

**Decree**

**of the President of the Republic of Belarus**

**No. 3 of 9 March 2005**

**ON CERTAIN MEASURES AIMED TO COMBAT TRAFFICKING IN PERSONS**

With the purpose of taking effective measures to prevent trafficking in human beings, especially women and children, to protect the lives, health, freedom and other constitutional rights of the citizens of the Republic of Belarus, I thereby decree:

1. It shall be established that

1.1. any acts, including those committed for the first time, aimed at employing the citizens of the Republic of Belarus abroad (hereinafter referred to as *citizens*), including intermediation, may only be performed when one has a special permit (licence) issued by the Ministry of the Interior of the Republic of Belarus;

1.2. a special permit (licence) to employ citizens shall be granted in conformity with the legislation on licencing:

when there is a document confirming the agreement reached between a licensee and a foreign employer to employ the citizens abroad and, and when there is information on the employer to be determined by the Council of Ministers of the Republic of Belarus;

when the Ministry of the Interior, in concert with other interested actors, has conducted a background verification of the conditions under which such activity is going to be carried out. The procedure of conducting such verification shall be determined by the Council of Ministers of the Republic of Belarus;;

1.3. it shall be prohibited to conclude foreign labour contracts with organisations and citizens, including foreign citizens, who are not immediate employers;

1.4. legal entities and individual entrepreneurs, which seek foreign employment for the citizens, shall be bound to:

1.4.1. have their labour agreements (contracts), concluded with foreign employers, registered with the structural divisions on citizenship and migration of the main department of the in the internal affairs of Minsk City executive committee in respect of every citizens to be employed abroad, and to provide information on the employer, as prescribed in subparagraph 1.2 of this paragraph;

1.4.2. conclude written contracts with the citizens on the provision of services facilitating employment at the foreign employer's outside the territory of the Republic of Belarus, including an obligation to render assistance in concluding a labour agreement (contract) with the foreign employer

The contract on the promotion of employment with a foreign employer must contain:

a commitment the party providing the service undertakes to give exhaustive and objective information about the employer and the nature of the job to be done;

preliminary terms of concluding a labour agreement (contract);

liability of the service provider for giving false information;

1.4.3. verify the credibility of available information on foreign employers;

1.5. special permits (licences) for arranging foreign employment of the citizens, which were issued before this Decree comes into force, shall be effective till 1 July 2005. Legal entities and individual entrepreneurs shall not pay a licence fee for new special permits (licences) to carry out such an activity, if the term of validity of their previous permits (licences) expires after 1 July 2005.

In order to regulate the labour market, to protect the rights and freedoms of the citizens, the Council of Ministers of the Republic of Belarus shall have a right to submit proposals to the President of the Republic of Belarus on the introduction of temporary restrictions on the issuance of special permits (licences) to arrange foreign employment for the citizens;

1.6. citizens, who study at educational institutions of the Republic of Belarus shall be sent to study abroad on a written permission of the Ministry of Education;

1.7. legal entities and individual entrepreneurs, which have sent the citizens to work or study abroad ( except sending their employees on service foreign trips) shall provide information on such persons to the Ministry of the Interior within five working days after their departure and, within the same period of time, information on their arrival;

1.8. legal entities and individual entrepreneurs, which conduct their activities in the sphere of tourism, shall be obliged to inform the Ministry of the Interior about the citizens, who went abroad on a package tour and did not come back to the Republic of Belarus. This information shall be given within five working days after the return of the tourist group;

1.9. not later than the fifth day of every month, the Ministry of the Interior shall provide the information it has gathered, as prescribed in subparagraphs 1.7 and 1.8 of this paragraph, to the Ministry for Foreign Affairs;

1.10. foreign citizens may adopt children of the citizens of the Republic of Belarus with a written permission of the Ministry of Education;

1.11. gathering and dissemination of information on natural persons for the purpose of having them acquainted (activities of bridal agencies) shall be recognized as an unlawful activity as of 1 July 2005, unless there is a special permit (licence) to conduct it.

Special permits (licences) to carry out such an activity shall be granted by the Ministry of the Interior in accordance with the procedure established by the Council of Ministers of the Republic of Belarus;

1.12. activities aimed to prevent and suppress trafficking in human beings, including international cooperation in this area, shall be coordinated by the Ministry of the Interior.

2. For the purpose of streamlining the activity of advertising agencies, model agencies and organisations engaged in the training of models (persons demonstrating new fashions of clothes), it shall be established that:

2.1. products, commodities (works and services), which are manufactured on the territory of the Republic of Belarus, shall only be advertised by organisations and citizens of the Republic of Belarus;

2.2. the following information notices (advertisements), which are run on the territory of the Republic of Belarus, shall be subject to mandatory coordination:

on foreign employment of the citizens – with the Ministry of the Interior;

on citizens' study abroad – with the Ministry of Education and the Ministry of the Interior.

It shall be prohibited to place and disseminate such uncoordinated information notices (advertisements) in the Republic of Belarus;

2.3. the activities of model agencies and organizations, which are engaged in the training of models (persons demonstrating new fashions of clothes), shall be considered as one providing jobs and services being part of educational activities.

The activity of model agencies and organizations, engaged in the training of models (persons demonstrating new fashions of clothes), shall be considered as unlawful as of 1 July 2005, unless they have a special permit (licence) to conduct such an activity.

Special permits (licences) to conduct such an activity shall be granted by the Ministry of Education in accordance with the procedure established by the Council of Ministers of the Republic of Belarus;

2.4. castings of candidates for participation in advertisement projects or for the purpose of their ensuring employment shall be conducted by territorial bodies of the State employment service and also by model agencies, other organizations or individual entrepreneurs having special permits (licences) to seek foreign employment for the citizens.

Other persons shall be denied to conduct castings.

3. The diplomatic missions and consulates of the Republic of Belarus shall:

3.1. establish and maintain a data bank on the citizens on the basis of the information provided pursuant to subparagraph 1.9 of paragraph 1 of this Decree;

3.2. gather data on the children, who are nationals of the Republic of Belarus, adopted in by foreign citizens and residing abroad; shall examine and investigate the living conditions of such children, and twice a year inform the Ministry of Education thereabout;

3.3. in cooperation with the organisations providing assistance to victims of trafficking in persons, shall protect the rights and legitimate interests of the citizens who have become such victims, and facilitate their return to the home country;

3.4. provide information to the authorities of the country of stay on the legislation of the Republic of Belarus aimed to prevent and suppress trafficking in human beings, and disseminate information on the measures being taken in the Republic of Belarus to combat trafficking in human beings, including information on the rights of victims of trafficking in persons;

3.5. without delay, provide the citizens, who are victims of trafficking in persons, with documents which entitle them to return home.

4. Information on victims of trafficking in persons or on circumstances of trafficking in persons capable of posing a threat to the life or health of a victim of trafficking or her or his next of kin, and also information on the persons assisting in counteracting trafficking in human beings, shall not be disclosed.

Disclosure of such information shall entail a liability in accordance with the current legislation.

5. It shall be established that:

5.1. selling or buying a person or the conduct of other transactions in respect of a person, as well as the recruitment, transportation, transfer, harbouring or receipt of a person (trafficking in persons) for purposes of exploitation, -

shall be punished by deprivation of freedom for a term of up to five to seven years, with confiscation of property.

Exploitation, as set forth in this Decree, shall be understood as making a person unlawfully do forced labour or provide services, when for no reasons of his, he cannot refuse to do jobs (provide services), including slavery or practices similar to slavery;

5.2. an act of trafficking in persons committed:

5.2.1. in respect of a person known to be a minor;

5.2.2. in respect of two or more persons;

5.2.3. for purposes of sexual exploitation;

5.2.4. for the purpose of removal of the victim's organs or tissues for transplantation;

5.2.5. by a group of persons acting in concert;

5.2.6. by an official using his authority;

5.2.7. by a person who has committed a previous crime related to trafficking in persons, sexual exploitation or engagement of other persons in prostitution;

5.2.8. for the purpose of trafficking a person outside the territory of the State;

5.2.9. by making use of the coincidence of the victim's serious personal, family or other circumstances;

5.2.10. by means of fraud, abuse of confidence or accompanied by violence, the threat or use of force, or other forms of coercion, -

shall be punished by deprivation of freedom for a term of ten to twelve years, with confiscation of property;

Sexual exploitation, as set forth in this Decree, shall mean deriving a profit from committing acts of a sexual nature by another person, including engagement in prostitution;

5.3. an act of trafficking in persons that has caused the death of a victim by negligence or has inflicted severe bodily injuries or other serious consequences, or an act of trafficking in persons committed by an organised group, -

shall be punished by deprivation of freedom for a term of twelve to fifteen years, with confiscation of property;

5.4. the commission of acts aimed to seek foreign employment for the citizens, where they have been subjected to sexual or other exploitation against their will and in the absence of the formal components of the offence set forth in subparagraphs 5.1 through 5.3 of this paragraph (unlawful employment of the citizens abroad), -

shall be punished by deprivation of freedom for a term of three to five years, with confiscation of property, and by deprivation of a right to hold definite posts or to carry out definite activities;

5.5. unlawful acts committed by a person earlier tried for trafficking in human beings to employ the citizens, as well as crimes committed for the purpose of engaging persons in prostitution and sexual exploitation, -

shall be punished by deprivation of freedom for a term of four to six years and of a right to hold definite posts or to carry out a definite activity;

5.6. unlawful acts committed by an organised group to employ the citizens abroad, -

shall be punished by deprivation of freedom for a term of four to eight years, with confiscation of property, and by deprivation of a right to hold definite posts or carry out a definite activity;

5.7. production or keeping of pornographic materials for the purpose of their dissemination or advertising, or dissemination or advertising of pornographic materials, printed matter, pictures or other objects of a pornographic nature, or demonstration in public of cine- or video films of a pornographic nature –

shall be punished by doing public work or by a fine, or by doing penitentiary work for a term of up to two years, or by arrest for a term of three months;

5.8. production or keeping by a person, who has reached the age of eighteen years, of pornographic materials for the purpose of their dissemination or advertising, or dissemination or advertising of pornographic materials, printed matter, pictures or other objects of a pornographic nature with the photos of minors, or demonstration of cine- or video films of a pornographic nature to minors –

shall be punished by deprivation of freedom for a term of one to three years;

5.9. acts, provided for in subparagraphs 5.7 or 5.8 of this paragraph and committed by a group of persons acting in concert or by an organised group –

shall be punished by deprivation of freedom for a term of two to four years;

5.10. a preliminary investigation of the criminal cases, established in subparagraphs 5.1 through 5.6 of this paragraph, shall be conducted by the body which has initiated criminal proceedings; a preliminary investigation of the criminal cases, established in subparagraphs 5.7 and 5.8 of this paragraph, shall be conducted by the agencies of inquiry in compliance with their terms of reference; a preliminary investigation of the crimes, established in subparagraph 5.9 of this paragraph, shall be conducted by investigators of the interior agencies;

5.11. victims of trafficking in persons shall not be held administratively liable for the commission of acts considered to be administrative offences if the said acts have been committed by force of circumstances due to trafficking of such persons. A decision to exempt a victim of trafficking in persons from criminal responsibility for the commission of acts considered to be crimes, shall be taken in accordance with the Criminal Code and the Code of criminal procedure of the Republic of Belarus.

5.12. the commission of acts aimed to have the citizens employed abroad without a special permit (licence) or with a violation of the rules and terms of carrying out such an activity, as specified in a special permit (licence), if such acts do not contain formal components of crime, shall be punished by a fine of fifty to two hundred basic wages, with confiscation of the property derived as the result of such acts, and by deprivation of a right to carry out a definite activity. A legal entity shall pay a fine of five hundred to one thousand basic wages, with confiscation of the property derived as the result of such acts, and by deprivation of a right to carry out a definite activity;

5.13. a failure to conclude a contract, provided for in subparagraph 1.4.2 of paragraph 1 in this Decree, as well as conclusion of such a contract in violation of the requirements made to such a contract, -

shall be punished by imposing a fine of fifty to two hundred to two hundred basic wages on an individual, and of five hundred to one thousand basic wages on a legal entity;

5.14. a deceit of the citizens as to the nature of their future work, as well as a violation of the established procedure of sending the citizens to work abroad practiced by an official of the legal entity or the individual entrepreneur seeking foreign employment for the citizens, if these acts do not contain the formal components of the crime established in subparagraphs 5.1 through 5.6 of this paragraph,

shall entail the imposition of a fine of fifty to one hundred basic wages on an individual entrepreneur, with confiscation of the property derived as the result of such activity, and by deprivation of a right to carry out a definite activity, and of a fine of one hundred to two hundred basic wages to be paid by a legal entity, with confiscation of the property derived as the result of such activity, and by deprivation of a right to carry out a definite activity;

5.15. placing or dissemination of information notices (advertisements) by legal entities or individual entrepreneurs, authorised to carry out such an activity, by violating the requirements set forth in this Decree, -

shall entail the imposition of a fine of twenty to fifty basic wages;

5.16. a failure by an official of the legal entity or by an individual entrepreneur to submit data on the citizens sent to work or to study abroad, or when they were sent on a package tour and did not return back home, within the period of time specified in subparagraphs 1.7 and 1.8 of paragraph 1 in this Decree, or submission of manifestly unreliable information about such citizens, -

shall be punished by a fine of four to twenty basic wages;

5.17. organisation, conduct or creation of conditions for holding castings of candidates for participation in advertising projects or for the purpose of their ensuing employment in violation of the current legislation –

shall entail the imposition of a fine of fifty to one hundred basic wages on an individual entrepreneur, and of one hundred to five hundred basic wages on a legal entity;

5.18. records of the administrative offences, established in subparagraphs 5.12 through 5.14, 5.16 and 5.17 in this paragraph, may be drawn up by authorised officials of structural subdivisions on citizenship and migration of the Main department of internal affairs of Minsk City executive committee, internal departments of oblast (regional) executive committees, the Department on citizenship and migration of the Ministry of the Interior. Records of the administrative offences, established in subparagraph 5.15 of this paragraph, may be drawn up by authorised officials of the Ministry of Trade. Cases of such offences shall be tried by law courts.

6. The Council of Ministers of the Republic of Belarus shall,

6.1. within two months:

define the content of the type of economic activities such as "activity of model agencies", "activity related to the gathering and dissemination of information about natural persons for the purpose of making them get acquainted", the conditions under which such activities are carried out, and bring the founding documents of legal entities and the State registration certificates of individual entrepreneurs varying out such activities, in line with the present Decree;

regulate the procedure of conducting the verification specified in subparagraph 1.2 in paragraph 1 of this Decree;

take other measures to implement this Decree;

6.2. 11.2. within two months:

approve a set of measures aimed at developing concert, cultural and entertainment activities in the Republic of Belarus, involving therein young people working in the sphere of arts and culture, and create appropriate working conditions for those employed in the model business;

take measures that provide for further development of the advertising activities of domestic producers of goods and ensure a wider involvement of organisations and citizens of the Republic of Belarus in the production of advertisements placed on the territory of the Republic of Belarus;

approve a set of measures aimed at preventing the growth of unemployment among women and graduates of educational establishments, stimulate the creation of job opportunities for the youth, create favourable conditions for acquiring professions in demand at the labour market;

take effective measures to provide psychological and organisational support at territorial social service centres, employ victims of trafficking in persons and to establish special "confidence telephone" and "hotline" telephone numbers for the purpose of preventing trafficking in human beings;

submit a draft normative legislative act, which would regulate the status of a victim of trafficking in persons, to the President of the Republic of Belarus for consideration;

take measures to bring the legislative acts in line with the present Decree;

6.3. ensure the organisation and holding regular annual regional and republican beauty contests.

7. The Interdepartmental Commission on combating crime, corruption and drug trafficking under the Security Council of the Republic of Belarus shall:

within two months, analyse the efficiency of implementation on the territory of the republic of international programmes in the domain of combating trafficking in human beings and submit proposals to the President of the Republic of Belarus for enhancing the efficiency of their implementation;

twice a year, report to the President of the Republic of Belarus on the state of affairs in the area of combating trafficking in human beings.

8. 13. The Ministry of the Interior, the Public Prosecutor's Office, the State Security Committee and the State Border Troops Committee shall, within the terms of their competence:

curb the activity of the persons who illegally or in defiance of the legislation arrange employment for the citizens abroad or send them to study abroad;

intensify the control being exercised over the activities of the economic entities and individual entrepreneurs having special permits (licences) to employ the citizens abroad in order to prevent and suppress trafficking in human beings;

within three months, analyse the activity carried out by bridal agencies and make proposals for its improvement.

9. The Ministry of the Interior, the Ministry of Trade, the Ministry of Information, the Ministry of Justice, regional executive committees and Minsk City Executive Committee shall:

intensify the control being exercised over the distribution in the mass media and on the territory of the Republic of Belarus of advertisements that may be used to engage potential victims in trafficking in human beings, anti-social behaviour and in the provision of sexual services under the pretext of legitimate enterprise;

provide the citizens with reliable information in the sphere of external labour migration, regularly publish in the mass media the lists of legal entities and individual entrepreneurs which have special permits (licences) to seek foreign employment for the citizens.

10. The Ministry of Information, the Ministry of Education and the Ministry of the Interior shall organise informational and educational work on the issues of preventing trafficking in human beings; shall increase public awareness of dangerous situations in which potential victims of trafficking may find themselves, including awareness of the potential risk of exploitation, violence and abuse in respect of illegal migrants, of the means and methods the traffickers employ, of the protection provided by the State, and of the criminal responsibility for trafficking in human beings.

11. Hold the heads of State bodies and other organisations personally responsible for fulfilling the requirements of this Decree.

12. Make alterations in, and amendments to, the following decrees of the Presidents of the Republic of Belarus:

12.1. Regulation on State registration and liquidation (termination of activities) of the economic entities approved by Decree No.11 of the President of the Republic of Belarus "On regulating State registration and liquidation (termination of activities) of economic entities", dated March 16, 1999, (National Register of legislative acts of the Republic of Belarus, 1999, No.23, 1/191; 2002, No.142, 1/4230):

12.1.1. paragraph 38 shall have the following wording:

"38. The body of registration shall inform, within fifteen days after State registration of economic entities, taxation and statistical bodies about the registration of economic entities, and within ten days shall inform the Ministry of the Interior about the registration of economic entities carrying out advertising activities, running model agencies and training models (persons who demonstrate new fashions);

12.1.2. the following paragraph shall be added to subparagraph 41.2 in paragraph 41:

"establishing facts that testify that its activity was linked with trafficking in human beings";

12.2. In Decree No. 17 of the President of the Republic of Belarus "On licencing individual activities", dated July 14, 2003 (National Register of legislative acts of the Republic of Belarus, 2003, No.79, 1/4779):

12.2.1. in paragraph 8 in the Regulation on licencing individual activities, approved by this Decree:

add "or determined by the President of the Republic of Belarus" to paragraph 10 in part one;

add "unless otherwise established by the President of the Republic of Belarus" to part three;

12.2.2. add paragraph 30-1 of the following content to the list of activities calling for special permits (licences) and of the State bodies and State organisations authorised this Decree to grant them:

"30-1. "the activity associated with the collection and dissemination of information on natural persons with a view to having them get acquainted".

13. This Decree shall take effect upon its official publication. With the exception of subparagraphs 5.1 through 5.10, it is of a provisional nature and, in accordance with paragraph three of Article 101 of the Constitution of the Republic of Belarus, it shall be submitted to the National Assembly of the Republic of Belarus for consideration.

The provisions of subparagraphs 5.1 through 5.10 in paragraph five of this decree shall come into effect force upon the entry into force of the law of the Republic of Belarus "On making alterations in, and amendments to, certain codes of the Republic of Belarus on increasing the level of liability for trafficking in human beings and trafficking-related offences".

President of the Republic of Belarus

A. Lukashenko