



# **IMPLEMENTATION BY THE REPUBLIC OF BELARUS OF INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Report of the coalition of Belarusian human  
rights organizations

**71st session of the Committee on  
Economic, Social and Cultural Rights**

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## Context

<b>Introduction</b> .....	3
<b>Legal and policy framework for preventing forced labour (Question 2)</b> .....	3
<b>Non-discrimination</b> .....	4
<i>Progress made towards the adoption of a comprehensive anti-discrimination law (Question 7)</i> .....	4
<i>Steps taken to establish a national human rights institution (Question 8)</i> .....	5
<i>Enforcement of the law on HIV/AIDS (Question 9)</i> .....	5
<i>Enforcement of the regulations on the registration of civil society organizations working on Covenant-related issues (Question 10)</i> .....	5
<b>Equal rights of men and women</b> .....	6
<i>The measures taken to remove the legal prohibition of women's right to work (Question 11)</i> .....	6
<b>Right to work</b> .....	7
<i>The right to work – state employment policy</i> .....	7
<i>The right to work – the right of women to equal access and return to the labour market</i> .....	7
<i>The right to work of persons with disabilities</i> .....	8
<i>The right to work – COVID-19 context</i> .....	9
<i>The right to work – political crisis in Belarus</i> .....	9
<b>Trade union rights</b> .....	11
<b>Right to social security</b> .....	11
<b>Protection of the family and children</b> .....	12
<i>Violence against children</i> .....	12
<b>Right to an adequate standard of living</b> .....	13
<i>Homeless people and the right to housing (Question 20)</i> .....	13
<i>Living standard for children</i> .....	13
<b>Right to physical and mental health</b> .....	14
<i>The COVID-19 context</i> .....	14
<i>The right to health in places of deprivation of liberty</i> .....	16
<i>Maternal, child and reproductive health (Question 26)</i> .....	17
<b>Right to education</b> .....	17
<b>Cultural rights</b> .....	19
<i>Access to education in native language (Question 29)</i> .....	19
<b>Other issues</b> .....	20

## Introduction

This report was prepared by Belarusian human rights organizations<sup>1</sup> for the 71<sup>st</sup> session of the Committee on Economic, Social and Cultural Rights.

The report contains information on some aspects of the implementation of social, economic and cultural rights in Belarus. The report is presented in the form of answers to some questions of the Committee for the Republic of Belarus (E/C.12/BLR/QPR/7), as well as additional information on the Government's implementation of economic, social and cultural rights.

We would like to draw the Committee's attention, first of all, to the serious and massive violations of social, economic and cultural rights, which have occurred in Belarus during the last two years of the reporting period, such as:

- politically motivated mass dismissals in various fields (healthcare, public service, industry, education, culture, science, etc.), which were the reaction of the authorities to employees' expression of their civic position by participating in peaceful protests, public speeches, in various cultural forms;
- politically motivated expulsions of students from educational institutions;
- detention of detainees on politically motivated cases in inhuman, degrading conditions;
- failure to provide medical care to detainees, who participated in peaceful protests, those in detention centers for offenders, temporary detention centers and pre-trial detention centers, as well as to those convicted for political reasons;
- restrictions on receiving transfers, including personal hygiene products, for detainees and those serving administrative arrest on politically motivated cases.

## Legal and policy framework for preventing of forced labour (Question 2<sup>2</sup>)

1.1. Decree of the President of the Republic of Belarus No. 3 of April 2, 2015 "On the promotion of employment of the population", as amended and supplemented by Decree No. 1 of January 25, 2018, still contains sanctions for persons not employed in the economy in the form of imposing the obligation to pay for the part of utilities at higher tariff levels (in particular for heating – it is 5 times more expensive than the subsidized tariff, which applies to other categories of payers, regardless of their financial situation).

1.2. The introduction of such measures is not caused by economic prerequisites: the law includes, for example, members of creative unions, clergymen, students and some other categories of persons not engaged in economic activity in the category of those employed in the economy. At the same time, persons studying in various forms of additional education for adults and the unemployed who had not been registered for the corresponding account fell into the category of those who are not employed in the economy (registration is not stimulated by the symbolic amount of the allowance – from 20,3 to 58 Belarusian rubles<sup>3</sup>), parents who are engaged in raising children over 7 years old.

1.3. The practice of forced labor remains in the "medical and labour rehabilitation centres" (hereafter – MLRC, in Russian – ЖИП) – closed institutions of the system of the Ministry of Internal Affairs' Department of Corrections, to which people suffering from alcohol or drug addiction are exposed to. Refusal of employment or self-termination of work entails the imposition of disciplinary measures: placement in a disciplinary room for up to 10 days<sup>4</sup>.

1.4. Forced labor also continues to be a punitive measure against people, whose children were removed from the family as a result of the deprivation of their parental rights. If they are unable to compensate

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<sup>1</sup> **Belarusian Helsinki Committee** (<https://belhelcom.org/en>, [office@belhelcom.org](mailto:office@belhelcom.org)) – general coordination and edition as well as preparation of the following chapters: Non-discrimination, Equal rights of men and women, Right to work, Right to social security, Right to an adequate standard of living, Right to education, Right to physical and mental health and other issues; **Human rights center "Viasna"** (<https://spring96.org/en>) – Preventing of forced labour, Right to work, Right to physical and mental health; **Office for the Rights of Persons with Disabilities** (<https://www.disright.org/ru>) – Non-discrimination, Right to work, Right to education; **Lawtrend** (<https://www.lawtrend.org/>) – situation with CSOs; **PEN Belarus** (<https://penbelarus.org/en>) – Cultural rights.

<sup>2</sup> Here and further, the numbering of questions corresponds to the List of issues prior to submission of the seventh periodic report of Belarus, adopted by the pre-sessional working group at its sixty-third session (15–19 October 2018), E/C.12/BLR/QPR/7;

<sup>3</sup> from 8 to 23 US dollars at the exchange rate at the time of preparation of the Report;

<sup>4</sup> <https://spring96.org/ru/news/92823>

for the state expenses for raising their children in the state institutions on their own, parents are subject to compulsory employment and up to 70% of their wages are withheld to reimburse such expenses. Evasion of such work is punishable by administrative arrest out of the court, and may also entail criminal punishment.

1.5. Decree of the President of the Republic of Belarus No. 3 of April 2, 2015 "On the promotion of employment of the population" with amendments and additions made by Decree No. 1 of January 25, 2018 granted the right to commissions for the coordination of work to promote employment of the population established by the local executive authority to make decisions on the need to send able-bodied unemployed citizens leading an "antisocial" lifestyle to medical and labor dispensaries. Relevant amendments were made to the Law "On the procedure and conditions for sending citizens to medical and labor dispensaries and conditions of stay in them."

1.6. State bodies do not provide disaggregated data on persons in MLRCs and their number. As of September 1, 2016, there were 6,788 people in Belarusian MLRCs, 1,341 of them were women; after that, information about the number of prisoners in MLRCs have not been published. In 2020, 4,494 people were sent to the MLRCs by the courts, in the first half of 2021 – 3,332. The term of detention in the MLRCs can be from 6 to 30 months.

1.7. There is ongoing practice of involvement of employees of state organizations, students of schools and higher educational institutions, including minors, in seasonal agricultural harvesting. Such works never belong to the normal labor duties of employees and are carried out in compliance with the orders of local executive authorities, thus having a mobilization character. Conscripts are also often forced to participate in harvesting, even though it is outside of their military service' duties. The work is unpaid.

1.8. The practice of attracting workers to unpaid work on weekends in the form of so-called "subbotniks" is also underway. Despite the declared voluntary nature, employees do not have the opportunity to refuse to participate in such events due to the threats of sanctions.

1.9. At the social institutions of permanent residence for persons with disabilities ("boarding schools"), there are facts of attracting residents to compulsory labor activity without concluding appropriate contracts. It is not "occupational therapy", because it is not conditioned by appropriate social technologies and has no legal grounds.

## **Non-discrimination**

### *Progress made towards the adoption of a comprehensive anti-discrimination law (Question 7)*

2.1. In 2019, the deadline for the implementation of the Interdepartmental Plan for the implementation of the recommendations adopted by the Republic of Belarus following the second cycle of the Universal Periodic Review in the United Nations (hereafter - UN) Human Rights Council and the recommendations addressed to the Republic of Belarus by the human rights treaty bodies for 2016-2019 (hereinafter referred to as the Interdepartmental Plan) ended. One of the activities of the plan was "conducting an analysis of legislative acts regarding the need of the consolidation of normative prescriptions on the inadmissibility of discrimination on any grounds, as well as determining the feasibility of the preparation of a comprehensive legislative act prohibiting such discrimination." Civil society and relevant NGOs had certain hopes for the adoption of the law based on the results of the study of this issue. However, in 2019 it became known that the government recognized that it was inappropriate to adopt comprehensive anti-discrimination legislation. Inclusive national consultations on the feasibility to adopt the anti-discrimination legislation were held without civil society organizations.

2.2. The lack of the comprehensive anti-discrimination legislation continues to be one of the reasons why many vulnerable groups are unable to fully exercise the rights guaranteed by the International Covenant on Economic, Social and Cultural Rights (hereafter - ICESCR). In the absence of the comprehensive anti-discrimination legislation, a definition of indirect discrimination, a universal ban on discrimination in all spheres of life, a requirement for mandatory anti-discrimination expertise in the process of drafting regulations, as well as effective remedies, State equality policies are not able to provide protection against direct and indirect discrimination effectively, therefore people are not able to exercise and protect their rights effectively.

2.3. 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 in Belarus for considering claims of discrimination. In the absence of a national human rights institution, one of the few ways to protect

the right to equal treatment is to go to court. However, due to the fact that the legal positivism prevails in legal and judicial practice, as well as the lack of consolidation of various forms of discrimination in legislation, except for one rather controversial definition in article 14 of the Labor Code, it makes difficult to use recourse to the court as a tool to protect the right to equal treatment. Moreover, until 2021 there has not been any cases in the Belarusian courts related to discrimination on a certain ground.

2.4. In 2018, a draft law “On the rights of persons with disabilities and their social integration” was prepared, in which separate novels on discrimination and its prohibition were introduced. At the time of preparation of the Report, the law has not been adopted, the final version of the law is not available to the public.

#### *Steps taken to establish a national human rights institution (Question 8)*

2.5. The authorities have not demonstrated significant progress in establishing a national human rights institution. In accordance with the Interdepartmental Plan, it was planned to study the feasibility of creation of such institution. However, the process of studying this issue was not public, civil society organizations were not informed about the results of the work.

#### *Enforcement of the law on HIV/AIDS (Question 9)*

2.6. Outdated legislation continues to impose limitations on professional choices available to persons living with HIV. They continue to be barred from serving in the army and cannot apply to study in educational establishments that prepare students for working in law enforcement and emergency authorities and thus are de facto denied access to these professions. Persons living with HIV are also not allowed to practice surgery. They are not allowed to adopt children, become guardians or foster parents of a child, including children living with HIV.

#### *Enforcement of the regulations on the registration of civil society organizations working on Covenant-related issues (Question 10)*

2.7. Registration of civil society organizations in Belarus continues to be very difficult, including for organizations dealing with the issues related to the Covenant. To create a national public association, at least 50 people living in most regions of the Republic are required. To register a public association, it is necessary to prepare a large list of documents. A non-profit organization must have a legal address before registration, which must necessarily be located in non-residential premises. The state fee for registration of a national public association is 10 times higher than the fee for registration of a commercial organization. In practice, the authorities may refuse to register any non-profit organization.

2.9. During 2021, Belarusian civil society organizations were subjected to various forms of repression: administrative and criminal prosecution of their members, unreasonable requests for information, inspections, searches, coercion to make a decision on self-liquidation, forced liquidation<sup>5</sup>.

2.10. As of December 17, 2021, 304 NGOs are either in the process of forced liquidation, or lawsuits for forced liquidation have been filed against them, or they have already been liquidated<sup>6</sup>. At the same time, the grounds for liquidation often do not meet the requirements of the Belarusian legislation and do not fully comply with international standards in this area. Among the organizations being forcibly liquidated, organizations working with HIV/AIDS issues – Association of Non-Profit Organizations for Combating the HIV/AIDS Epidemic ‘BelSet’ antiAIDS’ («БелСеть антиСПИД»), organizations working to protect the rights of prisoners, people with disabilities, cultural rights, a wide range of social and economic rights, in the field of youth employment, etc., for example, Information and educational institution ‘Platforma’ («Платформа»), Social information institution ‘TimeAct’ («ТаймАкт»), Educational human rights institution ‘Office for the Rights of Persons with Disabilities’ («Офис по правам людей с инвалидностью»), Republican Public Association ‘Belarusian PEN-centre’ («Белорусский ПЕН-центр»), Republican Human Rights Public Association ‘Belarusian Helsinki Committee’ («Белорусский Хельсинкский Комитет»), Institution ‘Office of assistance and support of youth employment JurConsult’ («Офис помощи и поддержки занятости молодежи «ЮларКонсалт») (Youth Labor Rights), etc.

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<sup>5</sup> <https://www.lawtrend.org/freedom-of-association/davlenie-na-belaruskie-organizatsii-grazhdanskogo-obshchestva-v-period-massovyh-repressij-sentyabr-2020-oktyabr-2021>

<sup>6</sup> <https://www.lawtrend.org/liquidation-nko>

2.11. During 2021, a number of legislative acts were adopted that significantly worsened the situation of Belarussian civil society organizations. In essence, the cooperation of civil society organizations with the UN treaty bodies, including CESCR, involving providing information on the situation with social and economic rights, offering recommendations to the government, today could be considered, in accordance with the new amendments to the legislation, as a criminal offense under the Article 361 of the Criminal Code of the Republic of Belarus (calls for actions aimed at harming the national security of the Republic of Belarus).

2.12. On 21 December, 2021 the lower chamber of the Belarusian parliament adopted in two readings at a time the law restoring criminal liability for the activities of civil society organizations without state's registration. This rule comes into force in January 2022. Under the decision, the infamous Article 193-1<sup>7</sup>, which had been criticized as not conforming to human rights standards and repealed since July 2019, now will return to the Criminal code. Previously, during the first edition of the Article 193-1, which was in force from 2005 to 2019, sentences under such provision were issued against at least 18 people, and many dozens were issued official warnings by the prosecutor's office. The article applies not only to associations of citizens, but also to religious organizations and political parties as well as foundations. The text of the proposed article is almost identical to that which existed before 2019. The same penalty is restored as in the previous edition of the Article 193-1: a money fine, or arrest for up to three months, or imprisonment for up to two years.

*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;
- Create a national human rights institution in accordance with the Paris Principles;
- Eliminate discriminatory provisions in employment and education against people living with HIV, people with disabilities;
- Stop the pressure on civil society organizations;
- Guarantee the realization of the right to freedom of association and bring legislation and practice in the field of freedom of association in the line with international standards, including eliminating criminal liability for organizing and participating in the activities of unregistered organizations, as well as lifting the ban on such activities and other disproportionate restrictions.

## **Equal rights of men and women**

### *The measures taken to remove the legal prohibition of women's right to work (Question 11)*

3.1. The Labor Code still prohibits the involvement of women in performing heavy work and work with harmful and/or dangerous working conditions, as well as underground work, except for some underground work (non-physical work or work on sanitary and household services). It is prohibited to involve women in the performance of work related to lifting and moving weights manually, exceeding the limits set for them<sup>8</sup>. Certain types of working schedules (night and overtime work, work on public holidays and during weekends, business trips) are also either prohibited or restricted for some categories of women.

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<sup>7</sup> According to the joint OSCE/ODIHR and Venice Commission Guidelines on Freedom of Association (<https://www.osce.org/files/f/documents/3/b/132371.pdf>), legislation should not require associations to go through formal registration processes. Rather, associations should be able to make use of a protective legal framework to assert their rights regardless of whether or not they are registered. Associations should not be banned merely because they do not have legal personality. In 2011, the Council of Europe's Venice Commission in special opinion (Opinion on the compatibility with universal human rights standards of article 193-1 of the criminal code on the rights of non-registered associations of the Republic of Belarus adopted by the Venice Commission at its 88th Plenary Session (Venice, 14-15 October 2011), CDL-AD(2011)036-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e)) on the Article 193-1 of the Belarussian Criminal Code stated that "by its very existence the Article 193-1 has a chilling effect on the activities of non-governmental organizations" and that "the restriction is so severe that it not only restricts freedom of association but also freedom of opinion and expression to an unjustifiable degree".

<sup>8</sup> Article 262 of the Labor Code of the Republic of Belarus

3.2. The prohibition on the involvement of women in labor-intensive work and work with harmful and/or dangerous conditions applies in the list of jobs approved by the Ministry of Labor and Social Protection. Prior to its revision in 2014, the list included 252 positions; now it covers 181 professions, where women are not allowed to perform<sup>9</sup>.

3.3. The State Party maintains that the prohibition is intended 'to protect women's lives and health'. In its Concluding Observations of 25 November 2016, the Committee on the Elimination of Discrimination against Women has recommended Belarus, inter alia, to 'review the restricted list of professions to ensure that it covers only restrictions that are absolutely necessary for the protection of maternity in the strict sense'<sup>10</sup>.

*Recommendation:*

- remove the legal prohibition of women's right to work in 181 professions.

## **Right to work**

### *The right to work – state employment policy*

4.1 The main instrument of employment policy in Belarus is state's programmes of employment assistance adopted by the Council of Ministers. The only indicator of the unemployment level used in the programmes is the level of registered unemployment; all activities are measured against this indicator and thus ignore those not having the official status of the unemployed, as well as substantial difference between the rates of registered and *de facto* unemployment. According to the Ministry of Labor and Social Protection, as of 01.09.2021, 7,6 thousand people were registered as unemployed in the Republic. This is 23.9% less compared to the same period last year, when 9.9 thousand unemployed were officially registered, the registered unemployment rate was 0.2%. Compared to September 1, 2020, it has not changed<sup>11</sup>.

4.2 The statistics of the *de facto* unemployment rate are consistently published only since February 2017, but the available data is disaggregated only by a limited number of indicators such as age, sex and geographical status, ignoring the indicators of disability, health, ethnic and socio-economic statuses, thus not taking into account several groups that are structurally disadvantaged and marginalized by the labour market. According to the latest statistical data, the unemployment rate, calculated in accordance with the methodology of the International Labor Organization (hereafter - ILO), is 4% of the workforce<sup>12</sup>.

### *The right to work – the right of women to equal access and return to the labour market*

4.3. The current practice of unfair distribution of household responsibilities, formed under the influence of accepted gender roles in the society, reinforces the unequal position of women in the labor market. Discrimination in the labor market is an actual and widespread problem: 85.0% of Belarusians (89.6% of women and 80.4% of men) faced it<sup>13</sup>. None of the social groups is immune from infringement of their rights, but the most vulnerable groups are married and unmarried women under the age of 35 without children, women with children under the age of 10 and women on parental leave. The risk of discrimination increases among respondents aged 35-44 and people with higher education. The most common type of discrimination is discrimination in employment: 69.3% of Belarusians (73.8% of women and 64.7% of men) find themselves in such situations<sup>14</sup>.

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<sup>9</sup> Resolution of the Ministry of Labor and Social Protection of the Republic of Belarus, June 12, 2014 No. 35 "On establishing the list of heavy works and works with harmful and (or) dangerous working conditions on which it is forbidden to involve women in work"

<sup>10</sup> Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention pursuant to the simplified reporting procedure, Eighth periodic report of States parties due in 2016 – Belarus, 16 June 2016, CEDAW/C/BLR/8, para. 178

<sup>11</sup> <https://neg.by/novosti/otkrytyj/uroven-bezraboticy-i-zanjatosti-naselenija-belarusi/>

<sup>12</sup> <https://www.belta.by/economics/view/belstat-676-naselenija-belarusi-v-vozhage-15-74-let-bylo-zanjato-v-ekonomike-vo-ii-kvartale-451891-2021/>; [https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/trud/operativnaya-informatsiya\\_8/](https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/trud/operativnaya-informatsiya_8/)

<sup>13</sup> Artemenko E. K. The results of the study of the situation in the field of gender discrimination in the labor market and in hiring [Electronic resource]. – 2019:

<https://genderperspectives.by/programs/Otchet%20isledovanie.pdf>

<sup>14</sup> *ibid.*

4.4. The right to long-term parental leave (up to 3 years) is enjoyed almost exclusively by women, which corresponds to the continuing cultural concept of motherhood, it is the woman who is responsible for raising the child, including during long-term maternity leave. When looking for a job, women are often subjected to the questions about their marital status, whether they have children, etc<sup>15</sup>.

4.5. The problem is further exacerbated by the lack of unconditionally available public day-care nurseries, which would allow working women to return to work. The existing system of day-care centers (*учреждения дошкольного образования*) is only partially available as they accept children from 2 months to 3 years of age, but only if there is enough demand for forming a group of a particular age. This results in the fragmented availability of the services only in specific city areas and only for children of a particular age group.

4.6. In 2015, day-care centers did not have any children from 2 months to 1 years of age<sup>16</sup>. In 2014 there were five (all in the same center)<sup>17</sup>, and in 2013, 2012 and 2011 there were 20, 2 and 101 children respectively<sup>18</sup>. In the period from 2000 to 2009, the number of children below the age of 1 year attending day-care centers was significantly different and ranged from 903 to 3252<sup>19</sup>. There are no more recent statistics in this category in the country.

#### *The right to work of persons with disabilities*

4.8. The right to work of persons with disabilities can be realized only after the examination by a medical expert commission, which gives "recommendations" consisting of restrictions on the types of work allowed. Since experts rely on outdated information about professions that "correspond" to a particular diagnosis, not all restrictions and prohibitions are justified. The right to work of persons with mental illnesses is *de facto* restricted by their registration in a dispensary, although there is no such formal restriction. A person with a disability whose mental capacity (*дееспособность*) has been limited is not able to exercise their right to work in any way regardless of the form of such limitation, be it partial or full.

4.9. Existing tools, which promote the employment of persons with disabilities, include job reservations, vocational rehabilitation, and compensation for the creation of a specialized workplace, all of which are implemented by employers. The current legislative design of the mechanism for reserving jobs is ineffective, since a reservation request sent to an employer is not mandatory and can be rejected; when accepted, employers reserve only low-skilled and low-paid positions; there is no system for monitoring and coordinating specialized jobs; conditions for labor mobility of people with disabilities have not been created. As a result, only 6.6% of all working persons with disabilities have secured their jobs through the system of job reservations<sup>20</sup>. Tax breaks only apply for companies where persons with disabilities take at least 30% of all staff, which is not feasible for most companies. No legislative framework exists for social enterprises.

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<sup>15</sup> See further in Anti-Discrimination Centre Memorial and Her Rights Center, Alternative Report on Compliance with the Convention on the Elimination of all Forms of Discrimination Against Women by Belarus, 65th session of the UN CEDAW, 2016:

[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT\\_CEDAW\\_NGO\\_BLR\\_25387\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT_CEDAW_NGO_BLR_25387_E.pdf), p. 5

<sup>16</sup> Ministry of Education of the Republic of Belarus "preschool education institutions and teaching staff of preschool education institutions of the Republic of Belarus as of September 5, 2014: statistical handbook", p. 45

<sup>17</sup> Ministry of Education of the Republic of Belarus "preschool education institutions and teaching staff of preschool education institutions of the Republic of Belarus as of September 5, 2014: statistical handbook", p. 48

<sup>18</sup> Ibid, p. 45

<sup>19</sup> For generalized data, see the Ministry of Education of the Republic of Belarus "pre-school education institutions of the Republic of Belarus as of January 1, 2010: statistical handbook", p. 3; the number of pupils of this age is approximate because the calculation methodology has changed in this time period: before the change, only the groups "up to one and a half years" and "one and a half to three years" were taken into account; after the change, children aged 2 months to a year, aged one year, two years, etc. are taken into account. - nevertheless, statistical collections refer all children from the category "under one and a half years" to the category "one year and younger", see the Ministry of Education of the Republic of Belarus "preschool education institutions of the Republic of Belarus as of January 1, 2005: statistical reference book", p. 47; The Ministry of Education of the Republic of Belarus "preschool education institutions of the Republic of Belarus as of January 1, 2008 statistical reference book", p. 60

<sup>20</sup> Research Institute of Labor of the Ministry of Labor and Social Protection of the Republic of Belarus, Study of the situation of disabled people in the Republic of Belarus, p. 2.1.7, p. 6, [www.disright.org/sites/default/files/source/20.02.2014/vynikovaya\\_spravzdacha.doc](http://www.disright.org/sites/default/files/source/20.02.2014/vynikovaya_spravzdacha.doc)

4.10. There have been no well-known court decisions on the protection of a person with a disability from discrimination in their exercise of labour rights.

4.11. There are no specialized trade unions of workers with disabilities. Tripartite agreements do not include specific clauses on the protection of the rights of workers with disabilities.

#### *The right to work – COVID-19 context*

4.12. General comment No. 24 (2017) on State obligations under the ICESCR<sup>21</sup> in the context of business activities requires that States parties adopt legislative, administrative, educational and other appropriate measures, to ensure effective protection against Covenant rights' violations linked to business activities<sup>22</sup>.

4.13. Main two areas in which the State has failed to cope with its positive obligations in the context of workers' rights during the pandemic period are: providing proper and relevant information to business and society, taking measures of social protection and other related measures.

4.14. Generally, the State's COVID-19 strategy is strongly dependent on the personal position of *de facto* president of Belarus A. Lukashenko, who from the very beginning of the pandemic officially denied the disease menace and danger. It is obvious that society was not (and still does not) satisfied with the completeness, reliability and efficiency of the information provided by the State, therefore people tries in every possible way to find the information needed in other various sources (which together with low level of legal and self-care culture of people leads to the promotion of the COVID-19 canceling culture).

4.15. Given the importance of obtaining prompt, complete and reliable information in any situation of such level as the COVID-19 pandemic is, the first measure that the state should take in the context of worker's rights is informing workers and employers and elaborate on behavioral strategies for both. There was (and still is) an obvious lack of information regarding the framework, strategies of employers' behavior in this situation.<sup>23</sup> Moreover, in the current situation, it is extremely important to have relevant and accessible clarifications of certain legal information and frameworks for employers related, for example, to the criteria for legal restrictions in the COVID-19 context on the rights and freedoms of workers, to the problem of discrimination, concerning COVID-19, to the information on legal remedies. However, no such information has been provided by the competent state authorities for employers.<sup>24</sup>

4.16. There is also an obvious lack of information regarding the framework, strategies of business behavior in this situation. The Belarusian authorities failed to prepare planning and response measures in connection with the spread of the COVID-19, despite the fact that the state pretended that plans and recommendations were developed in March 2020 to support the work of business in a complex context<sup>25</sup>.

4.17. Measures to protect economic and social rights of citizens, including the right to work, such as: ensuring the provision of paid leave or sick leave for parents with children of preschool, junior, secondary school age; ensuring the provision of paid leave or sick leave for people, who are forced to be quarantined outside a medical institution or self-isolated (if their remote work is not possible); prohibition of the dismissal of persons in a situation of special vulnerability; allowing changes to certain categories of employees' work schedule, which have not been accepted in Belarus, nor they have been implemented<sup>26</sup>.

#### *The right to work – political crisis in Belarus*

4.18. The presidential elections of 2020 and the subsequent political and human rights crisis exposed a long-existing problem of using of business (public and private) by the State authorities as a tool of

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<sup>21</sup> E/C.12/GC/24

<sup>22</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, 10 August 2017, E/C.12/GC/24, available at: <https://www.refworld.org/docid/5beacba4.html> [accessed 29 December 2021]

<sup>23</sup> COVID-19, Business and human rights: Challenges and Behavioral Strategies (analytical note), March 30, 2020, Belarusian Helsinki Committee: [https://belhelcom.org/sites/default/files/covid-19\\_businesshuman\\_rights\\_5.0\\_0.pdf](https://belhelcom.org/sites/default/files/covid-19_businesshuman_rights_5.0_0.pdf), p. 14-15

<sup>24</sup> *ibid*, p. 15

<sup>25</sup> *ibid*, p. 15

<sup>26</sup> *ibid*, p.16-17

pressure on people (workers) for achieving political goals. In November 2020 the ILO's Committee of Experts on the Application of Conventions and Recommendations included Belarus in the list of countries with the so-called "Double footnotes",<sup>27</sup> which means that ILO sees violations of the rights of workers and trade unions in Belarus as a particularly serious problem, permanent (at least since 2004), and it is requiring urgent measures, moreover, this means dissatisfaction with the volume and quality of the state's response and answers to the questions posed.<sup>28</sup>

4.19. In the context of the political crisis 2020-2021 State not just failed with its positive obligations on creation for enterprises necessary conditions to ensure respect of workers' rights, but have taken opposite steps – aimed at getting business to violate workers' rights.

4.20. Firstly, in June 2021 the new legislation formally legalizing human rights violations was adopted. In the situation of active peaceful protests against the falsification of elections and the subsequent violence and torture, the provisions of legislation aimed at increasing the dependence of the employee on the will of the employer and at suppressing protest activity were tightened. Belarusian Labor Code was amended: it is allowed to terminate employment contracts before the expiration date, if the employee is absent from work due to serving administrative arrest<sup>29</sup>. Previously, it was possible to dismiss an employee only for absenteeism for a disrespectful reason. Administrative detentions and arrests were recognized as valid reasons, since they do not depend on the will of the employee.

4.21. Secondly, the requirement to conduct "preventive talks" with employees about their protest activity was introduced. In October 2020, private companies began receiving letters from the Ministry of Internal Affairs demanding to talk with employees so that they would not go to protest actions. Despite the fact that, in accordance with the legislation, legal entities are not subjects of crime prevention activities, the authorities sent clear instructions to the largest enterprises in the country on how to deal with employees involved in such movements<sup>30</sup>.

4.22. Thirdly, the authorities demanded to ensure the presence of people (employers) at the pro-government agitation events. As a rule, such requirements (for which event and how many people) are passed down to the management of enterprises through local authorities.<sup>31</sup>

4.23. Finally, the Electoral Code of the Republic of Belarus has maintained an anachronism of the Soviet era, in particular, about the use of labor collectives in organizing and holding elections. Article 35 of the Electoral Code establishes the procedure for nominating representatives to territorial, district and precinct commissions; it suggests that their representatives can be nominated (in addition to public organizations and political parties) by the labor collectives of organizations or the collectives of their structural subdivisions. Taking advantage of the existence of such a norm formally enshrined in the law, as well as the dependence of enterprises on the state, the authorities use this provision to influence the summing up of the voting results. Thus, the rights of employees, who are forced to perform functions unusual for them and falsify results under threats of dismissal, are violated.

4.24. Under the pressure from the Belarusian authorities, or less often on their own initiative, private enterprises and state-owned enterprises carried out mass arbitrary dismissals, often in connection with the participation of employees in protest activity or for other political reasons. Among the forms of such pressure, one can distinguish: dismissal / refusal (including in the form of non-renewal of the contract) to hire for civic or political activity; forced dismissal at their own request/ by agreement of the parties in connection with civic or political activity. Most cases are related to dismissals at their own request or by agreement of the parties: the employee is often forced to take this step under threats, as a result, the employee does not have any methods of protecting his/her own rights in the future, since he/she "initiated" the termination of labor relations<sup>32</sup>.

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<sup>27</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_771042.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_771042.pdf), p. 54, para. 128

<sup>28</sup> These are the criteria for "labeling" the state as a case with a "double footnote" established by the ILO. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_771042.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_771042.pdf) (p. 54, para. 125)

<sup>29</sup> <https://pravo.by/document/?guid=12551&p0=H12100114&p1=1&p5=0>

<sup>30</sup> Business and human rights in Belarus: The context of the political and human rights crisis 2020-2021, Analytical report, Belarusian Helsinki Committee:

[https://belhelcom.org/sites/default/files/bhc\\_analytical\\_report\\_2020\\_2021\\_new\\_-\\_kopiya\\_0.pdf](https://belhelcom.org/sites/default/files/bhc_analytical_report_2020_2021_new_-_kopiya_0.pdf), p. 12 -13

<sup>31</sup> COVID-19, Business and human rights: Challenges and Behavioral Strategies (analytical note), March 30, 2020, Belarusian Helsinki Committee: [https://belhelcom.org/sites/default/files/covid-19\\_businesshuman\\_rights\\_5.0\\_0.pdf](https://belhelcom.org/sites/default/files/covid-19_businesshuman_rights_5.0_0.pdf), p. 15

<sup>32</sup> *ibid.*, p. 21; <https://spring96.org/ru/news/106117>

4.25 Belarus as a party to ICESCR must prevent effectively infringements of economic, social and cultural rights in the context of business activities<sup>33</sup>. On the contrary, the Belarusian authorities use state capacities and taxpayers' money in selective and unlawful acts of retaliation aimed at taking revenge on both private business and every employee, not only not respecting and not protecting the economic, social and cultural rights of employees, but also creating insurmountable obstacles to their exercise.

*Recommendations:*

- Exclude in law and in practice all forms of forced labor;
- Take measures to ensure equal access to the labor market for vulnerable groups;
- Stop politically motivated dismissals which were the reaction of the authorities to employees' expression of their civic position by participating in peaceful protests, public speeches, in various cultural forms.

## **Trade union rights**

5.1. Independent unions in Belarus are under the threat as employers and state authorities use every chance to intimidate and dismiss independent union members, thus decreasing membership<sup>34</sup>.

5.2. Workers have been laid off for joining the independent union of their choice, for attempting to strike, or for participating in peaceful protests<sup>35</sup>.

5.3. According to the Global Index of the International Trade Union Confederation<sup>36</sup> Belarus entered the top-10 worst countries in the world for workers in 2021. The main problems according to this rating were: repression of strikes and assemblies; arbitrary arrests; obstacles for union's registration.

*Recommendation:*

- Stop harassing and intimidating members of independent trade unions and strike committees, in particular by eliminating the practice of dismissing strike Committee leaders and trade Union activists, and expand the legal capacity to register trade Union structures and declare strikes.

## **Right to social security**

6.1 As a result of the pension reform, the length of work experience (i.e. the total duration of the insured person's working life during his/her lifetime, in which state social insurance contributions were paid) required for receiving a pension was increased from 5 to 16 years. The change came into force within 2 years (from 2014 to 2016)<sup>37</sup> and the term of the required length of service will continue to grow until it reaches the requirement of 20 years of experience in 2025.

6.2 The reform also increased the retirement age and the age of receiving a social pension. At the same time, the reform did not provide for exceptions or a transition period for people who reached retirement age during the implementation of the reform and have a sufficient amount of insurance experience under the old rules (at least 5 years), but have not reached the requirements of the experience under the new rules. These people could not receive either a social or an old-age pension on a general basis for almost 5 years. The pension reform has hit particularly hard on women who have been engaged in socially useful activities for long periods of time (for example, caring for a child until they reach the age of 3, caring for group 1 people with disabilities and the elderly), who, according to the national legislation, are not included in the insurance record<sup>38</sup>. Only in 2020, in accordance with Presidential Decree No. 171 of May 18, 2020 "On social support for certain categories of citizens", such people received the right to receive a pension with incomplete insurance experience upon reaching 60

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<sup>33</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, E/C.12/GC/24 : <https://www.refworld.org/docid/5beaeba4.html>

<sup>34</sup> For further information see the Position of IndustriALL Global Union: <https://www.industriall-union.org/stop-union-busting-in-belarus>

<sup>35</sup> <https://www.industriall-union.org/belarus-fight-continues-for-democracy-and-labour-rights>

<sup>36</sup> [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN\\_Final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN_Final.pdf)

<sup>37</sup> First from 5 to 10 years, then from 10 to 15.5 years. For more information about the problem, see <https://www.pensii.belhelcom.org/en/>

<sup>38</sup> see also Concluding observations of the Committee on the Elimination of Discrimination against Women on the eighth periodic report of Belarus, CEDAW/C/BLR/CO/8, para. 38-39

years for women and upon reaching 65 years for men. However, the size of the pension with incomplete insurance experience, although it exceeds the size of the social pension, is nevertheless extremely low and does not allow such pensioners to exercise their right to an adequate standard of living<sup>39</sup>.

6.3. Thus, the pension reform has seriously affected the financial situation of people who, at the time of the adoption of amendments to the legislation, had the period of insurance experience required, which entitles them to a pension. Decisions on increasing the length of insurance and other provisions that worsened the conditions of pension provision for citizens were made without a broad public discussion at the national level and without an open search for optimal solutions, which led to a decrease in the level of economic and social status of the most vulnerable groups of the population. Retroactive measures taken in connection with the right to social security are prohibited by the ICESCR<sup>40</sup>.

*Recommendation:*

- Carry out socio-economic reforms only with prior extensive public discussion and a mandatory transition period to mitigate the negative consequences for people

## **Protection of the family and children**

### *Violence against children*

7.1. According to the National study evaluating violence against children in the Republic of Belarus, about 50.1% of parents use physical or psychological violence, when raising children, i.e. 29.2% used corporal punishment, and 44.5% used psychological disciplinary methods; the study also revealed high level of tolerance to violence against children in case of various experts, as well as problems with timely detection and response to cases of violence against children.<sup>41</sup>

7.2. Meanwhile, authorities still do not ban all forms of corporal punishment at home/school and other institutions. Moreover, on October 5, 2018, the President of Belarus severely criticized the draft of the law, prohibiting the use of all forms of violence, including violence against children, and consequently the bill was put on hold.<sup>42</sup> On December 21, 2021, the draft of the law "On amending the laws on the prevention of offenses" was adopted, the purpose of which was to increase the effectiveness of the prevention of domestic violence<sup>43</sup>, but again – it did not pay particular attention to the issues of violence against children.

*Recommendations:*

- Publicly and unequivocally condemn at the highest level any acts of violence against children, sending a clear message to society that such acts are unacceptable;
- Establish a working group for drafting a Law on combating domestic violence, including representatives of the competent authorities and a wide range of civil society organizations and then
- Adopt a comprehensive Law on combating domestic violence, providing for both preventive measures and measures for effective investigation of violence cases and the consequent punishment.

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<sup>39</sup> The size of the social pension for people who have reached the age of 60 for women and 65 for men who have not been assigned a general retirement pension is 144 belarusian rubles, or about 57 US dollars: <https://mintrud.gov.by/system/extensions/spaw/uploads/files/sotsialnye-pensii-nojabr-2021.pdf>. At the same time, the average age pension of a non-working pensioner is 545 belarusian rubles or 216 US dollars: <https://www.mintrud.gov.by/ru/infa2/>

<sup>40</sup> see for example General Comment of the CESCR No. 191 "The right to social security (art. 9)", E/C.12/GC/19, para. 42

<sup>41</sup> <https://www.unicef.by/uploads/models/2018/04/unicef-belarus-vac-report-2018.pdf>

<sup>42</sup> <https://www.belta.by/president/view/lukashenko-zhestko-raskritikoval-zakonoproekt-o-protivodejstvii-domashnemu-nasiliju-320484-2018/>

<sup>43</sup> <https://www.belta.by/politics/view/deputaty-podderzhali-izmeneniya-v-zakony-o-profilaktike-pravonarushenij-475912-2021/>

## Right to an adequate standard of living

### *Homeless people and the right to housing (Question 20)*

8.1. Despite of the proclamation of the right to an adequate standard of living and the right to housing by the Constitution, homelessness is not considered as a violation of the human right to housing; the measures of social assistance neither address the issue of homelessness as such, nor aim to provide specialized assistance to those affected by it<sup>44</sup>. There is widespread stigmatization of the homeless in the society in general and by the state authorities in particular. In addition to the use of offensive language in the media, similar perceptions of homelessness are reflected in regulatory acts directly affecting homeless people. The consequence of such stigmatization is a wide recognition of the lack of necessity to take measures aimed at the realization of the right to housing by homeless people.

8.2. There are no national or local programs to reduce and eliminate homelessness.

8.3. State mechanisms of assistance to the homeless people are primarily limited to the activities of temporary shelters and periodic assistance activities. No special state programs or plans to take measures to prevent and reduce homelessness have been adopted. Issues of providing (or not providing) any assistance to the homeless people are within the competence of the local executive bodies, which does not guarantee equal access to and regularity of assistance provided.

8.4. The result of the lack of any policy on homelessness is that reliable statistics on the scale of the problem are not available, which contributes to the neglect of the problem by the state social policy.

8.5. The problem of homelessness is widespread among people who have served their prison sentences. Homelessness preventive measures adequately addressing the severity of the problem for this category of people have not been developed and implemented.

8.6. The practices of restricting access to public places for the homeless people is not only a discriminatory measure, but also directly endangers their lives and health. While denying access to public places at night risks forcing homeless people to spend the night on the street or in a less secure place, the illegal practice of “cleaning” the streets of homeless people through informal detention and subsequent removal outside the city is a direct threat to their health and safety.

8.7. Temporary shelters are the main instrument of the state policy addressing the problem of homelessness, but access to overnight accommodation in them is aggravated by a number of restrictive factors. The need for registration in the city where the shelters are located not only restricts their accessibility, but also deprives people living in cities with no shelters of access to existing shelters. Restrictions on the maximum duration of stay in the shelters carries the risk of arbitrary refusal of accommodation for people who were unable to find housing during their stay in the shelter.

### *Living standard for children*

8.8. The increase in children facing risk of absolute poverty noted in 2016 was largely offset by raised benefits for families with children in subsequent years, including owing to the amount of benefits for families with children under 3 years old being linked to the average wage<sup>45</sup>. However, in spite of this positive trend approximately one in ten children in Belarus lives below the national poverty level<sup>46</sup>. The share of children among the poor is 37.3%<sup>47</sup>.

8.9. The level of absolute poverty among children has decreased from 12.7% to 9.5%, but it remained much higher than the national average, which, combined with the large size of this social group, determines the significant impact of child poverty on the total number of people below the poverty line<sup>48</sup>.

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<sup>44</sup> for more information about the problem of homelessness, see the report ‘Homeless people and the right to housing in Belarus’, prepared by the Belarusian Helsinki Committee in collaboration with Human Constanta (Belarus) and Libereco (Switzerland): [https://belhelcom.org/sites/default/files/report\\_homeless\\_belarus\\_-\\_english\\_-\\_web\\_version\\_sized.pdf](https://belhelcom.org/sites/default/files/report_homeless_belarus_-_english_-_web_version_sized.pdf)

<sup>45</sup> Poverty and socially vulnerable groups in Belarus. Demographic and economic factors of poverty. IPM Research Center, 2019: <http://www.research.by/webroot/delivery/files/poverty2019.pdf>, page 7

<sup>46</sup> Poverty and socially vulnerable groups in Belarus. Demographic and economic factors of poverty. IPM Research Center, 2019: <http://www.research.by/webroot/delivery/files/poverty2019.pdf>, page 2

<sup>47</sup> Child Poverty and Social Assistance. Poverty Factsheet <https://www.unicef.by/uploads/models/2018/06/povertyfs.pdf>

<sup>48</sup> Poverty and socially vulnerable groups in Belarus. Demographic and economic factors of poverty. IPM Research Center, 2019: <http://www.research.by/webroot/delivery/files/poverty2019.pdf>, page 7

### Recommendations:

- Adopt a program to prevent, reduce and mitigate the effects of homelessness that would contribute to the achievement of the SDGs;
- Review existing methods and practices for the collection of homelessness statistics with a view to adopting an approach based on an adequate definition of homelessness and taking into account all relevant data collected;
- Take measures to combat discrimination, stigmatization and negative stereotyping of homeless people;
- Ensure the collection of disaggregated data for identifying vulnerable groups, develop and adopt more targeted social support measures for families with children living on the verge of poverty.

## Right to physical and mental health

### *The COVID-19 context*

9.1. In the General Comment № 14 (2000) the Committee on economic, social and cultural rights held that States are under the obligation to refrain from withholding or intentionally misrepresenting health-related information.<sup>49</sup>

9.2. The COVID-19 pandemic, which started in 2020, clearly showed the unwillingness of the authorities of the Republic of Belarus to respond promptly and efficiently to the epidemiological situation and provide the society with prompt, complete and reliable information. Contradictory statements by state officials about the harmlessness of the virus during the pandemic misinformed society and caused logical discontent. Moreover, due to the unwillingness and inability of the state to provide an objective picture of the circumstances, volunteers were forced to supply medical institutions with protective equipment.<sup>50</sup>

9.3. According to the official data, in December 2021, 689,151 cases of infection have been registered in Belarus since the beginning of the pandemic.<sup>51</sup> However, official statistics did not objectively reflect the situation of the virus in the country. The statistics did not include an indication of the number of ill-cases in district-areas,<sup>52</sup> the exact number of all cases was not indicated, and it was necessary to calculate it by yourself, and later even this was no longer possible,<sup>53</sup> contradictions were constantly noticed in the official data<sup>54</sup>, and sometimes the statistics of deaths did not change at all. Such situations clearly confirmed the falsification of the data provided and the misinformation of the population.<sup>55</sup>

9.4. At the same time, restrictive measures in connection with the pandemic in the Republic of Belarus were among the weakest in the world, and the Oxford University index, which showed the severity of such measures, was only 19.44 out of 100.<sup>56</sup> *De facto* leader of Belarus, A. Lukashenko, called the virus a "psychosis"<sup>57</sup>, offered treatment methods that clearly did not meet generally accepted standards<sup>58</sup> and called masks "muzzles".<sup>59</sup> The Minister of Health V. Karanik justified lack of official statistics by interfering in personal life, but this argument was criticized by both civil society and human rights organizations.<sup>60</sup>

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<sup>49</sup> General Comment of the CESCR No. 14 "The right to the highest attainable standard of health" (art. 12), E/C.12/2000/4, para 34

<sup>50</sup> <https://spring96.org/ru/news/101195>

<sup>51</sup> [https://aif.by/health/covid19/v\\_bearusi\\_zaregistrovano\\_bolee\\_689\\_tys\\_sluchaev\\_covid-19](https://aif.by/health/covid19/v_bearusi_zaregistrovano_bolee_689_tys_sluchaev_covid-19)

<sup>52</sup> <https://www.sb.by/articles/karanik-obyasnil-pochemu-minzdrav-perestal-davat-statistiku-po-koronavirusu-s-razbivkoy-po-rayonam.html>

<sup>53</sup> <https://mediabrest.by/news/zdravoohranenie/minzdrav-bearusi-zakryl-statistiku-po-koronavirusu>

<sup>54</sup> <https://lenta.ru/news/2020/04/17/skryvayut/>

<sup>55</sup> see the commentary on the 2020 National Human Rights Index peer review on the right to health: [https://belhelcom.org/sites/default/files/13\\_pravo\\_na\\_zdorove\\_2020.pdf](https://belhelcom.org/sites/default/files/13_pravo_na_zdorove_2020.pdf)

<sup>56</sup> COVID-19 Stringency Index, <https://ourworldindata.org/grapher/covid-stringency-index>

<sup>57</sup> Amnesty International Report 2020/21: The state of the world's human rights, <https://www.amnesty.org/en/documents/POL10/3202/2021/en/>; p. 42

<sup>58</sup> *ibid*, p.42

<sup>59</sup> <https://progomel.by/society/health/2020/04/863177.html>

<sup>60</sup> COVID-19, Business and Human Rights: Challenges and Behavior Strategies (Policy Brief): [https://belhelcom.org/sites/default/files/covid-19\\_businesshuman\\_rights\\_5.0\\_0.pdf](https://belhelcom.org/sites/default/files/covid-19_businesshuman_rights_5.0_0.pdf)

9.5. Moreover, with the support of state officials, pressure was organized on independent media, which tried to provide adequate statistics on the virus<sup>61</sup>. For example, after the president's call to fight "fakes", investigative journalist Sergei Satsuk was detained.<sup>62</sup> The UN expert David Kaye was forced to call on the authorities of the Republic of Belarus to stop repressions against journalists, who cover the situation with the coronavirus.<sup>63</sup>

9.6. Such behavior of official representatives of the state led to ignorance of some part of the population, which does not use alternative sources of information, about the real danger of the virus, as well as to distrust of any information about the virus that came from official sources. Thus, according to the results of a survey conducted on March 29, 2020 in a public chat of TUT.BY (the main independent Internet media in Belarus) and concerning the credibility of information about the coronavirus (including the number of infected) provided by the Ministry of Health: out of 6,948 people, who took part in the survey, 3% (222 people) trust, do not trust and believe that reliable information is being hidden from them – 86% (6,000 people), 10% (725 people) found it difficult to answer this question.<sup>64</sup>

9.7. There was a lack of information not only for society, but also for business. Recommendations and explanations for businesses, within the framework of the pandemic, including for businesses in the service sector, which was in the greatest risk zone under these circumstances, were quite late published on the website of the Ministry of Health.<sup>65</sup>

9.8. The Republic of Belarus still does not have access to some vaccines recognized by the WHO, which limits the ability of citizens to receive high-quality protection from the virus and move freely around the world. Moreover, during the rise of the pandemic in 2020, some medicines against COVID-19, despite their availability, were not prescribed by doctors at the local level due to the ban from senior authorities. Also, due to closed borders, access to foreign medicines was limited.<sup>66</sup>

9.9. In the General Comment № 14 (2000) the Committee on economic, social and cultural rights held that "the creation of conditions which would assure to all medical service and medical attention in the event of sickness", both physical and mental, includes the provision of equal and timely access to basic preventive, curative, rehabilitative health services and health education.<sup>67</sup>

9.10. The pandemic generally has had a negative impact on planned medicine, especially in the cancer-treatment field. Medicine checkups and even surgeries were canceled due to the fact that many hospitals were closed for quarantine.<sup>68</sup>

9.11. In the situation of the global pandemic, the high role of professional doctors is obvious. The authorities of the Republic of Belarus not only did not provide proper assistance to the healthcare sector (as indicated in paragraph 2.2.), but also persecuted doctors for political reasons in connection with the post-election situation in Belarus, which led to mass layoffs and catastrophic situations with a shortage of doctors.<sup>69</sup> At the most tense moments and peaks of the pandemic, mass repressions against doctors and other medical personnel took place. Doctors were fired for being late for work right after being released after detentions.<sup>70</sup> Such actions of the state led to a lack of proper medical care, especially among the population in the districts and regions, and, accordingly, to an increased risk of death from the COVID-19.

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<sup>61</sup> For more information, see the e-newsletter 'Mass media in belarus. Mass media during covid-19 pandemic': <https://baj.by/sites/default/files/analytics/files/2020/smi-02612020-en.pdf>

<sup>62</sup> <https://rsf.org/en/news/belarusian-journalist-arrested-criticizing-presidents-covid-19-approach>

<sup>63</sup> <https://news.un.org/ru/story/2020/05/1377192>

<sup>64</sup> COVID-19, Business and Human Rights: Challenges and Behavior Strategies (Policy Brief): [https://belhelcom.org/sites/default/files/covid-19\\_businesshuman\\_rights\\_5.0\\_0.pdf](https://belhelcom.org/sites/default/files/covid-19_businesshuman_rights_5.0_0.pdf)

<sup>65</sup> *ibid*

<sup>66</sup> see the commentary on the 2020 National Human Rights Index peer review on the right to health: [https://belhelcom.org/sites/default/files/13.\\_pravo\\_na\\_zdorove\\_2020.pdf](https://belhelcom.org/sites/default/files/13._pravo_na_zdorove_2020.pdf)

<sup>67</sup> General Comment of the CESCR No. 14 "The right to the highest attainable standard of health" (art. 12), E/C.12/2000/4, para 17

<sup>68</sup> *ibid*

<sup>69</sup> see the commentary on the 2020 National Human Rights Index peer review on the right to health: [https://belhelcom.org/sites/default/files/13.\\_pravo\\_na\\_zdorove\\_2020.pdf](https://belhelcom.org/sites/default/files/13._pravo_na_zdorove_2020.pdf)

<sup>70</sup> [https://eurasia.amnesty.org/wp-content/uploads/2021/06/medics\\_web\\_ru.pdf](https://eurasia.amnesty.org/wp-content/uploads/2021/06/medics_web_ru.pdf)

9.12. Moreover, repressions against doctors have led both to their mass dismissals and, among other things, to the outflow of qualified medical personnel from the country<sup>71</sup>, which, in turn, leads to a shortage of medical personnel in all areas of healthcare and negatively affects the provision of medical care. One of the vivid negative consequences of such actions of the state was the changes in the Republican Scientific and Practical Center for Pediatric Oncology, Hematology and Immunology, where 20 doctors left the center after the director was removed from the office for political reasons, which negatively affected the quality of services provided.<sup>72</sup>

### *The right to health in places of deprivation of liberty*

9.13. Since April 1, 2011, the activities of the Republican General Somatic Hospital of the Department of Corrections of the Ministry of Internal Affairs of the Republic of Belarus at its former location have been terminated. The hospital was formally moved to the territory of the Minsk pre-trial detention center-1. On the territories of other correctional institutions (in particular, since 2011 - to the Correctional Institution "Prison No. 8") there are separate structural units of the Republican Hospital for Convicts. In prison and pre-trial detention, patient wards are ordinary cells. As before, the treatment of prisoners with an active form of tuberculosis takes place in Correctional Colony-12 and Correctional Colony-4. The commissioning of the hospital, which was supposed to replace the one closed in 2011, is postponed annually<sup>73</sup>.

9.13. This is one of the reasons for the lack of proper medical care for prisoners. The use of the capabilities of civilian health care institutions is made in exceptional cases<sup>74</sup>.

9.14. The Criminal Code provides for the possibility of releasing prisoners with a serious illness that prevents them from serving their sentence, or this punishment may be replaced by a milder one. However, the severity of the crime committed, the identity of the convicted person, the nature of the disease and other circumstances are taken into account. Thus, the impossibility of serving a sentence for health reasons is not an unconditional reason for the release of a prisoner from punishment.

9.15. From July 2020 to the present time, citizens arrested for political reasons have been kept in unsanitary conditions in the Center for the Isolation of Offenders: depriving them of the opportunity to use toiletries and hygiene products, without bedding and mattresses. Also, antisocial people who have not undergone sanitary treatment are placed in their cells.

9.16. No effective measures have been taken to prevent the spread of the COVID-19 among administrative detainees, and therefore their lives and health are in danger disproportionately higher than the ones they represent as offenders.

9.17. During the COVID-19 pandemic, the government refused to establish the category of persons with disabilities as more vulnerable, and accordingly, no measures of "reasonable adaptation" of citizens' health protection policies for this category have been developed and applied.

9.18. Information about health, morbidity and mortality during the epidemic regarding the category of persons with disabilities was not provided by the government and any attempts to find out about it were blocked. A particularly dangerous situation has developed in the "boarding schools", where mass illnesses and deaths are known both among residents and employees. However, all information, as well as the institutions themselves, are closed.

9.19. The Government has not provided emergency and effective measures during the epidemic for people in need of regular hospital treatment. On the contrary, the practice of refusing regular treatment due to the epidemiological situation is widespread.

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<sup>71</sup>Business and human rights in Belarus: The context of the political and human rights crisis 2020-2021, Analytical report, Belarusian Helsinki Committee:

[https://belhelcom.org/sites/default/files/bhc\\_analytical\\_report\\_2020\\_2021\\_new\\_-\\_kopiya\\_0.pdf](https://belhelcom.org/sites/default/files/bhc_analytical_report_2020_2021_new_-_kopiya_0.pdf); p. 50-51

<sup>72</sup> see the commentary on the 2020 National Human Rights Index peer review on the right to health: [https://belhelcom.org/sites/default/files/13.\\_pravo\\_na\\_zdorove\\_2020.pdf](https://belhelcom.org/sites/default/files/13._pravo_na_zdorove_2020.pdf)

<sup>73</sup> Decree of the President of the Republic of Belarus No. 219 of June 16, 2021 "On the amendment of the Decree of the President of the Republic of Belarus No. 288 of 07.06.2010 "On the construction of a complex of buildings and structures of the pre-trial detention center and the Republican general somatic hospital", accessed by link <https://pravo.by/document/?guid=12551&p0=P32100219&p1=1&p5=0>

<sup>74</sup> The Republic of Belarus: places of unfreedom. Report of the Human Rights Centre "Viasna", 2017., p.104-109, accessed by link [https://spring96.org/files/book/ru/2017\\_prison\\_conditions\\_ru.pdf](https://spring96.org/files/book/ru/2017_prison_conditions_ru.pdf)

### *Maternal, child and reproductive health (Question 26)*

9.20. The main problems in this area are the ongoing interventions in the field of reproductive health by religious organizations and the consequences of the COVID-19 pandemic.

9.21. Preventive “conversations” in the form of psychological pressure about the dangers of abortions still can be held with women.<sup>75</sup> Very often such conversations are nothing else but psychological pressure, which is exerted on women, who have already made a final decision.

9.22. Also, during the pandemic, there were a lack of places in obstetric departments, as well as overprotection of women, who were contacts of 1st grade, for example, they were forbidden to breastfeed their children, despite the absence of such recommendations from the WHO.<sup>76</sup>

#### *Recommendation:*

- Provide appropriate conditions, excluding inhuman or degrading treatment, for people in detention for the proper realization of the right to health

### **Right to education**

10.1. Over the past 10 years, the number of preschool education institutions has decreased from 4,099 in 2010 to 3,799 in 2020 (8%). At the same time, the number of pupils in such institutions increased from 383977 in 2010 to 424 071 in 2020 (10%). The same trend is in the system of general secondary education, the number of institutions has decreased by 21% over 10 years, while the number of pupils has increased by 10% over the same period. In higher education institutions, there have been 10 percent reductions in the number of universities, which, however, cannot be compared with the reduction in the number of students of higher education institutions in the country, which has decreased by 74% over the past 10 years<sup>77</sup>.

10.2. In spite of article 13(2(b)) of the ICESCR that claims that secondary education shall be made generally available, only about 1,5% of preschool and general secondary education institutions in the Republic have a complete barrier-free environment. In other cases, an adaptive educational environment is being created, there are about 20% of such institutions of preschool and general secondary education<sup>78</sup>.

10.3. Inclusive educational practice in Belarus is limited, it is experimental and unstable in many respects. More than half of children with special needs are still enrolled in special boarding schools. The education of many people with disabilities is difficult due to the lack of a specially prepared "barrier-free environment" in educational institutions, insufficiently developed infrastructure, physical inaccessibility of educational institutions. Many educational institutions are still not equipped for the movement and education of people with disabilities.

10.4. Another problem hindering the introduction of integrated forms of education is related to the problems of staff. Integrated training requires the training of appropriate specialists. To date, in the regional state institutes of advanced training and retraining of managers and education specialists, retraining of integrated training specialists has been opened, a special course "Integrated Training" is being taught at the faculties of special education (defectology faculties). However, there are personnel problems. Firstly, educational institutions are not yet fully ready to accept a large number of students into integrated classes and groups, since there is a problem of a shortage of relevant specialists (teachers, assistants). Secondly, the professional training of teachers of general education at the moment is not sufficient for the implementation of an inclusive approach. The situation is complicated by the lack of special teaching materials, manuals, teaching aids and training programs<sup>79</sup>. As a result, due to the low quality of educational process and pressure from the side of administration, many students, still being officially listed in integrated classes, are excluded from the educational process in educational institutions and are forced to transfer to home-based education.

10.5. The problems of staff lead also to the lack of cooperation between parents (legal representatives) and specialists of health care, education and social welfare systems. Thus, the participation of parents

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<sup>75</sup> see the commentary on the 2020 National Human Rights Index peer review on the right to health: [https://belhelcom.org/sites/default/files/13.\\_pravo\\_na\\_zdorove\\_2020.pdf](https://belhelcom.org/sites/default/files/13._pravo_na_zdorove_2020.pdf)

<sup>76</sup> ibid

<sup>77</sup> Main statistical indicators of the Main Information and Analytical Center Ministry of Education of the Republic of Belarus <http://www.giac.by/statistika/pokazateli.php>

<sup>78</sup> Inclusive education in the Republic of Belarus - <http://sch178.minsk.edu.by/ru/main.aspx?guid=246171>

<sup>79</sup> <http://lib.i-bteu.by/bitstream/handle/22092014/4500/Маринчик%20А.Н.%20К%20вопросу.pdf>

in the educational process occurs mainly at the initiative of the parents themselves (provided that they are aware of their rights) and in the presence of a benevolent attitude from the educational institution.

10.6. In general, the level of awareness of parents (legal representatives) about the rights of children with disabilities is low, especially in small towns and rural areas. In some cases, state administration/specialists do not provide to them full information on the rights, services and opportunities guaranteed to children by law (for example, on the possibility of personal assistance, or free transportation to educational institution, etc.). In other cases – they provide false information. As a result, even the rights established by law are not exercised in practice, and best interests of a child are not ensured. For example, to extend the term of pre-school education some administrations demand that a child should receive a psychiatrist's diagnosis of mental retardation. Belarusian legislation does not contain such a norm, and this term can be extended for other reasons. However, a diagnosis of mental retardation, once being received by a child, severely limits his future educational possibilities, in accordance with Resolution 128 (see para. 10.5).

10.7. The UN Convention on the Rights of Persons with Disabilities prohibits the exclusion of an individual from the general education system on the grounds of his or her disability (par. 2 a, article 24). However, the Resolution of the Ministry of Health of the Republic of Belarus of December 22, 2011 No. 128 "On the definition of medical indications and contraindications for education" continues the practice of exclusion of a wide group of children from the general education system based on medical grounds. The Resolution does not only exclude entire groups of children from the general education system, but the special education system itself embodies the idea of segregation, directing each type of deficit (indicated in medical documents) into a separate type of educational institution. These norms are discriminatory in their nature and lead to a formal approach in determining an educational route for a child, where the medical diagnosis becomes more significant than real potential and needs of a child<sup>80</sup>. In addition, procedures used to diagnose a child with developmental disorders are often outdated, controversial and shallow, which leads to the cases when serious diagnoses of intellectual disability are given to a child after a half-an-hour medical examination.

10.8. Starting from September 2020 the state practices arbitrary expulsions of students from higher education institutions, without hiding the political motivation of such expulsions. Employees of university administrations expel unwanted students and dismiss tutors, make false statements in courts, write far-fetched statements to law enforcement agencies and threaten in personal conversations. According to the Honest University organization, 1,467 students and teachers have become victims of repression or faced pressure from within universities, 149 tutors, lecturers and professors were dismissed<sup>81</sup>. Over the past year, the association of Belarusian students, together with partners, collected evidence of 492 detentions of students, 246 facts of politically motivated expulsions, as well as 52 criminal prosecutions against students<sup>82</sup>. The Minister of Education justifies the actions of the heads of educational institutions, stating "we are not fighting with dissent and the civic position of students, but with the manifestation of legal nihilism on the part of individual young people."<sup>83</sup> Arbitrary expulsions have been going on for more than a year, students continue to be detained right in the university building, cases are not isolated and are not subject to counting<sup>84</sup>.

10.9. Article 13(2(e)) of the ICESCR proclaims that an adequate fellowship system shall be established for a system of schools at all levels. In practice, students who studied at higher education institution at the expense of the republican budget (scholarships) are subjected to the distribution procedure after the graduation – the procedure for determining the graduate's place of work, carried out by a state educational institution in order to meet the needs of state's economic and social sectors in specialists, workers, employees<sup>85</sup>. The term of compulsory work on the distribution is 2 years during which graduates are tied to a certain job, which significantly restricts their freedom of choice<sup>86</sup>. In case of

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<sup>80</sup> for further information see ALTERNATIVE REPORT by coalition of Belarusian NGOs on implementation of the Convention on the Rights of the Child in the Republic of Belarus, prepared to 83rd Session of the Committee on the Rights of the Child:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fBLR%2f42016&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fBLR%2f42016&Lang=ru)

<sup>81</sup> <https://hu-repressions.honest-people.by/ru>

<sup>82</sup> [https://zbsunion.by/news/pressure\\_on\\_students](https://zbsunion.by/news/pressure_on_students)

<sup>83</sup> <https://ctnews.ru/post/putin-zayavil-cto-pravitelstvo-gotovo-podnyat-pensii-grazhdan-vyshe-urovnya-inflyacii>

<sup>84</sup> the link to the source cannot be given, since the Belarusian authorities arbitrarily recognized all the information posted on this resource as extremist materials

<sup>85</sup> Education Code of the Republic of Belarus, article 83(1)

<sup>86</sup> Education Code of the Republic of Belarus, article 83(3)

refusal to undergo the distribution procedure, the amount of compensation is collected from graduates in court proceedings, which often exceeds many times the tuition fee set for students who pay for their studies at a higher education institution at their own expense (often the amount of compensation reaches 10000-15000 euros)<sup>87</sup>.

## Cultural rights

### *Access to education in native language (Question 29)*

11.1. Despite the fact that state recognizes Russian and Belarusian as the two official languages under the Constitution of the Republic of Belarus, the percentage of children studying in the Belarusian language dropped from 12.1% in the 2014/2015 academic year to 10.1% in the 2020/2021 which reflects the inequality of the two languages in the education system<sup>88</sup>.

11.2. About 11% of school-age Roma children do not attend school because their parents do not insist on this, for their poor in-class performance, and due to the insufficient resources in their families to buy school clothes and supplies<sup>89</sup>. In 2017, the Committee on the Elimination of Racial Discrimination made it visible for Belarusian authorities with a recommendation to ensure that all children, including Roma children, are able to exercise their right to inclusive and qualitative education<sup>90</sup>. Despite the fact that the Polish minority is the second largest in Belarus and amounts to about 294,000 people, only about 1% of their children receive education in their native Polish language. The authorities restrict the presence of Polish teachers, citizens of the Republic of Poland, who work in public schools as volunteers. Statistics of children studying in their native language are not published and are not available to experts from the civil sector, including from organizations of national minorities.

### *Violations in the sphere of the realization of cultural rights and human rights in relation to cultural figures*

11.3. The years 2020-2021 were a time of unprecedented pressure on cultural figures for the entire period of independence of the Republic of Belarus. According to the Belarusian PEN Center, 600 cases of human rights violations against cultural figures were recorded in 2020. At the end of 2020, human rights activists recognized 169 people political prisoners. Among them, 15 people are cultural figures. Violations affected more than 500 cultural figures, 27 organizations and cultural institutions (theaters, philharmonic societies, educational institutions in the field of culture: Academy of Art, Conservatory, University of Culture). According to open and public data alone, 130 people were dismissed from state cultural institutions in 2020. The reason for the dismissals is the persecution for dissent against people who openly expressed disagreement during the 2020 presidential election. The practice of banning Belarusian performers from performing in Belarus has resumed ("black lists" of performers who are prohibited from allocating places for performances in public and private concert halls and venues). Concerts on the streets, in courtyards, cafes and clubs are recognized as prohibited mass events, performers and spectators themselves are held responsible for participation and are punished with administrative arrest<sup>91</sup>.

11.4. In 2021, the level of repression against cultural figures has increased compared even with 2020. According to the Belarusian PEN Center, 1,445 human rights violations cases against cultural figures were recorded in 2021, violations affected at least 635 people. By the end of 2021, human rights activists recognized 962 people as political prisoners. Among them there are 70 cultural figures: writers, poets, artists, musicians, cultural managers. In 2021, the Belarusian authorities launched a campaign to liquidate public organizations. It is reliably known about at least 20 public (non-profit) cultural organizations that were closed in 2021. Among them are the Belarusian PEN Center, the Belarusian Language Association, the Belarusian School Association, the Writers' Union. Only in 2021 we can confirm at least 250 facts of dismissals of cultural figures from state cultural institutions for dissent. The dismissals affected employees of the Philharmonic society, theaters, musicians of state

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<sup>87</sup> "The Regulation on the procedure for reimbursement to the republican and (or) local budgets of funds spent by the state on the training of a highly qualified researcher, specialist, worker, employee" was approved by Resolution of the Council of Ministers of the Republic of Belarus No. 821 on 22.06.2011; <https://www.intex-press.by/2018/06/05/chto-grozit-molodomu-spetsialistu-pri-otkaze-ot-obyazatelnoj-otrabotki/>; <https://citydog.by/post/raspred-ask/>; <https://www.currenttime.tv/a/30459903.html>

<sup>88</sup> <https://www.intex-press.by/2021/07/20/skolko-shkolnikov-obuchaetsya-na-belorusskom-yazyke/>

<sup>89</sup> [http://romaintegration.by/?page\\_id=7](http://romaintegration.by/?page_id=7)

<sup>90</sup> CERD/C/BLR/CO/20-23, para 23-24

<sup>91</sup> <https://penbelarus.org/2021/01/28/bez-prava-na-kulturu-belarus-2020.html>

orchestras, teachers of art, literature, employees of republican and regional museums. Cultural workers who are dismissed actually find themselves without the opportunity to get a job in other state institutions of culture and education. The Soviet practice of widespread censorship and self-censorship has been returned to theaters and concert venues. Literary works are subject to examination for extremist content, are removed from the shelves of bookstores and libraries<sup>92</sup>.

*Recommendations:*

- Take concrete steps to ensure access to education in the native language;
- Stop all forms of harassment for expressing one's opinion in various cultural forms

### **Other issues**

*Unavailability of some statistics related to economic, social and cultural rights*

12.1. For the second year in a row, the National Statistical Committee of the Republic of Belarus (Belstat) does not publish statistics on fertility, mortality and migration.

12.2. In addition, Belstat did not publish the number of pensioners in the collection "Socio-economic situation of the Republic of Belarus in January-November 2021". In previous collections, the agency posted this information with reference to the data from the Ministry of Labor and Social Protection of the Population. For example, at the beginning of November 2021, according to official statistics, there were 2 million 422.2 thousand pensioners in Belarus. It should be noted that this figure was the same at the beginning of October. In September and August 2021, there were 32.3 thousand fewer pensioners.<sup>93</sup>

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<sup>92</sup> <https://penbelarus.org/2021/10/18/bel-ru-manitoryng-parushennyau-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kulturny-studzen-verasen-2021.html>

<sup>93</sup> the link to the source cannot be provided, since the Belarusian authorities arbitrarily recognized all the information posted on this resource as extremist materials