

# CSO METER

A compass to conducive  
environment and  
CSO empowerment

---

**BELARUS 2021**  
**COUNTRY REPORT**





European Center for  
Not-for-Profit Law



Funded by the  
European Union

## CSO Meter 2021: Belarus Country Report

European Center for Not-for-Profit Law Stichting (ECNL) is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL creates knowledge, empowers partners and helps set standards that create, protect and expand civic freedoms.

The 'CSO Meter: A Compass to Conducive Environment and CSO Empowerment' project is implemented by ECNL and its partners: Transparency International Anticorruption Center in Armenia; MG Consulting LLC in Azerbaijan; Civil Society Institute in Georgia; Promo-LEX Association in Moldova; and the Ukrainian Center for Independent Political Research (UCIPR).

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of ECNL and do not necessarily reflect the views of the European Union.

Copyright © 2022 by ECNL Stichting. All rights reserved.

TABLE OF

# CONTENTS

<b>ABBREVIATIONS</b>	<b>4</b>
<b>I. EXECUTIVE SUMMARY</b>	<b>5</b>
<b>II. BELARUS – IN NUMBERS</b>	<b>12</b>
<b>III. FINDINGS</b>	<b>14</b>
3.1 FREEDOM OF ASSOCIATION	14
3.2 EQUAL TREATMENT	31
3.3 ACCESS TO FUNDING	34
3.4 FREEDOM OF PEACEFUL ASSEMBLY	39
3.5 RIGHT TO PARTICIPATION IN DECISION-MAKING	47
3.6 FREEDOM OF EXPRESSION	52
3.7 RIGHT TO PRIVACY	59
3.8 STATE DUTY TO PROTECT	61
3.9 STATE SUPPORT	68
3.10 STATE-CSO COOPERATION	74
3.11 DIGITAL RIGHTS	75
<b>IV. KEY PRIORITIES</b>	<b>81</b>
<b>V. METHODOLOGY</b>	<b>83</b>
<b>VI. REFERENCES</b>	<b>85</b>

# ABBREVIATIONS

---

AML	Anti-money laundering
AML/CTF	Anti-money laundering and counter-terrorism financing
BPF	Belarusian Popular Front 'Revival' ( <i>Bielaruski Narodny Front 'Adradžeńnie'</i> )
BRYU	Belarusian Republican Youth Union ( <i>Belorusskij respublikanskij sojuz molodeži</i> )
BYN	Belarusian Rouble
CSO	Civil society organisation
CSR	Corporate social responsibility
EAG	Eurasian Group on Combating Money Laundering and Financing of Terrorism
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIDH	International Federation for Human Rights
FRT	Facial recognition technology
GDP	Gross Domestic Product
GONGO	Government-organised/operated non-governmental organisation
ICCPR	International Covenant on Civil and Political Rights
ICIT	International Committee for the Investigation of Torture in Belarus
ICT	Information and communications technology
KGB	Committee for State Security of the Republic of Belarus
LGBTQIA+	Lesbian, gay, bisexual, transgender/transsexual, queer/questioning, intersex, asexual
NGO	Non-governmental organisation
NCO	Non-commercial organization
OSCE	Organization for Security and Cooperation in Europe
USAID	United States Agency for International Development
USD	United States Dollars

# I. EXECUTIVE SUMMARY

---

In 2021, the environment for civil society organisations (CSOs) in Belarus has significantly deteriorated at both the legislative and practical levels. Deterioration has been observed in all ten parameters that were subject to analysis in the previous CSO Meter reports and is also reflected in the extremely low indicators in the new, additional Area II - Digital Rights. In 2021, a number of new restrictive practices which are not in line with international standards have occurred in this new reporting area.

At the political level, the Republic of Belarus has suspended its participation in the Eastern Partnership (EaP)<sup>1</sup> programme, and the government of Belarus has announced a new political course aimed at the destruction of CSOs. Under these conditions, numerous Belarusian CSOs have either fully or partially transferred their activities abroad and the CSOs and media that remain in the country operate under conditions of censorship, self-censorship, repression and the constant threat of arrest. The work undertaken to improve the conditions for CSOs over recent decades has been effectively undone in 2021 (with even more damage occurring to the CSO environment than in 2020).

The general context of the situation in Belarus is characterized by the continuation of the political crisis that emerged after the disputed presidential elections in Belarus in August 2020, the outburst of protests that followed and the repressive campaign to suppress them. In the first half of 2021, the authorities' new repressive practices were consolidated in a package of legislative measures that systematically and broadly restrict public activities (not only at the CSO level, but also on an individual level). Notably, these measures have taken the form of extra legislative powers accorded to the criminal prosecution bodies, the expansion of possible measures to combat so-called 'extremism', the easing of regulations on the use of weapons by security forces, the introduction of additional restrictions on freedom of assembly and the introduction of harsher penalties for political crimes (longer sentences and larger fines, along with broader and differentiated descriptions of penal acts that constitute *corpus delicti*).

The very serious abuses of the standards monitored in this report in 2020 have been legalised and incorporated into law during 2021. And, conversely, strict laws that had not previously been enforced began to be used in practice. This process of

---

<sup>1</sup> Ministry of Foreign Affairs of the Republic of Belarus. Statement by the Press Service of the Ministry of Foreign Affairs of the Republic of Belarus (in Russian), [https://mfa.gov.by/press/news\\_mfa/e0c39160d2580d78.html](https://mfa.gov.by/press/news_mfa/e0c39160d2580d78.html).

harmonisation of restrictive laws and negative practices has affected all of the areas monitored in this report.

In the first half of 2021, new laws legalised the repressive actions of the authorities that had been used only arbitrarily since 2020. These laws have been broadly used against dissidents, political opponents, members of political parties, human rights defenders, journalists, leaders and activists of CSOs and informal groups (including online communities and chats), participants and initiators of protest actions, including attempts to hold legal peaceful assemblies, as well as against individuals who have publicly expressed their disagreement with the authorities' policies or opinions which are different from the official ones. Instances of searches, arrests, tax inspections and the bringing of charges against relatives of activists and politicians, including against individuals who have left Belarus, also significantly increased in 2021.

Taken together, the repressive measures taken by the authorities in the first half of 2021 have completely erased the space for exercising the right to hold peaceful assemblies. This has now de facto only become available to groups and individuals who express support for the actions of the authorities and at the initiative of the authorities.

In 2021, the degree of restriction on freedom of expression has significantly increased. The already existing and new legal norms have been used for the almost total destruction of the bulk of the most popular independent media, both in print and digital, local and regional. This elimination of independent media has been accompanied by criminal cases against numerous journalists and editors, including those from foreign media.

Media websites, printed publications (including books), Telegram channels, YouTube channels and social media pages and accounts, communities in Telegram messenger and other information resources have, in their thousands, been deemed to be 'extremist materials'. At the same time, reprinting such materials, linking them in internet publications or using their logos has started to be punished with arrests and fines for distribution of the so-called 'extremist materials'.

Throughout 2021, several dozen groups, including media registered in Belarus and their editorial offices, have been declared as 'extremist formations' under the new non-public procedure of the Ministry of Internal Affairs and the Committee for State Security (KGB), which does not provide for judicial examination. New amendments to the Criminal Code have stipulated that belonging to such formations is also a crime. According to the Belarusian Association of Journalists, there is no information about any of these entities complaining to the court about the decision to include them in the list.

Also during 2021 and especially in the second half of it, the focus of restrictions on freedom of expression shifted from the public sphere to the private sphere. Cases of criminal or civil prosecution for dissemination of information in private correspondence or ‘storage of extremist materials’ on personal smartphones have become frequent. Comments, likes and shares of opposition media publications online are often grounds for civil arrests or fines and sometimes even for criminal prosecution. Refusals to provide personal smartphones for inspection are classed as disobedience and punished with arrests and fines.

In general, the new criminal articles are mostly used for political repression that relates to restrictions on freedom of assembly (the articles qualify peaceful assemblies as ‘mass riots’ or ‘actions that grossly violate public order’), freedom of expression (qualified as, for instance, distribution of extremist materials, incitement of hatred, calls for sanctions against Belarus, Nazi propaganda, insulting the president, insulting a judge, insulting an official, or hooliganism), and the possibilities to fund public activities (qualified as financing extremism, terrorism, actions that grossly violate public order, or tax violations). Norms relating to the protection of personal data, including criminal liability for the disclosure of personal data, are also used as a tool to restrict civil activities (for example, due to publications of data by law enforcement officers who testify in court wearing face masks or participate in searches and torture).

It is difficult to establish exactly the total number of criminal prosecution cases, but it significantly exceeds the figure for 2020 and constitutes charges against several thousand people. In September 2021, the Prosecutor General’s Office, the courts and the Investigative Committee reported about 5,000 criminal cases relating to protests, while 40 per cent (2,000) of criminal cases related to cases of defamation and insult of officials.<sup>2</sup> However, the total number of cases relating to prosecutions against civil society may be much higher when alleged tax crimes and other types of crimes are taken into account. According to the newspaper *Nasha Niva*, which relies on data from the Investigative Committee on the total number of crimes, political cases make up about six per cent of all criminal cases, and, in 99.9 per cent of cases, these end in a guilty verdict, most often followed by imprisonment or some limitation of freedom.<sup>3</sup>

As of the end of 2021, human rights defenders are aware of around one thousand political prisoners. However, this list includes only people in respect of whom there is

---

<sup>2</sup> BelTA. 20 September 2021. ‘Investigative Committee on protests cases, the tragedy near Baranavichy and the incident in Riga’ (in Russian), <https://www.belta.by/interview/view/sk-o-protestnyh-delah-tragedii-pod-baranovichami-i-insidente-v-rige-7920/>. In mid-February 2022, the Supreme Court reported that ‘since August 2020, 1,832 people have been convicted of crimes that relate to protests actions. 168 of these were convicted of organising or participating in mass riots, 396 of group actions that violate public order, 468 of insulting officials, 29 of defamation, 126 of hooliganism, 86 with desecration of state symbols. 27 verdicts were delivered for incitement of social hatred. 7 people were sentenced for conducting acts of terrorism’ (in Russian), <https://www.belta.by/society/view/kalinkovich-nazval-spravedlivymi-reshenija-suda-v-otnoshenii-uchastnikov-protestov-484941-2022/>.

<sup>3</sup> *Nasha Niva*. 18 April 2022. ‘About 5,000 political criminal cases are initiated in Belarus per year’ (in Belarusian - у Беларусі заводзіцца каля 5000 палітычных крымінальных спраў за год).

reliable information that they have been formally charged. Human rights defenders have included around 1,500 people in the list of those convicted in political cases (including penalties not related to deprivation of liberty) and more than 2,400 people in the list of individuals charged in political criminal cases. At the same time, in many cases, past events from 2015-2018 and images or footage from protest actions in 2020 became the grounds for criminal cases.

Thus, the main restrictions for civil society, including those that have led to an unbearable environment for CSOs, were aimed at the level of individual repression and putting pressure on citizens. Detentions and acts of repression, as noted by human rights CSOs, are becoming more and more difficult to monitor and record in 2021 because of pressure on all groups engaged in such human rights monitoring activities.

In the spring of 2021, the Belarusian authorities voiced a threat to proceed with the destruction of already structured civil society, namely CSOs. This was justified by the intention to respond to the policy of sanctions against Belarus by foreign states. The authorities proceeded to implement this programme in July 2021 via a wave of searches and arrests across the CSO space. Many activists became suspects in criminal cases (including tax crimes charges and funding investigations) and a campaign on involuntary liquidation of CSOs was also launched. In total, more than 360 CSOs of various levels fell under involuntary liquidation in a judicial or non-judicial procedure, another 210 CSOs decided to voluntarily liquidate themselves (most commonly on the recommendation of the authorities or having realised the impossibility of operating in such harsh conditions).

It is noteworthy that a very broad range of CSOs fell under liquidation, including those that were not involved in protests or political activity and even those that had good relations with the authorities. The sanctions aimed at the destruction of civil society were directly announced by the President of Belarus Alexander Lukashenko in June 2021, just before the start of campaigns for the liquidation of hundreds of CSOs. At a meeting on 13 July with Russian President Vladimir Putin in St Petersburg, Lukashenko stated that the Belarusian government had started a vigorous campaign to crack-down on various not-for-profit organisations, non-governmental organisations, and so-called Western mass media 'which have been gifting democracy here or actually implanting democracy. And not democracy but all this terror.'<sup>4</sup> Taken together, it seems that the destruction of CSOs was not so much (or not only) motivated by revenge for the events of 2020, but rather as a preparation for future events, coordinated with the Russian authorities. Already in August-November 2021, Belarusian CSOs, having faced de-legalisation, were unable to provide assistance to

---

<sup>4</sup> BelTA. 13 July 2021. 'Negotiations between Lukashenko, Putin in St Petersburg take over 5 hours', <https://eng.belta.by/president/view/negotiations-between-lukashenko-putin-in-st-petersburg-over-141638-2021/>.



the victims of the artificially-created ‘migration crisis’ at the EU-Belarus border or to effectively monitor the situation at the border.

The number of newly-registered CSOs in 2021 was the lowest in the last two decades (38 public associations, 3 unions and 7 foundations), while the total number of public associations decreased for the first time in many years.

Against the background of this dramatic deterioration of the conditions for freedom of expression and the continuing impossibility to exercise the right to peaceful assembly, as well as the campaign on prosecuting CSO activists and the liquidation of hundreds of CSOs, deteriorations in other areas were of less significance. In general, in other areas, laws and practices deteriorated within the framework of the existing regime. For example, in November 2021, amendments to the legislation regulating foreign funding of CSOs restricted the existing list of possible purposes for the receipt of foreign funding, introduced additional restrictions on foreign anonymous donations, and clarified some terms. There was also an expansion of the requirements for public reporting by CSOs, requiring that public associations and foundations include data on specific foreign donors when publishing their reports. While conducting legal reforms, the opinions of CSOs, including the recommendations from the previous editions of the CSO Meter report, were ignored and not implemented.

The adoption in May 2021 of the Law ‘On Personal Data Protection’, during the development of which CSO experts had participated, took place without regard to the proposals to establish an independent supervisory body. The new rules for data processing have made the work of CSOs much more difficult. The introduction of criminal liability for violation of these rules may potentially mean the creation of a new tool for the repression of CSOs. Some old and new Belarusian civil groups and CSOs have survived and continue operations in different areas, but Belarusian civil society has now essentially split into two large clusters:

- **Belarusian organisations inside Belarus.** This group includes both registered CSOs and unregistered non-formal initiatives (including virtual CSOs and those coordinated via social networks). It includes organisations which are emphatically loyal to the authorities (not including government-organised/operated non-governmental organisations (GONGOs), although, for a person inside Belarus, grassroots initiatives of the Belarusian Republican Youth Union (BRYU) and other similar GONGOs may appear to be little different from those of formerly independent organisations). The potential of CSOs close to or loyal to the authorities, including pure pro-governmental CSOs, to fulfil their declared function ‘to fill the niche of liquidated CSOs’ and to channel public activities into the direction desired by the authorities also remains unknown. At the same time, the space continues to shrink following the massive campaign of CSO de-legalisation in 2021, attacks against

independent trade unions in 2022, with religious organisations and political parties possibly next. Independent groups often try to make their activities anonymous, spontaneous or even hidden, sometimes masking them as commercial activities or individual actions not attributed to any specific CSO); and

- **Belarusian organisations outside Belarus.** This cohort is diverse, although united by the declared and expressed commitment to the Belarusian pro-democratic political agenda, which, however, is most often limited to statements of support for the new democratic opposition, which itself has also to a large extent relocated abroad. Moreover, these CSOs in some cases almost merge with political opposition organisations both at the level of their staff composition and at the level of their missions and project funding. However, despite this outward unity, this cohort is in fact non-homogeneous. Against the background of moral unity, the challenges that such CSOs face in carrying out their activities often vary and are determined by the specific environment in their host countries. Further, the conditions for their work often depend not only on the legal conditions for operation of CSOs in the respective country, but also on the political support of a government or ruling political group (and, for example, when the government changes or another party comes to power in that country, the conditions for their work may change). These CSOs enjoy a good level of funding from traditional donors (which comprise existing supporters of Belarusian CSOs), as well as wide publicity in the Belarusian media which itself has also largely relocated abroad. The majority of headline-making civil initiatives are voiced from abroad, with civil society inside Belarus acting as a kind of audience or beneficiary which these CSOs call on either to do something, to express support for their initiatives, or to state its need. Civil society within Belarus itself is almost never really defined as a decision-making actor, however.

The present CSO Meter report aims to define the conditions for operation of CSOs from the first category. Although the circumstances and factors set out in this report are most often of little significance for CSOs from the second category, and although they may perceive them as problems or even political challenges, the conditions within Belarus itself are not determinative for planning of their day-to-day activities.

The following key priorities identified in this report aim to stop the current pogrom against civil society, overcome the negative impacts of repression, and restore the basic conditions under which CSOs' activities are possible:

- the release of all individuals recognised as political prisoners,<sup>5</sup> the review and lifting of all sentences imposed on them and pending decisions on their liability, that adequate compensation be paid to all political prisoners and the ceasing of all politically-motivated criminal cases;
- to abolish the Law 'About Counteraction to Extremism' and all by-laws adopted under it, including the Index of Extremist Formations;
- to remove criminal responsibility for organising and participating in the activities of an unregistered organisation (article 193<sup>1</sup> of the Criminal Code) and abolish the ban on the activities of public associations without registration;
- to stop the practice of forced liquidation of CSOs, to cancel all court and local authorities' decisions on forced liquidation of public associations, foundations and private institutions made in 2020-2021;
- the cessation of all forms of pressure on CSOs, lawyers and human rights defenders, journalists and independent media, including the cessation of the state-led campaigns aimed at discrediting these groups in the media;
- to close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database and its equivalents), to avoid using facial recognition technology (FRT) and other techniques for identifying protesters, to cease tracking internet and mobile phone use to persecute individuals for their opinions, as well as to eliminate the legislative possibilities for and the practice of internet disruption and the blocking of websites without court decisions; and
- the cessation of the misuse of legislation and investigative powers relating to combating terrorism and anti-money laundering and counter-terrorism financing (AML/CTF) legislation to restrict freedom of expression and freedom of thought, as well as to restrict access to funding for charities and human rights and humanitarian CSOs.

Only after the above priority steps are taken will it be possible to realise any positive effects from the implementation of the previous recommendations as laid out in the full edition of the first CSO Meter Report for Belarus (November 2019).

---

<sup>5</sup> List of current political prisoners and guidelines on the definition of a political prisoner from Human Rights Center 'Viasna'.

# II. BELARUS - IN NUMBERS

## Basic data

**Population:** 9,255,524 (01.01.2022)<sup>6</sup> | **GDP per capita:** 6,424.152 USD (2020)<sup>7</sup> | **Number of CSOs:** 25 trade unions; 2,978 public associations (226 international, 785 national and 1,967 local); 227 foundations;<sup>8</sup> and an unknown quantity of private institutions that meet the criteria of a CSO. This number includes the several hundred CSOs for which decisions on liquidation were made during 2021 but that have not yet been excluded from the register of legal entities and have not passed all the stages of liquidation. | **CSOs per 10,000 inhabitants:** around 3.5 | **Registration fee for a CSO:** 14.5 BYN for private institutions; 145 BYN for local foundations and local public associations; 290 BYN for national and international public associations and for national and international foundations (approximately 5 EUR/50 EUR/100 EUR). Registration period is one month for public associations and foundations and one day (or a few days in practice) for institutions. | **Freedom in the World:** 11/100 (Not Free)<sup>9</sup> | **World Press Freedom Index:** 49.18 (158 out of 180 countries)<sup>10</sup>



**Country score:** 2.3  
**Legislation:** 2.8  
**Practice:** 1.8

*The scores range from 1 to 7, where 1 signifies the lowest possible score (extremely unfavourable – authoritarian - environment) and 7 signifies the highest possible score (extremely favourable environment).*

Areas	Overall	Legislation	Practice
Freedom of association	2.4	2.9	1.9
Equal treatment	2.7	3.2	2.3
Access to funding	2.4	2.7	2.0
Freedom of peaceful assembly	1.5	1.9	1.2
Right to participation in decision making	2.7	3.2	2.2

<sup>6</sup> National Statistical Committee of the Republic of Belarus, <https://belstat.gov.by>.

<sup>7</sup> The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=BY>.

<sup>8</sup> Data of the Ministry of Justice of the Republic of Belarus as of 1 July 2020, [https://minjust.gov.by/directions/compare\\_coverage/](https://minjust.gov.by/directions/compare_coverage/).

<sup>9</sup> Freedom House. Freedom in the World 2021, <https://freedomhouse.org/country/belarus/freedom-world/2021>.

<sup>10</sup> Reporters Without Borders. World Press Freedom Index 2021, <https://rsf.org/en/index?year=2021>.

Freedom of expression	2.0	2.4	1.6
Right to privacy	2.6	3.6	1.7
State duty to protect	2.0	2.6	1.4
State support	2.4	2.8	1.9
State-CSO cooperation	2.4	2.8	2.0
Digital rights	2.2	2.8	1.6

# III. FINDINGS

---

## 3.1 Freedom of Association

Overall score per area: **2.4/7**

Legislation: **2.9/7**

Practice: **1.9/7**

In 2021, the environment in Belarus, already extremely unfavourable for the exercise of freedom of association, including the rights to freely establish, participate in, and freely withdraw from an association, has further deteriorated. There has been an almost complete removal of freedom of association in the country: the registration of new independent CSOs has been close to suspended, hundreds of CSOs are in the process of liquidation, citizens are forced to join pro-government organisations, and criminal cases have been opened against a number of civil activists and CSO representatives via the abuse of investigative powers.

In Belarus, foreigners are still restricted in terms of the possibilities to found associations according to the law. Unregistered associations are also forbidden and criminal liability for this was re-introduced in Article 1931 of the Criminal Code. Forced liquidations of CSOs are widely practiced. At the same time, direct interference by the state into CSOs' activities are commonplace in Belarus, including under the pretext of AML/CTF and the combating of extremism.

In July 2021, the Belarusian authorities publicly announced the campaign on mass liquidation of 'unwanted' CSOs which affected nearly twenty per cent of all CSOs. This included the forced dissolution of the most respected and prominent CSOs, accompanied by arrests of the organisations' leaders and searches conducted at dozens of CSOs with the seizure of equipment and data storage devices.

Consequently, many CSOs were forced to take a decision on relocating abroad for security reasons as well as in order to continue their activities.

### **Standard I. Everyone can freely establish, join, or participate in a CSO.**

**The right to establish, join or participate in the activities of CSOs is significantly limited both at the legislative level and at the level of practical implementation.**

The CSO sector in Belarus consists of three main legal forms: public associations, foundations, and non-profit establishments (or institutions). Besides these three, there are some other forms of non-profit organisations, including state ones. Public associations are voluntary associations of citizens that can register either at the local, national, or international level. A minimum of ten citizens are needed to establish a

local public association, fifty citizens are required to found a national association, and ten Belarusian citizens and three foreign citizens are required to found an international association. One or more individuals and/or legal entities can establish a foundation. Local foundations must have at least 1,000 EUR in capital, while national and international foundations require about 10,000 EUR. A non-profit institution can be created by a single owner that can be either an individual or a legal entity.

Article 36 of the Constitution of Belarus provides for the right to freedom of association, stating ‘Everyone has the right to freedom of association’. At the same time, it is stipulated that judges, public prosecution and law enforcement officers, employees of the State Control Committee, security officers, and those serving in the military cannot be members of political parties or other associations pursuing political goals. However, they can be a member of public associations in general, and the law does not give a clear definition of what constitutes an association pursuing political goals.

In Belarus, foreigners are still forbidden from being founders of public associations.<sup>11</sup> The possibility to create CSOs from abroad is limited by the fact that many websites of government agencies, including those of the Ministry of Internal Affairs, the Ministry of Justice and the court hearing schedule, are restricted to domestic access only.

Violation of this prohibition during all of 2021 has been subject to administrative liability under Article 24.57 of the new edition of the Code of Administrative Offences (formerly Article 23.88 in the previous edition of the Code, effective until 1 March 2021) in the form of an extrajudicially-imposed fine. In September 2020, the Ministry of Justice declared without legal grounds the illegality of the activities of foreign and foreign-based foundations.<sup>12</sup> In 2021, cases of citizens being charged under Article 24.57 were recorded at least three times. All of the cases were related to the activities of charitable fundraising initiatives. One of these was related to a fund to help striking miners,<sup>13</sup> including online free-food delivery, that held administratively liable by militia ‘for illegally organising and participating in the activities of a foundation that did not duly undergo state registration.’<sup>14</sup>

There have also been a number of cases mentioning ‘unregistered organisations’ in claims and accusations against opponents of state power, in criminal cases or to

---

<sup>11</sup> Article 2, The Law ‘On Public Associations’ of 4 October 1994, with subsequent amendments, <http://law.by/document?guid=3871&p0=V19403254e>.

<sup>12</sup> BelTA. 9 September 2020. ‘Ministry of Justice: Foundations for the support of participants of unsanctioned mass events are illegal’ (in Russian), <https://www.belta.by/society/view/minjust-fondy-v-podderzhku-uchastnikov-nesanktsionirovannyh-massovyh-meroprijatij-nezakonny-406137-2020/>.

<sup>13</sup> Human Rights Centre ‘Viasna’. 25 June 2021. ‘45 days of arrest in the stuffiness. Anatoliy Bokun, leader of the ‘Belaruskali’ strike committee, speaks about the conditions of detention in the temporary detention isolator’ (in Russian), <https://spring96.org/ru/news/103977/>; and Ministry of Internal Affairs Telegram page: <https://t.me/pressmvd/2878>.

<sup>14</sup> Mediazona. 22 December 2021. ‘Back to the Future. The authorities return the article on participation in an unregistered organisation to the Criminal Code - and there are now hundreds of such organisations’.

justify restrictions on other rights, in particular freedom of expression or freedom of speech. For example, when deciding to restrict access to the largest internet information resource, *Tut.By* and its affiliates, the Ministry of Information referred to the findings of the Prosecutor General's Office stating that *Tut.By* violated the law by publishing prohibited information in a number of publications on behalf of an unregistered foundation.<sup>15</sup>

CSO cooperation with or membership in unregistered organisations (including CSO coalitions and unions) is itself treated as a violation of the law by CSOs, and therefore grounds for their liquidation. For example, the court decision to liquidate the public association Ecohome was based, among other things, on the presence of the logo of the Eastern Partnership Civil Society Forum on Ecohome's website, which was regarded as participation in an unregistered organisation.

The ban on the activities of unregistered organisations continues to exist in the country and includes public associations, foundations, and religious organisations. In December 2021, the infamous Article 193<sup>1</sup>, previously criticised by Belarusian and international organisations as not meeting human rights standards and abolished in July 2019, was returned to the Criminal Code. The Article covers organising and participating in the activities of unregistered public associations, including political parties, trade unions, religious organisations and foundations. The content of the new Article 193<sup>1</sup> is almost identical to article abolished in 2019 and includes the same sanctions: a money fine, or arrest for up to three months, or imprisonment for up to two years. The only difference in the re-enacted Article is the inclusion of a provision that it should not be applied in cases where the more severe Article 423<sup>1</sup> of the Criminal Code relating to non-execution of decisions to suspend and to liquidate organisations deemed 'extremist' is applied.

The Law 'On Public Associations' stipulates the division of public associations into three types according to the territory of their activity: international (acting in the territory of Belarus and other countries); national (acting within the territory of Belarus); and local (acting within the territory of one or several administrative and territorial entities of Belarus). The law requires that charters of local public associations must contain an indication of the territory of their activity and the activity of such organisations outside the indicated territory is considered to be a violation. There is no such restriction for institutions; they can act all around the country regardless of the place of their registration. The legislation also classifies foundations as either international, republican or local, but it does not place restrictions on the territory of their activity.

---

<sup>15</sup> BelTA. 18 May 2021. 'The Ministry of Information has restricted access to tut.by internet resources' (in Russian), <https://www.belta.by/society/view/mininform-ogranichil-dostup-k-internet-resursam-tutby-441802-2021>.



Belarusian citizens are subject to involuntary membership in ‘pro-government’ public associations known as GONGOs. These include the BRYU, the public association ‘Belaya Rus’ and trade unions belonging to the Federation of Trade Unions of Belarus. According to a public opinion poll carried out by Baltic Internet Policy Initiative and the Office for European Expertise and Communications (2019, published 2020), about twenty-five per cent of people participate in social activities under compulsion.<sup>16</sup> Some people wanting to withdraw from these GONGOs or trade unions face difficulties and obstacles as unlawful demands are made, for example that special forms must be filled in (or they are threatened with dismissal), or simply because they do not know how to. State-supported associations brand the comprehensive membership of their social groups according to the corporatist principle: the Belarusian Society of Veterans states that it unites 2.5 million people in its ranks<sup>17</sup> (that is, all citizens of Belarus of the advanced ages), the Belarus Red Cross states that it has about 1.4 million members, and the Pioneer Organisation claims to unite 660,000 children and teenagers<sup>18</sup> (again, Belarusian citizens of the relevant ages).

## **Standard II. The procedure to register a CSO as a legal entity is clear, simple, quick, and inexpensive.**

Denials of registration for CSOs are still very typical in Belarus. At the same time, the unfavourable atmosphere and fear of reprisals in 2021 meant that new applications for registration of public associations were filed less often than before.

The procedure for registration of legal entities is provided for in the relevant legislation and available to the public from inside the country, but not always from abroad due to the non-accessibility of the websites of official state bodies (including the Ministry of Justice) from outside Belarus. The legislation also provides state bodies with the possibility to de facto arbitrarily refuse registration on insignificant or implausible grounds. The registration stage includes the preparation of more than a dozen documents by the applicant in accordance with numerous mandatory requirements, including using the special unique font and the right size of margins. Registration authorities do not advise on the documents’ correctness.<sup>19</sup> As a result, if they subsequently find any faults (however minor) in CSOs’ application documents they will use them as a basis to justify their refusal to register an organisation. Further, after all identified faults are eliminated and the same set of documents is re-

---

<sup>16</sup> Baltic Internet Policy Initiative and Office for European Expertise and Communications public opinion poll ‘Public Associations and Citizens Initiatives: Participation Potential’ (in Russian, 2019, published 31 August 2020), <https://oeec.ngo/opinions/research/bipi/>.

<sup>17</sup> Press Service of the President of the Republic of Belarus, <https://president.gov.by/ru/belarus/society/obedinenija/obedinenie-veteranov>.

<sup>18</sup> Press Service of the President of the Republic of Belarus, <https://president.gov.by/ru/belarus/society/obedinenija>.

<sup>19</sup> Belarus Digest. 12 June 2013. ‘Setting Up an NGO in Belarus: Challenge Yourself’, <https://belarusdigest.com/story/setting-up-an-ngo-in-belarus-challenge-yourself/?pdf=1520>.

submitted, the registration body can still reject the application again on other, different, grounds.

The requirement for CSOs, including local branches, to have a legal address in non-residential premises as its office is a serious problem for all forms of CSO. Private residential premises cannot serve as a legal address for a CSO.

The existence of a ban on the activities of unregistered organisations further exacerbates the effect of the mass liquidation of CSOs since July 2021, as well as the fact that it is almost impossible to register a new independent CSO in the country. When some liquidated CSOs attempted to apply to the registration authority with documents to register a new CSO, they were informed of a temporary suspension of registration of this form of legal entity, despite the absence of any legal grounds for doing so. In some other cases where there was an attempt to create a new organisation after previous liquidation, however, the CSOs were duly re-registered by the registration authority as new legal entities.

Table 1. Number of public associations in Belarus (Source: Ministry of Justice)<sup>20</sup>

	1 January 2010	1 January 2011	1 January 2012	1 January 2013	1 January 2014	1 January 2015	1 January 2016	1 January 2017	1 January 2018	1 January 2019	1 January 2020	1 January 2021	1 January 2022
Number of newly-registered public associations (results from the previous year)	94	134	118	111	70	86	106	116	150	92	98	84	36
Total number of public associations (by date)	2,225	2,325	2,402	2,477	2,521	2,596	2,665	2,731	2,856	–	2,995	3,021	2,978

<sup>20</sup> The Stefan Batory Foundation. 15 December 2021. 'The liquidation of social organisations in Belarus: what happened and what comes next for Belarusian civil society' by Yuri Arlouski, <https://www.batory.org.pl/publikacja/the-liquidation-of-social-organisations-in-belarus-what-happened-and-what-comes-next-for-belarusian-civil-society/>.

Table 2. Number of foundations in Belarus (Source: Ministry of Justice)

	1 January 2010	1 January 2011	1 January 2012	1 January 2013	1 January 2014	1 January 2015	1 January 2016	1 January 2017	1 January 2018	1 January 2019	1 January 2020	1 January 2021	1 January 2022
Number of newly-established foundations (results from the previous year)	8	14	21	22	11	11	11	16	22	–	9	–	7
Total number of foundations (by date)	84	99	119	139	145	155	164	172	195	–	217	227	227

**Standard III. CSOs are free to determine their objectives and activities and operate both within and outside the country in which they were established.**

CSOs are not free to choose their goals or determine their activities and they are subject to serious interference and attacks on their activities by state bodies. Unprecedented mass persecution, intimidation, and pressure on members of CSOs, included them being subjected to civil and criminal liability, has been recorded in Belarus. The state’s repressive apparatus is deployed against the full spectrum of CSOs encompassing a diverse range of activities and including those located throughout the entirety of the Republic of Belarus or relocated abroad.

Informal organisations have become targets for prosecution under the laws on extremism and terrorism. The initiative for workers’ rights protection ‘Workers’ Movement’, initiated from abroad, was recognised as an ‘extremist formation’ by being included by the KGB in the index of organisations, formations and individual entrepreneurs involved in extremist activity. Several other associations, chats and online communities, as well as the editorial boards of Belarusian and foreign media, were also included.<sup>21</sup> Joining an organisation listed in the KGB index is a crime punishable by the long term of imprisonment established by amendments to Article 361<sup>1</sup> of the Criminal Code in 2021.

According to the Prosecutor General’s Office, following the presidential election in August 2020, more than 5,000 criminal cases have been brought against protesters, human rights defenders, election observers, journalists (and others in the media), CSO leaders and activists. A range of these cases are related to citizens’ participation in

<sup>21</sup> By February 2022, the Index of Extremist Formations included more than 30 entities, among them the well-known Radio Liberty, Belapan news agency, the editorial entity of *Nasha Niva* newspaper, as well as many communities in social networks, crowdfunding groups (see also Area 3.6: Freedom of Expression). According to the Belarusian Association of Journalists, there is no information about any of these entities complaining to the courts about the decision to include them in the list.

associations and CSOs' activities, which evidences the extremely negative developments as a result of the grave restrictions that are being placed on freedom of association. Human rights organisations, themselves totally liquidated, have difficulties in obtaining information about such cases. Lawyers and witnesses are bound by an undertaking not to disclose details of cases (dozens of lawyers have had their licenses revoked in violation of this obligation,<sup>22</sup> and in at least one case a witness was arrested for three months).

Human rights defenders continue to be imprisoned, among them the chairman of the Human Rights Center 'Viasna' Ales Belyatsky, his deputy and a vice-president of the International Federation for Human Rights (FIDH) Valentin Stefanovich, a legal advisor and coordinator of the campaign 'Human Rights Defenders for Free Elections' Vladimir Labkovich, the head of the Center for Strategic Litigation Leonid Sudalenko, other volunteers, CSO members and journalists. Criminal cases have been initiated against the leadership of registered human rights organisations, including the head of the Office for the Rights of People with Disabilities Sergei Drozdovsky and the legal advisor Oleg Grablevsky, as well as against the head of the Zveno public association Tatyana Gatsura–Yavorskaya, and others.

Tatyana Kuzina, currently imprisoned, a member of the opposition group "Coordination Council" and co-founder of the School for young managers of public administration SYMPA, was charged under Part 1 of Article 357 ('conspiracy or other actions committed with the aim of seizing or holding state power in an unconstitutional way') and Part 3 of Article 361 ('calls for actions aimed at causing harm to the national security of the Republic of Belarus using the media or the internet') of the Criminal Code. The head of the public association Supolnasc Centre, Siarhiey Mackievich, was charged with tax evasion (Article 243 of the Criminal Code). A well-known public intellectual and CSO figure Uladzimir Mackievich has been charged with organising actions that 'grossly violate public order' (Article 342 of the Criminal Code), establishing an 'extremist formation' (Article 361<sup>1</sup> of the Criminal Code) and of insult of the president (Article 368 of the Criminal Code).

Members of the Coordination Council for organising the process of overcoming the political crisis, Maria Kolesnikova and Maksim Znak, received eleven and ten years in prison, respectively, as part of the case of an attempted overthrow of the government of Belarus and establishing an 'extremist formation'. Dozens of other members of the Coordination Council are also under criminal investigation.

As Human Rights Center 'Viasna' reported, in 2021 the authorities brutally shutdown various informal civic initiatives, especially those coordinated via the internet. Volha Zalatar was arrested in March for activities related to the creation and operation of a

---

<sup>22</sup> See more in the Area 3.8 (State Duty to Protect).

neighbourhood chat group called ‘Ždanovičy 2020 – Tsoi Amateurs Club’. The chat group was declared an ‘extremist formation’ in October 2021, and, on 30 November, Zalatar was sentenced to four years in prison for ‘creating an extremist formation’ and ‘organising and preparing actions that grossly violate public order’.

In addition to the mass searches, throughout 2021 targeted searches were conducted at CSOs’ premises and their representatives’ private residences. On 6 April 2021, security officials raided the home of Human Constanta team member and member of the Supervisory Board of the Office for the Rights of People with Disabilities Enira Bronitskaya and also the home of her parents. The official reason for the search was a criminal case concerning mass riots. However, according to Bronitskaya, officials said that the true reason for their actions was the activities of the International Committee for the Investigation of Torture in Belarus (ICIT). Prior to this, representatives of the public association Legal Initiative stated that, on 3 April 2021, a volunteer from ICIT, having being served with an administrative arrest, became a suspect in a criminal case under Part 1 of Article 342 of the Criminal Code (‘organising and preparing actions grossly violating public order, or actively participating in them’). Legal Initiative also reported that, during his detention and search, the volunteer was tortured in order to gain access to his computer equipment and mobile phone.

Another feature of the new Belarusian campaign to delegalize CSOs is that legal liquidation is accompanied by criminal cases against CSO leaders and activists. Criminal cases have also been initiated against the leaders of unregistered organisations.

Public associations are deprived of the right to independently conduct entrepreneurial activities and are required to establish a separate commercial legal entity in order to do so. The legislation on licensing restricts CSOs from conducting certain types of activities. For example, publishing, the distribution of books, and educational activities.

The law does not compel CSOs to coordinate their activities with government policies and administration; the authorities are de jure prohibited from interfering in the internal activities of CSOs. However, in practice, the broad powers of registration authorities to control CSOs and, especially, the restrictive measures on receipt of foreign funding, force CSOs to coordinate their plans and activities with governmental agencies. The law stipulates that the objectives for any foreign funding received by a CSO should correspond to government priorities if the CSO wishes to be exempted from taxes on foreign funding. The list of possible purposes for CSOs to obtain foreign funding was further reduced in 2021, as was the limited list of purposes for raising domestic funding.

State bodies have created obstacles to the implementation of activities aimed at providing assistance to victims of human rights violations. Among other methods,

this occurs through the authorities prohibiting the collection of funds for these purposes. Criminal cases on charges of ‘financing extremism’ have been filed against those who have provided targeted financial support from abroad or from inside Belarus to Belarusians who have suffered from militia brutality, beatings and torture.

**Standard IV. Any sanctions imposed are clear and consistent with the principle of proportionality and are the least intrusive means to achieve the desired objective.**

The relevant legislation provides for a broad range of sanctions in respect of public associations: warnings, termination of their activities for a specified term, and liquidation by court decision on referral from the Ministry of Justice.

The forced liquidation of CSOs was widely practiced and increased dramatically during 2021. In the six months from July, hundreds of CSOs – some of them viewed as the pillars of Belarusian civil society – had been dissolved through judicial and extrajudicial channels.<sup>23</sup>

The country’s political leadership announced an intention to radically reshape the country’s public sphere in the spring of 2021. On 10 April, the Minister of Foreign Affairs of Belarus, Vladimir Makei, stated that civil society in Belarus ‘will cease to exist’ in the case of tougher sanctions against Belarus from the West: *‘Any further tightening of sanctions will lead to the fact that the civil society they ‘care’ about so much will cease to exist. To my mind, this will be a very logical outcome in this situation. Those who call to impose sanctions commit a crime against their nation.’*<sup>24</sup> After the pause that followed this warning, the programme for the destruction of civil society was directly announced by President Lukashenko in June 2021, just prior to the start of the campaign for the liquidation of hundreds of CSOs. At an unannounced meeting with Russian President Vladimir Putin in St Petersburg, Russia, on 13 July, Lukashenko mentioned that the Belarusian government had started a vigorous campaign to crack down on various not-for-profit organisations, non-governmental organisations, and so-called ‘Western mass media’ which, according to him, *‘have been gifting democracy here or actually implanting democracy. And not democracy but all this terror.’*<sup>25</sup> Immediately after the President’s statement, a campaign of arrests, searches, and the confiscation of the property of dozens of CSOs swept across Belarus (most actively from 14-16 July, during which close to fifty CSOs were targeted in searches).

On 30 July, President Lukashenko explained that the pressure campaign would continue in the future through the liquidation of CSOs, stating that *‘A clear-cut pattern*

---

<sup>23</sup> The Stefan Batory Foundation. 15 December 2021. ‘The liquidation of social organisations in Belarus: what happened and what comes next for Belarusian civil society’ by Yury Arlouski, <https://www.batory.org.pl/publikacja/the-liquidation-of-social-organisations-in-belarus-what-happened-and-what-comes-next-for-belarusian-civil-society/>.

<sup>24</sup> BelTA. 12 April 2021. ‘FM slams ‘pseudo-patriots’ calling for sanctions against Belarus’, <https://eng.belta.by/politics/view/fm-slams-pseudo-patriots-calling-for-sanctions-against-belarus-138984-2021/>.

<sup>25</sup> BelTA. 13 July 2021. ‘Negotiations between Lukashenko, Putin in St Petersburg take over 5 hours’, <https://eng.belta.by/president/view/negotiations-between-lukashenko-putin-in-st-petersburg-over-141638-2021/>.

*has been revealed: the growing number of NGOs is the writing on the wall saying that colour revolutions are in the works. Under the guise of charitable causes, socially important projects, they are serving someone else's political interests.'* According to this statement, there were fifteen hundred NGOs, private institutions, supposedly human rights organizations in Belarus. An investigation revealed 185 destructive organizations posing a potential threat to national security. Among them were an office of a foreign nonprofit organization, 71 nationwide and local public associations, 113 institutions. These are 'big numbers'.<sup>26</sup>

The government is pursuing a policy of destroying the institutional form of CSOs. Judicial hearings on the liquidation of public associations, primarily of national and international status, as well as local associations, foundations, and the representative offices of foreign non-profit organisations, are occurring on a constant basis.

The most established and oldest Belarusian organisations are in the process of forced liquidation: the Belarusian Popular Front 'Revival' (BPF), PEN Belarus, the Belarusian Association of Journalists, the World Association of Belarusians 'Bačkaŭščyna', the Lev Sapieha Foundation, the Belarusian School Association, Francišak Skaryna Belarusian Language Society, the Belarusian Helsinki Committee, the youth regional public organisation Talaka, the public association Ecohome, and the Union of Belarusian Writers, among a number of others. A decision was made to forcibly liquidate a number of non-governmental institutions, including such well-known organisations as the Center for Environmental Solutions, Legal Transformation Center, the Office for European Expertise and Communication, and the centre of regional development GDF. According to monitoring conducted by Lawtrend, jointly with the Office for European Expertise and Communication, as of the end of 2021, nearly 320 non-profit organisations of different forms are in the process of forced liquidation.<sup>27</sup>

There is also a trend whereby the authorities, primarily local ones, are forcing non-profit organisations to make a decision on self-liquidation.<sup>28</sup>

The most common official reasons<sup>29</sup> for the forced liquidation of public associations are:

---

<sup>26</sup> BelTA. 30 July 2021. 'Lukashenko: NGOs serve foreign political interests disguised as charitable causes', <https://eng.belta.by/president/view/lukashenko-ngos-serve-foreign-political-interests-disguised-as-charitable-causes-142089-2021/>.

<sup>27</sup> See the updated list of non-voluntary liquidated public associations, foundations, institutions and unions of legal entities from Lawtrend and the Office for European Expertise and Communication here: [https://docs.google.com/spreadsheets/d/1qHDjDaoq1Fz9TnVsbTlh-sFbWP\\_4U1faraytI8AuKXM/edit#gid=0](https://docs.google.com/spreadsheets/d/1qHDjDaoq1Fz9TnVsbTlh-sFbWP_4U1faraytI8AuKXM/edit#gid=0).

<sup>28</sup> See the updated list of voluntary self-liquidated public associations, foundations, institutions and unions of legal entities from Lawtrend and the Office for European Expertise and Communication here: <https://docs.google.com/spreadsheets/d/1YExGoYVjKMbx4fTnT-7VY8ScY1J6IKXLrWOjuPvS-Cg/edit#gid=0>.

<sup>29</sup> Lawtrend. 'Freedom of association and legal conditions for civil society organisations in Belarus'.

1) **Violation of reporting requirements.** In essence, the claims relate to mandatory financial reporting introduced for Belarusian public associations since 2021 under the legislation on combating terrorism and laundering of proceeds from crime. At the same time, these reports represent excessive interference in the activities of CSOs, are mandatory for all public associations and do not take into account the size of CSOs, the amount of income they receive, or other factors. The violations may consist of minor inaccuracies in the submitted reports, non-publication of the submitted reports by the registering authority itself in connection with the submission of reports not in the prescribed form (even though the form of such reporting is not established by law), or minor non-compliance with the deadlines for submitting such reports; and

2) **Failure to provide documents at the request of the registration authority during an audit.** At the same time, many organisations did not have the opportunity to provide such documents due to their seizure during searches, the closure of their offices, or the establishment of very short deadlines for the provision of documents in large volumes.

Violation of the legal address requirements and failure to correct the violations that formed the basis of previous written warnings are also common reasons for liquidation.

Against the background of these formal reasons, reasons for liquidation which are not typical for the previously-established practice of liquidating CSOs in Belarus especially stand out. Such reasons include instructions or statements from law enforcement agencies that the organisation is engaged in extremist or other illegal activities. These statements are unreasonably accepted as irrefutable evidence in a case. In a number of court cases of public associations being liquidated on similar grounds, memos marked 'for official use' are found in court documents, the information in which is not available to liquidated public associations and their court representatives. The courts satisfy such cases, using excerpts from criminal cases not yet submitted to the courts as sufficient evidence for the liquidation of organisations within the framework of a civil process. There are known cases when the reason for the liquidation was that the CSO signed a statement recognising the Coordination Council of the opposition as the representative of the Belarusian people.

In practice, not a single case is known in which the courts took the side of a public association and did not satisfy the demands for liquidation brought forth by the registration authority. Republican and international public associations and foundations are deprived of the right to appeal against a court decision on liquidation, due to the fact that for them the first court of appeal for this category of cases is the



Supreme Court, the decisions of which come into force immediately and are not subject to appeal.

Unlike public associations, the vast majority of forcibly-liquidated institutions are liquidated according to a simplified system, without a court decision, simply by order of a law enforcement or tax authority. At the same time, forcibly-liquidated institutions most often receive a notice of liquidation without any explanation of the grounds for such liquidation. The official grounds are 'the implementation by the institution of activities that do not correspond to the purpose and subject of activities specified in the Statute.' However, what exactly does not correspond to the CSO's statute is not explained in most notices. Requests for more detailed information are generally not answered. More detailed information about the grounds for the forced liquidation of institutions is provided only to some institutions or, in some cases, through the press service of law enforcement agencies. As a rule, the specific grounds for forced liquidation are extremist activities, the dissemination of information that contradicts the national interests of Belarus, the participation of the organisation's leadership in protest events or the use of unregistered symbols.

Alexander Lukyanov, First Secretary of the Central Committee of the loyal and state-funded Belarusian Republican Youth Union (BRYU) stated that the BRYU may take over the functions of some other CSOs that were liquidated in 2021.<sup>30</sup>

In parallel with the liquidation of CSOs in 2021, other independent civil society structures were also under pressure. Amendments to the Law 'On the Bar and lawyers activities in the Republic of Belarus' in May 2021 banned private lawyers' offices from operating. After that hundreds of such private lawyers' offices (registered as non-profit entities) which united within their ranks 750 from a total of 2,100 Belarusian lawyers should have been obliged to adopt a decision to close by November 2021 due to this new law<sup>31</sup>. As the result, at least the 94 private lawyers' offices as of July 1, 2021 has cease to operate (and more offices make this later by November 2021).

Representative offices of international organisations also became subject to the 'purge' of the civil society sector in 2021. For example, the German Goethe Institute had its state accreditation withdrawn and was forced to close, as was also the case for the United States Agency for International Development (USAID) and also DVV International (Germany).

---

<sup>30</sup> ONT.BY. 17 February 2022. 'Alexander Lukyanov: BRYU is ready to take over the functions of closed NGOs' (in Russian), <https://ont.by/news/aleksandr-lukyanov-brsm-gotov-vzyat-na-sebya-funkcii-zakrytyh-nko>.

<sup>31</sup> *Ekonomicheskaya Gazeta*. 11 June 2021. 'Attorney work: - the condition of providing legal assistance is changing' (in Russian), <https://neg.by/novosti/otkryti/advokatskaya-devatelnost-menyayutsya-usloviya-okazaniya-yuridicheskoi-pomoschi/>.

In December 2021, at a meeting on countering sanctions, President Lukashenko said that the CSOs liquidated in Belarus would never be re-established. At the same time, according to him, any foundations and organisations can exist in the country, provided that they are engaged in ‘a concrete business for the good of the motherland.’<sup>32</sup>

#### **Standard V. The state does not interfere in internal affairs and operation of CSOs.**

In Belarus, direct interference by the state into CSO activities was characteristic of 2021, especially under the pretext of reporting rules violations, AML/CTF and combating extremism.

In 2021, a large number of CSOs faced disproportionate interference in their activities, as well as had disproportionate sanctions imposed on them. A number of CSOs have been subject to scrutiny by financial authorities: tax inspectors, financial control authorities and investigations. Searches were carried out during which means of communication, equipment, and documentation were confiscated at the locations of many organisations and the private homes of their leadership and members. The offices of many organisations have been closed and bank accounts blocked. Members of CSOs are summoned for interviews for interrogation by the financial police and investigators.

The number of public associations inspected by the registration authority for their compliance with the law and the statute of the organisation increased significantly. During inspections, the registration authorities request a disproportionate amount of documentation from public associations, ranging from correspondence to financial documentation. Many of the requested documents relate to the internal affairs of public associations, contain personal data of their members, donors or other persons, and in fact cannot be the subject of a request from the registering authority. Almost all audited public associations received written warnings about violations of the law from the registration authority. Subsequently, in most cases, these written warnings form the basis of claims for the forced liquidation of these public associations.

Since May 2021, mass inspections of public associations and foundations by judicial authorities have been added to the existing inspections by the financial control authorities with a number of CSOs receiving requests to provide documents. The requests concerned international, republican, and regional public associations of various kinds, including the educational public association Lev Sapega Foundation, the Belarusian Association of Journalists, the republican public association PEN Belarus, the public association Ecohome, the educational and social public association Zveno, the Francišak Skaryna Belarusian Language Society, the public association The

---

<sup>32</sup> Lawtrend. ‘Freedom of association and legal conditions for civil society organisations in Belarus’.

Third Sector Centre for Informational Support of Public Initiatives, the World Association of Belarusians 'Baćkaŭščyna', and many others. At the same time, the authorities requested a huge number of documents from public associations and foundations.

The situation was aggravated by the fact that registration authorities' inspections are not regulated by law; there is no regulation for the procedure for inspections, their timing, or the timing for providing information. An analysis of the documentation required has shown that these requests for information constituted an improper interference in the activities of public associations and foundations and significantly exceeded the competence of the registration authorities. The request list from public associations and foundations contained internal documents, such as contracts containing individuals' personal details, e-mails, information on donors, and lists of public associations' members indicating their personal data. Despite the fact that, under the Law 'On Public Associations', the registration authorities do not exercise control over financial and economic activities of public associations, a large number of the requested documents were related to the financial activities of public associations, in particular, the receipt and expenditure of gratuitous aid.

Tellingly, these requests for information, despite the wide range of requested documents, were rarely named 'inspections' by the registration authorities. More often, the requests for documents were called 'monitoring' or, simply, a 'request for information'. For instance, the website of the Minsk city government's department of justice shows that there were five public associations submitted for liquidation in the second half of 2021, but only one public association is reported as having been inspected during this period.

Most of the public associations that were the subject of requests for information received written warnings and were then forcibly liquidated. Therefore, these inspections and checks were in reality just 'fishing expeditions' in order to better prepare for court litigation about liquidation of the public association or foundation on which the decision to dissolve it had already been taken at the political level.

Notably, the decisions to issue a written warning and to liquidate were made regardless of whether the public association in question had provided the requested documents and to what extent.

For example, one of the most well-known human rights organisations in Belarus – the Belarusian Association of Journalists – received such an inquiry. This CSO emphasizes that the inspecting body provided only several days to satisfy the requirement of submitting thousands of documents. The documents to be submitted to the Ministry of Justice included lists of members of the association, the Association's membership applications, minutes of sittings of its elected bodies, a register of all incoming and outgoing correspondence over a long period, financial documents and other papers,

also from the organisation's branches located in provincial towns. The Association has stated that it was extremely difficult to fulfil the requirements of the Ministry of Justice, as some of the documents were being retained by the Investigative Committee which had seized them on 16 February following a search at the organisation's offices as part of a criminal case regarding mass protests. Later in summer 2021, the Belarusian Association of Journalists was liquidated by the courts.

Similar inquiries, which the Ministry of Justice terms not as inspections, but as 'monitoring of the activities of organisations', were also received by PEN Belarus and a range of other CSOs. PEN Belarus submitted a voluminous amount of documents, but still the Ministry of Justice filed a liquidation suit, and the Supreme Court liquidated this CSO.

The terrorist threat in Belarus ceased to be only theoretical, according to state assessments. If the authorities' are to be believed, in 2020–2021, Belarus experienced a real outbreak of domestic terrorism, including dozens of terrorist acts (or acts of financing terrorism), incitement to terrorism, terrorist attacks, coup plots, and the Belarusian railway became the target of sabotage acts inspired from abroad by Belarusian opposition centres. For the first time, several people have been convicted of terrorism and criminal cases concerning terrorism are underway. Dozens of citizens, including those from CSO communities led by former presidential candidate Sviatlana Tsikhanouskaya, are on the official KGB-published lists of people involved in terrorist activities and their bank accounts blocked.

The practices above aside, in 2021, the situation with the implementation of the AML/CTF norms in CSO reporting was a clear example of abuse and improper implementation of the norms of the Financial Action Task Force (FATF).

In November 2020 in Belarus, a non-selective and comprehensive AML/CTF financial reporting system for all CSOs of two forms - public associations and foundations - was introduced.<sup>33</sup> CSOs consider the introduction of such measures (along with the already existing reporting requirements) as excessive and duplicated. The introduction of these measures at a time when Belarus is in a state of political confrontation raises concern about abuses and violations of human rights. By 1 March 2021, Belarusian public associations and foundations had passed the first reporting cycle for the new requirements, which are now considered on an annual basis.

In the second half of 2021, multiple CSOs in Belarus faced forced liquidation. It is known that in at least eight cases, the grounds for the court decision on liquidation were claims from the justice authorities based on the reports submitted by CSOs as part of the AML/CTF reporting (but there may be many more such cases, since the monitoring opportunities are now very limited). However, the grounds for liquidation

---

<sup>33</sup> A joint communication of five UN Special Rapporteurs was made on the subject: Joint Other Letter, [OL BLR 2/2021](#).

were not accusations of terrorism financing, but violations of a technical nature. For instance, that the report was published two days late, was not complete enough in the opinion of the justice body, was published on the wrong website, or, when submitted to the Ministry of Justice, did not contain a request to the justice body to publish it on the website, and so on.

Some inquiries inform organisations that the financial statements, submitted by them by 1 March in accordance with the new edition of the Law 'On measures to prevent legalisation of criminally obtained income, financing of terrorist activity and financing of proliferation of weapons of mass destruction', are incomplete and prepared in violation of the law. In such cases, together with inquiries for the provision of information, justice agencies also request resubmission of the revised activity reports. Accusations of violation of the rules of publishing AML/CTF reports in terms of the procedure (but not in connection with the violation of the AML norms in their essence) were among the grounds for the liquidation of the following leading and long-established CSOs:

- Public Association 'Frantsysk Skaryna Belarusian Language Society';
- Public Association 'Belarusian School Society';
- Human Rights Public Association 'Belarusian Helsinki Committee'; and
- Public Association 'World Association of Belarusians Бацькаўшчына'

One of these liquidated CSOs had, at the stage of developing the AML/CTF reporting in 2020, applied to the Ministry of Justice to hold a public consultation on the new reporting procedure. No preliminary consultations took place, however.

In June 2021, the Supreme Court decided to liquidate the public associations the Belarusian Association of Women Lawyers and Analytical Center 'Strategy'. The lawsuit was initiated by the Ministry of Justice on the grounds of the organisations' failure to submit periodical yearly reports on their activities for more than three years.

Many Belarusian CSOs were forced to take a decision on relocation abroad for security reasons in the extremely unfavourable environment in Belarus, as well as in order to continue their activities and mission (Georgia, Ukraine, Lithuania and Poland are the most popular countries for CSOs that have relocated). However, pressure continues to be exerted on the relocated organisations as well, including via criminal and tax cases.<sup>34</sup> For example, Olga Velichko, head of the Grodno Children's Hospice, was forced to leave Belarus under criminal prosecution for her participation in protest rallies and under the pressure of constant tax inspections of this CSO. Once in Latvia, Velichko was informed that her CSO had been liquidated by a court and that she was

---

<sup>34</sup> SYMPA/BIPART 2021 report update: State and Current Needs of Belarusian Civil Society Organisations (CSOs) in Situation of Political Crisis Monitoring: July - December 2021.

wanted by Interpol on charges of violation by Grodno Children's Hospice of rules for the use of domestic sponsorship aid in Belarus<sup>35</sup> (misuse of Interpol's Red Notices<sup>36</sup> for an Interpol listing by the Belarusian authorities was a common practice for political persecution in 2021).<sup>37</sup>

In December 2021, draft amendments to the law 'On Physical Culture and Sports' passed in the first reading. The bill provides for the introduction of obligatory state accreditation for organisations for the right to engage in the development of sports, which will affect the interests of a quarter of all public associations existing in Belarus. The draft also provides for the introduction of reporting for sport federations to the National Olympic Committee.<sup>38</sup>

### Specific recommendations under Area 1:

- Abolish the ban on the activity of public associations without registration, set this out in the law 'On public associations' and cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193<sup>1</sup> of the Criminal Code);
- Stop the practice of forced liquidation of CSOs, cancel all court and local authorities' decisions on forced liquidation of CSOs made in 2020-2021;
- Enshrine clear and distinct grounds for decisions on liquidation of non-commercial organisations by judicial means in legislation, for instance due to conduct of activity, directly banned by the Constitution or the law;
- Release all individuals recognised as political prisoners,<sup>39</sup> the review and lifting of all sentences imposed on them and pending decisions on their liability, to pay adequate compensation to all political prisoners, to stop all politically motivated criminal cases;
- To abolish the Law 'About counteraction to extremism' and all by-laws adopted under it, including the Index of Extremist Formations;
- Allow foreign citizens to act as founders of public associations;
- Introduce a notification procedure for registration of public associations and foundations;

<sup>35</sup> BBC Russian Service. 16 December 2021. 'Not an opposition flag, but 'damage to property', not protests, but 'hooliganism'. How the Belarusian authorities are looking for opposition activists through Interpol' (Не оппозиционный флаг, а 'порча имущества', не протесты, а 'хулиганство'. Как белорусские власти разыскивают оппозиционеров через Интерпол) (in Russian), <https://www.bbc.com/russian/features-59644473>.

<sup>36</sup> European Parliament. 17 January 2019. 'Misuse of Interpol's Red Notices and impact on human rights – recent developments', [https://www.europarl.europa.eu/thinktank/en/document/EXPO\\_STU\(2019\)603472](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2019)603472).

<sup>37</sup> *Libération*. 23 November 2021. 'Interpol: les opposants belarusses pourchassés à l'étranger', (in French) [https://www.liberation.fr/international/europe/interpol-les-opposants-belarusses-pourchasses-a-letranger-20211123\\_LB53J3PZABHRLOICOJS5KWOM3U/](https://www.liberation.fr/international/europe/interpol-les-opposants-belarusses-pourchasses-a-letranger-20211123_LB53J3PZABHRLOICOJS5KWOM3U/).

<sup>38</sup> *Ekonomicheskaya Gazeta*. 30 December 2021. 'Sports federations will be obliged to send annual reports to the NOC and the Ministry of Sports' (Спортивные федерации обяжут ежегодно направлять отчеты в НОК и Минспорта) (in Russian), <https://neg.by/novosti/otkrytyj/sportivnyye-federatsii-obyazhut-ezhegodno-napravlyat-otchety-v-nok-i-minsporta/>.

<sup>39</sup> List of current political prisoners from Human Rights Center 'Viasna' and guidelines on the definition of a political prisoner.

- Introduce a clear list of essential grounds for denial of registration of a CSO (activity objectives under its charter that are directly banned by the law, for instance, war propaganda). Failure to submit all the required documents should not be a ground for denial, rather a reason to request further information and extend the period for submission of all relevant documents;
- Simplify the definition of 'legal address' to the 'contact address', providing the possibility for CSOs to be located at their head's residence or other private homes; and
- Reporting on AML/CTF should be introduced for only those CSOs which fall under risk criteria in accordance with the FATF standards; publishing of reports should be made voluntary for organisations with budgets of less than 1,000 basic units per year (11,218 EUR).

## 3.2 Equal Treatment

Overall score per area: **2.7/7**

Legislation: **3.2/7**

Practice: **2.3/7**

There is still unequal treatment of CSOs compared to commercial entities and inequality inside the civic sector. The changes in this area are caused by the general socio-political situation and state policy aimed at discrediting CSOs. More favourable legislative conditions for registration and activity of businesses compared to CSOs are still maintained. At the same time, when expressing disagreement with the existing regime, both CSOs and commercial organisations become victims of the policy of persecution (closures, fines, criminal prosecution). Special conditions have been created only for specific CSOs, primarily pro-government ones.

### Standard I. The state treats all CSOs equitably with business entities.

The law does not provide equal conditions for CSOs in comparison to commercial organisations. At the legislative level, commercial organisations have the better conditions for registration: registration decision deadlines, clear grounds for making a decision to refuse registration, and the amount of the state fee for registration. But the registration of institutions as an organisational and legal form of non-profit organisation, which, in accordance with the law, are registered in the same way as commercial organisations, has practically been suspended during 2021.

Public associations are banned from independently conducting entrepreneurial activities and, for this reason, they do not have access to public procurement.

It is a serious problem for CSOs in the form of institutions that the law requires that they must have an accountant on their staff or conduct contracts for outsourced accounting services, even if they do not have serious financial activities (when small commercial organisations with the status of ‘micro organisations’ enjoy a simplified accounting procedure).

As a result, it is easier to establish and operate in the form of a commercial organisation than a CSO in order to conduct certain types of socially-beneficial activity, even if its founders do not have profitmaking goals. This happens despite the fact that Belarusian legislation does not provide for the notion of ‘social entrepreneurship’.

When stipulating benefits for a broad-range of legal entities, legislation uses the terms ‘commercial organisations’ and ‘enterprises’, which excludes CSOs from being the recipients of such benefits. Some norms cannot be applied to CSOs due to such an approach (for example, the procedure for changing the owner of an institution remains unregulated and is impossible because of this in practice).

#### **Standard II. The state treats all CSOs equally with regard to their establishment, registration, and activities.**

The legislation applies the mechanism of targeted provision of benefits. For example, there is a list of CSOs which enjoy preferential treatment when renting state-owned premises – this list is approved by the government on the proposal of the ministries. The Tax Code directly enumerates around twenty CSOs, providing sponsorship aid to which Belarusian business entities may enjoy tax deductions. Aid to any other organisation can be provided by a business entity only from post-tax profit and does not entail any tax deduction.

The policy of the state is aimed at: (i) the destruction of active CSOs in any field of activity; (ii) discrediting CSOs in the eyes of the public, including in comparison with other existing structures and organisations; and (iii) emphasizing the role of specific pro-state organisations as carriers of the values of the Belarusian state and society.

The discrediting of CSOs occurs both at the level of statements by the ‘higher authorities’ and in the state media. In the state media, primarily at the republican level, information consistently appears aimed at discrediting both specific CSOs and civil society as a whole.

The state has created favourable conditions for a small number of pro-government CSOs, both at the level of legal regulation and at the level of its practical enforcement, while discriminating against other CSOs.

Official statements and the media also highlight the role of specific pro-government organisations as genuine CSOs. Thus, President Lukashenko proposed to legislatively



determine which organisations in the country should be classified as belonging to civil society (those close to the government trade unions, the BRYU and veterans and women's associations).

The country has a system for providing financing, tax, and other benefits either to specific organisations or to organisations according to certain lists. In March 2021, a new list of public associations, foundations and unions (associations) was published, in respect of which, when renting state-owned premises, a reduction factor of 0.1 is applied to the basic rental rate. Compared to the previous list, the new list is almost half as short, and at present only 102 non-profit organisations can use this benefit.

As is the case every year, direct funding of the BRYU (a GONGO) has been provided for by the laws on the state budget for 2022 as a separate article. The Law 'On the Republican Budget for 2022', proposed by the Ministry of Finance and adopted by the House of Representatives, establishes a direct subsidy from the state budget for the BRYU in the amount of more than 10 million BYN (nearly 3.9 million EUR) which means an increase in the subsidy of almost 10 per cent compared to last year.

**In 2020, the following state funding from the republican budget only (exclusive of local budgets) was provided via special separate budget lines:**

Table 3: State funding from the republican budget

Name	Amount in republican budget for 2021 (BYN)	Amount in Euros (rate as of 31/12/2021)	Growth in the 2022 budget law (BYN) (%)
Public Association Union of Writers of Belarus	398,165	138 127	+81,381 (+20%)
Republican State Public Association Belarusian Republican Society for the Development of Water Transport and Passenger Safety	88,508	30 704	+7,591 (+8.5%)
Republican State Public Association Belarusian Physical Culture and Sports Society 'Dinamo'	7,899,774	2,740,503	+516,884 (+6.5)
Public Association Belarusian Republican Youth Union	9,273,540	3,217,074	+814,519 (+8.7%)
Republican State Public Association Voluntary Society for Assistance to the Army, Aircraft and Fleet of the Republic of Belarus	9,773,849	3,390,636	+169,596 (1.5%)

In addition, the law on the budget stipulates that public associations can receive funds from the national budget by decision of the President of the Republic of Belarus. Such an approach in legislation and in practice is completely incompatible with the principles of equality of organisations in their access to public resources.

The Ministry of Internal Affairs has created a unified database of participants in unauthorised demonstrations on the basis of resolutions aimed at bringing participants to administrative and criminal justice (known as the *BESporiadki* database).<sup>40</sup> This system can automatically prepare reports on ‘rioters’. On the basis of the database, it is possible to decide the question of ‘response measures’ in relation to both a specific person and a group united by one or more criteria (including preventive arrests, special control on the border or in the workplace, tax inspections, etc). Although the Ministry of Internal Affairs only confirms the existence of this database, but does not disclose the procedure for its maintenance or the number of files and clear grounds for including individuals in it, former employees of the security forces have stated that there are 39,000 personal files in this database.

### Specific recommendations under Area 2:

- Improve the legislation, taking into account the specifics of CSOs, providing them with the necessary benefits and preferences due to their non-profit activities, at the same time avoiding the practice of discrimination of CSOs in comparison with commercial organisations;
- Use the general term ‘legal entities’ in normative acts when defining benefits and preferences so that they can be dedicated to all possible forms of legal entity;
- Extend the notification procedure for registration of commercial organisations to registration of CSOs, including the possibility to submit and update constituent documents online;
- Regulate the procedure for changing the owner of an institution;
- Allow public associations to conduct entrepreneurial activities without creating a separate commercial entity;
- Stop the practice that CSOs are provided with targeted benefits and direct funding by naming them in the budget and tax laws; extend rental benefits to all CSOs and introduce the mechanism of state funding on the basis of competition, which all CSOs, including unregistered ones, can participate in; and
- To close and destroy the Ministry of Internal Affairs’ unified database of participants in unauthorised demonstrations (also known as *BESporiadki* database) and its equivalents.

---

<sup>40</sup> Belarus 1 State TV. 20 December 2020. ‘The Ministry of Internal Affairs has launched a unified information system’ ( *МВД заработала единая информационная система*) (in Russian), [https://www.tvr.by/news/obshchestvo/v\\_mvd\\_zarabotala\\_edinaya\\_informatsionnaya\\_sistema](https://www.tvr.by/news/obshchestvo/v_mvd_zarabotala_edinaya_informatsionnaya_sistema).

## 3.3 Access to Funding

Overall score per area: **2.4/7**

Legislation: **2.7/7** | Practice: **2.0/7**

Access to funding for CSOs has deteriorated. There were no significant regulatory changes relating to access to CSO funding in this reporting period, but the practice of criminal cases against CSOs in this area is worrying and broad (including extended retroactive sanctions for past CSO activity in 2015-2020 years). CSOs are not free to seek, receive, use, and dispose of funds and property. They are subject to restrictions on both receiving assistance within the country and from abroad. In Belarus, preliminary state approval is required to receive foreign funding and there are restrictions on entrepreneurial activities for CSOs. At the same time, there are significant restrictions on receipt of funding from internal sources, including under the pretext of combating extremism and terrorism. There is also no publicly available competitive system of state funding for CSOs in Belarus.

### **Standard I. CSOs are free to seek, receive, and use financial and material resources for the pursuit of their objectives.**

CSOs are significantly restricted in their possibilities to seek, receive and use financial and material resources for the pursuit of their objectives. Restrictions are imposed on both foreign donations and donations from Belarusian corporate donors (both money and in-kind) while private donations from Belarusian-resident individuals are restricted to a lesser extent. The freest procedure for use relates to funds received as membership fees of public associations. Public associations do not have the right to independently conduct entrepreneurial activities. Public associations are banned from having bank accounts and keeping money abroad. There are no stimuli or benefits which encourage donations to CSOs.

State bodies have created obstacles to the implementation of activities aimed at providing assistance to victims of human rights violations. Among other methods, this occurs by prohibiting the collection of funds for these purposes. Criminal cases on charges of 'financing extremism' have been filed against those who have provided targeted financial support to Belarusians who have suffered from militia brutality, beatings and torture.

In connection with the mass liquidation of CSOs, many organisations have been forced to abandon tools for raising funds that have been developed and have recently become widespread in the country, such as raising funds through the websites of

organisations (by concluding an internet acquiring agreement with a bank), using the AIS 'Raschet' system (ERIP) and others.

During a series of searches and arrests in February 2021 and July 2021, authorities froze the bank accounts of many human rights defenders and CSOs. Especially troubling is the renewed practice of bringing charges for tax violations and imprisoning human rights defenders who have been denied registration multiple times or had their CSOs liquidated by the authorities. In September 2020, the Ministry of Justice, without legal grounds, declared the illegality of the activities of foreign and foreign-based foundations.<sup>41</sup>

Criminal cases have been initiated for the charitable activities of CSOs to support victims of repression and for providing gratuitous assistance in paying fines. For instance, the Minsk department of the Investigative Committee opened a criminal case against Aleksei Leonchik and Andrei Strizhak, co-founders of the *BY\_help* and *BYSOL* initiatives. According to the Investigative Committee, the investigators uncovered the organisation and transfer of funds performed by Leonchik and Strizhak through other persons to Andrej Aleksandrov and Irina Zlobina for use in criminal activities, against whom a criminal case under Parts 1 and 2 of Article 342 of the Criminal Code ('organising and preparing actions grossly violating public order, or actively participating in them') was initiated. Later, the transferred funds were used to pay fines for administrative violations of participants in unauthorised mass events. Leonchik and Strizhak have been charged under Part 2 of Article 342 ('other preparation of persons for participation in group actions that grossly violate public order') and Article 361<sup>2</sup> ('financing the extremist activities') of the Criminal Code. They were also placed on the international 'wanted' list. Prior to this, people who received money from the *BY\_help* initiative after the August protests were called to the Investigative Committee and the Department of Financial Investigations for questioning as witnesses in a criminal case; the funds received on the accounts of individuals from these initiatives were temporary frozen.

Human rights activist and member of the Human Rights Center 'Viasna' Leonid Sudalenko and volunteers of this organisation, Maria Tarasenska and Tatyana Lasitsa, are accused of organising and financing actions that grossly violate public order (Parts 1 and 2 of Article 342 of the Criminal Code). At the same time, Sudalenko is charged with, among other things, bringing firewood to children from a large family whose father was later convicted of 'riots', as well as paying others' fines and court fees and with assisting lawyers.

---

<sup>41</sup> BelTA. 9 September 2020. 'Ministry of Justice: Foundations for the support of participants of unsanctioned mass events are illegal' (in Russian), <https://www.belta.by/society/view/minjust-fondy-v-podderzhku-uchastnikov-nesanktsionirovannyh-massovyh-meropriyatij-nezakonny-406137-2020/>.

As part of a politically-charged criminal case, the largest national crowdfunding platform in Belarus, *MolaMola*, was blocked during the election campaign and was still unable to restore its functioning in 2021. *MolaMola*'s manager, Eduard Babaryka, was imprisoned on criminal charges of tax evasion. After 18 months in custody, he was not brought to trial on this charge, but additionally accused of inciting hatred and organising mass riots.

Belarusian fundraising campaigns for political repression *BYSOL* and *By\_help* declared that they have provided more than 7 million USD in aid to people in need. But such initiatives have meant charges under Article 342 of the Criminal Code ('preparation of actions which gravely violate public order') in connection with payments to victims of persecution, including against several activists of the Human Rights Center 'Viasna', the Charitable Institution 'Paleskaja Dabrynja' and other CSOs.

The financial activities of CSOs are subject to audits by financial investigation agencies, economic crime prevention agencies, and tax authorities. At the same time, such inspections, on the one hand, are used as a tool of intimidation and pressure on organisations and, on the other hand, the results of inspections form the basis of claims and orders to liquidate organisations and of criminal cases.

There have been numerous cases of tax audits/the requirement to submit a tax declaration from civil activists to verify that the income they received corresponds to the expenses incurred (especially for volunteers and contributors of the Human Rights Center 'Viasna').

After searches were carried out at the offices of a significant number of CSOs, the bank accounts of many CSOs were blocked. Thus, CSOs are deprived of the opportunity to dispose of the donations collected and the assistance received. An example of this is the Investigative Committee blocking the bank account of the organisation 'Names', which collected more than 500,000 EUR to support charitable projects; for example, nannies caring for orphans in hospitals, or terminally ill children in a hospice.

CSOs are deprived of the right to collect funds through lotteries, but other forms of public fundraising are available to CSOs, including anonymous donations. There is no endowment regulation in legislation.

Until 1 March 2021, Belarusian public associations and foundations had to publish information on all expenses and income received for the first time. This requirement was introduced in October 2020 as a development of the relevant provisions of the Law of the Republic of Belarus 'On measures to prevent legalisation of criminally obtained income, financing of terrorist activity and financing of proliferation of weapons of mass destruction'. Despite the fact that the publication of reports on their activities can be a positive practice for non-profit organisations, the existence of such regulatory public reporting in an environment in which the state severely restricts

access to funding for CSOs and practically does not provide for benefits and preferences for a wide range of CSOs makes it a negative legislative norm. In addition, the new requirement for CSOs to publish financial statements contains significant shortcomings:

- it has been introduced at a time when, according to the results of both internal and international assessments within the framework of the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) according to the FATF methodology, no connection was recorded between Belarusian CSOs and terrorist financing;
- it is non-selective, applying to all public associations and foundations, regardless of the amount of resources received or the nature of their activities (even to small organisations that do not perform any financial transactions, do not receive income or other external financial receipts, do not have employees, do not collect donations and do not transfer aid to others); and
- it requires the publication of an excessive amount of information that is in no way related to aspects of terrorist financing and is duplicated in other already existing forms of reporting to justice and tax authorities.

As the analysis of claims for liquidation shows, shortcomings, even very insignificant ones, in these reports are one of the main reasons for the liquidation of public associations at the present time. Thus, this type of reporting in the current socio-political situation in the country has served as a mechanism for pressure on CSOs.

The Law 'On measures to prevent legalisation of criminally obtained income, financing of terrorist activity and financing of proliferation of weapons of mass destruction' obliges banks to monitor whether the financial transactions of non-profit organisations correspond with their statutory objectives. In accordance with the new edition of the Law, starting from 2021, public associations and foundations are required to publish large reports about their activities, income and expenses.

Generally, Belarusian CSOs in 2021 for the first time began suffering and complaining about the disproportionate and strict reporting system, which was not a major problematic issue in the previous years.

In Autumn 2021, certain banks introduced the groundless requirement to submit data about the 'ultimate beneficiaries of the organisation' in the supposed context of AML/CTF control and ask CSOs about such information.

## Standard II. There is no distinction in the treatment of financial and material resources from foreign and international sources compared to domestic ones.

Foreign funding received by CSOs may be classified as foreign gratuitous aid or international technical aid. Both of these types of funding require preliminary approval by the state for the use of the received funds. In practice, it is often difficult to designate a foreign grant to one or the other regime because the wording in the legislation is not precise. Regardless of the amount, the foreign gratuitous aid received by CSOs is subject to obligatory preliminary registration at the Department for Humanitarian Activities. The legislation stipulates a difficult and burdensome procedure for the receipt, registration and use of foreign gratuitous aid by CSOs, including detailed plans for allocation of aid and burdensome reporting. The Decree of the President<sup>42</sup> defines a list of objectives that foreign gratuitous aid can be used for. However, even if a grant is received for the objectives stipulated by the Decree, the state body may refuse to register foreign aid. Donations from Belarusian citizens residing abroad are considered to be foreign and are subject to restrictions.

On 8 November 2021, President Lukashenko signed Decree No. 7, entering into force on 10 February 2022, to amend Decree No. 3 of 25 May 2020 'On foreign gratuitous aid.' According to the new decree, the concepts of 'sender of foreign gratuitous aid' and 'foreign anonymous donor' were extended. Thus, the new decree counts citizens of the Republic of Belarus permanently residing outside of Belarus for more than 183 days during the 12 months preceding the month of providing the aid as senders of foreign gratuitous aid. The decree also contains a very broad formulation of 'foreign anonymous donor.' Based on this formulation, foreign anonymous donors include not only persons who provide donations through non-resident banks, but also any persons who did not indicate in a payment document information that allows them to be identified and persons indicated inaccurate information. Thus, the decree effectively classified any anonymous donation received by a non-profit organisation as foreign aid which must be registered with the Department of Humanitarian Affairs. Moreover, owing to this broad formulation, non-profit organisations are effectively placed in the position of supervisory bodies required to verify information about all persons who make voluntary donations to them, although this is often technically impossible in practice.<sup>43</sup>

On 1 March 2021, the new Code of Administrative Offences came into force. Despite much public criticism, the new Code of Administrative Offences retained the penalty for violating the law on receiving foreign gratuitous assistance and gratuitous assistance within the country and the order of its use. However, the minimum and maximum limits on fines for violating this legislation were reduced in some cases.

---

<sup>42</sup> Decree of the President No. 3 'On foreign gratuitous aid' of 25 May 2020, with amendment from 8 November 2021, <https://www.pravo.by/document/?guid=12551&p0=Pd1500005&p1=1>.

<sup>43</sup> Lawtrend. 'Freedom of association and legal conditions for civil society organisations in Belarus'.

In Belarus, as in the past, there is a permissive principle of registration of foreign gratuitous aid. In practice, access to foreign aid for CSOs is much more difficult. The body that decides on the registration of foreign gratuitous aid, the Department for Humanitarian Affairs of the Presidential Administration, refuses to register the foreign aid received to most non-profit organisations. Information discrediting CSOs receiving funding from abroad has been repeatedly published in the republican state media.

Statements from pro-government political figures were made<sup>44</sup> about the fast development in the country of a draft law on foreign agents, mirroring the Russian example.

CSO reporting requirements, which went into effect and first applied in early 2021, were supplemented at the end of 2021 by an increase in the list of information to be published in AML/CTF reports. From now on it is necessary to indicate not only the total amount of foreign donations, but also information about each donor organisation of foreign resources and the exact amounts received from them.<sup>45</sup>

In 2021, Stigmatisation and criticism regarding CSOs that receive foreign funding is still prevalent in Belarus. State television and state newspapers published numerous stories during the year alleging that CSOs commit financial improprieties, evade taxes, and finance protests at the cost of foreign grants, including by corruption and the misuse of funds in cooperation with the local UN office in Belarus.<sup>46</sup>

### Specific recommendations under Area 3:

- Abolish the restrictive list of objectives for which CSOs can receive foreign gratuitous aid or sponsor aid from internal resources;
- Move from an authorisation-based system for registration of foreign aid to a notification-based system; simplify the conceptual construct and provide precise definitions, as well as set a reasonable threshold for the amount of donations from abroad for which receipt does not require registration or notification;
- Abolish the Edict of the President No. 300 'On the provision and use of gratuitous (sponsor) aid';

44 Criminal liability for financing political activities from abroad? - Onliner February 16, 2021 (in Russian - *За финансирование политической деятельности из-за границы — уголовная ответственность?*)

<https://people.onliner.by/2021/02/16/zakon-ob-inoagentax-belarus>

45 Changes in the reporting legislation for public associations and foundations by Lawtrend (in Russian - *Изменение законодательства об отчетности для общественных объединений и фондов*)

46 For example, paying for lawyers under the UN-founded legal aid project of the CSO Office for the Rights of Persons with Disabilities has been interpreted by state TV as the criminal financing of riots during the protests. ONT.BY. 13 October 2021. 'Fraudulent scheme: how the Minsk office of the UN financed the participants of the protest actions in Belarus' (in Russian), <https://ont.by/news/moshennicheskaya-shema-kak-minskij-ofis-oon-finansiroval-uchastnikov-protestnyh-akcij-v-belarusi>.



- Remove from the Criminal Code articles punishing the financing of extremist activities (Article 361<sup>2</sup>) and violation of the procedure for using foreign aid (Article 369<sup>2</sup>);
- Restore the registration of CSOs that were forced to be liquidated during 2020-2021, as well as restore the system of crowdfunding platforms, operated without external interference from banks or law enforcement agencies, and make these open for any purposes for CSOs and informal groups to collect money for civil activities or charity;
- Allow public associations to conduct economical entrepreneurial activities on their own behalf, as well as to have bank accounts abroad;
- Introduce the definition of ‘endowment’ in legislation, taking into account the role of such instruments as a mechanism for CSO support;
- Introduce amendments to the legislation on state social contracting in order to ensure access to this mechanism for a broad range of CSOs, as well as introduce the mechanism for allocation of funds to CSOs from the budget on a competitive basis; and
- Stop the practice of criminal and other persecution, demonization, and stigmatisation of CSOs and individuals for receiving foreign donations, fundraising for legal assistance, and other types of legitimate civic activity or philanthropy.

## 3.4 Freedom of Peaceful Assembly

Overall score per area: **1.5/7**

Legislation: **1.9/7**

Practice: **1.2/7**

The enjoyment of freedom of peaceful assembly has deteriorated both in Law and Practice. Repression by the authorities against participants in peaceful assemblies in the first half of 2021 led to the complete extinguishing of the space for exercising the right to hold or participate in peaceful assemblies in Belarus. Exercise of the right has de facto become available only to groups and individuals who express their support for the actions of the authorities and at the initiative of the authorities.

**Standard I. Everyone can freely enjoy the right to freedom of peaceful assembly by organising and participating in assemblies.**

Freedom of assembly is guaranteed by Belarusian legislation, but the legislation on assemblies is unclear and indistinct. During 2021, all the basic legal acts concerning freedom of assembly (the Law ‘On Mass Events in the Republic of Belarus,’ the

Criminal Code, the Code on Administrative Offences) were amended. In practice, while at the beginning of 2021 there were still attempts by individuals and political parties to hold legal assemblies against the policies of the authorities, by the end of 2021 these attempts had ended.

Deprivation of certain categories of citizens from exercising this freedom stipulated by law is characteristic of Belarus. In practice, almost all assemblies are now illegal and even legal assemblies are accompanied by arrests, dispersals or sanctions.

Citizens who have been brought to responsibility for violation of the procedure for holding of assemblies within a year prior to an event, as well as those who have previous convictions for crimes against public safety, order or morality, or against the state or authorities, are banned from being the organisers of assemblies.

Pressure on citizens in order to force them to participate or not to participate in an assembly, as well as cases of preliminary detentions in order not to allow organisation of an assembly, have also been widely reported during 2021.

Severe repression with long imprisonment terms has been applied against both those individuals who held peaceful assemblies without paying attention to the legislative requirements (which provided security agencies with total freedom to prevent individuals from even submitting an application to the local authorities for them to authorise holding of an assembly) and those who, in good faith, wanted to undergo the official procedure for submission of an application to hold an assembly. At the practical level, even an announcement of the intention to participate in an assembly on social networks or a tattoo to express support is interpreted as an offence. At the legislative level, the liability for holding assemblies has significantly increased, which includes introduction of criminal liability for a repeated violation of the procedure for holding assemblies. Journalists have been banned from live-streaming unauthorised mass events. Authorised assemblies are not held and the legislation does not provide for spontaneous assemblies, or the holding of simultaneous or counter assemblies.

According to the legislation, assemblies held by CSOs indoors can be conducted without any restrictions (but only those by CSO – all other indoor assemblies are qualified in law as ordinary mass events that are sanctioned by authorities). However, in practice state agencies very often prevent assemblies from being held and this can be done through actions of the militia. The law provides for the possibility of a money fine to a legal entity (including CSOs) for violation of the procedure for the holding of indoor assemblies.

During 2021, venues, halls, centres and creative spaces where CSOs could hold their events were closed all over the country, especially in Minsk.<sup>47</sup> In a number of cases,

---

<sup>47</sup> Belarus' Leading Tech Hub, Imaguru, Has Been Forced to Shut Down, <https://technext.ng/2021/04/21/biggest-tech-hub-in-belarus-imaguru-shuts-down-as-govt-clampdown-continues/>.

the owners and managers of such venues were criminally prosecuted (Pavel Mazheika in Hrodna, Viktor Klimus in Brest, Pavel Belavus in Minsk, etc.).

There were many cases of assemblies and other events held by CSOs indoors being disrupted. For instance, in March 2021, masked militia came to the founding conference of the League of Student Associations, held indoors in Minsk, and a number of participants of the event were detained. Also in March, in Volkovysk, the militia halted a meeting of the Belarusian language CSO *Mova Nanova* and about thirty people were taken into local custody. There were also many arrests of attendees at music concerts in private premises or other private gatherings. The authorities use broad and vague definitions of ‘mass event’ or ‘picket’ to prosecute any kind of opposition: thus, even a tattoo on the body, a sticker on a phone, a sheet of white paper in the window of an apartment building, and even speaking out aloud in public against the current regime and its policies have been considered a ‘picket’ (and punished with 15 days’ imprisonment).

#### Standard II. The state facilitates and protects peaceful assemblies.

The state does not facilitate the holding of peaceful assemblies. Possibilities for peaceful assemblies are restricted at both the legislative and practical levels. In accordance with the general rule, in order to hold an assembly, demonstration or procession, initiators should receive a special permit from the authorities and apply for it not later than 15 days prior to an event.

The procedure for preliminary authorisation of mass actions is obligatory in Belarus and allows the authorities to arbitrarily ban assemblies. Spontaneous assemblies are not provided for by the legislation, nor are counter-demonstrations regulated by the legislation.

Legislative grounds are used to ban, interrupt, or disperse peaceful assemblies both outdoors and indoors. The elements of the notification-based procedure for organisation of assemblies, introduced in the legislation in 2018 (with advance notification 10 days prior to an assembly, but in a limited number of places determined by the authorities), was removed from the law in 2021.<sup>48</sup> Although the notification procedure was not a serious measure to liberalize the legislation on mass events, it was nevertheless a step forward. Thus, the notification procedure for holding mass events lasted a little more than two years.

In Belarus, the law requires preliminary signing of a contract with the militia for policing of an assembly prior to submission of an application for approval of the

---

<sup>48</sup> Analysis of the amendments introduced to the legislation can be found in the review of the Legal Transformation Center and the Belarusian Helsinki Committee: ‘New Legislative Regulation in the Republic of Belarus as the Authorities’ Response to the Events of 2020 and How It Correlates with International Standards in the Field of Human Rights’.

assembly (the militia always refuse to sign this contract in practice). Such requirements have become an obstacle for holding peaceful assemblies, and has even made them impossible because of the refusal of the militia to cooperate.

A ban was imposed in 2021 on the collection, receipt and use of funds or other property, including property rights, as well as exclusive rights to the results of intellectual activity, the performance of works, and the provision of services, for the purpose of reimbursing expenses caused by bringing a person to responsibility for violating the procedure for organising or holding mass events. Journalists present at a mass event are subject to the same public order requirements that apply to its organisers and participants. The newly-introduced amendments to the Law 'On Mass Events in the Republic of Belarus' also prohibit live coverage in the mass media, online or on other information networks of mass events held in violation of the established procedure for their organisation or conduct, for the purpose of their popularization or propaganda. It is also stipulated that if the head or other member of the governing body of a political party or other public association (the organisational structure of a political party or other public association) publicly calls for the organising and holding of a mass event before obtaining permission, the governing body of the organisation is obliged to declare its disagreement with these actions in the mass media within five days from the date of such actions. The absence of such a statement is the basis for the emergence of liability provided for by legislative acts, for instance, liquidation of an organisation.

Courts never satisfy civil claims against decisions of the executive authorities to refuse to authorise the holding of an assembly. The ordinary court timeline applies to such appeals and the court decisions are usually issued after the planned date of the assembly.

Persecution of participants in peaceful assemblies is not limited to administrative sentences, as many have also been fired or expelled from educational institutions, according to a report from Human Rights Center 'Viasna'.<sup>49</sup>

### **Standard III. The state does not impose unnecessary burdens on organisers or participants in peaceful assemblies.**

The law creates serious obstacles to exercise of the right to peaceful assembly. Dispersal of non-violent assemblies and arrests of participants (including preliminary arrests of potential participants) are broadly used. The press is forbidden from providing information about assemblies until the organisers have received authorisation from the authorities.

---

<sup>49</sup> 'Human Rights Situation in Belarus in 2021: Analytical review' by Human Rights Center 'Viasna'.

Appealing the restrictions on assembly does not work in practice in Belarus. Arrests of participants in private gatherings (e.g., at saunas, concerts, in a forest, in a private apartment or forest manor) have become an ordinary practice in the day-to-day repressions. A database of individuals who have been arrested in connection with protests (known as the *BESporiadki* database) has been created and includes thousands of people. It has become a ground for political control, discrimination, preventive arrests and searches.

In 2021, criminal liability for repeated violations (after two previous administrative offences) of the procedure for organising and holding mass events, as well as public calls for organising or holding illegal assemblies, rallies, street marches, demonstrations, or picketing, or involving persons in participating in such mass events, was introduced to the Criminal Code (Articles 342<sup>2</sup> and 369<sup>3</sup>, the maximum liability being imprisonment for up to three and five years, respectively).

Assembly organisers are responsible for the maintenance of public order or for the acts of others during an assembly and this is required to be declared by organisers in a special written form submitted to the state authorities.

#### **Standard IV. Law enforcement supports peaceful assemblies and is accountable for the actions of its representatives.**

The rules for use of force by law enforcement officers during assemblies are not available to the public; only the general laws on the use of force or weapons are published, but not the by-law regulations that take into account the circumstances of mass events. However, taking into account militia actions on dispersal of peaceful assemblies, arrests during peaceful and non-violent assemblies, and the use of riot-control weapons, it is obvious that these rules are not based on a human rights approach.

The terms and conditions for the use of physical force and special means by militia officers is described in the Law 'On internal affairs agencies of the Republic of Belarus'. In particular, according to the paragraph 2 of the Article 26 of the Law, physical force, special means, armaments, military and special equipment can be used depending on the situation and at the discretion of internal affairs officers in cases provided for by this act.

The legislation does not prevent arbitrary actions by militia regarding interference into and dispersals of assemblies and there are no mechanisms to bring militia officers guilty of violence to liability. Cases of actual arbitrary interruptions or dispersals of peaceful assemblies are frequently reported.

In relation to CSOs more specifically, CSOs whose leaders have been prosecuted for participation in protests have been targeted. There were leaders and activists from

many CSOs among the detained and those prosecuted in criminal processes. Another of them was forced to leave the country under the threat of a long prison sentence. At least one member of a CSO's governing body, imprisoned because of mass riots, died in prison.<sup>50</sup>

The Belarusian Social Democratic Party, the Movement for Freedom and the BPF, asked Minsk City Executive Committee for permission to hold a march and a rally on Belarus's unofficial Freedom Day in March 2021. The opposition activists filed the application to the city authorities on 9 March. On the same day, KGB chairman Ivan Tsertsel said that '*specific individuals were about to destabilise the situation in the country on 25-27 March.*' Speaking on the state TV channel, Tsertsel threatened those who wanted to apply for a mass action with criminal charges. According to BPF Chairman Ryhor Kastusiou, the city authorities attributed their refusal to the coronavirus pandemic, 'calls from extremist Telegram channels' to take to the streets and the lack of contract in place with militia. On the very day of the planned action on 25 March, more than 100 people were detained in Minsk. Later, the action applicants were also arrested and some of them have been criminally charged.

All attempts to hold spontaneous events during 2021 were brutally suppressed by use of force from the militia with many detentions, up to 15 days' arrest, money fines and criminal cases against participants, organisers, and journalists. Some participants in mass events are subject to lengthy imprisonment (two or three months, or longer). The courts, taking advantage of the shortcomings of the law, impose several consecutive penalties. The Code of Administrative Offences was amended in 2021 to significantly increase the severity of penalties for violating the rules of organising and holding mass events. The maximum fine has tripled to 200 basic units (about 2,000 EUR) and for repeated violations of organising or holding mass events, the new provision sets a special length of administrative imprisonment, from fifteen to thirty days.<sup>51</sup>

#### Specific recommendations under Area 4:

- Release of all individuals recognised as political prisoners, the review and lifting of all sentences imposed on them and pending decisions on their liability. Payment of adequate compensation to all political prisoners and the halting of all politically-motivated criminal cases;

---

<sup>50</sup> Vitold Ashurak died on 21 May 2021 while serving a five-year prison term for participating in anti-government mass events. He was sentenced in January 2021 at a closed trial for 'gross violations of public order and violence against militia'. A BPF membership card was identified at trial by prosecutors as evidence of guilt. Ashurak, 50, was a member of the BPF opposition public association, founded in 1988 and non-voluntarily liquidated in autumn 2021.

<sup>51</sup> Analysis of the amendments introduced to the legislation can be found in the review of the Legal Transformation Center and the Belarusian Helsinki Committee: 'New Legislative Regulation in the Republic of Belarus as the Authorities' Response to the Events of 2020 and How It Correlates with International Standards in the Field of Human Rights'.

- Make law and practice of state regulation of assemblies congruent with human rights standards, including the OSCE Guidelines on Freedom of Peaceful Assembly, so that restrictions do not make exercise of the right to freedom of peaceful assembly impossible for citizens (including foreign and underage ones) and CSOs;
- Introduce a notification-based procedure for holding of assemblies in all permitted places and make the procedure for holding of any pickets the same as is applied to pickets on the collection of signatures during election periods;
- Abolish obligatory contracts with the militia, ambulance and cleaning organisations for holding of assemblies;
- Prosecute those guilty of militia violence against peaceful protesters;
- Stop the criminalisation of peaceful assemblies and remove Articles, 342, 342<sup>2</sup> and 369<sup>3</sup> from the Criminal Code;
- The cessation of the unmotivated and disproportionate use of force against participants and organisers of any peaceful protest action, as well as an end to the use of torture against protesters;
- Create legal and practical conditions that make it possible to hold counter-demonstrations and spontaneous rallies;
- Allow, in practice, peaceful demonstrations and not disperse them by violence and the arbitrary preventative use of force; and
- Prosecute those who have committed targeted and politically-motivated abuses of state power to eliminate freedom of assembly under Article 196 of the Criminal Code ('the obstruction of a meeting, rally, demonstration, procession, picketing or participation in them').

## 3.5 Right to Participation in Decision-Making

Overall score per area: **2.7/7**

Legislation: **3.2 / 7** | Practice: **2.2/7**

Participation in decision-making by CSOs has consistently deteriorated at the level of Law and Practice (both on the part of the state and the authorities) in 2021. The atmosphere of fear-mongering and mass repression has led to self-censorship by CSOs and the minimising of any forms of interaction with the authorities, especially when it comes to participation in decision-making. The situation deteriorated further following the liquidation of hundreds of CSOs, whose target groups were deprived of the channels of representation in decision-making processes. At the legislative level, there has been a reduction of the existing structures of public participation in decision-making (including liquidation of public councils in those spheres where they were the most efficient). The hypocritical proposals of the authorities to use the 'facade structures' of public representation (for instance, the All Belarusian People's Assembly, discussion of the constitutional reform draft) did not aim to enable participation of the public in decision-making, but only imitate it. Moreover, the attempts of separate individuals to use these mechanisms to promote alternative proposals or criticise the political course of the government in certain cases led to new repressions.

## Standard I. Everyone has the right to participation in decision-making.

Access to participation in decision-making for CSOs remains insufficient. Even though there are mechanisms for participation in decision-making in legislation, many CSOs do not have access to these in practice because of political repressions due to formal restrictions.

In an environment of mass arrests and torture, as well as criminal cases against the main CSO leaders and other forms of repression, the opportunities for CSOs' participation in decision-making have narrowed.

In practice, CSOs are not always invited to participate in working groups on draft laws. When they are invited, this is only for certain CSOs and by a special decision of a state agency organising development of the draft for discussion. It is very rare to invite an indefinite number of affected CSOs to working groups or consultations. Usually, only online participation in discussions of draft laws is available to an indefinite number of entities (as is the submission of written comments and proposals on the special state website 'Legal Forum').

Legal regulation of public participation in decision-making has been developing in recent years, and the circle of CSOs invited to consultations has been broadening (human rights CSOs and watchdog groups, including unregistered ones, are invited). However, the legislation in this field still remains segmental. In particular, norms on public consultations are developed separately from the norms relating to access to information, appeals by citizens and legal entities, public councils and other fields of interaction between CSOs and state agencies. Public consultations and discussions on draft law are not mandatory.

State agencies organise public consultations with a focus on process and procedure to a greater extent, but rarely on true influence on the content of the decision (consultations are more accurately explanations of the decisions that are adopted rather than CSOs' influence on their essence). There are no legal mechanisms to redress any non-compliance with the rules on civil participation and the transparency of decision-making processes, including responsibility of state officials (except norms relating to leaving appeals unanswered, or failure to meet the deadline for a response).

State agencies tend to invite membership-based organisations (public associations), rather than foundations or institutions, to consultations. The law specially prescribes a privileged status for public associations and unions of legal entities when predicting the consequences of adoption of a draft normative legal act.

All draft laws are developed in one of the two state languages of Belarus (in the majority of cases it is Russian and only in few cases Belarusian). There is no practice to officially introduce draft laws in the two state languages. As a result, language groups



in Belarus are restricted in use of their language for participation in development of legislative proposals and submission of comments to draft laws.

**Standard II. There is regular, open and effective participation of CSOs in developing, implementing and monitoring public policies.**

The authorities make the most important decisions without any consultation.

The majority of participation mechanisms work only formally, are not effective and do not have true influence on decisions. This also applies to consultative bodies that are broadly spread but are efficient only in certain fields.

In particular, in the autumn of 2021, the section on civil control in the field of protection of historical and cultural heritage monuments has been removed according to the draft amendments to the Code on Culture (revisions have been officially adopted later in 2022). This happened despite protests from many CSOs and petitions against these amendments, as well as in spite of the position of the Ministry of Culture. Because of this, the public supervisory commissions for the protection of historical and cultural heritage will be liquidated in 2022. This cultural control civil bodies will be dissolved even despite they had previously been cited as being effective for CSOs and working transparently.

Because of the liquidation of CSOs and for other reasons, the composition of many public councils was significantly reduced. For example, the Council under the Department of Humanitarian Affairs has been cut by half, and the National Council on Gender Policy reduced its representation from CSOs. Due to the forced liquidation of the Belarusian Helsinki Committee in the autumn of 2021, this CSO lost its representation in the national penitentiary supervision commission of the Ministry of Justice.

Many norms relating to ensuring public participation in decision-making are of a quasi-obligatory character (using such terms as ‘normally’ and other recommendatory constructs). Legal norms for CSO involvement in policy implementation, monitoring, and evaluation exist in only a few areas (such as environmental issues or business legislation) and do not exist in others or in general.

If a public discussion of the draft law has been announced, then its results should be publicly available. The scope and details of such a report have not been established, however.

There has been a decline in public interest in the discussion of even the most important draft laws. In particular, this is manifested in a decrease in the activity of comments on the official website ‘Legal Forum’<sup>52</sup> in 2021:

---

<sup>52</sup> Forum Pravo, <https://forumpravo.by/publicnoe-obsuzhdenie-proektov-npa/forum15/>.

Table 4: Public interest in the discussion of draft laws

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
Number of legislative acts brought up for public online discussion in Legal Forum	1	1	6	12	26	76	165	195	<b>178</b>
Number of comments	3	1	34	488	709	1,557	3,021	7,437	<b>1,166</b>
Average number of comments to a draft	3	1	5.6	40.6	27.2	20.4	18.3	38.1	<b>6.5</b>

Despite a ‘constitutional reform’ and ‘national public discussion’, the level of public involvement in this process and the level of communication between civil society with responsible agencies has been low. In general, CSOs and the public perceived this process as a pretend one, designed to cover up the fact that new dictatorial and anti-democratic norms were enshrined in the Constitution through ‘public discussions’. On several cases, those who attempted to participate in such discussions and express alternative points of view were persecuted. At the same time, in the draft Constitution submitted to a referendum in February 2022, the term ‘civil society’ was mentioned as a result of public discussion in 2021.

### Standard III. CSOs have access to information necessary for their effective participation.

Only certain draft concepts and policies are published and brought up for public discussion. The most controversial and disputable draft normative legal acts are not brought up for public discussion and are often published only once they have been adopted or when drafts are submitted to parliament. The plan for legislative activity is annually approved by edict of the president; however, it contains the planned draft laws only and not the draft decrees and edicts of the president that have greater legal force than the law. The new regulations envisage the publication of the legislative agenda of the government and these were first used in practice in 2021.

Draft laws are published in their original form as they were submitted to parliament. However, they are not updated after corrections are made in the course of discussions. The timing of answers to CSOs’ questions is usually not violated by state officials, but sometimes violated by local authorities. Announcements of public hearings are often formal and de facto hardly noticeable to the public (especially hearings initiated by local authorities).

There is no special law or special norms on CSOs' access to information. If bills are published, this is often only in the initial version and, until the official publication of the adopted law, the public do not know what form the legislation will ultimately take.<sup>53</sup>

#### **Standard IV. Participation in decision-making is distinct from political activities and lobbying.**

Restrictions on participation of CSOs in political activities are not clearly defined, except for a ban (according to the Electoral Code) on nominating candidates at elections to the parliament and local councils.

The notion of lobbying is neither set out in the legislation, nor in practice. CSOs which, in the opinion of the state, are connected with the political opposition to the current authorities are restricted in practice on their access to decision-making. There are significantly fewer possibilities for public participation at the local level, as the existing legislative norms on public discussions of draft legal acts mostly relate to national level acts (laws, edicts, decrees and government regulations) and not to acts of local authorities.

It is common practice for state-funded CSOs that support the government to be invited to participate in consultations as the only possible representation of public opinion.

#### **SPECIFIC RECOMMENDATIONS UNDER AREA 5:**

- Extend approaches, regulations and practice applied to participation of CSOs in decision-making on development of draft normative acts to the level of local authorities;
- Make all organisational and legal forms of CSO equal in their participation in decision-making, using the term 'non-commercial organisations' instead of 'public associations' in the respective legislation;
- Establish a practice whereby all affected CSOs are invited to consultations on draft legislative acts, instead of the practice of state bodies deciding to invite only certain CSOs;
- Publish annual plans (lists) for government and presidential legislative activity on development of not only draft laws, but also draft presidential legal acts;
- Extend the list of normative legal acts which are subject to public discussions, making it obligatory to also bring up drafts affecting civil rights and freedoms for public discussion;

<sup>53</sup> *Ekonomicheskaya Gazeta*. 4 January 2022. 'Tax uncertainty. Changes in the Tax Code have not been published and probably have not been signed' (in Russian - **Налоговая неопределенность. Изменения в НК не опубликованы и, вероятно, не подписаны**), <https://neg.by/novosti/otkrytj/izmeneniya-v-nk-ne-opublikovany/>.

- Publish actual draft laws online in a constantly-updated form in accordance with the stages of the current legislative process of that draft law;
- Publish drafts of presidential decrees and edicts during the drafting of such acts.
- Restore the registration of CSOs that were forced to be liquidated during 2020-2021, including those dissolved by the courts or local administration decisions;
- Establish in law a mechanism for the consideration and harmonisation of the opinions of the involved stakeholders which had been submitted by them in the framework of public discussions of draft regulatory and legal acts;
- Develop the Law 'On public participation in decision-making' in consultation with CSOs, focus on expanding the opportunities for citizen and CSO participation, and not on introducing restrictions; and
- Enshrine in legislation the obligation to introduce draft laws to parliament, adopt laws, governmental orders, decrees and edicts of the president in both state languages – Russian and Belarusian.

## 3.6 Freedom of Expression

Overall score per area: **2.0/7**

Legislation: <b>2.4 / 7</b>	Practice: <b>1.6 / 7</b>
-----------------------------	--------------------------

Freedom of expression has significantly decreased in Belarus in 2021. Namely, the space for independence has further shrunk due to tightening of laws, deprivation of foreign journalists of accreditation, arrests and criminal prosecution of editors and journalists, and the classification of media, their editorial staff and subscribers of their Telegram channels, as 'extremist formations', which entails criminal liability. Hundreds of information resources have been recognised by courts as extremist materials, which has entailed administrative liability for their publication, even on private pages and in private correspondence. In 2021, freedom of expression in Belarus was destroyed not only in the media, but freedom of communication between individuals was also attacked, as were distribution channels of information (internet, social networks, messengers, especially Telegram) and their audience. In general, practical restrictions on freedom of expression have gone beyond the scope of prosecution of public dissemination of opinions (prosecution of media and journalists) to the private sphere (prosecution for talks in private correspondence, at work, on public transport, subscriptions to banned media, having forbidden information on a smartphone, having forbidden books at home). Consequently, many independent media outlets were forced to take a decision on relocation and continuation of their activities from abroad.

## Standard I. Everyone has the right to freedom of opinion and expression.

Freedom of opinion and expression is stipulated by legislation and the Constitution. But in practice, in 2021, individuals have generally not been able to engage in public discussions without fear of retribution, repression and criminal prosecution. In Belarus, the space for free political discussion is strictly limited both in law and in practice and any alternative civil expression is under pressure both online or offline, for citizens, CSOs, political parties, media and social networks, including direct criminal prosecution of free voices. Cases are frequently reported in which information viewed as critical towards the governing authorities has been prevented from being spread, or has become subject to criminal investigation.

Hate speech against specific groups, such as the political opposition, LGBTQIA+ persons, human rights activists, CSOs or protesters is widespread among the state media and state-supported bloggers, particularly speech justifying new arrests, torture and other repressions against these groups or individuals. In Belarus, the authorities misuse the legislation against radicalism, extremism and hate speech to restrict freedom of expression, including bans on publications. Direct violence from state agencies against journalists and bloggers has been reported in Belarus throughout the whole of 2021. More than thirty journalists had been imprisoned by the end of the year, including representatives of the foreign-based media.

The conducting of opinion polls on social and political topics (even if they are not related to elections) requires special accreditation from the agency under the Academy of Sciences. There is a ban on publishing results of such opinion polls conducted without accreditation, violation of which is punished with a fine. Production of printed materials is subject to licensing and the distribution of books is allowed only after accreditation from the Ministry of Information.

In practice, total censorship is practiced in Belarus to prevent statements directed against the ruling regime, for example, even in theatres.<sup>54</sup> According to Article 38 of the Law 'On mass media', it is forbidden in Belarus to spread information either in the media or online on behalf of organisations that do not have state registration.

---

<sup>54</sup> *Nasha Niva*. 9 March 2022. 'They allegedly jumped into the last carriage of the burning train. The story of a Belarusian artist who escaped to Georgia' (in Belarusian - 'Нібыта ўскочылі ў апошні вагон цягніка, які гарыць'. Гісторыя беларускай мастачкі, што ўцякла ў Грузію).

## Standard II. The state facilitates and protects freedom of opinion and expression.

Almost all TV channels are owned by the state, which also owns major public and political newspapers and subsidises them directly from the state budget. The media market is de facto monopolised by the state. All media must be registered with the Ministry of Information and the work of foreign media and journalists is subject to accreditation. The authorities often refuse registration or accreditation to unwanted media.

The legislation provides for a wide range of forms and grounds for restrictions on activity on imparting of opinions through criminal prosecution, restrictions on the media, control over the internet (in respect of both Belarusian and foreign websites), as well as restrictions on imparting of materials and 'propagandising extremist activity'. The terminology used in the legislation is often vague and allows divergent interpretations. Together with the ample powers of the Ministry of Information (on blocking of internet resources in circumvention of courts and initiating bans of newspapers through courts), the powers accorded to intelligence agencies, border guards and law enforcement agencies have created conditions in which the state has extremely broad and disproportionate opportunities to block the dissemination of information which the government considers unwanted.

During 2021, the legislation on limiting the media became extremely widely used, new repressive and restrictive acts were adopted and media outlets and journalists were silenced via criminal prosecution, the blocking of websites and by recognising their work as 'extremist materials' (by the courts) or 'extremist formations' (by the KGB or Ministry of Interior without trial).

### Dynamics of court decisions on the recognition of information materials as 'extremist' (According to the Ministry of Information's official Index of Extremist Materials)

Table 5: Court decisions declaring materials 'extremist'

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Number of court decisions declaring materials 'extremist'	2	1	0	1	0	1	2	13	38	37	39	22	19	<b>426</b>

Thus, in 2021, there were more decisions to recognise materials as extremist each month as there were total number of decisions previously recorded per year. The particular aspect of 2021 was that most of these judgments were declared to be immediately effective in an extraordinary procedure. In all, the Index of Extremist

Materials contains thousands of newspapers, websites, social media pages, books, and other information media; the list alone is more than 200 pages long.<sup>55</sup>

Whistle-blowers are not protected by law and are widely prosecuted in practice. On 14 May 2021, the Supreme Court sentenced army officer Denis Urad to 18 years in prison for treason after he leaked a government document from the Ministry of Interior addressed to the Ministry of Défense requesting troops as a reinforcement before the planned mass action of the opposition<sup>56</sup>.

During the year, several dozen journalists, bloggers, and media workers were arrested, searched, and prosecuted. As the Belarusian Association of Journalists reported, the top-level repressions took place in July 2021 when the militia and KGB officers conducted 75 searches across the country in journalists' houses and at the editorial premises of independent media outlets. 146 searches were registered across 2021 as a whole. As a rule, the searches were grounded on the need to investigate of criminal cases, in particular under Article 289 ('an act of terrorism') of the Criminal Code. As Human Rights Center 'Viasna' reported, a number of prominent bloggers have been sentenced to various terms of imprisonment for exercising their freedom of speech. In particular, on 14 April, Siarhei Piatrukhin and Aliaksandr Kabanau were each sentenced to three years in prison on charges of 'organising and preparing actions that grossly violate public order'. On 2 February, Uladzimir Niaronski was sentenced to the same term on a similar charge. In December, videographer Artsiom Sakau and social media moderator Dzmitry Papou were each sentenced to 16 years in prison. Blogger Eduard Palchys was sentenced to 13 years in prison. At the end of 2021, the focus of the crackdown shifted to Wikipedists (editors of pages on Wikipedia), who were detained criminally on charges of discrediting the Republic of Belarus under Article 369<sup>1</sup> of the Criminal Code.<sup>57</sup>

In Belarus, criminal liability for insult or defamation of officials or the president remains and is applied in practice in many cases,<sup>58</sup> while general criminal liability for insult (Article 189 of the Criminal Code) was abolished in 2021. Also, in many cases,

---

<sup>55</sup> Criminal Code of the Republic of Belarus.

<sup>56</sup> Belarus army officer jailed for leaking letter on crackdown - Reuters May 14, 2021 14:04 PM GMT+3  
<https://www.reuters.com/world/europe/belarus-army-officer-jailed-leaking-letter-crackdown-2021-05-14/>

<sup>57</sup> According to the Prosecutor General's Office, from 29 December 2020 to 30 April 2021, a resident of the city of Brest 'deliberately provided to the public false information about the activities of law enforcement and state authorities of the Republic of Belarus,' in particular, 'posted misleading information on the websites of foreign organisations Wikimedia Foundation, Inc. (USA) and the international organisation International Society for Human Rights (Germany).' In addition, the indictee 'knowingly conveyed false information about the involvement of the Belarusian authorities in the murder of journalist Veranika Cherkasova in October 2004, as well as the torture and murder of people', <https://prokuratura.gov.by/ru/media/novosti/nadzor-za-resheniyami-po-ugolovnym-i-grazhdanskim-delam/prokuratura-brestskoy-oblasti-v-sud-napravleno-ugolovnoe-delo-o-diskreditatsii-respubliki-belarus/>.

<sup>58</sup> By November 2021, human rights groups received the names of 120 people convicted of insulting the president, but official sources put the number of convictions for defamation of officials at at least 500 – see <https://www.belta.by/society/view/kalinkovich-nazval-spravedlivymi-reshenija-suda-v-otnoshenii-uchastnikov-protestov-484941-2022/>.

whistle-blowers from the militia, communications companies, the post offices, and other agencies have been held liable.

On 31 December 2021, amendments to the Criminal Code came into force, in particular a new edition of Article 361 criminalising the calling for restrictive measures (i.e., sanctions) against Belarus.<sup>59</sup>

The non-judiciary blocking of websites, bans on websites and pages in social networks and on Telegram messenger that are recognised as extremist, putting obstacles in the way of publishing and distribution of newspapers, criminal prosecution (including imprisonment) of journalists and bloggers, beatings of journalists by militia, as well as threats to media editorial staff with demands to close their media, are all used as restrictions on freedom of speech.

Many media and associated individuals in Belarus have been punished with significant fines or arrests of up to 15 days for possession and distribution of materials recognised as extremist on their personal smartphones and social networks (for example, for reposting publications on social networks of pictures containing the logos of the most popular websites recognised as extremist).

The intimidation of media personnel continues in Belarus. As of January 2022, based on data from the Belarusian Association of Journalists, there are 32 journalists either in prison, in militia custody or under house arrest. 'Organisation of group actions that grossly violate public order' was used as a pretext for sentencing Katsyaryna Andreyeva and Darya Chultsova from an independent TV station to two years in prison for live coverage of a demonstration about murdered activist Roman Bondarenko in November 2020. As early as July 2021, content produced by a Polish TV channel for Belarus was labelled 'extremist material', hinting at the possibility that recipients of the information would be subject to administrative liability. Newspaper and media outlets were severely hampered in their efforts to cover the large-scale protests that followed the presidential election. For instance, on 18 May 2021, Belarusian militia arrested staff and seized equipment belonging to *Tut.by*, then the country's biggest news portal, on grounds of tax evasion. While *Tut.by* was closed down by the authorities, former employees of *Tut.by* established a new platform, *Zerkalo*, though this operated from abroad. On 8 December 2021, the militia arrested the editor-in-chief of *Yezhednevnik*, a popular media outlet, on bribery charges, and in February 2021 two more journalists stood trial over their reporting of the unrest. In March 2021, journalist and Polish minority rights activist Andrzej Poczobut was arrested on political charges; arrests have also included journalists for Radio Free Europe/Radio Liberty. In May 2021, Belarusian authorities decided to hijack a Ryanair flight in order to arrest Raman Pratasevich, a 26 year-old blogger and former editor-

---

<sup>59</sup> Lawtrend. 'Freedom of association and legal conditions for civil society organisations in Belarus'.



in-chief of the biggest opposition Telegram channel. In December 2021, Sergei Tsikhanousky, an independent blogger and husband of 2020 presidential candidate Sviatlana Tsikhanouskaya, was sentenced to 18 years in prison.<sup>60</sup> Many other bloggers are also in jail on sentences for the events of 2015-2021.

Access to the *Deutsche Welle* and Current Time internet sites (run by Voice of America and Radio Free Europe) has been blocked, among hundreds of other websites, by the state authorities on 28 October 2021, as material published on these sites was labelled 'extremist'. The situation worsened on 1 November 2021, when the Ministry of Internal Affairs and the KGB also labelled two independent news agencies as 'extremist formations'. This label was also applied to the commercial enterprise that owns the newspaper *Nasha Niva*. According to the Belarusian Association of Journalists, there is no information about any of these entities complaining to the courts about the decision to include them in the list. In December 2021, the Association reported that thirteen media companies had been identified as 'extremist' in 2021.

Hundreds of people are in prison in Belarus after being charged for critical comments on the internet under the pretence of insulting militia, state officials, the president or incitement of social hatred against the social group 'law enforcement officers'.

Besides the flagrant deterioration of the situation in Belarus, there are individuals reported as being imprisoned for insult or libel against the president, judges, state authorities, or for 'discrediting of the republic' on social media or on Wikipedia.

A non-party, but rigid 'ideological vertical' has been built in the country. There is a 'deputy head on ideology' posted in every state organisation, enterprise, school and university, whose task is to propagandize ideas of unquestioning support for the current president's course, the organisation of elections and discrediting of opponents to the regime, as well as the persecution of dissidents at their working places.

The Belarusian authorities have pursued a deliberate policy of discrediting CSOs in the media. For example, the newspaper of the presidential administration *Belarus Segodnya* published a number of articles aimed at discrediting CSOs. There has also been a constant discrediting of CSOs through official statements at various levels.

At the end of 2021, the Prosecutor General's Office and Security Council published a scheme under which the authors of international indexes and rankings can be held criminally liable for actions harmful to the state. Using the example of Transparency International, it was indicated by the authorities that the 'Corruption Perception Index' has no methodological connection with the phenomenon of corruption, but it allegedly has an impact on the investment attractiveness and national security of

---

<sup>60</sup> European Parliament. February 2022. 'Media environment in Belarus', [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698922/EPRS\\_BRI\(2022\)698922\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698922/EPRS_BRI(2022)698922_EN.pdf).

Belarus. Accordingly, such actions are perceived as harming the interests of Belarus and should be punished with criminal liability.<sup>61</sup>

### Specific recommendations under Area 6:

- The release of all individuals recognised as political prisoners, including journalists, bloggers and people sentenced to prison for defamatory articles of the Criminal Code, the review and lifting of all sentences imposed on them and pending decisions on their liability, to pay adequate compensation to all political prisoners, to stop all politically-motivated criminal cases;
- Make laws and the practice of state regulation of freedom of speech congruent with human rights standards, including the UN Human Rights Committee's General Comment No. 34 on Article 19 of the International Covenant on Civil and Political Rights (ICCPR) (2011), so that restrictions do not make exercise of the right to freedom of expression impossible for citizens (including foreign and underage ones) and CSOs;
- To abolish the Law 'About counteraction to extremism' and all by-laws adopted under it, including the Index of Extremist Formations;
- Abolish the 'ideological vertical' as contradicting the Constitution and human rights principles;
- Carry out the de-monopolisation of electronic media and the privatisation of printed media;
- Funding of media from the state budget should be allocated through a transparent and open competition;
- State TV channels should become public service television, in respect of which a special law should be adopted;
- Exclude liability for defamation (Article 188), defamation of the president (Article 367), insult of the president (Article 368), insult of a state official (Article 369), discrediting the Republic of Belarus (Article 369-1), public calls for organising or holding illegal assemblies, rallies, street marches, demonstrations or picketing, or involving persons in participating in such mass events (Article 369-3) and calls for restrictive measures (i.e., sanctions) and other actions aimed at harming the national security of the Republic of Belarus (Article 361) from the Criminal Code;
- The system of website blocking and termination of newspaper publishing should be reformed and under the sole jurisdiction of the courts;
- The system of printed media registration should be notification-based; and
- Abolish obligatory accreditation of pollsters for conducting opinion polls.

---

<sup>61</sup> 'Regarding International Corruption Rankings', Law and Order, 2011, No. 4, (in Russian), [https://www.prokuratura.gov.by/ru/media/info/zhurnal-zakonnost-i-pravoporyadok/?fbclid=IwAR2YcJF\\_LM-iWAaHDJRlkh2\\_CrGekXrZPcFahXwMrn\\_8rHmLflcba244fos](https://www.prokuratura.gov.by/ru/media/info/zhurnal-zakonnost-i-pravoporyadok/?fbclid=IwAR2YcJF_LM-iWAaHDJRlkh2_CrGekXrZPcFahXwMrn_8rHmLflcba244fos).

## 3.7 Right to Privacy

Overall score per area: **2.6/7**

Legislation: **3.6 /7** | Practice: **1.7/7**

The protection of personal data has deteriorated despite the adoption of the Law 'On Personal Data Protection'. The law contains positive norms which are in line with EU approaches, as it was developed before the political crisis in 2020. The deterioration in this area is due to both the introduction of tougher requirements for data processing, which are a priori impossible for CSOs to meet, and the introduction of criminal liability for violation of the rules for personal data processing. At the practical level, citizens remain defenceless against intrusion into their personal lives by militia or state propagandists. Political prosecution bodies not only broadly broadcast footage of secret video surveillance, but also practice mass 'confessions in front of a video camera' by those arrested, including those who have been tortured. Compulsory outings of LGBTQIA+ persons are practiced under the threat of torture. Refusals to provide access to private correspondence or a smartphone are interpreted as disobeying militia and in practice are often punished with arrests.

### **Standard I. Everyone enjoys the right to privacy and data protection.**

The Constitution guarantees the right to privacy, secrecy of correspondence and other messages and legislation provides for the protection of personal data. The right to privacy is in practice not protected from interference and unlawful restrictions by the state authorities.

Torture with the aim of obtaining a password for a smartphone or a chat group and examination of smartphones during arrests and detentions is broadly used. The presence of opposition websites or channels in the Telegram messenger application being among a person's viewed data resources can become grounds for arrest and violence and, since 2021, for criminal prosecution. Seizure of all data storage and communication devices is broadly used during both searches in homes and during arrests. Typically, phones and laptops are very rarely returned to their owners.

In the context of the investigation of politically-motivated criminal cases, the authorities hunt out protest coordinators, forcibly de-anonymising and arresting the administrators of local protest chats and Telegram channels. The personal data of arrested persons and those accused in political cases, as well as information about the administrators and subscribers of opposition and protest Telegram channels are regularly published in state media. The preliminary disclosure of details of criminal cases in an accusatory and biased manner is widely practiced by the state media.

The Ministry of Internal Affairs has created a unified database of participants in unauthorised demonstrations on the basis of resolutions aimed at bringing participants to administrative and criminal justice (known as the *BESporiadki* database). This system can automatically prepare reports on 'rioters'. On the basis of the database, it is possible to decide the question of 'response measures' in relation to both a specific person and a group united by one or more criteria (including preventive arrests, special controls on the border or in the working place, tax inspections, etc).

The legislation on personal data protection was adopted in 2021 in the form of the separate Law 'On Personal Data Protection'. In practice, however, this protection is effective only against interference by third parties, but not against interference by the state. For example, exercising the right to investigative activity, state agencies (including intelligence ones) freely intercept the phone calls and internet correspondence of CSO members, as well as carry out surveillance on them, control their movements, and publish on state TV and on social media non-voluntary 'confessions' or personal data and pictures of private residences. In many cases, state agencies use the received data for criminal prosecution and smear campaigns in the state media and to stigmatise human rights defenders, CSO activists, trade unionists, journalists and other individuals unsatisfied with the authorities' policies. No efficient investigations on such violations as CSOs' websites or emails being hacked are conducted. Forced outings of LGBTQIA+ persons in custody is a shameful new practice of the Ministry of Internal Affairs.

The Code on Administrative Offences provides for responsibility for violation of the personal data protection legislation (Article 23.7). Article 179 of the Criminal Code ('responsibility for unlawful collection or imparting of information about private life') was removed from the Criminal Code because of the adopted Law 'On Personal Data Protection' in May 2021. Instead, a broader Article 203<sup>1</sup> was added to the Criminal Code ('unlawful acts in connection with information on private life and personal data'). This Article covers the 'intentional illegal collection, provision of information about the private life and/or personal data of another person without his consent, which caused substantial harm to the rights, freedoms and legitimate interests of a citizen' and can be punished with up to two years' imprisonment.

However, the wording of these norms and the practice of their application does not cover all the cases of misuse of access to personal data. Belarus has acceded to Convention 108 of the Council of Europe (Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data), which is why it does not support this standard for protection of personal data (for example, there are no set terms for storage of personal data).

The legal requirements for CSO personal data protection activities are disproportionate and not justified by legitimate interests. CSOs themselves are unprotected from violations of privacy from the state.

When it comes to the documents submitted for registration of public associations and foundations, the law requires that personal information (including a list of all the founders) be provided. In practice, this information is passed on to other state agencies for additional approval or examination, which in some cases leads to pressure on CSO members. The Ministry of Justice has the right to request any information from public associations, including lists of members.

#### **Standard II. The state protects the right to privacy of CSOs and associated individuals**

Despite the fact that the legislation requires for the obligatory sanction of a prosecutor for searches, law enforcement officers arbitrarily intrude into CSOs' offices and the private residences of their leaders to carry out arrests, searches and the seizure of equipment.

In the numerous inspections of 2021, which were de facto fishing expeditions to justify the preparation of lawsuits for the liquidation of hundreds of CSOs, the state authorities groundlessly asked CSOs for personal data relating to all members, including former members. An appeal of these requests to the Supreme Court after the warnings issued to CSOs was unsuccessful, and later these requests became the basis for lawsuits for the liquidation of CSOs.

In accordance with the new edition of the Law 'On measures to prevent the legalization of criminally obtained income, financing of terrorist activity and the financing of proliferation of weapons of mass destruction', starting from 2021, public associations and foundations are required to publish large reports about their activities, income and expenses. Some CSOs faced forced liquidations for technical errors when publishing these reports or (doubtful) claims that they were incomplete.

In March 2021, there was an incident in which content from the AML/CTF report by several dozen CSOs based in Minsk was published on the website of the department of justice without deletion of personal data of members of the elected bodies of these CSOs. More than one hundred individuals had their personal data disclosed, including phone numbers and residential addresses.

## Specific recommendations under Area 7:

- Establish an independent authority on the protection of rights of personal data subjects;
- Establish sanctions for unlawful acts relating to the collection, processing, provision and imparting of personal data that are appropriate and connected with the real threats from the state, also introducing specific norms of liability for state agencies' officials;
- Ensure sufficient guarantees that the legislation on protection of personal data will not be used to restrict the activities of journalists and CSOs, but is aimed at the protection of public interests;
- Stop publishing data on private life that has come to the knowledge of government agencies as part of programmes to discredit and stigmatise individuals, especially CSO leaders and activists;
- To close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents; and
- Put an end to non-selective electronic surveillance of citizens, including the interception of CSOs' phone calls and the monitoring of their internet communications without court orders.

## 3.8 State Duty to Protect

Overall score per area: **2.0/7**

Legislation: **2.6/7**

Practice: **1.4/7**

The state has again failed to protect and continued to suppress CSOs. The state does not protect CSOs and their activists from involuntary dissolution by decisions of state bodies, from repression, from defamatory attacks via propaganda or from the intrusion of state bodies into the internal affairs of CSOs and people's private lives. Laws against extremism have become one of the important prosecution mechanisms against both CSO activists and any other people who disagree with the policies of the authorities. AML/CTF norms have become grounds for the liquidation of CSOs and for the blocking of activists' and politicians' bank accounts.

### **Standard I. The state protects CSOs and individuals associated with CSOs from interference and attacks.**

According to the law 'On public associations', the state guarantees protection of public associations' rights and legitimate interests and interference by the state into the

activities of public associations is forbidden.<sup>62</sup> In practice, however, this protection is not implemented.

Courts do not serve as a means to restore violated rights. Killings and torture remain unpunished, while the use of hate speech and incitement to violence, including the justification of torture, are widely broadcast by state media.

Recorded cases in which individuals charged with participation in protests have been acquitted are few. The courts deliver judgments on civil cases via Skype, examination of a case can take only several minutes and almost always culminates in a guilty verdict. In the case of the mass arrest of hundreds of protesters, the courts work in a 'conveyor-belt' mode. Under the pretext of the Covid-19 pandemic, many administrative and criminal cases are heard behind closed doors. Under the same pretext, many lawyers are unable to meet with their clients which hinders their right to a defence. With thousands of citizens detained by security forces, many lawyers are facing disbarment and/or detention for their work on defending opposition figures and other arrested citizens.

Amendments to the Law 'On the Bar and lawyers' activities in the Republic of Belarus' in May 2021 tightened the Ministry of Justice's control over lawyers, banned private law firms and created preferential conditions for former legal employees of the Ministry of Internal Affairs to obtain the status of lawyer.

Killings and torture (including those filmed live with clearly identifiable killers and victims) go unpunished, and the complainants themselves become accused in criminal cases of riot or libel. The volume of cruel violations of human rights in Belarus in 2021 is similar to a de facto state of emergency in which the normal laws do not apply, or apply only to the extent that gives the mass repression the appearance of legality.

Politicians and government officials engage in hate speech towards human rights CSOs, opposition groups, independent trade unions and CSOs receiving foreign funding.

Judges fail to respond to allegations of torture, do not suspend proceedings until allegations of torture are investigated, and justify convictions with evidence obtained through torture. The right to unimpeded access to lawyers is still being violated. These abuses are often committed under the guise of anti-coronavirus measures. An analysis of the situation as a whole gives grounds to conclude that the procedural rights of detainees and prisoners are arbitrarily restricted *en masse*.<sup>63</sup> Lawyers are deprived of the opportunity to perform their duties in an environment of freedom and absence of pressure. During the year, more than thirty lawyers were convicted or arbitrarily expelled from the profession. The actual grounds for this were their public and

---

<sup>62</sup> Article 6 of the Law 'On public associations' of 4 October 1994, with subsequent amendments.

<sup>63</sup> Human Rights Center 'Viasna'. 'Human Rights Situation in Belarus in 2021: Analytical review'.

political views and activities, the exercise of rights and freedoms, including by involvement in politically-motivated cases. Self-government bodies joined the authorities in the campaign to persecute lawyers. As a result of hastily-adopted changes in the Law ‘On the Bar and lawyers’ activities in the Republic of Belarus’, counsels can only carry out their activities as part of legal advice firms and cannot elect their own self-governing bodies. The dependence of the bar on the executive branch in various aspects of its activities has become even stronger, and total control over lawyers’ self-governing bodies has reached a new level, depriving the bar of what remained of its independence and self-government.

There is no mechanism for ensuring execution of decisions of international human rights bodies, in particular, those adopted by the UN Human Rights Committee in respect of Belarus on the basis of facts of violation of the right to association through liquidation of public associations or refusals to register them.

**Standard II. Measures used to fight extremism, terrorism, money laundering or corruption are targeted and proportionate, in line with the risk-based approach, and respect human rights standards on association, assembly, and expression.**

The abuse of anti-terrorism and anti-extremism legislation (especially its amended and expanded version in 2021) is not an unintended consequence, but a deliberate policy of the current government. This is evident in virtually all of the areas covered by this report.

Legislation on extremism is used both to justify blocking sites on the internet and to bring political opponents of the government to criminal liability. In general, the legislation and practice of ‘countering extremism’ in 2021 became very similar to the Russian model, being clearly inspired by it. But only in Belarus does the concept of ‘extremism’ even extend to: ‘illegal’ mass events; spreading ‘knowingly false information’ about the situation in Belarus; insulting representatives of the authorities; and ‘discrediting’ state authorities. The ‘facilitation’ and ‘training’ of extremism and its ‘public justification’ are also criminalised. Groups of citizens are recognised as ‘extremist formations’ without trial.<sup>64</sup> ‘Extremist symbols’ include images of people previously convicted of extremism, as well as numerous media logos and watermarks.

On 14 May 2021, the Law ‘On Amending Laws on Countering Extremism’ was signed, which entered into force on 14 June 2021.

---

<sup>64</sup> Human Constanta, Human Rights Center ‘Viasna’, Belarusian Association of Journalists and SOVA Center for Information and Analysis. 2022. ‘How ‘extremism’ violates human rights in Belarus: main theses from human rights organisations’.



This Law even more significantly expanded the concept of extremism (extremist activities). In accordance with the Law, there is responsibility not only for organising, preparing, and committing attacks on independence, territorial integrity, sovereignty, the foundations of the constitutional order, and public security, but also for planning these activities. Notably, these activities can be carried out, inter alia, through:

- (i) facilitating extremist activities, undergoing training or other preparations for participation in the activities;
- (ii) disseminating deliberately false information about the political, economic, social, military or international situation of the Republic of Belarus, or the legal status of citizens in the Republic of Belarus to discredit the Republic of Belarus;
- (iii) insulting a state agent in connection with the performance of his official duties and discrediting public authorities and administrations; and
- (iv) inciting racial, national, religious, or other social enmity or discord, political or ideological enmity or discord against any social group, including committing, for these purposes, wrongful acts against public order and public morality, the order of government, life and health, personal freedom, honour and dignity of a person, property; obstructing legal activities of state bodies, etc.

A broad and vague definition of an ‘extremist organisation’ was also introduced. Belarusian laws on combating extremism contain vague wording, allowing for broad interpretations, which creates possibilities for misuse of extremism charges especially when it comes to charges as to publications online. Extremist organisations include not only ones that carry out extremist activities or fund them, but also those providing other assistance to extremist activities, or recognising the possibility to conduct extremist activities. If an organisation registered in Belarus is recognised as being extremist, its activity in the territory of the Republic of Belarus is prohibited and it must be liquidated on the basis of a court decision. A decision on designation as an extremist organisation can be taken by the Supreme Court upon the application of the Prosecutor General, the regional courts, and the court of the City of Minsk upon appeal from relevant prosecutors. The organisation’s property may be seized and the law prohibits the use of symbols and attributes of such an organisation. Article 423<sup>1</sup>, providing for punishment of up to three years’ imprisonment for non-execution of a court decision on recognising an organisation as extremist, was included in the Criminal Code of the Republic of Belarus. In 2021, the Supreme Court of Belarus passed the first cases declaring organisations to be terrorist organisations.<sup>65</sup>

---

<sup>65</sup> The informal organisation ‘Supratsiŭ’ was recognised as a terrorist organisation with the initiatives of ‘Cyber-Guerrillas’, ‘People’s Self-Defence Forces – CSN’ and ‘Busly Lyatsyats’ included in it, and therefore these organisations are classed as both extremist and terrorist. This decision was made by the Supreme Court of the Republic of Belarus on 1 December 2021. The prosecutor’s report states that ‘the key purposes of the formation’s establishment activities are to unite radically-minded citizens for subsequent inducement to participate in unsanctioned protests and forcefully

The law also introduced the term ‘extremist formation’. Its most important difference from the term ‘extremist organisation’ is that an extremist formation can be non-registered and can be recognised as extremist extrajudicially, by the Ministry of Internal Affairs or the KGB.

On 15 October 2021, the Resolution of the Council of Ministers of the Republic of Belarus No. 575 (‘On measures to counter extremism and rehabilitation of Nazism’) came into force. In accordance with the law and the resolution, the Ministry of Internal Affairs is entrusted to maintain the lists of organisations, formations, individual entrepreneurs, as well as the index of citizens of the Republic of Belarus, foreign citizens, or stateless persons involved in extremist activities.

Legislation on extremism is used both to justify blocking sites on the internet and to bring political opponents of the government to criminal liability. The same applies to AML/CTF regulations, which were also unreasonably used to introduce financial reporting for CSOs. AML/CTF measures apply to all CSOs of two legal forms, public associations and foundations, regardless of the level or risk posed, are not in line with the FATF risk-based approach and are not based on the official risk assessment.

The Belarusian Law ‘On measures to prevent legalisation of criminally obtained income, the financing of terrorist activity and the financing of proliferation of weapons of mass destruction’ obliges banks to verify whether CSOs’ financial transactions correspond with their statutory objectives. In accordance with the new edition of the abovementioned Law, starting from 2021, public associations and foundations are required to publish large reports about their activities, income and expenses (some CSOs faced forced liquidations for technical errors while publishing these reports; in other cases the government groundlessly disclosed the personal data of CSOs’ board members). Misuse of standards in the AML/CTF and anti-corruption fields for non-proportional restrictions on CSOs is still common in Belarus. In general, the regulations on the reporting system for CSOs are excessive and non-proportional.

Accusations of violation of the rules of publishing the AML reports in terms of the procedure (but not in connection with the violation of the AML norms in their essence) were among the grounds for the liquidation of close to ten leading Belarusian CSOs. It was one of these liquidated organisations, Human Rights Public Association ‘Belarusian Helsinki Committee’, that earlier, at the stage of developing the AML reporting procedure in 2020, applied to the Ministry of Justice with a proposal to hold a public consultation on the new reporting procedure, but this request was refused and no preliminary consultations were held.

---

oppose law enforcement and terrorist acts; discredit state authorities and administration; and violently change the constitutional order.’

The authorities use anti-terrorist justifications as a pretext for their attempts to silence civil society, including through criminal prosecutions. At the same time, procedural guarantees for detainees and suspects in criminal proceedings are significantly reduced. Pre-trial detention is used very frequently (almost always in politically-motivated cases) and it can extend over years and be based only on the gravity of the crime. The use of bail, house arrest, and other pre-trial measures is rare. Additional charges are often used for new crimes when a person is already in prison (in which case the pre-trial detention period begins to be counted again). As a result, for example, the manager of the largest national crowdfunding platform *MolaMola*, Eduard Babaryka, was imprisoned on criminal charges of tax evasion during 18 months in custody without trial, and after that he was additionally accused of inciting hatred and organising mass riots.

### Specific recommendations under Area 8:

- Introduce the possibility for CSOs to appeal against any action of state bodies in court, which, in their opinion, violates their rights or the rights of their members;
- Release all individuals recognised as political prisoners, the review and lifting of all sentences imposed on them and pending decisions on their liability, the payment of adequate compensation to all political prisoners, to stop all politically-motivated criminal cases;
- To abolish the Law 'About counteraction to extremism' and all by-laws adopted under it, including the Index of Extremist Formations;
- Prosecute persons who have committed targeted and politically-motivated actions to eliminate freedom of association under Article 194 of the Criminal Code ('the obstruction of the lawful activities of public associations'); and
- Introduce the risk-based approach to the legislation on AML/CTF, which takes into account actual non-involvement of CSOs in money laundering and terrorism funding activities, as well as stop assessment of CSOs' financial transactions' compliance with their charters as a criterion for relating financial transactions to those requiring special control.

## 3.9 State Support

Overall score per area: **2.4/7**

Legislation: <b>2.8 / 7</b>	Practice: <b>1.9/7</b>
-----------------------------	------------------------

State support for CSOs has been underdeveloped and further reduced. The list of CSOs that can claim for preferential rental rates for premises in state-owned buildings has been reduced. In Belarus, there is also no publicly-available competitive system of state funding for CSOs.

### Standard I. There are a number of different and effective mechanisms for financial and in-kind state support to CSOs

Mechanisms for state support for CSOs are not developed and state support is available to only certain CSOs close to the authorities. State support to CSOs is allocated on a non-competitive basis due to direct political decisions. There is no single normative act in Belarus that regulates state financial support to CSOs.

The legislation and practice provide for two main forms of state financial support of CSOs: direct funding of certain CSOs from the state or local budgets on a non-competitive basis and social contracting. There is also a special procedure for attracting funding stipulated for sporting organisations (including the appointing of certain enterprises to fund certain clubs).

In general, only a narrow and non-changing circle of CSOs receives state support. In-kind support in the form of reduced rental fees when renting state-owned premises is provided to CSOs that are included in the special list approved by the government. CSOs are included in this list at the request of ministries based on a procedure with non-transparent, subjective criteria. This list has been severely reduced twice during 2021.

The list of CSOs eligible for rental benefits was first reduced on 30 March 2021. At that time, the list was almost halved. The list now excludes, for example, such organisations as the Association of Non-Commercial Organisations to Combat the HIV/AIDS Epidemic (*BelSet AntiAIDS*), the Belarusian Public Association *Rest in the Village*, the Belarusian Public Association of those with Ostomy, the Charitable Public Association *Together for a Better Future*, the Charitable Public Association *World without Borders*, the Vitebsk City Public Women's Association *Ulyana*, the International Public Charitable Association *See with Heart*, the International Public Association

*Understanding*, the Public Association *Republican Association of Wheelchair Users*, Republican Public Association *Belarusian Association of UNESCO Clubs*, the Republican Public Association *Mothers Against Drugs*, the Republican Youth Public Association *League of Voluntary Labour of Youth*, and the Belarusian Association for Assistance to Disabled Children and Young People with Disabilities.

On 27 December 2021, the Resolution of the Council of Ministers of the Republic of Belarus No. 761 ('On amending the Resolution of the Council of Ministers of the Republic of Belarus of 30 April 2013 No. 327'), to enter into force on 30 March 2022, was adopted. It once again significantly reduced the list of CSOs that are eligible for lease benefits. It determined that only 23 Belarusian non-profit organisations can use the benefits (before this, 103 CSOs were granted lease benefits; at the moment the initial regulation was adopted in 2010, there were 500 eligible CSOs; and, prior to this, before the introduction of the list, all public associations had lease benefits).<sup>66</sup>

Besides social contracting, contracting CSOs is not widespread and tender conditions for state procurement are usually formulated in such a way that they are unfavourable for CSO participation.

The authorities have developed a positive draft law on volunteering that takes into account the recommendations and references of CSOs, but this draft law has been at the development stage since 2020 without clear progress.

#### **Standard II. State support for CSOs is governed by clear and objective criteria and allocated through a transparent and competitive procedure.**

There are no transparent and competitive procedures for provision of state funding to CSOs. The only exception is social contracting. However, social contracting is available to a narrow circle of social CSOs, requires a lot of additional financial contributions from other resources and its application is subject to serious restrictions.

State funding of CSOs is not monitored and the results of the projects and programmes funded by the state are not published. CSOs that receive funds from the state participate in propaganda and agitation campaigns in support of the government and pro-government policy, including stigmatisation campaigns.

---

<sup>66</sup> For a more detailed analysis of the Decree, see: Lawtrend. December 2021. 'Changes in the reporting legislation for public associations and foundations' (in Russian - *Изменение законодательства об отчетности для общественных объединений и фондов*).

### Standard III. CSOs enjoy a favourable tax environment.

Belarusian CSOs do not assess the tax environment as favourable. The only benefit is the exemption of membership fees and internal donations from income tax.

Foreign donations and grants are not automatically tax-exempt. Besides registration of aid, a recipient must undergo a separate procedure for tax exemption and such exemption may be partially or fully refused. CSOs name lack of regulation of the tax status for charitable aid to individuals who receive it from CSOs as an unfavourable measure and, in some cases, tax inspectorates have even demanded that citizens pay tax on such aid. The procedure for obtaining a tax exemption status is not stipulated by law or government regulations. In almost all cases, a CSO should try lobbying an individual political decision by an authority (at the level of a law or a government) to get a tax deduction thru inclusion into the list for tax exemption (compliance with any list of eligibility criteria is not enough to enjoy the tax deductions). Even when a CSO does not have any financial activity, it must submit nil tax declarations. Any sum received by an individual as a gift, so long as it does not exceed BYN 7,521 (approximately 2,300 EUR in December 2021) per year, is exempt from income tax.

When it comes to donations to orphaned children or persons with disabilities, a donation that does not exceed BYN 15,030 (5,200 EUR) per year can be tax-deductible. Public associations are forbidden to directly conduct entrepreneurial activities; they need to establish a separate enterprise to be able to render services and sell goods. In cases of the conduct of entrepreneurial business activities by foundations and institutions, such income is subject to taxation like the income of any company. The law does not specify a special public benefit status, or a notion of social entrepreneurship. Leaders of CSOs who violate rules on foreign aid are charged with tax evasion in accordance with the Criminal Code and are sentenced to imprisonment. People who provided material or legal aid to victims of militia violence after the presidential elections in 2020 faced criminal charges and investigation of their tax affairs.

The Tax Code stipulates preferences for donations to organisations of a certain kind. For instance, a certain amount of money given by donors to religious organisations, social service institutions, and some sports organisations is exempt from income tax. For organisations on the specific list enumerated in the Tax Code, and religious and sports organisations, there is a ceiling of how much of tax can be deducted from corporate donations. The deduction cannot exceed 10 per cent of a donor's profit.

Many technical requirements on tax calculations are designed for commercial organisations and the specifics of CSOs are not taken into consideration. For example, when a CSO does not have any financial activity, it must submit nil tax declarations every month. There are no official legislative definitions of 'charitable activity,'

‘charitable (public benefit) organisation,’ or ‘charity.’ The legislation uses different terms, such as donations, gratuitous (sponsor) aid, foreign gratuitous aid, and international technical aid, and sometimes the differences between these are unclear. In practice, this creates significant difficulties in the execution of donations for correct calculation of taxes and for the implementation of bank transactions.

Leaders and employees of CSOs who violate the rules for receipt of foreign aid and receive it into personal accounts or the organisation’s bank accounts abroad are charged with tax evasion in accordance with the criminal procedure and are sentenced to imprisonment. There were a few such criminal cases in 2021, including with Human Rights Center ‘Viasna’ involving dozens of accused and suspected persons.

Ales Bialiatski, chairman of the Human Rights Center ‘Viasna’, his deputy Valiantsin Stefanovich and the organisation’s legal advisor Uladzimir Labkovich were remanded in pre-trial custody from 14 July 2021. On this day, their homes, together with the homes of a dozen other members of Viasna, were raided by the Department for Financial Investigation. This was part of a massive attack on CSOs in Belarus announced by President Lukashenko. Since then, three human rights defenders have been imprisoned on charges of ‘tax evasion’ (Part 2 of Article 243 of the Criminal Code).

However, even without considering the obvious political motivation of the case, the tax charges are directly related to the fact that the Belarusian authorities restricted freedom of association and prevented the CSO ‘Viasna’ from obtaining the status of a legal entity.

According to the prosecution, Stefanovich, Bialiatski and Labkovich, together with Dzmitry Salauyou (who left Belarus after a search in February) and ‘other unidentified persons,’ after the *‘liquidation of the human rights organisation ‘Viasna’ in accordance with a decision by the Supreme Court of October 28, 2003, in violation of the court’s decision, led the organisation and continued to carry out activities of this organisation on the territory of Belarus, including by performing work (services), for which the persons who performed the work (provided services), in the period from 2013 to 2020, received from the above organisation material remuneration for a total amount of at least 879,887 roubles.’*

The authorities also argue that *‘in violation of the provisions of the Civil Code and the Tax Code, Bialiatski, Labkovich, Stefanovich and Salauyou failed to register the organisation they led in the prescribed according to the law form as a legal entity, as well as a taxpayer, and did not submit the relevant information to the tax authorities, by which they concealed from the tax authorities information about the payments made to persons who performed work activities (provided services) on behalf of the organisation and avoided registering the organisation as a tax agent and fulfilling its duties.’* By doing the above, Bialiatski, Labkovich, Stefanovich and Salauyou

allegedly ‘evaded the payment of income tax,’ by ‘concealing the tax base for the period from 2013 to 2020 in a total amount of at least 113,428 roubles,’ which ‘caused damage on a large scale.’<sup>67</sup>

The liquidation of the CSO ‘Viasna’ by the Supreme Court in 2003 was recognised as a violation of freedom of association by the UN Human Rights Committee<sup>68</sup> and, following it, ‘Viasna’ has applied for registration multiple times, but without a positive decision from the Ministry of Justice.

Hundreds of cases of state tax audits and requests for tax declarations from civil activists were registered from March 2021 and onwards throughout the year to check that the income they received corresponded to the expenses they incurred. Many of them were additionally taxed for previous years (including funds received from the Human Rights Center ‘Viasna’ and other human rights organisations or charity CSOs from Belarus and abroad). This action was accompanied by stigmatization campaign by state media.

The press service of the Ministry of Internal Affairs reported in April 2021 that the Department for Combating Economic Crimes of the Minsk Region revealed an illegal foundation on food delivery to ‘victims of repression’ in August 2020. The organiser of the foundation was held administratively responsible for illegal organisation and participation in the activities of the foundation, which had not obtained state registration in accordance with the established procedure.

#### **Standard IV. Businesses and individuals enjoy tax benefits for their donations to CSOs.**

The tax system in general does not stimulate businesses or individuals to provide charitable aid and there are no general tax deductions for donors. The legislation applies the mechanism of targeted provision of benefits. Tax deductions are also provided not for meeting certain criteria, but for direct inclusion of a donor or recipient organisation in a certain list.

For example, Article 181 of the Tax Code of the Republic of Belarus directly enumerates 17 CSOs, the provision of sponsorship aid to which Belarusian business entities may enjoy a tax deduction. This list of organisations in the Tax Code is sometimes renewed (five new organisations have been added to it lately), but there is no procedure or criteria for inclusion in this list, except for lobbying the adoption of a separate law on amendments to the Tax Code. Aid to any other organisation can be

---

<sup>67</sup> See in state party response to the UN special procedures joint allegation letter: Information from the Republic of Belarus in response to letter AL BLR 8/2021 dated 7 September 2021 from special procedures of the UN Human Rights Council - 21-17602E HRC/NONE/2021/SP189, [https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36641&fbclid=IwAR37wNRpuCPdUkMo07ylvSg2d4COxlbmYa5LsGM8WnV8cl8GKqDLC2at\\_Kg](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36641&fbclid=IwAR37wNRpuCPdUkMo07ylvSg2d4COxlbmYa5LsGM8WnV8cl8GKqDLC2at_Kg).

<sup>68</sup> Human Rights Committee Communication No. 1296/2004 according the Optional Protocol to the International Covenant on Civil and Political Rights (Ninetieth session 9 – 27 July 2007 CCPR/C/90/D/1296/2004), [CCPR/C/90/D/1296/2004](https://www.unhcr.org/refugees/country/1296/2004).



provided by a business entity only from post-tax profit and does not entail any tax deduction.

Moreover, the fact of sponsorship aid to any other CSO, except for those enumerated in the Tax Code, is sometimes treated by regulatory agencies and tax inspectorates as a potential risk and suspicious operation that requires specific control and more inspections.

According to the general rules, tax deductions are not provided to corporate donors. In addition, donations from corporate donors cannot be anonymous and should be formalised through a written contract with the recipient.

#### **Standard V. Legislation and policies stimulate volunteering**

In Belarus, there is no legislation on the encouraging of volunteer activities or any volunteering regulation.

The authorities have developed a positive draft law on volunteering that takes into account the recommendations of CSOs (including references to ECNL in the background paper), but this draft law has been at the development stage since 2020 without clear progress.

#### **Specific recommendations under Area 9:**

- Abolish the ban on the activity of public associations without registration, set this out in the law 'On public associations' and cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193<sup>1</sup> of the Criminal Code);
- Enshrine provisions on a non-discriminatory and open system for funding of non-state non-commercial organisations from the state budget on a competitive basis in the legislation, which would stipulate publication of the data on the volumes of the allocated state aid to CSOs, as well as publication of reports by recipient organisations on its use;
- Release all individuals imprisoned for tax violations for civil activities or CSOs' activities and lift all sentences imposed on them and pending decisions on their liability; pay adequate compensation to all such political prisoners;
- Introduce the mechanism of income tax percentage designation to CSOs for individuals;
- Enshrine in the Law 'On accounting and reporting' the possibility for simplified accounting in non-commercial organisations by heads of organisations without the need to employ a professional accountant and simplify tax reporting for CSOs which do not conduct entrepreneurial business activities; and
- When developing a framework legal regulation on volunteering, it is necessary to provide the opportunity to carry out volunteer activities both in the form of CSOs or business legal entities and in the form of collective or individual volunteer initiatives without the formation of a legal entity.

## 3.10 State-CSO Cooperation

Overall score per area: **2.4/7**

Legislation: **2.8 / 7** | Practice: **2.0/7**

State-CSO cooperation has significantly deteriorated. Many CSOs deliberately gave up on advocacy and cooperation with the authorities in the atmosphere of repression. CSOs' cooperation with the state has reduced also due to the authorities stoking an atmosphere of fear throughout the whole public sphere and through direct decisions to eliminate CSOs from the sphere of interaction with the state. For example, CSOs were excluded from the supervising commissions in the prison system.

### **Standard I. State policies facilitate cooperation with CSOs and promote their development.**

There are no framework policy documents on cooperation between CSOs and the state. Certain plans and programmes approved by the state provide for interaction between state agencies and CSOs during their implementation. However, the extent of CSO participation in the development of these plans, as well as the availability and sufficiency of financial support for their implementation, remains so far unsatisfactory.

### **Standard II. The state has special mechanisms in place for supporting cooperation with CSOs.**

Legislation does not contain framework regulations on mechanisms for cooperation and consultation between the state and CSOs.

Public councils with participation of CSOs are widespread. However, they do not have unified standards and regulation principles, their composition is approved by the decision of a state body, and they do not form a hierarchical system.

The powers of public councils are usually very scant, except for councils on entrepreneurial activities. CSOs are rarely admitted as members to the councils at their own request, nor through their internal CSO elections. Councils are usually established through individual invitations initiated by state agencies. The selection criteria for participation of CSOs in consultative bodies are unclear and largely biased and the selection procedure is not transparent. Only in rare cases does the legislation regulate powers and rules of procedure for councils, most often the only regulative act is regulations approved by a state body itself under which a council is established.

In particular, in the autumn of 2021, the section on civil control in the field of protection of historical and cultural heritage monuments has been removed according to the draft amendments to the Code on Culture (revisions have been officially adopted later in 2022). This happened despite protests from many CSOs and petitions against these amendments, as well as in spite of the position of the Ministry of Culture. Because of this, the public supervisory commissions for the protection of historical and cultural heritage will be liquidated in 2022. This cultural control civil bodies will be dissolved even despite they had previously been cited as being effective for CSOs and working transparently.

In April 2022 the Council for Entrepreneurship Development changed its status by presidential edict from a presidential advisory body and has downgraded to an advisory body under the government<sup>69</sup>.

### Specific recommendations under Area 10:

- Adopt a governmental order, based on relevant evidence and analysis on cooperation between CSOs and the state with the participation of a wide range of CSOs and state agencies. The order should also contain an action plan for up to three years, which would provide for funding for CSOs as co-implementers of its activities on a competitive basis, as well as with a procedure for regular monitoring, execution assessment and assessment of influence on policies.

## 3.11 Digital rights

Overall score per area: **2.2/7**

Legislation: **2.8 / 7** | Practice: **1.6 / 7**

The digital rights of Belarusian CSOs and citizens are significantly restricted at both the legislative and practical levels. Despite the fact that some private providers of internet services have certain benefits and programmes for CSOs, the online exercise of digital freedoms is strictly limited by state regulation and law enforcement's harsh practice of a policy of total control, repression, and the silencing of all independent voices.

<sup>69</sup> Edict of the President No. 163 of 26 April 2021 - <https://president.gov.by/be/documents/ukaz-no-163-ot-26-aprelya-2021-g-1619456765>.

## Standard I. Digital rights are protected, and digital technologies are compliant with human rights standards

The legislation does not guarantee the existence of a safe and enabling online environment and the protection and exercise of digital rights.

Legal norms<sup>70</sup> establish requirements for private digital service providers to provide the possibility to trace, control and intervene into private communications, without the knowledge to the object of the control. Freedom of speech online is restricted by surveillance and blocking of internet resources, as well as by searches in providers' offices and in the editorial offices of online media. In May 2021, the government amended the Telecommunications Law to allow it to shut down or limit the operation of telecommunications networks and facilities in response to alleged threats to national security involving the internet.

The militia, when arresting, searching or carrying out random checks on the street, can ask for a person's mobile phone to check their chats and internet resources that they have accessed. The refusal to show a private device is qualified as disobedience and is punishable by arrest for up to 15 days. If photos or videos of rallies or other prohibited information (in conversations in chats or subscriptions to social media) are found on the smartphone, arrest and prosecution (including criminal charges) will follow.

The state allows surveillance technology to operate unconstrained or unregulated and/or uses spyware/malware to carry out surveillance on CSOs or activists (according to state officials' statements). In 2021, amendments to the law 'On Operative-Investigative Activity' were introduced, which significantly expanded the possibilities for remote monitoring of users. Now operatives can inspect a computer not only by being directly present on location, but also through remote access. Without any additional paperwork, operatives are allowed to listen to telephone conversations and view email correspondence if a person uses two or more telephone numbers or two or more email accounts.

The state limits how surveillance technology can be used only for non-state operators and has introduced vast exceptions and derogations to prohibitions or limitations in the areas of national security, border control, and counter-terrorism laws.

National security, border control or counter-terrorism laws authorise opaque and unaccountable government requests for data, where the user has no knowledge or right to remedy.

The Ministry of Internal Affairs has created a unified database of participants in unauthorised demonstrations on the basis of resolutions aimed at bringing

---

<sup>70</sup> Edict of the President No. 129 'On approval of the regulations on the procedure of interaction of telecommunication operators with the authorities implementing operative-investigative activities' of 3 March 2010.

participants to administrative and criminal justice (known as the *BESporiadki* database). This system can automatically prepare reports on 'rioters'. On the basis of the database, it is possible to decide the question of 'response measures' in relation to both a specific person and a group united by one or more criteria (including preventive arrests, special controls at the border or in the workplace, tax inspections, etc). The state has established 'watchlists' of persons whose social media activity they monitor to inform future arrests/detention or for special border checks.

Measures to fight cybercrime, disinformation, hate speech/incitement to violence and terrorism are widely used to limit digital rights. Imprisonment for clicking 'like' or 'share' a on specific post on social media has become a common practice in 2021.

State institutions engage in trolling, doxing or cyberattacks on CSOs and other members of civil society. CSOs and activists fear pressure or arrests for their online activities. State representatives lead smear campaigns against activists or CSOs on social media platforms (either by revealing their identity, using fake accounts, or posting anonymously).

Many criminal cases of conspiracies, attempted coups, planning of mass riots, acts of terrorism, and so on, are based on records of intercepted communications or disclosed from confiscated smartphones, as well as from meetings on Zoom or other platforms.<sup>71</sup>

Posting prohibited content online (for instance, links to extremist materials, banned media logos, calls for mass actions, publications on political topics or hate against law enforcement or the ruling political regime, insult to state officials, judges or the president) on social networks and messengers is a common reason for prosecution, including lengthy prison sentences. Subscription to banned media listed in the Index of Extremist Formations qualifies as participation in an extremist formation and constitutes an offence under article 361<sup>2</sup> of the Criminal Code, as amended in 2021.

Publications on CSO webpages became grounds for court decisions to forcibly liquidate the CSO in question. The law allows the blocking of websites without a trial, and the practice is very broad, including for CSO websites.

The actions to create CSOs from abroad are limited by the fact that many websites of government agencies, including the Ministry of Justice and the Ministry of Internal Affairs, are restricted from being accessed outside of Belarus.

Internet communication, commenting on websites, and the use of mobile phones is only possible under conditions of user identification. Internet providers are obliged to provide intelligence agencies with access to information which is exchanged by users

---

<sup>71</sup> For example, 'Wife fears for American snatched from Moscow and taken to Belarus', <https://abcnews.go.com/International/wife-fears-american-snatched-moscow-belarus/story?id=78807539>.

online. The authorities can demand provision of data about the internet actions of any citizen.

**Standard II.** The state creates conditions for the enjoyment of digital rights.

As noted by Freedom House's 'Freedom on the Net' 2021 review, users in Belarus benefit from the country's well-developed information and communications technology (ICT) infrastructure. Access to the internet has increased in recent years.<sup>72</sup> The Internet Accessibility Index produced by Broadband Choices, a service that allows users to compare mobile data plans, ranked Belarus 37<sup>th</sup> of 164 countries in terms of average internet speeds, the cost and affordability of home broadband packages, and the cost of mobile data in 2021 (but in the previous year Belarus had ranked even higher, at 20<sup>th</sup> place).<sup>73</sup>

Some digital inequalities persist, but they are narrowing, according to Freedom House. Nearly 87 per cent of the urban population and 71 per cent of rural residents are internet users. There were 8.03 million internet users in Belarus in January 2022.<sup>74</sup> Belarus's internet penetration rate stood at 85.1 per cent of the total population at the start of 2022. Analysis by Kepios indicates that internet users in Belarus decreased by 7,029 (-0.09 per cent) between 2021 and 2022. For perspective, these user figures reveal that 1.41 million people in Belarus did not use the internet at the start of 2022, meaning that 14.9 per cent of the population remained offline at the beginning of the year. There were 4.35 million social media users in Belarus in January 2022.<sup>75</sup> The number of social media users in Belarus at the start of 2022 was equivalent to 46.1 per cent of the total population, but it is important to note that social media users may not represent unique individuals.

The state does not guarantee open, accessible, and affordable internet. Belarus does not have a law requiring or protecting net neutrality, and practices hinder open and fast internet, favouring some websites over others (including the blocking of CSO sites without a court or any official decision, and so on).

The state does not ensure the existence of an independent, effective, adequately-resourced and impartial internet oversight mechanism and there are no effective remedies for violations of digital rights. The state misuses state secrets, national security, and criminal justice laws, among others, as obstacles to systematically hinder access to justice for digital rights.

---

<sup>72</sup> Freedom House. 2021. 'Belarus: Freedom on the Net 2021 Country Report', <https://freedomhouse.org/country/belarus/freedom-net/2021>.

<sup>73</sup> Broadband Choices. 'Internet Accessibility Index', <https://www.broadbandchoices.co.uk/features/internet-accessibility-index>.

<sup>74</sup> Digital 2022 Global Overview Report by 'We are Social' - Belarus, <https://datareportal.com/reports/digital-2022-belarus>.

<sup>75</sup> Ibid.

Some internet service providers have special reduced rates available to social CSOs as part of their corporate social responsibility (CSR) programmes.

Digital literacy activities conducted by both the private sector and government agencies include a UN Population Fund-supported programme for elderly people launched in 2021.<sup>76</sup>

The state policy for overcoming the digital divide is included in the State Programme 'Digital Development of Belarus' for 2021–2025, approved by the Resolution of the Council of Ministers No. 66 of 2 February 2021 with a total budget of over 1 billion EUR. The Policy is the main practical tool for implementation of advanced information technologies in the sectors of the national economy.<sup>77</sup> The State Programme provides for the implementation of measures to create and develop modern ICT infrastructure, the implementation of digital innovations in sectors of the economy and 'smart city' technologies, as well as to ensure information security of such solutions (82 activities). In particular, in the state programme there are plans to develop an educational platform to improve the digital literacy of the population and modern educational content for courses to improve the skills of employees involved in the economy in the field of digital development.

The Hi-Tech Park in Minsk is a form of government support for the development of the ICT sector, including significant tax benefits, access to information, and cooperation in decision-making. The Hi-Tech Park Administration acts as an intermediary between the IT business sector and the government, which is established by law.

However, in 2021, the accusation of taking unlawful advantage of tax breaks provided by the Hi-Tech Park was the basis for the crackdown on the largest portal *TUT.by*, which was the main news media and the largest hosting service provider in Belarus. The owners, managers, and journalists of this holding were imprisoned and, as were a number of other figures in the internet industry, charged under various articles of the Criminal Code.

The state strictly limited access to documents or information necessary for meaningful multi-stakeholder participation. During 2020–21, a special liaison officer of the Belarusian Army's General Staff Denis Urad sent to the media a copy of a letter in which Belarus' Interior Minister Ivan Kubrakou demanded the Defence Minister involve the army in suppressing protests. On 14 May 2021, the Supreme Court sentenced Urad to 18 years in prison for treason. Human Rights Center 'Viasna'

---

<sup>76</sup> United Nations Population Fund. 25 June 2021. 'UNFPA and A1 Belarus launched new joint digital literacy program for older people', <https://belarus.unfpa.org/en/news/unfpa-and-a1-belarus-launched-new-joint-digital-literacy-program-older-people>.

<sup>77</sup> State Programme 'Digital Development of Belarus' for 2021–2025 (in Russian),

<https://www.mpt.gov.by/ru/gosudarstvennaya-programma-cifrovoe-razvitie-belarusi-na-2021-2025-gody>.

declared Urad a political prisoner: *‘According to the Law on Information, Informatization and Protection of Information, access to information, dissemination, and provision of information on violations of the law and information reflecting the state of public safety may not be restricted. Thus, there is no doubt that Dzianis Urad acted in the public interest, while the justification by the Minister of the Interior of involving the army in police functions by the alleged purpose of ‘protecting critical facilities’, including those ‘posing an increased danger to human life and health’ is nothing but a manipulation of the law’.*

In 2021, the practice of restricting access to state websites from abroad has been expanded (for example, there is no access to the Ministry of Internal Affairs’ website, the published Index of Extremist Formations, or the court hearing schedule). The use of digital services by the state is extremely restricted for CSOs and digital registration is impossible. Online registration elements available to business entities are unavailable to CSOs.

### Specific recommendations under Area II:

- The release of all individuals imprisoned for a tax violations for the civil activities or CSOs activities in crowdfunding or ‘financing extremism’ and ‘financing public disorder’, the lifting of all sentences imposed on them and of pending decisions on their liability, the payment of adequate compensation to all such political prisoners;
- To abolish the Law ‘About counteraction to extremism’ and all by-laws adopted under it, including the Index of Extremist Formations;
- To close and destroy the Ministry of Internal Affairs’ unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents; and
- To include in the State Programme ‘Digital Development of Belarus’ the creation of a system of effective digital registration of non-profit organisations (public associations and foundations), as well as legal and technical facilitation for digital crowdfunding platforms.



## IV. KEY PRIORITIES

---

The conditions for CSOs in Belarus have significantly deteriorated in 2021. The liquidation of hundreds of CSOs, the restoration of criminal liability for activities of unregistered organisations, the broad application of other articles of the Criminal Code for repression and intimidation of citizens and in order to coerce the media, CSOs and dissenting citizens into silence have all led to the fact that the state of the environment for CSOs in the country has become one of the worst in the world.

Many CSOs, represented by their leaders and key activists, have left the territory of Belarus in order to continue conducting their activities and achieve their missions in other, supportive jurisdictions such as Lithuania, Georgia, Poland and Ukraine. However, to a large extent, they lose their connection with target groups and lose a sense of the pulse of life inside Belarus as a result. Some relocated CSOs are integrated into the political agenda of their host countries and become dependent on it (while their financial dependence increases, as well as dependence on the political context in these other countries). The space for activities of CSOs, whose activity centres and decision-making centres remain in Belarus, is rapidly shrinking, especially when it comes to dissemination of information.

Repression, as well as the forced relocation of CSOs and active citizens, are the key factors which should in the first instance be overcome in order for the conditions for CSOs to have a chance to improve.

The following key priorities identified by this report aim to stop the pogrom on civil society in Belarus, overcome the negative impacts of the repressions, and restore the basic conditions under which CSOs' activities are possible. The state should:

- Release all individuals recognised as political prisoners, review and lift all sentences imposed on them and pending decisions on their liability, pay adequate compensation to all political prisoners, and stop all politically-motivated criminal cases;
- Abolish the Law 'About counteraction to extremism' and all by-laws adopted under it, including the Index of Extremist Formations;
- Cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (article 193<sup>1</sup> of the Criminal Code) and abolish the ban on the activities of public associations without registration;

- Stop the practice of forced liquidation of CSOs, cancel all court and local authorities' decisions on forced liquidation of public associations, foundations and private institutions made in 2020-2021;
- Cease all unmotivated and disproportionate use of force against participants and organisers of any peaceful protest action. Also, end the use of torture against protesters, political opposition, CSOs and journalists;
- Cease all forms of repression and discrimination against protesters, representatives of the opposition and CSOs, including mass civil and criminal prosecution, abuse of investigative powers, searches, seizures of data and communication devices, fines, arrests, the freezing of assets, forced public disclosure in the media (including social media) of personal data during investigations or arrests;
- Carry out investigations into all deaths of protesters and other opposition representatives, bringing those guilty of murder to criminal justice, as well as thorough investigation of all allegations of torture;
- Cease of all forms of pressure on CSOs, lawyers and human rights defenders, journalists, and independent media, including the state-inspired campaigns aimed at discrediting these groups in the media;
- Close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents. Avoid using FRT and other techniques for identifying protesters, internet and mobile phone users to persecute individuals for their opinion. Also, eliminate legislative possibilities and the practice of internet disruption and the blocking of websites without court decisions;
- Cease the misuse of legislation and investigative powers on combating terrorism and AML/CTF legislation to restrict freedom of expression and freedom of thought, as well as to restrict access to funding for charities and human rights and humanitarian CSOs; and
- Cooperate with the national human rights movement, as well as with the UN Human Rights Council, in documenting human rights violations and restoring violated rights, as well as in the investigation of all such cases and the prevention of impunity for human rights violations.

Only after the above priority steps are taken will it be possible to realise any positive effects from implementation of the previous recommendations as laid out in the full edition of the first CSO Meter Report for Belarus (November 2019).

# V. METHODOLOGY

---

The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the EaP countries. It consists of a set of standards and indicators in 11 different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

ECNL has worked with the methodology experts RESIS since 2020 on adapting the CSO Meter methodology package to enable both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for this model was consulted on and tested with the extended regional CSO Meter Hub via email and an online event. With the updated comparison model, we aim to (i) assess the environment for civil society in each of the 11 areas; (ii) enable tracking of developments/progress throughout the years per country; and (iii) compare the environments regionally.

The country partners, together with other CSOs, part of the CSO Meter Hub conducted the monitoring process and drafted the narrative country report. They also established Advisory Boards in each country, composed of expert representatives of key local stakeholders. The members of the boards have two main tasks: to review the narrative reports and to assign scores for every Standard based on the narrative reports.

The current report covers the period from January 2021 to December 2021.

## Monitoring process

The empirical basis of this assessment has been data from consultative activity of CSO Meter experts, as well as the results of their advocacy and monitoring work in the field of freedom of association and legal conditions for the activities of non-commercial organisations and initiatives, as well as analysis of advocacy outcomes.

In the course of this research, an online meeting and interviews with CSO leaders were organised and the authors analysed the legislation and current law enforcement practices. The members of the country advisory body have made a special contribution to the improvement of the research methodology to adjust it to the Belarusian reality. Namely, the report was discussed among 14 representatives of CSOs, including Hub members from Belarus.

## Scoring process

The Advisory Board members in Belarus assessed each Standard of the eleven areas of the CSO Meter tool in Legislation and Practice. For the scoring procedure a 7-point scale is used. The extreme values of the scale are conceived as the extreme/ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, while (7) is an extremely favourable (ideal democratic) environment for CSOs.

For more information on the CSO Meter tool, the scoring process and calculation please visit <https://csometer.info/>. The presented scores in this 2021 report will serve as baseline scores and, in the coming years, progress will be measured against them.

# VI. REFERENCES

---

**Note:** *The links to some source cannot be provided, since the Belarusian authorities arbitrarily recognised all the information posted on this resource as extremist material. These resources include, among others, links to the Human Rights Center 'Viasna', the newspaper 'Nasha Niva', the radio station 'Radio Liberty' and many other media outlets, whose courageous journalists struggle selflessly for freedom of speech at the risk of their own personal security.*

## LEGISLATION

The Constitution of the Republic of Belarus of 1994, with subsequent amendments.

Civil Code of the Republic of Belarus of 7 December 1998, with subsequent amendments.

Tax Code of the Republic of Belarus of 19 December 2002, with subsequent amendments.

Criminal Code the Republic of Belarus of 9 July 1999, with subsequent amendments.

Electoral Code of the Republic of Belarus of 11 February 2000, with subsequent amendments.

Code of the Republic of Belarus on Administrative Offences of 21 January 2021.

Code of the Republic of Belarus on Culture of 20 July 2016, with subsequent amendments.

The Law 'On internal affairs agencies of the Republic of Belarus' of 31 December 2010, with subsequent amendments.

The Law 'On public associations' of 4 October 1994, with subsequent amendments.

The Law 'On Mass Events in the Republic of Belarus' of 30 December 1997, with subsequent amendments.

The Law 'On mass media' of 17 July 2008, with subsequent amendments.

The Law 'On accounting and reporting' 12 July 2013, with subsequent amendments.

The Law 'On combating terrorism' of 3 January 2002.

The Law 'On normative legal acts' of 17 July 2018, with subsequent amendments.

The Law 'On operative-investigative activity' of 15 July 2015, with subsequent amendments.

The Law 'On physical culture and sports' of 4 January 2014.

The Law 'On the Republican Budget for 2021' of 29 December 2020.

The Law 'On the Republican Budget for 2022' of 31 December 2021.

The Law 'About counteraction to extremism' of 4 January 2007, with subsequent amendments, including 14 May 2021, the Law 'On Amending Laws on Countering Extremism'.

The Law 'On measures to prevent legalization of criminally obtained income, financing of terrorist activity and financing of proliferation of weapons of mass destruction' of 30 June 2014, with subsequent amendments.

The Law 'On Information, Informatization and Protection of information' of 10 November 2008, with subsequent amendments.

The Law 'On the Bar and lawyers activities in the Republic of Belarus' of 30 December 2011, with subsequent amendments.

The Law 'On Personal Data Protection' of 7 May 2021.

The Decree of the President 'On some measures on regulation of activities of political parties, trade unions, and other public associations' No. 2 of 26 January 1999, with subsequent amendments.

The Decree of the President 'On state registration and liquidation (termination of activities) of subjects of economic activities' No. 1 of 16 January 2009, with subsequent amendments.

The Decree of the President 'On foreign gratuitous aid' No. 3 of 25 May 2020, with amendment from 8 November 2021.

Regulations on the creation, activities and liquidation of the foundations in the Republic of Belarus, approved by Edict of the President No. 302 of 1 July 2005, with subsequent amendments.

Edict of the President 'On provision and use of gratuitous (sponsor) aid' No. 300 of 1 July 2005, with subsequent amendments.

Edict of the President No. 209 'On lottery activity on the territory of the Republic of Belarus' of 4 May 2007, with subsequent amendments.

Edict of the President No. 129 'On approval of the regulations on the procedure of interaction of telecommunication operators with the authorities implementing operative-investigative activities' of 3 March 2010, with subsequent amendments.

Edict of the President No. 163 'On changing the edict of the president' of 26 April 2021

The Resolution of the Ministry of Justice 'On approving legal normative acts on issues of completing and considering documents relating to state registration of political parties, labour unions, other public associations, their unions (associations), as well as state registration and exclusion from the registry, inclusion and taking from records information about their structural units' No. 48 of 30 August 2005, with subsequent amendments.

The Resolution of the Council of Ministers 'On introduction of the Regulations on the procedure for payment for public order maintenance services, rendered by internal affairs agencies, expenses relating to medical services, cleaning of the territory after holding of a mass event on it' No. 49 of 24 January 2019, with subsequent amendments.

The Resolution of the Ministry of Justice of the Republic of Belarus 'On information on the activities of public associations and foundations' No. 153-1 of 30 October 2020, with amendments of 7 December 2021.

The Resolution of the Council of Ministers 'On measures to counter extremism and rehabilitation of Nazism' No. 575 of 15 October 2021.

The Resolution of the Council of Ministers 'On amending the Resolution of the Council of Ministers of the Republic of Belarus of 30 April 2013 No. 327' No. 761 of 27 December 2021.

State Programme 'Digital Development of Belarus' for 2021–2025, approved by the Resolution of the Council of Ministers No. 66 of 2 February 2021.

## RESEARCH & REPORTS

The 2020 Civil Society Organisation (CSO) Sustainability Index for Belarus (December 2021) developed by the United States Agency for International Development, Bureau for Democracy, Conflict and Humanitarian Assistance, Center of Excellence on Democracy, Human Rights and Governance in partnership with FHI 360 International Center for Not-for-Profit Law (ICNL).

Mutual Evaluation Report of the Republic of Belarus (2019) Eurasian Group on combating money laundering and financing of terrorism.

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).

Eastern Partnership Index 2020-21. Charting Performance in the Eastern Partnership: Democracy and Good Governance, Policy Convergence and Sustainable Development (December 2021) by Eastern Partnership Civil Society Forum.

Belarus: Lawyers Under Threat - Increasing Suppression of the Legal Profession in Belarus (July 2021) by Lawyers for Lawyers (L4L), the American Bar Association Center for Human Rights (ABA CHR), and the International Bar Association Human Rights Institute (IBAHRI).

Legal aspects of NPO fundraising by electronic means in Belarus - an analytical overview (2018) by International Center for Not-for-Profit Law (ICNL).

Update on new restrictive draft legislation in Belarus (May 2021) by International Center for Not-for-Profit Law (ICNL).

Analysis of the Legislation of the Republic of Belarus on Countering Extremism and Preventing the Rehabilitation of Nazism - Анализ законодательства Республики Беларусь о противодействии экстремизму и недопущении реабилитации нацизма (July 2021) by International Center for Not-for-Profit Law (ICNL).

Freedom of association and legal conditions for civil society organisations in Belarus. Review Period: 2021' (January 2022) by Lawtrend.

Implementation by the Republic of Belarus of international covenant on economic, social and cultural rights - Report of the coalition of Belarusian human rights organisations for 71<sup>st</sup> session of the Committee on Economic, Social and Cultural Rights (January 2022) by the Belarusian Helsinki Committee, Human Rights Center 'Viasna', Office for the Rights of Persons with Disabilities, Lawtrend, PEN Belarus.

'Belarusian CSOs registered abroad: no country for old rules' (2020) by School of Young Managers in Public Administration' (SYMPA/BIPART).

State and Current Needs of Belarusian Civil Society Organisations (CSOs) in Situation of Political Crisis (October 2021).

State and Current Needs of Belarusian Civil Society Organisations (CSOs) in Situation of Political Crisis. Monitoring report update: July – December 2021 (2022) by School of Young Managers in Public Administration' (SYMPA/BIPART).

Combating extremism and human rights. National anti-extremist legislation and law enforcement practice (2019) by Human Rights Center 'Viasna', Belarusian Helsinki Committee, Belarusian Association of Journalists, 'Human Constanta' institution.

Baltic Internet Policy Initiative and Office for European Expertise and Communication public opinion poll 'Public Associations and Citizens Initiatives: Participation Potential' (2019, published 31 August 2020).

List of political prisoners, by Human Rights Center 'Viasna'.



Guidelines on the definition of a political prisoner (2013) by Emil Adelkhanov, Intigam Aliyev, Anna Baranovskaya, Lyudmila Vatskova, Hanna Herasimava, Valentin Gefter, Aleh Hulak, Sergey Davidis, Eldar Zeynalov, Yevgeniy Zakharov, Inna Kulei, Olexandra Matviychuk, Tatsiana Reviaka, Olga Salamatova, Valiantsin Stefanovich, Alena Tankachova, Annagi Hajibeyli, Volodymyr Yavorsky, published by Human Rights Center 'Viasna'.

Belarus. August 2020: 'Justice' for Protesters (March 2021) by Human Rights Center 'Viasna'.

Politically Motivated Administrative Proceedings: Standards and Reality in Contemporary Belarus (January 2021) by Human Rights Center 'Viasna'.

Criminal Prosecution for Political Reasons Belarus 2020-2021 (May 2021) by Human Rights Center 'Viasna'.

National Human Rights Index (2021) by Belarusian Helsinki Committee.

OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus.

The liquidation of social organisations in Belarus: what happened and what comes next for Belarusian civil society (December 2021) by Yury Arlouski, The Stefan Batory Foundation.

Freedom in the World 2021 by Freedom House.

Freedom in the World 2022: The Global Expansion of Authoritarian Rule (2022) by Freedom House.

World Press Freedom Index 2021 by Reporters Without Borders.

Belarus: Freedom on the Net 2021 Country Report by Freedom House.

Disinformation Resilience Index in Central and Eastern Europe in 2021 (September 2021) by Eurasian States in Transition Research Center (EAST Center).

Human Rights Situation in Belarus in 2021: Analytical review (January 2022) by Human Rights Center 'Viasna'.

The updated list of non-voluntary liquidated public associations, foundations, institutions and unions of legal entities from Lawtrend and Office for European Expertise and Communication.

How 'extremism' violates human rights in Belarus: main theses from human rights organisations. (2022) by Human Constanta, the Human Rights Center 'Viasna', Belarusian Association of Journalists and SOVA Center for Information and Analysis.

*Belarus v. Viktor Dmitrievich Babariko* (October 2021) by Clooney Foundation for Justice (CFJ) and Covington & Burling LLP.

International Accountability Platform for Belarus First semi-annual report (September 2021) by International Accountability Platform for Belarus.

Joint other letter of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the situation of human rights in Belarus; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders (2021) OL BLR 2/2021.

Information from the Republic of Belarus in response to letter AL BLR 8/2021 dated 7 September 2021 from special procedures of the UN Human Rights Council - 21-17602E HRC/NONE/2021/SP189.

UN Special Rapporteur on the situation of human rights in Belarus – Annual report on the situation of human rights in Belarus (2021). Human Rights Council (A/HRC/44/55).

UN Special Rapporteur on the situation of human rights in Belarus – report ‘Situation of human rights in Belarus’ (2021). General Assembly (A/76/145).

Situation of human rights in Belarus in the context of the 2020 presidential election (15 February 2021) - Report of the United Nations High Commissioner for Human Rights (A/HRC/46/4).

Misuse of Interpol’s Red Notices and impact on human rights – recent developments (2019) by Dr Rasmus H. Wandall, Dan Suter, Gabriela Ivan-Cucu.

Volunteering: European practice of regulation (2014) elaborated by ECNL.

Media environment in Belarus – Briefing paper (February 2022) by European Parliament.

Mass Media in Belarus, Monitoring Report 2021 (February 2022) by Belarussian Association of Journalists.

Vibrant Information Barometer– 2021 Belarus (August 2021) by International Research & Exchanges Board (IREX).

Review of the fight against ‘extremism’ in Belarus for January-March 2021 (April 2021) by Human Constanta.

Review of the fight against ‘extremism’ in Belarus for April-May 2021 (July 2021) by Human Constanta.

Overview of the fight against ‘extremism’ in Belarus for June and July 2021 (September 2021) by Human Constanta.

The fight against ‘extremism’ with fatal outcomes – an overview of trends for August and September 2021 (October 2021) by Human Constanta.

Overview of the fight against ‘extremism’ in Belarus in October-December 2021 (January 2022) by Human Constanta.

Review of the practice of using ‘extremist’ articles under which citizenship can be revoked (October 2021) by Human Constanta.

Whom do the Belarusian authorities consider terrorists? Analytical note (May 2021) by Human Constanta.

‘New Legislative Regulation in the Republic of Belarus as the Authorities’ Response to the Events of 2020 and How It Correlates with International Standards in the Field of Human Rights’ (June 2021) by Legal Transformation Center and Belarusian Helsinki Committee.

Changes in the reporting legislation for public associations and foundations (December 2021) by Lawtrend.

Human Rights Committee Communication No. 1296/2004 According the Optional Protocol to the International Covenant on Civil and Political Rights (Ninetieth session 9 – 27 July 2007) - CCPR/C/90/D/1296/2004.

2022 Global Philanthropy Environment Index report – Belarus (March 2022) by the Indiana University Lilly Family School of Philanthropy.

Digital 2022 Global Overview Report – Belarus (January 2022) by ‘We are Social’.

Internet Accessibility Index (2022) by Broadband Choices.

## NEWS ARTICLES AND OTHER MATERIALS

Council of Ministers of the Republic of Belarus, <http://www.government.by>.

Ministry of Justice of the Republic of Belarus, <https://minjust.gov.by>.

Ministry of Internal Affairs of the Republic of Belarus, <http://www.mvd.gov.by>.

Ministry of Information of the Republic of Belarus, <https://www.mpt.gov.by>.

Ministry of Foreign Affairs of the Republic of Belarus, <https://mfa.gov.by>.

Internet Portal of the President of the Republic of Belarus, <https://president.gov.by>.

Prosecutor General’s Office of the Republic of Belarus, <https://prokuratura.gov.by>.

Belarusian National Bar Association, <https://www.rka.by>.

Belarusian Telegraph Agency or BelTA, <https://www.belta.by>.

*Ekonomicheskaya Gazeta* (Экономическая газета), <https://neg.by>.

‘Belarusian civil society in Lithuania: how really welcome are we?’ (28 October 2021) by Lithuania Tribune.

'July 2021: Black weeks for Belarusian Civil Society' (July 2021) by Civicus.

'Belarus NGOs condemn government crackdown after 'black week' of raids' (July 2021) by The Guardian.

'Interpol: les opposants bélarusses pourchassés à l'étranger' (23 November 2021) by *Libération*.

