

Statement by Belarusian Human Rights Organizations

Annulment of Article 193.1 is not enough

Minsk, 18 May 2018

The Council of Ministers has submitted to the Parliament the [Draft Law on Amendments to Several Codes of Belarus](#).

Among other things, this draft law intends to annul Article 193.1 of the Criminal Code (Illegal organization of or participation in activities of a public association, religious organization or foundation) and to include a similar article (Article 23.88) to the Code of Administrative Violations. Thus, activities within unregistered organizations are decriminalised, and criminal responsibility is replaced with a fine of up to 50 “base units”. The draft law suggests that judicial authorities and law enforcement bodies should enjoy the powers to consider cases on administrative offences under Article 23.88, which means a non-judicial procedure for imposing of fines.

The Belarusian civil society organizations, human rights defenders and international organizations have always criticized Article 193.1 of the Criminal Code due to its incompliance with the human rights standards and provisions on the freedom of association enshrined in the Constitution. Recommendations for Belarus to repeal Article 193.1 were formulated during the first (2010) and the second (2015) rounds of the Universal Periodic Review at the UN Human Rights Council, and by a number of the UN treaty bodies. In 2011, in their special opinion, the European Commission for Democracy through Law of the Council of Europe (Venice Commission) confirmed the non-compliance of Article 193.1 with the universal human rights standards.

Given the above, we consider the measures taken to repeal Article 193.1 of the Criminal Code as an important and necessary step towards improving the situation of the freedom of association in Belarus.

Worryingly, the simultaneous intention of the authorities to replace the criminal liability for activities within non-registered organizations with an administrative penalty shows the lack of political will to ensure the freedom of association in the country.

The following steps are essential to solve the problem of ungrounded restrictions on the creation of civil society organizations:

- Removal of the ban on activities of unregistered organizations from the legislation (Article 7, Section 2 of the Law on Political Parties, and Article 7, Section 2 of the Law on Civic Associations), which will enable citizens to enjoy freely their right to the freedom of association.
- Bringing the procedure for registration of civic associations, religious organizations, and foundations in compliance with the relevant international standards, thus ensuring that everyone interested may register a non-profit organization, without discrimination and undue or politically motivated obstacles.

When considering the above-mentioned draft law, we urge the Parliament to:

- Remove Article 193.1 from the Criminal Code;
- Vote against draft Article 23.88 of the Code on Administrative Violations, which provides for administrative responsibility;

- Start a public discussion with all the parties concerned about the further amendments to the legislation regulating the establishment and activities of civil society organizations.

Lawtrend Legal Transformation Centre

Assembly of Pro-Democratic NGOs of Belarus

Belarusian Documentation Centre

Viasna Human Rights Centre

Law Initiative

Belarusian Helsinki Committee

Barys Zvozhkau Belarusian Human Rights House

Belarusian Association of Journalists

Salidarnasc Committee

FoRB (Freedom of Religion and Belief) Initiative