitate travel outside the Schengen area.

II. The looming threat of statelessness

As reported by the human rights organization “Viasna”, in 2023 more than 200 individuals faced dire consequences at Belarusian border checks upon their return^{vi}. Many of these people, some of whom now face criminal charges and imprisonment, were unaware that they were implicated in criminal cases for social media activities, despite not being in Belarus during the 2020 protests.

Legal experts are warning that the government’s move of cutting off ties with citizens abroad could lead to a situation where some Belarusians become stateless. This approach, as seen in Lukashenka’s latest decree, mirrors tactics used by oppressive regimes in the Middle East and Central Asian countries. Many regimes in those regions often deny identity documents to their citizens who have emigrated, forcing them to seek international protection.

“Similar practices of exerting control over the citizens in emigration have been observed in other countries, for example Uzbekistan and Tajikistan,” Azizbek Ashurov, a Kyrgyz lawyer who was awarded the UNHCR Nansen Refugee Award in 2019 for his work to end statelessness in Kyrgyzstan^{vii}, commented to IWPR.

“For example, an Uzbekistan regulation stipulated that if an Uzbek citizen failed to register with a consulate abroad, they would lose their citizenship. Uzbekistan had no consulates in many countries [which] means that if an Uzbek was in a country with no diplomatic representation they would lose their citizenship. Many people did not even realise they effectively became stateless.”

Anais Marin, the UN Special Rapporteur on the situation of human rights in Belarus, points out a critical irony in the current situation. “While the most vocal critics of the [government], often victims of repression and human rights abuses, find it relatively easier to obtain humanitarian visas or political asylum, it’s the ordinary Belarusians living abroad who are facing severe challenges”, Marin says.

According to Marin, individuals who hold student or work visas, possibly numbering in the tens or hundreds of thousands, cannot seek humanitarian protection once in their host countries. This restriction extends to their children as well. An expired passport does more than just limit their freedom of movement; it potentially jeopardises their legal status. While some countries may recognise the unique predicament these Belarusians are facing and offer solutions like legalising their stay or granting refugee status, others that are less aware of the human rights issues in Belarus might treat them as illegal immigrants once their passports expire, posing a risk of deportation back to Belarus.

Marin advocates for a suspension of all expulsions of Belarusians based solely on expired or otherwise invalidated passports. However, she acknowledges that “it’s ultimately up to each state to find legislative and practical solutions to prevent further encroachments on the fundamental rights of Belarusian citizens.”

Additionally, she urges the swift issuance of residence permits to those Belarusians who have valid reasons for obtaining them. “This step is crucial in addressing the precarious situation of many Belarusians living abroad, notably those compelled to exile since 2020 due to repression”, notes the UN Special Rapporteur.

The grim prospect of facing the choice between statelessness and imprisonment on Belarusian soil may soon confront those Belarusians who have not secured legal status abroad or sought political asylum yet.

Alina (not her real name, changed for her protection) fled Belarus in 2021 during a surge of widespread arrests. Working as an editor for an online newspaper branded “extremist” by the Belarusian government, she was forced to seek safety elsewhere. Under Belarusian law, affiliation with an extremist organisation can lead to imprisonment of up to seven years. With the European Union closing its borders to Belarusians, Alina opted to move to Georgia, a country that does not require visas for Belarusians. She settled in Batumi, Georgia’s second-largest city, with her five-year-old son. Georgian legislation allows Belarusian nationals to live and work in the country for one year. After this time, they must leave Georgia for a day – a process known as “resetting” – before they can return for another year.

Now, like many Belarusians in similar circumstances, Alina faces the challenge of securing her legal status in Georgia as her son’s passport is expiring in 2024.

“Soon he will be left without documents; with no valid passport he will not have access to services like medical insurance,” the 42-year-old editor told IWPR. “I will try to apply for a residence permit in Georgia through the school, but he still won’t be able to travel. I also do not know what to do when his residence permit expires. Lawyers suggest applying for international protection, but in Georgia, such cases can take up to two years and I do not know of any positive stories.”^{viii}

Belarusians in exile face limited choices. Typically, they can only pursue refugee status or apply for a residence permit. After securing residency, they are eligible to apply for a special foreign travel passport, enabling travel within the Schengen zone. However,

eligibility for this passport requires either temporary or permanent residency. Currently, countries like Estonia, Lithuania, Poland, and Germany, which host significant numbers of Belarusian expatriates, are offering new travel documents to those with expired Belarusian passports. In the European Union, each case of expired Belarusian documents is addressed individually, as member states are yet to reach a consensus on a common EU policy. In a notable move, Lithuania has committed to increasing the issuance of these “travel or foreigner passports,” extending their validity from one year to three^{ix}.

Anisia Kozlyuk, a Belarusian human rights activist formerly based in Ukraine, has been actively involved in recording violations of human rights against Belarusians and supporting political prisoners. Kozlyuk was once part of the “Viasna” Human Rights Centre, led by Nobel Peace Prize winner Ales Bialiatski, who was recently sentenced to 10 years in prison by the Belarusian authorities. She had planned to renew her passport at the Belarusian consulate in Poland, but recent developments have rendered this impossible.

“My passport is valid until 2026, but there’s no space left for visas,” Anisia explained to IWPR. “To obtain a travel document in my situation, I’d need to apply for refugee status or additional protection status, but these options are not viable in Ukraine due to the absence of the necessary legal mechanisms. Now I have to relocate to Poland and ask for an international protection there.”^x

III. Belarusians to receive special passport document

Sviatlana Tsikhanouskaya, who asserts her victory in the 2020 Belarusian presidential election against Lukashenka, is spearheading an initiative to issue “New Democratic Belarus” passports through her office. Operating from Lithuania, this government-in-exile has established over 20 makeshift embassies and information centres globally.

Tsikhanouskaya notes that “these new documents will affirm Belarusian citizenship and act as travel documents for those in exile.”

By conforming to the standards set by the International Civil Aviation Organisation, “New Belarus” passports represent a big step. The process of issuance, however, goes beyond simple formal recognition. Each passport usually contains an ICAO country code, which is currently exclusively designated to the officially recognised Belarusian government. The exiled “New Belarus” cabinet, not being a UN member state, lacks the legal standing to secure such a code.

To enable these passports for global travel, an alternative nation’s ICAO code must be used. Lithuania has shown openness to potentially sharing its code for this purpose. Nevertheless, the decision to recognise and accept these passports, along with their bearers, ultimately lies within each UN member state’s sovereign rights. Therefore this complex scenario of legal and diplomatic hurdles underscores the challenges in providing Belarusians in exile with “New Belarus” passports.

Tsikhanouskaya’s initiative to issue “New Belarus” passports takes a page from history, echoing the actions of the Baltic States, which issued their passports while in exile during Soviet rule. This historical parallel explains the strong support from these Baltic nations for democratic movements in Belarus that are now grappling with Lukashenka’s regime, which is aligned closely with the Kremlin.

The idea of “New Belarus” passports has already ignited discussions about their recognition within the European Union, highlighting the complexities of this unprecedented endeavour.

“Accepting the passport issued by an authority that is not recognised as a legitimate representative of a state is an unusual instrument,” Rainer Bauböck, a professor in the Global Governance Programme at Italy’s European University Institute, told IWPR. “It is different from a contested state scenario, like Kosovo, where we have two governments. Belarus has one government in power that is under sanctions and a government in exile that claims that it should be recognised [as legitimate].”^{xi}

Bauböck observed that recognising Tsikhanouskaya as the head of a legitimate government could potentially **“change the game, making it easier to accept documents**

issued by her administration. Support from all Baltic States could bolster this initiative within the EU.”

Anaïs Marin asserts that “the question of new passport for Belarusians lies with the sovereign decisions of individual governments. In my opinion, for a more realistic solution to the plight of Belarusians in exile, it would be feasible for the states to grant refugee status where relevant, and issue Convention Travel Documents. Additionally, it’s crucial to provide travel documents while awaiting decisions on cases. In cases where asylum claims of Belarusians are not recognised, it’s imperative to review and improve national Refugee Status Determination procedures to address the specific needs of Belarusians compelled to exile. For beneficiaries of complementary pathways who cannot acquire Convention Travel Documents, I propose that states recognise expired Belarusian passports, aligning with the common practice among UN member states.”

The success of the “New Belarus” passport initiative largely depends on the cooperation and willingness of EU member states. Countries with fewer Belarusian exiles might remain more cautious. The decision to issue new identity documents for Belarusians challenges established norms of sovereignty and state authority. Sadly, Lukashenka stands to benefit from this situation: regardless of whether exiles opt for an alternative passport, seek refugee status, or face imprisonment upon their return to Belarus, they remain effectively marginalised from the political landscape he is crafting.

ENDNOTES

ⁱ Pravo.by, “О порядке выдачи документов и совершения действий [*On the procedure for issuing documents and taking actions*]”, 4 September 2023, <https://pravo.by/document/?guid=12551&p0=P32300278>

ⁱⁱ БЕЛТА, “Только экстремисты боятся вернуться в Беларусь”. Гайдукевич о новых правилах замены паспортов [*“Only extremists are afraid to return to Belarus.” Gaidukevich on the new rules of passport replacement*], 18 September 2023, <https://www.belta.by/society/view/tolko-ekstremisty-bojatsja-vernutsja-v-belarus-gajdukevich-o-novyh-pravilah-zameny-pasportov-588773-2023/>

ⁱⁱⁱ Reporters Without Borders, “Belarus”, <https://rsf.org/en/country/belarus>

^{iv} АНК, “В Беларуси принят закон об изъятии имущества в ответ на “недружественные действия” [*Belarus adopts law on seizure of property in response to “unfriendly actions”*], 9 January 2023, <https://belarus.ahk.de/ru/infoteka/novosti/novosti-detali/v-belarusi-prinjat-zakon-ob-izjatii-imushchestva-v-otvet-na-nedruzhestvennye-deistvija>

^v Viktoryia Kolchyna, “Belarusians Abroad Face Document Limbo”, 3 October 2023, <https://iwpr.net/global-voices/belarusians-abroad-face-document-limbo>

^{vi} Вясна, “Мінімум 207 затрыманых па вяртанні ў Беларусь: актуальная статыстыка ад “Вясны” за 2023 год [*A minimum of 207 detainees upon return to Belarus: current statistics from “Viasna” for 2023*]”, 11 January 2024, <https://spring96.org/be/news/113901>

^{vii} Viktoryia Kolchyna, “Belarusians Abroad Face Document Limbo”, 3 October 2023, <https://iwpr.net/global-voices/belarusians-abroad-face-document-limbo>

^{viii} *Ibid.*

^{ix} Radio Free Europe, “Lithuania Counters Lukashenka's Squeeze On Belarusians Abroad With 'Foreigner Passports’”, <https://www.rferl.org/a/lithuania-foreigner-passport-belarus-lukashenka/32588135.html>

^x *Ibid.*

^{xi} *Ibid.*

