



## Monitoring the situation of freedom of association and civil society organisations in the Republic of Belarus

November 2022

An unprecedented wave of repression against Belarusian citizens, including leaders and members of civil society organisations, continues in Belarus; freedom of association in the country is practically levelled. At least 699 non-commercial organisations are in the process of forced liquidation, including petitions for forced liquidation filed with courts, or forcibly removed from the Unified State Register of Legal Entities and Individual Entrepreneurs (UGR). The number of organisations that have decided to liquidate on their own is also increasing regularly, reaching 403 at the end of November. Thus, the losses in the public sector of Belarus, starting from the post-election period of 2020, amount to at least 1102 institutionalized forms of non-commercial organizations (public associations, trade unions, foundations, non-governmental institutions and associations). The number of citizens being prosecuted for allegedly setting up or participating in extremist groups is increasing. One more criminal case under article 193.1 (organization and participation in the activity of an unregistered organization) was registered. Detentions of the remaining representatives of civil society organizations in Belarus continue.

As of 30 November 2022, there are 1447 persons recognised as political prisoners in Belarus who are imprisoned.

### **Forced liquidation of non-profit organisations<sup>1</sup>**

As of 30 November 2022, according to the monitoring conducted by Lawtrend jointly with the OEEES, 699 non-profit organisations were recorded as being in the process of forced liquidation, including liquidation suits filed with the court by the registration authorities, or forcibly removed from the Unified State Register of Legal Entities and Individual Entrepreneurs (UGR). Compared with the previous monitoring period, the number of forced liquidations increased by 32. During the monitoring period both court decisions on the forced liquidation of public associations and foundations were taken and new lawsuits on forced liquidation were filed.

### **Decisions by non-profit organisations to self-destruct**

As of 30 November 2022, according to the monitoring conducted by Lawtrend, there were 403 non-profit organisations (public associations, foundations and institutions) in respect

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<sup>1</sup> The monitoring only records cases of forced liquidation and self-liquidation of non-governmental NCOs; state institutions and republican state and public organizations are not counted in the quantitative indicators. Religious organizations, consumer cooperatives and other organizational and legal forms of NGOs other than public associations, foundations, private institutions and associations are also not counted.

of which the statutory authority or founders decided to liquidate. Compared to the previous monitoring period, the number of NCOs that decided to liquidate themselves increased by 13.

As in the past, the decision to self-liquidate is made primarily due to pressure on NPO members, staff, an unfavourable legal environment, the general socio-political situation in the country, and often under pressure from the authorities on the NPO to make the decision.

### **Other pressure on civil society organisations and activists.**

The practice of inspections of public associations and foundations registered in Belarus by the registration authorities continues. Only a few organizations do not receive written warnings about violations of the legislation. The receipt or non-receipt of written warnings or elimination of violations indicated in the written warnings does not guarantee harsher sanctions, such as forced liquidation, applied to the public association or foundation.

The practice of using "extremist articles" against representatives of civil society organisations, as well as activists and female activists, is becoming more widespread. There are an increasing number of cases involving the alleged organisation and participation in extremist formations.

Thus, on 9 November five members of the Union of Belarusian National Shield were detained. According to the Ministry of Internal Affairs, a criminal case was brought against them for the creation of an extremist formation or participation in it (Article 361<sup>1</sup> of the Criminal Code).

Criminal cases related to the financing of "extremist activity" (Article 361<sup>2</sup> of the Criminal Code) continue to be initiated and prosecuted. Thus, another criminal case for the financing of extremist activity has started in Minsk city court. The defendant is individual entrepreneur Pavel Kharytonau. According to the materials of the case, from August 2020 to July 2021 Kharytonau "for reasons of political and ideological enmity" transferred financial means to support activities of several associations of citizens in the formations recognized as extremist. During this time, according to the materials of the investigation, Kharitonov made eight transfers totalling at least USD 1,150.

Minsk City Court sentenced Aliaksandr Ziyazetdinou to three years in a general regime colony. He was charged under Part 1 Article 361<sup>2</sup> of the Criminal Code (financing the activities of an extremist formation) for transferring 0.2 Ethereum (about \$800) to a BYPOL cryptocurrency wallet in May 2021. The trial was held behind closed doors.

According to the pro-governmental TV-channel "Svodki Tsentra", an IT worker from Minsk was detained and accused, among other things, of transferring donations to the BYPOL Foundation. "The reason for the detention was the information about the existence of transfers to extremist organizations, for each of which a separate criminal case will be opened".

As of 30 November 2022, 104 entities have been included in the List of organizations, formations and individual entrepreneurs involved in extremist activities. On November 1, "Union of Belarusian National Shield" was declared an extremist formation by the decision of the Ministry of Internal Affairs; on November 28, "Pospolitoye Rushenne" (as stated in the list, it is a group of citizens under the leadership of the extremist formations BYPOL / "Peramoha" Mobilization Plan and United Transitional Office) was declared an extremist formation by the

decision of the Ministry of Internal Affairs; on November 30 - the “Country for Life” Foundation.

The practice of recognition of information products as "extremist materials" and expansion of the lists of citizens, organizations, formations and individual entrepreneurs involved in extremist activity continues. Thus, on November 17, Hrodna Leninski District Court, among others, included the Instagram page "freebelaruscenter" to the list of "extremist materials". Hrodna Leninski District Court also decided on November 17 to recognize the Instagram page "Viasna" as "extremist material," although it had already been recognized as an extremist on January 27, 2022, by the decision of Homiel Chyhunachny District Court. The Instagram page of the "August2020" project, which posted stories of people who had suffered torture at the hands of security forces, was deemed extremist material.

Human rights defenders - Ales Bialiatski, head of Human Rights Center "Viasna", Valiantsin Stefanovich, vice-president of the International Federation for Human Rights (FIDH) and Uladzimir Labkovich, lawyer and coordinator of the “Human Rights Defenders for Free Elections” campaign - are kept in the detention centre. Lieanid Sudalenka, head of the Homiel branch of Human Rights Center "Viasna", Marfa Rabkova, coordinator of the Human Rights Center "Viasna" Volunteer Service and Andrei Chapiuk, volunteer of Viasna, continue to serve their prison terms. Prosecutor General's Office sent to court the criminal case against Bialiatski A.V., Stefanovich V.K., Labkovich U.M. and Salauyeu D.S., representatives of the unregistered human rights centre "Viasna", for committing crimes under part 4 of article 228 and part 2 of article 342 of the Criminal Code of the Republic of Belarus. According to the prosecutor's office, the accused, "acting in the organized group, from April 4, 2016, to July 14, 2021, under the condition of using in the territory of Belarus for the illegal activities and financing of the RC "Viasna", as well as other organizations, cashed in money received from various structures and funds in the bank accounts of a foreign organization under their control. Then, using other persons, acting with a common purpose, they ensured the illegal transportation of large amounts of money, cashed in the territory of the Republic of Lithuania, across the customs border of the Eurasian Economic Union in an amount of at least 201 thousand Euros and 54 thousand United States dollars by moving them step by step across the border without declaring them. They also, in the same line-up, and together with other persons, have intentionally prepared citizens to participate in group actions, grossly violating public order, as well as financing and material support of such actions under the guise of human rights and charitable activities, including on behalf of the HRC “Viasna”, the unregistered foundation “BY\_HELP”, during the period from May 2020 to July 14, 2021". The case of Dzmitry Salayou, who was able to leave Belarus, is being considered in "special proceedings", after which he can be tried in absentia.

Other representatives of civil society organisations, such as Andrei Pachobut, a member of the Union of Poles, Tattsyana Kuzina, a member of the Council and co-founder of the school of young managers of public administration Sympa, expert of the bipart research project; Pavel Bielavus, the cultural activist and founder of Symbal.by; Hrodna activist and head of the “Center for Urban Life” Pavel Mazhejka, former head of the public association “Akhova ptushak Batskaushchyny” Viktor Fianchuk, public figure and founder of the Flying University Uladzimir Matskevich, expert of the analytical group of the Agency of Humanitarian Technologies, coordinator of the Flying University, senior analyst of the Center of European Transformation Tattsyana Vadalazhskaya.

On 30 November, those convicted in the "students' case", including BSA members Yahor Kanetski, Yana Arabeika, Kasia Budko, Ksenia Syramalot and Alana Gebremariam, a member of the Coordination Council, were released due to serving their full sentence (2.5 years in a general regime penal colony).

On 11 November Minsk City Court pronounced the verdict in the "Country for Life" case. It involved three volunteers of the Foundation - political prisoners Anton Stasheuski, Yulia Syrykh, Tattsyana Astrouskaya and Maryna Dubrouskaya. Of them only Stasheuski was detained, Dubrouskaya was under house arrest, and Syrykh and Astrouskaya left Belarus after almost a year of detention. The volunteers of the Foundation were wanted - their cases were transferred to separate proceedings. Stasheuski was tried under part 1 of article 357 of the Criminal Code (conspiracy to an unconstitutional seizure of power), Dubrouskaya - under part 2 of article 342 of the Criminal Code (training and preparation of persons to participate in the actions that grossly violate the public order and financing or other material provision). Stasheuski was sentenced to 8 years in a strict regime colony, Dubrouskaya to 1.5 years in a general regime colony and arrested in the courtroom.

On 28 November Minsk Piershamaiski District Court considered the administrative case of human rights activist Nasta Loika. Nasta was found guilty of disorderly conduct (Article 19.1 of the Code of Administrative Offences) and sentenced to 15 days of arrest for the third time in a row. This was Nasta's fifth arrest in the current autumn. According to Loika's statement during the trial, she was tortured while serving the previous 15 days: twice she was taken to talk to officers of the Main Directorate for Combating Organised Crime and Corruption, where she was tasered once and left without her clothes for eight hours in the courtyard of the delinquent isolation centre, which made her very ill.

The prolonged detention of citizens in connection with uninterrupted administrative arrests in places of temporary detention which are not intended for long-term detention raises serious concerns about detention conditions, access to medical care and limited access to transfers, including medicines. For instance, since 31 August, priest Uladislau Bahamolnikau, who went on a hunger strike in support of political prisoner Ihar Losik and also served a litany for Roman Bandarenka, has been serving uninterrupted administrative arrests. His detention has now lasted more than 90 days.

On 21 November Aliaksandr Shumchanka, former chairman of the Republican Public Association "Perspektiva", liquidated by the Supreme Court on 7 September 2021, was detained. Shumchanka was fined under Article 19.11 of the Code of Administrative Offences for the "distribution of extremist materials" a fine of 15 basic units (480 Belarusian roubles).

On 23 November the co-founder of the popular science project "Smart Minsk", an informal education centre for children, Siarhey Saukin, was detained.

During the monitoring period, an entire raid was conducted on former activists of the public association Movement "For Freedom", liquidated by the authorities on 19 November 2021. Thus, on November 22, public activist Valiantsina Bolbat was detained (sentenced to 10 days of administrative arrest) after a search and seizure of equipment in Verhnyadzvinsk (Viciebsk region). On November 21-22, searches were also conducted in other regions of Belarus in the homes of Heorhi Stankevich, Aliaksei Atroshchanka, Uladimir Katsora, Iury Kazakevich and other activists (according to the Human Rights Center "Viasna" at least 13

people are known to have been persecuted). On 29 November public activist from Navapolatsk Volha Damaskina was searched, as well as the place of residence of her relatives. During the search, equipment was seized and questions were asked about the Movement "For Freedom".

On 29 November Aksana Shelest, sociologist, PhD, a colleague of Uladzimir Matskevich, and Kiryl Maltsau were detained. On the same day the deputy head of the public association "Minsk Cycling Society", Maxim Puchynski, was detained.

On 3 November three leaders of the United Civil Party were sentenced in the case of gross violation of order - participation in the "March of New Belarus" (Article 342 of the Criminal Code): Antanina Kavalioua was sentenced to one year in a general regime colony, Aksana Aliakseeva to one and a half year in a colony, and Mikalai Kazlou to two and a half years in a colony.

The repression of independent trade unions continues. According to the Belarusian Independent Trade Union, almost four dozen trade union activists and leaders of democratic trade unions are currently kept in Belarusian prisons. Thus, leaders and activists of the Belarusian independent trade unions are kept in prison: chairman of the Belarusian Congress of Democratic Trade Unions Aliaksandr Yarashuk, former head of the Radio Electronics Workers' Union Hienadz Fedynich, deputy chairman of the Belarusian Congress of Democratic Trade Unions Siarhei Antusevich, former chairman of the Free Trade Union of Belarus, former deputy chairman of the Radio Electronics Workers' Union Mikhail Hromau, activist of the Radio Electronics Workers' Union Vatslau Areshka, leader of the Orsha independent trade union of Belarus, acting chairman of the trade union of Belarus, acting deputy of the trade union of Belarus.

On 1 November the head of the independent trade union "Naftan" Volha Brytsikava was once again detained. Brytsikava was sentenced to administrative arrest for 15 days under Article 19.11 of the Code of Administrative Offences - distribution of extremist materials. On 11 November she was tried for the second time in a row for "unauthorized picketing" and again found guilty and sentenced to 15 days of arrest. On 10 November, Volha's son was detained, but released after interrogation. This spring, Brytsikava had already spent a total of 75 days in custody for administrative offences.

On November 15 Minsk regional court sentenced political prisoner Aliaksandr Mishuk under part 1 of article 361 (calls for restrictive measures (sanctions) and other actions aimed at harming the national security of the Republic of Belarus) of the Criminal Code to two years and six months of imprisonment in a general regime penal colony. The prosecutor's office blamed Mishuk for his speech to the workers of Belaruskaliy "with the purpose of establishing a strike committee".

On 15 November Maskouski District Court of Minsk sentenced activist of the Free Trade Union of Metalworkers Yanina Malash to a year and a half of imprisonment under the article on gross violation of order (Article 342 of the Criminal Code).

On 16 November Hrodna Regional Court sentenced the chairman of the primary organization of the Belarusian Independent Trade Union of employees of Hrodna Azot OJSC Andrei Khanevich to five years in prison. Khanevich was charged under two articles of the Criminal Code of the Republic of Belarus: "Discrediting the Republic of Belarus" (Article 369<sup>1</sup>) and "Assistance to extremist activity" (Article 361<sup>4</sup>).

Aliaksandr Yarashuk, chairman of the Association of Trade Unions "Belarusian Congress of Democratic Trade Unions", liquidated by the Supreme Court, was charged with a new charge - calls for sanctions.

On 27 November Piershamaiski District Court of Minsk sentenced Mikhail Hromau, secretary of the Free Trade Union of Metalworkers, liquidated by the authorities. Hromau was found guilty of organization and preparation of actions that grossly violated public order or active participation in such actions (part 1 of article 342 of the Criminal Code) and sentenced to two years and six months of imprisonment without sending to an open institution ("home chemistry").

In response to a crackdown on trade unions, the International Labour Organization has launched a procedure under Article 33 of the Constitution, which states "Should any member fail to implement within the prescribed period such recommendations as may be contained in a commission report or a judgment of the International Court of Justice, the Governing Body may recommend to the Conference such action as it considers appropriate to ensure compliance with the recommendations". The decision was adopted by the Governing Body of the International Labour Organization on 8 November 2022, by Article 33 of the ILO Constitution, for the systematic violation of the fundamental rights of workers in Belarus. Any action that would compel the Government of Belarus to comply with international standards could be taken. By March 2023, the ILO should elaborate on appropriate measures against the Belarusian authorities and adopt them at the International Labour Conference in June.

### **Liability for the operation of unregistered organisations (application of Article 193<sup>1</sup> of the Criminal Code).**

In November the Prosecutor's Office of Hrodna region applied to the economic court to liquidate Klerygata LLC, which operated an unregistered public association of the Union of Poles in Belarus and initiated a criminal case.

According to the General Prosecutor's Office: in violation of the legislation the business entity, besides the activities stipulated by the statute, implemented the goals and objectives of the public association, which was not registered in the Republic of Belarus in the order established by law. The prosecutor's office brought a criminal case against the officials of the company under Article 193<sup>1</sup> of the Criminal Code of the Republic of Belarus for the illegal organization of the activity of a public association and participation in it.

Representatives of the Union of Poles in Belarus - head of the Rada Irena Valun and vice-president Renata Dziemianchuk were searched.

This is not the first case of pressure on the Union of Poles and the Polish community in Belarus in the post-election period. On March 10th, a criminal case under part 3 of article 130 of the Criminal Code was brought against a group of persons for committing deliberate actions, aimed at fomenting national, religious enmity and hostility on the grounds of national, religious and linguistic affiliation, and committing deliberate actions to rehabilitate Nazism. The criminal case involved numerous searches, detentions and liquidations of structures belonging to the Polish minority. The chairman of the Union of Poles Angelika Borys, journalist and activist of the Union of Poles Andrej Pachobut were detained. Also detained was the director of the Polish School Ltd. Hanna Panisheva, the director of the public school of the Union of Poles in Valkavysk Maria Tsishkouskaya and the head of the Lida branch of the Union of Poles in

Belarus Irena Biarnackaya were also detained. They were subsequently released from prison and taken out of Belarus.

On August 2, 2021, Minsk City Court ruled to liquidate Minsk city cultural and educational public association of Poles "Polonichka"; January 10, 2022, Hrodna Regional Court - Hrodna public association "Club of Polish Folk Traditions"; March 23, 2022, Hrodna Regional Court - public association "Society of Polish Culture in Lidchyna", April 20, 2022, Supreme Court - public association "Polish Scientific Society", September 7, 2022, Supreme Court - Public Association "Wspólnota Polaków", September 13, 2022, Supreme Court - Public Association "Polska Macierz Shkolna", October 13, 2022, Grodno Regional Court - Public Association "Polish folk song and dance ensemble "Lechity".

### **Normative initiatives.**

A draft law amending the laws "On Public Associations" and "On Political Parties" is still being prepared. The text of the draft law is currently unpublished. On 21 November, the House of Representatives held a round table on "The Role of Public Associations in the Political System of the Republic of Belarus. Legislation and Ways to Improve it", where the draft law was considered. Information about some innovations in the legislation on public associations and political parties was posted in the state media.

According to the published information, the draft law prohibits setting up a public association with the purpose of violently changing the constitutional system, propaganda of war, social, national, religious, racial hatred, terrorist, extremist and other activities banned by law. The implementation of terrorist, extremist and other prohibited activities, as well as activities harmful to state or public interests, in case of non-compliance of its activities with the main directions of domestic and foreign policy and the concept of national security approved by the All-Belarusian People's Assembly, is grounds for the liquidation of a public association.

International public associations will have to have organisational structures not only abroad, but also in the Republic of Belarus. The draft law provides for the possibility of locating the legal address of a public association, and its organisational structures at the place of work of the head of the association, subject to the written consent of the head of the legal entity of which the head of the association is an employee.

The draft law stipulates that after its adoption, public associations registered before its entry into force have one year to bring their founding documents into compliance with the new requirements.

The draft law imposes similar restrictions on the creation and liquidation of political parties as it does on public associations. According to the draft law, the founder of a party must be a citizen of the Republic of Belarus, and must permanently reside in our country. The draft law also envisages exclusion of the ban on financing parties from the republican or local budget and other innovations.

Unlike public associations, the draft law requires political parties to ensure that they submit documents for re-registration to the Ministry of Justice within three months of the law coming into force. Parties must be re-registered by the Justice Ministry within six months.

### **Other trends in the sphere of Belarusian civil society.**

The trend of the governmentalisation of non-profit organisations in Belarus continues. Minister of Education Andrei Ivanets said that Belarus may introduce a compulsory characteristic of a school graduate. According to him, "it will not only mark his academic performance but also emphasize his personal qualities, indicate the participation of a young person in the work of public youth organizations, his participation in the implementation of various projects". It is clear that in the conditions of almost complete liquidation of independent youth public associations and general policy of the country, we are talking about Belarusian Republican Youth Union (BRSM) and similar organizations.