



ANNEX II

of the Commission Implementing Decision on the Annual Action Programme 2016 in favour
of the Republic of Belarus

**Action Document for Helping Belarus Address the Phenomenon of Increasing Numbers
of Irregular Migrants**

1. Title/basic act/ CRIS number	Helping Belarus Address the Phenomenon of Increasing Numbers of Irregular Migrants CRIS number: ENI/2016/038-812 financed under the European Neighbourhood Instrument			
2. Zone benefiting from the action/location	Belarus The action shall be carried out at the following locations: Several Belarusian Voblasts (Regions), Latvia/Lithuania/Poland-Belarus border regions			
3. Programming document	Multiannual Indicative Programme for EU Support to Belarus (2014-2017)			
4. Sector of concentration/ thematic area	Complementary Support for Capacity Development	DEV. Aid: YES		
5. Amounts concerned	Total estimated cost: EUR 7 million Total amount of EU budget contribution: EUR 7 million			
6. Aid modality(ies) and implementation modality(ies)	Project Modality Indirect management with the International Organization for Migration			
7 a) DAC code(s)	15110 – Public Sector Policy and Administrative Management			
b) Main Delivery Channel	47066 - International Organisation for Migration			
8. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Main objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women)	<input type="checkbox"/>	X	<input type="checkbox"/>

	In Development)			
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Main objective
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
9. Global Public Goods and Challenges (GPGC) thematic flagship	n/a			

SUMMARY

The EU and Belarus are currently in the final phase of negotiations on three mobility-related agreements: a visa facilitation agreement, a readmission agreement and a Mobility Partnership. As a measure accompanying the negotiation process, the European Commission has decided to allocate about 10% of the funds of the «Multiannual Indicative Programme for EU Support to Belarus (2014-2017)» to "Complementary Support for Capacity Development" in order to "provide specific assistance for the implementation of priority commitments deriving from future possible EU agreements and the dialogue on mobility".

This Action is meant to help the country (1) comply with its potential commitments under the future EU-Belarus readmission agreement and the Mobility Partnership and (2) address the phenomenon of increased irregular migration flows through Belarus originating from the conflict in Ukraine, the civil war in Syria and the economic crisis in Russia, which force many third-country nationals to look for new (job) opportunities in the EU.

This project is a comprehensive support programme in the area of migration. It will support the development and implementation of a fully-fledged irregular migration management strategy in line with international migrants' rights standards. The programme will encompass activities on **legislative and institutional reform** issues in Component 1 (e.g. policy advice on migration strategy development, division of responsibilities between state agencies, enhanced inter-service cooperation, and the development of a national referral system). It will focus on topics such as the development of analytical and statistical reports on migration flows (including support to Belarus' databases on migration), migration profiling (including sex- and age-disaggregated statistical data) and gender-sensitive training on interviewing techniques for border guard staff when dealing with migrants. Activities will also include training on the management of migrants' accommodation centres in line with best international and EU standards, English language courses for interviewers as well as centres' staff. Moreover, a mechanism of **voluntary return and reintegration** for stranded migrants, including rejected asylum seekers and third-country or Belarusian nationals returned from EU countries, will be set up and supplemented by funds (Component 2). Apart from that, this Action will finance the construction and/or renovation of several **temporary migrants' accommodation centres**, administered by the Ministry of Interior and the State Border Committee, based on best practices of EU Member States and taking into account the needs of persons with special needs and vulnerable persons (Component 3).

1 CONTEXT

1.1 Sector/Country/Regional context/Thematic area

Irregular migration flows through Belarus are relatively small when compared with other European Neighbourhood countries. However, figures are increasing, mainly because of the economic crisis in Russia, which forces many third-country nationals to look for new (job) opportunities in the EU, the civil war in Syria and the conflict in Ukraine. In 2014-2015, about 160,000 people from the East of Ukraine arrived in Belarus. Figures for refugees and migrants from other countries, willing to stay in Belarus, are significantly lower but have also increased over the past months.

The majority of irregular migrants, who are almost entirely young men, transit or lived in Russia and come originally from Georgia, Russia (Chechens and Daghestanis), Vietnam, and Syria. Other countries of origin (of lesser importance in terms of quantities) are Afghanistan, Egypt, India, Sri Lanka, Bangladesh, and Pakistan. The most important EU countries of destination named by migrants to the authorities are Germany, Sweden, and the UK.

An assessment of the State Border Committee of Belarus in 2015 disclosed that the authorities are currently confronted with the problem that local and international organised crime (OC) groups (usually of Chechen or other Caucasian origin), specialised in trafficking of migrants, avoid Ukrainian territory because of the risk of being robbed on their transit through Ukraine by criminal gangs, which appear to move more freely nowadays due to the current weakness of Ukraine's law enforcement agencies. Belarus' open border with Russia, which basically all⁸ irregular migrants cross, also contributes to the "attractiveness" of the route to Europe via Belarus.

Mainly the entire border with Lithuania (in particular the territory around official check points) and, in a new development, the most south western part of Belarus – the Tomashovka land strip at the frontier with Ukraine – are currently used by irregular migrants to cross into EU territory. The fact that the Belarusian frontier with Poland is heavily secured by border installations stemming from the Soviet area (Ukraine dismantled this equipment) and that the Belarus-Ukraine border, for the time being, is rather unguarded make the Ukraine-Poland border particularly vulnerable for illegal crossings into EU territory. The Belarus-Latvia frontier is not often used by irregular migrants, mainly for reasons linked to its relative difficult accessibility (terrain). As mentioned earlier, there are no border crossing points at the Belarus-Russia frontier, nor are there permanent patrols along the "green" border. Still, the Belarusian border guards are sometimes deployed there temporarily on an ad-hoc basis. These deployments are usually triggered by preceding intelligence reports.

Belarusian passport holders do not have the reputation of frequently breaking the border regime legislation. Typically, they are refused entry into EU territory for lack of valid travel documents. There are only few cases reported where Belarusians were caught when crossing the green border illegally.

For the time being, there appear to be no incidents with terrorist groups or foreign fighters at the EU-Belarus border or within Belarusian territory.

⁸ An exception are Georgian nationals, who arrive in Belarus often by plane coming directly from Tbilisi.

1.1.1 Public Policy Assessment and EU Policy Framework

Public Policy Assessment

Responsibilities for the handling of irregular migrants in Belarus is split between the Ministry of Interior (MoI) and the State Border Committee (SBC): While migrants detected at the state border when trying to cross illegally into EU (or Ukrainian) territory are kept in facilities of the border guard, the MoI is in charge of all other cases (i.e. detentions of irregular migrants intercepted inside the territory of Belarus). Since detention (irregular migrants)⁹ and hosting (asylum seekers)¹⁰ facilities of the SBC are very limited, the SBC often hands over detained migrants to the MoI. If its facilities are not overcrowded, the SBC takes care of the entire deportation procedure.

Belarus has a rather restrictive approach to the provision of asylum: slightly more than 1000 persons have been granted asylum status since the country achieved independence in 1991.¹¹ Out of a total of about 1200 applicants in 2015 (among them 978 Ukrainians), approximately 20 people were given asylum (about 2 per cent). However, subsidiary protection, which needs to be renewed every year, has been granted more generously in that year (more than 70% of all asylum seekers), in particular to Ukrainian refugees. There are currently three centres for asylum seekers, run by three different institutions: one in Brest managed by the SBC, one in Viciebsk by the MoI and one in Homiel by the administration of the Voblasts.

The government is currently hammering out a comprehensive migration strategy, the first one in the country's history. The MoI, as the lead agency, is in charge of coordinating this process. A first draft is expected to be finalised during the course of 2016.

With the exception of Russia and Georgia, Belarus has visa regimes in place with most of the countries of origin, which irregular migrants stem from (see also section 1.1 above). Therefore, the main reason for the detention (and frequent deportation) of nationals from these countries is the breach of the country's visa regulations.

Belarus has signed readmission agreements with Georgia, Kazakhstan, Russia, Turkey and Ukraine (not ratified yet). Negotiations on similar agreements with Armenia, China, EU, India, Israel, Kyrgyzstan, Sudan and Vietnam are currently on-going or planned to start soon.

In 2008, a Memorandum of Understanding (MoU) on «Issues of Monitoring the State Border of the Republic of Belarus and Giving Access to the Procedure of Asylum in the Republic of Belarus» was signed between the SBC, UNHCR, IOM, the Belarusian Red Cross and the Belarusian Movement of Medical Workers. The MoU defines modalities of cooperation and identifies respective roles of the national actors and international organisations. It also provides for access to detained migrants, monitoring and counselling visits, medical and emergency aid (food, clothing, medicines) as well as assistance in case a migrant wants to return to his/her home country voluntarily. In 2012, a similar MoU was signed with the MoI, thus providing an instrument for access and work with irregular migrants detained in MoI facilities. However, the MoUs' full implementation is rather limited.

The most important laws regulating the stays, rights and obligations of foreign citizens in Belarus are:

⁹ The SBC runs 21 facilities for max. 117 persons.

¹⁰ The MoI is in charge of the whole asylum procedure; however, the SBC provides auxiliary services to the MoI by hosting asylum seekers in one facility in Brest.

¹¹ Mostly Afghans who have left their home country in the 1990s.

- The Law on the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus;
- Regulations on the Procedure of Deportation of Foreign Citizens and Stateless Persons (adopted by the Council of Ministers);
- Law on Granting the Refugee Status, Additional and Temporary Protection to Foreign Citizens and Stateless Persons in the Republic of Belarus (including an instruction to it);
- Administrative Code (AC): The code stipulates that MoI and SBC are the responsible state bodies to carry out the administrative process and pass judgements on penalties with regard to irregular migrants (warnings, fines, deportation or a combination of these penalties). The code also defines the general terms of detention. Moreover, the AC contains sanctions such as deportation for crossing the state border illegally (at unauthorized points, using counterfeit/false documents, etc);
- Criminal Code: The code specifies the criminal responsibility for violating the terms of entry bans and for organising irregular migration (including smuggling of persons). Besides, the code identifies sanctions for employing irregular migrants (including illegal employment);
- Law on the State Border of the Republic of Belarus;
- Law on the Procedures of Departure from the Republic of Belarus and Entry to the Republic of Belarus.

EU Policy Framework

The EU and Belarus are currently in negotiations on three mobility-related agreements: a visa facilitation agreement, a readmission agreement and a Mobility Partnership. The third and, for the time being, last round of negotiations on the EU-Belarus visa facilitation and readmission agreements took place in March 2015 in Minsk. At that occasion the two texts were largely agreed between the two sides. There remains, however, one issue of a technical nature raised by some EU Member States which will need to be resolved by the Belarusian side – namely the security features of the diplomatic passports of Belarus. In the recent past, the European Commission has repeatedly offered to organise a meeting with document security experts to further explain the concerns of EU Member States and to provide expertise on this matter to the Belarusian authorities. This Action will focus its activities on several chapters of the Mobility Partnership.¹²

¹² This Action will address the following topics of the February 2016 draft of the Mobility Partnership:

- Consolidation of migration management capacities: Strengthening capacity to develop analytical and statistical reports on migration flows; improving Belarus' database on migration; the creation of a Migration Profile, as a data compilation, analysis, and policy-making support tool
- Fostering border management capacity and cooperation: Development of activities in the field of research and development related to border management; operational cooperation shall fully respect human dignity, fundamental rights and the rights of refugees and asylum seekers, including the principles of non-discrimination and of non-refoulement; training of trainers for border guards and other entities responsible for border management; Enhancing risk analysis capacity of the Belarus State Border Committee while enabling joint analytical work also with EU Member States
- Supporting capacity for readmission and return
- Encouraging voluntary returns
- Strengthening the asylum framework: Sharing knowledge and best practices on addressing the needs of foreigners applying for international protection, also as regards the organisation structure of reception centres

The European Commission-Belarus policy dialogue described above is supplemented by the bi-annual Eastern Partnership Integrated Border Management Flagship Initiative Panel Meetings and the Eastern Partnership Panels on Migration and Asylum. These meetings take place twice per year since 2009/2010.

1.1.2 Stakeholder analysis

The main stakeholders in dealing with irregular migration and carrying out detention procedures are the MoI and the SBC as defined by national law. Both agencies are entitled to carry out administrative procedures and pass final judgements. The MoI is mostly dealing with irregular migrants intercepted inside the territory of Belarus (inland detection), while the SBC's sphere of competence are persons detained at or near the state border. The Department of Citizenship and Migration of the MoI is the main state body responsible for elaborating and implementing migration priorities and policies with regard to irregular migration and detention of irregular migrants, although also the following bodies of the MoI may be involved in the process as well: the Department for Counteracting Organised Crime investigates and brings to court cases linked with organised smuggling in people; the Department of Drug Control and Combatting Trafficking in Human Beings intervenes in cases where the victims of trafficking are identified; the Department of Punishments' Execution provides control over most of the detention facilities in the country.

Moreover, there are a number of other state bodies that can get involved in the detention of irregular migrants:

- The Prosecutor's Office provides overall supervision of detention conditions compliance with the national law. In cases where law enforcement agencies need more than 72 hours for identity verification, the prosecutor can extend the term to up to 10 days. This state body is also responsible for extradition issues;
- The Investigation Committee takes over cases referred by the SBC and the MoI for criminal investigation and legal processing;
- The Ministry of Foreign Affairs, in particular its Consular Department, provides assistance in identity verification of a third-country national;
- The Ministry of Education and Social Welfare intervenes in cases of detention of unaccompanied minors and families with children;
- The Ministry of Health has control over ensuring access to first medical aid for detained foreigners;
- Local Courts, City Courts and the Supreme Court deal with appeals against administrative and criminal rulings.

1.1.3 Priority areas for support/problem analysis

Belarus lacks a comprehensive irregular migration strategy and capacity to coordinate and implement such a strategy. Thus, adequate policy and regulatory frameworks which would clearly define the role of various state actors involved in the process of dealing with irregular migrants are needed. The coordination of the ministries' work is performed by the Cabinet of Ministers through a number of thematic inter-agency working groups. However, there is no

- Developing the capacity: Support for improvement of reception conditions for refugees and asylum-seekers including through training in providing adequate reception to new arrivals and supporting the efficient functioning of reception centres for refugees especially as regards most vulnerable individuals

special working group on irregular migration. Coordination of work between the MoI and the SBC is regulated by a "Joint Instruction", according to which "working meetings" have to take place once every three months and meetings at heads of departments level once every six months. However, meetings are usually arranged on an ad-hoc basis on ad-hoc questions (no systematic approach). Moreover, there is no legislative base that would clearly describe the referral mechanism of irregular migrants apprehended by the border guards at the state border. Instead, respective agencies involved in referral procedures follow their own internal regulations. As stated earlier, the Administrative Code defines the general terms of detention of irregular migrants: up to 72 hours without, and up to ten days with, the prosecutor's sanction. However, there are no limits in the code as to the time for identity verification and deportation.

Due to the absence of an efficient state-run assisted voluntary return programme, migrants facing deportation or expulsion often do not have access to any assistance – something that also negatively influences the length of stays in "Temporary Detention Jails" (TDJs)¹³ where about 50% of irregular migrants are kept in custody (see below).

Currently, the most critical and urgent problem is the absence of adequate reception (accommodation) facilities for irregular migrants compliant with internationally accepted standards and principles (*inter alia* set by the «Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment», adopted by the UN General Assembly, Resolution 43/173, 9 December 1988):

Before deportation, approximately 50% of irregular migrants are detained in TDJs, which are supervised by the MoI, sometimes for several months together with other persons in pre-trial imprisonment (often "ordinary" criminals). The duration of the period in detention is determined by the speed of the authorities to arrange the deportation of a person. In 2015, about 1600 irregular migrants facing deportation were in custody in 103 MoI-run facilities, an increase of 39% compared with the figure in 2014. Approximately half of the migrants, who were given the order by the authorities to leave Belarus (within max. 30 days), were allowed to be at large since they were convincingly able to prove that they were not a threat to public order and planning to depart (e.g. by producing a return ticket). However, there are cases where also asylum seekers are kept in custody during the asylum procedure: this can occur when an irregular migrant was arrested and did not apply for asylum immediately but in a TDJ when the deportation has already been initiated.

The SBC has a network of four big¹⁴ and 17 small¹⁵ detention centres along the entire state border. Two (Hrodna, Brest) of the four big centres have both open and closed type facilities. Migrants are, as stated earlier, handed over to the MoI when the centres are either overcrowded or when a person has asked for asylum. If a migrant is detained and does not apply for asylum, it can happen that s/he is kept in custody for several months until his/her deportation. The difference is, however, that migrants in SBC-run detention centres are not kept together with ordinary criminals. In 2014 and 2015, the SBC deported 1087 and about 1500 migrants, respectively.

Neither MoI TDJ staff nor border guard officers are trained in migrant-specific issues.

¹³ In Russian: Izolyatory Vremennogo Soderzhaniya (IVS)

¹⁴ Located in Smarhoń, Lida, Hrodna and Brest. Detention capacities: 8-19 persons per centre (63 in total).

¹⁵ Detention capacities: 2-5 persons (54 in total).

2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
<p>Cases of corruption will undermine the expected results of the action.</p> <p>It will take the beneficiary considerable time to endorse programme activities.</p> <p>Trained personnel may leave project beneficiary institutions.</p> <p>The government will not agree to implement all parts of the reforms proposed in this Action.</p>	<p>L</p> <p>L to M</p> <p>L</p> <p>M</p>	<p>Levels of corruption in Belarus are low compared with neighbouring countries. But nonetheless, anti-corruption activities will be worked into the project's training and policy advice component as a horizontal topic.</p> <p>The registration of the project might indeed take considerable time, since procedures are rather complicated and time-consuming. Experience shows that the timely involvement of the beneficiary in project registration is the best way to address this risk. Moreover, the proposed implementer IOM (see section 5) is very experienced in implementing projects in Belarus and, therefore, in registering projects with the Ministry of Economy.</p> <p>The risk of staff fluctuations in Belarusian governmental structures is low compared with neighbouring countries, in particular in times of rising unemployment. Nonetheless, the best way to address this matter is to involve significant numbers of beneficiary representatives in project activities.</p> <p>Indeed, this is a potential risk, in particular since Belarus perceives the question of irregular migration from a purely security perspective. Therefore, it will be paramount that the European Commission intensifies its policy dialogue with the government on related matters.</p>
<p>Assumptions</p>		
<p>1. There is commitment and interest on the part of the two main beneficiary institutions to coordinate their activities, share information, harmonise procedures/systems/practices amongst each other in accordance with best international and EU standards.</p> <p>2. The two main beneficiary institutions will make sufficient numbers of appropriate qualified</p>		

personnel available for project activities.

3. Project participants of the two main beneficiary institutions will keep working in their institutions for sufficient time so that the skills and knowledge obtained can be properly applied and transferred to colleagues.

4. Project activities, complemented by an intensified European Commission-Belarus policy-dialogue, will bring the country's management of irregular migration closer to best international and EU standards.

5. Communication and coordination between beneficiary institutions and IOM will be effective.

It is important to mention that both the MoI and the SBC as well as the Ministry of Foreign Affairs of Belarus have expressed great interest in this EU-funded support programme, which was confirmed in the four meetings the EU Delegation had with beneficiaries before and when drafting this Action Document.

3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

3.1 Lessons learnt

Lessons learned from previous assistance provided in Belarus include:

Assistance in a sensitive area such as irregular migration needs to be developed through constant and often time-consuming discussions with the beneficiary government. Ideally, the European Commission-Belarus policy dialogue on these matters will be intensified.

Assistance projects have to be tailor-made to the needs of the beneficiary country. This is best ensured by intense cooperation at all project programming and implementation stages. The impact of donor-driven project ideas is usually significantly smaller.

The financing of infrastructure and equipment has to be linked with practical training sessions dedicated to the use and maintenance of the infrastructure and equipment procured.

3.2 Complementarity, synergy and donor coordination

Complementarity and synergy

TAIEX has been the main, almost single, assistance instrument of the European Commission for the MoI in recent years. During the period 2012-2014, the MoI was one of the most active applicants in the country asking for assistance in areas such as trafficking in human-beings, regulating labour migration and, in particular, asylum. However, the number of requests for TAIEX support dropped during 2014-2015 due to a temporary suspension of the programme for Belarusian beneficiaries in the second half of 2014 initiated by the European Commission because of budgetary constraints. Since then, the programme has resumed activities in Belarus. However, the number of requests by Belarusian institutions, including those from the MoI, has not reached the levels of previous years yet.

Eastern Partnership Integrated Border Management Flagship Initiative (EaP IBM FI):

Compared with the period 1995-2010, assistance by the EU to the SBC has been somewhat scarce in recent years so that the EaP IBM FI programme, which funds regional projects involving at least two (or more) partner countries, has become the SBC's main EU funding source. For the time being, there have been two interventions for the SBC, which are/were implemented during the period 2012-2016: Under the programme's 2011 budget, the EU allocated EUR 2.6 million for the strengthening of the Belarus-Ukraine "green" border: The

27-month "SURCAP" (Strengthening Surveillance Capacity) project was split into two components – one on training (EUR 0.7 million) and one on equipment (EUR 1.9 million). Implementation took place during the period 2012-2014. SURCAP was followed up by a 30-month second phase, which started activities in spring 2014 (EU contribution: EUR 5.1 million). Budgets of both projects, which are/were implemented by IOM, were split between the two beneficiary countries in a 1:1 ratio. SURCAP's second phase is closely coordinated with the regional three-year «Eastern Partnership – Integrated Border Management – Capacity Building Project», which started activities in July 2014 (budget: EUR 4.48 million). It is implemented by Frontex in partnership with WCO, IOM, UNHCR and ICMPD. Activities take place in the six EaP countries and are focused on trainings and study visits. It does not provide for any investments in equipment or infrastructure.

The EU funded one project under the *Cross-Border Cooperation Programme «Latvia-Lithuania-Belarus» (2007-2013)* for the benefit of the SBC.¹⁶ The project had a budget of approximately EUR 0.5 million and was implemented in the years 2012-2014. Discussions of the European Commission with Belarus on the new programme cycle (2014-2020) have not finished yet. The Belarusian government has, *inter alia*, put forward the proposal to fund a project named «Development of Telecommunication Infrastructure at the Belarus-Lithuania Border (BOMBEL 4)» worth EUR 3.67 million (expected European Commission contribution: EUR 3.3 million).

DCI Thematic Programme «Migration and Asylum»: After launching a global call for proposals, the European Commission decided to fund the project «Supporting the Republic of Belarus in Addressing Irregular Migration and Promoting Human Rights of Vulnerable Migrants – AMBEL» (budget: EUR 2.146 million; European Commission contribution: EUR 1.717 million), which provides assistance to the SBC through the reconstruction of a training facility, enhancing institutional and technical capacity of the SBC's Psychological Support Service and by developing mechanisms for the provision of legal and social assistance to victims of sexual and gender-based violence among and towards migrants through an NGO network. This project, which is implemented by UNDP, finishes activities in autumn 2016.

Frontex has bilateral working arrangements on the establishment of operational cooperation with the SBC. According to these arrangements, cooperation focuses geographically on external EU borders and thematically on the exchange of information & experience, risk analysis, joint operations, training, joint activities and secondment of border guards to EU Member States units responsible for border control. Frontex does not provide equipment to beneficiary countries.

Donor coordination

The specific political circumstances in Belarus have resulted in a quasi-monopoly position of the European Commission with regard to assistance to the MoI and the SBC. Support activities by other donors in this particular area are very limited and scarce. The only international organisations, which are active in this field and permanently present in Belarus, are IOM, UNHCR and UNDP, which both mostly implement European Commission-funded projects. It should be noted, though, that also Russia provides aid, to the SBC in particular, but its extent is difficult to assess.

3.3 Cross-cutting issues

Gender: Significant parts of the training and infrastructure will be to the benefit of women,

¹⁶ «Strengthening the Capacity of Dog Handling Services of Border Guarding Institutions»

both women migrants and female officers of the MoI and SBC working with migrants in the centres.

Good governance: The project is expected to be based on good governance principles ("ownership" and "fighting corruption" in particular). It will promote dialogue between the two main beneficiary institutions involved at different levels. Moreover, it will help strengthen the partner country's capacities to better deal with the management of challenges linked with international migration in line with European best practices.

The expected **long-term impact** is to contribute to the strengthening of good neighbourly relations between EU countries and Belarus and to support the creation of a sustainable system for irregular migration management.

4 DESCRIPTION OF THE ACTION

4.1 Objectives/results

Overall Objectives

1. To contribute to the strengthening and respect of human rights and fundamental freedom aspects in the area of irregular migration
2. To contribute to the convergence of Belarus' normative framework towards the EU's corresponding framework
3. To contribute to the facilitation of operational cooperation between the EU, EU Agencies, EU Member States and Belarus
4. To help increase security levels in the region and on the external EU border

Specific Objective

To support Belarus in the development and implementation of the country's irregular migration and asylum policies and strategies in order to bring them closer to best EU and international standards and practices

Results

1. A comprehensive legal and institutional policy framework programme on managing irregular migration has been developed and implemented
2. An Assisted Voluntary Return and Reintegration Programme for irregular migrants is designed and implemented
3. Several Migrants Accommodation Centres are built or refurbished and integrated in the irregular migration management system
4. The legal, institutional and policy framework on irregular migration is gender-streamlined

4.2 Main activities

Component 1: Policy development, strengthening of legal, institutional and operational capacities

- Development of the necessary legal, institutional and policy framework for the smooth and efficient functioning of Migrants' Accommodation Centres (MAC) and their integration into the migration policy framework of Belarus;
- Provision of policy-related and legal advice on the review of relevant legislation and the elaboration of an irregular migration management strategy and its implementation based on best European practices: the focus will be on matters such as enhanced intra-service and inter-

agency coordination and data sharing, development of extended country migration profiles (including sex- and age-disaggregated statistical data), drafting of migration and border risk analysis reports, regulatory frameworks for handling irregular migration and national referral mechanisms;

- Support to training institutions such as the ITC (International Training Centre) of the MoI;
- Training on identification of migrants' identity;
- Development of gender-sensitive standard operating procedures (SOPs) for the management of MACs compliant with best international practice and respect of human rights;
- Gender assessment study on irregular migration at the beginning and at the end of the project;
- Legal advice for detained irregular migrants;
- Development and implementation of tailor-made training programmes (including Training-of-Trainers) for personnel working in MACs. Trainings will include language training, code of conduct, gender awareness, international treaties and operational standards. Besides, UNHCR will be invited to deliver trainings dedicated to asylum procedures;
- Training for services involved in processing readmission applications;
- Coordination with EU-funded TAIEX and MIEUX programmes to avoid overlaps.

Component 2: Establishment of an Assisted Voluntary Return and Reintegration (AVRR) system for irregular migrants

- Support in legislative and policy development, as well as training of Belarusian law enforcement agencies staff to enable them to set up and operate a sustainable voluntary return assistance system based on identified best EU practices; at least 50% of the trainees will be women.
- Delivery of direct assistance to stranded migrants, including rejected asylum seekers and third-country nationals returned from EU countries, such as translations/interpretation, psychological support, medical services (including mobile gynaecological services), and emergency packages (including clothes, sanitary goods, water and food). NGOs such as the Belarus Red Cross, the Belarusian Movement of Medical Workers and women's organisations will also be invited to take part in legal counselling and the provision of direct assistance to migrants.

Component 3: Establishment of Migrants Accommodation Centres (MAC) in line with best EU and international standards

- Study visits for senior officials (policy makers) and technical experts to several EU / non-EU countries where MACs already exist;
- Refurbishment, construction and equipping of the selected centres taking into account specific needs of women migrants, minors and other vulnerable groups;
- Facilitation of links between MACs, surrounding communities and local authorities.

4.3 Intervention logic

The proposed intervention encompasses the following three components, which are expected to be implemented in parallel:

1. Policy development, strengthening of institutional and operational capacities

This component is expected to lead to a significant improvement of migration governance in Belarus. Its focus will be on the support to the elaboration of a comprehensive irregular migration management strategy based on a revised legal, institutional and policy framework, in full respect of human rights, which envisages, *inter alia*, enhanced intra-service and inter-agency coordination, risk analysis capacities and data sharing. Moreover, the project will help the government develop extended migration profiles of the country containing most up-to-date statistical data, aggregated in a gender-sensitive manner, and other relevant information on the migration situation and trends. This data is expected to be used by the authorities also to draft migration and border risk analysis reports, based on Frontex risk analysis methodology, for the use by border guards and immigration police. In addition, regulatory frameworks for handling irregular migration will be reviewed, revised as necessary, and consolidated in a unified document. A national referral mechanism on irregular migration will be developed. Support will also be extended to concerned training institutions such as the ITC (International Training Centre of the MoI) to strengthen their research capacities in the field of migration. Participants of the trainings organised in the framework of this component will include policymakers, independent experts, academic circles, gender & gender-based violence experts, and NGO representatives.

2. Assisted Voluntary Return and Reintegration (AVRR) of irregular migrants

Currently, the Government's capacity to provide AVRR to third-country nationals is very limited (almost non-existent). Until recently, IOM used to partially fill this gap. However, due to the lack of resources IOM is able to provide assistance to most vulnerable persons only. Hence, as part of a broader capacity building support programme to Belarusian authorities, a mechanism of voluntary return and reintegration for stranded migrants, including rejected asylum seeker, third-country and Belarusian nationals returned from EU countries, will be set up and supplemented by funds.

3. Establishment of Migrants Accommodation Centres (MAC) in line with best international and EU standards

Under this component, it is proposed to construct several MoI-run MACs with a capacity to accommodate between 30 and 50 irregular migrants per centre at a time. Similar EU-funded programmes are currently being implemented, for instance, in Turkey and the Caucasus. Possible locations are Brest, Homiel', Lida, Minsk, Mahilioŭ and Viciebsk. In addition, facilities operated by the SBC along the border with Poland, Lithuania and Latvia will be upgraded (Brest, Hrodna, Lida or Smarhoń) and, possibly, newly built (Polack).

All centres will have closed and open-type facilities as well as multi-purpose women-only spaces for refugee women, girls, minors and families that provide for access to a range of targeted services including psychological first aid, trauma counselling, and health care. All centres will be made safe, accessible for representatives of organisations such as IOM, UNHCR and the Belarus Red Cross, winterized, will have family and sex-segregated partitions ensuring privacy as well as with wash facilities separating men and women. The exact number of centres and their locations will be determined prior to the signing of the Delegation Agreement.

5 IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4.2 will be carried out and the corresponding contracts and agreements implemented, is 60 months from the date of entry into force of the financing agreement

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

5.3 Implementation modalities

5.3.1 Indirect management with an international organisation

This action may be implemented in indirect management with the International Organization for Migration (IOM) in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails the Action's three components as described in section 4 above. This implementation is justified for the following reasons:

- There are very few other international organisations which are physically present in Belarus, which is an absolute must for the implementation of this action;
- IOM has almost exclusive expertise in this particular area of assistance;
- IOM can build on its long-term relationship with project beneficiaries, something that is particularly important in Belarus;
- Very good performance of IOM in other projects supervised by the EU Delegation to Belarus (SURCAP, SURCAP 2, PRINEX);
- Due to IOM's extensive experience in implementing projects in Belarus and familiarity with project registration procedures with the Ministry of Economy, which are rather complicated and time-consuming, project activities could start without significant delay.

The entrusted entity would carry out the following budget-implementation tasks: running the public procurement, concluding and managing the resulting contracts, including making of the related payments.

If negotiations with the above-mentioned entrusted entity fail, that part of this action may be implemented in indirect management with UNDP. The implementation by this alternative entrusted entity would be justified because:

- There are very few other international organisations which are physically present in Belarus, which is an absolute must for the implementation of this action;
- UNDP can build on its long-term relationship with the Belarusian government, something that is particularly important in Belarus;
- Good performance of UNDP in another similar project supervised by the EU Delegation to Belarus (AMBEL);
- Due to UNDP's extensive experience in implementing projects in Belarus and familiarity with project registration procedures with the Ministry of Economy, which are rather complicated and time-consuming, project activities could start without significant delay.

The alternative entrusted entity would carry out the following budget-implementation tasks: running the public procurement, concluding and managing the resulting contracts, including making of the related payments.

5.4 Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provision.

The Commission’s authorising officer responsible may extend the geographical eligibility in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

5.5 Indicative budget

	EU contribution (amount in EUR)	Indicative third party contribution (amount in EUR)
5.3.1 – Indirect management with the International Organisation for Migration (IOM)	6.95 million	N.A.
5.8 – Evaluation, 5.9 – Audit	0.05 million	N.A.
Totals	7 million	N.A.

5.6 Organisational set-up and responsibilities

A Steering Committee will be set up to oversee and validate the overall direction and policy of the project (or other responsibilities to be specified) and will be convened twice a year. The project steering committee shall be made up of representatives of the Beneficiary country, of the entrusted entity (IOM), and of the Delegation of the European Union to the Republic of Belarus.

5.7 Performance monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner’s responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for

independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

5.8 Evaluation

Having regard to the importance of the action, a mid-term evaluation will be carried out for this action or its components via independent consultants contracted by the Commission.

The mid-term evaluation will be carried out for problem solving and learning purposes, in particular with respect to the works component of the action.

The Commission shall inform the implementing partner at least one month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and *inter alia* provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation report shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Indicatively, one contract for evaluation services shall be concluded under a framework contract in Q2/2018.

5.9 Audit

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

Indicatively, one contract for audit services shall be concluded under a framework contract in Q1/2020.

5.10 Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

Communication and visibility expenditure will be financed under the budget of the Delegation Agreement.

The Delegation will closely monitor that the visibility of EU support to the programme is ensured by the implementing partners and promote visibility of the programme in its own communication and visibility activities covered by another measure constituting a financing decision.

APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY) ¹⁷

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action, no amendment being required to the financing decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
Overall objectives: Impact	<p>To contribute to the strengthening of human rights and fundamental freedoms aspects in the area of irregular migration</p> <p>To contribute to the convergence of Belarus' normative framework towards the EU's corresponding framework</p> <p>To contribute to the facilitation of operational cooperation between the EU, EU Agencies, EU Member States and Belarus</p>	<p>Number of media reports; number of changes in Belarus' normative frameworks towards EU and international standards; number of policy dialogue meetings held; number of cases of irregular migrants detected; number of migrants accommodated; number of third-country migrants readmitted from the EU</p>	<p>Baseline study at the beginning of the project describing situation</p>	<p>End-of-the-project study describing situation</p>	<p>Media reports; European Commission reports; Belarus government reports; baseline studies</p>	<p>n/a</p>

¹⁷ Mark indicators aligned with the relevant programming document mark with '*' and indicators aligned to the EU Results Framework with '**'.

	To help increase security levels in the region and on the external EU border					
Specific objective: Outcome(s)	To support Belarus in the development and implementation of the country's irregular migration and asylum policies and strategies in order to bring them closer to best EU and international standards and practices	<p>Number of changes introduced in adopted policy documents and legislative acts commented on by project experts</p> <p>Number of migrants supported under the Assisted Voluntary Return and Reintegration (AVRR) Programme</p> <p>Number of Migrants' Accommodation Centres (MAC) established</p>	<p>0</p> <p>0</p> <p>0</p>	<p>Number to be established by baseline study in 2017; changes to be achieved by end of 2020</p> <p>At least 300 by end of 2020</p> <p>Number of MACs; construction by end of 2020</p>	<p>2 assessments (baseline and end-of-project); 2 ROM missions; 1 mid-term evaluation; interviews with beneficiaries</p>	Beneficiary country has the willingness to reform its migration and asylum policies in line with international standards
Outputs	A comprehensive legal and institutional policy framework programme on managing irregular migration has been	Number of policy advice consultations delivered	0	Number to be established by baseline study in 2017; all consultations to	Two baseline studies, media reports, operative reports of the beneficiaries (if available);	The beneficiary country will make sufficient numbers of appropriate

	<p>developed and implemented</p> <p>An Assisted Voluntary Return and Reintegration (AVRR) Programme for irregular migrants is designed and implemented</p> <p>Several Migrants Accommodation Centres (MAC) are built or refurbished and integrated in the irregular migration management system</p> <p>Legal, institutional and policy framework on irregular migration is gender-streamlined</p>	<p>A legal and institutional policy framework programme developed, gender-streamlined and implemented</p> <p>Number of study visits for senior officials (policy makers) and technical experts</p> <p>Number of trainings organised</p> <p>One set of gender -sensitive standard operating procedures (SOPs)</p> <p>All funds allocated for the AVRR Programme spent</p>	<p>0</p> <p>0</p> <p>0</p> <p>0</p>	<p>be finalised by end of 2020</p> <p>One framework programme developed by end of 2020</p> <p>Number to be established in Delegation Agreement with IOM in 2017; all study visits to be finalised by end of 2020</p> <p>Number to be established in Delegation Agreement with IOM in 2017; all trainings to be finalised by end of 2020</p> <p>1 set by end of 2020</p> <p>About 6% of the funds available; spent by end of 2020</p> <p>1 study in 2017</p>	<p>attendance lists of training participants; project progress reports; tender documentation, MAC assessment study; ROM reports; mid-term evaluation</p>	<p>qualified personnel available for project activities</p> <p>Project participants of the beneficiary country will keep working in their institutions for sufficient time so that the skills and knowledge obtained can be properly applied and transferred to colleagues</p>
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		<p>One assessment study on number of MAC, their location, conditions and needs</p> <p>Number of MACs built</p>	<p>0 EUR</p> <p>0</p> <p>0</p>	<p>Number to be established in Delegation Agreement with IOM in 2017; construction finalised by end of 2020</p>		
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