

# Homeless People and the Right to Housing in Belarus



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This report was prepared by the Belarusian Helsinki Committee in collaboration with Human Constanta (Belarus) and Libereco – Partnership for Human Rights (Switzerland). The initiative aims to study and draw attention to the problems experienced by homeless people in Belarus in order to improve their condition and call for the fulfilment of their rights.

# Introduction

Homelessness is the most visible and extreme violation of the right to adequate housing. A lack of adequate housing is a factor contributing to the vulnerability of homeless people, and often leads to the violation of their rights to life, freedom from discrimination, health, work, privacy, and freedom from cruel or degrading treatment.

The goal of this report is to analyze state policies and mechanisms that offer assistance to homeless people in Belarus from the perspective of everyone's right to adequate housing. This report also presents the problems which homeless people encounter when engaging with these mechanisms – problems which impede the full realization of their rights, or which directly violate them. These issues are addressed within the first and second parts of the report, respectively.

This report is based on a study of Belarusian legislation which directly or indirectly affects the realization of homeless people's rights, relevant publications in mass media, other secondary sources of information, as well as interviews with people who identified themselves as homeless. Semi-structured interviews with homeless people took place between November 2018 and January 2019, and were conducted individually in locations where homeless people receive support in Minsk and in two regional cities in Belarus. Interviews were conducted with 20 individuals experiencing varying levels of economic and housing deprivation. The unwillingness of many community organizations and initiatives to provide access to their facilities served as one of the main reasons for the low number of homeless people interviewed. Quoted individuals' names and places of residence are not disclosed in this report in order to protect their privacy and safety.

The author thanks the organizations and initiatives who supported the development of this report by providing access to locations where homeless people receive assistance.

# Conclusions

**State mechanisms of assistance to the homeless** are primarily limited to the activities of temporary shelters and periodic assistance activities. No special state programs or plans to take measures to prevent and reduce homelessness have been adopted. Issues of providing (or not providing) any assistance to the homeless are within the competence of the local executive bodies, which does not guarantee equal access to and regularity of assistance provided.

The result of the lack of a policy on homelessness is that **reliable statistics on the scale of the problem are not available**, which contributes to the neglect of the problem by the state social policy.

The existing **methods of collecting statistical data** on the number of people exposed to homelessness are inadequate and do not reflect the extent of the problem correctly. First, the definition of homelessness used in the population census **is based on a narrow view of homelessness** as “lack of permanent residence” and excludes from this category people living in non-residential premises, as well as a wider range of people without adequate housing. Second, much of the information collected during the registration of the homeless at their place of stay is mistakenly not considered a source of statistical information, is not published and is probably not taken into account when taking measures affecting the homeless.

The notion that the scale of the problem of homelessness in Belarus is insignificant is supported by **negative stereotypes about homeless people, whose image is based on the choice of life on the street**. The consequence of such a perception is a wide recognition of the lack of necessity to take measures aimed at the realization of the right to housing by homeless people. The most typical way of stigmatizing homeless people is the use of the term which refers only to negative characteristics, but not reflecting social and economic deprivation that follows the loss of housing. In addition to the use of such language in the media, similar perceptions of homelessness are reflected in regulatory acts directly affecting homeless people.

**The problem of homelessness is widespread among people who have served their prison sentences.**

Homelessness prevention measures adequately addressing the severity of the problem for this category of people have not been developed and implemented.

A further effect of the lack of a comprehensive public policy on homelessness is the **persecution of selected initiatives that provide assistance to the homeless**, but are not seen as a possible mechanism to reduce the problems faced by homeless people. Such practices not only violate the rights of the activists from the initiatives, but also the international legal obligation of the state to respect the enjoyment of economic and social rights by everyone, which requires that they not be impeded when being realized.

**The requirement to pay for services, such as registration at their place of stay and re-issuing of documents,** does not take into account the serious financial difficulties faced by homeless people. Payment for such services is in fact an obstacle to the exercise of certain rights, the exercise of which is impossible without identity documents and registration documents.

**The practices of restricting access to public places for the homeless** is not only a discriminatory measure, but also directly endangers their lives and health. While denying access to public places at night risks forcing homeless people to spend the night on the street or in a less secure place, the illegal practice of “cleaning” the streets of homeless people through informal detention and subsequent removal outside the city is a direct threat to their health and safety.

**Temporary shelters** are the main instrument of the state policy addressing the problem of homelessness, **but access to overnight accommodation in them is aggravated by a number of restrictive factors.** The need for registration in the city where the shelters are located not only restricts their accessibility, but also deprives people living in cities with no shelters of access to existing shelters. Restrictions on the maximum duration of stay in the shelters carries the risk of arbitrary refusal of accommodation for people who were unable to find housing during their stay in the shelter. The requirement that people living in shelters should not consume alcohol makes the availability of accommodation dependent on whether or not a homeless person has an alcohol dependency.

**The policy aimed at providing housing to those in need of social protection** does not take into account the homeless, i.e. the group whose main characteristic is the *lack of adequate housing*. Statutory regulation of the procedures for obtaining social and commercial housing proceeds from the prioritization of groups on the basis of the need for adequate housing, but such prioritization does not take into account their financial situation, the actual level of need or structural factors of vulnerability in access to housing.

Grounds for **eviction without the provision of other types of housing** from dormitories and rental apartments in public housing often arise in situations related to the difficult financial situation of the evictees and where the loss of housing carries a high risk of homelessness.

In parallel with the legal requirement for evictions to be carried out only in pursuance of a court decision, the lack of access to qualified legal aid and the admissibility of evictions ordered in absentia significantly limit the right of the evictees to **access justice and a fair trial.**



# Recommendations

## General recommendations

- Adopt a public program for the prevention, reduction and mitigation of homelessness based on a human rights-based approach to housing strategies, and in pursuance of the Sustainable Development Goals (“Key principles of a rights-based housing strategy”<sup>1</sup>).
- Review existing methods and practices for the collection of homelessness statistics with a view to adopting an approach based on an adequate definition of homelessness and taking into account all relevant data collected.
- Take measures to combat discrimination, stigmatization and negative stereotyping of homeless people.
- Stop persecution of initiatives that provide assistance to the homeless, and conduct effective and impartial investigations into those involved in such persecutions. Encourage the practice of supporting organizations and initiatives that provide assistance to homeless people.

## Gross violations of the rights of the homeless

- Take measures to prevent the unfounded restriction of access of homeless people to public places.
- Prevent the repetition of mass arrests, administrative arrests and removal of homeless people from the city in connection with the 2019 European Games in Minsk.
- Carry out effective and impartial investigations into those involved in the practice of removing homeless people out of the cities.

## Realization of the right to housing and temporary shelter by homeless people

- Revise the rules of registration at the place of stay and restoration of lost documents in order to remove the existing financial barriers for the homeless.
- Develop an effective mechanism for the realization of the right to social housing by the homeless.
- Revise the rules for granting and maintaining access to temporary shelters with a view to removing restrictions that impede or limit such access. Take measures to ensure the right to shelter for all homeless people, regardless of whether they have an alcohol dependency or not.

## Eviction with no provision of alternative housing

- Take measures to prevent evictions that result in homelessness of the evicted.
- Take measures to remove the normative and economic barriers impeding the right to access to justice and fair trial for those evicted from housing.

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1 *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, A/HRC/37/53, p. 5*

# 1. State policy on homelessness

**The right to adequate housing** and the corresponding obligation of states to take measures to guarantee the enjoyment of this right by everyone is enshrined in a number of rules of international human rights law<sup>2</sup>, central to which is the norm in paragraph 1 of Article 11 of the International Covenant on Economic, Social and Cultural Rights ratified by Belarus in 1973<sup>3</sup>. The International Covenant sets out the minimum core obligation of each of the States Parties to it to ensure all rights, at least at a minimum level. Thus, in the absence of basic shelter and housing for a large group of people, the State is obliged to make every effort and use all available resources to meet the minimum obligations for the realization of the right to housing<sup>4</sup>.

Other obligations of the State with regard to homelessness include:

- an immediate obligation to adopt and implement strategies to eliminate homelessness. These strategies must contain clear goals and timelines and must set out the responsibilities of agencies of State administration for the implementation of such measures, in consultation with and with participation by homeless people. The effectiveness of such strategies directly depends on the availability and reliability of statistics on the number of people without permanent housing<sup>5</sup>;
- an immediate obligation to combat discrimination, stigma and negative stereotyping of homeless people and provide legal protection from discrimination because of social and economic situation;
- forced evictions should never render individuals homeless. The prohibition of evictions leading to homelessness is immediate, absolute and is not subject to available resources;
- forced evictions without full consultation with those affected is a violation of international human rights. The obligation to explore every alternative to eviction in consultation with those affected, never to evict into homelessness and to ensure that residents are adequately consulted about resettlement plans should be enshrined in national legislation and applied to both private and public land or property owners. The State must take all appropriate measures, to the maximum of available resources and in case such a need arises, to ensure that adequate alternative housing or resettlement is available;
- an immediate obligation to ensure that every decision or policy is consistent with the goal of the elimination of homelessness. Any decision that results in homelessness must be regarded

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2 Universal Declaration of Human Rights (1948), art. 25(1); Convention on the Rights of the Child (1989), art. 27(3); Convention on the Elimination of All Forms of Discrimination against Women (1979), art. 14(2)(h); International Convention on the Elimination of All Forms of Racial Discrimination (1965), art. 5(e); see generally, OHCHR, *The Right to Adequate Housing*, [https://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

3 Ukaz Prezidiuma Verkhovnogo Soveta Respubliki Belarus' (05.10.1973) "O ratifikatsii Mezhdunarodnogo pakta ob ekonomicheskikh, sotsialnykh i kulturnykh pravakh i Mezhdunarodnogo pakta o grazhdanskikh i politicheskikh pravakh"

4 Committee on Economic, Social and Cultural Rights, *General comment No. 3: The nature of States parties obligations (Art. 2, par. 1)*, [https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1\\_Global/INT\\_CESCR\\_GEC\\_4758\\_E.doc](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_GEC_4758_E.doc), para. 10

5 See generally, UN-HABITAT & OHCHR, *Monitoring housing rights. Developing a set of indicators to monitor the full and progressive realisation of the human right to adequate housing*, <http://mirror.unhabitat.org/documents/Monitoring-Housing-Rights.pdf>

as unacceptable and contrary to human rights. State policy and planning must apply the maximum of available resources, including unused or vacant lands and housing units, with a view to ensuring access to land and housing for marginalized groups;

- an obligation to apply all necessary legal rules and engage with non-State actors so as to ensure that all of their actions and decisions by the latter are in accordance with the right to adequate housing and the prevention and amelioration of homelessness. Regulation of private actors should include requirements on developers and investors to address homelessness and work in partnership to provide affordable housing in all developments;
- an obligation to ensure equal access to remedies to homelessness, including enforcement of obligations linked to the progressive realization of the right to housing and the elimination of homelessness<sup>6</sup>.

In **Belarus**, a state policy to overcome homelessness has not been developed, the existing regulatory and policy acts do not provide for any coordinated measures with regard to the problem<sup>7</sup>.

## 1.1 Existing support tools for the homeless

The main instrument of the state policy in Belarus on homelessness is the temporary shelters (houses) operating in Minsk, three regional centers and some large cities<sup>8</sup>. Their establishment, functioning and financing lie within the cognizance of the respective city executive committees<sup>9</sup>, which does not guarantee their universal accessibility and equal access to the assistance they provide. The establishment of shelters is not mandatory in the strict sense of the word – the master plans of some regional cities provide only for the “further development of social services provided by State organizations and their structural units through the formation of a network of social service facilities”, which include, among others, temporary shelters<sup>10</sup>. Thus, for example, plans to establish a temporary shelter in Gomel were announced in 2011<sup>11</sup> and were envisaged in the city’s master plan in 2016<sup>12</sup>. However, they were never

6 Here and above, see *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/31/54, para. 49

7 Social issues addressed by public programs include, for example, the promotion of employment (including for specific groups), the prevention of disability, and the social inclusion of older citizens and persons with disabilities; see Postanovlenie Soveta Ministrov Respubliki Belarus N 73 (30.01.2016, revised 13.09.2017) “Ob utverzhdenii Gosudarstvennoj programmy o sotsialnoj zashchite i sodejstvii zaniatosti naseleniia na 2016 - 2020 gody”

8 State-run shelters operate in Vitebsk, Mogilev, Grodno, Lida, Orsha, Bobruisk and Soligorsk. In March 2019, the opening of centers in Borisov and Molodechno was reported, see <https://ex-press.by/rubrics/novosti-borisova/2019/03/19/v-borisove-nachal-rabotu-centra-nochnogo-prebyvaniya-dlya-bomzhej>, <https://news.tut.by/society/631906.html>

9 See, e.g., Ustav gosudarstvennogo uchrezhdeniia “Vitebskij gorodskoj tsentr vremennogo (nochnogo) prebyvaniia lits bez opredelennogo mesta zhitelstva”, art. 21; Ustav gosudarstvennogo uchrezhdeniia “Dom nochnogo prebyvaniia lits bez opredelennogo mesta zhitelstva”, art. 4. Henceforward charters of temporary shelters referred to are limited to those of Minsk and Vitebsk shelters due to the lack of public access to the charters of other shelters.

10 See Ukaz Prezidenta Respubliki Belarus N 332 (28.07.2003, revised 20.04.2017) “Ob utverzhdenii generalnykh planov gorodov Bresta, Vitebska, Gomelia, Grodno i Mogileva”, “Generalnyj plan goroda Gomelia” and “Generalnyj plan goroda Mogileva”, cl. 2.3

11 [https://belapan.by/archive/2012/12/07/media\\_bomzhi](https://belapan.by/archive/2012/12/07/media_bomzhi); <https://news.tut.by/society/233669.html>; <https://gomel.today/rus/news/gomel/11941/>; in 2012, about 100 homeless people were reported to be registered in Gomel, see <https://gomel.today/rus/news/gomel/17388/>

12 Ukaz Prezidenta Respubliki Belarus N 332 (28.07.2003, revised 20.04.2017) “Ob utverzhdenii generalnykh planov gorodov Bresta, Vitebska,



implemented, which, in the absence of other specialized assistance mechanisms, completely deprived the homeless, whether registered in or being long-term residents of the city, of support<sup>13</sup>. In November 2018, it was reported that a decision was taken to donate a building in Gomel to the regional organization of the Belarusian Red Cross Society for the purpose of establishing a shelter for the homeless<sup>14</sup>; the shelter started operating at the end of 2018<sup>15</sup>. Brest remains a regional city without any shelter for the homeless - according to the estimates of a relevant organization, at least two hundred people living in the city need help<sup>16</sup>.

Temporary shelters not only provide overnight accommodation, but also offer basic administrative assistance to expand possibilities for the homeless. The types of support offered include: assistance in obtaining or restoring documents; medical examinations to establish disability status; if necessary, placement into health care facilities and social services; and assistance in finding a job<sup>17</sup>.

Support measures that are offered outside of temporary shelters are for the most part intermittent, and take place in the form of “campaigns”, in which homeless people are provided with food and clothing<sup>18</sup>, basic medical examinations<sup>19</sup>, and warm clothing in winter<sup>20</sup>. In parallel with providing assistance during such campaign events, police officers “identify” homeless people, screen them for criminal involvement, and place them on a preventive registry<sup>21</sup>. Several of the activities which take place include the “removal” of homeless people “from the territories of cities and towns”<sup>22</sup>. Part of the campaigns also includes disseminating information about the possibility of receiving assistance in overnight shelters for the homeless<sup>23</sup>.

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Gomelia, Grodno i Mogileva”, “Generalnyj plan goroda Gomelia”, cl. 2.3

- 13 See, e.g., <https://naviny.by/article/20170708/1499505607-sudba-cheloveka-v-gomele-ni-odna-sluzhba-ne-hochet-zanimatsya-bezdomnym>; see also reports about plans to open a shelter in Novopolotsk in 2015, <http://news.21.by/regional-news/2015/05/21/1083649.html>; <https://www.belta.by/regions/view/tsentr-vremennogo-preby»anija-lits-bez-opredelennogo-mesta-zhitelstva-otkrylsja-v-vitebske-137053-2010>; Reshenie Novopolotskogo gorodskogo Soveta deputatov ot N 189 (31.01.2013) “Ob utverzhdenii Investitsionnoj programmy goroda Novopolotska na 2013 god”, cl. 12
- 14 <http://belkagomel.by/2018/10/19/v-gomele-otkroyut-krizisnyj-centr-dlya-lyudej-okazavshixsya-v-trudnoj-zhiznennoj-situacii/>
- 15 <https://redcross.by/en/v-gomele-otkroetsya-krizisnyj-tsentr-belorusskogo-krasnogo-kresta/>
- 16 <https://web.archive.org/web/20190221170512/https://miloserdiebrest.wixsite.com/mysite/avtobus-miloserdiya>; see also [https://vb.by/society/people/avtovokzal\\_bomzh.html](https://vb.by/society/people/avtovokzal_bomzh.html); <https://1reg.by/2018/09/06/nuzhen-lityisyacheletnemu-brestu-priyut-dlya-bezdomnyih-lyudej/>; <https://natatnik.by/bezdomnym-v-breste-nuzhna-nochlezhka>
- 17 Ustav Vitebskogo tsentra, art. 9; Ustav Minskogo tsentra, art. 2.2 (supra note 9)
- 18 <https://www.sb.by/articles/v-gomele-bezdomnykh-pomyli-postrigli-i-obsledovali.html>; <https://www.sb.by/articles/neuzhto-prav-starik-goratsiy.html>; see also, e.g., Postanovlenie Soveta Ministrov Respubliki Belarus N 430 (06.06.2018) “O podgotovke k rabote v osenne-zimnij period 2018/2019 goda”, cl. 7.5
- 19 [https://naviny.by/rubrics/society/2007/11/30/ic\\_news\\_116\\_281375](https://naviny.by/rubrics/society/2007/11/30/ic_news_116_281375); <https://minsk.gov.by/ru/news/new/2016/11/16/6908/>
- 20 <https://news.tut.by/society/526653.html?crnd=62633>; <https://www.kp.by/daily/26005.4/2930829/>; e.g., Reshenie Minskogo gorodskogo Soveta deputatov N 132 (23.09.2004, revised 16.06.2005) “O predostavlenii adresnoj sotsialnoj pomoshchi otdelnym kategoriiam zhitelej goroda Minska na 2004 - 2005 gody”, “Meropriiatiia po adresnoj sotsialnoj pomoshchi otdelnym kategoriiam zhitelej goroda Minska na 2004 - 2005 gody”, cl. 7
- 21 [https://naviny.by/rubrics/society/2007/11/30/ic\\_news\\_116\\_281375](https://naviny.by/rubrics/society/2007/11/30/ic_news_116_281375); <https://www.sb.by/articles/v-gomele-bezdomnykh-pomyli-postrigli-i-obsledovali.html>
- 22 <http://uvd.brest.gov.by/news/4499/>; <http://www.nashkraj.by/2015/11/v-baranovichax-provedut-kompleks-profilakticheskix-meropriyatij-s-licami-bez-opredelennogo-mesta-zhitelstva/>
- 23 E.g., [http://komtrud.minsk.gov.by/news/detail.php?ID=923&sphrase\\_id=7411](http://komtrud.minsk.gov.by/news/detail.php?ID=923&sphrase_id=7411)

## 1.2 Statistics on homelessness in Belarus

The collection of statistics on the number of homeless people in Belarus is characterized by the lack of a systematic approach - some state bodies collect information for their own purposes and only periodically announce the respective figures. The inadequacy of this approach for the purpose of collecting reliable information on the real level of the problem is reflected in the significant difference between the data provided on the number of homeless people. Thus, according to the 2009 population census, only 587 people were homeless<sup>24</sup>; at the same time, the Central Internal Affairs Department of the Minsk Municipal Executive Committee reported more than 500 homeless people held under administrative detention in 2008<sup>25</sup>. In 2013, the head of the Ministry of Labor and Social Protection reported the registration of 4,000 homeless people<sup>26</sup>. Data on the number of homeless people registered at night shelters are also inconsistent with other sources of information: in 2014, 65 homeless people were registered in Minsk, while the statistics of internal affairs agencies counted around 500 people<sup>27</sup>. In 2015, it was reported that 320 people were registered at a homeless shelter in Minsk<sup>28</sup> and 1600 inquiries were made<sup>29</sup>. Another source of data is the number of requests for assistance by homeless people during periodic social actions. For example, it was reported that 823 homeless people in Minsk received assistance from the period of December 2014 to March 2015<sup>30</sup>; a similar number of people receiving assistance was reported in winter 2018<sup>31</sup>.

Current registration guidelines provide for the ongoing collection of data on the number of homeless people who have registered at their places of stay. Registration is carried out in places established at the district<sup>32</sup> and city levels<sup>33</sup>, and corresponding data on registered homeless people are transmitted to the municipal and regional agencies of internal affairs<sup>34</sup>. Although it represents a possible way to partially collect data on the number of homeless people<sup>35</sup>, public agencies do not consider it as a source of statistical data. According to the deputy head of the

24 National Statistical Committee of the Republic of Belarus, *Population Census 2009. Number and Composition of Households in the Republic of Belarus. Housing Arrangements of Households, Vol. 5 part 2*, [http://www.belstat.gov.by/informatsiya-dlya-respondenta/perepis-naseleniya/perepis-naseleniya-2009-goda/statisticheskie-publikatsii/statisticheskie-sborniki\\_2/index\\_536/](http://www.belstat.gov.by/informatsiya-dlya-respondenta/perepis-naseleniya/perepis-naseleniya-2009-goda/statisticheskie-publikatsii/statisticheskie-sborniki_2/index_536/), p. 179. Most likely, this method of collecting data on the number of homeless people will be used in the future, see Belstat, *Dorozhnaia karta Natsionalnogo statisticheskogo komiteta Respubliki Belarus po razrabotke statistiki po Tseliam ustojchivogo razvitiia*, [http://www.belstat.gov.by/upload-belstat/upload-belstat-image/SDG/Road\\_map\\_ru.pdf](http://www.belstat.gov.by/upload-belstat/upload-belstat-image/SDG/Road_map_ru.pdf), p. 70

25 <https://news.tut.by/society/126043.html>

26 [http://president.gov.by/ru/news\\_ru/view/press-konferentsija-belorusskim-i-zarubezhnym-sredstvam-massovoj-informatsii-5791/](http://president.gov.by/ru/news_ru/view/press-konferentsija-belorusskim-i-zarubezhnym-sredstvam-massovoj-informatsii-5791/)

27 <http://mk.by/2014/11/14/113530/>

28 <https://www.sb.by/articles/byt-bez-vidov-na-zhitelstvo.html>

29 <http://www.belta.by/regions/view/sotsialnyj-patruul-okazhet-pomosch-bezdomnym-v-minske-219441-2016/>

30 <https://minsknews.by/sotsialnyj-patruul-speshit-na-pomosch-v-stolitse-razvernulis-spetspunktyi-dlya-bezdomnyih/>

31 <http://www.belta.by/regions/view/sotsialnyj-patruul-v-minske-zimoi-okazal-pomosch-pochti-900-bezdomnym-294897-2018/>

32 See, e.g., Reshenie Bobrujskogo rajonnogo ispolnitelnogo komiteta ot 07.10.2016 N 28-18 "Ob opredelenii mest dlia registratsii lits bez opredelennogo mesta zhitelstva na territorii Bobrujskogo rajona"

33 See, e.g., Reshenie Zhodinskogo gorodskogo ispolnitelnogo komiteta N 686 (29.04.2011, revised 16.12.2011) "Ob opredelenii mesta registratsii lits bez opredelennogo mesta zhitelstva"

34 Polozhenie o poriadke registratsii i vedenii registratsionnogo ucheta lits bez opredelennogo mesta zhitelstva, utverzhdennoe Postanovleniem Soveta Ministrov Respubliki Belarus N 1225 (23.08.2010, revised 01.09.2011), cl. 12

35 See, e.g., Economic Commission for Europe, *Enumeration of Homeless People. Counting homeless people in the 2010 census round: use of enumeration and register-based methods*, ECE/CES/GE.41/2009/7, p. 23-30

Directorate for Law Enforcement and Crime Prevention at the Main Department of the Ministry for the Interior of the Minsk City Executive Committee, the police do not collect statistics on homeless people, but register them in a “list” order<sup>36</sup>.

Thus, existing practices of collecting information on the number of homeless people indicate that there is no uniform policy on homelessness, which helps to ignore the problem as such. The result of this approach is that individual government agencies collect only partial information on the scale of the homelessness problem and only for the purposes relevant to them, and that there is no uniform definition of homelessness for statistical purposes.

In the context of the population census, homelessness is only indirectly defined, with the absence of a permanent place of residence serving as the sole indicator<sup>37</sup>. In doing so, people who live in non-residential premises (for example garages or sheds) and residential premises not intended for inhabitation, are recorded separately, not as homeless<sup>38</sup>. The criterion of the “absence of a permanent place of residence” does not have a more detailed definition. Taking into account the separate category of people living in non-residential premises, it can be assumed that the “absence of a permanent place of residence” means the complete absence of any dwelling, since otherwise this person would be recorded as living in a non-residential premises – according to 2009 census data, 1022 people belonged to this category<sup>39</sup>.

This approach to defining homelessness ignores the wider spectrum of people who encounter problems with a lack of adequate housing – for example, those who are living in shelters for the homeless or who are temporarily living with family in the absence of permanent housing, and those often moving from various residences. Including such categories of people in the definition of homelessness more accurately reflects the social exclusion and the lack of adequate and permanent shelter that is experienced not only by people who are forced to live on the streets. These categories of people can be included under the definition of secondary homelessness. Meanwhile, people living on the streets without any shelter which would fall under the category of a residential premises, are included in the category of primary homelessness<sup>40</sup>. Other existing definitions of homelessness focus on a lack of minimally adequate housing, where “adequate” encompasses: the guaranteed right against arbitrary eviction, the physical quality of the accommodations, and the opportunity to enjoy social relations there<sup>41</sup>; the inaccessibility of adequate housing and living in a place that is below a minimum adequacy standard<sup>42</sup>; and living situations

36 <https://minsknews.by/aktsiya-sotsialnyiy-patru-l-nachnetsya-v-minske-v-noyabre-i-prodlitsya-do-seredinyi-marta/>; see also <http://www.mogved.by/obshchestvo/4870>; [https://naviny.by/rubrics/society/2009/01/09/ic\\_articles\\_116\\_160670](https://naviny.by/rubrics/society/2009/01/09/ic_articles_116_160670)

37 Postanovlenie Ministerstva statistiki i analiza Respubliki Belarus N 129 (29.08.2008) “Ob utverzhdenii form perepisnogo lista i otdelnykh form perepisnoj dokumentatsii i ukazaniy po ikh zapolneniiu”, cl. 15, 28, 39

38 Ibid., cl. 20.1

39 Population Census 2009 (supra note 24), p. 179

40 United Nations Department of Economic and Social Affairs, *Principles and Recommendations for Population and Housing Censuses*, ST/ESA/STAT/SER/M/67/Rev.2, para. 1.452

41 Volker Busch-Geertsema, Dennis P Culhane, Suzanne Fitzpatrick, *A Global Framework for Understanding and Measuring Homelessness*, pp. 6-7

42 Kate Amore, Michael Baker, Philippa Howden-Chapman, *The ETHOS Definition and Classification of Homelessness: An Analysis*, European Journal of Homelessness, Vol. 5, No. 2, p. 32

where the standard of adequacy is related to the concept of having a home – a standard consisting of physical, legal, and social domains, in which the lack of one or several domains is classified as homelessness or housing exclusion<sup>43</sup>.

A correct definition of homelessness should take into account existing cultural conceptions of the “absence of housing” and “adequate housing”<sup>44</sup>, and also reflect existing social characteristics of homelessness which lead to the stigmatization and discrimination of homeless people as a distinct social group<sup>45</sup>. The lack of an adequate definition for statistical purposes is a reason for the inability to collect data realistically reflecting the extent of the problem, which, in turn, hinders the development and adoption of measures aimed at reducing the severity and solving the problem. Moreover, without an adequate definition of homelessness, it is more likely that the topic will continue to remain taboo and neglected in the future. An inadequate definition of homelessness clearly affects the accuracy of information that is collected, which prevents accurate assessments of the scope and need for policy measures.

## 1.3 The stigmatization of homeless people

The lack of a policy on the problem also contributes to the persistence of the perception that the scale of the homelessness problem in Belarus is insignificant, as well as to an image of the homeless based on the notion that they do not accept help because of their conscious decision to live on the street. Broadcasting these stereotyped portrayals shifts the focus from the inadequacy, inaccessibility, and inefficacy of existing support mechanisms to the lack of homeless people’s desire to seek assistance. Thus, for example, vacant places in the Minsk temporary shelter were explained by the unwillingness of homeless people to follow the rules of residence there<sup>46</sup>, and the assistance provided by the shelter and charitable organizations is presented as a “spoiling” of homeless people resulting in them losing the ability to care for themselves<sup>47</sup>.

Such an approach to presenting the problem clearly contributes to the further stigmatization of the homeless. Its most characteristic and widespread element is the usage of the Russian term *bomzh*, [equivalent to “hobo” in English], originally used as an acronym to refer to persons “without a specific place of residence” [in Russian: *bez opredelennogo mesta zhitelstva*], without grammatical declensions<sup>48</sup>,

43 European Observatory on Homelessness, *Review of Statistics on Homelessness in Europe*, <https://www.feantsaresearch.org/download/6-20098376003316223505933.pdf>, pp. 15-16

44 Principles and Recommendations for Population and Housing Censuses (supra note 40), para. 1.452

45 Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (supra note 6), paras. 15-27

46 See <https://www.sb.by/articles/pravo-na-novuyu-zhizn.html>; the number (or lack) of available places is often noted in publications on homelessness, see [https://naviny.by/rubrics/society/2011/01/21/ic\\_articles\\_116\\_172153](https://naviny.by/rubrics/society/2011/01/21/ic_articles_116_172153); <http://kyky.org/pain/gordye-bezdomnye-lyudi-kak-horonyat-bomzhey>; <https://www.belta.by/regions/view/reportazh-ih-adres-ne-dom-prosto-ulitsa-kak-ustroena-zhizn-bomzhej-v-minske-61075-2014>; <http://belsemi.by/archive/article/66492>; <http://www.belarus-mtz.by/mesta-naydutsya-dlya-vseh.html>; <http://belchas.by/news/gospodin-nikto-kak-naiti-rabotu-bezdomnomu.html>

47 <https://realt.onliner.by/2014/01/23/bomzh-2>; see also <http://belchas.by/news/gospodin-nikto-kak-naiti-rabotu-bezdomnomu.html>

48 When the word was only used as an acronym, a homeless person was meant to be referred to as “*bomzh* person”, i.e. a “person without a

but which has since become commonly used<sup>49</sup>. The term is clearly derogatory in nature and implies negative characteristics, including, at the very least, criminality and alcoholism. Using this term extends the prevailing negative “*bomzh*” stereotype to all people who do not have a permanent home or who are forced to live on the street<sup>50</sup>.

The term effectively distances the concept of “home” – an essential good for everyone<sup>51</sup> – from the social group of *bomzhi* [plural of *bomzh*]. In the stereotyped perception of this group, a lack of housing is not considered to be problematic, and therefore societal intervention, such as, at a minimum, the unconditional provision of a safe and adequate place to sleep, is not required. In this way, society’s perception of the right to housing directly excludes those who are in particularly dire need of its guarantee. The broader understanding of this problem does not focus on its scale or on the existence of structural factors leading to homelessness, but rather on the presence and visibility of homeless people in public spaces<sup>52</sup>.

The terms *bomzh* and “persons without a specific place of residence” are also used in regulatory documents. The definition used in the version of the Act on the Principles of Action to Prevent Criminal Offences, which was in force until 2014, is indicative of the social characteristics which are ascribed to “persons without a specific place of residence” – a category which only includes people without housing, who have also lost social and familial ties and who evade work, including by engaging in “vagrancy and/or begging and/or people who are existing at the expense of other incidental sources”<sup>53</sup>. The current Act on the Principles of Action to Prevent Criminal Offences does not contain a definition of “persons without a specific place of residence,” and does not allocate them to a separate category requiring specific crime prevention measures<sup>54</sup>. However, a similar definition of “persons without a specific place of residence” continues to be used in a regulatory act governing the registration of the homeless<sup>55</sup>. Prior to its adoption, the term had been defined in registration guidelines issued by district authorities, which were generally not based on the stigmatizing social characteristics of homeless people and more adequately reflected the correct definition of homelessness as a lack of residence and living on the

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specific place of residence”. The current usage of the word “*bomzh*” does not serve a descriptive function of one’s deprivation of housing, but is used as a noun referring to the homeless. The word also has a separate female form, and, subject to respective adjustments, is used as a verb and adjective (e.g. *bomzhevat’* – to be homeless, *bomzhevatiy* – looking homeless)

49 The emergence of the term is usually attributed to Soviet police records, see, e.g., Tova Höjdestrand, *Needed by Nobody. Homelessness and Humanness in Post-Socialist Russia*, pp. 4-5; E. Vereshchagin, V. Kostomarov, *IAzyk i kultura. Tri lingvostranovedcheskie kontseptsii: leksicheskogo fona, reche-povedencheskikh taktik i sapientemy*, 2005, pp. 898-899

50 For details see I. Karlinskij, *Bezdomnost i iazyk vrazhdy v sredstvakh massovoj informatsii*, in *Bezdomnye v zerkale rossijskikh SMI*, Sbornik materialov, 2009, pp. 9-12.

51 Vereshchagin, Kostomarov (supra note 49), p. 899

52 See, e.g., <https://realt.onliner.by/2016/04/27/bomzhi-2>; <https://news.tut.by/society/559681.html>; see also the comments of a GUV D officer <https://www.belta.by/regions/view/reportazh-ih-adres-ne-dom-prosto-ulitsa-kak-ustroena-zhizn-bomzhej-v-minske-61075-2014>

53 Zakon Respubliki Belarus N 453-Z (10.11.2008, revised 28.12.2009) “Ob osnovakh deiatelnosti po profilaktike pravonarushenij”, art. 1, para. 4; see also art. 15; expired upon the adoption of Zakon Respubliki Belarus N 122-Z (04.01.2014) “Ob osnovakh deiatelnosti po profilaktike pravonarushenij”

54 Zakon Respubliki Belarus N 122-Z (04.01.2014, revised 09.01.2018) “Ob osnovakh deiatelnosti po profilaktike pravonarushenij”

55 Polozhenie o poriadke registratsii (supra note 34), cl. 2: “Persons without a specific place of residence are citizens of the Republic of Belarus, stateless persons without registration at their place of residence or place of stay in the Republic of Belarus, who have lost socially important and related ties, engaged in vagrancy and (or) begging, and also do not have a permanent source of income and means of livelihood.”

street or in other places unsuitable for living, as well as in relevant and specialized institutions<sup>56</sup>. The definition applied in the context of registration of the homeless considers the lack of registration at place of residence or stay, but not the lack of adequate residence, and also establishes the practice of vagrancy and/or begging and the lack of a permanent source of income and livelihood as mandatory criteria for classifying a person as a “persons without a specific place of residence”<sup>57</sup>. This definition is not only clearly based on stereotypical and stigmatizing notions of homelessness, but also potentially limits the right to registration as homeless for those who do not meet such characteristics. Such an approach may indicate that homelessness is seen by state authorities primarily as a problem regarding population registration, rather than as a need of a certain group of people for special social and other assistance.

A separate source shaping negative images of homeless people is media publications, which ascribe a single set of stereotypical characteristics to all homeless people and perpetuate extremely negative portrayals that promote the continued social exclusion of this group. For example, a common way to describe homeless people is by asserting that they voluntarily live on the street and are satisfied with their choice<sup>58</sup>; and those homeless people who diverge from common stereotypes are presented as atypical<sup>59</sup>. The stigmatization of homeless people in the media is not only limited to stereotypical representations and the commonly used term *bomzh*, but often manifests itself in openly hostile language used towards them. As a rule, hostile remarks take the form of mentioning homeless people in openly derogatory and discriminatory ways. For example, a homeless woman’s unwillingness to return to her abusive husband is interpreted as an “unwillingness to return to normal life”<sup>60</sup>; homeless people who seek support are described as “flies drawn to honey,” and accessing support services is described as “scrounging”<sup>61</sup>. The opinions expressed in thematic media publications are also often characterized by representations of homeless people’s satisfaction with their lack of housing, and their responsibility for it<sup>62</sup>; displeasure with the presence of homeless people in public places<sup>63</sup>; and the need to use forced labor as a solution to the problem of homelessness<sup>64</sup>.

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56 See, e.g., “Reshenie Rechitskogo rajonnogo ispolnitelnogo komiteta N 3364 (18.12.2009) “O poriadke registratsii grazhdan bez opredelennogo mesta zhitelstva v Rechitskom rajone”, cl. 2.1; Reshenie Petrikovskogo rajonnogo ispolnitelnogo komiteta N 1415 (29.12.2009) “O poriadke registratsii grazhdan bez opredelennogo mesta zhitelstva v Petrikovskom rajone”, cl. 2.1; Reshenie Gomelskogo rajonnogo ispolnitelnogo komiteta N 8-3 (05.03.2010) “O poriadke registratsii grazhdan bez opredelennogo mesta zhitelstva v Gomelskom rajone”

57 See footnote 55

58 <https://www.interfax.by/article/53583>; <https://www.sb.by/articles/komu-na-ulitse-zhit-khorosho.html>; <https://naviny.by/article/20161116/1479301861-minskie-bomzhi-ne-hotyat-vozvrashchatsya-k-normalnoy-zhizni>

59 <https://realt.onliner.by/2013/12/11/ispoved>

60 <https://www.sb.by/articles/privet-brodyagi.html>

61 <https://www.sb.by/articles/raboty-ne-nado-a-khleba-davay.html>

62 <http://mk.by/2015/12/09/135145/>; <https://sputnik.by/society/20161116/1026102311/tipichnyj-belorusskij-bomzh-za-40-introvert-s-pechalnoj-istoriej.html>

63 <https://www.belta.by/regions/view/reportazh-ih-adres-ne-dom-prosto-ulitsa-kak-ustroena-zhizn-bomzhej-v-minske-61075-2014>; <https://news.tut.by/society/426001.html>; <https://news.tut.by/society/559681.html>. Some preventative measures respectively aim to “remove homeless people from the streets,” see <http://www.nashkraj.by/2015/11/v-baranovichax-provedut-kompleks-profilakticheskix-meropriyatij-s-licami-bez-opredelennogo-mesta-zhivelstva/> and <http://uvd.brest.gov.by/news/4499/>

64 <https://www.sb.by/articles/privet-brodyagi.html>



## 1.4 Homelessness among formerly incarcerated people

As a general rule, penitentiary institutions are obliged to take measures on “labor and domestic arrangement” of prisoners released from serving their sentence not later than three months prior to the expiration of their sentence. Such measures are taken with the participation of internal affairs bodies and local executive and administrative bodies<sup>65</sup>. In case the person being released does not have housing<sup>66</sup>, the prison administration makes a corresponding request for housing to the local authorities and other organizations providing assistance to the homeless<sup>67</sup>.

Despite the existence of this mechanism to provide assistance to ex-prisoners, they remain one of the groups most at risk of homelessness. According to data from several shelters, formerly incarcerated people comprise between one third<sup>68</sup> to the majority<sup>69</sup> of all those staying there. At the same time, a 2015 survey of convicted persons serving custodial sentences revealed that less than 9% lacked a place of residence at the beginning of their sentence, or lost it during the sentencing process<sup>70</sup>. However, as shown by a study on the needs, accessibility and effectiveness of socialization and labor integration services for those who have been released from detention, the availability of housing among serving prisoners does not mean that they can return to these residences after completing their sentence<sup>71</sup>.

One possible factor in the loss of the housing that was available prior to the commencement of the sentence may be a changed procedure for evicting members or former members of a family who were entitled to use the housing but did not have a share in the joint family property<sup>72</sup>. In accordance with the rules provided for by the new edition of the Housing Code<sup>73</sup>, eviction is possible at the request of the housing owner and is carried out without providing other housing<sup>74</sup>. This mechanism is designed to

65 Penitentiary code of the Republic of Belarus N 365-3 (11.01.2000, revised 17.07.2018), art. 192(1)

66 The identification of “persons without a fixed place of residence” is part of the work carried out by the administrations of the penal and correctional system; see Instrukciã o porãdke okazaniã administraciej uãreždieniã ugovovno-ispolnitelnoj sistemy Ministerstva vnutrennih del Respubliki Belarus pomoši osuždennym k ograniãeniũ svobody s napravleniem v ispravitelnoe uãreždienie otkrytogo tipa ili k lišeniũ svobody v trudovom i bytovom ustrojstve, utverždennomj Postanovleniem Ministerstva vnutrennih del Respubliki Belarus N 15 (15.01.2014), cl. 5

67 See A. Cuprik, *Dorožnaã karta posle osvoboždieniã*, [http://www.dvv-international.org.ua/fileadmin/files/eastern-neighbors/Belarus/Publications/Dorozhnaya\\_karta.pdf](http://www.dvv-international.org.ua/fileadmin/files/eastern-neighbors/Belarus/Publications/Dorozhnaya_karta.pdf), pp. 15-16; see also <https://newgrodnno.by/region/ya-chelovek-a-ne-skotina-zhitel-zelvenshhiny-rasskazal-kak-on-vyzhivaet-na-svobode-posle-tyurmy/>

68 <https://grodnnonews.by/news/glavnoe/13281-v-grodno-bezdomnye-besplatnomu-komfortu-v-priyute-predpochitayut-brodyazhnichestvo.html>

69 <https://novychas.by/hramadstva/vjarnucca-dadomu-ci-kamu-patrebny-besprytulnyja>; <http://mvd.gov.by/main.aspx?guid=294643>

70 E. Kechina, *Otsenka potrebnosti, dostupnosti i ãeffektivnosti uslug po sotsializatsii i trudovoj integratsii lits, osvobozhdaushchikhsia i osvobodivshikhsia iz mest lišeniã svobody. Otchet ob issledovanii*, Minsk, 2015, [https://www.segelyszervezet.hu/sites/default/files/documents/-otchet\\_po\\_ocenke\\_dostupnosti\\_uslug\\_po\\_resocializacii\\_dlya\\_byvshih\\_osuzhdennyh\\_po\\_rezultatam\\_sociologicheskogo\\_issledovaniya.doc](https://www.segelyszervezet.hu/sites/default/files/documents/-otchet_po_ocenke_dostupnosti_uslug_po_resocializacii_dlya_byvshih_osuzhdennyh_po_rezultatam_sociologicheskogo_issledovaniya.doc), p. 15

71 Ibid., p. 52

72 <https://realt.onliner.by/2014/04/04/sud-5>; see also “Rešenie rajonnogo suda ot 25.04.2016. Trebovanie: O vyselenii bez predostavleniã drugogo žilogo pomešeniã” (KonsultantPlus)

73 On the rules in force prior to the entry into force of the new version of the Housing Code, see Rešenie Konstitucionnogo Suda Respubliki Belarus N R-728/2012 (29.06.2012) “O sootvetstvii Konstitucii Respubliki Belarus Žilišnogo kodeksa Respubliki Belarus”, cl. 6, para 2

74 Housing code of the Republic of Belarus N 428-Z (28.08.2012, revised 13.11.2017), art. 95(2)

protect the rights of the owner to use and dispose of the property, but resulting evictions lead to a high risk of homelessness for the evicted. In this case, formerly incarcerated people learn about the loss of their housing after the completion of their sentence:

*“Privatization happened while I was ‘serving time’ in 1999, and my sister privatized [the apartment] while I was ‘serving time’ [...] I got out, came to the district executive committee, and there were [columns with my relatives’ names], and my column was dark, the last in the list – I’m not there. [There they told me that they had deregistered me], and that only with my sister’s permission could I re-register. That’s how I was left.”<sup>75</sup>*

In addition to the inaccessibility of permanent and adequate housing, people who have served their sentences also face problems finding employment<sup>76</sup>, which is an additional factor contributing to their vulnerability; according to the study, *Labor in the Penitentiary System of Belarus*, almost one third of all inmates awaiting release from detention can be considered a target group with weak employment prospects, and are in need of outside assistance during re-socialization following their release<sup>77</sup>. The question of developing a special regulatory act establishing measures and procedures for the social rehabilitation of formerly incarcerated people was first raised in 2005 by the state program to improve the penitentiary system of the Ministry of Internal Affairs<sup>78</sup>. The program’s activities included preparing and submitting proposals for the inclusion of a relevant bill in the 2008 legislative timetable<sup>79</sup>. However, the imminent start of the preparation of the draft law was announced only in 2015<sup>80</sup>. The legislative timetable for 2016<sup>81</sup> included the development of a draft aimed at reducing “the level of recidivism among persons who have been released from prison through employment, social, housing, and other safeguards, as well as through the creation of specialized social rehabilitation centers”<sup>82</sup>. As of the beginning of 2019, the draft law was in the drafting stage and had not been published in the relevant database<sup>83</sup>.

## 1.5 The persecution of initiatives that provide assistance to the homeless

A further effect of the lack of a comprehensive public policy on homelessness is the persecution of

75 Interview with homeless man, 22 January 2019

76 Sergej Navrodsij, Vasilij Zavadskij, Martin Guzi, Mikhaëla Gornakova, *Trud v penitentsiarnoj sisteme Belarusi. Analiticheskij otchët*, Minsk, 2017, pp. 16-21

77 *Ibid.*, p. 18

78 Postanovlenie Soveta Ministrov Respubliki Belarus N 1564 (29.12.2005, revised 09.06.2008) “Ob utverzhdenii Gosudarstvennoj programmy sovershenstvovaniia ugovolno-ispolnitelnoj sistemy Ministerstva vnutrennikh del na 2006 - 2010 gody”

79 *Ibid.*, Plan meropriiatij, cl. 1

80 <https://www.sb.by/articles/dobro-dolzno-byt-s-kulakami.html>

81 Ukaz Prezidenta Respubliki Belarus N 530 (31.12.2015) “Ob utverzhdenii plana podgotovki zakonoproektov na 2016 god”, cl. 3

82 <http://center.gov.by/kommentarij-k-planu-podgotovki-zakon/>

83 <http://pravo.by/bank-dannykh-proektov-zakonov-respubliki-belarus/poisk-v-banke-dannykh-proektov-zakonov-respubliki-belarus/>

selected initiatives that provide assistance to the homeless, but are not seen as a possible mechanism to lower the severity of the problems faced by homeless people. These practices, together with the violation of the prohibition of arbitrary detention and of activists' rights to freedom of association and assembly, equally violate the obligation to respect every individual's right to exercise their economic and social rights, which requires the non-interference of state bodies in the process of individuals' self-realization of their rights to fulfill basic needs for food and housing<sup>84</sup>.

## 1.5.1 The Persecution of Activists from the Food Not Bombs Initiative

Activists from the Food Not Bombs initiative, who distribute food to the homeless in Minsk on a weekly basis<sup>85</sup>, have been harassed and pressured by law enforcement agencies throughout the entire course of their activities, which been at their most active since 2009<sup>86</sup>. Law enforcement have used the following methods to exert pressure: police presence during campaigns<sup>87</sup>, collecting activists' passport data<sup>88</sup>, demanding that activists stop their campaigns under the threat of arrest<sup>89</sup>, and arresting activists about to distribute food<sup>90</sup>. In the years that followed, police officers have also dispersed all campaign participants<sup>91</sup> and homeless people<sup>92</sup>, videotaped campaigns<sup>93</sup>, and continued to collect passport data<sup>94</sup> and arrest activists.<sup>95</sup> Law enforcement officers have also pressured individual activists by holding "informal conversations" with them at their places of study<sup>96</sup>. In March 2012, officers from the Special Forces disrupted a support concert for the initiative, arresting more than 100 activists<sup>97</sup>, 15 of whom were sentenced to fines and detention<sup>98</sup>.

84 The Committee on Economic, Social and Cultural Rights, *General Comment N° 12: The Right to Adequate Food (art. 11)*, E/C.12/1999/5, para. 15; *The Right to Adequate Housing* (supra note 2), pp. 33-34

85 <https://vk.com/fnbminsk>

86 <https://fnbminsk.noblogs.org/2009/11/10/%D0%BF%D1%80%D0%B8%D0%B7%D1%8B%D0%B2-%D0%BA-%D0%BF%D0%BE%D0%B4%D0%B4%D0%B5%D1%80%D0%B6%D0%BA%D0%B5/>

87 <https://fnbminsk.noblogs.org/2009/11/01/31102009/>

88 <https://fnbminsk.noblogs.org/2009/11/23/21-noyabrya/>

89 <https://fnbminsk.noblogs.org/2009/12/14/fnb-12-december/>

90 <https://fnbminsk.noblogs.org/2009/11/10/%D0%BF%D1%80%D0%B8%D0%B7%D1%8B%D0%B2-%D0%BA-%D0%BF%D0%BE%D0%B4%D0%B4%D0%B5%D1%80%D0%B6%D0%BA%D0%B5/>

91 21 March 2010, <https://fnbminsk.noblogs.org/2010/03/21/spring-time-2010/>; 15 January 2012, <https://fnbminsk.noblogs.org/2012/01/15/%d0%bc%d0%b8%d0%bb%d0%b8%d1%86%d0%b8%d1%8f-%d1%81%d0%be%d1%80%d0%b2%d0%b0%d0%bb%d0%b0-%d1%80%d0%b0%d0%b7%d0%b4%d0%b0%d1%87%d1%83-%d0%b5%d0%b4%d1%8b-%d0%bd%d0%b0-%d0%b5%d0%b2%d0%b1-%d0%b2%d0%be%d1%81/>; 10 March 2013, [https://vk.com/wall-22982199\\_1256](https://vk.com/wall-22982199_1256); 21 March 2013, [https://vk.com/wall-22982199\\_1268](https://vk.com/wall-22982199_1268)

92 2 November 2011, <https://fnbminsk.noblogs.org/2011/10/02/%D0%B5%D0%B2%D0%B1-%D0%B2%D0%BE%D1%81%D1%82%D0%BE%D0%BA-%D0%BE%D0%BF%D1%8F%D1%82%D1%8C-%D0%BC%D0%B8%D0%BB%D0%B8%D1%86%D0%B8%D1%8F/>

93 12 March 2011, <http://fnbminsk.noblogs.org/2011/03/12/12mar2011/>

94 5 February 2011, <https://fnbminsk.noblogs.org/2011/02/05/05feb2011/>; 12 February 2011, <http://fnbminsk.noblogs.org/2011/02/12/12feb2011/>; 12 March 2011, <http://fnbminsk.noblogs.org/2011/03/12/12mar2011/>

95 21 October 2011, <https://web.archive.org/web/20150906165418/http://belarus.indymedia.org/25006>; 11 December 2011, [https://vk.com/wall-22982199\\_593](https://vk.com/wall-22982199_593); 15 January 2012, <https://fnbminsk.noblogs.org/2012/01/15/%D0%BC%D0%B8%D0%BB%D0%B8%D1%86%D0%B8%D1%8F-%D1%81%D0%BE%D1%80%D0%B2%D0%B0%D0%BB%D0%B0-%D1%80%D0%B0%D0%B7%D0%B4%D0%B0%D1%87%D1%83-%D0%B5%D0%B4%D1%8B-%D0%BD%D0%B0-%D0%B5%D0%B2%D0%B1-%D0%B2%D0%BE%D1%81/>

96 <http://spring96.org/ru/news/52076>; <https://web.archive.org/web/20150906162206/belarus.indymedia.org/25444>

97 <https://news.tut.by/society/280737.html>

98 <https://news.tut.by/society/280754.html>; <https://web.archive.org/web/20150915054143/http://belarus.indymedia.org/25647>

The persecution of activists intensified in the winter of 2014 in connection with the approaching World Hockey Championship, which took place in Minsk<sup>99</sup>. In late January 2014, activists and homeless people were arrested by plainclothes policemen<sup>100</sup>; in the beginning of February police officers obstructed campaign activities and dispersed the homeless people who had gathered there<sup>101</sup>. In the wake of massive preventive arrests carried out prior to and during the World Championship<sup>102</sup>, on May 17, 2014 police officers arrested 6 activists from the initiative, one of whom was sentenced by the court to 15 days in custody<sup>103</sup>.

After 2014, police pressure on activists decreased as a whole, but riot police and patrol officers continue to be present at a significant number of food distribution events, often detaining some of the homeless people who arrive<sup>104</sup>. Plainclothes policemen are also often present at these events, recording campaign participants on video<sup>105</sup>.

## 1.5.2 The Persecution of Brother Luigi, Organizer of a Homeless Shelter

Law enforcement agencies took systematic measures to persecute and exert pressure on Brother Luigi, who organized a homeless shelter in the Shchuchin district of the Grodno region<sup>106</sup>. Following police officers' repeated visits to the shelter<sup>107</sup>, a criminal case was initiated against Brother Luigi in 2013 under article 193.1 of the Criminal Code. This charge<sup>108</sup> carried a punishment of a fine, arrest, or imprisonment of up to two years for, among other things, organizing or participating in the activities of public associations or religious organizations that had not been registered with the State<sup>109</sup>.

According to the order to initiate criminal proceedings, brother Luigi "organized the activities [...] of an unregistered religious organization and provided the conditions for its operation without registration in the manner prescribed by law," bringing together "fellow religious believers from among local residents, as well as persons without a specific place of residence" for this purpose<sup>110</sup>. Fearing persecution, the majority of the homeless people living at the shelter were forced to leave<sup>111</sup>. After the shelter was

99 <https://www.svaboda.org/a/25258236.html>

100 <http://spring96.org/ru/news/68824>; [https://vk.com/wall-22982199\\_1492](https://vk.com/wall-22982199_1492); <https://news.tut.by/society/384027.html>

101 <http://spring96.org/ru/news/68824>; 2 February 2014, [https://vk.com/wall-22982199\\_1558](https://vk.com/wall-22982199_1558) ; 9 February 2014, [https://vk.com/wall-22982199\\_1694](https://vk.com/wall-22982199_1694)

102 FIDH/Viasna, *Arbitrary Preventive Detention of Activists in Belarus*, <https://www.fidh.org/IMG/pdf/belarus2014en.pdf>, pp. 5-8

103 *Ibid.*, pp. 21-22; <http://spring96.org/ru/news/71101>; [https://naviny.by/rubrics/society/2014/05/19/ic\\_news\\_116\\_436316](https://naviny.by/rubrics/society/2014/05/19/ic_news_116_436316)

104 Interview with activists from the initiative, November 2018

105 Interview with activists from the initiative, November 2018; personal observation of the author of the study, November 2018

106 See, e.g., <https://news.tut.by/society/475261.html>; <https://news.tut.by/society/600726.html>

107 <http://forb.by/node/425>

108 This provision was removed from the Criminal Code in early 2019, see <http://spring96.org/ru/news/91852>

109 Penal code of the Republic of Belarus N 275-Z (09.07.1999, revised 17.07.2018), art. 193-1

110 <http://spring96.org/ru/news/64022>

111 <https://spring96.org/ru/news/64515>

registered, the criminal case was dismissed<sup>112</sup>, but the shelter's organizer continued to be pressured in other ways: in 2016 representatives of local executive bodies and police officers constantly visited the shelter to conduct inspections<sup>113</sup>.

On January 31, 2019 Brother Luigi was arrested on suspicion of theft, which resulted in him being beaten by police officers during the interrogation process. In order to stop the violence, he confessed his guilt<sup>114</sup>. He was released after investigators checked surveillance cameras which showed that he was not present at the place of the theft<sup>115</sup>. A search was conducted at the shelter, and at the end of his detention, the police officers advised Brother Luigi to leave the Shchuchin district, together with his shelter<sup>116</sup>.

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112 <https://spring96.org/ru/news/64515>; <http://spring96.org/ru/news/66163>

113 <http://forb.by/node/425>; <http://bchd.info/10764-vlastyam-selsoveta-ne-nravitsya-cto-v-priyute-alekseya-schedrova-zhivet-sbrod.html>; [https://naviny.by/rubrics/society/2016/05/23/ic\\_news\\_116\\_475403](https://naviny.by/rubrics/society/2016/05/23/ic_news_116_475403)

114 <https://belsat.eu/news/nevinavaty-pryznausya-u-kradzyazhy-yago-usyu-noch-bili-militsyyanty/>; <https://belsat.eu/ru/news/za-reportazh-o-nevinovnom-kotoryj-priznalsya-v-krazhe-militsiya-vozbudila-delo-protiv-belsata/>

115 <https://belsat.eu/news/nevinavaty-pryznausya-u-kradzyazhy-yago-usyu-noch-bili-militsyyanty/>

116 [https://youtu.be/Nc\\_RdLrU\\_VI?t=99](https://youtu.be/Nc_RdLrU_VI?t=99)

## 2. Violations and obstacles in the realization of homeless people's rights

### 2.1 Registration at one's place of residence and the restoration of documents

The Decree “On improving the system of registering citizens at their place of residence and place of stay”<sup>117</sup>, which came into force on January 1, 2008, effectively revoked the previously existing “*propiska*” mechanism, replacing it with the institution of registering at one's place of residence and place of stay<sup>118</sup>. In 2010, an Order of the Council of Ministers was adopted approving the “Regulation on the procedure for registering and maintaining the registration records of persons without a specific place of residence”<sup>119</sup>. Prior to the adoption of the Order, the procedure for registering homeless people was regulated at the level of local executive and administrative bodies<sup>120</sup>. The current mechanism offers the opportunity to register at the addresses of local temporary shelters<sup>121</sup>, and in the absence of those, at an address established by local executive bodies<sup>122</sup>.

The mechanism approved by the order has not allowed for homeless people with outstanding convictions to register at their place of stay<sup>123</sup>. Despite the abolition of this rule in 2011<sup>124</sup>, it continues to apply to the registration of homeless people in Minsk<sup>125</sup>.

While the possibility of registering at one's place of stay is an effective mechanism for homeless people to realize their ability to exercise certain rights, the process of registration often poses

117 Ukaz Prezidenta Respubliki Belarus N 413 (07.09.2007, revised 06.04.2017) “O sovershenstvovanii sistemy ucheta grazhdan po mestu zhitelstva i mestu prebyvaniia”, cl. 1

118 For details, see S. Zemlianinov, *Vmesto propiski - registratsiia* (KonsultantPlus)

119 Postanovlenie Soveta Ministrov Respubliki Belarus N 1225 (23.08.2010, revised 01.09.2011) “Ob utverzhenii Polozheniia o poriadke registratsii i vedeniia registratsionnogo ucheta lits bez opredelennogo mesta zhitelstva”

120 Ukaz Prezidenta Respubliki Belarus N 413 (07.09.2007, revised 11.06.2009) “O sovershenstvovanii sistemy ucheta grazhdan po mestu zhitelstva i mestu prebyvaniia”, cl. 35; respective amendments were made in 2010, see Ukaz Prezidenta Respubliki Belarus N 413 (07.09.2007, revised 08.06.2010) “O sovershenstvovanii sistemy ucheta grazhdan po mestu zhitelstva i mestu prebyvaniia”, cl. 35

121 Polozhenie o registratsii grazhdan po mestu zhitelstva i mestu prebyvaniia, utverzhdennoe Ukazom Prezidenta Respubliki Belarus N 413 (07.09.2007, revised 06.04.2017) “O sovershenstvovanii sistemy ucheta grazhdan po mestu zhitelstva i mestu prebyvaniia”, cl. 35; see, e.g., Reshenie Orshanskogo rajonnogo ispolnitelnogo komiteta N 353 (24.05.2013, revised 25.10.2013) “Ob opredelenii mesta dlia registratsii lits bez opredelennogo mesta zhitelstva na territorii Orshanskogo rajona”; Reshenie Minskogo gorodskogo ispolnitelnogo komiteta N 2782 (22.11.2007, revised 27.05.2010) “O poriadke registratsii i ucheta lits bez opredelennogo mesta zhitelstva v gorode Minske”

122 See, e.g., Reshenie Bobrujskogo rajonnogo ispolnitelnogo komiteta N 28-18 (07.10.2016) “Ob opredelenii mest dlia registratsii lits bez opredelennogo mesta zhitelstva na territorii Bobrujskogo rajona”; Reshenie Molodechnenskogo rajonnogo ispolnitelnogo komiteta N 753 (15.08.2016) “Ob opredelenii mesta dlia registratsii lits bez opredelennogo mesta zhitelstva”; Reshenie Elskogo rajonnogo ispolnitelnogo komiteta N 740 (19.10.2015); “Ob opredelenii mesta dlia registratsii grazhdan bez opredelennogo mesta zhitelstva i priznanii utrativshim silu resheniia Elskogo rajonnogo ispolnitelnogo komiteta ot 23 oktiabria 2009 g. N 871”

123 Polozhenie o poriadke registratsii (supra note 34), cl. 6

124 Ibid.

125 Reshenie Minskogo gorodskogo ispolnitelnogo komiteta N 2782 (22.11.2007, revised 27.05.2010) “O poriadke registratsii i ucheta lits bez opredelennogo mesta zhitelstva v gorode Minske”, cl. 6



difficulties<sup>126</sup>. In particular, one condition for filing a registration application is the payment of a state duty<sup>127</sup>, which increased in 2015 from 0.2 to 0.5 percent of the base value<sup>128</sup>. The requirement of having to pay any amount for registration can become a serious barrier for people without any income:

*“There was no one to help me – in order to find the money to register, I had to stand outside of a shop and panhandle for cash.”<sup>129</sup>*

Having a passport (or residence permit) is also a condition for obtaining registration at the place of stay<sup>130</sup>. The procedure for the restoration of a passport in the event of its loss also fails to take into account the economic deprivation experienced by many homeless people and does not provide for the exemption from the duty in the amount of one base value and from the provision of photographs<sup>131</sup>. Such expenses are covered by local budgets or the budgets of temporary shelters only in some cities<sup>132</sup>.

Requiring homeless people to pay for registration at their place of stay or for the restoration of a lost passport creates a system in which the enjoyment of other rights depends on one's ability to pay: for example, a homeless person can only receive a pension if they have a passport<sup>133</sup>. At the same time, the absence of an identification document constitutes an administrative violation subject to a fine of up to four base values<sup>134</sup>.

In spite of the fact that current labor legislation does not require registration information in one's passport as a prerequisite for employment<sup>135</sup>, some of the homeless people interviewed reported that

126 See also “The stigmatization of homeless people” above on the cumulative criteria used to define homeless for the purposes of registration

127 Polozhenie o poriadke registratsii (supra note 34), cl. 8

128 [Base value is mechanism determining the amount of payments and fines in Belarus] See Tax Code of the Republic of Belarus N 71-Z, the Special Part (29.12.2009, revised 30.12.2014), annex 22, cl. 85 and Tax Code of the Republic of Belarus N 71-Z, the Special Part (29.12.2009, revised 30.12.2015), annex 22, cl. 85

129 Interview with homeless man, 30 January 2019

130 Polozhenie o poriadke registratsii (supra note 34), cl. 8, 14

131 Ukaz Prezidenta Respubliki Belarus N 200 (26.04.2010, revised 26.07.2018) “Ob administrativnykh procedurah, osušestvlyаемykh gosudarstvennymi organami i inymi organizatsiiami po zaávleniám graždán”, cl. 11.1(11.1.2)

132 Rešenie Grodnenskogo oblastnogo ispolnitelnogo komiteta N 241 (26.03.2010) “O porádke registratsii graždán bez opredelennogo mesta žitelstva na territorii Grodnenskoj oblasti”, cl. 2; Rešenie Minskogo gorodskogo ispolnitelnogo komiteta N 2782 (22.11.2007, revised 27.05.2010) “O porádke registratsii i učeta lic bez opredelennogo mesta žitelstva v gorode Minske”, cl. 3; Rešenie Maloritskogo rajonnogo ispolnitelnogo komiteta N 1359 (14.12.2009) “O porádke registratsii graždán bez opredelennogo mesta žitelstva v g. Malorita”, cl. 6; Rešenie Baranovičskogo gorodskogo ispolnitelnogo komiteta N 2037 (18.08.2009) “O porádke registratsii graždán bez opredelennogo mesta žitelstva v g. Baranoviči”, cl. 6

133 Prikaz Ministerstva sotsialnoj zashchity Respubliki Belarus N 44 (23.05.1997, revised 31.10.2006) “Ob utverzhdenii Polozheniia o poriadke predstavleniia i oformleniia dokumentov dlia naznacheniiia pensij v sootvetstvii s Zakonom Respubliki Belarus ‘O pensionnom obespechenii’”, cl. 7; cl. 7(3) also provides for the possibility of accepting a certificate, which is only issued after submitting an application for the restoration of a passport. See also Reshenie Konstitutsionnogo Suda Respubliki Belarus N R-944/2014 (09.07.2014) “O pravovoj neopredelennosti v pravovom regulirovanii udostovereniia lichnosti pri naznachenii pensii organami po trudu, zaniatosti i sotsialnoj zashchite” and Postanovlenie Soveta Ministrov Respubliki Belarus N 134 (25.02.2015) “Ob utverzhdenii Polozheniia o poriadke podtverzhdeniia lichnosti graždán Respubliki Belarus, ne imeiushchikh dokumenta, udostoveriaiushchego lichnost, dlia tselej pensionnogo obespecheniia”

134 Code of Administrative Offences of the Republic of Belarus N 296-Z (21.04.2003, revised 17.07.2018), art. 23.53(3)

135 Labor code of the Republic of Belarus N 296-Z (26.07.1999, revised 13.11.2017), art. 26; for details, see. V. Bratash, *Dopustimo li priniat na rabotu graždánina, v pasporte kotorogo svedeniia o registratsii otsutstvuiut?*, Nalogi Belarusi, 2013, N 6

employers were unwilling to employ people without registration<sup>136</sup>. However, being registered at the address of a temporary shelter can also reduce homeless people's chances of finding work:

*"[It's impossible to find a job] because you're from a homeless shelter and you don't really want to take a person without a permanent address. I don't have [such a stamp in my passport], I only have my registration."<sup>137</sup>*

## 2.2 Practices of restricting access to public places for homeless people

The lack of adequate housing is the reason why homeless people have to look for places to sleep, rest and protect themselves from the weather preventing them from staying outdoors for a long time. To a significant extent, this practice is also used during day time by those living in temporary shelters, as they are only allowed to stay there at night<sup>138</sup>. In turn, extended stays in public places can attract additional attention from law enforcement officers. Often, such attention results in denial of access to public places for homeless people:

*"They let me sleep [at the train station] at night, but at 6:00 [a.m.] they wake me up and say – 'get out,' and kick me out onto the street, into the cold. I go, walk around the city – where else should I go? When it gets dark I go [back] to sleep, but they don't let me sleep earlier, only at night. During the day, you have no right – go walk wherever you want."<sup>139</sup>*

*"They don't really bother me that much, [in the daytime] I sit at the train station, I don't do anything wrong. Sometimes they 'drive me out,' but it depends on the shift – some say 'go take a walk."<sup>140</sup>*

The most severe documented form of denying access to public places and forcibly removing homeless people from urban areas is the practice of informal detention that results in homeless people taken outside of the city limits and left there<sup>141</sup>.

*"[The police officers] brought us about 5-6 kilometers outside of the city, threw us out, and drove on. I barely got back, I had to call an ambulance – they took me back [to the city]. And this has happened several times – they don't take us down to their offices, they just take us away, and that's it."<sup>142</sup>*

136 Interview with homeless man, 30 January 2019

137 Interview with homeless man, 30 January 2019

138 See "The right to temporary shelter" below

139 Interview with homeless woman, 22 January 2019

140 Interview with homeless man, 16 December 2018

141 According to media reports, this practice is constantly used in Grodno, see <https://belsat.eu/ru/news/vyvezli-v-les-chtoby-zdes-ne-vonyali-kak-grodnenskaya-militsiya-chistit-ulitsy-ot-bezdomnyh/>, see also <https://bolshoi.by/gorod/vyizhivshie/>

142 Interview with homeless man, 16 December 2018

Many other homeless people who were interviewed reported hearing about such practices from acquaintances, and also witnessed arrests resulting in individuals being removed from city limits:

*"I have personally seen people being taken away – they took them to the '101st kilometer"<sup>143</sup> and people got back however they could. Can you imagine, elderly people? I understand in the summertime, but in winter?"<sup>144</sup>*

*"They took them [from Minsk] to who knows where, near Orsha, near Smolensk. They took them, and that's it. They got lost, [barely survived], and barely got back."<sup>145</sup>*

In the lead-up to the 2014 World Ice Hockey Championship in Minsk, the practice of “cleaning” the streets of homeless people became systematic<sup>146</sup>. Some of the measures that were taken included arresting homeless people and subsequently holding them in administrative detention<sup>147</sup>, most likely with the aim of sending some of them to compulsory “rehabilitation centers”<sup>148</sup> and removing them from city limits<sup>149</sup>. Sex workers<sup>150</sup> and activists<sup>151</sup> were also subject to arrests.

## 2.3 The right to temporary shelter

Temporary shelters are the main instrument of state policy to provide assistance to the homeless. At the same time, access to them is constrained by a number of limiting factors.

In order to spend the night at a shelter, an off-premises medical examination must be conducted<sup>152</sup>. If it is not possible to complete the examination that day, then the person who is affected by this problem must spend the night on the street. Medical isolation wards for homeless people who are undergoing the examination process only exist in some shelters<sup>153</sup>. While the majority of the homeless people who were interviewed reported having undergone their medical examinations within the course of a day,

143 This term is often used by homeless people to describe being removed from the city, see, for example <https://bolshoi.by/gorod/vyizhivshie/>

144 Interview with homeless woman, 30 January 2019

145 Interview with homeless man, 22 January 2019

146 <https://news.tut.by/society/379654.html?crnd=78021>; [https://naviny.by/rubrics/society/2014/03/06/ic\\_articles\\_116\\_184810](https://naviny.by/rubrics/society/2014/03/06/ic_articles_116_184810); <https://bolshoi.by/gorod/vyizhivshie/>; <http://spring96.org/ru/news/67302>

147 <https://euroradio.fm/ru/tyurma-polnostyu-zabita-prostitutkami-bomzhami-i-alkashami>

148 <https://news.tut.by/society/379654.html?crnd=78021>; [https://naviny.by/rubrics/society/2014/03/06/ic\\_articles\\_116\\_184810](https://naviny.by/rubrics/society/2014/03/06/ic_articles_116_184810)

149 <https://bolshoi.by/gorod/vyizhivshie/>

150 <https://news.tut.by/society/401569.html>

151 Arbitrary Preventive Detention of Activists in Belarus (supra note 102), pp. 6-8

152 Ustav Vitebskogo tsentra, art. 15; Ustav Minskogo tsentra, art. 3.2 (supra note 9); <https://news.tut.by/society/381175.html>; <http://www.mogved.by/obshchestvo/4870>; however, according to the director of the Minsk center, the minimum requirement for an overnight stay is a fluorograph [chest X-ray], see <https://euroradio.fm/ru/lyudi-okazavshiesya-na-dne-kak-zhivyot-edinstvennyy-v-minske-priyut-dlya-bezdomnyh>

153 In particular, an isolation ward of this kind was reported at the Bobrujsk shelter, see <https://bobruisk.ru/news/2013/03/30/34077>

some respondents encountered the following problem. For example, according to one homeless woman who was residing at a shelter (not in the capital), the processing of her medical clearance dragged on for several days, during which she was forced to continue living on the street<sup>154</sup>.

Admission rules to some shelters limit their accessibility only to people who had or have a registration, or who have been residing in the city where the shelter is located for a long time and have registered as homeless with the local internal affairs authorities<sup>155</sup>. This restriction potentially deprives a significant number of homeless people, who are living or are registered in cities without functioning shelters, of accessing assistance and a place to spend the night<sup>156</sup>. At the same time, moving to another city can sever ties that are instrumental in supporting their standard of living.

*“[In the shelter] you can’t achieve anything, they don’t want to take me without [local] registration. [I explain this to the police officers], and they tell me, ‘You want to spend the day in jail? You can live there.’”*<sup>157</sup>

Similar to the approach of defining homelessness for statistical purposes, shelter admission rules stem from a narrow and formal understanding of what it means to lack adequate housing, whereby only people who lack access to any housing and who have lost family ties become eligible for an overnight stay<sup>158</sup>. For a person who is seeking a place to spend the night, possessing the formal right to live in a dwelling does not guarantee its adequacy, or the real possibility of living there. The inaccessibility of housing in practice is a determining factor for the homeless – not the formal absence of housing. According to one woman, she was forced to live on the streets following the refusal of a shelter to host her there for more than one month. The reason for her refusal was that she formally had access to housing, which was in reality unavailable to her. The assistance provided by the shelter’s management to restore her access to housing did not solve the problem, and she was forced to continue living on the streets<sup>159</sup>.

The amount of time that one can live in a shelter is limited and depends on the rules set by each of them: for example, the shelter in Minsk draws up an initial contract for a period of up to one month, with the

154 Interview with homeless woman 16 December, 2018; Interview with homeless woman, 17 November 2018

155 Ustav Vitebskogo tsentra, art. 13 (supra note 9); charter of the shelter in Minsk does not contain this limitation and allows for admission of all homeless people having or having had registration anywhere in Belarus, see Ustav Minskogo tsentra, art. 3.1; see also <https://minsknews.by/ray-v-shalash-pochti-v-tsentre-minska-dva-cheloveka-poltora-goda-zhivut-v-samodelnoy-palatke/>; according to the director of the Minsk shelter, “[people from other cities] don’t stay here for long – the guests of the capital are sent to their place of registration”, <https://minsknews.by/babushka-s-dvumya-vysshimi-obrazovaniyami-i-molodoy-narkoman-kto-popadaet-v-dom-nochnogo-prebyvaniya/>; see also <https://www.sb.by/articles/podobrali-obogreli.html>

156 According to the director of the Grodno shelter, the question of whether to assist people who are not locally registered is decided on an individual level, see <http://rgazeta.by/rubriki/obschestvo/item/5889-avarijnij-vkhod-dva-chasa-v-dome-nochnogo-prebyvaniya.html> and <https://minsknews.by/babushka-s-dvumya-vysshimi-obrazovaniyami-i-molodoy-narkoman-kto-popadaet-v-dom-nochnogo-prebyvaniya/>. While in some cases, this practice may be more appropriate than unconditionally refusing to provide assistance, the possibility of arbitrary decision-making must be taken into account when refusing homeless people who lack the proper registration due to formal restrictions. Should they be accepted into the shelter, their potentially vulnerable and precarious position must also be considered. See also <http://kyky.org/pain/gordye-bezdomnye-lyudi-kak-horonyat-bomzhey> – “deporting” someone back to their place of registration can also mean returning them to a town where there is no shelter.

157 Interview with homeless woman, 30 January 2019

158 Ustav Vitebskogo tsentra, art. 13; Ustav Minskogo tsentra, art. 3.1 (supra note 9); see also <http://www.belta.by/regions/view/reportazh-ih-adres-ne-dom-prosto-ulitsa-kak-ustroena-zhizn-bomzhey-v-minske-61075-2014> – “[...] the police organize raids. They bring in about ten people and the search begins – it turns out that the majority of them have registration, housing, but at the same time they’re homeless.”

159 Interview with homeless man, 17 November 2018; Ustav Minskogo tsentra (supra note 9), art. 3.7

possibility of an extension of up to one year<sup>160</sup>. As a rule, shelters set a maximum period of stay, which in some cases can be extended, but not beyond the established threshold<sup>161</sup>. It is likely that these limited periods of stay are sufficient for many individuals to find employment and move to a more permanent place of residence<sup>162</sup>. However, when the maximum period of stay cannot be extended, others may be completely deprived of shelter, effectively returning to their original state of lacking any place to sleep. Thus, according to a homeless man who has been living in a temporary shelter located not in the capital for several years, the condition for prolonging his stay in the shelter was a temporary interruption of his stay:

*“In the summer, I spent my time outside. [As I’ve been told, it is possible to stay] for up to seven months in a row without leaving, and then you just have to ‘walk’ for a month.”<sup>163</sup>*

The functions of the shelters are limited to accommodating homeless people only at night<sup>164</sup>, so that homeless people living there are forced to leave in the morning and are only allowed to return in the evening. This requirement does not apply to people with disabilities and illnesses and is suspended in times of severe frost<sup>165</sup>. According to an elderly homeless man walking on crutches, the need to leave the temporary shelter at day time caused him to look for another shelter during the winter:

*“They let us in at six o’clock and we leave at eight o’clock, for the whole day. [...] We can only stay for the night and have to spend the whole day outside. The young can work, but what are the elderly supposed to do? [...] Spend the whole day sitting at the train station. You can’t walk outside during the winter.”<sup>166</sup>*

A condition for initial and subsequent access to accommodation in temporary shelters is the non-use of alcohol by residents; this prohibition applies not only to the time spent in the shelter<sup>167</sup>, but also to the time of return to the center in the evening, when all residents are checked for alcohol consumption before entering the premises<sup>168</sup>. Being a reasonable measure to ensure the safety of all people staying at the shelter, this restriction deprives alcohol-dependent homeless people of the possibility of overnight accommodation and assistance. At the same time, according to the estimates of relevant officials, alcohol dependency is the main reason for homelessness<sup>169</sup>.

160 Ustav Minskogo tsentra (supra note 9), art. 3.7

161 Between 3 to 6 months in Bobrujsk, see <https://bobruisk.ru/news/2013/03/30/34077>; up to 6 months in Baranovichy, see <http://www.nashkraj.by/2012/02/v-baranovichax-otkrylsya-dom-dlya-bezdomnyx/>; between 2 to 6 months in Vitebsk, and up to one year in exceptional cases, see Ustav Vitebskogo tsentra (supra note 9), art. 17

162 According to director of the Minsk shelter, one year is enough to find a job and to save enough money to pay for rental housing, see <https://naviny.by/article/20180228/1519827079-vypesh-i-sogreeshsya-kak-minskie-bezdomnye-vyzhivayut-v-moroz>

163 Interview with homeless man, 22 January 2019

164 [http://komtrud.minsk.gov.by/protection/subordinate\\_agencies/flophouse.php](http://komtrud.minsk.gov.by/protection/subordinate_agencies/flophouse.php)

165 <https://minsknews.by/babushka-s-dvumya-vyisshimi-obrazovaniyami-i-molodoy-narkoman-kto-popadaet-v-dom-nochnogo-prebyvaniya/>

166 Interview with homeless man, 16 December 2018

167 Unlike others, this condition is not set in the charters of temporary shelters, but is applied in practice in accordance with the internal regulations, see, e.g., <http://mvd.gov.by/main.aspx?guid=294643>; <https://www.sb.by/articles/bomzh-po-sobstvennomu-zhelaniyu.html>

168 <https://www.sb.by/articles/noch-otlezhatsya-da-den-prostoyat.html>; <https://euroradio.fm/ru/lyudi-okazavshiesya-na-dne-kak-zhivot-edinstvennyy-v-minske-priyut-dlya-bezdomnyh>

169 <http://pravo.by/novosti/obshchestvenno-politicheskie-i-v-oblasti-prava/2016/october/21188/>; <https://minsknews.by/aktsiya-sotsialnyiy-patrul-nachnetsya-v-minske-v-noyabre-i-prodlitsya-do-seredinyi-marta/>; <https://sputnik.by/society/20161116/1026102311/tipichnyj->

The contradictory nature of this approach shows itself when the likely widespread problem of alcohol dependence among homeless people is measured against the goals of the temporary shelters, which are to provide the necessary assistance to homeless people unable to obtain such assistance in other ways. The denial of access to overnight accommodation and assistance to homeless people with alcohol dependence results from a stereotyped view of their “lifestyle choice”, in which alcohol consumption is a habit rather than a difficult disease to overcome.

Thus, the requirement for homeless people to solve their alcohol dependence problems on their own as a condition for receiving further assistance is, in fact, a limiting factor in access to assistance and overnight accommodation, allowing more marginalized groups of homeless people to be ignored.

## 2.4 The right to permanent and affordable housing

The right of Belarusian citizens to housing is guaranteed under article 48 of the Constitution, and its implementation is ensured through the “development of the public and private housing stock and assistance to citizens in acquiring housing”. The Constitution also guarantees the provision of housing to citizens in need of social protection free of charge or at a price affordable to them<sup>170</sup>. A similar principle is enshrined in Article 3 of the Housing Code<sup>171</sup>. The importance of the right to housing was also emphasized by the Constitutional Court of the Republic of Belarus: “The recognition of everyone’s right to housing is essential to ensuring a dignified standard of living for citizens. The human dignity and quality of life of each individual depends largely on a suitable and safe place to live”<sup>172</sup>.

At the same time, the current housing policy largely ignores the situation of the homeless, whose need for social protection stems from a lack of adequate housing. The lack of any mechanisms to provide homeless people with permanent housing leads to permanent homelessness for the most vulnerable of them. Thus, according to a homeless man who has been living in a shelter located not in the capital for more than 10 years, he ceased his efforts to obtain permanent housing and employment due to serious health problems and hopes to get a place in a nursing home for the elderly and people with disabilities<sup>173</sup>.

The regulatory component of the housing policy of Belarus is characterized by a significant number of regulatory and policy acts aimed at setting goals and regulating its individual aspects. In the context of

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[belorusskij-bomzh-za-40-introvert-s-pechalnoj-istoriej.html](#)

170 Constitution of the Republic of Belarus, art. 48(2)

171 Housing code of the Republic of Belarus (supra note 74), art. 3

172 Rešenje Konstitucionnogo Suda Respubliki Belarus “O sootvetstvii Konstitucii Respubliki Belarus Žilišnogo kodeksa Respubliki Belarus” (supra note 73), para. 3(1)

173 Interview with homeless man, 16 December 2018



ensuring the accessibility and affordability of housing for certain groups, housing policy provides two basic elements of assistance: facilitating the purchase of housing through subsidized or concessionary loans<sup>174</sup> and provision of housing for citizens in need of social protection<sup>175</sup>. Given the economic deprivation experienced by the vast majority of homeless people, the provision of housing is the most relevant mechanism for people lacking the income to buy housing with a concessionary loan or to independently pay rent at market prices.

The mechanism for the provision of housing in the state housing stock to citizens in need of social protection envisages four types of accommodation: social housing, commercial housing, dormitories and special living quarters<sup>176</sup>.

## 2.4.1 Obtaining the status of a person in need of improved housing conditions and access to social housing

Obtaining the right of access to social housing is possible under two conditions: having the status of a person in need of improved housing conditions and falling into one of the limited categories to which such a right applies<sup>177</sup>. The basic logic of the rules for obtaining the status of a person in need of improved housing is to grant the right to such status to people who have irregular or inadequate housing or no housing at all<sup>178</sup>. In practice, homeless people are singled out as a separate category entitled to such status at their actual place of stay<sup>179</sup>.

The only way to exercise the rights resulting from the status of a person in need of improved housing (except for the right to receive benefits when buying a home) is to receive social housing and the right of priority to the provision of commercial housing of the state housing stock.

174 See Ukaz Prezidenta Respubliki Belarus N 240 (04.07.2017, revised 02.08.2017) "O gosudarstvennoj podderške graždan pri stroitelstve (rekonstrukcii) žilyh pomešenij"; Ukaz Prezidenta Respubliki Belarus N 13 (06.01.2012, revised 16.11.2015) "O nekotoryh voprosah predostavleniâ graždanam gosudarstvennoj podderški pri stroitelstve (rekonstrukcii) ili priobreenii žilyh pomešenij"; Ukaz Prezidenta Respubliki Belarus N 75 (07.02.2006, revised 15.04.2016) "O predostavlenii graždanam, postoânno proživaušim i rabotaušim v naselennyh punktah s čislennošću naseleniâ do 20 tys. čelovek, lgotnyh kreditov na kapitalnyj remont i rekonstrukciû žilyh pomešenij, stroitelstvo inženernyh setej, vozvedenie hozâjstvennyh pomešenij i postroek"

175 Both mechanisms are envisaged by Article 48 of the Constitution and are enshrined as principles of the housing legislation, see Housing code of the Republic of Belarus (supra note 74), art. 3

176 Položenie ob učete graždan, nuždaušihsâ v ulučšenii žilišnyh uslovij, i o porâdke predostavleniâ žilyh pomešenij gosudarstvennogo žilišnogo fonda, utverždennoe Ukazom Prezidenta Respubliki Belarus N 563 (16.12.2013, revised 26.12.2017) "O nekotoryh voprosah pravovogo regulirovaniâ žilišnyh otnošenij", sections 3-6

177 Ibid., cl. 62

178 Housing code of the Republic of Belarus (supra note 74), art. 35; Položenie ob učete nuždaušihsâ v ulučšenii žilišnyh uslovij (supra note 176), cl. 3; The exception to this rule is the provision of this status to young families and specialists directed to work at territories with a certain level of radioactive pollution (see, respectively, Housing code of the Republic of Belarus, art. 35, cl. 1.2(1.1.11); Položenie ob učete nuždaušihsâ v ulučšenii žilišnyh uslovij, cl. 3.2(3.1.11); see also Housing code of the Republic of Belarus, art. 35(1.4)

179 Housing code of the Republic of Belarus (supra note 74), art. 35(1)(1.1.1); Položenie ob učete nuždaušihsâ v ulučšenii žilišnyh uslovij (supra note 176), cl. 3(3.1.1)

The established list of categories of people entitled to social housing does not have a single general criterion and includes simultaneously those to whom the right to such housing is granted due to economic vulnerability<sup>180</sup> or medical necessity<sup>181</sup>, as well as veterans<sup>182</sup>, military personnel who have been disabled while serving in the armed forces<sup>183</sup> or received highest state ranks and awards<sup>184</sup> and people affected by the Chernobyl disaster<sup>185</sup>. While free-of-charge social housing<sup>186</sup> is meant to be provided to the most financially vulnerable<sup>187</sup>, extremely low income serves as basis for the provision of social housing only with regard to a limited number of categories of people<sup>188</sup>. As with the right to social housing in general, the existing list of categories of people whose low income may be the basis for their access to social housing does not reflect the existence of a single criterion and includes people whose age or state of health, in the absence of adequate housing, may place them in a particularly vulnerable situation (people with disabilities of the first or second group, pensioners, and people who have ceased to live in nursing homes for the elderly and people with disabilities<sup>189</sup>), as well as veterans of combat operations in the territory of other states and family members of those who died in the course of their official duties<sup>190</sup>. Thus, the current rules of access to social housing partly take into account and prioritize some of the groups whose access to adequate and affordable housing may be made more difficult by their vulnerability, but does not explicitly take into account those whose status is characterized by lack of access to adequate housing. This regulation was considered by the Constitutional Court as a further

180 Housing code of the Republic of Belarus (supra note 74), art. 111(1.1, 1.3, 1.9-1.13)

181 Ibid., art. 111(1.2)

182 Ibid., art. 111(1.5)

183 Ibid., art. 111(1.6)

184 Ibid., art. 111(1.4)

185 Ibid., art. 111(1.8); most of the categories of people entitled to social housing also have additional social guarantees in other areas of State policy, see Zakon Respubliki Belarus N 73-Z (21.12.2005, revised 18.07.2016) "O garantiáh po socialnoj zašite detej-sirot, detej, ostavšihsá bez popečeniâ roditelej, a takže lic iz čisla detej-sirot i detej, ostavšihsá bez popečeniâ roditelej"; Zakon Respubliki Belarus N 1594-XII (17.04.1992, revised 11.05.2018) "O veteranah"; Zakon Respubliki Belarus N 9-Z (06.01.2009, revised 09.01.2017) "O socialnoj zašite graždan, postradavših ot katastrofy na Černobylskoj AĖS, drugih radiacionnyh avarij"; Zakon Respubliki Belarus N 3599-XII (21.02.1995, revised 11.05.2018) "O statute Geroev Belarusi, Geroev Sovetskogo Soúza, Geroev Socialističeskogo Truda, polnyh kavalerov ordenov Otečstva, Slavy, Trudovoj Slavy"; some of these categories of people are also often discursively referred to as one single group being a subject of social work, see V. Ermakova, *Dinamika ritoričeskikh harakteristik v sfere socialnoj politiki v otnošenii lúdej s invalidnosťú*, Socialnaâ integraciâ lúdej s invalidnosťú v Belarusi: na puti k preodoleniû barerov. Sbornik rezultatov issledovanij, <https://cet.euobelarus.info/files/65/58/Disabilities.pdf>, p. 22

186 Položenie ob učete nuždaúšihsá v ulučšenii žilišnyh uslovij (supra note 176), cl. 52

187 Such an approach is not implemented by the rules for obtaining the status of a person in need of improved housing, as the criteria for obtaining such a status is not based on the financial ability to obtain access to adequate housing, but on the formal connection between the applicant and inadequate housing, see *ibid* cl. 13.2. Information about the applicants' income and property is taken into account only when they apply for social housing (but not when they exercise other rights that become available to them because of their status as being in need of improved housing), see *ibid* cl. 13.8 and Postanovlenie Soveta Ministrov Respubliki Belarus N 301 (28.02.2006, revised 12.12.2017) "Ob utverždenii Položeniâ o porâdke opredeleniâ srednemesâčnogo sovokupnogo dohoda i stoimosti imušestva graždan i členov ih semej dlâ predostavleniâ žilyh pomešenij socialnogo polzovaniâ gosudarstvennogo žilišnogo fonda"

188 Housing code of the Republic of Belarus (supra note 74), art. 111(1.13)

189 Ibid., art. 111(1.13)(paras 1-3) – the rule on people living in residential institutions for pensioners and people with disabilities does not directly indicate the termination of their stay in such institutions, but the grounds established by the rule (establishment or withdrawal of the III group of disability, or recognition as a legally capable person previously recognized as incapable) effectively deprive residents of the right to stay there, as, as a general rule, it applies only to pensioners and people with I or II group of disability, and the recognition of a person as incapable is one of the requirements for granting the right to stay in psychoneurological homes, see Položenie o porâdke, osobennostâh i osnovaniâh predostavleniâ graždanam specialnyh žilyh pomešenij gosudarstvennogo žilišnogo fonda v domah-internatah dlâ prestarelyh i invalidov, domah-internatah dlâ detej-invalidov, specialnyh domah dlâ veteranov, prestarelyh i invalidov, utverždennoe postanovleniem Soveta Ministrov Respubliki Belarus N 1408 (24.09.2008) "O specialnyh žilyh pomešeniâh gosudarstvennogo žilišnogo fonda", cl. 5-6

190 Housing code of the Republic of Belarus (supra note 74), art. 111 (1.13)(paras. 6-7); the right to access social housing due to low income is also granted to families of mothers with many children and to people who have taken care of three or more orphans, see *ibid*, art. 111(1.13)(paras. 4-6)

development of the regulation in part 2 of Article 48 of the Constitution, which envisions the provision of housing to citizens in need of social protection<sup>191</sup>. However, the issue of applying this principle not generally to all of the financially most vulnerable, but only to those who are additionally qualified by the Housing Code as entitled to social housing, has not been given due consideration in the relevant decision.

The only available statistical indicator on social housing is the number of social housing units<sup>192</sup>, which does not allow assessment of its level of occupation, accessibility, timing of its provision and the level of demand among certain categories of people<sup>193</sup>.

## 2.4.2 Access to commercial housing in the public housing stock and other mechanisms of housing provision

The preferential right of access to commercial housing is the second way of realizing the rights arising from obtaining the status of a person in need of improved housing and not related to the acquisition of housing. Commercial housing is rental housing used for a limited period of time for a fee usually below market rate<sup>194</sup>. Access to such housing is not limited to people who have the status of being in need of improved housing and is available to everyone interested, but those with such status enjoy preferential treatment in the application process<sup>195</sup>.

However, the highest priority in gaining access to rental housing is given to young professionals and employees of selected state bodies<sup>196</sup>. The only condition for the latter to have access to rental housing is that they do not own any accommodation at their place of work<sup>197</sup>, but the amount of housing provided to

191 See Rešenje Konstitucionnogo Suda Respubliki Belarus "O sootvetstviu Konstitucii Respubliki Belarus Žilišnogo kodeksa Respubliki Belarus" (supra note 73), cl. 2.3

192 [http://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/zhilischnye-usloviya/godovye-dannye\\_4/zhile-sotsialnogo-polzovaniya-v-sostave-zhilischnogo-fonda-po-oblastyam-i-g-minsku/](http://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/zhilischnye-usloviya/godovye-dannye_4/zhile-sotsialnogo-polzovaniya-v-sostave-zhilischnogo-fonda-po-oblastyam-i-g-minsku/); National Statistical Committee of the Republic of Belarus, *Housing construction in the Republic of Belarus, 2014*, <http://www.belstat.gov.by/upload/iblock/efb/efb1ad4f736cac1f3a6a69b927533ddd.zip>, pp. 91–97

193 According to the Head of the Housing Policy Department of the Ministry of Architecture and Construction, social housing is in great demand, see <https://www.belta.by/roundtable/view/zhilje-dlja-mnogodetnyh-i-nuzhdajuschih-sja-kak-reshaetsja-vopros-1050/>

194 Položenie ob učete nuždaúših-sâ v ulučšenii žilišnyh uslovij (supra note 176), cl. 90; Ukaz Prezidenta Respubliki Belarus N 563 (16.12.2013) "O nekotoryh voprosah pravovogo regulirovaniâ žilišnyh otnošenij", cl. 1(1.5)(1); on actual rental housing prices see, e.g., <https://realty.tut.by/news/rent/544203.html?crnd=15848>; coverage of the topic of rented housing in the public housing stock see <https://realt.onliner.by/tag/arendnoe-zhile>

195 Položenie o porâdke predstavleniâ žilyh pomešenij kommerčeskogo ispolzovaniâ, utverždënnoe Postanovleniem Soveta Ministrov Respubliki Belarus N 1297 (31.12.2014, revised 23.05.2018) "O nekotoryh voprosah predstavleniâ žilyh pomešenij kommerčeskogo ispolzovaniâ", cl. 6; on the queue see <https://realt.onliner.by/2016/05/29/bomzh-4>

196 Položenie ob učete nuždaúših-sâ v ulučšenii žilišnyh uslovij (supra note 176), cl. 77; commercial housing in the public housing stock is also provided to some categories of public servants regardless of whether they own housing property or not, see Ukaz Prezidenta Respubliki Belarus N 535 (17.11.2014, revised 13.02.2017) "O merah po realizacii Ukaza Prezidenta Respubliki Belarus ot 16 dekabrâ 2013 g. N 563"

197 Položenie ob učete nuždaúših-sâ v ulučšenii žilišnyh uslovij (supra note 176), cl. 77; The rule of this clause is not limited to the criterion

them may not exceed 40% of the total amount of housing intended for rent<sup>198</sup>. The amount of payment for rented housing provided to young specialists and employees of state bodies is set with the use of a reduction factor, which actually reduces the cost of rent by 90% of the amount of payment applied as a general rule<sup>199</sup>. The only exception is rental housing in Minsk, where the cost of payment is reduced by 80%<sup>200</sup>.

Unlike social housing, published statistics do not reflect information on commercial premises whatsoever. In early December 2018, the media reported an inspection by the State Control Committee that revealed 965 empty apartments belonging to the state housing stock, 308 of which fell under the category of rental housing<sup>201</sup>.

Other existing mechanisms for the provision of housing also do not explicitly take into account the total lack of access to adequate housing for the homeless and are available only to certain categories of people. Thus, dormitory accommodation is provided only for the period of work or study<sup>202</sup>, but even if it is possible to obtain housing in a dormitory, the lack of any other housing does not serve as a basis for its preferential<sup>203</sup> or extraordinary<sup>204</sup> provision.

The temporary public housing included in the category of “special residential premises” is provided for the temporary residence of people evicted from residential buildings due to major repairs, in case of withdrawal of land plots for state needs, as well as for those whose housing has become uninhabitable due to fires and other emergency situations<sup>205</sup>. In December 2018, 28 uninhabited units of temporary public housing were reported to have been in this situation from one to up to 12 years. The reason provided for their non-use was the lack of analysis of the demand for such housing and the failure to take measures to change its status<sup>206</sup>.

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of lack of housing and, as an alternative requirement, includes the right to possession and use. However, it is submitted that the lack of housing based on the right to possessing and using, which is most often the result of a rental contract, is not a factor that makes it necessary to establish the need to provide housing because it is not available and cannot be paid at the market price.

198 *Položenie ob učete nuždaúšihsá v ulučšenii žilišnyh uslovij* (supra note 176), cl. 77(3)

199 Detailed description of the rules for calculating the amount of payment see N. Kuharčik, *Predostavlenie arendnogo žilá* (KonsultantPlus); *Položenie ob učete nuždaúšihsá v ulučšenii žilišnyh uslovij* (supra note 176), cl. 1.5-1.6; *Postanovlenie Soveta Ministrov Respubliki Belarus N 1297* (31.12.2014, revised 23.05.2018) “O nekotoryh voprosah predostavleniá žilyh pomešenij kommerčeskogo ispolzovaniá”, cl. 2; Rates applied depending on the degree of amenities and location of residential premises are established at the level of regions and the city of Minsk, see, e.g., *Rešenie Minskogo oblastnogo ispolnitelnogo komiteta N 736* (19.07.2016) “Ob ustanovlenii koëfficientov, primenâemyh pri opredelenii razmera platy za polzovanie žilymi pomešeniâmi kommerčeskogo ispolzovaniá gosudarstvennogo žilišnogo fonda”; reduction rates are also set at this level and all regional rates valid at the time of preparation of the report were set at the level of 0.1, except for the cities of the Gomel region with a population of less than 5,000 people, see *Rešenie Gomelskogo oblastnogo ispolnitelnogo komiteta N 221* (19.03.2014, revised 11.07.2016) “Ob ustanovlenii ponižaúših koëfficientov, primenâemyh pri opredelenii razmera platy za polzovanie žilymi pomešeniâmi kommerčeskogo ispolzovaniá gosudarstvennogo žilišnogo fonda Gomelskoj oblasti”

200 See footnote above and *Rešenie Minskogo gorodskogo ispolnitelnogo komiteta N 1099*(25.04.2014) “Ob ustanovlenii ponižaúšego koëfficienta, primenâemogo pri opredelenii razmera platy za polzovanie žilymi pomešeniâmi kommerčeskogo ispolzovaniá”

201 <https://www.sb.by/articles/zhile-ne-dolzjno-pustovat4323.html>

202 Housing code of the Republic of Belarus (supra note 74), art. 120(1); *Postanovlenie Soveta Ministrov Respubliki Belarus N 269* (05.04.2013, revised 27.11.2018) “Ob utverždenii Položeniâ ob obšežitii i tipovogo dogovora najma žilogo pomešeniâ gosudarstvennogo žilišnogo fonda v obšežitii i priznanii utrativšimi silu nekotoryh postanovlenij Soveta Ministrov Respubliki Belarus”, cl. 2

203 Housing code of the Republic of Belarus (supra note 74), art. 120(3); *Položenie ob učete nuždaúšihsá v ulučšenii žilišnyh uslovij* (supra note 176), cl. 96

204 *Ibid.*, accordingly, art. 120(2); p. 95. On those falling within the category of people provided with housing on extraordinary basis see Housing code of the Republic of Belarus (supra note 74), art. 112(4)

205 *Položenie ob učete nuždaúšihsá v ulučšenii žilišnyh uslovij* (supra note 176), cl. 103; a complete list of housing belonging to this category see Housing code, art. 121. Categories other than the temporary public housing are not considered here because of their limited relevance to the provision of temporary or permanent housing to the homeless.

206 <https://www.sb.by/articles/zhile-ne-dolzjno-pustovat4323.html>

## 2.5 Eviction without the provision of other housing

The lack of a comprehensive state policy on homelessness is also manifested in the inaccessibility of mechanisms to prevent homelessness in cases of loss of housing by people who do not have sufficient social ties and financial capacity to independently provide themselves with other adequate housing. In particular, the published statistics on the number of eviction claims filed and satisfied without the provision of other housing reflect only the total number of such claims<sup>207</sup>, making it impossible to assess the causes and circumstances of the evictions. Nonetheless, evictions from some categories of housing carry the risk of homelessness among potentially high numbers of evicted.

### 2.5.1 Eviction from dormitories

Despite the fact that living in dormitories has always been considered as a temporary mechanism for providing people with housing for the period of their work in the organization providing the dormitory<sup>208</sup>, their long-term employment relationships have effectively transformed dormitories into permanent housing, in which many families have been living for decades<sup>209</sup>. This arrangement was partially supported by the Housing Code, which was in force until 2013 and allowed the eviction of workers from dormitories without providing other housing only in the case of their resignation or for violation of labor discipline or availability of other housing<sup>210</sup>. In the event of the death of the tenant, the contract was re-negotiated with an adult family member and the tenant was entitled to extraordinary assistance in order to obtain social housing or to buy his or her own home<sup>211</sup>.

With the new Housing Code coming into force, the rules of eviction from dormitories have changed significantly, allowing, as a general rule, the eviction of employees and their family members without the provision of other housing in the case of termination of their employment relationship, regardless of its causes<sup>212</sup>. An exception to the general rule applies only to a limited number of people who have been granted a place in a dormitory before the new Housing Code came into force<sup>213</sup> and who belong to one of the established categories, which include, among others, those with disabilities from workplace

207 See the part "Rassmotrenie graždanskih del" in each of the covered periods, [http://www.court.gov.by/ru/justice\\_rb/statistics/archiv/](http://www.court.gov.by/ru/justice_rb/statistics/archiv/)

208 See, e.g., Housing code of the Republic of Belarus N 3351-X (22.12.1983, revised 28.07.1990), art. 125

209 See, e.g., <https://realt.onliner.by/2018/11/29/obshhezhitie-22;> <https://realt.onliner.by/2014/04/18/brest-27;> <https://realt.onliner.by/2018/12/03/krik-dushi-27>

210 Housing code of the Republic of Belarus N 248-3 (22.03.1999), art. 98(2)

211 Položenie o porādke učeta graždan, nuždaúšihsá v ulučšenii žilišnyh uslovij, predostavleniâ žilyh pomešenij gosudarstvennogo žilišnogo fonda, utverždennoe Ukazom Prezidenta Respubliki Belarus N 565 (29.11.2005, revised 30.12.2011) "O nekotoryh merah po regulirovaniû žilišnyh otnošenij", cl. 77(3)

212 Housing code of the Republic of Belarus (supra note 74), art. 93(1)

213 The new Housing Code came into force on 2 March 2013, see *ibid.*, art. 225

accidents, those who have worked in the organization that has provided a place in a dormitory for at least ten years, are entitled to a pension or live with minor children<sup>214</sup>. The rule on concluding a tenancy agreement with family members of a deceased employee who was the original tenant also has been limited and is now applicable only to dormitory accommodation provided before the new Housing Code came into force<sup>215</sup>.

The formal approach to the provision of dormitory housing as purely corporate and temporary in nature and the ensuing rules of eviction of former workers and their families without the provision of other housing, do not take into account the actual situation of people living in dormitories, as well as the serious risk of homelessness to which those evicted from dormitories may be exposed. The provision of dormitory housing is essentially aimed at providing housing for workers whose income does not allow them to provide adequate housing for themselves, whose occupations are often related to low-skilled and/or low-wage work<sup>216</sup>, and who are forced to live in conditions that often do not meet basic requirements<sup>217</sup>. The vulnerability of workers living in dormitories is also aggravated by the widespread system of short-term employment contracts<sup>218</sup>. While the system itself is a source of vulnerability for workers due to the possibility of an arbitrary decision by the employer not to extend the contract, the dependence of the availability of housing in the dormitory on such a decision clearly becomes an additional factor in the precarious situation of workers living in dormitories<sup>219</sup>. Enterprises need to provide dormitory housing for other workers; at the same time, termination of employment and loss of permanent income can be a significant vulnerability factor for former workers already living in the dormitory, for whom the loss of dormitory housing carries a high risk of homelessness.

However, being employed by a company that offers its employees dormitory housing does not guarantee the timely provision of such accommodation. The current rules only partially prioritize some groups potentially vulnerable in terms of having access to adequate housing, but do not take into account the actual severity of the problem of such access for applicants who are not members of one of the fixed groups entitled to an extraordinary or priority right to housing<sup>220</sup>. This approach has a high potential of negatively impacting the volatile housing status of those evicted from dormitories but having the possibility of employment by another company, as well as on applicants waiting to be given a vacant accommodation who do not have other adequate housing.

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214 Ibid., art. 221(4); on eviction followed by the reach of adulthood by the children see <https://realt.onliner.by/2017/03/04/obshhezhitie-12>

215 Ibid., art. 221(4)(2); on eviction after the death of the family member who was the initial tenant, see <https://realt.onliner.by/2018/12/03/krik-dushi-27>

216 See, e.g., <https://realt.onliner.by/2015/02/04/registr-3>; <https://realt.onliner.by/2018/11/29/obshhezhitie-22>

217 <https://realt.onliner.by/2018/11/29/obshhezhitie-22>; <https://realt.onliner.by/2016/12/01/obsh>; <https://realt.onliner.by/2015/12/16/obshhezhitie-10>; <https://realt.onliner.by/2015/10/05/raspred>; <https://realt.onliner.by/2015/08/25/iznanka-obshhezhitiya>; <https://realt.onliner.by/2015/03/24/obshhezhitie-8>; <https://belsat.eu/ru/in-focus/beloruskie-obshhezhitiya-zhit-v-razvalinah-platit-kak-za-dvorets/>

218 FIDH/HRC Viasna, *Forced Labor and Pervasive Violations of Workers' Rights in Belarus*, <https://www.fidh.org/IMG/pdf/rapportbelarusuk623-bassdef.pdf>, pp. 16-19

219 On non-extension of fixed-term contracts and subsequent eviction see Rešenie rajonnogo suda ot 21.06.2013 "Iz žilyh pomešenij gosudarstvennogo žilišnogo fonda v obšežitiáh, predostavlennyh do vstupleniá v silu dejstvuúšego Žilišnogo kodeksa Respubliki Belarus, ne mogut byt vyseleny bez predostavljeniá drugogo žilogo pomešeniá tipovyh potrebitelskih kačestv, nanimateli žilyh pomešenij, proživaúšie s nesoveršennoletnimi detmi" (KonsultantPlus); see also on eviction from work housing, <https://news.tut.by/society/455388.html?crnd=31399>

220 Housing code of the Republic of Belarus (supra note 74), art. 120(2-3); see also <https://news.tut.by/society/455388.html?crnd=31399>; <https://sputnik.by/society/20180410/1034743991/v-dogovore-vse-propisano-semyu-s-tremya-detmi-vyselyayut-na-ulicu.html>



## 2.5.2 Evictions from rented housing of state housing stock

There is also a high risk of homelessness as a result of evictions without the provision of other housing for people who have been evicted from commercial public housing assigned to this category after the end of a fixed period during which such housing could be privatized by tenants<sup>221</sup>. Eviction of tenants of such housing is allowed in the case of two months' debt for the use of housing or utility and housing maintenance services<sup>222</sup>. At the same time, the condition for eviction of housing *owners* is the failure to pay for utility and housing maintenance services within six months, in which case an additional month is given to repay the existing debt. Eviction of the owner and expropriation of housing is envisaged as a last resort measure applied in case of inability to repay the debt at the expense of other assets; in this case, the former owner is provided with other housing<sup>223</sup>.

Thus, the lack of financial<sup>224</sup> capacity for timely housing privatization effectively results in the application of stricter eviction rules, disproportionately affecting the most vulnerable categories of public housing tenants<sup>225</sup>. The lack of capacity of tenants to pay for the use of housing is in itself an indicator of their financial vulnerability<sup>226</sup>; their forced eviction without the provision of other housing carries a high risk of homelessness and significant deterioration of living standards.

## 2.5.3 Access to justice for economically vulnerable people in case of eviction

The right to an effective legal remedy is a central element in the protection of everyone's rights<sup>227</sup>. The ability of everyone to enjoy the right to equal access to justice guaranteed by article 14 of the International Covenant on Civil and Political Rights requires the adoption of effective measures that contribute to the removal of any regulatory, social or economic barriers that impede access to justice and the right to a fair trial for the most vulnerable groups<sup>228</sup> requires the adoption of effective measures that

221 Ukaz Prezidenta Respubliki Belarus N 563 (16.12.2013) "O nekotoryh voprosah pravovogo regulirovaniâ žilišnyh otnošenij", cl. 2(2.4); <https://realty.tut.by/news/offtop-realty/472110.html>; statistics on the number of claims on eviction without the provision of other housing filed and satisfied see [http://www.court.gov.by/ru/justice\\_rb/statistics/archiv/](http://www.court.gov.by/ru/justice_rb/statistics/archiv/)

222 Положeние об учёте нуждающихся в улучшении жилишныh условий (supra note 176), cl. 92(1)(3)

223 Housing code of the Republic of Belarus (supra note 74), art. 155

224 Financial unaffordability of housing privatization was not the only obstacle, see, e.g., <http://www.zarya.by/event/message/view/17968>

225 <https://minsknews.by/za-dolq-po-oplate-zhku-v-razmere-5-5-tyis-rublej-semya-poteryala-dvuhkomnatnyu-kvartiru-u-metro/>; <https://realt.onliner.by/2018/05/10/dolq-41>

226 <https://www.kp.by/daily/26681.5/3704618/>; <https://realt.onliner.by/2018/03/01/dolgovaya-yama>

227 The Universal Declaration of Human Rights (1948), art. 8; International Covenant on Civil and Political Rights (1966), art. 2(3)

228 International Covenant on Civil and Political Rights (1966), art. 14(1): "In the determination [...] of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law"; see

contribute to the removal of any regulatory, social or economic barriers that impede access to justice and the right to a fair trial for the most vulnerable groups<sup>229</sup>. In particular, the lack of access to legal support may constitute an initial barrier to access to and full participation in judicial proceedings<sup>230</sup>.

The prohibition of arbitrary deprivation of housing established by the Constitution of the Republic of Belarus<sup>231</sup> is implemented through the requirements for the evictions to be carried out only in pursuance of a court decision<sup>232</sup>, and only on the grounds specified in the legislative acts<sup>233</sup>. While the judicial procedure for eviction decisions is an important mechanism for ensuring that such decisions are not taken arbitrarily, the inability to pay for legal support and the lawfulness of evictions ordered in absentia pose significant barriers to equal access to justice for everyone.

### 2.5.3.1 Lack of access to qualified legal support

Due to existing economic inequalities between parties, the availability of qualified and affordable legal support is a crucial factor in determining whether the evictee can exercise their right to access to justice. In such a situation, the lack of sufficient means to pay for legal support is a direct barrier to the assertion of one's rights in the judicial process.

The widespread distrust of the judicial system among homeless people and the belief that decisions cannot be made in their favor often result from the limited availability and inadequacy of social assistance, the lack of permanent employment opportunities and other difficulties.

*"[After losing my home,] I turned [for help] to the district executive committee. I was told I needed a lot of money to take legal action. The first time I filed a suit, it was for free. [...] It went on and on and it didn't work out. The judge postponed everything for further proceedings and also made decisions in my favor, [but my sister continued to appeal against them]. Then I just gave up, and that was it – I had no money, I couldn't get a job back then, and so it ended."<sup>234</sup>*

Qualified legal support is necessary to ensure that all the guarantees available to those evicted without the provision of other housing can be used. For example, evictions for non-payment of the use of housing

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also Human Rights Committee, *General Comment No. 32. Article 14: Right to equality before courts and tribunals and to a fair trial*, CCPR/C/GC/32, para. 3

229 For details see *Report of the Special Rapporteur on extreme poverty and human rights*, A/67/278, para. 12

230 *General Comment No. 32* (supra note 228), para. 10

231 Constitution of the Republic of Belarus Constitution of the Republic of Belarus, art. 48(3)

232 Exceptions are evictions from housing in an unsafe condition and evictions in connection with the introduction of a state of emergency, which are implemented in an administrative manner, see Housing code of the Republic of Belarus (supra note 74), art. 89

233 Rešenje Konstitucionnogo Suda Respubliki Belarus "O sootvetstvii Konstitucii Respubliki Belarus Žilišnogo kodeksa Respubliki Belarus" (supra note 73), cl. 1(3); Postanovlenie Plenuma Verhovnogo Suda Respubliki Belarus N 8 (28.06.2007) "O praktike primeneniâ sudami žilišnogo zakonodatelstva po delam o rastorženii dogovora najma žilogo pomešeniâ i vyselenii", cl. 8 (ceased to be in force)

234 Interview with homeless man, 22 January 2019

are permitted only if there are no valid reasons for the inability to pay<sup>235</sup>. However, the burden to prove that such reasons exist lies solely on those being evicted<sup>236</sup>, which requires knowledge of the procedure, of the possibility of and rules for providing relevant evidence<sup>237</sup>. In other words, if those to be evicted cannot afford legal assistance, their lack of specialized knowledge can be a result of the unavailability of existing guarantees and inadequate representation of their interests in the judicial process. Similarly, the non-use of the possibility of appealing against an eviction decision may be contrary to the interests of the evicted person.

*“The dormitory housing was provided by the construction company my father worked for. My father died, my mother died too, and I was left alone. It was difficult to find a job, I couldn’t find a job - I couldn’t pay my rent for a year, and I was evicted by the court without being given another place to live.”<sup>238</sup>*

The current procedure for providing free legal support does not presuppose its mandatory provision in cases of eviction without providing other housing and establishes rather narrow categories of people who are entitled to receive such support to a limited extent<sup>239</sup>.

## 2.5.3.2 Eviction decisions ordered in absentia

*“My father died in 2015 and, according to his will, the apartment was given to my sister. [...] There was a court hearing, but I wasn’t summoned, I received no notification, and the court ordered my eviction without me present. I have been caring for my father for 8 years [...], feeding him [...] and now I’ve landed on the street. I petitioned the court: how could they [make the decision] without me? Nothing happened. [...] What kind of system is this? How can the court make such a decision without me? [...] If they had listened to me, if only I could have attended the hearing, then of course [the court wouldn’t have made that decision]. Now I need a counter-suit, I need to challenge the will – I need money, and you know how much money that is.”<sup>240</sup>*

235 Housing code of the Republic of Belarus (supra note 74), art. 86(1)

236 See, e.g., *Opredelenie sudebnoj kolegii po graždanskim delam oblastnogo suda* (25.04.2018); *Opredelenie sudebnoj kolegii po graždanskim delam oblastnogo suda* (07.04.2016) <Vyvod rajonnogo suda o naličii osnovanij dlâ vyseleniâ otvetčika iz žilogo pomešeniâ gosudarstvennogo žilišnogo fonda v obšežitii podtveržden dostatočnymi i dostovernymi dokazatelstvami>; *Rešenje rajonnogo suda* (04.02.2016) <Nezavisimo ot naličia trudovyh otnošenij s organizaciej, predstavivšej žiloe pomešenie, podležat vyseleniû iz žilogo pomešeniâ gosudarstvennogo žilišnogo fonda v obšežitii nanimatel i proživajušie sovmestno s nim členy ego semi, imeûšie bez uvažitelnyh pričín šestimesâčnuû zadolžennost po plate za žilišno-kommunalnye uslugi i plate za polzovanie žilym pomešeniem> (KonsultantPlius)

237 See, e.g., *Opredelenie sudebnoj kolegii po graždanskim delam gorodskogo suda* (02.07.2015) (KonsultantPlius)

238 Interview with homeless man, 30 January 2019

239 *Zakon Respubliki Belarus N 334-Z* (30.12.2011, revised 11.07.2017) “Ob advokature i advokatskoj deâtelnosti v Respublike Belarus”, art. 28; *Postanovlenie Prezidiuma Respublikanskoj kolegii advokatov N 49* (28.12.2004) “O nekotoryh voprosah okazaniâ besplatnoj ũridičeskoj pomošii”

240 Interview with homeless man, 22 January 2019

According to the current rules of the Civil Procedure Code, judicial considerations of disputes on eviction without the provision of other housing can be held in absentia if the defendant was notified of the time and place of the court hearing, but failed to appear and did not provide valid reasons for their absence<sup>241</sup>. As a general rule, participants in the process are notified by registered letters, which are personally delivered to the addressee against a signed receipt<sup>242</sup>; in the absence of the recipient at the place of residence or work, the notification letter is handed over to adult family members living together with the addressee<sup>243</sup>. When the court considers the case and renders a decision in absentia, the defendant has the right to submit an appeal against the decision<sup>244</sup>, explaining the circumstances which constitute a valid reason for the defendant's failure to appear at the hearing and about which the defendant was unable to report in time, as well as to provide "evidence that may affect the court decision"<sup>245</sup>.

While this order of proceedings may be a tool to ensure judicial protection of the rights of the plaintiff in the event of defendant's contumacy<sup>246</sup> and to meet the time limits for hearing of civil cases, the mechanism of its use may cause disproportionate harm to the person being evicted without the provision of other housing.

In particular, the rules for notifying participants in the proceedings of the time and place of the court hearing do not take into account the unstable situation in which people may be in the process of eviction: the virtual inability to reside at the place of registration; possible conflict with relatives, who are eligible recipients of notifications, the addressee of which is the person being evicted; lack of money to pay for communication facilities<sup>247</sup>.

The mechanism of reversal of court decisions made in absentia also cannot be seen as a generally available tool, as its use requires qualified legal support and places a significant burden on the defendant to prove not only the existence of valid reasons for failing to appear<sup>248</sup>, but also to provide evidence that could affect the decision taken in absentia.

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241 Code of civil procedure of the Republic of Belarus N 238-Z (11.01.1999, revised 08.11.2018), art. 334-1

242 Ibid., art. 145(1)

243 Ibid., art. 146(1)

244 Ibid., art. 334-4

245 Ibid., art. 334-6(3); Postanovlenie Plenuma Verhovnogo Suda Respubliki Belarus N 9 (21.12.2012, revised 27.09.2018) "O praktike rassmotreniâ sudami del v porâdke zaočnogo proizvodstva", cl. 11

246 Postanovlenie Plenuma Verhovnogo Suda Respubliki Belarus N 9 (21.12.2012, revised 27.09.2018) "O praktike rassmotreniâ sudami del v porâdke zaočnogo proizvodstva", cl. 1

247 On undelivered notifications see <https://news.tut.by/society/455388.html?crnd=31399>

248 On potentially valid reasons for failing to appear, not provided by the defendant in a court procedure held in absentia, see <https://realt.onliner.by/2018/03/01/dolgovaya-yama>; see also <https://spring96.org/ru/news/89338>

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