



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

February 2023

In February 2023, the repression of Belarusian citizens, including leaders and members of civil society organisations, continues in Belarus. Decisions on forced liquidation of public associations and submission of new liquidation suits to courts continue. As of the end of February 2023, at least 797 non-profit organisations are in the process of forced liquidation, including suits for forced liquidation submitted to courts, or have been forcibly removed from the Unified State Register of Legal Entities and Individual Entrepreneurs (USR). The number of organisations that have decided to liquidate on their own is 432 organisations at the end of February. Thus, the losses in the public sector of Belarus since the post-election period of 2020 are already at least 1229 institutionalized forms of non-commercial organizations (public associations, trade unions, foundations, non-governmental institutions and associations). The practice of recognizing citizens' groups as "extremist formations" and information materials as extremist continues, the list of individuals involved in extremist activities is growing, and lawsuits have been filed in court to recognize organizations as extremist. Human rights defenders continue to face reprisals in connection with their professional human rights activities: the Prosecutor's Office demanded that the leaders of the Viasna Human Rights Centre be imprisoned for 9 to 12 years; the charges brought against Nasta Loika have become known. Other representatives of civil society organisations also continue to face heavy prison sentences.

As of 28 February 2023, there are 1463 persons recognised as political prisoners and held in places of detention in Belarus.

Forced liquidation of non-profit organisations¹

As of 28 February 2023, according to the monitoring conducted by Lawtrend together with the OEU, 797 non-profit organisations were recorded as being in the process of forced liquidation, including liquidation suits submitted to courts by the registration authorities, or have been forcibly removed from the Unified State Register of Legal Entities and Individual Entrepreneurs (USR). During the monitoring period, both court decisions on the forced liquidation of public associations were passed and new suits on forced liquidation were filed. The majority of suits were filed by the Ministry of Justice for the liquidation of national and several international NPOs. There were also registered cases of liquidation suits filed by the main justice departments of Mahiliou Regional Executive Committee and Hrodna Regional

¹ The monitoring only records cases of forced liquidation and self-liquidation of non-state NPOs; 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 NPOs other than public associations, foundations, private institutions and associations are also not taken into account.

Executive Committee. The Main justice department of Minsk city executive committee filed liquidation suits against three public associations that had been suspended before.

Decisions by non-profit organisations to self-liquidate

The process of decision-making by non-profit organisations to liquidate themselves has not stopped. As of 28 February 2023, according to the monitoring conducted by Lawtrend, there were 432 non-profit organisations (public associations, foundations and institutions) for which the statutory authority or founders decided to liquidate.

As before, 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 a pressure from the authorities on the NPO to make the decision.

Thus, the analysis of the total statistics of forced liquidation (liquidated) NPOs and NPOs that have decided to liquidate themselves shows that from September 2020 to the end of February 2023, there are at least 1229 less (or soon to be due to court proceedings) non-profit organisations (public associations, including trade unions, foundations, institutions, associations) in Belarus.

Characteristically, in contrast to previous periods, official statistics of the Ministry of Justice on the number of registered public associations and foundations in the country have not yet been published (information on the number of registered institutions and associations is not publicly available).

Other pressures on civil society organisations and activists.

In connection with their professional activities, human rights defenders - Ales Bialiatski, chairman of HRC Viasna and Nobel laureate, Valiantsin Stefanovich, member of the HRC Viasna Council and vice-president of the International Federation for Human Rights (FIDH), Uladzimir Labkovich, lawyer and coordinator of the campaign "Human Rights Defenders for Free Elections", human rights activist Nasta Loika - remain in the detention centre.

On 9 February the state prosecutor, having considered that the guilt of the Viasna leadership under part 4 of article 228 (smuggling by an organised group) and part 2 of article 342 of the Criminal Code (financing of group actions grossly violating public order) was fully proven. On 9 February the state prosecutor considered the guilt of the "Viasna" leaders under part 4 of article 228 (smuggling by an organized group), part 2 of article 342 of the Criminal Code (financing group actions that grossly violate public order) fully proven and sentenced Ales Bialiatski to 12 years in strict regime colony, Valiantsin Stefanovich - 11 years in strict regime colony, Uladzimir Labkovich - 9 years in strict regime colony and Dzmitry Salauyou, whose case was considered in absentia - 10 years in a strict regime colony.

Human Constanta reports that it has become known that human rights defender Nasta Loika has been charged with a violation of Article 130.3 of the Criminal Code (incitement to hatred or discord) in addition to charges under Article 342 of the Criminal Code. The basis for the latter charge was Nasta's alleged participation in the writing of a report on the persecution of the anarchist community in Belarus in 2018. The report was critical of the activities of police officers, which investigators in Nasta's case qualified as "incitement of enmity" against a professional group of police officers. Human rights activists believe that the filing of such

charges against Loika is further evidence that Nasta is behind bars solely for his human rights activities.

Leanid Sudalenka, head of the Homiel branch of the Viasna Human Rights Centre (listed as involved in extremist activities, sentenced to 3 years imprisonment in a general regime colony), Viasna Volunteer Service coordinator Marfa Rabkova (sentenced to 15 years imprisonment in a general regime colony) and Viasna volunteer Andrey Chapiuk (sentenced to 6 years imprisonment in a reinforced regime colony) serve prison terms.

Other representatives of civil society organisations, such as Coordination Council members Maksim Znak (listed as involved in terrorist activities, sentenced to 10 years imprisonment), Maryja Kalesnikava (listed as involved in terrorist activities, sentenced to 11 years imprisonment), Aksana Zaretskaya, member of the Union of Poles Andrei Paczobut (listed as involved in terrorist activities, sentenced to 8 years in prison), board member and co-founder of the Sympa school for young managers of public administration, expert of the bipart research project Tatsiana Kuzina, founder and editor of the expert community website "Our opinion", head of the "Belarus in Focus" expert monitoring group Valeriya Kasciuhova, Pavel Belavus, a cultural figure, founder of Symbal.by, Hrodna activist who used to head the Center of City Life Pavel Mazheika, director of the liquidated Viartanne Foundation Siarhei Makarevich, former deputy chair of the Belarusian Voluntary Society for Monument and Culture Protection Yury Meliashkevich, representative of the Green Patrol (sentenced to 2 years in prison), co-chair of Tell the Truth Andrei Dzmitryeu, deputy director of Minsk Cycling Society Maksim Puchynski, former head of the public association "Akhova ptushak Batskaushchyny" Viktar Fianchuk (listed as involved in extremist activities, sentenced to 2 years and 6 months in prison), public figure, founder of the "Flying University" Uladzimir Matskevich (listed as involved in extremist activities, sentenced to 5 years in prison, on February 13 the court toughened his conditions of imprisonment from colony to prison regime), expert of analytical group of Agency of Humanitarian Technologies, coordinator of "Flying University", senior analyst of Center of European Transformation Tatsiana Vadalazhskaya (listed as involved in extremist activity, sentenced to 2 years and 6 months of restricted freedom with sending to open type correctional facility ("chemistry")).

On 6 February 2023, the trial of Valierya Kasciuhova and Tatsiana Kuzina started in Minsk City Court. Depending on their roles they are charged under three articles of the Criminal Code: part 1 of article 357 (aiding to actions committed to seizing power), part 3 of article 361 (appeals to actions aimed at harming national security) and part 3 of article 130 (incitement of other social enmity or discord).

On 20 February the trial of the cultural activist Pavel Belavus started. Pavel is accused of violating 4 articles of the Criminal Code: article 342 (organization and preparation of actions that grossly violate public order or active participation in them), article 361 (appeals to actions aimed at damaging the national security of the Republic of Belarus, article 361¹ establishment of an extremist formation or participation in it and article 356 (treason against the state).

On 8 February Hrodna Regional Court sentenced Andrei Pachobut, a member of the Union of Poles. Andrei was found guilty of public appeals to actions aimed at harming the national security of the Republic of Belarus, distribution of materials containing such appeals using the media and the Internet, as well as intentional actions aimed at inciting national, religious and other social hatred and discord on the grounds of national, religious and other

social affiliation, committed by a group of persons. Andrei Pachobut was sentenced to eight years imprisonment to be served in a high-security penal colony.

On 17 February, the Homiel Regional Court passed a verdict in the "Rabochy Rukh case". Ten political prisoners - Siarhei Shelest, Uladzimir Zhurauka, Andrei Paheryla, Hanna Ablab, Aliaksandr Hashnikau, Siarhei Dziuba, Ihar Mints, Valiantsin Ceranevich, Siarhei Shamecka and Aliaksandr Kapshul were sentenced to terms of 11 to 15 years in prison. They were all charged with treason against the state, as well as under several other articles of the Criminal Code.

According to the Belarusian Independent Trade Union, almost four dozen trade union activists and leaders of democratic trade unions are currently imprisoned in Belarus. Thus, leaders and activists of Belarusian independent trade unions are kept in places of detention: Chairman of the Belarusian Congress of Democratic Trade Unions Aliaksandr Yarashuk (sentenced to four years in prison), his deputy Siarhei Antusevich (sentenced to two years in prison) and accountant Irina But-Gusaim (sentenced to 1.5 years in prison), Andrei Khanevich, chairman of the primary organization of the Belarusian Independent Trade Union of Grodno Azot employees (sentenced to five years in prison), chairman of the Independent Trade Union at Belaruskali Aliaksandr Mishuk (listed as involved in terrorist activities, sentenced to two years and six months in prison), activist of the Free Trade Union of Metal Workers Yanina Malash (sentenced to a year and a half of imprisonment), the head of the Independent Trade Union of Radioelectronics Industry Workers - REP Henadz Fiadynich (sentenced to nine years' imprisonment in a reinforced regime), the leader of Orsha Independent Trade Union of REP, Vasil Berasneu (sentenced to nine years' imprisonment in a reinforced regime), activist of the REP trade union Vaclau Areshka (sentenced to 8 years in prison), chairman of the primary trade union organization of the Free Trade Union of Metalworkers at MAZ Arciom Zhernak (listed as involved in terrorist activities, sentenced to four years in prison). Mikhail Hromau, secretary of the Free Trade Union of Metalworkers, liquidated by the authorities, was sentenced to two years and six months of imprisonment without referral to an open institution ("home chemistry").

Pressure continues to be exerted on representatives of other organisational and legal forms of NPOs. Andrei Mamoyka, head of the Novaya Zemlya Baptist Church, was detained together with his wife. A criminal case under Article 342 of the Criminal Code (organisation and preparation of actions that grossly violate public order or active participation in them) was brought against them.

In Belarus, the practice of hearing criminal cases in "special proceedings" (where people who are abroad can be criminally prosecuted) continues. Information about the defendants included in the "List of persons in respect of whom special proceedings have been initiated and who are summoned to a criminal prosecution body" is published on the official website of the Investigative Committee (IC). Currently, there are already 18 persons on the list.

Tatiana Zhurauskaya, chairwoman of the republican public association "People Plus", which works with those affected by HIV, was detained in Svetlahorsk.

The practice of recognizing information products as "extremist materials", expanding the lists of citizens, organizations, formations and individual entrepreneurs involved in extremist activity, and initiating criminal cases for the creation of "extremist formations" and

participation in them continues unabated. Thus, the Coordination Council, its information resources and social networks are recognized as extremist formation, and the information products of the YouTube channel "Alliance of researchers of Belarus" are recognized as extremist materials.

Prosecutor General Andrei Shved sent a petition to the Supreme Court to recognize the "Belarusian Investigative Center" as an extremist organization and ban its activities on the territory of the Republic of Belarus. At present, by the List of Organizations, Formations and Individual Entrepreneurs Involved in Extremist Activity in Belarus, only one organization - TUT BY MEDIA LLC - is recognized as extremist. At the same time, information about other cases when organizations (their organizational structures) were declared extremist was posted on "official resources". For instance, according to the prosecutor's office, Hrodna regional court found the primary organization of the Belarusian Independent Trade Union of Hrodna Azot workers extremist, including the prohibition and liquidation of this organization (interestingly, the list of extremist organizations and formations does not contain this structure).

On 9 February Minsk Tsentralny District Court considered an appeal against the decision of the KGB of the first group of citizens, Rabochy Rukh, recognised as an extremist formation in Belarus, and banning its activities. The complaint hasn't been satisfied.

People continue to be summoned to "interviews" with KGB departments for donations made by them through Facebook. Large Belarusian IT companies have already received several lists of citizens who need to come for interviews. However, this practice of challenges applies not only to the IT sphere but also to people of other professions and activities. People who come to such interviews are told that they can be held criminally liable for facilitating extremist activities, forced to write confessions about making donations to "extremist funds" and obliged to transfer large amounts of funds mainly in support of state social institutions.

Discrediting civil society organisations.

The practice of discrediting civil society organisations in the pro-government media continues unabated. Discrediting civil society organisations in the pro-government media and TG channels is a permanent tool of pressure on them along with "legal mechanisms": forced liquidation, forcing them to liquidation, checks, summons for interviews and interrogations, administrative and criminal charges against organisation members, searches, seizure of documentation and equipment, seizure of accounts, etc. This time, environmental organisations have once again been discredited.

Standard-setting initiatives, new legislation, and other trends in civil society regulation.

On 14 February the Law of the Republic of Belarus No. 251-Z "On Amendments to the Law on the Activities of Political Parties and Other Public Associations" was adopted. It is important to note that the proposed law in general does not change the registration procedure or the order of activity of public associations. It is designed in line with the usual changes in the legislation on public associations over the last decade: without changing the whole system, some technical positive norms are introduced and some norms aimed at restricting the activities of associations are introduced. Lawtrend experts have prepared a policy brief on the main changes to this law.

Legislation aimed at activists who have left the country continues to be developed. Presidential Decree No. 25 of 06.02.2023 "On consideration of appeals of Belarusian citizens abroad concerning offences committed by them" established a Commission for consideration of appeals of Belarusian citizens abroad concerning offences committed by them.

The decree establishes that Belarusian citizens abroad who wish to return to Belarus may apply to the Commission until 31.12.2023:

- in the period from 01.01.2020 to 08.02.2023 committed administrative offences or crimes related to significant socio-political events in Belarus;

- have the fear of returning to Belarus due to their possible involvement in such offences.

The appeal should state, among other things, the reasons why the person left the country and the circumstances in connection with which he/she believes that he/she may be held criminally or administratively liable, the existence of a desire to return to Belarus. Willingness to comply with the Constitution, the law, to respect the state symbols and traditions and to consciously perform their civic duty upon return.

The website of the Prosecutor General Office of Belarus has a special section on the activities of the Commission for the Review of Communications from Citizens of Belarus Abroad concerning Offences committed by them.

According to Prosecutor General Andrei Shved, the commission is two-thirds composed of the public, well-known people of authority in Belarusian society. However, if you look at the composition of the commission, it includes representatives of four pro-government public structures: Aliaksandr Bahdanovich - chairman of the association "Federation of Hockey of the Republic of Belarus", Iury Vaskrasenski - director of the information-analytical institution "Round Table of Democratic Forces", Aliaksandra Hancharova - chair of the Central Council of the public association "Belarusian Republican Pioneer Organization", Anna Haruta - deputy chair of the national public association "Patriots of Belarus" and one representative of a national public association.

Belarus continues its course towards the creation of "its" civil society. This is seen in the video posted on the Telegram channel of the House of Representatives of the Republic of Belarus "The role of public associations in the life of the Republic of Belarus".

The Law of the Republic of Belarus "On the fundamentals of civil society", adopted on 14 February, also singles out a small number of organisations as a "special category". As of August 2022, these criteria are met by the Federation of Trade Unions of Belarus (over 4 million people), Belaya Rus (over 188 thousand people), the Belarusian Republican Youth Union (over 380 thousand people), the Belarusian Union of Women (140 thousand people), and the Association of Veterans (over 2 million people), this situation has not changed to the present.

The law doesn't significantly change the legal status of existing NPOs in Belarus but establishes special forms of interaction with the state within the framework of the All-Belarusian People's Assembly (APA) for a narrow circle of republican public associations. Thus, despite its name, the subject matter of the draft Law is not civil society as a whole, but only the interaction of some of its subjects with the State, especially in the framework of the election of the APA delegates from civil society. The law has not changed from the published draft and its current article-by-article commentary can be found on the Lawtrend website.

Constituent assemblies were held in all regions of Belarus to elect delegates to the constituent congress of the Belarusian political party Belaya Rus.