

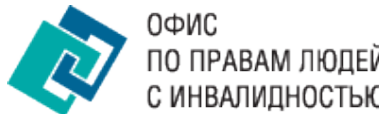
**Third cycle of the Universal Periodic Review**

# **Republic of Belarus**

## **COALITION REPORT**

**by the Belarusian human rights organizations  
on the fulfilment by the Republic of Belarus  
of its human rights obligations**

To be presented  
to the 36th session of the UN Human Rights Council



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## Introduction

The report has been prepared in connection with the participation of the Republic of Belarus in the third cycle of the Universal Periodic Review in the UN Human Rights Council.

The report has been prepared with the assistance of the Human Rights House Foundation (HRH) by the following human rights organizations in Belarus:

- 1) Republic Human Rights Public Association “Belarusian Helsinki Committee”, office@belhelcom.org, <https://www.belhelcom.org/>
- 2) Human Rights Center “Viasna”, viasna@spring96.org, <http://spring96.org/>
- 3) Legal Transformation Center “Lawtrend”, infolawtrend@gmail.com, <https://www.lawtrend.org>
- 4) Public Association “Belarusian Association of Journalists”, press@baj.by, <https://baj.by/>
- 5) Assembly of Pro-Democratic Non-governmental Organizations of Belarus, ngo@belngo.info, <http://belngo.info/>
- 6) The Republican Public Organization “Legal Initiative”, lirngo@gmail.com, <http://www.le-gin.by>
- 7) The Barys Zvozkau Belarusian Human Rights House, belarus@humanrightshouse.org, <https://humanrightshouse.org/human-rights-houses/belarus/>
- 8) Expert Law Partnership "FORB Initiative", <https://forb.by/>
- 9) Educational Institution “Office for the Rights of Persons with Disabilities”, info@disright.org, <http://www.disright.org/>
- 10) The Belarusian Documentation Center, info@bydc.info, <https://bydc.info/>
- 11) Institution “Advisory centre on contemporary international practices and their legal implementation” “Human Constanta”, info@humanconstantaby.by, <https://humanconstantaby.by/>
- 12) The Initiative Group “Identity and Law”, office@identitylaw.org, <http://identitylaw.org/>

The report presents information on the fulfilment by the Republic of Belarus of its universal human rights obligations. In each section, the authors have made recommendations providing possible steps for the government to address the main human rights issues.

The Appendix provides a matrix table analyzing the adoption of recommendations received by the Republic of Belarus as part of the second cycle of the Universal Periodic Review. The analysis shows that Belarus has implemented 11 recommendations, partially implemented 103 ones, and failed to implement 128 recommendations. Implementation of several recommendations were left without assessment due to the lack of data.

More information about the main problems in the field of civil and political rights not included in this report can be found in the reports prepared by the above mentioned organizations related to the consideration of the fifth periodic report on implementation of the International Covenant on Civil and Political Rights in the Republic of Belarus by the UN Human Rights Committee<sup>1</sup>.

The report contains the following sections prepared by the following human rights institutions:

1. **General policy on human rights and the rule of law** – Belarusian Helsinki Committee;
2. **Cooperation with international human rights mechanisms** – Belarusian Helsinki Committee, The Barys Zvozkau Belarusian Human Rights House;
3. **Right to life** – Human Rights Center “Viasna”, The Belarusian Documentation Center;
4. **Prohibition of torture and degrading treatment** – Human Rights Center “Viasna”, Legal Initiative, Belarusian Helsinki Committee;
5. **Right to fair trial, judicial independence** – Belarusian Helsinki Committee, The Belarusian

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<sup>1</sup> See: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BLR/INT\\_CCPR\\_CSS\\_BLR\\_31288\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BLR/INT_CCPR_CSS_BLR_31288_E.pdf)

Documentation Center;

6. **Right to privacy. Protection of personal data** – Human Constanta;
7. **Freedom of expression, media freedom** – Belarusian Association of Journalists, Human Constanta;
8. **Freedom of conscience and religion** – FORB Initiative;
9. **Freedom of peaceful assembly** – Human Rights Center “Viasna”, Belarusian Helsinki Committee;
10. **Freedom of association** – Legal Transformation Center “Lawtrend”, Assembly of Pro-Democratic Non-Governmental Organizations of Belarus;
11. **Equality before the law, non-discrimination** – Belarusian Helsinki Committee, Office for the Rights of Persons with Disabilities, Human Constanta;
12. **Right to participate in the affairs of one's country. Election rights** – Belarusian Helsinki Committee, Human Rights Center “Viasna”;
13. **Social and economic rights** – Belarusian Helsinki Committee, Office for the Rights of Persons with Disabilities, Human Rights Center “Viasna”.

**General editorship:**

Dmitry Chernyh, Belarusian Helsinki Committee

## **General policy on human rights and the rule of law**

1. Since 2015, no substantial change has been observed in the legal and institutional human rights framework. On a positive note, the National action plan on human rights (NAPHR) for 2016–2019 has been adopted<sup>2</sup>.
2. Several meetings were conducted to discuss legislative changes in the field of human rights with the participation of civil society representatives. However, specialized CSOs were not always invited to such events. Moreover, no permanent platforms for discussing relevant human rights issues have been established.
3. A number of human rights legislative acts have been amended. However, they do not fully comply with international human rights obligations.
4. The authorities have not demonstrated significant progress in establishing a national human rights institution. In accordance with the NAPHR, the study of the feasibility of its creation is on the way. However, this process is not public, and CSOs are not being informed about the efforts and plans of the authorities in this regard.
5. Belarus is actively involved in promoting the Sustainable Development Goals (SDGs). The State has created a National SDGs reporting platform, SDGs management architecture, which includes a sustainable development partnership group with representatives of civil society. An extensive information campaign has been launched on SDGs. However, this process fails to recognize the link between SDGs and human rights obligations.

### **Recommendations:**

- Continue cooperation with civil society on protection and promotion of human rights, institutionalize collaboration with CSOs and human rights organizations.
- Create a national human rights institution in accordance with the Paris Principles.
- In cooperation with CSOs, improve legislation to bring it in line with international human rights standards.

## **Cooperation with international human rights mechanisms**

6. Belarus cooperates with international human rights mechanisms, but flatly refuses to cooperate with the UN special rapporteur on the situation of human rights in Belarus.
7. In many cases, the State responds to requests from international human rights mechanisms, and timely submits reports and other information to UN treaty bodies. However, the State has not provided information on measures taken in response to the recommendations regarding basic legal guarantees, effective investigation into complaints of torture and ill-treatment, and the situation of human rights defenders, as required in the Concluding Observations of the Committee against Torture (CAT/C/BLR/CO/5).
8. The state still fails to comply with the HRC Views.
9. Belarus has sent invitations to a number of thematic UN special rapporteurs. Unfortunately, the State did not invite special rapporteurs whose mandate was to study issues of great concern to the human rights community, such as the right to freedom of peaceful assembly and association, the independence of judges and lawyers, torture and other cruel, inhuman or degrading treatment or

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<sup>2</sup> Full name: The Inter-agency plan on the implementation of recommendations adopted by the Republic of Belarus following the second cycle of the universal periodic review in the UN Human Rights Council, and on the recommendations to the Republic of Belarus by human rights treaty bodies for 2016 – 2019.

punishment.

### **Recommendations:**

- Cooperate in good faith with international human rights mechanisms.
- Timely submit periodic report to respective treaty bodies.
- Take all measures necessary for the effective and efficient implementation of the Views of the HRC and other treaty bodies adopted in relation to Belarus.
- Cooperate with all UN special procedures.

## **Right to life<sup>3</sup>**

### ***Death penalty***

10. Belarus continues to practice the use of the death penalty. Since 2015, 14 death sentences have been imposed in Belarus. As for today, human rights defenders are aware of 12 sentences executed. At the time of submission of the report, 2 convicts are awaiting execution of the death sentence.
11. There is a practice of executing death penalties after registering individual communications of convicts in the HRC and after the Committee requested the State to apply interim measures of protection. In this way, Alexander Zhilnikov was executed in violation of the Committee's interim protection procedures in June 2019, Alexei Mikhalenya, Semyon Berezhnoy, and Igor Gershankov in 2018, and Sergey Ivanov, Gennady Yakovitsky and Sergey Khmelevsky in 2016.
12. A parliamentary working group on the death penalty continues to work. As part of its cooperation with the British Embassy in Minsk and the Council of Europe, a number of public events took place in Minsk, as well as in region. International experts, representatives of local authorities and public structures, including human rights organizations, were invited to participate. However, these events have not been widely reported by the State media.
13. The Parliament has not held public hearings and has not discussed the issue of abolition of the death penalty.
14. Interaction with human rights community representatives was episodic and random. The problem of abolition of the death penalty is not widely covered in the State media and is not a subject of a wide public debate. A campaign to abolish the death penalty is carried out by human rights organizations and independent media.

### **Recommendations:**

- Join the Second Optional Protocol to the ICCPR and abolish the death penalty.
- As an interim measure, establish a moratorium on executions as soon as possible until accession to the Second Optional Protocol.
- Prior to the abolition of the death penalty or introduction of a moratorium, amend the law to ensure that relatives of those sentenced to death have the opportunity to say goodbye to them and bury the bodies of those executed in accordance with the traditions of their families.
- Conduct an extensive media campaign on the use of the death penalty.

### ***Enforced disappearances of political opponents of the present authorities***

15. The State failed to take effective action to investigate four cases of enforced disappearances in 1999–2000. Complaints and petitions by relatives and public figures have not been satisfied.

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<sup>3</sup> Death Penalty in Belarus: Murder on (Un)lawful grounds, Joint FIDH – HRC “Viasna“ report 2016:  
[https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BLR/INT\\_CAT\\_CSS\\_BLR\\_30786\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BLR/INT_CAT_CSS_BLR_30786_E.pdf)

16. In 2018, the preliminary investigation of the cases of disappearance of Yury Zakharanka, Viktor Hanchar, and Anatol Krasouski was extended four times. The investigation proceedings on the cases were suspended owing to a failure to identify the person to be charged. Copies of the relevant decrees were not presented to the family members or trusted persons. The attempts to appeal this decision to the Prosecutor General's Office were unsuccessful. The criminal case on the disappearance of Dzmitry Zavadski has been suspended since 2006.
17. The investigation materials on these cases have not been made available for public and for the relatives of those disappeared.

### **Recommendations:**

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Take the necessary measures for the full and effective investigation of cases related to the disappearance of political opponents.
- Hold the persons charged with the mentioned crimes accountable before an independent court, and, if found guilty, impose punishment in accordance with international obligations of Belarus.

### **Prohibition of torture and degrading treatment<sup>4</sup>**

18. Belarus has not defined torture as a specific crime in accordance with Art. 1 of the Convention against Torture. The offences provided by the Criminal Code do not criminalize the whole range of acts of torture.
19. Senior government officials have not publicly and explicitly condemned the use of torture, nor have they warned that those who commit such acts and their accomplices would be prosecuted.
20. Belarus practices forced expulsion, deportation and extradition to the countries using torture and death penalty. There have been cases of open and hidden extradition and expulsion without procedure.
21. There is no information on the instruction on and practical implementation of the Convention against Torture by prosecutors, judicial and law enforcement officials.
22. Belarus has no independent bodies authorized to visit places of detention without prior notice, including psychiatric hospitals and other places of forced detention. The existing Public Monitoring Commission can visit places of detention only with the permission of the Department of Execution of Sentences of the MIA. The PMC members are not entitled to take photos and videos or accept complaints from prisoners. Human rights defenders having expertise in international human rights standards are unreasonably denied inclusion in the PMC.
23. There is no provision in domestic law ensuring suspension of criminal court proceedings prior to the verification of statements of the accused on the use of torture against him in order to obtain confession.
24. The investigation of crimes committed by officials of the Prosecutor's office, internal affairs bodies, and the Investigative Committee in connection with their official or professional activities is carried out directly by the Investigative Committee. Measures to ensure an independent investigation of cases related to the use of torture have not been undertaken. The Investigative Committee has no specific unit for the examination of cases related to the use of torture.

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<sup>4</sup> For more information on prohibition of torture and ill-treatment see The NGOs report on compliance by the Republic of Belarus with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the 63rd session of the UN Committee against Torture:

[https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BLR/INT\\_CAT\\_CSS\\_BLR\\_30686\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BLR/INT_CAT_CSS_BLR_30686_E.pdf)



## **Recommendations:**

- Include a special provision in the Criminal Code establishing liability for all acts of torture in accordance with the Convention against Torture.
- Publicly and unequivocally, condemn the use of all forms of torture, particularly addressing law enforcement officials, armed forces and prisons, specially mentioning that any person committing or participating such actions is to be held criminally liable.
- Completely abandon the practice of expelling people to countries of nationality where they may be subject to the death penalty, torture, harassment on discriminatory grounds, and to be in danger related to military conflict. Refuse the practice of expulsion without due process, including covert extradition.
- In collaboration with human rights organizations, provide regular training to prosecutors, judiciary and law enforcement officials on issues related to the provisions of the Convention against Torture and the absolute prohibition of torture. Provide the above staff and medical professionals with full information on identifying signs of torture and ill-treatment. Use the Istanbul Protocol.
- Join the Optional Protocol to the Convention against torture and establish the NPM in accordance with the Protocol.
- Incorporate into national legislation a provision ensuring suspension of criminal court proceedings prior to verification of statements of the accused about use of torture against him in order to obtain confession.
- Establish an independent and effective mechanism for receiving complaints submitted by victims of torture and ill-treatment to the State authorities, and ensure prompt, impartial and comprehensive investigation of all complaints. Ensure the suspension of duty of all officials subjects to criminal procedure during the inspection (investigation) of the statement on the facts of torture.
- Declare recognition of the competence of the CAT in accordance with articles 21 and 22 of the Convention.

## **Right to fair trial, independence of judges and lawyers**

25. In 2016, the Code on the Judicial System and the Status of Judges was amended to provide delegation of authority for organizational and logistical support of courts of general jurisdiction, as well as transfer of internal control over the compliance of activities of courts of general jurisdiction with legal requirements to the Supreme Court. Thus, these functions were excluded from the ambit of an executive authority, i.e. the Ministry of Justice, which is a positive change.
26. However, judicial reform failed to solve the key issues of judicial independence. As before, final decisions on key judiciary issues are made by the President and the administration, i.e. the executives.
27. The legislation does not provide for clear criteria on appointing judges for an indefinite term. As a general rule, judges are appointed for a five-year term, then reassigned for another one. The question of judges' appointment for another five-year or an indefinite term is decided arbitrarily.
28. The President has an extremely vast range of opportunities to dismiss judges or bring disciplinary proceedings against them. The Judicial Code contains no provisions for judges to appeal the President's decisions on imposing disciplinary sanctions, including dismissal.
29. Official salaries of judges are specified not by law, but by the President's decree, which is another evidence of lack of judicial independence.
30. Access to judicial protection is subject to arbitrary restrictions. The courts often refuse to initiate judicial proceedings on cases challenging the actions of State bodies, law enforcement agencies

and election commissions. Such refusals are the most common in cases of discrimination, cases of appealing a refusal to provide socially significant information or environmental information, as well as in cases of challenging the actions of election commissions during elections. In case of violation of rights by regulatory acts, there are no effective mechanisms for seeking judicial protection.

31. There is no freedom to exercise the profession of lawyer<sup>5</sup>. Bar associations lack actual independence and self-government. The procedure for access to the legal profession does not comply with international standards.
32. Lawyers defending civic activists and opponents of the current government are being prosecuted<sup>6</sup>.

### **Recommendations:**

- Take measures to ensure in law and practice the complete independence of judges.
- Delegate the responsibilities of selection, appointment, dismissal and disciplining of judges from the executive authorities, including the President, to judicial self-government bodies.
- Expand the practice of indefinite appointment of judges by making appropriate changes to the law.
- Eliminate the use of courts as a tool to prosecute people with other views, including civil activists and opponents of the current government.
- Eliminate arbitrary refusals to institute civil proceedings in connection with the lack of special instruction in the legislation on the possibility of appealing the contested action.
- Strengthen the role of the Constitutional Court in protecting constitutional rights and freedoms, including providing citizens with the right to directly appeal to the Constitutional Court with individual complaints.
- Ensure independence of the bar in accordance with international standards, in particular, eliminate excessive control over the bar by the Ministry of Justice and give wider powers to the self-government bar bodies.
- Cease interference with the bar and stop reprisals against lawyers for their professional activities.

### **Right to privacy. Protection of personal information**

33. Belarus has not acceded to the Council of Europe Convention No. 108. At present, the draft Law “On Personal Data” is at second reading in the Parliament of Belarus. The draft law is based on the provisions of CoE Convention No. 108 and, if adopted, could be a significant step towards protecting the privacy of citizens.
34. However, the draft law leaves the establishment of an authorized body for the protection of the rights of personal data subject to the discretion of the Head of the State.
35. The legislation does not provide for effective administrative and criminal liability for violation of personal data legislation.
36. Presidential Decree No. 60 “On measures to improve the use of the national segment of the Internet” that provides for a number of restrictions on the right to privacy remains in force. Identification of user devices in provision of online-services, as well as information about rendered online-services and its storage for a year are arbitrary interventions in the privacy and

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5 For more information see The Report “The independence of the legal profession. The right to protection (Article 14 of the International Covenant on Civil and Political Rights)”, prepared by Helsinki Foundation for Human Rights in partnership with World Organisation Against Torture to the UPR

6 See for example Joint statement of Belarusian human rights organizations “Stop government interference in activities of the Bar”: <http://spring96.org/en/news/87827>

confidentiality of correspondence within the meaning of Art. 17 ICCPR. An example of such intervention is the collection and storage for 1 year of information about connections and browser history of all Internet users in Belarus. The procedure for using this personal data does not guarantee the protection of citizens' rights from abuse.

37. In accordance with the legislation on operative investigation activities, a hardware-software system was created for real-time monitoring of all telephone and Internet communications. The legislation does not ensure transparency and accountability of this system and does not protect citizens from indiscriminate mass surveillance.

### **Recommendations:**

- Consider joining the Council of Europe Convention No. 108.
- Provide sufficient guarantees for protection of personal data during its processing in commercial and public sectors, effective accountability measures for violation of law, and create an independent authorized body responsible for the implementation of these guarantees.

### **Freedom of expression, media freedom**

38. The situation with mass media and the freedom of speech remains complex. The 2018 amendments to the Law on Mass Media have enhanced the State's control of freedom of speech on the Internet. As a result, the number of prosecutions for statements on the Internet has increased.
39. Blockings of independent media sites are still practiced. By decision of the Ministry of Information, two popular news sites were blocked in Belarus, i.e. [belpartisan.org](http://belpartisan.org) and [charter97.org](http://charter97.org).
40. The number of prosecutions in the form of a fine of journalists working for foreign media without accreditation in Belarus has increased dramatically (from 10 cases in 2016 to 118 in 2018). In the first five months of 2019, 38 fines were recorded. At the time of submission of the present report, no cases of prosecution of journalists working for foreign media without accreditation have been recorded since the beginning of June 2019. The State demonstrates its readiness to detain journalists in the course of their work. Frequency of detentions depends on the protest activity in the society covered by journalists. The detentions have reached their highest level in 2017 in view of the demonstrations against the introduction of a "parasite tax" (101 cases compared to 13 in 2016). Since 2018, searches with seizure of machinery and equipment from journalists and bloggers have increased (in 2018 there were at least 16, compared with only 5 in 2017).
41. The application of defamation articles of the Criminal Code continues. At least 2 criminal cases are known to be initiated in 2018 for defamation. In April 2019, blogger Sergei Petrukhin was sentenced to a fine of approximately \$ 4,600 (in total, compensation for moral damages amounts to approximately \$ 9,000) based on Articles 188 (Defamation) and 189 (Insult) of the Criminal Code<sup>7</sup>.
42. Belarus continues criminal prosecution in relation to freedom of expression (The Regnum case; the case of Ales Lipay, the head of the BelaPAN news agency, terminated on account of his death; the BelTA case" that ended with the sentence to Marina Zolatava, editor-in-chief of the popular news resource TUT.by). There has been active use of anti-extremism<sup>8</sup> legislation aimed at restriction of freedom of expression, primarily on the Internet.
43. There has been an increased number of prosecutions under Art. 130 of the Criminal Code "Inciting

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7 For more information see Joint statement by human rights and other civil society organizations about criminal case of Siarhei Piatrukhin: <http://spring96.org/en/news/92516>

8 Joint analytical report of human rights organizations of Belarus "Combating extremism and human rights", 2019: [https://spring96.org/files/book/ru/2019\\_extremism\\_ru.pdf](https://spring96.org/files/book/ru/2019_extremism_ru.pdf)

racial, national or religious hatred or discord" for posting photos or videos on social networks. Moreover, the legislation does not provide for a clear line between administrative and criminal liability for these acts. Courts and investigative bodies make no effort to analyze the context of the author's statement, as well as its content and the damage caused to the public interests. Under this article of the Criminal Code, one may receive punishment in the form of restriction of freedom or imprisonment for up to 5 years.

44. On the positive side, it should be noted that independent editions that have applied to the state-owned monopolist Belpochta for distribution of mass media through subscriptions are included in subscription catalogs. They are also made available in the retail network of the state-owned enterprise of the Belsoyuzpechat system. There has been no cases of unjustified refusal to register print media. Thus, the state has rejected a number of discriminatory economic measures in relation to non-state media. However, state-owned media continue to receive financing from the State budget on a non-competitive basis.
45. Government agencies started a dialogue with journalist organizations on issues related to the exercise of freedom of expression, the right to information, and Internet governance.

### **Recommendations:**

- Bring the legislation governing freedom of expression on the Internet in compliance with international standards.
- Develop and adopt legislation to ensure effective access to information on the activities of government bodies.
- Abolish the permit-based procedure for registration of print and online media.
- Ensure compliance of the definition of accreditation with international standards and lift the ban on the activities of foreign media journalists without accreditation, as well as provide for the possibility of appealing a denial of accreditation, including to a court.
- Limit the powers of the Ministry of Information on extrajudicial interference with the activities of the media, including blocking access to Internet-based resources.
- Decriminalize defamation.
- Fully abandon the practice of arbitrary detention of journalists, including in the course of their coverage of mass events.
- While addressing hate crimes, avoid arbitrary restrictions on the right to freedom of expression and use the principles set out in the Rabat Action Plan, including revising the definition of extremism in order to eliminate its overly broad interpretation.

### **Freedom of conscience and religion**

46. Some positive changes noted in law enforcement are unsystematic and have little legal basis.
47. State registration remains a prerequisite for legal activities of religious organizations. Instead of criminal activity (Art. 193-1 of the Criminal Code), administrative responsibility (Art. 23.88 of Administrative Code) was introduced for conducting activities without being registered.
48. Registration of religious communities remains a complex process with unclear rules that State bodies and courts often employ in a discriminatory manner, often by denying registration due to allegedly invalid legal addresses, allegedly improper design of a charter, negative results of the theological examination, etc. Refusals of registration are particularly frequent in Minsk. For instance, one religious community was refused registration 10 times between 2018 and 2019.
49. Religious organizations are still restricted in their activities by the territory specified in the charter.
50. Just as for other public events, a permit is needed for holding religious events in locations outside houses of worship. However, the rules introduced by the Government Decree No. 49 of January

24, 2019 on the mandatory payment of public order services provided by law enforcement bodies and expenses related to medical care and cleaning of the territory are applied selectively, and only rarely do executive bodies charge fees from religious organizations.

51. A few more restrictions on freedom of religion continue to exist: foreign citizens need permission for holding religious activities; foreign citizens are not entitled to establish and lead religious organizations; communities that are not members of / have not created a religious association are deprived of the right to invite foreign clergy, establish mass media, or open religious educational institutions.
52. The allocation of land for the construction of religious buildings remains a complex procedure that includes the President's approval. As a good practice but at the same time which lays outside the legal framework is a simplified paperwork procedure introduced in 2019 for unauthorized religious buildings. The practice was authorized by Presidential order.

### **Recommendations:**

- Abolish the mandatory state registration of religious organizations.
- Abolish mandatory permits for holding religious events in premises and places provided to religious organizations or owned by them.
- Remove legislative restrictions on the establishment of media and religious educational institutions by various types of religious organizations.
- Provide foreign citizens legally residing in Belarus with the opportunity to fully exercise the right to freedom of religion without additional permits.
- Eliminate regulations restricting the territory of activity of religious organizations from the legislation.

### **Freedom of peaceful assembly<sup>9</sup>**

53. On July 17, 2018, the Law "On Mass Events" was amended to introduce notification procedure for holding static mass events (pickets, meetings) in places specially designated by local authorities.
54. Generally, however, these changes have not resulted in any substantive progress in ensuring freedom of peaceful assembly and even worsened the situation. This is due to the adoption of Government Decree No. 49 of January 24, 2019 establishing tariffs for expenses to be covered by organizers of mass events. The costs paid for some types of mass events are so high that the organizers have to refuse to hold them. In this way, in April 2019, the organizers had to cancel the traditional procession "Trail of Charnobyl" in Minsk.
55. Most of problems in the field of freedom of assembly remain relevant: restrictions on venues for meetings, authorities setting low-visited venues as fixed gathering places, organizers obliged to cover the expenses for maintenance of public order, medical care and cleaning, the same regulations applied to single pickets and other mass events, ambiguous definitions of types of mass events. Spontaneous meetings remain unresolved; simultaneous meetings, or counter-demonstrations, are prohibited.
56. Inadequate legislation on freedom of assembly leads to frequent detentions of peaceful demonstrators and the use of fines and arrests. Repressions against participants in peaceful assemblies have increased in spring 2017 during mass protests of citizens against the introduction of a "parasite tax". In 2017, more than 600 cases of administrative prosecution for exercising freedom of peaceful assembly were recorded. In 250 cases, courts ordered arrests. In 2017, the

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<sup>9</sup> For more information on certain aspects of the implementation of the right to peaceful assembly in Belarus, see "Monitoring the right to peaceful assembly": <http://ecnl.org/wp-content/uploads/2019/01/Belarus-Assembly-Report-2018.pdf>

total number of citizens prosecuted for the exercise of their right to freedom of peaceful assembly amounted to more than 900 people. Of particular note are the cases of undue violence and police brutality towards peaceful demonstrators on March 25, 2017 in Minsk.

57. In 2018, 157 cases of administrative prosecution for participation in peaceful assemblies were recorded, 18 of which ended in arrests. Most of the HRC Views adopted on individual appeals of Belarusian citizens are related to violations of Art. 21 ICCPR.

### **Recommendations:**

- Bring the legislation on mass events in line with international standards, including providing for notification-based principle for all meetings and making provision for a simplified procedure for spontaneous assemblies and counter-demonstrations.
- Ensure maximum facilitation of peaceful assemblies in places that are in conformity with the meeting's purposes.
- Pursue consistent and transparent approaches based on threats and risks assessment when planning meetings and demonstrations.
- Waive the requirement for organizers of peaceful assembly, etc. to cover the expenses for maintenance of public order, medical care and cleaning.
- Exclude single pickets from the scope of Law on Mass Events.
- Prevent detention and prosecution of human rights defenders and journalists engaged in monitoring and covering mass events.
- Provide training for law enforcement officials and adopt guidelines in accordance with international standards necessary to maintain order during meetings without recourse to any force.
- Adopt a comprehensive strategy for enhanced engagement with civil society during assemblies that would improve communication and build trust between law enforcement officials, media, government officials, and assembly organizers.

### **Freedom of association<sup>10</sup>**

58. Despite some steps in the right direction, such as the abolition of Article 193-1 of the Criminal Code, significant problems remain in the field of freedom of association.

59. The procedure for state registration of foundations, public associations, parties and their local branches remains complex and burdensome, and allows registering authorities to arbitrarily deny registration of any newly created organization for insignificant reasons. The registration procedure for parties, foundations and public associations, including local ones, still appear to be much more time-consuming and expensive than the one for commercial legal entities.

60. Many public associations in the period following the second UPR cycle faced refusals of registration.

61. Despite the cancellation of Art. 193-1 of the Criminal Code, there is still a ban on the activities of various NGOs without state registration, including public associations and religious organizations.

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10 For more information on realization of the right to freedom of association in Belarus see the following reports: Freedom of association and legal conditions for non-commercial organizations in Belarus - Review Period: 2017 (updated version) by Legal Transformation Center and Assembly of Pro-Democratic NGOs

<http://belngo.info/wp-content/uploads/2018/01/SA-2017-ENG-updated.pdf>

Freedom of association and legal conditions for non-commercial organizations in Belarus - Review Period: 2018 by Legal Transformation Center and Assembly of Pro-Democratic NGOs <http://belngo.info/wp-content/uploads/2019/03/SA-2018-Eng.pdf>

Semi-annual review entitled "Changes in Legal Environment for Non-Commercial Organizations and Freedom of Associations in Belarus" covering the first half of 2019 by Legal Transformation Center and Assembly of Pro-Democratic NGOs <http://belngo.info/wp-content/uploads/2019/07/SA-2019.1-ENG.pdf>

This prohibition is a subject to administrative liability in the form of an extrajudicial fine. Dissemination of information on behalf of unregistered organizations by media is prohibited.

62. The legislation imposes significant restrictions for NGOs in obtaining funds from both domestic and foreign sources. NGOs are prohibited from receiving foreign funding in any amount without the permission of the Department of Humanitarian Affairs. NGOs can only access assistance from legal entities only for the purposes indicated in Presidential Decree No. 300. The list of purposes does not include protection of human rights, animal welfare, anti-discrimination, gender equality, etc. For all purposes beyond the list, receiving funds from business organizations is only possible with the President's approval. There is no system of State financing of NGOs on a competitive basis, except for the mechanism of state social contracting. A number of organizations loyal to the authorities receive direct funding on a non-competitive basis from the state budget. Financial aspect of the legislation on NGOs did not undergo any significant changes: the endowment mechanism was not established; public associations are prohibited to engage in entrepreneurial activity.
63. Consultations between government agencies and NGOs are enshrined in the new Law "On Normative Legal Acts," but in practice the mechanism turns out to be non-inclusive.
64. Between February and March 2017, there was a massive wave of strikes in Belarus against Decree No. 3 "On the Prevention of Social Dependence". In attempts to suppress protests, the authorities have resorted to the most stringent practices of repression, such as detentions and arrests of activists, preventive detentions, searches and seizure of office equipment in NGOs' offices and the apartments of activists, and written warnings issued to organizations whose members took part in protests. Politically motivated criminal cases were initiated based on the participation of citizens in CSOs<sup>11</sup>.

### **Recommendations:**

- Bring legislation and practice in the field of freedom of association in line with international standards, including eliminating liability for organizing and participating in the activities of unregistered organizations, as well as lifting the ban on such activities and other disproportionate restrictions, including discrimination and unequal treatment of various kinds of CSOs and minority associations.
- Ensure the implementation of legislation, policies and practices in the field of freedom of association by bodies acting impartially and free from political and other influences.
- Report publicly and transparently on any restrictions on the right to freedom of association, including sanctions, and demonstrate their compliance with international standards.
- Introduce notification procedure of obtaining legal personality for public associations and foundations in compliance with the principle of presumption of legitimacy of the organization's goals, and simplify the registration procedure for political parties, other public associations and foundations to the extent that is now envisaged for commercial organizations, including consideration terms and the amount of registration fees.
- Abolish pre-registration of foreign donations to government bodies and restrictive lists of purposes for which foreign donations, as well as donations from Belarusian legal entities can be received.
- Expand opportunities for CSOs to attract donations by providing tax incentives for donations from Belarusian entrepreneurs.
- Develop a non-discriminatory and open State-based system for funding non-profit organizations on a competitive basis.

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11 See for example Statement by Belarusian human rights organizations on sentence in REP trial: <http://spring96.org/en/news/90655>

- Legislatively expand consultation mechanisms between government bodies and CSOs, expand the practice of discussing draft laws with relevant CSOs.

## Equality before the law, non-discrimination<sup>12</sup>

65. The State has not taken sufficient steps to develop comprehensive anti-discrimination legislation. As part of the implementation of the National Action Plan on Human Rights, the responsible state authorities conducted feasibility analysis of adopting anti-discrimination legislation. The result of this analysis were not presented to the general public, except for some information that was included in the report of the MFA on the implementation of the NAPHR.
66. One of the significant problems in the implementation and protection of the right to equal treatment and non-discrimination is the lack of effective mechanisms for handling discrimination complaints. In the absence of a national human rights institution, one of the few ways to protect the right to equal treatment is appealing to courts. In practice, however, legal positivism makes it difficult to use a court appeal as a mean to protect the right to equal treatment.
67. After being transferred to Parliament, the existing comprehensive draft law on domestic violence was criticized by the President and has not yet been adopted. In response to the collective appeal by the organizations of the National Gender Platform on 11 May, 2018, the MIA announced that it considered it advisable to refuse drafting an independent Law on Combating Domestic Violence.
68. The Government has not taken additional measures to reduce instances of racial discrimination; no separate statistics are available on such cases. There are still incidences of discrimination against Roma<sup>13</sup>. The information came to light regarding departmental acts in the MIA, providing for measures of ethnic profiling in relation to the Roma.
69. Belarus does not have a state program for social integration of the Roma population, which makes it virtually impossible for the Roma to exercise their rights.
70. There is no separate statistics on hate crimes; instead of a bias motive, sentences on hate crimes often refer to hooliganism.
71. Some universities have a separate entrance competition for women. Admission to certain specialties is closed.
72. The Labor Code still establishes a series of prohibitions that apply exclusively to women (prohibition of certain types of work, prohibition and restrictions of certain types of working schedule<sup>14</sup>). The nominal accrued average wages of women in all types of economic activity are lower than for men. The employment rate of women aged 20–54 is higher than that of men, and the average wage of women is lower.

### Recommendations:

- Adopt comprehensive anti-discrimination legislation defining direct and indirect discrimination, as well as other forms of its manifestation.
- Create an effective mechanism for protection and prevention of discrimination, including mandatory anti-discrimination assessment of draft regulatory legal acts.

<sup>12</sup> For more information see the Report “Discrimination of some vulnerable groups in Belarus”: [https://belhelcom.org/sites/default/files/discrim\\_uyazvimje\\_rus.pdf](https://belhelcom.org/sites/default/files/discrim_uyazvimje_rus.pdf)

<sup>13</sup> For more information about respect for the prohibition of racial discrimination see the Report by civil society organizations on the implementation by the Republic of Belarus of the International Convention on the Elimination of All Forms of Racial Discrimination by the 94th session of the Committee on the Elimination of All Forms of Racial Discrimination:

[https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BLR/INT\\_CERD\\_NGO\\_BLR\\_29418\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BLR/INT_CERD_NGO_BLR_29418_E.pdf)

<sup>14</sup> For more information on realization of women's rights see SUBMISSION BY BELARUSIAN NGOS Answers to the List of issues and questions prior to the submission of the eighth periodic report of Belarus:

[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT\\_CEDAW\\_NGO\\_BLR\\_25453\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT_CEDAW_NGO_BLR_25453_E.pdf)



- Ensure in practice equal access to rights guaranteed by the Constitution and international obligations of the country.
- Enact laws providing liability for domestic violence, including the Law on Domestic Violence.
- Pay attention to establishing motives for crimes, keep statistics, take comprehensive measures and prevent crimes based on bias.

### ***Rights of persons with disabilities***

73. Belarus has implemented all the recommendations related to the ratification of the Convention on the Rights of Persons with Disabilities.
74. A National Action Plan for the implementation of the provisions of the Convention on the Rights of Persons with Disabilities for 2017–2025 was drawn up and is being implemented. However, the adopted policy retains elements of the medical model and does not fully comply with the Convention on the Rights of Persons with Disabilities.
75. A draft law on the rights of persons with disabilities (PWD) and their social integration was developed involving extensive public discussions.
76. A National Information Strategy on the rights of PWD was developed. However, the Strategy is voluntary and non-binding in character.
77. The establishment of a national institution for the rights of PWD was discussed in a closed circle of organizations representing PWD. Most proposals were rejected. National Interagency Council on Disability is to be renamed the institution. The establishment of the institution was incorporated in the draft Law on the Rights of Persons with Disabilities and their Social Integration. At this stage, however, a detailed regulation of the institution’s work has not been developed, its powers and infrastructure remain undefined. The proposed type of National Institution does not fully meet the requirements of the Paris Principles.
78. Restrictive and prohibitive medical admissions persist in relation to applicants with disabilities, thus impeding the full realization of their right to education. Certain types of restricted education for PWD remain. A significant number of PWD have to choose homeschooling.

### **Recommendations:**

- Based on a comprehensive anti-discrimination law which takes into account specificities of all forms of disability, including mental and psychosocial, with the participation of PWD and their organizations, develop legislation on the Rights of Persons with Disabilities driven by anti-discrimination and human rights approaches.
- Enshrine in legislation peremptory rules that ensure the requirements of the Convention on the Rights of Persons with Disabilities: non-discrimination, universal design, inclusive education, independent living.
- Introduce a “Deinstitutionalization” section in the form of a national strategy and action plan into the national plan for implementing the rules of the Convention on the Rights of Persons with Disabilities.
- Revise national policies and practices with respect to PWD in order to provide them with financial and political opportunities to deal with disability issues.
- Establish the National Institution for Monitoring, Coordination and Control of Compliance with the Convention on the Rights of Persons with Disabled Persons in consistence with the Paris Principles.

## **Right to participate in the affairs of one's country. Election rights<sup>15</sup>**

79. The electoral process in Belarus does not comply with a number of basic international standards for democratic and free elections, such as lack of equal access to media for all candidates and impartial election commissions, active use of administrative capacity, numerous facts of voter coercion to participate in early voting, and a number of electoral procedures closed to observers. The elections are also criticized for opacity of the vote count, due to which the announced election results cannot be seen as a reflection of the will of the voters.
80. In February 2016, an interdepartmental expert working group was established on behalf of the President of the Central Commission on Elections to study the recommendations given by the ODIHR/OSCE on the results of the 2015 presidential elections in order to improve electoral process in Belarus. The results of this group's work have not been made public, and no amendments aimed at democratization and transparency of the electoral process have been made to the Electoral Code so far.
81. In August 2019, the President scheduled the next parliamentary election, resulting in deputies' terms of office reduced by 10 months.

### **Recommendations:**

- Bring electoral legislation and its practical application in accordance with international standards on free and democratic elections paying special attention to ensuring transparency of votes counting procedures.

## **Social and economic rights<sup>16</sup>**

### ***Right to an adequate standard of living***

82. The Government is taking support measures for certain social groups (people with disabilities, women, children etc.). However, a number of other vulnerable groups, such as Roma and the homeless, face an extremely difficult situation. The programme for the social integration of the Roma population has not been adopted. There is no special policy adopted to prevent and reduce the level of homelessness. State mechanisms to help the homeless come down mainly to the work of temporary stay centres and irregular charity actions. Homelessness is not seen as a violation of the human right to housing. Social policies do not address the problem of homelessness and no specialized assistance is provided to people affected by this problem.
83. Welfare payments are in decline, as well as social expenditure in public spending in general. Although real GDP per capita is growing, over 5% of the population lives below the national poverty line, the level of household poverty in rural areas becomes even higher.
84. The State has not applied anti-discrimination measures that would enable access to all rights to vulnerable groups.

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15 For more information on the implementation by the Republic of Belarus of international standards in the field of free and democratic elections see the Final analytical report of the campaign "Human Rights Defenders for Free Elections" based on the results of observation of the 2016 Parliamentary Elections:

[http://spring96.org/files/misc/2016\\_parliamentary\\_elections\\_final\\_report\\_en.pdf](http://spring96.org/files/misc/2016_parliamentary_elections_final_report_en.pdf)

16 For more information on the situation with socio-economic and cultural rights see the data provided to the Committee on Economic, Social and Cultural Rights by Belarusian Helsinki Committee, Office for the Rights of Persons with Disabilities, and Human Rights Center "Viasna": [https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/BLR/INT\\_CESCR\\_ICJ\\_BLR\\_32545\\_E.doc](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/BLR/INT_CESCR_ICJ_BLR_32545_E.doc)

85. The existing practices of distribution of responsibilities at the household level are strongly influenced by traditional gender roles, and thus provide background for unequal position of women in the labor market.
86. In consequence of the pension reform, the period of pensionable service (total length of working life in which contributions for State social insurance were paid) required for receiving a pension in three years was increased from 5 to 16 years. As a result, many citizens, primarily women, have lost their pensions. The reform was carried out without prior wide public discussion. The reform has also increased the age of receiving social pensions.
87. Socio-economic reforms are carried out with lacking publicity and forecasting, and no transition period is foreseen to mitigate the negative consequences for people. The new edition of the Law "On regulatory legal acts" allows avoiding submission of draft regulatory acts for public discussion in the field of budget law, taxes and fees, and the implementation of the main directions of monetary policy.

### ***Right to work for vulnerable groups***

88. The PWD's right to work involves mandatory "recommendations" of the medical expert commission reflecting restrictions on the types of work allowed. Not all restrictions and prohibitions are justifiable, because experts rely on outdated information "comparing" professional activities with specific diagnoses. The right to work of people with mental illness is de facto limited by their in dispensary registry, although in fact there is no such restriction. Those who have their legal capacity suspended are deprived of the right to work, regardless of the form of restriction (partial or full).
89. The existing tools to promote the implementation of the right to work of PWD include systems for job reservation, labor rehabilitation, and compensation for employers creating specialized jobs. All of them are implemented by employers. However, current system for job reservation is ineffective: reservation requests are not mandatory and may be rejected; employers offer low-skilled and low-paying positions for reservation; there is no system for monitoring and coordinating specialized jobs; there are no conditions for labor mobility of PWD.
90. The current legislation contains restrictions on the choice of profession for people living with HIV. They are denied the right to do military service, both compulsory and professionally, or to enter military educational institutions, as well as educational institutions for law enforcement and emergency agencies. Moreover, PLHIV cannot work as surgeons and become adoptive or foster parents.

### ***Forced labour***

91. Forced labor is still used in Occupational Therapy Dispensaries, where people suffering from alcohol or drug addiction are held under conditions of forced isolation. Moreover, forced labor remains a punitive measure for parents whose children have been removed from their families under Decree No. 18. persons obliged to. Those parents who are unable to independently reimburse the expenses of keeping their children under the state support are subject to compulsory employment, and up to 70% of their wages are to be withheld by the State. Avoiding such work is seen as a criminal offense.
92. The practice of involving state employees, university students and schools pupils, including minors, in seasonal agricultural work continues. Such work lays beyond the workers' ordinary duties and is carried out under orders of local executive authorities. Military personnel are often forced to take part in harvesting as well, which also lays beyond their duties.
93. The practice of engaging workers in unpaid work on weekends in the form of so-called

“subbotniks” continues. Despite their declared voluntary nature, workers are often unable to refuse to participate due to the threat of sanctions.

**Recommendations:**

- Adopt a program for social integration of Roma, providing for positive actions to ensure their equality in different spheres of public life.
- Adopt a program to prevent, reduce and mitigate the effects of homelessness that would contribute to the achievement of the SDGs.
- Take measures to ensure equal access to the labor market for vulnerable groups.
- Carry out socio-economic reforms only with prior extensive public discussion and a mandatory transition period to mitigate the negative consequences for people.
- Eliminate discriminatory provisions in employment and education against people living with HIV, people with disabilities.
- Exclude in law and in practice all forms of forced labor.