

STATEMENT UPR Pre-session on Belarus Geneva, 03.04.2020

Delivered by: Human Rights Center Viasna

1. Presentation of the Organisation

This statement is delivered on behalf of the Human Rights Center Viasna, a not-for-profit, independent, non-partisan, human rights organization set up to advance and protect human rights in Belarus. HRC Viasna has participated in UPR processes at the national level since 2009.

2- National consultations for the drafting of the national report

1. Due to the fact that the HRC "Viasna" has no official registration in Belarus since 2003, representatives of the organization have participated in their personal capacity in a meeting organized by the UN Office in Belarus and the Ministry of Foreign Affairs, which had been announced as a consultation meeting in the framework of the UPR. However, this meeting can not be called consultations with civil society in preparation for the 3rd cycle of the UPR. It involved no discussion or participation in the preparation of the state report under the third cycle of the UPR.

3- Plan of the Statement

This statement addresses the following issues: 1. Right to life (Death penalty) 2. Freedom of peaceful assembly, 3. Forced labour.

4- Statement

Right to life¹ (death penalty)

A. Follow-up to the first review

During the second cycle of the UPR, the Government of Belarus received more than 20 recommendations calling for a moratorium and abolition of the death penalty, as well as the ratification of the Second Optional Protocol to the ICCPR. None these

¹ Death Penalty in Belarus: Murder on (Un)lawful grounds, Joint FIDH – HRC “Viasna“ report 2016: https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BLR/INT_CAT_CSS_BLR_30786_E.pdf

recommendations was accepted. The Government accepted the recommendations on holding public campaigns in order to clarify the arguments in favor of the abolition of the death penalty and on considering the abolition of the death penalty. The Government, however, did not implement the recommendations. It partially implemented the recommendation on the adoption of measures to stimulate discussion within the framework of the parliamentary working group on the issue of abolishing the death penalty.

B. New developments since the first review

1. Belarus continues to practice the use of the death penalty. Since 2015, 17 death sentences have been imposed in Belarus. As of today, human rights defenders are aware of 15 sentences executed. The last execution in Belarus was on 17 of December 2019. At the time of submission of this report, 4 convicts are awaiting execution of the death sentence, and 1 was recalled by the Supreme Court and sent for a new hearing at the regional court. There is a practice of executing death penalties after registering individual communications of convicts in the HRC and after the Committee requested the State to apply interim measures of protection. In this way, Alexander Zhilnikov was executed in violation of the Committee's interim protection procedures in June 2019. A new parliamentary working group on the death penalty was formed in the parliament. Their interaction with human rights community representatives was episodic and random. The problem of abolition of the death penalty is not widely covered in the state media and is not a subject of a wide public debate. A campaign to abolish the death penalty is carried out by human rights organizations and independent media.

C. Recommendations

- Join the Second Optional Protocol to the ICCPR and abolish the death penalty.
- As an interim measure, establish a moratorium on executions as soon as possible until accession to the Second Optional Protocol.
- Prior to the abolition of the death penalty or introduction of a moratorium, amend the law to ensure that relatives of those sentenced to death have the opportunity to say goodbye to them and bury the bodies of those executed in accordance with the traditions of their families.

Conduct an extensive media campaign on the use of the death penalty.

Freedom of peaceful assembly²

A. Follow-up to the first review

² For more information on certain aspects of the implementation of the right to peaceful assembly in Belarus, see "Monitoring the right to peaceful assembly": <http://ecnl.org/wp-content/uploads/2019/01/Belarus-Assembly-Report->

During the previous cycle, Belarus received six recommendations relating to freedom of peaceful assembly and the persecution of citizens in connection with the exercise of freedom of peaceful assembly. The Government did not accept the recommendations on bringing the law on peaceful assembly in line with international standards on freedom of peaceful assembly and the abolition of the permission-based procedure of holding meetings.

B. New developments since the first review

2. On July 17, 2018, the Law “On Mass Events” was amended to introduce notification procedure for holding static mass events (pickets, meetings) in places specially designated by local authorities.
3. Generally, however, these changes have not resulted in any substantive progress in ensuring freedom of peaceful assembly and even worsened the situation. This is due to the adoption of Government Decree No. 49 of January 24, 2019 establishing tariffs for expenses to be covered by organizers of mass events. The costs paid for some types of mass events are so high that the organizers have to refuse to hold them. In this way, in April 2019, the organizers had to cancel the traditional procession “Trail of Charnobyl” in Minsk.
4. Most of problems in the field of freedom of assembly remain relevant: restrictions on venues for meetings, authorities setting low-visited venues as fixed gathering places, organizers obliged to cover the expenses for maintenance of public order, medical care and cleaning, the same regulations applied to single pickets and other mass events, ambiguous definitions of types of mass events. Spontaneous meetings remain unresolved; simultaneous meetings, or counter-demonstrations, are prohibited.
5. In 2020, due to a human rights crisis in Belarus on the background of the presidential election, we observe an abrupt deterioration of situation. In the run up to the election, from May to August 9, 2020, over 1, 500 people were detained for participation in peaceful assemblies. From August 9 to September 8, 2020, over 8, 000 peaceful protesters were detained, all over Belarus. Among them, over 100 people are prosecuted under the Criminal Code and are held in jail, including the election contenders, their team members, bloggers and leaders of the opposition parties and groups. The post-election protests that took place on August 9-12, 2020 in Minsk and other cities were attacked by the special units of riot police with disproportionate use of violence and riot control weapons. As a result, three peaceful protesters were killed and hundreds of them were injured.

C. Recommendations:

- Bring the legislation on mass events in line with international standards, including providing for notification-based principle for all meetings and making provision for a simplified procedure for spontaneous assemblies and counter-demonstrations.
- Waive the requirement for organizers of peaceful assembly, etc. to cover the expenses for maintenance of public order, medical care and cleaning.
- Exclude single pickets from the scope of Law on Mass Events.
- Prevent detention and prosecution of human rights defenders and journalists engaged in monitoring and covering mass events.

- Release all the political prisoners and the protesters detained for participation in peaceful protests and stop the use of violence against them.

Forced labour (Medical and Labor Dispensaries and Obligated persons)

A. Follow-up to the first review

During the previous cycle, two recommendations were made on the complete elimination of all forms of forced labour and the implementation of the recommendations of the UN Committee on Social, Economic and Cultural Rights. The recommendations were not implemented.

B. New developments since the first review

While noting the prohibition of forced labour in the Constitution, the Committee is concerned that elements of forced labour continue to be enshrined in legislation and in certain policies, including:

Presidential Decree No. 18 of 24 November 2006 on supplementary measures for affording State protection to children in dysfunctional families sets out a duty for parents whose children are under State care to reimburse the expenses for this care, which may result in an employment order being issued against such parents if they are unemployed or underemployed. These employment orders are enforceable by criminal sanction (article 174 of the Criminal Code), administrative liability (article 9.27 the Code of Administrative Offences) and extrajudicial arrest by order of the Ministry of Internal Affairs (article 3.6 of the Procedural Executive Code of Administrative Offences);

Law No. 104–3 of 4 January 2010 On Procedure and Conditions of Sending Citizens to Occupational Therapy Rehabilitation Centres, requiring compulsory labour from persons subject to involuntary isolation and medical and social rehabilitation, including CCPR/C/BLR/CO/5 9 persons suffering from chronic alcoholism, drug addiction and substance abuse (arts. 8 and 9).

A bill introduced by the Council of Ministers of the Republic of Belarus to the House of Representatives on November 29, 2019 proposed a number of amendments to the Law of the Republic of Belarus “On the procedure and conditions for assignment of citizens to medical and labor dispensaries and conditions of stay in them” No. 104-3 of January 4, 2010. Thus, the proposed bill introduces a simplified form of isolation in medical and labor dispensaries of so-called citizens leading an asocial lifestyle. For citizens sent to medical and labor dispensaries for a third or more time, an increased confinement period is established — up to two years. Two categories of medical and labor dispensaries are introduced, the isolation conditions in which will differ.

The bill demonstrates a total disregard by the government of Belarus of previously made recommendations by international organizations regarding the use of repressive practices for the re-socialization of people with alcoholism and the use of forced labor. In particular, the recommendations of the UN HRC, the UN Committee on Economic, Social and Cultural Rights, as well as the recommendations of the ILO.

C. Recommendations:

The State party should undertake a comprehensive review of the abovementioned legislation and all practices involving non-voluntary work, with a view to bringing such regulations into full compliance with the Covenant, particularly articles 8 and 9. It should also implement the recommendations of the UN Committee on Economic, Social and Cultural Rights, as well as the recommendations of the ILO.