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# BELARUSIANS IN EXILE: INTERPLAY BETWEEN EU LAW AND NATIONAL LEGISLATION IN LITHUANIA AND POLAND

**Key words**: Belarusians in exile, Lithuania, Poland, EU migration law

**Summary**

The article examines the challenges faced by Belarusians in exile, focusing on the interaction between EU migration law and national legislation in Lithuania and Poland. Its primary aim is to clarify the concept of "Belarusians in exile", analyse the legal consequences of Belarus's denial of consular services abroad, and assess how host states have responded to these challenges. The study relies on the doctrinal method combined with empirical legal scholarship.

The author conceptualizes "Belarusians in exile" as a politically displaced group forced to leave Belarus due to repression, human rights violations, or fear of persecution. This notion extends beyond ordinary migration and encompasses several legal categories: refugees under the 1951 Refugee Convention, beneficiaries of subsidiary protection under EU law, asylum seekers with pending applications, persons under humanitarian or temporary national protection regimes, and politically exiled migrants residing abroad without international protection status. Although these groups differ in legal standing, they share vulnerabilities stemming from the political nature of their displacement. Importantly, the author proposes a practical criterion for distinguishing politically exiled individuals from labour migrants – namely, the presence or absence of travel to the Republic of Belarus – arguing that individuals who genuinely fear persecution are unlikely to seek re-entry into their country of origin.

As a case study, the article analyses the 2023 Belarusian presidential decree depriving citizens abroad of access to consular services, including passport issuance and essential civil documentation. The author argues that this policy deliberately targets political exiles and produces severe consequences, such as obstacles to legal residence, employment, education, healthcare, freedom of movement, and risks of de facto statelessness, including for children born abroad. The decree is assessed against international human rights standards and found to be incompatible with them.

The article then evaluates the responses of Poland and Lithuania as key host states for Belarusian exiles. Both countries have introduced humanitarian visas, residence permits on humanitarian grounds, and alternative travel documents to mitigate the effects of Belarus's

consular restrictions. While these measures improve access to lawful residence and protection, gaps remain, particularly regarding identity documentation and the limited validity of travel documents.

In conclusion, the author proposes legislative and administrative reforms, including extending the validity of travel documents, recognizing them as identity documents, accepting expired Belarusian passports alongside residence permits, and implementing relevant Council of Europe recommendations, while emphasizing the need for proportionate security assessments based on reliable evidence.

*The passport is the noblest part of a human being.*
/B. Brecht/

## Introduction

After the brutal suppression exerted by the authorities upon the peaceful protests triggered by widespread falsifications during the presidential elections in August 2020[1], a significant number of Belarusian citizens were forced to leave the country. According to various estimates, their number ranges from 300 000 to 900 000 people. The evaluation of Parliamentary Assembly of the Council of Europe testifies that up to 500 000 Belarusians have left the country after August 2020[2]. A distinct social group has emerged in the EU countries neighbouring Belarus – Belarusians in exile. The first academic articles and books devoted to the philosophical and political-science analysis dedicated to the phenomenon of the peaceful protests of 2020 in Belarus are beginning to appear[3], alongside a growing body of policy papers addressing specific challenges faced by Belarusians in exile. However, this issue has not yet received systematic scholarly consideration from a legal perspective. This article attempts to partially fill this gap.

The purpose of this article is to conceptualize and clarify the widely used concept of "Belarusians in exile", to demonstrate-using the denial of consular services as an example-the problems faced by this group, to examine how these issues are addressed in Lithuania and Poland, and to propose measures for improving legislation in this field. The study relies on the doctrinal method combined with empirical legal scholarship.

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1 Benedek W. OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus. 2020. Available: https://www.osce.org/sites/default/files/f/documents/2/b/469539.pdf [last viewed 03.08.2025].

2 Belarusians in exile: An overlooked issue addressed by the Parliamentary Assembly, 21 January 2023. Available: https://pace.coe.int/news/8955/belarusians-in-exile-an-overlooked-issue-addressed-by-the-parliamentary-assembly [last viewed 03.08.2025].

3 Shchyttsova T. Solidarity of the Shaken. On the Collective Subject of the Belarusian Revolution of 2020. Ibidem Press, 2026; Korosteleva E., Petrova I., Kudlenko A. (eds.). Belarus in the Twenty-First Century Between Dictatorship and Democracy. Routledge, 2023.

## 1. Conceptualizing the notion of "Belarusians in exile"

In legal and policy discourse concerning Belarusians residing abroad, numerous sources-including resolutions of the European Parliament[4], documents of the Parliamentary Assembly of the Council of Europe,[5] as well as analyses conducted by non-governmental organizations[6], think-tanks,[7] and individual scholars[8] employ the collective designations "Belarusians in exile" or "exiled Belarusians." Which specific categories of individuals are covered by this notion and how to distinguish them from persons not belonging to this category, for example, from a migrant worker? The answer to this question has not only theoretical but also important practical significance. The expression "Belarusians in exile" refers to individuals of Belarusian nationality or origin who have been forced to leave Belarus (or have chosen to remain abroad) primarily due to political repression, human rights violations, or well-established fear of persecution by the current authorities. It is more than a neutral demographic or migration term. It carries a strong political, legal, and moral dimension, implying that these people are not simply migrants seeking better economic conditions, but members of a politically displaced community whose departure is directly linked to the absence of democracy and the suppression of fundamental freedoms in their home country.

In a legal and sociopolitical sense, this notion encompasses several categories:

a) Refugees (1951 Convention Relating to the Status of Refugees)
The primary category applicable to many Belarusians in exile is that of refugees under Article 1A(2) of the 1951 Convention Relating to the Status of Refugees[9], as incorporated into EU law through Directive 2011/95/EU (Qualification Directive)[10]. This category includes

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[4] See, for instance: European Parliament resolution of 3 April 2025 on the immediate risk of further repression by Lukashenka's regime in Belarus – threats from the Investigative Committee. Available: https://www.europarl.europa.eu/doceo/document/TA-10-2025-0063_EN.html [last viewed 03.08.2025].

[5] "The Luxembourg Solutions": outcomes and perspectives. Council of Europe, 2024.

[6] See, for example: Briefing: Belarusian Students in Exile: Challenges and Solutions for advocacy. 24 June 2024. European Students' Union. Available: https://esu-online.org/briefing-belarusian-students-in-exile-2024/ [last viewed 03.08.2025].

[7] Kolarz S. Belarusians in Exile: Countries of the EU, Council of Europe Seek to Support Repressed Abroad. The Polish Institute of International Affairs. Bulletin, No. 193 (2501), 30 December 2024. Available: https://pism.pl/publications/belarusians-in-exile-countries-of-the-eu-council-of-europe-seek-to-support-repressed-abroad [last viewed 03.08.2025].

[8] Shadurski V. Where Does Belarus Go from Here? In: Korosteleva E., Petrova I., Kudlenko A. (eds.). Belarus in the Twenty-First Century Between Dictatorship and Democracy. Routledge, 2023, p. 193. https://doi.org/10.4324/9781003311454-16

[9] Convention relating to the Status of Refugees of 28 July 1951. Available: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees [last viewed 30.01.2026].

[10] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast). OJ L 337, 20.12.2011, pp. 9–26.

opposition activists and protest participants, journalists, human rights defenders, lawyers, civil servants dismissed or prosecuted for political reasons, individuals charged or convicted in politically motivated criminal proceedings. From a legal perspective, this group enjoys the strongest international protection, including non-refoulement, residence rights, and access to social and economic rights in host states.[11] During the period from 2021 to April 2025, 930 citizens of Belarus were granted asylum in the Republic of Poland.[12] More than 1000 Belarusian citizens were applying for the refugee status in Lithuania in 2020–2024.[13] As of 1 August 2025, 1093 citizens of Belarus lived in Lithuania based on humanitarian reasons.[14]

b) Beneficiaries of Subsidiary Protection (EU Law)
Some Belarusians may not meet the strict persecution threshold of the Refugee Convention but nonetheless face real risk of serious harm if returned. These individuals may fall under subsidiary protection pursuant to Article 15 of the EU Qualification Directive.[15] Relevant risks include torture or inhuman or degrading treatment, arbitrary detention following return, punishment under broadly framed "extremism"[16] or public order laws. This category reflects an EU-specific expansion of international protection, grounded in human rights law (notably Articles 2 and 3 ECHR), and has been particularly relevant in states applying differentiated protection statuses to Belarusian applicants. During the period from 2021 to April 2025 10 042 people were granted subsidiary protection status in Poland.[17]

c) Asylum Seekers (Pending Status)
Many Belarusians in exile are still legally classified as asylum seekers, meaning individuals who have applied for international protection but whose claims have not yet been finally determined. While formally temporary, this category is legally significant: asylum seekers are

[11] Zimmermann A., Einarsen T. (eds.), Herrmannn F. M. (assist. ed.). The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. A Commentary, 2nd edition. Oxford University Press, 2024, pp. 1036–1269.

[12] Raport dot. obywateli Bialorusi [Report on Belarusian citizens]. Available: https://www.gov.pl/web/udsc/raport-dot-obywateli-bialorusi [last viewed 30.01.2026].

[13] Migration Department under the Ministry of the Interior of the Republic of Lithuania. Migration Yearbook 2024. Vilnius, 2025, p. 68.

[14] Imigrantai Lietuvoje. 2025 m. rugsejo 1 d. duomenys [Immigrants in Lithuania. Data as of 1 September 2025]. Available: https://migracija.lrv.lt/public/canonical/1759209566/1460/imig-2025-09.pdf [last viewed 10.12.2025].

[15] See footnote 10.

[16] Belarus misuses counter-terrorism and anti-extremism legislation to stifle dissent: UN expert. Available: https://www.ohchr.org/en/press-releases/2023/10/belarus-misuses-counter-terrorism-and-anti-extremism-legislation-stifle [last viewed 10.12.2025].

[17] Raport na temat obywateli Bialorusi (wg stanu na 30 kwietnia 2025 r.) [Report on Belarusian citizens (as of 30 April 2025)]. Available: https://www.gov.pl/web/udsc/raport-dot-obywateli-bialorusi [last viewed 30.01.2026].

protected against refoulement during the procedure, their rights and restrictions are governed by the EU Asylum Procedures Directive[18] and Reception Conditions Directive[19]. As of today, more than 1000 citizens of Belarus are still waiting for the decision on their refugee status in Poland.[20]

d) Persons under Temporary or Humanitarian Protection Regimes
Some EU Member States, including Poland and Lithuania have granted Belarusians residence on humanitarian grounds, outside the classic asylum framework. These include: humanitarian visas, national protection statuses, tolerated stay or discretionary leave to remain. For example, pursuant to Article 348 of the Law on Foreigners, a foreign national shall be granted a residence permit in the Republic of Poland on humanitarian grounds where an obligation to return would require return solely to a state in which, within the meaning of the European Convention on Human Rights, the individual's right to life, liberty, or personal security would be endangered; the individual would face torture or inhuman or degrading treatment or punishment, forced labour, deprivation of the right to a fair trial, or punishment without a legal basis; where such return would infringe the individual's right to respect for private or family life under the same Convention; or where it would violate the rights of the child as defined in the Convention on the Rights of the Child in a manner posing a serious risk to the child's psychophysical development.[21]

e) Politically Exiled Migrants without International Protection Status
This is a distinct and legally vulnerable group consists of Belarusians who left due to political pressure, repression, or well-considered fear, but reside abroad under ordinary migration regimes (work, study, entrepreneurship). It is highly likely that the number of such individuals significantly exceeds the number of persons who have been granted asylum or other forms of international protection. According to the opinion poll of 2023 for the vast majority of Belarusians staying in Poland, constituting 86%, the main reason to leave their country was

[18] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast). OJ L 180, 29.06.2013, pp. 60–95.

[19] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). OJ L 180, 29.06.2013, pp. 96–116.

[20] W 2025 roku o ochrone miedzynarodowa w Polsce wystapilo blisko 3 tys. Bialorusinow [In 2025 nearly 3000 Belarusians applied for international protection in Poland]. Available: https://mostmedia.pl/nowosci/w-2025-roku-o-ochrone-miedzynarodowa-w-polsce-wystapilo-blisko-3-tys-bialorusinow/ [last viewed 10.12.2025].

[21] Act on Foreigners of the Republic of Poland, Dz. U. 2025 poz. 1079. Available: https://dziennikustaw.gov.pl/DU/2025/1079 [last viewed 10.12.2025].

the fear of repression.[22] According to a sociological study conducted by the National Bank of Poland in 2025, 52% of Belarusian citizens, when asked about their reasons for coming to Poland, cited political motives – namely, fear of repression.[23]

In practice, when issuing documents regulating permission to stay in the country and deciding about possible deportation, the state authorities of Lithuania and Poland face the challenge of distinguishing such individuals from labour migrants. It may be argued that an important criterion in this regard is the presence or absence of travel to the Republic of Belarus. If a person fears persecution in their country of citizenship, it is logical to assume that such a person will not seek to enter that country. Persons who obtained the status of international protection. will behave in the same way, otherwise such a right may be lost.[24]

## 2. The decree as a case study of legal and administrative hardships faced by Belarusians in exile

The Decree of the President of the Republic of Belarus No. 278 "On the Procedure of Issuing Documents and Performing Actions" was officially enacted on 6 September 2023.[25] The decree's preamble says that it is aimed at "further improving" and "optimizing" the work of diplomatic missions and consulates. In reality, one cannot but agree with the opinion of five UN Special Rapporteurs: "it is part of a deliberate policy to punish Belarusian exiles, including human rights defenders, journalists and members of the opposition for their perceived political disloyalty".[26]

Firstly, consulates will no longer issue or renew passports for citizens of the Republic of Belarus. This can now only be done within the territory of the Republic of Belarus. Belarusians in exile who wish to obtain or exchange their passports must either enter the country, exposing themselves to a real risk of torture, inhuman or degrading treatment or punishment, and denial of a fair trial,

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[22] Mazurkiewicz L., Sygnowski G. Belarusian Emigration in Poland – Opinions, Attitudes, Dilemmas. Opinion poll report for the Mieroszewski Centre. Warsaw, 2023, p. 13.

[23] Dudek B., Strzelecki P. Sytuacja zyciowa i ekonomiczna imigrantow z Bialorusi w Polsce w 2025 r. Raport z badania ankietowego. Warszawa [The life and economic situation of immigrants from Belarus in Poland in 2025. Survey report], Warsaw, 2025.

[24] O'Sullivan M. Legal Note on the Cessation of International Protection and Review of Protection Statuses in Europe. Revised note. European Council on Refugees and Exiles, April 2025. Available: https://ecre.org/wp-content/uploads/2025/04/ECRE_Legal-Note-17_Cessation-of-International-Protection-and-Review-of-Protection-Statuses-in-Europe.pdf [last viewed 23.10.2025].

[25] Decree of the President of the Republic of Belarus No. 278 "On the procedure for issuing documents and performing actions". 4 September 2023. Available: https://pravo.by/document/?guid=12551&p0=P32300278 [last viewed 10.12.2025].

[26] Belarus: Presidential decree denying consular services puts Belarusians abroad at risk. Available: https://www.ohchr.org/en/press-releases/2023/09/belarus-presidential-decree-denying-consular-services-puts-belarusians [last viewed 15.11.2025].

or be forced to refuse to obtain a passport, which entails a number of negative legal consequences. These include difficulties with legalizing their stay in the country where they live, accessing banking services, finding employment, enrolling in educational institutions, and accessing medical care. Citizens without passports lose their right to freedom of movement. Their right to enter into a number of transactions is restricted.

Secondly, the decree introduces a rule whereby a large number of documents required by citizens in their daily lives, including abroad, can only be obtained by submitting an application in person in Belarus or by their representative on the basis of a power of attorney issued in the Republic of Belarus. Such documents inter alia include duplicates of civil statute certificates, duplicates of an educational certificates and annexes to them, reference notes from the civil status records (on the civil status record, on the absence of a record of marriage etc.). The inability to obtain these documents (even through their representative) makes it extremely difficult to enrol in educational institutions or to confirm one's qualifications[27], to register a marriage, and so on. The decree carries potential risks of statelessness in the longer term not only for Belarusians in exile but also for their children born outside Belarus in a violation of their fundamental right to nationality and principle of the best interests of children.

Depriving citizens of access to consular services and turning them into de facto stateless persons is by no means a new invention. Authoritarian and totalitarian regimes learn from each other and act in similar ways. Interestingly, several similar cases involving the refusal to issue passports to citizens of Uruguay who stayed abroad due to political persecution were considered by the UN Human Rights Committee as early as in 1983.[28] In 1999 this body of international experts adopted General Comments 27, devoted to the freedom of movement, which proclaims that "the issuing of passports is normally incumbent on the State of nationality of the individual. The refusal by a State to issue a passport or prolong its validity for a national residing abroad may deprive this person of the right to leave the country of residence and to travel elsewhere. It is no justification for the State to claim that its national would be able to return to its territory without a passport"[29]. Moreover, the principle of proportionality has to be respected by the administrative and judicial authorities in applying the law. States should ensure that any proceedings relating to the exercise or restriction of these rights are expeditious and that reasons for the application of restrictive measures are provided. One can

[27] Briefing: Belarusian Students in Exile: Challenges and Solutions for advocacy. 24 June 2024. European Students' Union, pp. 2–3. Available: https://esu-online.org/briefing-belarusian-students-in-exile-2024/ [last viewed 03.08.2025].

[28] See, for example: UN HRC. Communication No. 77/1980, Samuel Lichtensztejn v. Uruguay. 31 March 1983. GAOR 38th Session Supp 40, 166; UN HRC Communication No. 106/1981, Pereira Montero v. Uruguay, 31 March 1983. GAOR 38th Session Supp 40, 186; UN HRC Communication No. 108/1981, Varel Nunez v. Uruguay, 22 July 1983. GAOR 38th Session Supp 40, 225.

[29] Human Rights Committee, General Comment 27, Freedom of movement (Art. 12), U.N. Doc CCPR/C/21/Rev.1/Add.9 (1999).

evaluate independently whether the reasons provided by Belarusian authorities are persuasive: they claim that "Belarus had been forced to scale down foreign consular operations due to economic pressure placed on it by Western countries".[30]

Due to their geographical location, Poland and Lithuania have become the countries that have accepted the largest number of Belarusians persecuted for participating in peaceful protests. These states have taken a number of legal measures that have significantly facilitated the process of legalising refugees and have become a response to the Belarusian authorities' policy of refusing consular services to their own citizens. Both countries introduced and expanded the issuance of national humanitarian visas (type D) to Belarusian citizens fleeing political repression. In Poland, humanitarian visas were issued on the basis of Article 60(1)(23) of the Act of 12 December 2013 on Foreigners, which allows entry and stay where required by the interest of the Republic of Poland or international obligations, and were operationalised by decisions of the Minister of Foreign Affairs and consular practice.[31] In August 2020, the Lithuanian government opened a so-called humanitarian corridor for Belarusians in risk. They were given a Schengen visa and once in Lithuania, were able to apply for asylum or for a national visa that allows them to work.[32] These regimes provided Belarusians with a lawful entry channel and constituted the primary legal gateway to subsequent residence permits and protection mechanisms in both states. In 2023, Lithuanian Parliament adopted an amendment to the Law on the Legal Status of Foreigners that permits the issuance of temporary residence permits valid for three years for persons under specific humanitarian grounds (including those persecuted for political reasons).[33] At the same time, Poland adopted legal norms according to which Belarusian citizens may apply for a Polish travel document for foreigners under preferential conditions. They are exempt from the fee for the issuance thereof and they do not have to prove that they cannot obtain a passport from the Belarusian consulate (which is normally a requirement).[34]

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[30] Experts of the Committee on the Elimination of Racial Discrimination Welcome Belarus' Strategies to Promote Interethnic Peace, Ask About the Stripping of Citizens' Nationality and the Dissolution of Ethnic Minority Associations. Available: https://www.ungeneva.org/en/news-media/meeting-summary/2024/08/experts-committee-elimination-racial-discrimination-welcome [last viewed 11.01.2026].

[31] See footnote 21.

[32] Lithuania grants 507 visas to Belarusians fleeing repressions. Available: https://www.lrt.lt/en/news-in-english/19/1258023/lithuania-grants-507-visas-to-belarusians-fleeing-repressions#:~:text=Lithuania%20has%20granted%20a%20total,requests%20at%20a%20border%20checkpoint [last viewed 11.01.2026].

[33] Amendments to the Law on the Legal Status of Foreigners. Lithuania. Available: https://www.e-tar.lt/portal/en/legalAct/26bb8760a62c11eea5a28c81c82193a8 [last viewed 11.01.2026].

[34] Regulation of the Minister of Internal Affairs and Administration of 28 June 2023 on nationalities whose holders are entitled to apply for a Polish travel document for a foreigner under the conditions specified in Article 252a(1) of the Act on Foreigners. Available: https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20230001247 [last viewed 14.01.2026].

## Conclusions

In order to improve the legal and factual situation of Belarusians in exile it is proposed:

1) to amend Art. 253(2) of the Polish Act on Foreigners by extending the validity period of the Polish travel document for a foreigner from one year to at least three years; in this context, it would be advisable to take into account the best practices of the Republic of Lithuania, where persons holding a residence permit who are unable to obtain a travel document from their country of nationality are issued a Lithuanian travel document for the entire period of validity of their residence permit;[35]
2) to amend the Polish Act on Foreigners by introducing an explicit provision recognizing the travel document for a foreigner as a document certifying the identity of a foreigner, which may therefore be used for all administrative and private-law purposes;
3) alternatively, to introduce a uniform administrative practice allowing expired Belarusian passports, when presented together with a valid residence permit, to be accepted as sufficient proof of identity;
4) to implement the recommendations of the Parliamentary Assembly of the Council of Europe contained in Resolution 2499 (2023), as well as the related instruments elaborated by the Congress of Local and Regional Authorities of the Council of Europe.[36]

At the same time prior to the issuance of residence permits, Polish and Lithuanian authorities should conduct clear, reliable, and proportionate security assessments of Belarusian citizens based on the evaluation of the applicant's political activities, professional history, and any connections to Belarusian repressive structures. In this regard independent evidence provided by human rights organisations, civil society actors, or international NGOs monitoring political persecution in Belarus is of particular importance.

[35] I want to get a travel document. Foreign passport. Available: https://www.migracija.lt/noriu-gauti-kelion%C4%97s-dokument%C4%85 [last viewed 14.01.2026].

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