



FREEDOM OF ASSOCIATION AND LEGAL CONDITIONS FOR NON-COMMERCIAL ORGANIZATIONS IN BELARUS

Review Period: 2017 (updated version)

Legal Transformation Center

Assembly of Pro-Democratic NGOs

Key developments in the non-commercial sector in 2017 were connected with two contradictory trends, which determined the logic for development of interaction between civil society actors and state authorities. On the one hand, when it comes to the field of legal regulation and building of institutional mechanisms for cooperation between the state and non-commercial organizations (NCOs), there was a continuation of the previous trend to refuse confrontational formats and to turn to cooperation, in the field of legislation improvement as well. On the other hand, the increased at the beginning of 2017 protest activity, caused by the carried out by authorities social and economic policies, led to the authorities' return to the worst restrictive and repressive practices, which hit in the first place those civil society structures, which were involved in organization of protest actions or directly/indirectly participated in them.

It seemed that contradiction of these two trends reflected in their mutual containment. On the one hand, against the background of repressions, enthusiasm in respect of prospects for mending of benevolent relations between the state and civil society faded, although the launched earlier dialogue platforms continued their work. On the other hand, building of a dialogue between the state and civil society, considering a thaw in relations between the official Minsk and Western capitals, influenced and decreased the scope and the extent to which repressive practices were spread, as well as the term of their usage. Although the area of use of negative practices against civil society structures was not localized by the only task to suppress protest activity, in general, the spread of the strictest forms of repressions and sanctions over other spheres of interaction between the state and civil society didn't take place.

Probably, these two trends and the effect of their mutual containment are sustainable in the medium term and they will further determine civil landscape and atmosphere of a dialogue within Belarusian society.

Authorities' repressive response to protests of winter – spring 2017

There was a wave of protest actions against the Decree № 3 of April 2, 2015 “On prevention of social dependency”, as well as against the authorities' social and economic policies in general in February - March 2017 in Belarus. While suppressing the increased protest activity, the Belarusian authorities returned to the strictest practices of political repressions. In particular, there were detentions and arrests of activists (the practice of preventive detentions returned as well); searches and confiscations of hardware in NCO offices and flats of civil society activists; written warnings to organizations, which participated in protests; criminal charges within the framework of the trumped-up criminal case on preparation of mass disturbances; persecution of a civil society organization (trade union) for receipt of funding from abroad.

It is important to notice that there was an increased repressive activity of the authorities not only in the period of protest actions themselves, but also after their damping. Nevertheless, by the end of the year, main forms of repressions had been reduced to the level, in general slightly exceeding the figures of the previous year: criminal cases were dismissed (except lackluster case on non-payment of taxes on funds, received by the leadership of an independent trade union), persecution of participants of unauthorized protest actions didn't end up with arrests anymore (with rare exceptions).

Immediately in the phase of a rise of protest activity, the Belarusian authorities returned to the previous practice of administrative arrests of participants of unauthorized protest actions (in certain cases even participants of authorized rallies). According to the Human Rights Center “Viasna”, in 2016 there were 618 cases of politically motivated administrative prosecution recorded, only 3 out of which were administrative arrests. Observers talked about complete cessation of arrests of participants of unauthorized protest actions in Belarus and focused on the problem of enormous fines, imposed on organizers and participants of such actions.

In 2017 human rights defenders recorded not only return to the practice of arrests of participants of rallies and demonstrations, but return to mass arrests: in 2017 the Human Rights Center “Viasna” recorded 1270 cases of administrative prosecution, 311 out of which were administrative arrests, not fines. The peak of repressions was on March 25, when the organized by opposition forces traditional demonstration “Freedom Day” took place in Minsk. It was brutally broken up by multitudinous militia forces, around 700 people were detained, 149 out of which were later brought to administrative liability for participation in a peaceful rally. Many journalists were detained on “Freedom Day” and other rallies: according to the Belarusian Association of Journalists, there were 96 detentions of journalists recorded in spring 2017, 10 out of which ended up with administrative arrests.

After the end of the active phase of spring protests, repressive activity of the authorities continued in summer and autumn, gradually damping: according to the Human Rights Center “Viasna”, there were 66 cases of administrative prosecution in summer 2017, 6 out of which were administrative arrests; there were 105 cases of administrative prosecution and 16 arrests in September – October 2017. However, in November – December 2017 arrests again became a rare sanction for participation in street protest actions and authorized actions didn't involve detentions anymore.

While suppressing protests, the authorities again returned to the practice of attacks and searches in offices of non-governmental organizations and flats of activists, as well as confiscations of

hardware and storage media. On March 25 militia broke into the Human Rights Center “Viasna” office and detained there more than 50 journalists and human rights activists, who were preparing for observing the upcoming opposition rally. Later, when they received responses to their claims, they learned that the ground for militia’s attack on the office of this human rights organization was the KGB instruction that “there were radical citizens in the office, planning to participate in organization of mass disturbances in Minsk with the purpose of committing violence against citizens, pogroms, arsons, destruction of property and armed resistance to representatives of the authorities”. On March 6 there was a search and seizure of hardware in the office of democratic organizations in Orsha, the ordinance on the case of counterfeiting 5-ruble banknotes was presented as the ground for that. On March 31 there were searches in 2 offices, where journalists of the independent TV channel “Belsat” worked. On April 5 militia of Baranavichy city conducted a search in the flat, where Mikalai Charnavus, a democratic activist, lived. There were searches and militia intrusions into premises of certain left-wing movements and anarchists: at least 5 searches in the premises of this group representatives were reported on March 24 and 25.

Anarchist movement remained closely monitored by intelligence agencies later as well: for example, on August 27 militia broke into the premises in Baranavichy, where a gathering of left-wing activists was taking place; 15 participants of the meeting were detained, 3 out of which were charged with distribution of extremist materials; their literature, mobile phones and storage media were seized. On September 26 searches and seizures of storage media were simultaneously held in houses of 3 different activists, including Marina Dubina, the executive director of the public association “Ecodom”.

In the very period of protests, the practice of politically motivated criminal cases on the grounds of citizens’ participation in non-governmental associations was resumed. On March 21-24 32 citizens were detained on suspicion of committing a crime under Part 3 of Article 293 of the Criminal Code (training or other preparation of individuals for participation in mass riots, as well as funding or other material support of such activities). All the detained were kept in the MIA and KGB detention centers in Minsk. Later, 16 of the arrested were additionally charged under Article 287 of the Criminal Code (organization of an illegal armed group), but preparation of mass riots charges were dropped. A part of the detained used to be activists of the association “White Legion”, which declared termination of its activity in 2005 due to imposition of criminal liability for activity on behalf of unregistered organizations. There were also members of the youth association “Young Front”, the BPF Party, as well as the sport club “Patriot”, whose activity was authorized by the authorities, among the arrested. Belarusian human rights organizations declared the character of the criminal case to be politically motivated.

Mass arrests of protest participants and detentions of those charged with criminal crimes were accompanied by fomentation of propaganda hysteria in the state media. State-owned TV channels and newspapers published the provided by intelligence agencies “materials, proving guilt of the accused” beforehand, prior to the end of investigation, presenting protests as a part of the plot to violently overthrow Belarusian government.

In November the charges against all defendants of this notorious case and charges under Article 287 of the Criminal Code (organization of an illegal armed group) were dropped and the case was dismissed. However, the Investigation Committee declared that the defendants’ actions contained formal evidence of organization of an illegal armed group (their trainings could be qualified as combat ones, characteristic of military units’ staff), but these actions were not aimed at violent

overthrow of the constitutional order, undermining territorial integrity of the state or committing any other unlawful acts. "The defendants' actions didn't pose public danger, which is characteristic of a crime, as they didn't do significant harm to the defended by the criminal law interests and social relations," – the statement on the investigation results said.

Thus, a large-scale criminal case with dozens of defendants and broad state press coverage didn't have any factual basis. That is why it can only be considered a political cover, used to advocate the increased level of repressions in the country with the alleged existence of an illegal armed organization, planning violent actions.

In the period of protests, one of few independent agencies, conducting opinion polls, faced pressure as well: the Commission on Public Opinion Polls under the Academy of Sciences, which has the right to issue permits for conduct of opinion polls on social and political topics, initiated inspection of the Center of System Business Technologies "Satio" activity, suspecting it of conducting opinion polls, ordered by the International Consortium "EuroBelarus", without accreditation, violating legislative requirements. Article 9.28 of the Code of Administrative Offences stipulates imposition of fines on both organizations and individuals, conducting unlawful opinion polls with such violations.

On April 3 the United Civil Party, the BPF Party and the human rights and educational association "Movement "For Freedom" received written warnings from the Ministry of Justice due to participation of these organizations in preparation of the protest action on March 25 in Minsk. These associations appealed the warnings in court, but the Supreme Court acknowledged the warnings as justified.

During the period of return to severe repressions, organizations, not related to preparation of protests, faced repressions as well. On March 18 the Financial Investigation Department officials conducted searches in premises and flats, occupied by members of the public association "Institute of Mathematics and Cybernetics". Illegal entrepreneur activity charge was the ground for searches, questionings and confiscation of equipment from the organization. This NCO assisted citizens in getting additional education through distance courses on the bases of various foreign universities and educational institutions. It held free educational lectures in Belarus, but it was not a true, full-fledge educational process. After all searches and confiscations, the NCO was not able to continue its educational activity. The seized equipment and hardware haven't been returned to its owners so far.

The session of the OSCE Parliamentary Assembly in Minsk on July 5 – 9 was the reason for a specific pause in usage of repressive practices. By this time all the detained under politically motivated criminal case on preparation of mass disturbances and all the charged with organization of an illegal armed group had been released (although charges against them hadn't been dropped by then), as well as all individuals, serving administrative arrests (although drawing up of reports and examination of cases on administrative offences in respect of participants of unauthorized protest actions continued); fomentation of hysteria in state media had faded.

However, after the end of this international forum in Minsk, the authorities resumed the practice of administrative arrests against activists of opposition parties and movements and participants of unauthorized protest actions (including actions taken post factum as a reaction to events, which had taken place long before the session of the OSCE Parliamentary Assembly).

At the beginning of August it became known that the Financial Investigation Department of the State Control Committee initiated criminal proceedings against Gennadiy Fedynich, the chairman of the Belarusian Independent Trade Union of Radio and Electronic Industry Workers, and his deputy Igar Komlik under Article 243 of the Criminal Code (tax evasion). They were accused of opening accounts in foreign banks on behalf of the trade union, which transfers of funds were made to. According to the investigation, in such a way the defendants “tried to conceal the facts that they received personal income from abroad and evaded paying taxes on it”. Observers note the similarity of this criminal case with the criminal case of Ales Bialiatski, the head of the Human Rights Center “Viasna”, who was in 2011 convicted of tax evasion from funds, which were transferred to his personal account abroad and used for funding the projects of this deprived of registration human rights NCO. At the same time, this very trade union was an active participant and organizer of the protest actions against the Decree № 3 in spring 2017. Within the framework of this criminal case, on August 2 searches and seizures of storage media were held in the offices of the Belarusian Trade Union of Radio and Electronic Industry Workers in Minsk and the Belarusian Independent Trade Union (of miners, chemistry industry workers and others) in Salihorsk, as well as in flats of the suspects and other trade unions’ workers. Now the accused Gennadiy Fedynich and Igar Komlik, who were initially detained, are at large, investigation continues. Human rights organizations declared that they considered this criminal case to be politically motivated.

2 people, recognized as political prisoners, remain behind bars: Mikhail Zhamchuzhny, the founder of the human rights organization “Platforma”, and Dmitrii Palienka, convicted for participation in a peaceful bike ride. On March 31 Andrei Bandarenka, the head of the human rights organization “Platforma”, left prison and soon resumed his human rights activity. Elena Tonkacheva, the Chairperson of the Board of Legal Transformation Center, a citizen of Russia, still can’t return to Belarus. State bodies refused to reduce the term of her entry ban to Belarus several times within the year. The authorities also refused to consider the joint request to cancel or reduce the term of entry ban to Belarus for Elena Tonkacheva, signed by 65 Belarusian and foreign participants of the Civil Society Parallel Forum, which was held in Minsk on the eve of the annual session of the OSCE Parliamentary Assembly.

In general, the above-mentioned cases of political repressions and restrictions of NCO activity, searches, arrests of participants of peaceful protests and inspired by the authorities politically motivated criminal cases are evidence of the fact that conditions for civil society organizations deteriorated in 2017 in comparison with the period of 2014 – 2016.

Registration of non-commercial organizations

According to the Ministry of Justice¹, as of January 1, 2018, there are 2856 public associations in the Republic of Belarus, including 223 international, 762 republican and 1871 local public associations. There are 39 unions (associations) of public associations, 195 foundations (16 international, 7 republican and 172 local ones) and 7 republican state public associations registered and operating in the country.

¹ About the results of work of organs of justice on state registration of public associations, foundations and other non-commercial organizations in 2017 – the Ministry of Justice of the Republic of Belarus, February 21, 2018 <http://minjust.gov.by/ru/news/1399/>

As earlier, the statistics on the number of registered private institutions, including newly-registered within a year new institutions, remains close to the public. This makes it impossible to assess the growth dynamics of this organizational and legal form of non-commercial organizations, which has recently been the most popular form for registration of new civil society actors in Belarus. They also don't publish the statistics on registration of unions (associations) of legal entities, established with participation of non-commercial organizations (except for the above-mentioned unions (associations) of public associations).

At the same time, in 2017 the Ministry of Justice and regional departments of justice registered 150 new public associations (6 international, 27 republican and 117 local ones) and 22 new foundations (1 republican and 21 local ones).

Thus, in comparison with 2016, the total number of registered public associations has increased from 2731 as of January 1, 2017 to 2856 as of January 1, 2018; the number of registered foundations has increased from 172 as of January 1, 2017 to 195 as of January 1, 2018.

Within a year 785 new organizational structures of public associations were registered (put on record), which is significantly less than in 2016, when 1148 organizational structures got registered. As of January 1, 2018, the total number of organizational structures of public associations was 41760 organizations (as of January 1, 2017, there were 42094 of them).

In general, the above-mentioned numbers are evidence of the fact that, despite certain increase of registration dynamics in comparison with 2016, in 2017 the indices of registration of new public associations remained at an annual level of "about 100 new public associations", which has been characteristic of the last 15 years:

Increase of public associations in Belarus (according to the Ministry of Justice)

	January 1, 2004	January 1, 2005	January 1, 2006	January 1, 2007	January 1, 2008	January 1, 2009	January 1, 2010	January 1, 2011	January 1, 2012	January 1, 2013	January 1, 2014	January 1, 2015	January 1, 2016	January 1, 2017	January 1, 2018
Number of newly registered public associations (based on results of preceding year)	155	61	85	100	94	-	94	134	118	111	70	86	106	116	150
Total number of registered public associations in the country as of the date specified	2214	2259	2247	2248	2255	2221	2225	2325	2402	2477	2521	2596	2665	2731	2856

Increase of foundations in Belarus (according to the Ministry of Justice)

	January 1, 2008	January 1, 2009	January 1, 2010	January 1, 2011	January 1, 2012	January 1, 2013	January 1, 2014	January 1, 2015	January 1, 2016	January 1, 2017	January 1, 2018
Number of newly registered foundations (based on results of preceding year)	9	9	8	14	21	22	11	11	11	16	22
Total number of registered foundations in the country as of the date specified	64	75	84	99	119	139	145	155	164	172	195

When it comes to areas of activity, the sustainable trend of domination of physical culture and sports public associations among other registered organizations remains – they make up 1/3 of all newly registered organizations. There are 796 such public associations operating in the country, which makes up the increase of 50 organizations in comparison with 745 such public associations as of the beginning of 2017. As concerns other areas of activity, the following organizations were registered: charitable organizations – 399 (there were 389 as of the beginning of the year, increase of 10 organizations); public associations of youth – 338 (there were 320 – increase of 18 organizations), including children’s ones – 27; educational, cultural and leisure-time organizations – 248 (there were 232, increase of 16 organizations); public associations of citizens, representing national minorities – 111; public associations of war and labour invalids, veterans – 94; scientific and technical ones – 85; public associations of supporters of protection of nature, historic monuments and culture – 86; creative ones – 54; public associations of women – 32 and others.

It should be mentioned that the Ministry of Justice and regional departments of justice, which are registering bodies for foundations and public associations, have failed to ensure the promised improvement of communication regarding online information exchange. In particular, in its report on the results of 2016, the Ministry of Justice informed that it had introduced the state information resource for unified record system of political parties, other public associations and their unions (associations) into trial operation. It was planned that in the future information exchange between registering bodies and public associations would be conducted online via this state information resource. However, these plans failed to be implemented in 2017. Vice versa, the web-site of the Ministry of Justice stopped publishing important information regarding establishment and activity of public associations; there is no unified approach towards publishing of the information about such issues on the respective sections of the websites of regional departments of justice.

In 2017 the Ministry of Justice and regional (Minsk City) Chief Administrations of Justice refused registration to a range of public associations: the public association of youth “Youth of Revival”, the historical and educational public association “Khajsy”, the public association “Dzeya”, the

public association “Women’s Network “Mara”, the public association of disabled people and leisure activities “Sokoly”, the educational public association of urban development “Ecograd”, the public association “Gender Partnership”, the public association “Social and Christian Movement” and others. Many of the above-mentioned public associations have for years repeatedly submitted applications for state registration, unsuccessfully trying to obtain the status of registered legal entities. A range of organizations appealed refusals of registration in court (the public association of youth “Youth of Revival”, the public association “Social and Christian Movement”, the public association “Women’s Network “Mara””), but Belarusian judicial authorities don’t reverse decisions on refusals of registration, made by organs of justice, and the stipulated by law mechanism, when courts verify if refusals of registration are valid, doesn’t work.

In August the Ministry of Justice refused registration to the public association “Social and Christian Movement” due to claims regarding execution of the list of founders (there was a mistake in patronymic name of one of the founders) and the list of members of the governing body (according to the registering body, the head of the NCO should be indicated as the head of the Council in the list of Council members, although, according to the Charter of the organization, all members of the Council are equal). On October 4 the Supreme Court upheld the decision of the Ministry of Justice on refusal of registration to this organization.

In July the Ministry of Justice refused registration to the public association “Dzeya” due to mistakes in the submitted for registration documents. According to the founders, these mistakes were insignificant and could have been easily corrected, if the organization had been given time to do that.

A range of newly-established foundations also faced refusals of registration. In 2017 the local foundation “Green Network” (third attempt of registration) and the local informational and educational foundation “Makeout” were refused registration due to the grounds, which contradict legislative requirements and are just an attempt to legislatively justify arbitrary refusals of registration.

On December 23, 2017 the founders of the Belarusian Christian Democracy Party convened a new founding congress in order to try for the seventh time to obtain the status of an officially registered party. Earlier this organization had faced 6 refusals to be registered as a political party (the previous attempt was in 2016). It was also several times refused of registration as a public association. The last case of registration of a political party in Belarus was in 2000, since then more than 20 attempts to establish various political parties (from communist and social democratic to liberal and center-right ones) have failed.

Taking into account the immutability of general quantitative indicators for registration of new organizations and the usual for Belarus practice of refusals to register public associations and foundations, it seems groundless to assess registration of the republican research and educational public association “Tell the Truth”, conducted by the Ministry of Justice in May 2017, as an extremely significant event. This organization was found in 2010 as a political campaign, actively participating in elections and political processes. For the last several years it has consistently stood for a dialogue with the authorities, positioning itself as constructive opposition, directions of whose activity are different from those of the rest of the existing political parties and public and political associations. Earlier this organization had been refused of registration as a public association for 5 times. After the successful sixth attempt of registration, the association continued its work on strengthening of its legal status: the organization submitted applications for

registration of its local branches in all regions of Belarus and in Minsk, some of which were already registered in 2017 (including the branch in Minsk).

Taking into account the difficulties in registration of public associations and foundations, institution remained the main form for non-commercial initiatives to obtain the status of an officially registered legal entity. According to the legislation, this form of NCOs is registered under application-based principle in accordance with the procedure, established for commercial legal entities. That is why the procedure for registration of institutions is much cheaper and requires preparation of the smaller number of documents in comparison with registration of public associations and foundations. Moreover, it rules out the possibility of refusals of registration. However, the purely technical procedure for approval of names of organizations in organs of the Uniform State Register of Legal Persons and Independent Entrepreneurs, intended to solve a technical task to avoid registration of organizations with identical names, often becomes an obstacle for registration of institutions. In 2017 there were again cases recorded, when there were groundless refusals to approve names of newly-established institutions, because they were similar to the extent of confusion to the names of already registered organizations or because names of organizations didn't indicate the character of activity of newly-established organizations.

In a range of cases, refusals to approve names of institutions were clearly politically motivated (when authorized organs refused to approve dozens of names for the same institution, both when founders made applications online and when they applied in person). Such refusals related to the authorities' reluctance to allow establishment of NCOs, involved in certain fields of activity (for example, human rights ones) or founded by people, who are active opponents of the existing political regime and have a tacit status of "unreliable" for the authorities.

Changes of Legislation Affecting NCOs

In 2017 a range of legal acts, affecting NCOs, were discussed in Belarus. In the majority of cases, the discussions were about changes, planned for the future. In general, the discussed normative acts are not aimed at worsening of conditions for NCOs, but they don't fundamentally change the system of NCO registration and activity or improve their financial basis. At the same time, in a range of cases, some of the planned changes have the capacity to improve conditions for civil society organizations.

On February 28, 2017 the Decree of the President № 2 introduced the new version of the Regulation on Liquidation (Termination of Activity) of Economic Entities, introduced by the Decree of the President of January 16, 2009 № 1. The new version of the Regulation came into force in September 2017, which became the occasion to solve the long-standing problem of groundless liquidation of NCOs for their failure to conduct entrepreneurial activity for long periods of time.

It has become a wide-spread practice in the Republic of Belarus lately, when tax authorities send to founders of institutions offers to voluntary liquidate them due to lack of entrepreneurial activity. At the same time, according to the legislation, entrepreneurial activity is a right, not an obligation of the NCOs, registered in such an organizational and legal form as an institution. The problem of liquidation of non-governmental institutions for lack of entrepreneurial activity became even more urgent due to coming into force of the above-mentioned new version of the Regulation on Liquidation (Termination of Activity) of Economic Entities, which took place on September 3, 2017. On the one hand, the new version of the Regulation introduced a positive

clarification that these are commercial organizations, which are subject to liquidation for lack of entrepreneurial activity within 24 months in a row. At the same time, in practice, tax authorities put institutions on record as commercial organizations, which is caused by the fact that they are registered in accordance with the same procedure as the one used for commercial organizations. After coming into force of the new version of the Regulation, the spread of the norm on liquidation for lack of entrepreneurial activity in practice has created serious risks, as new norms provide for the possibility to liquidate institutions without verifying the reasons for misconduct of entrepreneurial activity.

In the light of the ongoing situation, experts of the Legal Transformation Center and the Assembly of Pro-Democratic NGOs held a round table with NCOs, where this problem was discussed. A collective appeal to the Ministry for Taxes and Levies about unacceptability of liquidations of institutions for lack of entrepreneurial activity was worked out. A meeting with the Deputy Minister for Taxes and Levies was also held.

In its response to the collective appeal, the Ministry for Taxes and Levies recognized the fallaciousness of the existing practice and informed about the measures, taken to eradicate the identified violations of the legislation, committed by district tax inspectorates. In particular, the Ministry reported that it had discovered violations of the legislation while examining the mentioned in the collective appeal cases of liquidations of institutions. The Ministry also enumerated institutions, in respect of which the launched earlier procedure of liquidation for lack of entrepreneurial activity were discontinued or the already made decisions on liquidation were revoked on the initiative of the Ministry. The Ministry also informed the applicants that it prepared a letter, explaining the respective legislative provisions and emphasizing the necessity to strictly follow them, and sent it to district tax inspectorates. The Ministry reported that it had taken measures to streamline tax inspectorates' work with institutions with due regard to their non-commercial character. The Ministry also instructed the subordinate tax inspectorates to stop sending documents on liquidation of CSOs for lack of entrepreneurial activity to registering bodies.

Simultaneously with the above-mentioned Decree of February 28, other norms, affecting interests of institutions and unions (associations), were introduced. In particular, a specific time limit, when it is allowed to appeal to courts with claims to recognize state registration invalid, was introduced. Organs of the State Control Committee, the Public Prosecutor's Office, the MIF, the KGB, tax and other authorized bodies, within the limits of their jurisdiction, can appeal to courts, examining economic cases, with claims on recognition of institutions' or associations' registration invalid, as well as on liquidation, within 3 years from the date of their registration or the date of registration of amendments or additions, introduced to their Charters. According to the previous procedure, the timeframe, when registration could be recognized invalid, was not limited.

The Code of the Republic of Belarus on Culture, which pays special attention to creative unions, came into force on February 3, 2017. In comparison with the Law "On creative unions and creative workers", which had been in force earlier, many provisions regarding creative unions were amended. Thus, the Code stipulates that a creative union is a public association of creative workers (not less than 2/3 of total membership) and other citizens, who have contributed to protection and development of culture, established on the basis of its members' shared interests in a certain type of creative activity for realization of its statutory goals. Earlier, there were no requirements regarding minimal representation of creative workers in membership of creative unions. The Code introduced small amendments to the list of goals, achievement of which creative

unions are established for. The Code also stipulates that these activity goals must be enumerated in creative unions' Charters. In comparison with the law, which was in force earlier, the Code also stipulates that the list of creative unions is determined by the Ministry of Culture. The Code has endowed creative unions with additional right to certain types of entrepreneurial activity, in contrast with the majority of other public associations. They have the right to conduct the following types of entrepreneurial activity without establishment of commercial organizations and/or participation in them: activity on production of movies and TV programs; activity on implementation of educational programs of educational courses (lectures, topical seminars, practical works, trainings and other types of educational courses) and educational programs on improvement of personal abilities and talents; creative activity and entertainment. The Code also defines such notions as "sponsor of culture" and "patron of culture". In order to develop the provisions of the new Code, the government and ministries adopted a range of decrees, including the decree of the Ministry of Culture, which determined the list of creative unions.

A range of the discussed in 2017 draft normative acts affect financial basis of NCO activity in Belarus, including the possibilities for receipt of funds from internal and foreign sources.

In April 2017 the Ministry of Economy of the Republic of Belarus announced that it had worked out the draft decree "On introduction of amendments and additions to the Decree of the President of the Republic of Belarus", stipulating revision of the Decree of the President of the Republic of Belarus of July 1, 2005 № 300 "On provision and use of gratuitous (sponsor) aid"².

This normative act regulates the procedure for receipt of donations by NCOs from internal corporate sources and in practice creates serious restrictions in this field. Belarusian NCOs have for years criticized this decree as one of the obstacles to formation of financial sustainability of Belarusian civil society. Analysis of the stipulated by the published draft decree amendments and additions has revealed that they are not aimed at improvement of the situation with the receipt of aid by NCOs from Belarusian corporate donors. They don't solve the problems that there is a closed, narrow list of aims, applicable for receipt of such aid; it is impossible for NCOs to accumulate such aid; it is difficult to apply this decree in respect of the receipt of aid by individuals from NCOs, etc.

The Ministry of Economy invited all stakeholders to participate in discussions of the draft decree. The Legal Transformation Center submitted its proposals on changes to the laid down in the Decree № 300 procedure for receipt of gratuitous (sponsor) aid, worked out on the basis of long years of consultative practice in this field³.

On June 8, 2017 the meeting with participation of state organs and NCOs was held in the Ministry of Economy, where amendments to the Decree of the President of the Republic of Belarus of July 1, 2005 № 300 "On provision and use of gratuitous (sponsor) aid" were discussed. Participants of the meeting discussed main issues, offered additional proposals and expressed their wishes regarding finalization of the Decree, aiming at creation of favorable conditions for development of

2 Legal Transformation Center web-site <http://www.lawtrend.org/freedom-of-association/obshhestvennoe-obsuzhdenie-proekta-ukaza-predusmatrivayushhego-korrektirovku-ukaza-prezidenta-respubliki-belarus-ot-1-iyulya-2005-g-300-o-predostavlenii-i-ispolzovanii-bezvozmezdnoj-sponsorskoj-pomos>

3 Lawtrend submitted its proposals regarding draft amendments to the Decree "On provision and use of gratuitous (sponsor) aid" <http://www.lawtrend.org/freedom-of-association/lawtrend-napravil-predlozheniya-otnositelno-proekta-izmenenij-ukaza-o-predostavlenii-i-ispolzovanii-bezvozmezdnoj-sponsorskoj-pomoshhi>

charitable activities in Belarus and other improvements in regulations of provision and use of gratuitous (sponsor) aid in the Republic of Belarus.

In 2017 Belarusian NCOs still faced drawbacks of the new procedure for receipt and use of foreign gratuitous aid, which emerged after coming into force of the Decree of August 31, 2015 № 5 “On foreign gratuitous aid” in 2016. In June 2017 there was a loud case, when ultimate beneficiaries of the Jewish charitable organization “Hesed – Rahamim” were in the situation, when they needed to pay taxes on its aid, using funds, received from the American Jewish charitable organization “Joint”. The media used a picture of the notification, received by one of the beneficiaries from the “Hesed – Rahamim”, saying that he should transfer money to the foundation’s account for payment of income tax on the received aid (patronage services), as an example of the absurd procedure for receipt of foreign gratuitous aid in Belarus. However, by sending such notifications, NCOs were just trying to implement in practice those explanations of the procedure for taxation of foreign aid, received by them from the Ministry for Taxes and Levies inspectorates. Later, on June 20, the Ministry published on its web-site the explanation, which stipulated that low-income citizens, disabled people, pensioners, etc. didn’t need to pay taxes on funds and goods (property), which came from abroad as foreign gratuitous aid and were given to them by the “Hesed – Rahamim” organization, or on charitable assistance, conducted by the employees of this organization with the usage of their own resources (for example, taking care of sedentary or bedridden people at their homes, cleaning of beneficiaries’ houses, doing shopping for them at the expense of beneficiaries’ personal funds). However, this explanation was of an individual character; it aimed at stifling the scandal, broke out in the media (including American media); and it didn’t solve the problem of an absurd character of the tax regime for the received and distributed by Belarusian NCOs foreign gratuitous aid.

Variant interpretations and lack of clarity of the provisions of the legislation on foreign gratuitous aid, especially of those relating to the procedure for taxation and tax exemptions, have led to the situation, when the Ministry for Taxes and Levies and the Department for Humanitarian Activity have to provide explanations regarding their implementation. Many of such explanations introduced new provisions to the procedure for taxation on foreign gratuitous aid, although formally they are not legislative norms. For example, on September 8, 2017 the joint letter of the Department for Humanitarian Activity and the Ministry for Taxes and Levies was presented. According to this letter, goods, purchased by NCOs for funds, registered as foreign gratuitous aid, and gratuitously given to an individual (for example, goods of medical purposes, medicines, fuels, personal hygiene items, food, etc.), as well as services, purchased by NCOs for funds, registered as foreign gratuitous aid, and rendered to a an individual (for example, healthcare services, bath and laundry services, services on delivery of goods, etc.), relate to income, received from funds of foreign gratuitous aid, and are subjects to income tax. At the same time, the Tax Code provisions on taxation with income tax were introduced a long time ago and haven’t been amended since then.

In 2017 the practice of exemption of foreign gratuitous aid from taxes was the following: almost all NCOs, which appealed to the Department with such requests, were refused to have the received by them aid fully exempt from taxes.

On November 16, 2017 the Department for Humanitarian Activity published on its web-site the information about working out of the draft decree, aimed at improvement of the procedure for receipt and use of foreign gratuitous aid and its exemption from taxes and levies (duties), as well

as about the possibility for stakeholders to send their proposals to the published draft decree. Stakeholders had only 3 days to discuss the published draft decree and work out their proposals, which was the deadline set by the Department. This significantly influenced the possibilities for NCOs to discuss the proposed amendments, as well as created obstacles for stakeholders to work out quality and well-grounded proposals to the draft decree. Nevertheless, the Legal Transformation Center, the International Educational Public Association “ACT” and a range of other organizations managed to send their proposals on amendments to the legislation on foreign gratuitous aid to the Department.

Analysis of the published draft decree has shown that its main drawback is the fact that it does not conceptually affect the foreign aid registration system, it only introduces some cosmetic changes to the procedure for receipt and use of such aid. For example, it abolishes some norms, which has recently been introduced, and brings certain provisions on taxation in line with the official explanations, made earlier. As earlier, the draft decree doesn't provide for the minimum amount of foreign aid, which can be received by NCOs without registration, it leaves the authorization-based principle for registration of foreign aid and separate procedure for exemption from taxes for each received tranche, etc. The draft decree doesn't correspond with numerous innovations, which are now being introduced in Belarus. For example, 4 plans in the human rights field have been adopted recently: the Interdepartmental Plan on the Implementation of Recommendations within the framework of the Universal Periodic Review and Recommendations, Addressed to the Republic of Belarus by the Human Rights Treaty Bodies, plans in the fields of disabled people's rights, children's rights and gender equality. However, the list of purposes, foreign gratuitous aid can be attracted for, set forth in the decree, stipulates implementation of none of these plans. Provisions on abolishment of the requirement to register NCO foreign founders' and members' donations in the Department for Humanitarian Activity, abolishment of the norm that the amount, spent by NCOs on employees' remuneration, shall not exceed 20% of the aid, the attempt to set the amount of aid, which can be used without additional approval by the Department, in case some funds remain unallocated – all these can be considered as positive amendments. However, introduction of only these amendments will fail to significantly improve NCO access to foreign gratuitous aid or further prominent increase of financial sustainability for civil society organizations.

In October 2017 74 NCOs, joint membership of which exceeds 40 000 people, sent a collective appeal on improvement of taxation conditions for NCOs to the Ministry of Finance, the Ministry for Taxes and Levis, the House of Representatives of the National Assembly and the Department for Humanitarian Activity. They proposed in their appeal to abolish income tax for beneficiaries of NCO services and other in-kind aid from them, without distinction as to source of funding; to stimulate personal charitable activity of individuals; to introduce additional grounds for social tax deduction of 10% of the amount of donations to NCOs; not to impose income tax on the received by NCOs foreign gratuitous aid; to create equal conditions for NCOs to attract donations from businesses, by applying the norms on tax benefits on gross income and exemption of dividends from income tax to all NCOs. However, state bodies' response to these proposals was not positive.

The legislation on state social order and participation of NCOs in rendering of social services to the population continues to be improved in Belarus. In particular, on June 19, 2017 provisions on participation of non-governmental NCOs in dealing with issues of social services and on international cooperation in this field were added to the Law of the Republic of Belarus “On social services”. Amendments to the procedure for the conduct of competitive bidding for a state social

order, financed through provision of subsidies for NCOs to render social services and implement social projects, were also introduced.

In accordance with the decree of the Board of the National Bank of the Republic of Belarus, starting from July 4, 2017 Belarus has switched to the international system of numeration of bank accounts in IBAN format (International Bank Account Number). Despite explanations of the regulator, this process did not go smoothly. In particular, on July 4 and several days later a range of NCOs faced difficulties while paying state fees, including registration fees, caused by the absence of the information about the requested bank details in banks and on state organs' websites. At least in one case such a delay led to the necessity for a newly-established public association to conduct a second founding event. After introduction of this new banking standard, all NCOs had to bring their bank details in line with it, as well as to have their new letterheads approved.

The trend has continued in Belarus, when positive for NCOs amendments to legislative norms are just indirect consequences of liberalization of conditions for business. This ambiguous trend was reflected in 2 loud normative legal acts, adopted at the end of 2017, which will come into force in 2018.

Thus, the Decree of November 23, 2017 №7 "On development of entrepreneurship" stipulates that economic entities have the right not to use stamps, as well as the right to use real estate objects as offices, even if such a purpose of use is not the one, indicated in the documents of the Uniform State Register of Real Estate Objects, the right on real estate and real estate deals, in case this doesn't violate the rights and legitimate interests of citizens and other economic entities. In accordance with the decree, this norm is applied to all legal entities, both commercial and non-commercial ones. This innovation can to some extent solve the problem of legal addresses for NCOs, as now they can be located in administrative and office premises only and, in accordance with the interpretation by state bodies, can't be located in premises of other intended purposes (for example, trade ones). The true meaning of this innovation and some other provisions of the Decree № 7 will be clear, when they will be applied in practice, after coming into force at the end of February 2018.

The Decree of December 21, 2017 №8 "On development of digital economy" also contains potentially prominent for NCOs norms. It introduces preferential legal and tax regimes for economic entities' economic activity in the field of information technologies, as well as withdraws them from the effect of certain restrictions, applied to donors of gratuitous aid. The Supplement to the Decree № 3 stipulates that the High Technologies Park residents have the right to provide gratuitous (sponsor) aid to educational institutions for the purposes, independently agreed on by the parties to the agreement on provision of such aid. The Decree stipulates tax-free regime for operations with cryptocurrencies (tokens), conducted by individuals (including donations), by January 1, 2023, which, together with the norms of the Decree of August 31, 2015 № 5 "On foreign gratuitous aid", lifts all the restrictions on transfer of foreign aid in the form of cryptocurrencies to individuals.

On September 29, 2017 the Government submitted the draft amendments to the Law "On Mass Events" to the Parliament. The draft amendments stipulate administrative responsibility in the form of large fines for legal entities (including NCOs) for violation of the procedure for conduct of mass events under Article 23.34 of the Code of Administrative Offences. They don't introduce any drastic changes to the existing in Belarus authorization-based procedure for the conduct of rallies

and demonstrations, leave the requirement of obligatory submission of an application for the conduct of a meeting 15 days prior to the event and provide the authorities with broad opportunities to arbitrarily refuse permits for conduct of rallies and demonstrations. At the same time, the draft stipulates introduction of certain elements of the notification-based principal for the conduct of events in specially designated areas, determined by the decision of local authorities. Organizers will not need to receive a special permit from the authorities; it will be enough to submit a notification 10 days prior to the event.

State interaction with non-commercial organizations and elements of social dialogue

In 2017 the state continued its policy of greater openness for a dialogue with NCOs on the issues of amendments to legislation and other aspects of state policies. However, in many cases there were the same drawbacks in these processes, as observed in previous years: involvement of the same few organizations in the consultations (including non-acceptance of stances of those NCOs, which can't get registration in Belarus); often formal character of the dialogue without due consideration of the outspoken public stances while working out political decisions; a small number of efficient institutionalized platforms for the dialogue; lack of access to information and the worked out draft normative legal acts for NCOs; too short terms for preparation of written comments and proposals to draft normative legal acts; the state's greater attention to those dialogue processes, which take place within the framework of cooperation with international bodies; absence of the system when the state summarizes the outspoken in public discussions opinions and provides feedback.

It is typical of numerous public discussions and hearings about development of construction projects and deployment of new manufactories projects, held at the local level, that state bodies treat them not like the possibility for the public to influence the content of draft decisions, but like explanatory work, aimed at making the public understand the reasonableness and expedience of the worked out by state bodies draft decisions.

The increased in the first half of the year repressive activity of the authorities negatively influenced the atmosphere of the state's cooperation with civil society, but, in general, it didn't put an end to attempts of a public dialogue on numerous important issues, including human rights ones.

October 25, 2017 marked the first anniversary of the adoption of the 2016-2019 Interdepartmental Plan on the Implementation of Recommendations, Adopted by the Republic of Belarus following the Second Cycle of the Universal Periodic Review within the United Nations Human Rights Council, and Recommendations, Addressed to the Republic of Belarus by the Human Rights Treaty Bodies, approved by the decree of the government. In 2017, as earlier, the Plan was not provided with mechanisms for its implementation; it also failed to be modified in accordance with the recommendations of the treaty bodies, in particular, there are still no provisions on freedom of association in the Plan. It was typical of the measures, taken within the framework of this Plan, that they were almost not covered by the media. Only in few cases state bodies informed the public about the working out and implementation of such measures; and the worked out by ministries and departments programs of measures within the framework of the Plan remain closed to the public documents, which creates difficulties for civil society organizations to participate in implementation of the Plan. The question still remains open, if the

annual interim report on implementation of the Plan, which should be submitted to the government by the Ministry of Foreign Affairs by April 20, 2018, will be available to the public.

On December 12, 2017 the expert consultations “National human rights action plan: current implementation and prospects”, jointly organized by the Ministry of Foreign Affairs and the UN Office in Belarus, were held in Minsk. Representatives of the state bodies, involved in implementation of the national action plan measures, as well as representatives of the UN agencies and donor countries participated in the consultations. Representatives of a wide range of human rights and other NCOs were invited to participate in the consultations and were provided with the opportunity to speak out at discussion panels; representatives of unregistered organizations participated in the discussions as individuals. At the same time, these consultations, as in the previous year, were more of an introductory general character; topical issues were not highlighted and no recommendations regarding these issues were worked out. In 2017 these consultations on the Interdepartmental Plan were a single event; adoption of this Plan did not lead to the establishment of permanent platforms for cooperation of state bodies with Belarusian human rights community.

The Decree of the Council of Ministers of February 17, 2017 № 149 introduced the “National action plan for ensuring gender equality in the Republic of Belarus for 2017 – 2020”. The aim of this plan is to develop mechanisms for introduction of gender approach in the processes of working out and implementation of state policies measures in various fields of public life activity.

The Decree of the Council of Ministers of June 13, 2017 № 451 introduced the “National action plan for implementation of the provisions of the Convention on the Rights of Persons with Disabilities in the Republic of Belarus for 2017 - 2025”. It stipulates participation of civil society organizations in implementation of measures, set forth in the Plan, alongside state bodies. It is remarkable that governmental and non-governmental foundations funds and international technical aid funds are sources of funding of this action plan measures, together with own funds of executors and republican and local budgets funds.

The Decree of the Council of Ministers of September 22, 2017 № 717 introduced the “National action plan for improvement of situation for children and protection of their rights for 2017 – 2021”. On November 4, 2017 the Ministry of Justice held the seminar on the topic “Role of Belarusian public associations in protection of motherhood, childhood and family”, where the NCOs concerned were informed about the prospects for their participation in implementation of measures within this plan. It should be noticed that the assessment of efficiency of implementation of the previous “National action plan for improvement of situation for children and protection of their rights for 2012 – 2016” was not duly highlighted in state bodies’ statements, the report on implementation of this plan was not published as well.

In general, the above-mentioned plans stipulate only formal or passive participation of NCOs in implementation of measures within these plans. The general public can react to the authorities’ proposals, participate in events at the invitations of state bodies; however, such participation is mostly episodic and fragmentary; it provides for the opportunity for non-governmental actors to emphasize problems, but it is not a true participation in the activity, stipulated by the plans. The established practice of non-publicity of measures on implementation of plans is especially alarming. In the first place, it means the fact that reports on their implementation are closed to the public, which leads to serious doubts about true efficiency of these plans and hinders public assessment of them. In a range of cases the NCOs concerned stated that the elements of different

plans, related to solution of similar problems, were not coordinated (in particular, variant interpretations of the terms of implementation of the planned measures could be observed).

NCOs still took limited part in the work of bilateral communication platforms within the framework of Belarus – Europe and Belarus – USA Human Rights Dialogue. At the same time, we should notice a gradual increase of the Belarusian authorities' and the EU's openness in their contacts with civil society. The EU – Belarus Coordination Group and the Human Rights Dialogue sessions are held with partial participation of Belarusian civil society representatives.

On 19-20 December, 2017 the 4th session of the EU – Belarus Coordination Group was held in Brussels. Belarusian civil society representatives were invited and provided with the opportunity to express their opinions about the discussed problems of bilateral Belarusian and European interaction in various topical fields. Now such meetings are held every half a year in Europe and Belarus by turns. Belarus progress within the Bologna Process Road Map, including strengthening of academic freedoms, was critically assessed at the meeting in December. However, it should be noticed that such topics as human rights, visa regime facilitation, migration, funding of projects and agreements on partnership priorities were discussed in the absence of Belarusian NCOs representatives. Those NCOs, which participated in the work of the coordination group, noticed the problem that the list of the invited NCO experts had been made up in too short period of time, which created difficulties for the participants to prepare for the meaningful discussions, not to mention work out package proposals to the discussed issues. In addition, specializations of the invited NCOs were often not relevant to the topics of the discussed within the coordination group issues, which decreased the efficiency of the format of civil society participation in the work of such communication platforms⁴.

In October 2017 the Ministry of Foreign Affairs representatives participated in the Annual Assembly of the Eastern Partnership Civil Society Forum for the first time.

In April 2017, for the first time in the last 20 years, Belarus submitted the Report on Implementation of the International Covenant on Civil and Political Rights by the Republic of Belarus to the UN Human Rights Committee. Thus, Belarus liquidated its long-standing arrears in submission of periodic reports to this committee. The document was prepared by the Ministry of Foreign Affairs, with participation of certain ministries and departments. It contains responses to a range of questions, formulated by the Committee and addressed to the state within the context of preparation for the upcoming examination of Belarusian report in the Committee in autumn 2018. On May 18, 2017, after the report had already been submitted, it was publicly presented to civil society representatives. After examination of the state report, the coalition of Belarusian human rights NCOs worked out an alternative report and submitted it to the UN Human Rights Committee.

The Decree of the Council of Ministers of August 1, 2017 № 574 approved the "National program for international technical aid by 2020". The National Program takes into account global, regional, national, sectoral and topical levels, as well as Belarusian obligations to achieve the aims in sustainable development field by 2030. This program is a list of priorities and aims, achievement of which Belarus expects to attract international organizations' and foundations' funds for. The program names the following fields for attraction of international technical aid as priority ones:

⁴ See Dzianis Melyantsou. Belarus – EU coordination group: how it was.
<http://nmbnby.eu/news/analytics/6509.html>

harmonious development of an individual; improvement of institutionalized environment and creation of favorable business environment; environmental sustainability and security, including conservation and sustainable use of biological diversity; achievement of neutral balance of land degradation; environmentally friendly production and consumption; mitigation of consequences and adaptation to climate change; regional development. At the same time, it is noticed in the program that the above-mentioned priority fields are in line with the priorities, aims and purposes of the state programs for 2016 – 2020. Moreover, main fields of state programs will also be considered as priority ones for international technical cooperation, taking into account the fact that Belarusian government is interested in attraction of additional funds for their implementation. The draft national program was published in advance and civil society organizations had the opportunity to make their remarks on its content.

The program stipulates significant increase of the amount of funds, Belarus expects to receive from international donors, and plans to attract 600 million dollars in the country, which is 1,5 times more than it was estimated in the previous plan for attraction of international technical aid for 2012 – 2016. We should also notice the increased role of civil society at the stage of working out of the program – the draft program was put to public discussions and certain public proposals were taken into account. The program describes the role of the International Technical Aid Coordination Council, which consists of representatives of 3 parties concerned – the government, donors and civil society. The program provides for specific mechanisms for the Council to participate in planning and assessment of implementation of international technical aid programs, including establishment of working and expert groups for each separate field. The Coordination Council is also provided with the right to examine annual plans for attraction of aid, which will be documents, containing concrete financial information.

In July 2017 Aleh Hulak, the chairman of the Belarusian Helsinki Committee, was included into the Republican Civic Monitoring Commission under the Ministry of Justice. According to the Decree of the Government of September 15, 2006 № 1220, international, republican and local public associations have the right to control activity of bodies and institutions, carrying out sentences and other criminal sanctions, by nominating their representatives into such commissions. However, representation of human rights NCOs and independent from the authorities public associations, dealing with issues of penitentiary system, in such bodies of public control still remains minimal both at national and regional levels. In particular, in 2017 the authorities repeatedly refused to include the human rights activist Siarhei Ustinou, who represented the “Human rights defenders against tortures” initiative and who was nominated by the decision of the republican public association “Legal Initiative”, into civic monitoring commissions. At the same time, representatives of such organizations with totally different specializations as the “Belarusian Association of Parents of Many Children”, the “Belarusian Culture Foundation” and the “Union of Writers of Belarus” are members of the current Republican Civic Monitoring Commission.

The amendments to the Law “On normative legal acts in the Republic of Belarus” were adopted at the first reading and are now being prepared for adoption at the second reading. This draft law introduces the following Article: “Public discussion of draft normative legal acts”. The draft law stipulates that draft legal acts and draft decrees of the Council of Ministers of the Republic of Belarus, relating to citizens’ rights, freedoms and obligations and introducing new or fundamentally changing current approaches to legal regulations in a certain field of public

relations, as well as other draft legislative acts, worked out on the initiative of state bodies, are subjects to public discussions.

Unequal status of public associations in respect of access to state funding is still characteristic of Belarus. As earlier, the main part of funds, allocated within the framework of state social order, is given to the Belarusian Red Cross Society and its regional branches. According to the Ministry of Labor and Social Security, in 2017 there were 63 agreements implemented, which were concluded between local executive and administrative bodies and non-governmental NCOs within the framework of state social order mechanism, 43 out of which were implemented by the Belarusian Red Cross Society (which makes 2/3). Thus, the number of agreements within state social order grows, but this mechanism remains available to a limited number of social NCOs only, due to difficulties in meeting burdensome legislative requirements regarding state social order as well.

Direct funding of loyal to the authorities public associations from republican and local budgets has remained in Belarus. Thus, in 2017 the Belarusian Republican Youth Union received 6,2 million roubles as direct funding on non-competitive basis from the republican budget only.

The legislation determines the list of sport non-commercial organizations (both sport clubs and sports federations), which are provided with financial support from state enterprises, as well as from the republican state public association "President's Sports Club". The Decree of the President of the Republic of Belarus of December 12, 2017 № 443 provided physical culture and sport organizations with additional means of support. According to the document, the income, received from revenue-generating activity, including rent of property, by physical culture and sport organizations in the form of institutions, including specialized educational and sport institutions, is exempt from income tax. However, state funding has a drawback, which is the state's direct interference in activity of sport NCOs. In spring 2017 the leadership of the majority of sports federations was changed on the initiative of the executive authorities and the National Olympic Committee (headed by the President of Belarus), which in many cases was conducted with grave violations of charters and contrary to the will of these public associations' members. The situation with the Fencing Federation was a vivid example. On May 17, 2017 the supreme body of this public association rejected the proposed by the authorities candidature and elected a respected in such circles person as the chairperson. However, the authorities used the administrative resource, exerted pressure on the organization's members at their working places and demanded in an ultimatum form to convene a new congress. As a result, the new congress made the demanded by the authorities decision and elected the proposed by the authorities person as the chairperson of the federation.

Ban on Activity of Unregistered Organizations

Since 2005 the Criminal Code of Belarus has contained Article 193¹, according to which organization of activities or participation in activities of an unregistered public association, political party, religious organization or foundation is punished by a fine, or arrest up to 6 months, or imprisonment for up to 2 years. The Venice Commission of the Council of Europe has recognized in

its special resolution that this norm of the Criminal Code is a violation of international standards on freedom of association⁵.

In the course of the First Cycle (2010) and the Second Cycle (2010) of the Universal Periodic Review within the United Nations Human Rights Council, numerous recommendations to abolish Article 193¹ of the Criminal Code were addressed to Belarus. However, despite numerous assurances of various state bodies that the legislation, regarding ban on activity of unregistered organizations, could be amended in the future, this norm hasn't been abolished so far.

There were no convictions recorded under Article 193¹ in 2010 – 2017, but there were at least 18 people, condemned under this article in 2006 – 2011. However, criminal proceedings under this article are launched against leaders of unregistered NCOs from time to time. The Public Prosecutor's Office and the KGB (including regional branches of these bodies) send official letters of caution to members of unregistered associations, warning them that they may be brought to criminal responsibility (under Article 193¹ of the Criminal Code of Belarus), if they don't stop their public activity as members of unregistered public associations or religious organizations. The practice, when warnings under Article 193¹ are issued, leads to latency of civil society structures – many of them try not to advertise their work, avoiding situations, when certain public activity is identified with structures, lacking state registration, just because they are afraid of criminal penalty. Nevertheless, no information about such warnings or new criminal cases under Article 193¹ of the Criminal Code was recorded in 2017.

Besides Article 193¹ of the Criminal Code, there is also Article 193² "Organization or management of public association, religious organization, infringing on personality, rights and duties of citizens" in the Criminal Code. According to Part 1 of this Article, organization or management of political party, other public association or religious organization, whose activity entails violence against citizens, or infliction of bodily harm, or other infringements of citizens' rights, freedoms and legitimate interests, or obstruction of citizens' performance of their state, social or family duties is punished by arrest or imprisonment for up to 2 years. Part 2 of this Article provides for a harsher punishment, which is imprisonment for up to 3 years. Moreover, conduct of the above-mentioned activity on behalf of an unregistered public association is an aggravating circumstance, increasing penalty.

Article 193 is applied quite rarely. It's known for certain that there was one case in 2012, when guilty verdict under this article was delivered and the punishment of three years of imprisonment was imposed (the convict was later released under an amnesty).

In 2016 the practice of criminal prosecution under Article 193 resumed. In the autumn 2016 fans of the football club "Partisan" Illia Volovik, Vadzim Boika, Dzmitry Tsechanovich, Filip Ivanou, Artsiom Krauchanka and Andrei Chartovich (supporters of left-wing views) were charged of hooliganism, conducted in June 2014 against fans of the football club "Tarpeda" (supporters of the right-wing views). Besides that, Illia Volovik, who, according to the prosecutor, was the leader of associations "Pershakrou", "Heura", "New School Band", "Red White Hunters" and "MRFC" (all these are names of informal movements of ultra-leftist groups), was also tried under Article 193

⁵ CDL-AD(2011)036-e. 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)

<http://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-AD%282011%29036-e>

for management of unregistered groups of football fans. In essence, all of them are Internet groups in social networks, but investigation insisted that Illia Volovik organized the activity of unregistered public associations, using communication in the Internet. On March 10, 2016 the Pershamaiski District Court of Minsk found Illia Volovik guilty under all incriminated articles, including Article 193 of the Criminal Code, and imposed the punishment of 10 years of imprisonment. Moreover, he was awarded the maximum punishment (3 years of imprisonment) for management of unregistered organization.

As the legislation on public associations contains the ban on establishment of organizations, whose activity entails violence against citizens or infringement of their rights and freedoms, it is impossible to establish such organizations in Belarus in principle. The legislation also allows to liquidate organizations, involved in unlawful activity. At the same time, presence of such wordings in the Criminal Code can be used to restrict activity of civil society organizations. In essence, Article 193 of the Criminal Code can be applied to various lawful forms of civil society organizations' and trade unions' activity (organization of strikes, boycotts, informational campaigns, etc.). Article 193 was added to the Criminal Code together with imposition of the ban on activity of unregistered organizations. Part 2 of Article 193, introducing the provision that activity without registration is an aggravating circumstance (increasing penalty), was added to the Criminal Code in 2006, together with Article 193¹ in a common package of laws, restricting freedoms of expression, assembly and association.

The Assembly of Pro-Democratic NGOs of Belarus and the Legal Transformation Center consider it groundless that Article 193 of the Criminal Code stipulates the increased penalty for offences, conducted within unregistered public associations.