

**Oral Statement of the Coalition of Belarusian Human Rights NGOs<sup>1</sup> to HRC<sup>2</sup>****General measures for the protection and promotion of civil and political rights**

1. The human rights organisations welcome the submission of the first in the past 20 years periodic report of Belarus to the Human Rights Committee. At the same time, we express our concern that representatives of the human rights organisations are virtually not involved in the process of preparing of periodic country reports. In particular, during the preparation of the report to the HRC, the Government failed to arrange consultations with human rights organisations. Representatives of the NGOs were only invited to a presentation after the report had already been submitted by the state to the Committee.
2. Since May 2015 when Belarus passed the 2<sup>nd</sup> cycle of the UPR, there have been no significant positive developments in the legislative and institutional framework of the promotion and protection of human rights in the country. Many of the recommendations made during the 2<sup>nd</sup> cycle of the UPR remain relevant.
3. As a positive development, we note the adoption by the Government of the Interdepartmental Plan for the implementation of recommendations of the UPR and the UN treaty bodies.<sup>3</sup> Unfortunately, the Plan failed to take into account most of the proposals by the human rights organisations, including those aiming at improving legislation on freedom of association. We believe that the Interdepartmental Plan was not used to its full potential. One of the reasons for that is the lack of involvement of civil society organisations in its preparation and implementation.
4. We note with regret that the authorities continue to ignore the Human Rights Committee considerations on individual communications. Of particular concern is the neglect of the HRC interim measures requests. These measures are designed to avoid irreparable harm to the victims of alleged violations. In relation to Belarus, the Committee requested interim measures in relation of at least 11 persons who submitted individual communications to the Committee. These persons were awaiting the execution of the death penalty; none of these granted measures were effectuated by the Belarusian authorities.
5. To date, the authorities have not demonstrated any serious progress in the establishment of a national human rights institution.
6. To date, Belarus has not adopted comprehensive anti-discrimination legislation. Nor has it enforced efficient mechanisms for ensuring equality and protection against discrimination. Widespread are cases of discrimination against vulnerable groups, in particular, the Romani people, persons with disabilities, LGBTI people, women, etc.

**Situation with individual civil and political rights***Right to life*

7. The Government has failed to properly investigate the cases of forced disappearances of political opponents of the regime in 1999-2000, despite strong evidence of involvement of the country's top officials in these disappearances. The state has not undertaken an effective investigation that could expose these crimes. The perpetrators are still not found, the criminal cases have not been

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<sup>2</sup> Prepared in cooperation with the Helsinki Foundation for Human Rights (Warsaw, Poland)

<sup>3</sup> Available at: <http://www.government.by/ru/solutions/2661>

brought to court, the relatives of the missing politicians have not received adequate compensation from the state. Between 1999 and 2018, there has been no information on any investigation activities conducted by the authorities in these criminal cases.

8. Despite recent tendency of a significant reduction in the number of death sentences and executions, Belarus continues to use the death penalty. In total, between 1997 and February 2018, it is known that death sentences have been imposed on 166 persons. Due to the lack of information from the state, it is not exactly known how many of the sentences were followed by executions. The practice of imposing death sentences by the Supreme Court as the court of first instance is still in place, which, according to the law, excludes the possibility of appealing against the verdict. The death penalty in Belarus is executed non-publicly by shooting, the date and place of the execution are not disclosed, the bodies of executed prisoners are not given to the family, and the place of burial is not reported. The UN HRC has repeatedly recognized these procedures as cruel and inhuman treatment of relatives of those executed.

#### **Prohibition of torture and ill-treatment**

9. There is strong evidence that torture and ill-treatment continue to be used in the institutions of the Ministry of Internal Affairs and the KGB. Detailed information on the problems associated with existence of torture and ill-treatment in Belarus was presented in the [Alternative Report](#) by a coalition of human rights organisations from Belarus during the 63<sup>rd</sup> session of the Committee against Torture. We support the CAT's [Concluding Observations](#) on this issue and call on the authorities to begin working on prevention of torture and ill-treatment in cooperation with civil society.

#### *Prohibition of slavery, servitude and forced labour*

10. Although the Constitution of Belarus provides for the prohibition of forced labour, there are multiple examples that it is used in practice especially within the system of medical labour camps, compulsory employment of parents obliged to reimburse the costs of maintaining children after deprivation of parental rights by the court (obligated persons), forced labour during the community work days (subbotniks), as well as sending students and employees of government enterprises to perform agricultural work.

#### *Right to a fair trial. Independence of judges and lawyers*

11. Despite certain positive steps in reforming the judicial system, a number of problems remain in the area of independence of the judiciary. These problems undermine the independence of judges and affect the exercise of the right to a fair trial. The judiciary remains under major influence of the President and his Administration, including direct impact on appointments, dismissals and disciplinary proceedings of judges and lawyers.
12. In Belarus, there is no real independence and self-management of the bar associations and freedom to exercise the profession of a lawyer. The Ministry of Justice is given broad powers in the area of administration of lawyers' activities, in particular, admission to the profession through licensing, monitoring both the activities of individual lawyers and the institution of the bar as a whole.

#### *Freedom of speech*

13. In 2018, new legislative changes significantly expanded the governmental control over the Internet in Belarus. In particular, a permit-based procedure was introduced for the registration of online media. Without such registration the employees of news websites lose the status of journalists. The news portals are obliged to install the mandatory identification of website visitors. The amendments extend liability to all online resources, even those not registered as media outlets. That said the possibility of bringing an appeal to court against administrative decisions to block websites is a positive change to the Law on the Mass Media. It is still a widespread practice to penalise journalists for collaborating with foreign media without accreditation (as of 20 September 2018, at least 77 cases of prosecution of journalists have been reported, the total amount of fines was about USD 32,000).

### **Freedom of peaceful assembly**

14. Belarusian legislation contains excessive restrictions on the right to peaceful assembly. The legislative amendments adopted in 2018 can hardly be perceived as progress in implementation of this right. The new law provided for the possibility of holding certain types of meetings under the notification-based procedure. However, such meetings can be held only in specially designated places, which, as a rule, are located far from the centres of the cities and potential target audience of the meetings. The law introduced the possibility of imposing administrative sanctions (a fine of approximately USD 2,450) on non-profit organisations for violation of the procedure for organising and holding meetings.
15. Currently, the Investigative Committee is investigating a criminal case against journalists of a number of private media outlets. They are charged with “unauthorized access to computer information” of the government-owned news agency BelTA. Searches were carried out in the offices and homes of journalists. At least 10 journalists were declared as suspects in the case. We consider this to be a gross violation of freedom of speech and obstructing the activities of the media, while the actions of law enforcement agencies are clearly excessive.

### **Freedom of association**

16. Belarus continues excessively restricting the freedom of association. The procedure for the state registration of public associations, parties, and their local branches, as well as foundations is complex and burdensome, leaving the possibility for the state registration authorities to arbitrarily refuse to register any organisation. There is a ban on the activities of various forms of non-profit organisations without state registration, including public associations and religious organisations. Violation of this ban can lead to up to two years in prison (Article 193.1 of the Criminal Code). Possibilities for non-profit organisations to receive funding from both domestic and foreign sources are significantly limited.
17. We view the recent actions of the authorities to abolish Article 193.1 of the Criminal Code as an important and necessary step towards improving the situation with freedom of association in Belarus. At the same time, we state that the intention to replace criminal responsibility for the activities of unregistered organisations with administrative liability indicates a lack of political will to ensure real freedom of association in the country.
18. On 24 August 2018, the leaders of the independent trade union REP, Henadz Fiadynich and Ihar Komlik, were sentenced to 4 years of restriction of freedom without imprisonment; they were found guilty of large scale tax evasion. They are also prohibited from holding managerial positions for the period of 5 years. The human rights community of Belarus views the case as an attack on the independent trade union movement due to their activity and the desire of the authorities to intimidate civil society organisations in Belarus.