

National Human Rights Index

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2022

General Human Rights Measures:

Expert Commentary

The score: 1,8

Including scores by component:

- State policy on human rights 1,5
- Interaction with civil society 1,3
- Interaction with international mechanisms 2,0
- Equality and non-discrimination 2,3

For a description of the situation of general human rights measures in previous years, see the 2019-2021 commentaries. Assessing the state of general human rights measures in 2022, Index experts gave lower scores than in 2021. The experts' position is explained in detail below.

• State policy in the field of human rights

Human rights in Belarus are not effectively implemented. Moreover, the State has consistently pursued a policy of human rights violations. The measures taken to ensure the realization of human rights are insignificant and do not affect the overall human rights situation in Belarus. They are adopted in areas that are "safe" for the authorities, for example, socio-economic.

The authorities suppress any dissent. Civil society organizations (CSOs), independent trade unions, human rights defenders, media outlets, their leaders and activists¹ have been targeted. Thus, in 2021-2022, at least 757 CSOs were in the process of forced liquidation; At least 416 organizations have decided to liquidate themselves because of coercion².

To persecute dissidents, the authorities widely use legislation on countering extremism and terrorism³.

¹ pp. 20-21, CSO Meter 2022. Belarus Country Report, (hereinafter referred to as CSO Meter 2022) <https://csometer.info/sites/default/files/2023-08/2022%20Belarus%20CSO%20Meter%20Country%20Report.pdf>

² P. 2, Lawtrend report "Свобода ассоциаций и правовое положение организаций гражданского общества. Обзор за 2022 год" (hereinafter referred to as the Lawtrend Report), <https://www.lawtrend.org/wp-content/uploads/2023/03/Svoboda-assotsiatsij-i-pravovoe-polozhenie-organizatsij-grazhdanskogo-obshhestva-v-Respublike-Belarus-obzor-za-2022-god.pdf>

³ For a more detailed overview of the practice of implementing legislation on countering extremism and terrorism, see the 2022 commentary on the right to freedom of association.



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In 2022, this practice was strengthened and took on new forms, in particular, the recognition of CSOs as extremist groups. For example, in 2022, such a decision was made in relation to the environmental organization Ecohome⁴, the forced liquidation of which was recognized as a case of persecution and harassment of CSOs under the Aarhus Convention⁵. Another example of the inclusion of an existing organization in the list of extremist formations is the Belarusian Trade Union of Radio and Electronic Industry Workers (REP) (the decision to recognize it as an extremist formation was made on April 7, 2022, the decision to forcibly liquidate it on July 12, 2022) At the end of 2022, 105 "extremist" organizations and groups, including independent media outlets and opposition chat groups, as well as 2181 "extremist individuals," including the majority of political opposition figures in exile, were listed as involved in extremist activities. The KGB list of terrorists included 997 people, of whom 262 were Belarusians, and four Belarusian organizations, such as the Nexta media. In 2022, the practice of enlisting Belarusian citizens on the KGB list of "terrorists" bypassing the decisions of the UN Security Council significantly expanded: in just one year, at the initiative of the Belarusian authorities, more than 220 Belarusian citizens and two organizations were added to this list.⁶

Such practices, according to experts, are aimed at intimidating people in order to prevent them from interacting with CSOs and independent information resources. Some media outlets refused to publish news about such organizations or materials proposed by them. This practice also limits the range of effective remedies available to citizens, such as the possibility of turning to human rights organizations. Experts noted that many vulnerable groups were unable to receive assistance due to the persecution of civil society organizations. Previously, people had the opportunity to turn to the media to draw attention to violations of their rights, but at the moment it is absent. Independent media are deprived of the opportunity to legally carry out their activities in Belarus (for example, due to forced liquidation and recognition as an extremist organization), and citizens' contacts with such media may serve as grounds for criminal prosecution. Thus, according to the Belarusian Association of Journalists, 33 journalists and media workers were imprisoned at the end of 2022, and 43 journalists were detained during the year⁷. In connection with the recognition of independent media as "extremist formations", employees of such media are automatically subject to criminal liability for joining an extremist formation (article 361¹ of the Criminal Code), regardless of their position. In addition, the list of "extremist materials" includes websites and social networks of almost all independent Belarusian media⁸. TUT BY MEDIA, until its closure in 2021 the largest independent media outlet in the country,

⁴ <https://www.mvd.gov.by/uploads/news/8642/f9ec26b67e0509bae39efc399cdc3f5fa900aee1.docx>

⁵ <https://ecohome.ngo/pervyj-sluchaj-v-istorii-orhusskoj-konventsii-prinyato-reshenie-po-belarusi-likvidatsiya-ekodoma-priznana-presledovaniem-i-pritesneniem-ngo/>

⁶ <http://kgb.by/ru/perechen-inf-ru/>

⁷ P. 3, Report of the Human Rights Center "Viasna" " Сітуацыя з правамі чалавека ў Беларусі ў 2022 годзе. Аналітычны агляд " (hereinafter referred to as the Report of the Human Rights Center "Viasna"), https://spring96.org/files/misc/annual_review_2022_final_be.pdf

⁸ <https://humanconstantia.org/razbiraemysya-s-ekstremistskimi-spiskami-chno-vxodit-v-ekstremistskie-materialy/>



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was recognized by the Supreme Court as an "extremist organization" in June 2022⁹.

The practice continues when charges related to "extremism", which are punishable by imprisonment for up to ten years, are brought for subscribing to groups on social networks or Telegram channels, as well as for displaying white-red-white symbols¹⁰.

In 2022, the practice of criminal prosecution for bank transfers through social networks to CSOs that accumulated funds to help the repressed pay fines, and the services of lawyers (small legal donations) became widespread¹¹. Such actions are qualified by law enforcement agencies as financing extremist activities¹².

In 2022, independent trade unions were destroyed. On April 19, 2022, law enforcement agencies searched the headquarters of the Belarusian Congress of Democratic Trade Unions (BCDP) and the offices of affiliated trade unions in Minsk and the regions, as well as the private homes of activists¹³. From 19 to 21 April, more than 20 representatives of the independent trade union movement of Belarus were detained. Members of independent trade unions are summoned for "preventive conversations" and forced to join a "pro-government" trade union under threat of dismissal. The same situation with forced membership in "pro-government" public associations is observed in other spheres, for example, in the field of youth policy, where there is a wide practice of coercion to join the Belarusian Republican Youth Union. The REP was recognized as an "extremist" formation¹⁴. In July 2022, the Supreme Court liquidated the Belarusian Independent Trade Union of Miners, Chemists, Oil Refiners, Power Engineers, Transport Workers, Construction Workers and Other Workers, REP Belarusian Trade Union, the Free Trade Union of Belarus (FTUB), the Free Trade Union of Metalworkers (FTUM) and the Belarusian Congress of Democratic Trade Unions¹⁵. The leaders and a number of members of these trade unions allegedly actively participated in destructive activities, mass events that disrupted public order, and distributed information products with extremist content¹⁶. In response to the repression of trade unions, the International Labor Organization launched a procedure under Article 33 of the Constitution for systematic violations of fundamental workers' rights in Belarus¹⁷.

⁹ <https://www.dw.com/ru/tutby-priznali-jekstremistskoj-organizaciej-cto-jeto-znachit/a-62166428>

¹⁰ <https://www.ohchr.org/en/statements-and-speeches/2022/09/interim-oral-update-ohchr-situation-human-rights-belarus>

¹¹ <https://nashaniva.com/ru/302835>, <https://nashaniva.com/ru/302835>

¹² <https://humanconstant.org/kak-poslednie-gody-v-belarusi-zakonodatelno-izmenyalas-i-uzhestochalas-otvetstvennost-za-donaty/>

¹³ <https://csometer.info/updates/belarus-trade-union-declared-extremist-formation>

¹⁴ <https://www.mvd.gov.by/uploads/news/8642/02e01780f792852403040ef83ab86933b21256d4.docx>

¹⁵ <https://spring96.org/ru/news/108606>

¹⁶ <https://www.belta.by/incident/view/po-iskam-genprokurora-prekraschena-dejatelnost-tak-nazyvaemyh-nezavisimyh-profsojuzov-514326-2022/?ysclid=l64x29tae5212987184>

¹⁷ <https://www.lawtrend.org/freedom-of-association/situatsiya-so-svobodoj-assotsiatsij-i-organizatsiyami-grazhdanskogo-obshhestva-respubliki-belarus-obzor-za-noyabr-2022-g>



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According to experts, the destruction of independent civil society and trade unions, and the persecution of human rights defenders deprive citizens of the opportunity to apply to the relevant organizations for the protection (assistance in the protection) of their rights. Thus, the activities of the trade union cover not only the control over the observance of working conditions and the payment of wages, but also the provision of guarantees in the dismissal of an employee, representation in the settlement of labor disputes, control over the legality of dismissal, etc. In this regard, experts note that the state is doing everything possible to impede the effective implementation of human rights, instead of taking measures aimed at improving the situation.

Another trend in state policy in the field of human rights, which experts have identified, is the international self-isolation of Belarus, including after Russia's full-scale invasion of Ukraine in 2022: if earlier Belarus remained a party to international agreements and adhered to formal declarations of commitment to them, in 2022 the vector of state policy changed towards withdrawing from international treaties, self-isolation and rapprochement with the Russian Federation. In this regard, experts point to the decisions of the authorities to withdraw from the Aarhus Convention and denounce the Optional Protocol to the International Covenant on Civil and Political Rights.

The amendments to the Constitution adopted in the referendum in 2022 do not contain provisions that would contribute to a significant improvement in the human rights situation. Some of the language addressed human rights issues, but experts described it as "decorative". The measures recommended to the State under the Universal Periodic Review procedure had not been taken into account by the State in drafting amendments to the Constitution. The same situation can be observed with the draft of the new version of the Electoral Code, which was developed in 2022 (adopted in February 2023): the recommendations of CSOs¹⁸ and OSCE observer missions¹⁹, including those made following the results of the presidential elections of the 2020, which were characterized by numerous violations leading to mass protests²⁰, were ignored by the authorities. The 2022 referendum to amend the Constitution lacked adequate independent observation of all types of voting (early, on election day and at the location of voters), as well as of the vote count, due to the ongoing repression of civil society, the preparation and conduct of the referendum in an atmosphere of total fear, and the restrictions imposed by the Central Election Commission on the number of observers at polling stations.²¹

Moreover, some legislative amendments of 2022 constitute a violation of international obligations by Belarus. For example, in May 2022, the list of crimes for which the death penalty can be applied was

¹⁸ Итоговый аналитический отчет по итогам наблюдения за выборами Президента Республики Беларусь 2020 года, Кампания независимого наблюдения «Правозащитники за свободные выборы», <https://spring96.org/files/misc/final-vybory-2020.pdf>

¹⁹ https://www.osce.org/files/f/documents/f/6/450163_0.pdf

²⁰ <https://www.osce.org/files/f/documents/7/9/469542.pdf>

²¹ <https://referendum2022.spring96.org/ru/news/107870>



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expanded.²² The death penalty may now be imposed for the attempted commission (meaning an unfinished crime) of certain particularly dangerous acts of terrorism, as well as the assassination of government officials and representatives of foreign states.

Experts note that from a formal point of view, the above-mentioned crimes fall under the category of "especially grave", which does not contradict the norm enshrined in the Constitution, according to which the death penalty can be applied as an exceptional measure of punishment for especially grave crimes. At the same time, according to experts, such an act as "act of terrorism" is a concept that does not have a clear and unambiguous definition in the legislation, since the definition contain evaluative constructions and general wording. The line between contemplation, preparation, and the assassination attempt itself is blurred. The qualification of acts within the framework of these corpus delicti is subject to the subjective assessment of law enforcement agencies.

The OSCE Permanent Council noted that such a step goes in the opposite direction to the global trend of abolishing the death penalty. Representatives of the OSCE called these changes an amplified tool of political repression against opponents of Lukashenka and the Belarusian people who opposed the regime or the war in Ukraine²³.

The 2022 constitutional amendments also provided for the possibility of terminating citizenship by birth. In December 2022, parliament passed a law that allows a person to be stripped of their citizenship if they are outside the country and convicted of "participating in extremist activities or causing serious harm to the interests of the Republic of Belarus"²⁴, including calling for sanctions, insulting the president, participating in mass riots, or damaging public property. Thousands of Belarusians have already been prosecuted for such offenses, and since July 2022, they may also be tried in absentia.

The institution of special (in absentia) proceedings, introduced in 2022, implies the possibility of conducting criminal proceedings without the presence of defendants outside Belarus under "protest" articles²⁵. Mostly subjected to the changes are Belarusian activists who were forced to leave the country due to persecution. The defendants in such cases have virtually no means of defence. The experts agreed that the introduced process of "proceedings in absentia" constitutes a significant violation of the standards of a fair trial, as well as the provision of effective remedies. The absence of the accused during the trial in absentia is not compensated by procedural guarantees, in particular the involvement of a defense lawyer in the process (in Belarus, defense lawyers are actually unable to perform their duties effectively and independently). The rights of the defendants are declared, but in practice they are not ensured or cannot be ensured, since they contradict other acts of legislation²⁶.

²² Law of 13.05.2022 No. 165-3 "On Amendments to the Criminal Code of the Republic of Belarus", <https://pravo.by/document/?guid=12551&p0=H12200165&p1=1&p5=0>

²³ https://www.eeas.europa.eu/delegations/vienna-international-organisations/osce-permanent-council-no-1373-vienna-12-may-2022-0_en?s=66

²⁴ <https://pravo.by/document/?guid=3941&p0=2022062001>

²⁵ <https://etalonline.by/document/?regnum=hk9900295>

²⁶ For more information on the special proceedings, see the 2022 Commentary on the Right to a Fair Trial.



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In general, in the context of a legal default and the transformation of the judicial system into a means of repression, the situation with effective legal remedies is estimated by experts as close to the lowest possible score. In 2022, experts noted a deterioration due to increased pressure on defense lawyers, and many defense lawyers were suspended from their professional activities under the pretext of failing to pass certification²⁷. A system of intimidation has been put in place for lawyers who defend political prisoners. Reprisals against defense lawyers are manifested through: dismissal from the defense, intimidation and persecution for the performance of professional duties, psychological pressure, arbitrary detention and unlawful deprivation of liberty. Lawyers work in an atmosphere of fear and constant risk of losing their status, which is why many of them refuse to handle politically sensitive cases and defend politicians, activists, human rights defenders, and journalists. Those who decide to defend persons in politically motivated cases cannot perform their duties independently and effectively²⁸. For example, the UN High Commissioner for Human Rights in her Report on the Situation of Human Rights in Belarus notes that "the intimidation and punishment of independent lawyers has a serious chilling effect on the legal profession and effectively deprives victims of human rights violations of the right to a fair trial and access to justice."²⁹

The State abuses the mechanism of compensation for harm to persons whose rights have been violated. This mechanism is used only "in one direction" – compensation for damage in cases of insulting judges and government officials³⁰. Experts noted that the authorities use this practice as a mechanism for additional financial punishment of dissidents.

In their public statements, representatives of the current government distort the values of human rights, use human rights narratives only to promote the state agenda, when it is profitable, as well as to focus on human rights violations by other states. For example, the authorities called the decision of the governing bodies of the Aarhus Convention in relation to Belarus "discrimination"³¹. According to this decision, the liquidation of the organization "Ecohome" was recognized as a case of persecution and harassment of a non-governmental organization, and the rights and privileges under the convention of Belarus are suspended if the authorities do not take steps to restore the registration of the Ecohome³².

In the context of adherence to human rights values, the situation with the change in the attitude of the authorities to the work of the Human Rights Committee (HRC) is also noteworthy. Previously, the authorities recognized the competence of the HRC, although they treated its decisions on individual

²⁷ <https://www.defendersbelarus.org/news/tpost/ljl1v8xah1-resheniem-minyusta-prekrascheni-deistviy>

²⁸ P.110, Report " Кризис белорусской адвокатуры: как вернуть право на защиту "
<https://www.defendersbelarus.org/news/tpost/zddo1zimv1-krizis-belorusskoi-advokaturi-kak-vernut>

²⁹ P. 61, [A/HRC/49/71](https://www.unhcr.org/refugees/article/4971)

³⁰ <http://spring96.org/ru/news/107924>

³¹ <https://president.gov.by/ru/events/belarus-prekrashchaet-uchastie-v-orhusskoy-konvencii>

³² https://unece.org/sites/default/files/2021-10/ECE_MP.PP_2021_26_Belarus_proposal_by_Bureau_Fre.pdf



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communications as advisory documents and did not implement them³³. However, in 2022, the authorities completely refused to recognize its competence in relation to individual communications, as evidenced by the decision to denounce the Optional Protocol to the International Covenant on Civil and Political Rights.

In addition, civil society is being nationalized, which entails the formation of a unidirectional rhetoric in the field of human rights, while independent organizations and activists as voices publicly upholding human rights values are being repressed. Thus, the chairman of the Viasna Human Rights Center, 2022 Nobel Peace Prize laureate Ales Bialiatski, a member of the Council of the Viasna Human Rights Center, Vice-President of the International Federation for Human Rights (FIDH) Valiantsin Stefanovich, a lawyer and coordinator of the campaign "Human Rights Defenders for Free Elections" Uladzimir Labkovich were held in pre-trial detention center for the entire year. In September 2022, the investigation dropped the charges on the basis of which the human rights defenders spent 14 months in jail and brought new charges of smuggling, financing, and supporting group actions that grossly violate public order as part of an organized group³⁴. This is how the activity of importing funds into Belarus to finance the human rights center was qualified (despite the fact that the funds were moved across the border in amounts that do not require mandatory declaration).

According to experts, the voluntary reporting of Belarus on the SDGs³⁵, in 2022 cannot be called a manifestation of a real commitment of the authorities to human rights values. Experts note that in this way the regime covers up the real state of affairs in the field of human rights. The SDGs are used by the authorities to formally declare a commitment to human rights values when it is in line with the main narratives of the authorities.³⁶

Plans, programs and policies in the field of human rights relate only to the socio-economic sphere (which is considered "safe" by the authorities): for 2021-2025, the following programs have been adopted: "Education and Youth Policy", "Comfortable Housing and Favorable Environment", "Housing Construction", "Digital Development of Belarus", "Public Health and Demographic Security of the Republic of Belarus", "Social Protection", "Labor Market and Employment Promotion", and the Program of Socio-Economic Development of the Republic of Belarus and some others³⁷.

³³ <https://www.defendersbelarus.org/legal-power-ochchr>;
<https://humanrightshouse.org/articles/%D1%82%D0%B5%D0%BA%D1%81%D1%82-%D1%80%D0%B0%D1%81%D1%81%D0%BC%D0%BE%D1%82%D1%80%D0%B5%D0%BD%D0%B8%D1%8F-%D0%B4%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4%D0%B0-%D0%B1%D0%B5%D0%BB%D0%B0%D1%80%D1%83%D1%81%D0%B8/>

³⁴ P. 8, Report of the Human Rights Center "Viasna"

³⁵ <https://hlpf.un.org/countries/belarus/voluntary-national-review-2022>

³⁶ P. 96, Civil society report prepared by the Office of Sviatlana Tsikhanouskaya with participation of experts and CSOs "Гражданский обзор о реализации Целей устойчивого развития в Беларуси, подготовлен Офисом Светланы Тихановской при участии экспертов и представителей гражданского общества", <https://drive.google.com/file/d/1hYJrM79RUcBHKN92IMqndfR1U9znBIJQ/view>

³⁷ <https://hlpf.un.org/sites/default/files/vnrs/2022/VNR%202022%20Belarus%20Report.pdf>



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In 2022, despite repeated recommendations by the Special Rapporteur on the situation of human rights in Belarus³⁸ and UN committees³⁹ to establish an independent national human rights institution in line with the Paris Principles, it has yet to be established. The institutions presented by the Belarusian authorities as human rights institutions are not in conformity with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.⁴⁰

Human rights education cannot be described as systematic, it is not implemented at all levels of education. In 2022, as in 2021, experts observed the introduction of ideological narratives in the field of education. Repressions against teachers continued⁴¹. Experts note that the purge of the staff of educational institutions has had a negative impact on the overall level of competence of teachers and the quality of the educational system. In addition, private educational institutions came under severe pressure in the fall of 2022. Thus, 8 private schools were closed in Belarus, another 12 received orders to cease their activities. According to the Minister of Education, many institutions are related to countries "unfriendly" to Belarus, which interfere in the education of the "younger generation".⁴² In January 2022, a revised edition of the Code of Education⁴³ was adopted, which significantly changed the regulation of educational activities in Belarus. In October, the Law of the Republic of Belarus No. 213-3 "On Licensing"⁴⁴ was adopted, which expanded the requirements for licensing in the field of education. At the same time, specialized courses for human rights lawyers are preserved in the system of higher education, and the works of students and researchers in the field of human rights are published.

- **Interaction with civil society**

In 2022, there was a significant deterioration in the situation with ensuring the participation of civil society in the process of developing normative legal acts, as well as cooperation between civil society and the state in the implementation of national policies and programs in the field of human rights. Conditions have deteriorated both at the level of legal regulation and at the level of law enforcement practice. The relevant mechanisms enshrined in the legislation exist formally, but in practice they are not implemented and do not have the proper impact on the process.

At the legislative level, despite the inclusion of the concept of "civil society" in the new version of the

³⁸ C. 4, Report of the Special Rapporteur on the situation of human rights in Belarus Anaïs Marin, A/HRC/44/55, 08.04.2020, <https://www.undocs.org/ru/A/HRC/44/55>

³⁹ P. 3, Concluding observations concerning the combined twentieth to twenty-third periodic reports of Belarus, Committee on the Elimination of Racial Discrimination, 21.12.2017, <https://www.undocs.org/ru/CERD/C/BLR/CO/20-23>

⁴⁰ C. 3, Concluding observations of the Human Rights Committee on the fifth periodic report of Belarus, CCPR/C/BLR/CO/5, <https://www.undocs.org/ru/CCPR/C/BLR/CO/5>

⁴¹ <https://www.dw.com/ru/vyssee-obrazovanie-v-belarusi-dorogo-i-opasno/a-66927090>

⁴² p. 23, Lawtrend Report

⁴³ <https://pravo.by/document/?guid=12551&p0=H12200154&p1=1&p5=0>

⁴⁴ <https://pravo.by/document/?guid=12551&p0=H12200213&p1=1>



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2022 Constitution, the range of possible participants in the dialogue with the state was significantly limited by the development in 2022 of the draft law "On the Foundations of Civil Society" (adopted in February 2023).⁴⁵ This law does not understand all public associations and other non-profit organizations as civil society entities, but only as "associations of citizens or legal entities on the basis of membership, whose statutory activities are aimed at solving the main tasks of interaction between state bodies (organizations) and civil society specified in article 4 of this law". At the same time, the list of tasks in Article 4 does not include many possible statutory areas of CSO activities, for example, those related to ensuring the protection of human rights, environmental protection, achieving gender equality, expressing the interests of young people, and many others. Thus, according to this law, the absolute majority of associations cannot be included in the circle of "subjects of civil society". The draft law "On the Foundations of Civil Society" also establishes special forms of interaction with the state within the framework of the All-Belarusian People's Assembly for such a narrow circle of republican public associations.⁴⁶

At the practical level, a significant obstacle to cooperation between CSOs and the state was the mass liquidation of CSOs (public associations, foundations, institutions, unions of legal entities, trade unions), which began in 2021 and continues in 2022.⁴⁷

Mechanisms for public participation in decision-making at the legislative level have been supplemented in recent years, but as a result of the campaign to eliminate CSOs in 2021-2022, many groups have lost representation in even the few existing participation mechanisms. By 2022, there are only a small number (no more than 10) of republican and regional business unions that participate in consultative structures and mechanisms under state bodies. Those actors of civil society that operate in the form of institutions or foundations as a rule are not allowed to participate in consultative mechanisms, as they are considered by the authorities to be insufficiently representative (they cannot represent the interests of social groups due to the fact that they are not membership-based structures in their organizational and legal form). Thus, the composition of public councils mainly includes representatives of state organizations and bodies, and consequently such structures cannot be considered an efficient and effective instrument of interaction between the state and civil society.

The activities of public associations, religious organizations, foundations and political parties without registration are still prohibited, and since 2022, criminal liability has been restored for them with a punishment of up to 2 years in prison under Article 193-1 of the Criminal Code, which significantly limits the ability of civil society to express opinions and exercise freedom of association as such⁴⁸.

Opportunities for participation in decision-making remained unsatisfactory for the general public and

⁴⁵ <https://pravo.by/document/?guid=12551&p0=H12300250&p1=1&p5=0>

⁴⁶ <https://www.lawtrend.org/freedom-of-association/analiz-proekta-zakona-ob-osnovah-grazhdanskogo-obshhestva>

⁴⁷ C. 6, CSO Meter 2022

⁴⁸ Cases under Article 193-1 of the Criminal Code are described in the 2022 commentary on the right to freedom of association



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citizens. In the context of the cancellation of the elections to local self-government bodies, which were supposed to be held in early 2022, but were canceled by the parliament's decision to amend the Constitution in 2021, the main form of involving the public in decision-making was a campaign for public discussion of the draft of the new version of the Constitution, which was submitted to a referendum in February 2022. However, the campaign was conducted under the slogan of "popular participation" and "popular support" and was propagandistic in nature. Alternative voices were silenced and sometimes even punished. The atmosphere of fear-mongering and mass repression caused self-censorship among civil society and led to the minimization of any form of interaction with the authorities, especially when it came to participation in decision-making⁴⁹.

The participation of civil society in the development, implementation and monitoring of public policies is not regular, open and effective, and the amendments to the Constitution adopted in 2022 have led to a further deterioration of the legal framework for possible national dialogue and civil society participation in it. The withdrawal from the Aarhus Convention also led to the termination of the mechanism of developing and discussing with civil society an action plan for the implementation of the recommendations of the treaty.

Legal norms for the participation of CSOs in policy implementation, monitoring and evaluation exist only in some areas (e.g. environmental issues or business law) and do not exist in others. There is a decrease in public interest in the discussion of even the most important bills. In particular, this is manifested in a decrease in the activity of comments on the official website of the Legal Forum in 2021-2022: if in 2020 citizens sent more than 7 thousand comments on draft regulations on this official resource, then in 2022 - only about 900. At the same time, the number of regulations that are submitted for such public discussion is decreasing: in 2020, 195 draft legal acts were submitted for public discussion on the Legal Forum website, and in 2022 - only 133 drafts. Thus, the average number of comments per draft legal act decreased from 38 in 2020 to 6.61 in 2022. Even the most important draft laws, including those affecting human rights issues, are discussed online in a very short time. For example, the discussion of the draft Code of Civil Procedure in March 2022 took only three weeks, which may be one of the reasons why only 38 comments were left on this important and voluminous 380-page bill. The experts pay special attention to the situation with the discussion of the draft Law on Amendments to the Laws on Constitutional Proceedings. This draft law detailed the procedure for submitting and examining an individual constitutional complaint, the possibility of which was introduced into the Constitution in the 2022 referendum. The discussion was open for one week and only one comment was received from a citizen.⁵⁰

The most important and sensitive bills with regard to civil and political human rights (including amendments to the Criminal Code criminalizing activities to exercise the rights to freedom of speech, freedom of association, and freedom of assembly) are not submitted for public discussion, often

⁴⁹ C. 9, Urgent Interim Opinion on Constitutional Reform under Article 14a of the Rules of Procedure of the Venice Commission, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)008-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)008-e)

⁵⁰ <https://forumpravo.by/soobshcheniya/detail.php?ID=2614>



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adopted simultaneously in two readings at once (as was the case with the introduction of criminal liability for organizing and participating in the activities of unregistered associations under Article 193-1 on December 21, 2021 of the Criminal Code).

Despite the fact that there have been talks about possible amendments to the Constitution for several years, the constitutional reform process itself in 2021-2022 has not become inclusive and pluralistic. The participation of different groups in society in the reform process has been uneven, and the level of opportunities for participation has depended on their attitudes and assessments of the existing political regime. The OSCE Venice Commission concluded that the referendum lacked any democratic legitimacy. The amendment procedure did not meet the standards of required parliamentary involvement, transparency of the drafting process, inclusiveness of public debate, and general respect for human rights and fundamental freedoms. The beginning of the aggression of the Russian Federation against Ukraine through the territory of Belarus and with the active participation of its authorities a few days before the referendum further undermined the legitimacy of the process⁵¹.

The submission of the draft of the new edition of the Electoral Code for public discussion also did not arouse much interest among the population – the official website of the Legal Forum received only 35 comments on the draft. At the same time, only 10 days were allocated for public discussion of this important draft law - comments were accepted from October 24 to November 2, 2022.

In addition, in 2022, a registration mechanism was implemented on the Legal Forum portal, in which it is necessary to enter the phone number of the Belarusian mobile operator. As a result, a certain part of citizens, for example, those who were forced to leave Belarus, fear persecution, have actually lost the opportunity to participate in public discussions of draft regulatory legal acts.

- **Interaction with international mechanisms**

As noted earlier, in the field of interaction with international mechanisms, in 2022, the authorities pursued a systematic policy of rejecting "undesirable" international obligations in the field of human rights and self-isolation from the international community.

Thus, the Presidential Decree ordered to withdraw the Republic of Belarus from the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted on June 25, 1998. (Aarhus Convention).⁵² Belarus' withdrawal from the Aarhus Convention came into force on October 24, 2022.⁵³ In addition, on October 30, 2022, the law on the denunciation of the Optional Protocol to the International Covenant on Civil and Political Rights by the Republic of Belarus entered into force⁵⁴. Denunciation means that a remedy such as recourse to the

⁵¹ P. 19, Final Opinion on Constitutional Reform adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)035-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)035-e)

⁵² <https://president.gov.by/ru/documents/ukaz-no-247-ot-18-iyulya-2022-g>

⁵³ <https://news.un.org/ru/story/2022/08/1429362>

⁵⁴ <https://pravo.by/document/?guid=12551&p0=H12200217&p1=1>



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Human Rights Committee becomes inaccessible to victims of human rights violations in Belarus who have been denied justice at the national level⁵⁵. Civil society and non-governmental organizations were not consulted by the authorities during the decision-making process. According to the UN Human Rights Committee, Belarus' withdrawal from the individual complaints procedure is a serious obstacle to the protection of human rights.⁵⁶

In addition, the experts noted that in 2022, the authorities stopped participating in the Warsaw Human Dimension Conferences, despite the fact that the relevant rights of Belarus were not restricted by the OSCE⁵⁷.

The authorities' interaction with international mechanisms is characterized by denial of any indication of possible human rights violations, extremely formal responses, as well as statements aimed at denigrating the actions of Western states. For example, the OSCE launched the Vienna Mechanism in relation to Belarus, within the framework of which the authorities were requested to provide information on reports of ongoing arbitrary arrests and detentions, as well as on the persecution of opposition figures. As the representatives of the states noted at the meeting of the OSCE Permanent Council, the answers of the Belarusian authorities are unsatisfactory, "the delegation's response did not recognize our legitimate concerns on any of these issues; For example, the Belarusian delegation simply spoke out against the term "political prisoner".⁵⁸

At the end of 2022, there was a trend towards selective communication between the authorities through the special procedures of the Human Rights Council. In addition, the authorities did not recognize the activities of the Human Rights Council Examination of the human rights situation in Belarus⁵⁹. At the same time, in the summer of 2022, the state demonstrated its readiness to cooperate with the UN Special Rapporteur on the human rights of migrants⁶⁰. However, experts noted that this step is a confirmation of the practice when the authorities use human rights mechanisms only if it is beneficial to the state and corresponds to the general political course of the country (in this situation,

⁵⁵ P. 6, Report of the Human Rights Center "Viasna"

⁵⁶ <https://www.ohchr.org/ru/press-releases/2022/11/belarus-withdrawal-individual-complaints-procedure-serious-setback-human>

⁵⁷ <https://www.osce.org/files/f/documents/6/0/536241.pdf>, <http://spring96.org/ru/news/109229>

⁵⁸ <https://www.norway.no/en/missions/osce/norway-and-the-osce/statements/statements-with-norwegian-alignment-2022/joint-statement-on-belarus/>

⁵⁹ <https://www.ohchr.org/en/hr-bodies/hrc/ohchr-belarus/index>

⁶⁰ <https://www.belta.by/society/view/spetsdokladchik-oon-po-pravam-migrantov-oznakomilsja-s-podhodami-belarusi-k-obespecheniju-prav-514399-2022/>,

<https://humanconstantia.org/vpervye-za-12-let-oficialnye-vlasti-belarusi-prinimali-v-strane-specialnogo-dokladchika-oon/>,

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F53%2F26%2FAdd.2&Language=E&DeviceType=D&esktop&LangRequested=False>



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denigration of Poland's actions). When the Special Rapporteur on Environmental Defenders⁶¹ was elected for the first time under the Aarhus Convention, Belarus reserved the right not to recognize the rapporteur if he was not chosen by consensus⁶² and soon decided to withdraw from the convention due to disagreement⁶³ with the decision of the Meeting of the Parties regarding Belarus' compliance with its obligations under the Convention, including the Ecodom case..

- **Equality and non-discrimination**

The principle of equality of all before the law is enshrined in the Constitution, as well as in a number of legislative acts. In addition, Belarus continues to be a party to a number of international treaties that enshrine the principle of equality and non-discrimination, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and a number of others. At the same time, national and international⁶⁴ experts note the lack of a comprehensive legislative act that would deal with issues of discrimination and effective remedies for victims of discrimination, as one of the significant shortcomings of the legislative system of the Republic of Belarus.

However, in practice, there are many examples of violation of this principle. Cases of discrimination against certain vulnerable groups are widespread, both at the legislative level and at the level of law enforcement practice, such as women, religious and ethnic minorities, LGBTIQ+ people, etc. Since 2020, new groups have been formed that are being persecuted on the basis of their political beliefs, such as activists, human rights defenders, and persons who protested the results of the 2020 elections. For example, in 2022, the practice of persecution on the basis of knowledge and use of the Belarusian language expanded.

The authorities and pro-government media openly and widely use hate speech against certain groups, as well as propagandize the need to discriminate against people who participated in protests, participants in CSOs, etc., and deprive them of certain rights. Experts justify the low rating for the situation in the field of equality and non-discrimination of the trends towards the formation of an effective system of ensuring discrimination, which is broadcast through the media, law enforcement practice, the attitude towards lawyers trying to provide legal assistance to victims of repression, and the position of officials who openly admit the derogation of the rights of certain groups.

The persecution of representatives of Polish and Lithuanian origin continues. For example, Andrzej Poczobut, a poet, journalist and member of the Union of Poles, which is not registered in Belarus, was

⁶¹ <https://ecohome.ngo/specdoklad/>

⁶² https://unece.org/sites/default/files/2022-01/ECE.MP_PP_2021.CRP_9_Rev1-as-adopted_2401.pdf

⁶³ https://unece.org/sites/default/files/2023-09/frPartyVII.8c_26.11.2021_letter_rus.pdf

⁶⁴ C. 2, Concluding observations on the seventh periodic report of Belarus, Committee on Economic, Social and Cultural Rights (hereinafter referred to as CESCR Observations), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FBLR%2FCO%2F7&Lang=en



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included by the KGB in the "List of Persons Involved in Terrorist Activities" in October 2022, and the chairwoman of the Union of Poles, Andzelika Borys, continues to be under house arrest. Renata Demyanchuk, deputy chair of the Union of Poles, was detained in February 2022, and then in November of the same year, she and Irena Valius, the chair of the Council of the Union of Poles, were searched.

Polish organizations are also persecuted by the state. At the end of December 2022, the process of forced liquidation of Klerigata LLC, through which the Union of Poles in Belarus actually carried out its work, began. The prosecutor's office of the Grodno region sent a corresponding application to the economic court in November 2022. "Club of Polish Folk Traditions", "Society of Polish Culture in Lidchina", "Polish Scientific Society", "Polish Mother of School", "Wspólnota Polaków", as well as "Braslaw District Public Association of Lithuanians "Rytas".⁶⁵

Also in 2022, the following media outlets were added to the list of "extremist materials": Radio Racyja is a media outlet based in Poland that criticizes the government of Belarus; MOST ("information bridge between Belarus and Poland", as stated on the website); Polskieradio.pl and Polskieradio24.pl sites.

Polish schools in Grodno and Volkovysk, where the language of instruction was Polish, were transferred to Russian in 2022. According to Article 82 of the Education Code, the main languages of instruction and upbringing in the Republic of Belarus are the state languages of the Republic of Belarus. In accordance with the wishes of pupils, pupils and their legal representatives, groups may be set up in pre-school and general secondary education establishments where pupils study the language of the national minority, and classes in general secondary education establishments in which pupils study the language and literature of the national minority.

In April 2022, parents of schoolchildren studying in these schools received a notification that from September 1, 2022, teaching at the school will be carried out in Russian (some subjects in Belarusian) due to the need to bring the school's activities in line with the Education Code, while the Polish language and literature will be studied as part of academic subjects for one hour per week⁶⁶. In May, parents were informed that there would be no relevant subjects⁶⁷. According to the information posted on the website of secondary school No. 36 in Grodno ("Polish school" in Grodno), the study of the Polish language in grades II-IV is carried out in the form of an elective for 1 hour a week⁶⁸.

The same was true for Lithuanian schools, one of which, Pelyasy Secondary School, was closed by the authorities shortly before the start of the school year in August 2022, citing a number of violations identified during an inspection by the Ministry of Emergency Situations⁶⁹. The school in Pelyasy was the first Lithuanian-language school in Belarus, it was opened in 1992, in the last year more than 120 children studied there, there are 23 teachers on staff, 11 of whom are citizens of Lithuania. It is a private

⁶⁵ <https://penbelarus.org/2023/03/03/rus-pravo-na-kulturu-belarus-2022.html#r19>

⁶⁶ <https://news.zerkalo.io/life/12353.html>

⁶⁷ <https://news.zerkalo.io/life/15376.html>

⁶⁸ <https://36grodno.schools.by/pages/raspisanie-fakultativnyh-zanjatij>

⁶⁹ <https://news.zerkalo.io/life/19821.html>



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educational institution funded by the Ministry of Education of Lithuania.

Increased pressure began to be felt by people speaking Belarusian. The use of the Belarusian language is often perceived by the authorities as a sign of belonging to the opposition, as a result, speaking in Belarusian can even become a reason for detention. For example, in 2021, the authorities liquidated hundreds of CSOs, including those engaged in the promotion of the Belarusian language: Union of Belarusian Writers, PEN-Belarus and others. In total, in 2022, the Belarusian PEN recorded 41 situations of discrimination on the basis of the Belarusian language, both against individuals or organizations, and at the national level.

Citizens of Belarus face facts of discrimination on the basis of the use of the Belarusian language in completely different places: in the registries of state polyclinics - "speak normally, not in Belarusian"; at the moment of arrest - "What does this person say? Let him talk normally."; In the departments for combating organized crime - "I made a wish [said] "to speak Russian"; In conclusion, he is "strongly advised" not to correspond in Belarusian or "I was told in a special way where I was, and therefore I should use Russian"). Speaking in Belarusian can even become a reason for detention - "spoke Belarusian".⁷⁰ In February 2022, at the referendum on amendments to the Constitution of the Republic of Belarus, the commissions did not have ballots in the Belarusian language.

In connection with Russia's armed invasion of Ukraine, persons supporting the Ukrainian side of the conflict were held administratively liable for such support. Actions that entailed administrative liability include posting an avatar on Instagram with a blue and yellow flag of Ukraine, a flag of Ukraine on a Facebook page, and a flag of Ukraine in a car⁷¹.

Discrimination against persons on other grounds also continues. For example, the Committee on Economic, Social and Cultural Rights (CESCR) notes reports of discrimination against socially vulnerable groups, in particular women; lesbian, gay, bisexual, transgender and intersex people; people with disabilities; people living with HIV; and linguistic and religious minorities⁷².

It is known that a large proportion of women, especially in rural areas, and in particular young women and mothers with small children, face discrimination in the labour market. The gender pay gap persists.⁷³ At the same time, in May 2022, the Minsk City Court ordered the liquidation of Radislava, a non-governmental organization that protects women's rights and provides legal, social, and psychological support to women suffering from domestic violence in Belarus. Earlier in 2021, the International Public Association Gender Perspectives, which had been administering a hotline for

⁷⁰ <https://penbelarus.org/2023/03/03/rus-pravo-na-kulturu-belarus-2022.html#r18>,
<https://spring96.org/ru/news/106782>

⁷¹ <https://spring96.org/ru/news/108645>

⁷² C. 2, CESCR comments

⁷³ C. 3, CESCR comments



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victims of domestic violence for many years, was liquidated.⁷⁴

Low enrolment rates for Roma students at all levels of education, including higher education, have been reported, as well as the persistence of discrimination against Roma students in education⁷⁵.

On June 30, 2022, Law No. 183-3 "On the Rights of Persons with Disabilities and Their Social Integration"⁷⁶ which had been under consideration for several years was adopted. The Act contains provisions prohibiting discrimination on the basis of disability. Thus, article 7 of the Law stipulates that discrimination on the basis of disability includes all forms of discrimination, including direct and indirect discrimination, insult by action, denial of reasonable accommodation. Article 7 of the Act also provides for cases in which distinctions, exceptions and restrictions do not constitute discrimination on the basis of disability: if they are objectively justified in order to achieve a goal defined by law in the interests of national security, the protection of morals, the rights and freedoms of other persons⁷⁷. The law introduces the concept of "reasonable accommodation", which is new for Belarusian legislation, which is seen as a progressive step.

At the same time, despite the adoption of this Law, experts call the prohibition of discrimination enshrined in it nominal, since in practice there are no changes. Many of the provisions of the Law were automatically transferred from the 2006 UN Convention on the Rights of Persons with Disabilities, but the Law retains the medical understanding of disability as a phenomenon, as well as a paternalistic attitude in terms of providing financial and material assistance.

The law does not provide mechanisms for protecting the rights of people with disabilities, does not solve the problem of placing the burden of proving the fact of discrimination on a person who has suffered from discrimination (according to the general rules of civil procedure), and the institution of complete deprivation of legal capacity of people with disabilities is preserved.⁷⁸

The law "On the Fundamentals of Crime Prevention Activities" underwent significant changes in January 2022, which have long been promoted by civil society representatives⁷⁹. However, experts note that this measure is not equivalent to the adoption of a full-fledged, comprehensive law on domestic violence. In addition, experts draw attention to the fact that civil society organizations that could exercise public control over the application of this law have been liquidated (for example, "Radislava", "Gender Perspectives").

The changes concern the improvement of the situation of representatives of a vulnerable group of

⁷⁴ P. 14, Implementation of SDG16: Peace, Justice and Strong Institutions, Report on the implementation of SDG16 by the Republic of Belarus, Belarusian Helsinki Committee, https://belhelcom.org/sites/default/files/bhc_16_sdg_web_eng_2_version.pdf

⁷⁵ P. 7, CESCR comments

⁷⁶ <https://etalonline.by/document/?regnum=H12200183>

⁷⁷ <https://pravo.by/document/?guid=12551&p0=H12200183&p1=1>

⁷⁸ <https://spring96.org/ru/news/95567>

⁷⁹ <https://pravo.by/document/?guid=12551&p0=H12200151&p1=1&p5=0>



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victims of domestic violence. Relevant terminology is introduced, in particular, the concept of "domestic violence", "victim of domestic violence". Domestic violence is defined as intentional unlawful or immoral actions of a physical, psychological or sexual nature of close relatives, former spouses, citizens who have a common child (children), or other citizens who live (lived) together and have a common household, in relation to each other, causing physical and (or) mental suffering. The concepts of actions of a psychological, sexual or physical nature are also fixed. The competence of local executive and administrative bodies, internal affairs bodies, prosecutor's offices, labor, employment and social protection bodies, social service institutions, health care management bodies, state health care organizations, educational management bodies, educational institutions in the field of prevention of domestic violence has been expanded. A preventive measure is being introduced as a correctional program, which is a set of measures to provide psychological assistance to a person who has committed domestic violence, aimed at correcting (correcting) the person's behavior, developing non-violent communication skills, and preventing the recurrence of domestic violence. The basis for carrying out a correctional program is the recommendation of an official. The correctional program is carried out with the consent of the perpetrator of domestic violence.

As one of the key changes that led to a decrease in the score for the "Equality and Non-Discrimination" component in 2022, experts highlight the deterioration of the situation with defense lawyers. According to experts, the legal profession has completely ceased to be an independent self-governing institution, moreover, it has become an instrument of repression against lawyers. Access to legal aid for victims of discrimination has further decreased, continuing a trend that began in 2020, when state authorities purposefully exert pressure on lawyers working on politically motivated cases, preventing them from effectively performing their functions. The practice of revoking lawyers' licenses "due to insufficient qualifications" based on the results of attestations continues.⁸⁰

"A radical deterioration in the conditions for the practice of law, including changes in the legislation on the legal profession, which excluded such forms of organization of the work of lawyers as bureaus and individual practice, the daily work of lawyers in an atmosphere of lack of independence and fear of possible sanctions, latent pressure, obstacles to the effective performance of their duties by lawyers, as well as the deprivation of the right of more than 60 lawyers to the profession and discriminatory conditions for admission to the In 2020–2022, the legal profession was reduced by at least 12%. The number of lawyers in Belarus by July 2022 was 1,780, that is, about 1 lawyer per 5 thousand population, which is clearly incompatible with the principle of access to legal aid," the report "The Crisis of the Belarusian Bar: How to Return the Right to Defense" says⁸¹.

In 2022, 6 lawyers were recognized as political prisoners. During the year, 195 lawyers left the bar for one reason or another, and only 24 were admitted. In connection with Russia's full-scale invasion of

⁸⁰ <https://spring96.org/ru/news/108011>

⁸¹ P. 110-111, Report " Кризис белорусской адвокатуры: как вернуть право на защиту ". Available at: <https://cchr.online/wp-content/uploads/2022/09/Report-The-crisis-of-the-Belarusian-legal-profession-how-to-return-the-right-to-defense.pdf>



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Ukraine, an "anti-war" appeal of the Belarusian legal, legal and human rights community appeared on the Internet. The petition was signed by more than 260 lawyers, after which lawyers began to be summoned to the collegium and demanded explanations, some lawyers were deprived of their licenses for signing this appeal. 8 of them were brought to disciplinary responsibility in the form of reprimands, the leadership of the Minsk City and Minsk Regional Collegiums considered that in this way the lawyers "disseminated false information on the Internet".⁸² Aliaksandr Danilevich, one of the lawyers who signed the petition, was fired from the university where he taught, detained, and at the end of 2022, Aliaksandr was in a pre-trial detention center⁸³.

In 2022, international ties continued to be severed at the initiative of the authorities, which, according to experts, hinders the process of ensuring equality and non-discrimination in the country. The Council of Ministers decided to terminate the agreement with the European Commission on the financing of the international technical assistance project "EU4MOBILITY – MOST Phase II of the Mobility Programme for Targeted People-to-People Contacts" of 18 July 2018, as well as the Funding Agreement signed on 29 December 2020.⁸⁴

⁸² https://www.defenders.by/disciplinaryje_sankcyi_2022

⁸³ https://www.defenders.by/2022_recap

⁸⁴ <https://reform.by/332310-pravitelstvo-prekratilo-dejstvie-soglashenija-evrokomissey-o-tehnicheskoy-pomoshhi>



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