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## Deportation of Foreign Citizens: Theoretical and Practical Problems

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**Abstract.** The emergence of the migration processes phenomenon led to the need for stating in the legal acts the responsibility for the offenses committed by foreign citizens and stateless persons on the territory of the Republic of Belarus. One of the remedies applied to foreign citizens and stateless persons having committed an offense is deportation. Despite numerous studies of the matter of deportation there are still gaps to be regulated.

**Keywords:** foreign nationals; deportation; certificate of temporary registration; the migration process.

The integration of the Republic of Belarus in the system of international economic relations, the active participation of foreign investors in the development of domestic production, the commercial cooperation of Belarusian companies with foreign partners draw the attention to the problem of legal regulation of the relations involving the foreigners' participation.

By their very nature such relationships are cross-border, as the foreigner is the subject of two jurisdictions: of the home state and of the residing state. As the result these relations fall into the regulation of private international law although the status foundation of foreign citizens and stateless persons are determined by the constitutional law.

The paramount importance of human rights and their legal protection through various regulatory sectors of Belarusian legal system is not in doubt. One of the most important but the least studied areas of human rights deal with the rights of foreign nationals who living on the territory of a foreign country have certain judicial personality limitations, and therefore they are potentially at a greater risk of being adversely affected by the violation of their personal rights.

Each state determines independently the mode of foreigners' stay on its territory and sets up the legal regime which defines the non-citizens' legal. However, acting in accordance with the principles of national sovereignty and not being formally limited by other states, the Republic of Belarus relies on generally recognized principles and the norms of international law which with the adoption of the Constitution in 1994 became an integral part of Belarusian legal system.

Providing equality and justice is one of the biggest problems for any state and civil society.

Ensuring the equality of foreign citizens' rights of and those of citizens of the Republic of Belarus in the Republic of Belarus is one of the least studied points. "Equality" itself is achieved in different countries in different ways. In our country it is made through the adoption of new regulations or the changes of the existing rules in the legislation.

Every year the number of foreign citizens and stateless persons permanently residing in our country is in increase. On July 21, 2010 the law regulating the foreigners' legal status in Belarus was substantially changed, these changes deal with the registration order, the

delivery of the residence permission and the most important the order of foreign nationals' deportation.

Deportation is the compulsory expulsion of a foreign citizen from the territory of the Republic of Belarus in accordance with the laws of the Republic of Belarus applied to individuals having entered the Republic of Belarus or residing in the Republic of Belarus without a visa or with an invalid visa of the Republic of Belarus, as well as to individuals who were prohibited or cancelled to reside permanently in the Republic of Belarus, or are denied for further staying in its territory.

The decision on the deportation states the way of the exit, the departure time of the foreigner from the territory of the Republic of Belarus, the country of destination and the procedure for the decision appealing. The foreigner's deportation from the territory of the Republic of Belarus may be voluntary or compulsory (under escort).

The deportation is carried out solely on the grounds specified in the relevant legislation. The grounds for deportation may be based on the aliens' illegal entry, the violation of the stay rules in the country or the commitment of any other administrative offense, as well as the loss or termination of the legal basis for the alien's further stay in the country of entry.

According to the statistics given by the Ministry of Internal Affairs for the 10 months of 2011 3 groups of illegal migrants totaling to 13 people were detained, among them 5 citizens of Nepal, 6 citizens of Pakistan, 2 citizens of Afghanistan. The decision of deportation was made for 1523 persons having violated the stay rules, 671 of them were deported under police escort [2].

The certificate of temporary registration of foreign citizens and stateless persons in the Republic of Belarus may be revoked on the following grounds set forth in the Law of the Republic of Belarus "On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus", as well as the norms of the Criminal Code and the Code of Administrative Offences of the Republic of Belarus.

Here is the list of the most common grounds for the deportation of foreign nationals and stateless persons from the territory of the Republic of Belarus, which are named in the Law of the Republic of Belarus "On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus": [1]

- a foreigner subjected to an administrative penalty of a fine during his stay in Belarus did not paid within the period stipulated by legislative acts of the Republic of Belarus for the execution of the decision on imposing an administrative penalty of a fine;

- there are reasonable grounds to believe that a foreigner can avoid leaving the Republic of Belarus at the end of the period of his temporary residence or temporary staying;

- the staying of the foreigner in the Republic of Belarus is against the interests of the national security of Belarus, the public order, morality, public health, rights and freedoms of citizens of the Republic of Belarus and other persons;

- during his residence in the Republic of Belarus the foreigner has been repeatedly (twice or more) within one year brought to administrative responsibility and the period during which he is considered not to be subjected to administrative punishment is not expired.

In these cases the foundation provided by the Law "About the legal status of foreigners and stateless persons on the territory of the Republic of Belarus" includes only a "superficial" norm.

For example, Section 3, Article 30 of the Act sets: "A foreigner during his stay in the Republic of Belarus has been repeatedly (twice or more) in one year brought to administrative responsibility and the period during which he is considered not to be subjected to administrative punishment is not expired " The number of infringements and

the severity of the offense is not stated clearly. As a result, we can conclude that a foreign citizen may be deported for such offenses as the stowaway in public transport, which in itself is quite "absurd" phenomenon for the rule of law.

At the same time the permission for the temporary stay of foreign citizens and persons without citizenship may be revoked in cases where:

- there are documents and (or) information confirming that the marriage with a citizen of the Republic of Belarus or with a foreigner residing in the Republic of Belarus, was signed by the foreigner solely for the purpose of obtaining the permanent residence permission;

- if there are no reasons for his stay in Belarus.

It should be noted that under Article 51 of the Law "On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus" the decision to refuse the grant and the revocation of the temporary residence permission is made by a body of internal affairs on their own or at the request of the government of the Republic of Belarus.

In connection with the foregoing, it can be concluded that the provisions of the law "On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus" do not clearly prescribe the grounds of deportation of foreign nationals from the territory of our country, they only refer us to the articles of the Administrative Code, which also describes common offenses for which the deportation is possible. Therefore, the problem of defining the grounds applicable in each case is sufficiently serious. A common framework should be done to enumerate all possible offenses, the procedure for charging a penalty for each type of violation, to specify the conditions of deportation for offenses committed with regard to their severity.

The current law of the Republic of Belarus believes in the principle of the fundamental principle of national treatment, herewith, primarily due to certain exceptions allowed by law, the problem of differentiating between the citizens of the Republic of Belarus and foreign citizens and stateless persons has a considerable practical value.

The examination of legal matters on deportation allows understanding that the efficient and proper functioning of the regulatory legal status of foreigners in the Republic of Belarus plays a key role in the conditions of an expanding participation of Belarus in international relations.

A full-scale development of the modern state is impossible without the involvement of foreign partners, foreign workers and specialists. One of the conditions contributing to this is the liberalization of the legal framework defining the status of foreigners' rights. Moreover it is important that these processes did not infringe the rights of domestic state citizens, did not threaten the national security.

Hence, the need to develop, improve and enhance the efficiency of this complex institution, to protect foreign citizens' rights along with protecting the local citizens' rights and interests is not in doubt.

The migration processes are developing very fast: biometrics technologies are being introduced, the personal identification is carried out not only by fingerprint or iris print, but also by the DNA code, a number of other migrant flows that were not typical or were weak for Belarus are emerging. The legislation is not a fixed body, it changes: it must respond to modern realities and be ready to respond to potential threats, it must be preventive and not have gaps and, therefore, be clearly stated.

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**Депортация иностранных граждан:  
проблемы теории и практики**

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**Аннотация.** В связи с появлением в настоящее время такого явления как миграционные процессы, возникла необходимость закрепления в нормативных правовых актах ответственности за правонарушения, совершаемые иностранными гражданами и лицами без гражданства, находящимися на территории Республики Беларусь. Одной из мер, которую применяют к иностранным гражданам и лицам без гражданства, совершившим правонарушение, является депортация. В вопросах депортации, несмотря на многочисленные исследования, до сих пор остаются пробелы, которые требуют регулирования.

**Ключевые слова:** иностранные граждане; депортация; свидетельство о временной регистрации; миграционные процессы.