



**BELARUSIAN**   
**DOCUMENTATION CENTER**

The Republic of Belarus

Joint NGO Submission to the UN Universal

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## **1. (A) Introduction**

**1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.

**1.2** Belarusian Documentation Center documents grave human rights abuses committed by the government of Belarus, and works to ensure that international human rights standards are protected, promoted and respected by Belarusian authorities.

**1.3** In this document, CIVICUS and Belarusian Documentation Center outline concerns related to the environment in which civil society activists and human rights defenders operate in Belarus and discuss threats faced in the exercise of the freedoms of expression, association and assembly.

**1.4** CIVICUS and Belarusian Documentation Center are deeply alarmed by legislative and extra-legal measures taken by the Republic of Belarus which curb civil society activism and the freedom of association.

**1.6** CIVICUS and Belarusian Documentation Center are greatly concerned by undue and arbitrary restrictions on freedom of expression and independence of the media.

**1.7** CIVICUS and Belarusian Documentation Center are concerned by the ongoing legal and policy restrictions on the free exercise of the right to freedom of assembly as well as unwarranted use of excessive force and arbitrary arrest to disperse and discourage nonviolent demonstrations.

- In section B, CIVICUS and Belarusian Documentation Center highlight concerns related to the freedom of association and restrictions on civil society activities.
- In section C, CIVICUS and Belarusian Documentation Center express concerns involving harassment and arbitrary detention of human rights defenders.
- In section D, CIVICUS and Belarusian Documentation Center highlight concerns relating to the freedom of expression and independence of the media.
- In section E, CIVICUS and Belarusian Documentation Center highlight concerns regarding the freedom of assembly.
- In section F, CIVICUS and Belarusian Documentation Center make a number of recommendations to address the concerns listed.

## **2 (B) Restrictions on freedom of association and impediments to civil society activities**

**2.1** Article 36 of the Constitution of the Republic of Belarus guarantees the right to freedom of association stating that, “Everyone shall be entitled to freedom of association.” Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Belarus is a state party, also guarantees the freedom of peaceful association. During its initial review under the 9<sup>th</sup> Session of the UPR, Belarus committed to a number of recommendations to harmonise national legislation with international human rights norms, continue cooperation with the United Nations and other international organizations to promote human rights in Belarus, review its national legislation in order to ensure its compliance with freedom of expression, assembly and association and streamline civil society operations to make them less burdensome. However, despite these commitments, the government of Belarus has continued to subvert the right to freedom of association through a combination of legislative restrictions and discriminatory targeting of organizations which are critical of the President Alexander Lukashenko’s government.

**2.2** In Belarus, provisions affecting civil society operations are found in 49 different legal documents. However, primary legal instruments regulating civil society operations in Belarus are: The Constitution of the Republic of Belarus, Law No 275-Z: The Criminal Code, Law No 218-Z: The Civil Code of the Republic of Belarus, Law No 3254- XII: The Law of the Republic of Belarus on Public Associations, Law No 1605- XII: The Law on the Republic of Belarus on Trade Unions, Law No 2054: The Law of the Republic of Belarus on the Freedom of Conscience and Religious Organizations, and the Law No 3266: The Law on the Republic of Belarus on Political Parties. The aforementioned laws give Belarusian authorities broad discretionary powers to arbitrarily intervene in civil society operations.

**2.3** Article 193.1 of the Criminal Code of the Republic of Belarus criminalizes organizing or participating into the activity of an unregistered CSO in contravention of international best practice and prescribes a pecuniary fine, arrest up to six months or imprisonment up to two years.

**2.4** Article 8 of the Law No 3254- XII requires 50 founding members to establish a nationwide organization. The same article requires 10 founding members, 2 of which coming from administrative and territorial subdivisions to establish a local public association. The mentioned provisions discourage the free exercise of freedom of associations through imposing a number of debilitating requirements for civil society operations.

**2.6** Article 8 of the Law No 3254- XII unduly restricts the exercise of freedom of association for various at risk groups including children and foreign nationals. Article 8, prevents minors under the age of 16 from founding a public association. According to the same article, foreign citizens can only become founders of an international public association established in Belarus.

**2.7** Article 9 of the Law No 3254- XII places a number of unwarranted restrictions which disenable the free exercise of the right to peaceful association. The law regulates even the font size of the documents required for registration and requires founding members to enclose excessive amounts of personal information (i.e place of employment and home, business telephone numbers) which severely violate civil society activists' right to privacy.

**2.8** Chapter 3, Paragraph 15 of Decree No 302: President of the Republic of Belarus on Certain Measures to Regularize the Activities of Foundations places excessive financial burden on CSOs. During registration, local foundations are required to pay approximately 70 USD while international or nationwide organizations are required to pay 140 USD. The amount required to establish a nationwide organization is twice the amount required to establish commercial entities in Belarus.

**2.9** In June 2011, the Ministry of Justice issued a second warning to the Belarusian Helsinki Committee (BHC), a prominent human rights organization documenting human rights abuses committed by state authorities, allegedly for "continuous violations of the tax legislation". Belarusian authorities demanded that the BHC paid more than 205 million of rubles in fines and taxes because of the legitimate funds it received from the European Commission in 2002-2003.<sup>1</sup> On 25 February 2013 officials from the Ministry of Taxation served a warrant to Aleh Hulak to seize BHC's property.

**2.10** Since 2011, civil society organizations working on contentious issues have been targeted by the authorities in an apparent attempt to prevent them from undertaking their legitimate work. On 26 November 2012, security forces forcefully took away the equipment and furniture of Viasna Human Rights Center, a well respected human rights organization documenting human rights abuses in the country, and locked the premises of the organization to prevent outsiders from entering the office.<sup>2</sup>

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<sup>1</sup> Weekly Review of post-election situation in Belarus (6-12 June), Viasna Human Rights Center, 14.06.2011 <https://spring96.org/en/news/44019>

<sup>2</sup> Belarusian Human Rights Center's Property Confiscated, RFE/RL's Belarus Service, 26 November 2012, <http://www.rferl.org/content/belarus-vyasna-byalyatski-property-confiscated/24781448.html>

**2.11** On 7 June 2013 Ministry of Justice refused registration of a civil society organization named For Fair Elections (*Za Spravedlivye Vybory*) for the third time, in contravention of international best practice asserting that unregistered civil society organizations should operate without unwarranted state interference.<sup>3</sup>

### **3 (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists**

**3.1** Article 12 of the UN Declaration on Human Rights Defenders mandates States to take necessary measures to ensure protection to human rights defenders. The ICCPR guarantees the freedoms of expression, association and assembly. However, it is a matter of deep concern that human rights defenders (HRDs) engaged in legitimate activities continue to face judicial harassment, intimidation and threats. In particular, HRDs voicing dissent against the Alexander Lukashenko government are systematically targeted, arbitrarily detained and arrested.

**3.2** On 12 July 2012 Viktor Kornienko, co-chair of the "For Fair Elections" initiative, was denied the right to travel to Vienna. Kornienko was invited to a "Supplementary Human Dimension Meeting on Democratic Elections and Election Observation" organized by the Organization for Security and Cooperation in Europe (OSCE) to talk about his experience in election monitoring in Belarus.<sup>4</sup>

**3.3** In an attempt to silence dissent prior to the Ice Hockey World Championship which began on 9 May 2014 in Minsk, dozens of human rights defenders calling for the boycott of the tournament were preemptively and arbitrarily detained based on trumped up charges. 37 activists were detained between 26 April and 8 May to prevent them from carrying out legitimate activities critical of the tournament citing the Belarusian government's human rights abuses.<sup>5</sup> All activists were sentenced to 10 to 25 days imprisonment for "minor hooliganism" and "resisting the police."

**3.4** On 7 May 2014 prominent Swedish human rights activist Martin Uglu from Ostgruppen, a Swedish CSO which publicly opposed holding the Ice Hockey World Championship (INWC) in Minsk was detained at the Minsk airport and was denied entry.<sup>6</sup>

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<sup>3</sup> Setting Up An NGO In Belarus: Challenge Yourself, Belarus Digest, 12 June 2013, <http://belarusdigest.com/story/setting-ngo-belarus-challenge-yourself-14128>

<sup>4</sup> U.S., OSCE say Belarus bans activist from travelling, Reuters, 12 July 2012, <http://www.reuters.com/article/2012/07/12/us-belarus-usa-osce-idUSBRE86B0VI20120712>

<sup>5</sup> When will the activists be released? (list of detained persons), Viasna Human Rights Center, 07,05,2014 <http://spring96.org/en/news/70919>

<sup>6</sup> Swedish Rights Activist Not Allowed To Enter Belarus, RFE/RL's Belarus Service, 7 May 2014, <http://www.rferl.org/content/swedish-human-rights-defender-not-allowed-to-enter-belarus/25376320.html>

**3.5** Belarusian authorities used judicial harassment, especially charges related to tax evasion, to silence prominent human rights activist Ales Bialiatski. On 24 November 2011 Bialiatski, chairman of Viasna Human Rights Center, was found guilty of tax evasion by the Pervomayski District Court of Minsk and was sentenced to four and a half years in prison. Bialiatski was released on amnesty on 21 June 2014, after spending almost 3 years in prison.<sup>7</sup>

#### **(D) Concerns regarding freedom of expression and access to information**

**4.1** Article 19 of the ICCPR guarantees the freedom of expression and opinion. Moreover, Article 22 of Constitution of the Republic of Belarus provides the right to freedom of thought, free expression and acknowledges the state's obligations to avoid monopolization of the media as it states "Everyone is guaranteed freedom of thought and beliefs and their free expression. No one shall be forced to express one's beliefs or to deny them. No monopolization of the mass media by the State, public associations or individual citizens and no censorship shall be permitted." However, in practice, a number of worrying qualifications to these provisions undermine the right to freedom of expression. Moreover, since Belarus' initial examination under the UPR, the government has drastically escalated its discriminatory targeting of independent journalists covering stories critical of the Alexander Lukashenko government.

**4.2** In retaliation of her coverage to opposition rallies during Belarus' presidential vote in 2010, journalist Irina Khalip has been subject to judicial harassment, intimidation and threats. Khalip received a two year suspended prison sentence on 16 May 2011 on charges of "organizing mass unrest." She was prohibited from leaving the city of Minsk, required to report to the police on a weekly basis and was imposed a nightly curfew.<sup>8</sup>

**4.3** Reporters of the independent news service Radio Svaboda have been subjected to repeated harassment<sup>9</sup> On 5 July 2011 correspondent Mikhal Karnievich was detained in Hrodna while covering the "silent protests" and was released on 6 July 2011. The same day, Halina Abakunchyk's camera was confiscated by the police as she was filming the protests.<sup>10</sup> On 31 May 2012 Ina Studzinskaja, a freelance journalist for Radio Svaboda, was detained

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<sup>7</sup> Ales Bialiatski is suddenly released, Human Rights House, 21 June 2014, <http://humanrightshouse.org/Articles/20224.html>

<sup>8</sup> Халип – 2 года с отсрочкой, Северинцу, Charter 97, 16 May 2011, <http://charter97.org/ru/news/2011/5/16/38579/>

<sup>9</sup> RFE/RL Reporter Fined For Covering Belarus Independence Day Protest, RFE/RL's Belarus Service, 11 July 2011, [http://www.rferl.org/content/belarus\\_reporter\\_fined\\_for\\_independence\\_day\\_protest/24262645.html](http://www.rferl.org/content/belarus_reporter_fined_for_independence_day_protest/24262645.html)

<sup>10</sup> RFE/RL Journalists In Belarus Arrested, Website Attacked, RFE/RL's Belarus Service, 05 June 2011, [http://www.rferl.org/content/rferl\\_journalists\\_arrested\\_in\\_belarus\\_and\\_website\\_cyberattacked/24256574.html](http://www.rferl.org/content/rferl_journalists_arrested_in_belarus_and_website_cyberattacked/24256574.html)

by the police while reporting an opposition meeting outside Minsk. Studzinskaja was released two hours later, however reported police abuse during custody.<sup>11</sup>

**4.4** On 18 September 2012, Sergei Grits, an Associated Press photographer was physically abused by the police and detained for a short period in Minsk while covering an opposition protest calling for the boycott of the parliamentary election.<sup>12</sup>

**4.5** On 21 June 2012, security forces raided the apartment of journalist Andrzej Poczobut, a correspondent for the Polish daily *Gazeta Wyborcza* and confiscated his computer.<sup>13</sup> Poczobut is charged with libel against President Aleksandr Lukashenko based on article 367 of the Criminal Code, for articles he wrote for Charter 97 and Belarussky Partizan voicing dissenting views against the Lukashenko regime.

**4.6** On 13 July 2012 journalism student Anton Surapin was arrested by the national intelligence agency *Komitet Gosudarstvennoy Bezopasnosti* (KGB) based on alleged charges of “assisting a group of persons in illegal crossing the state border”. Anton was the first to post online photos of teddy bears carrying pro-democracy and human rights messages which were dropped by two Swedish human rights activists from an airplane on 4 July 2012.<sup>14</sup>

**4.7** On 30 August 2012 members of a Belarusian opposition group using the social network V Kontakte to call for an election boycott were arrested in Minsk. Authorities also hacked into an opposition social network account named *Nadoyel nam etot Lukashenka* (We're fed up with Lukashenko). On 31 August 2012 two of the moderators of the “We are sick of Lukashenka” platform, Pavel Yeutsikhiyeu and Andrey Tkachou were sentenced to seven and five days in jail for a misdemeanor charge of hooliganism.<sup>15</sup>

**4.8** On 18 April 2013 the Oshmyansky District Court decided that the 2011 edition of the Belarus Press Photo album was “deliberately contorting” social, economic, and political life in Belarus.<sup>16</sup> 41 copies of the album were confiscated from the contest organizers in

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<sup>11</sup> RFE/RL Journalist Assaulted And Detained By Belarus Authorities, RFE/RL's Belarus Service, 5 June 2012, <http://www.rferl.org/content/rferl-journalist-assaulted-and-detained-by-belarus-authorities/24604798.html>

<sup>12</sup> Belarus police detain journalists, protesters at demonstration, Reuters, 18 September 2012, <http://in.reuters.com/article/2012/09/18/belarus-protest-idINL5E8KIIGO20120918>

<sup>13</sup> Andrzej Poczobut arrested for articles on charter97.org, Charter 97, 21.06.2012, <http://www.charter97.org/en/news/2012/6/21/54107/>

<sup>14</sup> Belarus: journalist put behind bars for publishing photos of teddy bears that were not there, 22 July 2012, <http://humanrightshouse.org/Articles/18397.html>

<sup>15</sup> Media crackdown in Belarus, where even teddy bears lead to jail, The Guardian, 4 September 2012, <http://www.theguardian.com/media/greenslade+world/belarus>

<sup>16</sup> ПОБЕДИТЕЛИ ПРЕСС-ФОТО БЕЛАРУСИ 2011, Гран-при, <http://pressphoto.by/?p=402>

November 2013, and two contest organizers and one of the finalists were issued a pecuniary fine of 217,500 Belarusian rubles.<sup>17</sup>

**4.9** On 26 April 2013, Fennady Barbariich and Aleksandr Yaroshevich were detained for “disobedience”<sup>18</sup> after their covering of an authorized assembly commemorating the 1986 nuclear plant explosion in Chernobyl.

## **5 (E) Concerns regarding freedom of assembly**

**5.1** Article 21 of the International Covenant on Civil and Political Rights (ICCPR), guarantees the freedom of peaceful assembly. In addition, article 35 of the Constitution of the Republic of Belarus provides for the right to assembly stating “The freedom to hold assemblies, rallies, street marches, demonstrations and pickets that do not disturb law and order or violate the rights of other citizens of the Republic of Belarus, shall be guaranteed by the State.” However, despite these protections, security officials regularly subjected peaceful demonstrators and organizers to harassment, judicial persecution and arbitrary arrests subverting the right to freedom of assembly.

**5.2** The specific law governing assemblies in the Republic of Belarus is the Law No: 114-3 Law on Mass Events (LoME). Article 4 of LoME restricts the freedom of assembly of minors, non-citizens of Belarus and citizens who do not permanently reside in the country. The number of participants allowed to take part in assemblies is also restricted to no more than 1000 participants. Article 9 of the LoME prohibits the staging of mass events in certain locations, and places limitations on the timing of mass events.

**5.3** In contravention of international best practice, according to Article 5 of the LoME organizers of an assembly must acquire permission from the local authorities 15 days in advance. Article 15 requires that the application for permission must also contain the source of funding for the mass assembly. According to Article 8 organizers of a protests are also prohibited to announce the date, place and time of the assembly in media or other sources, or to disseminate material such as pamphlets to advertise the event. Article 23.34 of the Administrative Code prescribes 15 days prison sentence and a pecuniary fine of 3.000.000- 6.000.000 Belarusian rubles for disseminating information on unauthorized assemblies.

**5.4** During the “silent protests” which started on 3 July 2011, on Belarusian Independence day, peaceful protestors voicing dissent against the Alexander Lukashenko government

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<sup>17</sup> Экстремизм в картинках: «Пресс-фото Беларуси-2011» признали незаконным, NAVINY.BM, [http://naviny.by/rubrics/society/2013/04/18/ic\\_articles\\_116\\_181514/](http://naviny.by/rubrics/society/2013/04/18/ic_articles_116_181514/)

<sup>18</sup> В Минске задержаны независимые журналисты, Charter 97, 26 April 2013 <http://www.charter97.org/ru/news/2013/4/26/68521/>

were met with excessive police violence and arbitrary arrests.<sup>19</sup> By 6 July more than 400 participants to the peaceful protests were arbitrarily detained in blatant disregard of Belarus' national and international human rights obligations.<sup>20</sup>

## **(6) Recommendations**

CIVICUS call on the Government of Belarus to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

### **6.1 Regarding restrictions on freedom of association:**

- National legislation should be amended to ensure that civil society organizations can be established through transparent, accessible, non-discriminatory, expeditious and inexpensive means set forth in Human Rights Council resolution 22/6;
- Article 193.1 of the Criminal Code should be repealed to ensure that unauthorized CSOs can operate without criminal liability.
- All impediments to the active engagement of civil society organizations and opposition groups in political life should be eliminated and the principle of rule of law should be evenhandedly implemented.
- A national human rights institution in accordance with the Paris Principles should be established.
- All legal and practical impediments to international cooperation of civil society organizations should be removed to ensure that liberties provided in international treaties and documents are enjoyed. International civil society activists should be allowed to enter the country and carry out their legitimate human rights activities.

### **6.2 Regarding the arbitrary detention and harassment of civil society activists**

- All due process guarantees in accordance with article 14 of the ICCPR should be ensured for all detained persons.
- All political opponents, human rights defenders and civil society activists should be

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<sup>19</sup> Belarusians are tried for silence and clapping, Human Rights House, 9 July 2011, <http://humanrightshouse.org/Articles/16677.html>

<sup>20</sup> Chronicle of silent revolution: 6 July, Viasna Human Rights Center, 7 July 2011, <http://spring96.org/en/news/44429>

immediately and unconditionally released and their full rehabilitation should be ensured.

- All detainees should be informed immediately for the reasons of their detention and their access to a lawyer of their choice and to their families must be ensured.
- The absolute prohibition of torture and ill treatment must be ensured both in law and in practice and the treatment of all detainees and prisoners should be brought in line with Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national law standards

### **6.3 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists**

- Unfettered access to online information resources should be allowed by removing restrictions on access to certain websites and social media outlets.
- All human rights defenders and journalists should be protected from harassment, intimidation and violence as a result of their legitimate activities. Any such act should be promptly, impartially and thoroughly investigated, prosecuted and punished by law.

### **6.4 Regarding restrictions on freedom of assembly**

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission for carrying out peaceful assemblies.
- Law No: 114-3 Law on Mass Events (LoME) should be repealed and a clear and explicit legislation should be adopted to ensure the right to hold peaceful assemblies.
- Recourse for judicial review and effective remedy should be provided including compensation, in cases of unlawful denial of the right to freedom of assembly by state authorities.

### **6.5 Regarding access to UN Special Procedures mandate holders**

The Special Rapporteur on the situation of human rights in Belarus should be granted entry to the country and the scope of cooperation with the United Nations, including the Office of High Commissioner for Human Rights should be broadened. A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, the Special Rapporteur on Freedom of Peaceful Assembly and Association and the Special Rapporteur on Independence of Lawyers and Judges.