

UDK 342

## GUARANTEE THE RIGHTS OF REFUGEES IN THE REPUBLIC OF BELARUS

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*The article deals with a number of procedural, legal and material guarantees of refugees, realization of their rights. The proposed amendments to the existing legislation will contribute to further strengthen the safeguards system. It is proposed to introduce a mandatory pre-trial procedure for settling disputes over refugees into civil procedural law.*

Guarantees of the exercise of rights are an element of the constitutional and legal status of refugees.

Warranties can be different: procedural, material, legal, economic, etc. To begin, consider a number of procedural guarantees for refugees of the Republic of Belarus of their rights.

So, the problem of refugees' realization of the right to judicial protection is important for the Republic of Belarus. The work of the constitutional Court of the Republic of Belarus is very indicative here. Thus, the message of the constitutional Court of the Republic of Belarus "on the state of constitutional legality in the Republic of Belarus in 2002"[1] notes certain directions of work in this sphere. For example, to ensure access to justice they have also been sent by the Decision of 15 January 2002 "About the state tax payment by persons appealing against a court refusal to register a petition for the recognition of refugee status and denial of recognition of refugees" [2].

According to the legislation on refugees and the international obligations of the Republic of Belarus, the state must grant every refugee the right of free access to the courts. At the same time, the amount of the state fee established by law did not allow such persons to pay it and, therefore, to exercise their right to access to justice. The constitutional Court notes that the Council of Ministers, on the basis of the said Court decision, by decree No. 443 of 8 April 2002, significantly reduced the amount of the state fee for refugees in certain categories of cases when applying for judicial protection [3].

For comparison, it should be noted that the judicial practice of the constitutional Court of the Russian Federation shows that refugees most often appeal against the inaction of state bodies in the part relating to long delays in the consideration of applications for refugee status in the territory of the Russian Federation on the merits. A similar problem exists in the Republic of Belarus.

In the Russian Federation, among the rights there is the right of a person recognized as a refugee to receive the services of an interpreter. It should be noted that this right is not granted to refugees in the Republic of Belarus. In our opinion, it would be necessary to supplement the article of the law of the Republic of Belarus on granting refugee status with this norm [4], which will facilitate the process of realization of their rights to persons who have received refugee status in the Republic of Belarus. This legislative innovation will also guarantee refugees the exercise of their rights.

The problem seems to be the question of the cost of paying for the services of an interpreter and determining the party that will provide these costs. We believe that due to the limited state budget of the Republic of Belarus and the observance of the principle of expediency of its use, the burden of paying for the services of an interpreter should be placed on the person applying for refugee status. It should be noted that the nature of this rule will not be discriminatory and will not contradict the universally recognized principles of international law. This is due to the fact that in the Republic of Belarus certain categories of foreign citizens have a status different from the status of citizens of the Republic of Belarus (temporarily residing and temporarily staying). For example, these foreign citizens, according to the law, use medical services at their own expense. The proposed norm will have a similar justification.

At the legislative level, persons applying for refugee status and refugees are granted the right to apply to the court to protect their legitimate interests, namely, article 19 of the refugee status act [4] says that refugees have the right to judicial protection on an equal basis with citizens of the Republic of Belarus.

However, having studied the practice of the General courts of the Republic of Belarus, it can be noted that it is "not rich" in such cases.

Difficulties in legal regulation arise when appealing against denial of refugee status. At the legislative level, there is no specific algorithm for appealing against refusal to grant refugee status, which, in our opinion, is

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an omission of the legislator. According to Art. 15 of the law of the Republic of Belarus on refugees [5], decisions and actions (inaction) of public authorities and officials related to the implementation of this Law may be appealed to a higher authority and (or) the court.

That is, in the case that a foreign national applying for granting refugee status, refused to grant it, he has the right to address in court with the complaint. However, there are no special refugee courts in the Republic of Belarus or relevant panels in the General courts, and the General courts are dealing with a great many cases.

On the basis of this, it is proposed to introduce a mandatory pre-trial procedure for the settlement of such disputes, in case of non-compliance with which, the court has the right to refuse to accept the statement of claim, which will facilitate the task of the General courts.

In accordance with this, we propose to add part 1 of article 245 of The civil procedure code [6] with paragraph 6 of the following content: pre-trial dispute settlement procedure is not observed.

It should be noted that the literal interpretation of the Constitution makes it possible to conclude that refugees and persons applying for such status have the right to apply to UNHCR if all domestic remedies have been exhausted, as stated in article 61 of the Constitution of the Republic of Belarus [7]. This is another guarantee of the right to defend one's rights.

On the issue of consolidation of procedural guarantees, it should be noted that the legislation of the Republic of Belarus is aimed at the realization of the right to appeal to the court, provided for by article 16 of the Convention on the status of refugee.

Analysis of the legislation on refugees provides a conclusion on other guarantees of rights.

For example, the Law on provision of refugee status in article 4 contains the following provision: "Information on aliens applying for protection, aliens who have been granted refugee status or complementary protection and aliens who have been granted temporary protection in the Republic of Belarus is confidential and cannot be provided without their written consent to state bodies, other organizations and citizens of their state of nationality or former habitual residence, mass media" [4].

This legal norm, in our opinion, is a guarantee in realization by refugees of the right to protection of private life, honor and dignity enshrined in Art. 28 of the Constitution. Furthermore, article 5 of the refugee status act contains provisions establishing legal guarantees for the non-expulsion of refugees, the essence of which is that refugees cannot be returned or expelled against their will to the territory of a state where their life or freedom is threatened by their race, religion, nationality, membership of a particular social group or political opinion [4].

Legislation has also provided a number of economic guarantees for refugees. In particular, this applies to the issues of obtaining monetary assistance, the possibility of living in a temporary settlement in the absence of the possibility of an independent settlement for a period of time before registration of a permanent residence permit in the Republic of Belarus, but not more than one year, etc.

Summing up, it should be noted that the legislation of the Republic of Belarus contains a number of procedural, legal and material guarantees for the refugees to exercise their rights. Some of them are improved, as indicated above in the text. As a result of the scientific research, amendments and additions to the current legislation were proposed, which will contribute to the further consolidation of the guarantee system. For example, civil procedure legislation has been proposed to introduce a mandatory pre-trial procedure for the settlement of refugee disputes. This proposal is based on the absence of specialized courts (separate panels) for refugees in the Republic of Belarus.

#### REFERENCES

1. About the state of constitutional legality in the Republic of Belarus in 2002 [Electronic resource] : message of the constitutional Court of the Republic of Belarus of February 5, 2003 № P-153/2003 // constitutional Court of the Republic of Belarus. – Mode of access: <http://www.kc.gov.by/main.aspx?guid=10393>. – Date of access: 13.02.2018.
2. About payment of state duty by persons appealing against a court refusal to register a petition for the recognition of refugee status and denial of recognition of refugee status [Electronic resource] : Decision of the constitutional Court of the Republic of Belarus from January 15, 2002 № R-136/2002 // the constitutional Court of the Republic of Belarus. – Mode of access: <http://kc.gov.by/main.aspx?guid=10563>. – Date of access: 13.02.2018.
3. About modification of the resolution of Council of Ministers of Republic of Belarus of February 26, 1993 No. 105 [Electronic resource] : resolution of Council of Ministers Of Belarus, March 12, 2015, № 190 // ETALON. Legislation Of The Republic Of Belarus / NAC. center for legal inform. Resp. Belarus. – Minsk, 2018.
4. About granting refugee status, additional and temporary protection to foreign citizens and stateless persons in the Republic of Belarus [Electronic resource]: law of the Republic of Belarus. Of Belarus of June 23. 2008 No. 354-Z : edited

- on Jul 20. 2016 №414-3: C izm. and additional from 20 Jul. 2016. No. 414-3 // ETALON. Legislation Of The Republic Of Belarus / NAC. center for legal inform. Resp. Belarus. – Minsk, 2018.
5. About modification and additions in the Law of the Republic of Belarus "On refugees" [Electronic resource] : Law, REP. Of Belarus of 16 June 1999, No. 268 – 3: amended on 16 Aug. 1999 No. 268-3 // ETALON. Legislation Of The Republic Of Belarus / NAC. center for legal inform. Resp. Belarus. - Minsk, 2018.
  6. Code of civil procedure [Electronic resource]: 11 January 1999 , No. 238-Z: adopted by the House of representatives on 10 December 1998 : approved. Council Resp. 18 December 1998 : as amended by the Law Resp. Belarus of 09.01.2017 G. // ETALON. Legislation Of The Republic Of Belarus / NAC. center for legal inform. Resp. Belarus. – Minsk, 2018.
  7. The Constitution of the Republic of Belarus of 1994 (with amendments and additions adopted by Republican referendums of November 24, 1996 and October 17, 2004). – Minsk: Amalfi, 2005. - 48 p.