

Belarus restores criminal penalties for the unregistered CSOs under “article 193-1”

On 21 December, the lower chamber of the Belarusian parliament adopted in two readings at a time the law restoring criminal liability for the activities of CSOs without state registration. Under the decision, the infamous Article 193-1, which had been criticized as not conforming to human rights standards and suspended since July 2019, now will return to the Criminal code.

Previously, during the first edition of Article 193-1, which was in force from 2005 to 2019, sentences under it have been issued against at least 18 people, and many dozens have been 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.

Belarus has very strict registration requirements for CSOs, which provide the authorities with a wide range of possibilities to arbitrarily deny registration to any new organization. Moreover, the return of Article 193-1 is extremely troubling after about 500 CSOs were involuntarily liquidated by state decisions or self-imposed dissolved because of the non-friendly legal environment or because of “recommendations from the authorities” in the summer and autumn of 2021. The re-introduction of this punishment under the Article 193-1 could become a new tool of repression and silencing of civil society.

The text of the proposed article is almost identical to that which existed before 2019. The same is also restored the penalty as in the previous edition of Article 193-1: a money fine, or arrest for up to three months, or imprisonment for up to two years.

The only novelty is the clause that Article 193-1 would not apply in cases where the more severe Article 423-1 of the Criminal Code, concerning violations of decisions to suspend organizations recognized as extremist, would apply.

AMENDMENTS TO THE CRIMINAL CODE OF THE REPUBLIC OF BELARUS (after second reading)

ARTICLE 193.1 “THE ILLEGAL ORGANIZATION OF THE ACTIVITIES OF A PUBLIC ASSOCIATION, RELIGIOUS ORGANIZATION OR FOUNDATION OR PARTICIPATION IN THOSE ACTIVITIES”.

The organization of activities or participation in the activities of a political party, other public association, religious organization or foundation in respect of which a decision of the public authority on its liquidation or suspension of its activities has entered into legal force, as well as the organization of and participation in the activities of political parties, other public associations, religious organizations or foundations which has not obtained state registration as prescribed by law, if there are no indications of a crime under Article 423-1 of this Code, -- punishable by fine or arrest, or imprisonment for a term up to 2 years.

Notes:

1. By participating in the activities of political parties, other public associations, religious organizations or foundations in this article there are meant actions aimed at achieving the objectives of this parties, public associations, organizations or foundations, including those identified in the organizations’ statutory and other documents.

2. This article shall not apply to the organization of activities or participation in those of political parties, other public associations, religious organizations or foundations in respect of which a decision of the public authority on their suspension has entered into force, in case when these activities are aimed at elimination of the violations that had given rise to suspension of activities, and to the organization of activities or participation in the activities of political parties, other public associations, religious organizations or a foundations which is connected to obtaining their state registration as prescribed by law.

3. A person who voluntarily terminates his/her activities, punishable under this article, and informs government bodies about this decision, shall be exempt from criminal liability if he/she has not committed other crime. This provision does not apply to persons who have committed similar acts in 2 years following the voluntary termination of activities, punishable under this article.

The newly established Article 193-1 will enter into force after it has been passed by the Upper House, passed the preliminary constitutional checking stage, signed by the president, and 10 days after official publication.

According to the joint [OSCE/ODIHR and Venice Commission Guidelines on Freedom of Association](#), 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 on Article 193-1 of the Belarusian Criminal Code stated that "by its very existence 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. See more: [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 \(Venice, 14-15 October 2011\)](#)