

*(Translated from Russian)*

**Information from Belarus in response to the inquiry of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concerning Mr. Mehrdad Jamshidian**

Mehrdad Mohammad Jamshidian arrived in the Republic of Belarus in 1993 and resided there without registration until 2005. For this reason, he was repeatedly subjected to administrative sanctions. In 2005 the Maskouski District Court of Minsk sentenced M. Jamshidian under article 209 (4) of the Criminal Code (fraud) to an eight-years' imprisonment in a high-security correctional colony.

M. Jamshidian was freed on 16 June 2009 under the Amnesty Act. On 26 June 2009 the Department of Citizenship and Migration Section of the Fruzenski District Internal Affairs Office in Minsk issued an expulsion order requiring him to leave Belarus voluntarily and prohibiting his entry into Belarus for a period of five years. On 21 September 2009 M. Jamshidian departed for Iran via Ukraine.

In response to a petition from a Belarusian citizen, [REDACTED] on 30 July 2010 M. Jamshidian's entry ban was shortened and he arrived in Belarus from Iran and registered his marriage with [REDACTED]

In April 2012 M. Jamshidian went to Iran to visit his mother and brother. He returned to Minsk on 25 August 2012.

On 28 December 2012 M. Jamshidian was arrested by officials of the Zavodski District Internal Affairs Office in Minsk as, since 9 December 2012, he had been wanted by the law enforcement agencies of Iran in connection with the accusation that he had committed a crime under article 133 of the Criminal Code of Iran, namely the murder of his mother and brother.

On 3 May 2013 the Office of the Procurator General decided to free him, because the request from the judicial authorities of Iran that he be extradited for the purpose of conducting criminal proceedings had been refused on the grounds that the Iranian authorities had not complied with the general and specific conditions for the granting of international legal assistance in criminal cases on the basis of reciprocity.

On 16 August 2013 M. Jamshidian filed an application for protection (hereinafter referred to as the "first application for protection") in response to which on 22 August 2013 the Zavodski District Internal Affairs Office in Minsk ordered the stay of execution of the enforceable order to extradite the applicant pending a decision on the merits of the application for protection.

In his first application for protection M. Jamshidian pleaded that, in the event of his extradition to Iran, he feared that he would be arrested by the Iranian law enforcement agencies in connection with the accusation that he had murdered his mother and brother and that he would be subjected to an unfair trial, to torture and cruel and inhuman treatment in prison and to the death penalty. The applicant further stated that in 2002 he had changed his religion from Islam to Orthodox Christianity, which might be grounds for accusing him of apostasy which, in Iran, was punishable by the death penalty. The applicant pleaded that another reason militating against his return was his fear that he would be punished for the activities of his brother Ismael who was a member of the Green Revolution party.

The Department of Citizenship and Migration of the Ministry of Internal Affairs in its Decision No. 86 of 30 May 2014 refused to grant M. Jamshidian refugee status and subsidiary protection in Belarus under article 43 (2) (4) and (3) (2) of the Act on the Granting of Refugee Status and Subsidiary and Temporary Protection to Foreign Nationals and Stateless Persons in Belarus (hereinafter referred to as "the Act") insofar as the



applicant did not fulfil the grounds for the granting of refugee status in Belarus which are laid down in article 3 of the Act.

M. Jamshidian filed an appeal against this decision with the Minsk Central District Court and the Minsk City Court (on 4 August 2014 and 27 November 2014 respectively), but his complaint was unsuccessful. The applicant did not leave the territory of Belarus and applied for asylum in Belarus. His asylum application was unsuccessful.

On 9 July 2015 M. Jamshidian again filed an application for protection (hereinafter referred to as the “second application for protection”) alleging that new circumstance had arisen warranting the granting of refugee status. He held that the criminal case in which he had been accused of the murder of his mother and brother had been dropped, but he feared expulsion to Iran because information had appeared on the Internet that he had changed his religion and he therefore presumed that this information was known to the authorities of his country and would be grounds for sentencing him to death for apostasy. In addition, in his second application for protection he pressed the same pleas as in his first application for protection, namely that he would be prosecuted for his deceased brother’s political activities.

M. Jamshidian stated that information that he had changed his religion had appeared on the Internet. In fact, on 3 November 2014 an article in Russian was published on the Tut.by news site under the headline “UN Human Rights Committee will consider the expulsion of Iranian citizen from Belarus” which mentioned that Jamshidian had abandoned Islam and become a Christian. M. Jamshidian explained that the above-mentioned article had appeared on the Internet on the initiative of his wife who had intentionally given that information in order that there be grounds for a repeated filing of an application for protection.

The reports that M. Jamshidian had changed his religion in 2002 and, as a result, his concerns that he would be prosecuted in Iran on those grounds were assessed in the course of the examination of his first application for protection and found to be unsubstantiated in that he had failed to present convincing arguments and facts in support of his conversion from Islam to Christianity. He stated that he had not been baptized. After 2002 M. Jamshidian repeatedly visited Iran, stayed there for a lengthy period of time and was not subjected to any prosecution on account of his religion, although he submitted that his family knew about his religion. In addition, he stated that he did not attend a mosque, church or house of worship during his stay in Iran and did not preach Christianity among other Iranians either in Belarus or in Iran. In the course of the examination of his second application for protection, he affirmed that he had not yet been baptized and could not substantiate his active participation in the life of a religious community. The fact that M. Jamshidian sometimes attends church and is resident in the territory of a State most of the population of which professes Christianity is not a ground for assuming that he has automatically taken on another religion. The information that he had changed his religion surfaced precisely in 2014 when the applicant was due to be expelled from the territory of Belarus to Iran.

During the examination of M. Jamshidian’s communication, the United Nations Human Rights Committee noted that the author had not submitted any documentary evidence of the Iranian authorities’ knowledge of his conversion to Christianity. It further noted that the author did not report that he had encountered any problems owing to his conversion to Christianity during previous visits to the Islamic Republic of Iran and his extended stay in the country in the period 2009–2011 and 2012. The Committee found that this claim was insufficiently substantiated for the purposes of admissibility under article 2 of the Optional Protocol.

M. Jamshidian has provided no documentary or other evidence that his application for protection was well founded or showing that his fears that he would be prosecuted in Iran under article 18 (1) of the Act are well grounded.

The enforceable decision to deport M. Jamshidian from Belarus was adopted on 7 March 2019 on the basis of the fact the alien had been present in the country since September 2016 in breach of the rules on stay. Account was further taken of the fact that on previous visits M. Jamshidian had disregarded Belarusian law, that from 1993 to 2005 he

was unlawfully present until his arrest in connection with the commission of a crime (fraud) and his subsequent expulsion from the country and that on five occasions he had been subjected to administrative sanctions for breach of migration law. The internal affairs body, having taken the deportation decision, tried to execute it by seeking a third country which was prepared to accept M. Jamshidian.

During his detention in a special institution he was given essential medical assistance, including through placement in a health facility.

The enforceable deportation decision has now been revoked by the Maskouski District Court of Minsk. The case has been referred for review to the Ministry of Internal Affairs of Belarus.

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