

# CSO METER

A compass to conducive  
environment and  
CSO empowerment

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**BELARUS 2023**  
COUNTRY REPORT





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European Center for  
Not-for-Profit Law

# CSO Meter 2023: Belarus Country Report

## Reporting period January–December 2023

European Center for Not-for-Profit Law Stichting (ECNL) is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL creates knowledge, empowers partners and helps set standards that create, protect and expand civic freedoms.

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# ABBREVIATIONS & ACRONYMS

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AML/CTF	Anti-money laundering and counter-terrorism financing
ASOI	Automated System of Processing of Incidents
BRC	Belarusian Red Cross Society
BRYU	Belarusian Republican Youth Union ( <i>Belorusskij respublikanskij sojuz molodeži</i> )
BYN	Belarusian Rouble
CSO	Civil society organisation
DDoS	Distributed denial-of-service
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law
EUR	Euro
GDP	Gross Domestic Product
GDPR	General Data Protection Regulation (Regulation (EU) 2016/679)
GONGO	Government-organised/operated non-governmental organisation
ICCPR	International Covenant on Civil and Political Rights
ICNL	International Centre for Not-for-Profit Law
IFRC	International Federation of Red Cross and Red Crescent Societies
KGB RB	State Security Committee of the Republic of Belarus ( <i>Kamitet dzjaržaŭnaj biaspieki Respubliki Belarus'</i> )
LGBTQ+	Lesbian, gay, bisexual, transgender/transsexual, queer/questioning, intersex, asexual, etc.
NCO	Non-commercial organisation
OSCE	Organization for Security and Cooperation in Europe
SYMPA	School of Young Managers in Public Administration
UN	United Nations
USD	United States Dollar

# I. EXECUTIVE SUMMARY

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## Country context and important trends relevant to the civil society environment

In 2023, the context for the functioning of civil society in Belarus was predetermined by the authorities' policy aimed at ensuring the preservation of a stable authoritarian regime. This political course does not tolerate opposition or any form of organised dissent and ignores international standards in the field of freedom of association and the legal status of civil society organisations (CSOs).

This policy has two dimensions. The first is related to the destruction of an independent civil society, which the authorities seek to eliminate or intimidate and silence; the second to the construction and support of state-controlled forms of social activity.

**Firstly, repression and restrictions on civil society** can be observed both in the introduction of new legal regulations and the implementation or expansion of new practices. Repression aims to instil a climate of fear in most areas of public life, and specifically through the widespread administration of restrictions on freedom of speech, freedom of assembly and association, including harsh criminal sanctions. These restrictions are coupled with long prison sentences for CSO leaders and activists, journalists and contributors to independent media (and sometimes even ordinary readers and subscribers), opposition leaders, human rights defenders, trade union and political activists, as well as participants in the 2020-2022 protests. The main features of this repressive policy that took shape in 2021-2022 have been preserved and applied on an even greater scale in 2023.

Despite the release of certain political prisoners, their number remains at the level of not less than one and a half thousand due to new sentences, including the outrageous conviction of Nobel laureate and leader of the Human Rights Centre 'Viasna' Ales Bialiatski, who was sentenced to ten years imprisonment on 3 March 2023. The number of convicted journalists also has not changed and stands at around thirty. Searches and raids with pogroms on activists' apartments are widely practiced and have especially intensified following the start of the election campaign at the end of 2023.<sup>1</sup>

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<sup>1</sup> The election campaign was officially announced by the Edict of the President No. 367 of 20 November 2023 'On calling elections of deputies'; voting will take place on 25 February 2024. This campaign will be the first election campaign since the notorious elections of 2020, when protests rocked the regime and caused a wave of retaliatory repression that is still continuing. On 25 February 2024, the authorities will hold a 'single voting day' for the first time, introduced as a result of a 2022 amendment to the Constitution of Belarus. The 'Human Rights Defenders for Free Elections' campaign has announced the launch of an expert mission to monitor the elections\* of deputies to the House

Digital technologies are not used to expand human capabilities, but are aimed at creating new surveillance mechanisms, identifying internet activity, deanonymizing users and interfering with their privacy.

Along with individual repression, there has also been a systemic liquidation of entire clusters of independent organisations. A campaign of liquidating public associations, foundations and institutions has been ongoing since 2021. All independent trade unions were closed down in 2022 and all opposition political parties lost their registration as a result of re-registration in 2023 (there are only four pro-governmental political parties that are loyal to the authorities left in Belarus). Re-registration of religious organisations is planned for 2024-2025.

The destruction of opposition parties in 2023 (besides the four loyalist ones) has marked a new ideological trend whereby any public expression of a different view on the development of Belarus becomes risky and may lead to repression. In general, the driver of repression is often now no longer the reaction of the authorities to threats within the country (for example, to protest demonstrations – there simply are none), but their reaction to the activities of democratic forces abroad and to the ‘incorrect’ way of thinking of specific citizens.

Restrictive laws against various forms of CSOs and their funding are adopted out of inertia. For example, the re-introduced Article 193<sup>1</sup> of the Criminal Code on liability for the activities of public associations without registration is rarely applied. However, the tightening of repressive legislation against citizens and freedom of speech has become of greater practical significance, including laws that make contact with civil society outside of Belarus harder or are directly aimed at organisations and individuals that have relocated.

Secondly, the **construction of a new civil society system** is evident, including legislative consolidation of non-equal treatment for CSOs, whereby government-organised/operated non-governmental organisations (GONGOs) or other CSOs that demonstrate loyalty to the current authorities enjoy the greatest advantages at both the legislative and practical levels. In this area, trends have been observed in 2023 which were laid down in 2022, when a reference to ‘civil society’ was added to the Constitution of Belarus as a result of a referendum. However, the understanding of the notion of civil society developed in the Law on the Essentials of Civil Society and the Law on the All-Belarusian People’s Assembly is fundamentally different from the one generally accepted internationally. The definition consolidates civil society as controlled by the state, built into the machinery of government and as a conglomerate of hierarchically-

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<sup>1</sup> of Representatives of the National Assembly of the eighth convocation and to local Councils of Deputies of the twenty-ninth convocation.

structured associations that are loyal and integral to the current regime. The existence of independent CSOs is possible; they are not prohibited as such. But a prohibitive legal regime has been established for such CSOs, as they are subject to various forms of control, restrictions and government interference, and they are also required to demonstrate loyalty to the Government's political course and avoid any manifestation of opposition sentiments or disagreement with the Government.

In contrast to previous repressive attacks on civil society, the authorities are now paying significantly more attention to creating favourable conditions for the activities of controlled organisations. This includes intensifying the activities of GONGOs and forcing them to expand their activities into the areas that are vacant following the liquidation of independent CSOs. This trend can also be observed in the increase of direct support (including financial support), the requirement for such organisations to expand their memberships and cover various social strata, the establishment of structures in enterprises, the general intensification of GONGOs' activities in the state media and in the system of ideological propaganda, and the use of GONGOs as a forum for grassroots civil society initiatives (for example, taking on the role of local cultural platforms, especially in small towns and cities). Openly pro-Russian organisations are partially integrated into this process, but also partially retain the status of alternative independent centres. It is extremely difficult to assess the degree of GONGOs' overall influence, but there is no doubt that this influence is growing. This is observed, among other things, in the fact that GONGOs are defined as entities that are authorised to nominate delegates to the All-Belarusian People's Assembly. In general, society in Belarus is not yet built in accordance with a totalitarian model (membership of the ruling party is not yet a criterion for promotion in the government hierarchy), but the legal framework for its formalisation is already in place. GONGOs and political parties are already structured in such a way that they can operate in a totalitarian system.

Therefore, as a result of the impact of such policies, there are now **three types of CSOs operating inside Belarus:**

- 1) small and secretive clandestine groups, often connected with foreign opposition and with an evident political agenda;
- 2) a small number of GONGOs each having hundreds of thousands of members, as well as organisations more or less connected with the Government; and
- 3) small and latent CSOs that maintain varying degrees of independence, existing in a worsening legal regime and at risk of falling under repression and sanctions.

Grassroots initiatives in the process of organisational development feed into all three

of these clusters. However, most of the grassroots initiatives in today's civil society system abandon their growth strategy, remaining as informal groups and opting for solely grassroots activities which are often short-term.

In addition to this stratification within Belarus itself, there is also the formation of a community and infrastructure of decision-making centres comprising the emigrant and diaspora part of Belarusian civil society outside Belarus. A specific phenomenon for the current state of civil society is its division into emigrant and internal parts. Following the campaign of repression in 2021-2023, many CSO leaders and activists have left the territory of Belarus, continuing their activities on behalf of their CSOs or establishing new organisations in the countries that they relocate to (primarily Lithuania and Poland, somewhat less to Georgia and Ukraine, as well as other countries). Some of these emigrant CSOs and CSO activists are becoming ever more closely linked to the political opposition in exile, to the point that the distinction between the infrastructure of civil society and the political sector is blurred, including emigrant CSOs that endorse the use of military force in the political struggle. The relocation of CSOs' decision-making centres abroad (as opposed to the earlier practice of transferring only some technical functions abroad) has led to a situation whereby these foreign centres are already significantly diverging in their agenda from CSOs inside Belarus. The former are now focused on influencing external stakeholders and determine their priorities without regard to the opinion of target groups inside Belarus, which are considered to be a passive audience (not a real actor).

Some emigrant/relocated CSOs experience difficulties in establishing non-profit legal entities and accessing banking services (this is especially the case for Belarusian activists and CSOs in Georgia and Ukraine, but also in other countries). In general, due to the Belarussian authorities' support for the Russian invasion of Ukraine and the corresponding sanctions imposed on Russia and Belarus, Belarusian CSOs located abroad can be seen as suspicious clients for banks, including within the framework of anti-money laundering and counter terrorism financing (AML/CTF) regulations. As a result, such CSOs sometimes become targets for restrictive legislative initiatives (for example, in Lithuania) or cannot use private digital solutions (such as an online password keeper, an online English corrector or the *CCleaner* utility for safe, clean disc space which are crucial for CSO cybersecurity and privacy).

Despite the fact that most emigrant CSOs are not subject to the jurisdiction of the Belarussian authorities, some legislative actions of the Belarussian Government are directed against the civil society diaspora in order to make its operation more difficult. Examples include the headline-making introduction, on 4 September 2023, of the



regulations<sup>2</sup> banning the exchange of passports abroad and introducing restrictions on real estate transactions and other transactions under power of attorney for Belarusian emigrants. Criminal prosecution in absentia is also applied against opposition leaders and activists, whereby harsh sentences are imposed in the absence of the accused who have fled abroad. Since November 2023, with the start of the election campaign, there have been more frequent instances of the Belarusian authorities reacting to the activities of emigrant CSOs with searches (or even full-scale pogroms under the guise of searches) in the Belarusian homes of activists who have moved abroad, or of their relatives in Belarus, or of former members of these organisations who remain in Belarus. Regulations on the possibility of forcibly depriving emigrants of their Belarusian citizenship have been introduced but have not yet been applied.

A relatively new phenomenon in 2023 is a retaliatory response from international civil society. Examples include the suspension, on 1 December 2023, of the Belarus Red Cross Society from the International Federation of Red Cross and Red Crescent Societies (IFRC)<sup>3</sup> and the collecting of evidence of the involvement of the Belarusian charitable 'Aleksey Talai Foundation' in the deportation of children from the territory of Ukraine to Belarus.

This report does not cover the legal status and context of the activities of Belarusian CSOs located abroad (either in terms of the impact of rules and practices in their countries of new jurisdiction, or in terms of the impact of targeted repressive and restrictive measures by the Belarusian authorities).

This report does, however, seek to emphasize that independent CSOs inside Belarus continue to exist, albeit often by operating secretly, semi-legally, and with minimal funding. It is often extremely difficult to obtain information about the operational practices of independent CSOs inside Belarus, especially when its publication in foreign media can become a reason for persecution. Such research involves a significant risk of prosecution, including due to the authorities' desire for indirect revenge for the actions of foreign groups and independent media based abroad which the regime is unable to reach directly.

The fact that CSOs continue to operate in Belarus is still used as a basis for the ruling regime's objection to it being described as totalitarian. However, it cannot be denied that some elements of a totalitarian system are visible<sup>4</sup> in the model that is being built in Belarus in both law and practice (including growing control and surveillance of

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<sup>2</sup> Presidential Edict of 4 September 2023 No. 278 'on the Procedure for issuing documents and executing actions', <https://president.gov.by/ru/documents/ukaz-no-278-ot-4-sentyabrya-2023-g>.

<sup>3</sup> IFRC, 'Statement on the suspension of the Belarus Red Cross as a member of the IFRC', 1 December 2023, <https://www.ifrc.org/article/statement-suspension-belarus-red-cross-member-ifrc>.

<sup>4</sup> Dekoder.org, 'Lukashenko is moving towards totalitarianism. What can stop him?' (in Russian), 1 December 2023, <https://www.dekoder.org/ru/article/lukashenko-dvizhetsya-k-totalitarizmu-cto-mozhet-ego-ostanovit>.

private life, Belarus' growing isolation on the world stage, loyalty checks, and the establishment of a ruling party in 2023, which, however, is not yet built into the constitutional model).

The general level of repression in the country, including widespread and often non-selective abuse of legislation on so-called 'extremism', has had a paralysing effect on civil society. Even the remaining legal CSOs act extremely cautiously, often latently and without coverage of their actions in the public spotlight, fearing the risks of going beyond their statutory activities and especially avoiding any visible connections with the democratic centres and media that are located abroad. In general, the system of using charges of extremism to target political opponents follows the model developed in Russia, with some stylistic specificities. For example, in Belarus there are no laws on foreign agents and online social networks such as Facebook in general are not blocked, but individual accounts and websites are accused of being criminal.

After the events of 2021-2022, it has become practically impossible to carry out certain activities inside Belarus. For example, public human rights activities and the establishment of trade unions independent from the state and opposition political parties. Other activities remain possible, and some, such as consumer rights protection, have de facto remained almost unchanged, despite the liquidation of a number of related organisations. In general, the opportunities for civil society activity vary depending on the area in which the organisation operates. However, activities such as collective public action, coalition activities and cross-sectoral interaction, public advocacy, and watchdog work almost cease to occur.

CSOs that continue to work in Belarus mostly deal with social issues and operate in line with state policies. Such issues include the provision of assistance to vulnerable groups, charitable activities, ecology, local development, urban planning, and the acquisition of foreign resources within the UN Sustainable Development Goals and other UN programmes (but not human rights ones). However, dealing with non-political issues does not guarantee CSOs freedom from repression and does not protect against liquidation (the reason for liquidation can be factors beyond an organisation's control, such as its activities prior to 2020, a careless 'like' on social networks, an online donation from a member of the organisation to a foreign fundraiser, etc.).

Domestic groups have had great difficulty in attracting financial support from donors, both as a result of government obstacles and sanctions, and because it is easier for donors to support CSOs that have relocated their activities abroad. There is a trend whereby socially significant and social projects choose to perform their activities as commercial legal entities, since these entities are less exposed to the repressive attention of law enforcement agencies.

The destruction of the information and communication sphere is also significant for the civil society environment in Belarus. Almost all independent media have now been ousted abroad and included on the lists of extremist materials and/or extremist formations. As a result, references to CSOs by former popular independent media has become dangerous for them, and even the use of such media, when detected by the authorities, can become grounds for repression. In a certain sense, Belarusian civil society inside the country has returned to its earliest stage of formation, without the existence of independent media and with all information exchange carried out exclusively through private contacts (with the only difference that now private contacts, enhanced by digital tools, can include an audience of hundreds of thousands of people). In this situation, the main value is not the reach of the audience by means of communication, but the reliability of the communication channel, the recipient's trust in the source and the purposefulness of the message (an appeal from a trusted source to a specific person is considered ideal - for example, a personal invitation to an event). This state of affairs contrasts with the agenda of CSOs and media that are based abroad, where outcomes indicators remain valuable in an open society with various competing sources of information.

Although the war in Ukraine is an important social and political problem in the collective consciousness and is the reason for a new wave of repression, it is not on the current agenda of civil society inside Belarus (unlike for CSOs operating from abroad).

By the end of 2023, the state of civil society in Belarus has stabilised within the new status quo. In general, a series of crises and turmoil from 2020-2022 - the Covid-19 pandemic, the 2020 presidential elections and the protests and waves of repression that followed it (since 2021, especially focused against CSOs), and Belarus' isolation from the West, especially after the start of the active phase of the war in Ukraine - has already led to the homeostasis of a new dynamic equilibrium. This new state is expected to be stable in the medium term unless it is disrupted by factors that are external to this system. The potential end of the war in Ukraine and the Belarusian election cycle of 2024-2025 are unlikely to be such disruptive factors, unlike previous 'repression-thaw' cycles in domestic politics.

## Key developments in the civil society environment

The overall country score for the CSO environment in 2023 for Belarus has remained at the same extremely low level (2.2) as in 2022, with no change in the overall scores for Law (2.7) and Practice (1.7). While a number of important laws were enacted in 2023, many of these were already evaluated at the time of their passage in the previous issue of the CSO Meter report for 2022 as they were pending in the National Assembly. Similarly, many negative practices that expanded in 2023 were first reported in 2022

and had already been incorporated into the assessment as negative trends that led to the lowered scores in 2022.

A total of five Areas (4, 5, 6, 7 and 10) have registered changes in general score, each illustrating a worsening in the CSO environment in the respective area.

In Area 10 (*State-CSO Cooperation*) and Area 7 (*Right to Privacy*) in Law and overall, and in Area 5 (*Right to Participation in Decision-Making*) in Practice and overall, deteriorations in the scores have been caused by the new Law on the Essentials of Civil Society and implementation of the amendments to the Law on Public Associations and the Law on Political Parties. The latter provided for mandatory re-registration of political parties, which all opposition parties failed to pass including due to their refusal to provide the personal data of their party members to the authorities. A similar regulation on the mandatory re-registration of religious organisations, scheduled for 2024-2025 by the amendments to the Law on Freedom of Conscience and Religious Organisations of 30 December 2023, is also concerning.

In Area 11 (*Digital Rights*) in Law and in Area 6 (*Freedom of Expression*), the deterioration is due to expanded anti-extremist legislation that effectively blocks CSOs online and enhances the ability to monitor and control private communications online.

There were contradictory trends in Area 3 (*Access to Funding*), although the overall score remained unchanged. Despite minor improvements in access to funding for local citizen initiatives at the legislative level, these were counterbalanced by worsening practical conditions for CSO funding, including criminal sanctions for donations to charitable purposes, and the fact that many CSOs have been liquidated which obviously makes it impossible for them to access funding.

In general, with the minor exception of the introduction of some public funding mechanisms for CSOs (in the form of unregistered civic initiatives), none of the recommendations outlined in the previous CSO Meter Reports for Belarus have been implemented.

## Key priorities

1. Release all individuals recognised as political prisoners and stop all politically-motivated criminal cases and investigations;
2. Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
3. Cancel criminal responsibility for organising and participating in the activities of

4. Stop the practice of forced liquidation of CSOs and restore real opportunities to operate for public associations, foundations and private institutions, trade unions and their independent associations, and opposition political parties that were forcibly liquidated between 2020 and 2023;
5. Cease all forms of repression and discrimination against representatives of the opposition and CSOs, including mass civil and criminal prosecution, abuse of investigative powers, searches, seizures of data and communication devices, fines, arrests, the freezing of assets, and forced public disclosure in the media (including on social media) of personal data during investigations or arrests;
6. Eliminate legislative possibilities for and the practice of internet disruption and the blocking of websites without court decisions; and
7. Cease the misuse of AML/CTF legislation and investigative powers in hate speech crimes to restrict freedom of expression and freedom of thought, as well as to restrict access to funding for charities and human rights and humanitarian CSOs.

# II. BELARUS – IN NUMBERS

**Population:** 9,200,617 (01.01.2023)<sup>5</sup> | **GDP per capita:** 7,888.3 USD (2022)<sup>6</sup> | **Number of CSOs:** 20 trade unions; 1,973 public associations (177 international, 572 national and 1,224 local) as of 01.01.2024; 227 foundations as of 01.01.2022;<sup>7</sup> and an unknown quantity of private institutions that meet the criteria of a CSO. This number includes the several hundred CSOs for which decisions on liquidation were made during 2022-2023 but that have not yet been excluded from the register of legal entities and have not passed all the stages of liquidation. | **CSOs per 10,000 inhabitants:** around 3.5 | **Registration fee for a CSO:** 18.5 BYN for private institutions; 185 BYN for local foundations and local public associations; 370 BYN for national and international public associations and for national and international foundations (approximately 5 EUR/51 EUR/102 EUR). | **Freedom in the World:** 8/100 (Not Free)<sup>8</sup> | **World Press Freedom Index:** 37.17 (157 out of 180 countries).<sup>9</sup>



**Country score:** 2.2  
**Legislation:** 2.7  
**Practice:** 1.7

The scores range from 1 to 7, where 1 signifies the lowest possible score (extremely unfavourable – authoritarian - environment) and 7 signifies the highest possible score (extremely favourable environment).

Areas	Overall	Legislation	Practice
Freedom of Association	2.3	2.8	1.8
Equal Treatment	2.7	3.1	2.2
Access to Funding	2.2	2.5 ↑	1.9 ↓
Freedom of Peaceful Assembly	1.5 ↓	1.9	1.1 ↓
Right to Participation in Decision-Making	2.6 ↓	3.1	2.1 ↓
Freedom of Expression	1.8 ↓	2.4	1.2 ↓
Right to Privacy	2.4 ↓	3.3 ↓	1.5 ↓
State Duty to Protect	1.9	2.5	1.2
State Support	2.4	2.8	1.9

<sup>5</sup> National Statistical Committee of the Republic of Belarus, [https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/naselenie-i-migratsiya/naselenie/statisticheskie-izdaniya/index\\_67489/](https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/naselenie-i-migratsiya/naselenie/statisticheskie-izdaniya/index_67489/).

<sup>6</sup> The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=BY>.

<sup>7</sup> Data from the Ministry of Justice [https://minjust.gov.by/directions/compare\\_coverage/](https://minjust.gov.by/directions/compare_coverage/). However, these official statistics include those organisations that are proceeding through but have not yet completed the liquidation procedure and there have not been removed from the Unified State Register of Legal Entities and Individual Entrepreneurs. According to Lawtrend's unofficial calculations, of this number only 1,761 public associations and 118 foundations were untouched by the liquidation processes.

<sup>8</sup> Freedom House, 'Freedom in the World 2023', <https://freedomhouse.org/country/belarus/freedom-world/2023>.

<sup>9</sup> Reporters Without Borders, 'World Press Freedom Index 2023', <https://rsf.org/en/index>.

State-CSO Cooperation	2.3 ↓	2.7 ↓	1.9 ↓
Digital Rights	2.1	2.6 ↓	1.5

The arrows indicate improvement or deterioration compared to last year's scores.

# III. FINDINGS

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## 3.1 Freedom of Association

Overall score per area: **2.3/7**

Legislation: **2.8/7**

Practice: **1.8/7**

In 2023, the trend of deterioration of the exercise of freedom of association continued in Belarus. The existing restrictive legislation and regulations in this area, which are not compliant with international standards, remain. These are applied in practice in combination with broad measures of a repressive nature within the framework of criminal legislation (criminal cases under articles on combating extremism and terrorism, as well as against libel, hate speech and incitement to hatred). The campaign on liquidation of CSOs continues, which over the course of 2021-2023 has led to the closure of around 1,500 CSOs. Similarly, all opposition political parties have been liquidated through the announcement of the requirement for them to re-register. The registration of new CSOs is extremely rare. There remains a ban on foreigners' participation in the establishment of public associations and criminal liability for the activities of CSOs without registration.

The amendments to the Law on Public Associations, long-awaited since 2019, have failed to lead to positive changes and introduced only technical innovations which, against the backdrop of large-scale persecution of civil society, are regarded as insignificant. At the same time, direct interference by the state in the activities of CSOs is an increasingly common phenomenon in Belarus, including through direct control in practice. Licensing procedures (regular re-licensing, accreditation and re-accreditation) and the requirement that an organisation must be included in various registers to engage in certain activities (e.g., publishing, distribution of printed materials, cultural and mass entertainment, sports development, etc.) restrict CSOs in their freedom of choice in how to operate. The 2022 sports licensing requirement came into effect on 1 July 2023 affecting many CSOs, while social services licensing was expanded at the end of 2023. None of the recommendations contained in all previous editions of the CSO Meter report have been implemented and developments in this area are moving in the direction of increasing distance from international standards.

Due to no substantial improvements having occurred in the Area and, because of the previously reported negative trends, the scores remain unchanged from 2022.

**1) The campaign on liquidation of CSOs continued with over 1,500 CSOs closed and only a minimal number of new CSO registrations.**

In 2023, the campaign on liquidation of CSOs continued to combine forced liquidations by court order (foundations and public associations) and voluntary liquidations by founders (private institutions). However, in the latter case, the voluntary liquidation of a CSO is often a reaction to the organisation's inability to carry out activities to realise



its mission or takes place on the recommendation of government agencies.<sup>10</sup> In total, during 2021-2023, according to observations from court schedules and registration authorities' records, communications from media and CSOs themselves, Belarus has lost at least 1,509 non-profit legal entities (excluding liquidated private law offices, which are also classified as non-profit legal entities).

By the end of 2023, the number of forcibly liquidated CSOs reached 960 organisations. From 2021-2023, court or registration authority decisions on enforced liquidation have been made in the cases of at least eight unions of legal entities (including the Belarusian Congress of Democratic Trade Unions), 680 public associations, 11 political parties, four trade unions, one religious organisation, 191 institutions and 65 foundations. In addition, over 2021-2023, 549 organisations decided to self-liquidate, including at least 17 unions of legal entities, 377 public associations, 122 institutions, 32 foundations (in cases of court liquidation at the request of the foundation's founders themselves) and one political party.<sup>11</sup> There were cases noted in which CSOs that had registered new legal entities to replace those liquidated at the beginning of the liquidation campaign in 2021 were also liquidated in 2023.

It can be estimated that in 2024-2025 the liquidation of religious organisations may be observed, probably due to the re-registration requirement stipulated by the 2023 amendments to the Law on Religious Organisations.<sup>12</sup> As of 1 January 2023, 49 religious associations are registered in Belarus and there are 3,417 registered religious communities<sup>13</sup> from across 25 different denominations.<sup>14</sup>

In 2023, the Ministry of Justice did not publish data on either the total number of foundations or the number of new public associations and foundations registered during 2023. However, there is no doubt that the total number of CSOs in the country has decreased by at least a third since 2020, when the number of public associations in the country for the first time exceeded 3,000 organisations. According to official statistics from the Ministry of Justice for the year 2023, the number of officially registered public associations decreased from 2,544 on 1 January 2023 to 1,973 on 1

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<sup>10</sup> However, if the state does not want a public association to cease its activity, it creates obstacles for its liquidation, as the representatives of the Public Association Football Club 'Naftan' state: '*This is not the development, but the destruction of Navapolatsk football*', <https://football.by/news/182529>.

<sup>11</sup> Data as of 30 December 2023 to the knowledge of the organisation Lawtrend, which monitors liquidations based on publications on the websites of the judicial system (announcements about the appointments of court hearings on liquidations) and the Unified State Register of Legal Entities and Individual Entrepreneurs, taking into account information in the media and also from organisations themselves.

<sup>12</sup> Amendments passed by the Council of the Republic (upper house) of the National Assembly of Belarus at the end of 2023: Resolution of the Council of the Republic of the National Assembly of the Republic of Belarus on 13 December 2023, No. 507 'On the Draft Law of the Republic of Belarus 'On Amending Laws on the Activities of Religious Organisations', National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=L22300507>.

<sup>13</sup> Official statistics from the website of the Commissioner for Religions and Nationalities, <https://belarus21.by/Cat/3>.

<sup>14</sup> BelTA, 'The deputy explained the innovations of the draft law on religious organisations', 11 October 2023 (in Belarusian), <https://www.belta.by/society/view/deputat-pojasnila-novatsii-zakonoproekta-o-religioznyh-organizatsijah-593168-2023/>.

January 2024, a decrease of 571 public associations, or a drop of 22.4% from the total number just for that year only. The decrease affected all types of public associations, but the most affected are public associations at the local level of activity: From 1 January 2023 to 1 January 2024, the number of international public associations decreased from 213 to 177 (a drop in 36 associations or 16.9 %), the number of public associations at the nation level decreased from 668 to 572 (a drop in 96 associations or 14.3 %), and the number of local public associations decreased from 1,663 to 1,224, i.e. a drop in 439 associations or 26.3 %<sup>15</sup>.

This trend continues, and new CSOs are registered extremely rarely, as evidenced even by indirect official data. Even attempts to register as a non-profit organisation are extremely rare, and many CSOs prefer to legalise their work in the form of a commercial organisation for the purpose of formal registration (including some previously liquidated non-profit organisations).

The Ministry of Justice reports that, in 2023, 410 written warnings were issued to CSOs and, in total, the Ministry of Justice carried out control measures against more than one thousand public associations (i.e., more than half of the public associations that kept their registered status).<sup>16</sup> A second offence occurring within a year of a previously-issued warning is, according to the Law on Public Associations, a legal ground for liquidation of a CSO.

The liquidation of CSOs has long-term consequences, as it not only deprives significant groups in society of the opportunity to be represented or to receive the necessary support, but also makes it more difficult to undertake human rights monitoring. This was stressed by the UN Special Rapporteur on the Rights of Migrants in his report to the UN General Assembly on 18 May 2023 following his visit to Belarus: *‘The Special Rapporteur had the opportunity to exchange views with representatives from a few local CSOs that provide humanitarian assistance to migrants, however he was not able to find any local Belarusian CSOs working on monitoring and reporting on the human rights situation of migrants. This seems to reflect a larger worrisome issue, of lack of civic space and criticism of government policies in the country.’*<sup>17</sup>

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<sup>15</sup> Data from the Ministry of Justice as for 1 January 2023 and for 1 January 2024  
[https://minjust.gov.by/directions/compare\\_coverage/](https://minjust.gov.by/directions/compare_coverage/)

<sup>16</sup> The Ministry of Justice summarised the results of its work for 2023,  
[https://minjust.gov.by/press/news/2024\\_god\\_kachestva/v\\_ministerstve\\_yustitsii\\_podveli\\_itogi\\_raboty\\_za\\_2023\\_god/](https://minjust.gov.by/press/news/2024_god_kachestva/v_ministerstve_yustitsii_podveli_itogi_raboty_za_2023_god/).

<sup>17</sup> Report of the Special Rapporteur on the human rights of migrants Felipe González Morales on his visit to Belarus which took place from 16 to 20 July 2022. The main objective of the Special Rapporteur’s visit was to assess the human rights situation of migrants at the border between Belarus and Poland, <https://www.ohchr.org/en/documents/country-reports/ahrc5326add2-visit-belarus-report-special-rapporteur-human-rights>.

## **2) Freedom of association for political parties deteriorated due to the need for re-registration.**

Re-registration of political parties<sup>18</sup> in accordance with the new version of the Law on Political Parties<sup>19</sup> has eliminated de facto legal opposition activities in Belarus. Out of the 15 political parties existing at the beginning of 2023, only three parties loyal to the authorities and supporting President Lukashenko were re-registered. Of the remaining parties, 11 were liquidated by decisions of the Supreme Court. Typically, the parties did not file documents for re-registration to the Ministry of Justice at all or deliberately filed an incomplete package of documents without a list of party members containing their personal data. This is due to the practical impossibility for the parties (other than those loyal to and supported by the authorities) of ensuring that their activities comply with the new, extremely stringent requirements regarding the presence of registered territorial branches and the provision of personal data of party members, the minimum required number of which has been increased from 1,000 to 5,000. One party loyal to the authorities (the Belarusian Agrarian Party) decided to self-liquidate. For the first time since 2000, a new political party was registered in Belarus - the *Belaya Rus* party, which was actually founded as a public association of the same name and is now one of the most important civic pillars of the ruling regime.

## **3) The amendments to the Law on Public Associations also contain some additional burdens for associations.**

The new edition of the Law on Public Associations introduced few novelties. First, an essential innovation in the amendments was the abolition of the mandatory definition of the 'territory of activity' in the charter of a public association, which had hampered local public associations from operating throughout the country outside their place of registration. At the same time, the division into local, republican (i.e., national) and international public associations has been preserved, and new requirements have been introduced for republican public associations regarding the mandatory presence of registered local branches in all regions of the country and in the capital (albeit in a smaller number than for political parties). As a result, several hundred surviving republican public associations faced the choice of changing their activity format - either to register their branches in the regions or to change their organisational type to a local organisation. Re-registration of public associations, unlike for political parties, was not provided for, but the obligation to bring their charters into compliance with the new

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<sup>18</sup> The CSO Meter tool does not explicitly cover political parties. However, in an authoritarian regime it is relevant to consider the broader context of repression and limitations on freedom.

<sup>19</sup> Amendments to two laws, both on public associations and on political parties, were introduced simultaneously by one legislative act - the Law of 14 February 2023 'On amending the laws on the activities of political parties and other public associations'. See the CSO Meter Early Warning Update on the draft law for details of both the negative and positive changes related to clarification of ambiguities and dual interpretation: <https://csometer.info/sites/default/files/2023-01/BELARUS%20Draft%20amendments%20to%20laws%20on%20public%20associations%20and%20political%20parties.pdf>.

requirements within a year was imposed on them. The amendment deadline is 4 March 2024, but, by the end of 2023, only a small number of public associations have completed this requirement (it is not yet clear if violation of this deadline will later become grounds for a new wave of lawsuits for liquidation of public associations).

Second, ideological censorship was consolidated according to the new legislation. The obligation to 'comply with the main directions of domestic and foreign policies, the concept of national security, approved by the All-Belarusian People's Assembly' was simultaneously added to both the Laws on Political Parties and the Law on Public Associations. Such political interference in the activities of civil society has virtually cemented the impossibility for CSOs and political parties to challenge the Government's policies. Violation of this requirement was enshrined in the laws as a new ground for the liquidation of both political parties and public associations.

Third, the legislation on reporting for CSOs has changed every year since 2020, decreasing the stability of the legal environment. In accordance with the amendments to the Law on Public Associations, the possibility for public associations to file their annual reports to the justice agencies online has been enshrined in law, although the provision of information in hard copy is also possible. However, the change in deadline for submitting reports introduced into the new law from 1 March to 31 March, although positive and allowing more time for preparing reports, led to misunderstandings as to whether filing of a report by a public association during March 2023 would be considered a violation. Meanwhile, in practice, during 2023, many public associations were forcibly liquidated by the courts following lawsuits brought by the justice authorities on the grounds of failure to submit annual reports, as well as failure to provide information requested by the justice authorities in the process of inspections.

Starting from 1 January 2024, the regulations of the new version of the Tax Code will come into force. These stipulate that non-profit organisations must file tax returns (if the obligation to file them arises) and may do so only electronically. The previous possibility of filing a return in hard copy is now unavailable to non-profit organisations, even in cases where a minimal amount of information needs to be provided. This change in practice will lead to new costs for many CSOs due to the need to pay for the electronic keys required to make electronic filing of tax returns possible.

The justice agencies clarified new legislative regulations more actively and, for the first time after a long break, the Ministry of Justice's hotlines for CSOs were resumed (however, they are still conducted less frequently than before 2020). In 2023, the Ministry of Justice also held two webinars to discuss new legislative regulations and topical issues regarding the activities of CSOs.<sup>20</sup>

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<sup>20</sup> For example, see 'On holding an online seminar for public associations' - Ministry of Justice, 14 December 2023, [https://minjust.gov.by/press/news/politicheskie\\_partii\\_obshchestvennye\\_obedineniya\\_i\\_drugie\\_nekommercheskie\\_organizatsii\\_o\\_provedenii\\_onlayn\\_seminara\\_dlya\\_obshchestvennykh\\_obedineniy/](https://minjust.gov.by/press/news/politicheskie_partii_obshchestvennye_obedineniya_i_drugie_nekommercheskie_organizatsii_o_provedenii_onlayn_seminara_dlya_obshchestvennykh_obedineniy/).

**4) No new criminal cases have been reported for the activities of CSOs without registration, although the law retains a ban on such activities and other criminal legislation is misused against CSOs.**

Criminal liability for violation of the ban on activities of unregistered CSOs is prescribed by Article 193<sup>1</sup> of the Criminal Code. The ban itself remained unchanged in the laws ‘on Public Associations’ and ‘On Political Parties’, updated in 2023. There is no new information available about two criminal cases brought under Article 193<sup>1</sup> of the Criminal Code that have been under investigation since 2022.<sup>21</sup> In 2011, the Council of Europe’s Venice Commission stated in its special opinion on Article 193<sup>1</sup> of the Belarusian Criminal Code that ‘by its very existence, Article 193<sup>1</sup> has a chilling effect on the activities of non-governmental organisations’ and that ‘the restriction is so severe that it not only restricts freedom of association, but also freedom of opinion and expression to an unjustifiable degree.’<sup>22</sup>

However, some forms of activity for CSOs without registration have acquired legal status due to the entry into force of two laws establishing new mechanisms for competitive state funding of local and youth initiatives.<sup>23</sup> The regulations on competitive state support for youth initiatives were introduced into the Law on the Fundamentals of State Youth Policy in 2022 and were developed in a government resolution in 2023.<sup>24</sup>

However, the clarification of the Ministry of Justice, interpreting all initiatives as public associations that are subject to registration, has not been abolished. On 13 August 2005, the Ministry of Justice adopted Resolution No. 49 ‘On Some Issues of Establishment of Public Associations and Their Unions (Associations)’.<sup>25</sup> It follows from the explanation of the Ministry of Justice that various ‘movements’, ‘civic initiatives’, ‘coalitions’, etc.,

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<sup>21</sup> There are two known criminal cases that have been initiated under this Article since its re-establishment into the Criminal Code at the beginning of 2022: one against an association that continued its activities following a court decision to liquidate it, the other related to ‘carrying out the activity of a public association without registration under the guise of a commercial organisation’. During the previous period in which Article 193<sup>1</sup> was in force (from 2006 to 2019), the court issued sentences against at least 18 individuals and the Prosecutor’s Office issued hundreds of official warnings, <https://csometer.info/updates/belarus-criminal-penalties-restored-unregistered-csos>.

<sup>22</sup> Venice Commission of the Council of Europe, ‘Opinion on the compatibility with universal human rights standards of article 193-1 of the criminal code on the rights of non-registered associations of the Republic of Belarus adopted by the Venice Commission at its 88th Plenary Session (Venice, 14-15 October 2011)’, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e).

<sup>23</sup> On 21 October 2023, amendments to the Law on Local Government and Self-Government came into force in Belarus, which enshrined in law the mechanism for state support of civic initiatives at the local level, resembling participatory budgeting. National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=H12300281>. In Autumn 2023, several regions of Belarus announced competition calls for financial support for local civic initiatives in 2024: <https://csometer.info/updates/belarus-new-legislation-increases-financial-support-civic-initiatives>.

<sup>24</sup> Government Resolution No. 87 of 31 January 2023 approved the Regulation on the Procedure of Formation, Financing and Implementation of Youth Initiatives. The Regulation entered into force on 8 April 2023, at the same time as the amendments to the law which legalised these youth initiatives. The youth initiatives will be supported from the state budget on a competitive basis. National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=C22300087>.

<sup>25</sup> <https://normativka.by/lib/document/500048234>.

which are public associations or unions of public associations, created in Belarus, should be registered by the established procedure. All established public associations and their unions (associations), including those established in the form of ‘movements’, ‘civic initiatives’, ‘coalitions’, etc., must undergo state registration following the procedure provided for state registration of public associations and their unions (associations).

As a result, a paradoxical situation has been created whereby a civil initiative that receives state funding through a competition call can work without registration and implement a state-supported project, while members of another initiative carrying out the same activities at their own expense can be prosecuted under Article 193<sup>1</sup> as an unregistered public association.<sup>26</sup>

At the same time, a wide range of articles of the Criminal Code were applied against CSOs in 2023, especially a group of articles related to combating extremism. Among them, Article 361<sup>1</sup> (‘Establishment of an extremist formation or participation in it’), Article 361<sup>2</sup> (‘Financing extremist activities’) and Article 361<sup>4</sup> (‘Promotion of extremist activities’) are particularly threatening for CSOs. Since 2021, at least 130 people have been convicted of ‘creating an extremist formation or participating in it’ (Article 361<sup>1</sup> of the Criminal Code) (usually, this Article is combined together with other criminal articles).

In 2023, the expansion of the practice whereby CSOs and independent media are added to the Index of Extremist Formations<sup>27</sup> is of particular concern. By the end of 2022, the previously liquidated environmental association ‘Ecodom’ had already been included in the Index by a decision of the State Security Committee of the Republic of Belarus (the KGB RB), but in 2023 the Index was further enlarged to include reputable human rights CSOs, including, the Belarusian Association of Journalists, Human Rights Centre ‘Viasna’, the youth CSO ‘Belarusian Students’ Association’ and the think tank the School of Young Managers in Public Administration (SYMPA), known as one of the leading centres for civil society monitoring and research. In total, at the end of 2023, the Index contains 169 groups (CSOs, Telegram chats, media outlets, websites, etc.)<sup>28</sup> and any involvement or membership in these formations, including financing or ‘other assistance’ (for example, conducting interviews with them), is considered a crime. Some of these groups contain several structural components, including CSOs: for example, the CSOs ‘Belarusian House in Warsaw’ and ‘Youth Block’ are named in the Index as units of the Kalinowski Regiment, fighting as a division of the Armed Forces of Ukraine.

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<sup>26</sup> Lawtrend, ‘Monitoring the situation of freedom of association and civil society organisations in the Republic of Belarus. November 2023’, <https://www.lawtrend.org/english/monitoring-the-situation-of-freedom-of-association-and-civil-society-organisations-in-the-republic-of-belarus-november-2023>.

<sup>27</sup> Ministry of Internal Affairs of the Republic of Belarus, ‘About measures to counter extremism and rehabilitation of Nazism’, 23 August 2023, <https://www.mvd.gov.by/ru/news/8642>.

<sup>28</sup> ‘In 2023, 62 ‘extremist groups’ were recognised, 11 of them are media outlets’, 10 January 2024 by Human Rights Centre ‘Viasna’.

### Specific recommendations under Area 1:

- Abolish the ban on the activities of public associations without registration, set this out in the Law on Public Associations and cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193<sup>1</sup> of the Criminal Code);
- Stop the practice of forced liquidation of CSOs and restore real opportunities to operate for organisations that have previously been forced to liquidate in 2020-2023 (including public associations, foundations and private institutions, trade unions and their independent associations, opposition political parties);
- Release all individuals recognised as political prisoners,<sup>29</sup> review and lift all sentences imposed on them and pending decisions on their liability, pay adequate compensation to all political prisoners, and stop all politically-motivated criminal cases;
- Stop the practice of state agencies interfering in the internal affairs of CSOs, both at the stage of their creation and once they are operating;
- Eliminate the practice of misusing the legislation on extremism and terrorism to pressure and persecute CSO representatives and their unjustified inclusion on the list of persons involved in extremist and terrorist activities;
- Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
- Allow foreign citizens to act as founders of public associations; and
- Introduce a notification procedure for registration of non-commercial organisations (NCOs) with a clear list of essential grounds for denial of registration (for instance, objectives under its charter that are directly banned by the law, e.g. war propaganda) and enshrine clear and distinct grounds for decisions on liquidation of NCOs.

## 3.2 Equal Treatment

Overall score per area: **2.7/7**

Legislation: **3.1/7**

Practice: **2.2/7**

There is unequal treatment of CSOs compared to commercial entities. For this reason, for some initiatives (as well as for representatives of previously liquidated CSOs willing to continue their activities), obtaining legal status in the form of a commercial organisation is preferable to attempting to register as a CSO. The

<sup>29</sup> List of current political prisoners from Human Rights Centre 'Viasna' and guidelines on the definition of a political prisoner.

equality of organisations is also highly distorted within the non-profit sector and this was deliberately enshrined at the legislative level in 2023, in addition to the different legal regime for CSOs depending on their political views and attitude towards the existing regime already existing in practice. Special conditions have been created only for specific CSOs, primarily pro-government ones. De facto, the most prominent factor of inequality for Belarusian CSOs is the gap and alienation between the organisations that relocated abroad to countries with a more CSO-friendly political and legal regime and those that stayed in Belarus and whose main activity centre is inside the country (i.e. their decision-making centre, main target group, registered legal entity, property, funding sources). In the context of the war in Ukraine, CSOs providing humanitarian assistance to the Russian side are supported by the Belarusian authorities, while any assistance to the Ukrainian side is punished (and a similar inequality is visible in the war advocacy being re-translated by some pro-Russian and pro-Ukrainian CSO spokespersons).

The negative trends noted below have become extremely severe at the levels of both Law and Practice, but were already taken into account in last year's Report. Therefore, the scores remain the same as for 2022.

### **1) The Law on the Essentials of Civil Society legislated inequality and hierarchy in the civil society of Belarus.**

Inequality and hierarchy within Belarusian civil society is mandated at the legislative level. The Belarusian Helsinki Committee has termed this ongoing process as the 'nationalisation' of civil society, stating that 'Now the state has formally taken over the right to actually 'appoint' who will be the civil society.'<sup>30</sup>

The Law on the Essentials of Civil Society was adopted on 14 February 2023 on the same day as the new editions of the Laws on Political Parties and the Law on Public Associations. Up until now, the notion of civil society has not been defined in Belarus at the legislative level, and it has traditionally been understood that it includes all legal forms of non-state, non-profit legal entities, both membership and non-membership ones. The Law defines the civil society notion quite broadly; however, it introduces a narrow definition of civil society entities. From now on, the majority of non-profit organisations do not belong to civil society entities as per interpretation of this law. Civil society now includes only membership-based associations of citizens and unions of legal entities, the goals of which are related to the implementation of the state's aims enshrined in law (among which, for example, there are none related to human rights or gender equality).

Organisations with more than 100,000 members and that have branches in all regions of Belarus and in Minsk, as well as trade unions that unite at least a half of the trade unions registered in Belarus, are singled out in a special privileged group. The Law provides these organisations with the right to interact with government agencies in special forms, primarily through delegating representatives to the All-Belarusian

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<sup>30</sup> Belarusian Helsinki Committee, 'Human Rights in Belarus: Key Trends in Public Policy. January-June 2023', [https://belhelcom.org/sites/default/files/trends\\_jan-june23\\_human\\_rights\\_in\\_belarus\\_key\\_trends\\_in\\_public\\_policy.pdf](https://belhelcom.org/sites/default/files/trends_jan-june23_human_rights_in_belarus_key_trends_in_public_policy.pdf).



People's Assembly in accordance with the Constitution as amended in February 2022, the special Law on the All-Belarusian People's Assembly<sup>31</sup> and the new edition of the Electoral Code, amended on 16 February 2023.<sup>32</sup> In 2023, the Ministry of Justice determined that only five of the associations that are most loyal to the authorities meet these criteria - the public association 'Belaya Rus', the Belarusian Public Association of Veterans, the Belarusian Republican Youth Union (BRYU), the Public Association 'Belarusian Women's Union' and the Federation of Trade Unions of Belarus.<sup>33</sup> These organisations, as well as the public association 'Belarusian Peace Foundation', are the main ones whose members are included by the authorities in election commissions, as shown in December 2023 during the formation of district and territorial election commissions.<sup>34</sup>

**2) There is more direct state funding for CSOs that are the most loyal and closest to the authorities.**

In 2023, the allocation of financial support from the budget available only for state cultural organisations has been legislated by presidential edict, while cultural CSOs are denied access to this funding.<sup>35</sup>

In addition, the national budget stipulates direct allocation of state funding to a number of state associations, which is constantly growing. Thus, according to the 2024 budget, 12,818,487 BYN (around 3,540,187 EUR) will be allocated for the activities of the BRYU (an increase from 2023 of approximately 100,000 EUR). In addition, direct funding from the national budget as a separate line item increased by more than 20 per cent for the Public Association 'Union of Writers of Belarus' and is also allocated for the Republican State Public Association 'Belarusian Physical Culture and Sports Society 'Dinamo' and the State Public Association 'Voluntary Society for Assistance to the Army, Air Force and Navy'.<sup>36</sup>

The special status of State Public Association has been introduced for seven membership-based mass organisations. These organisations are not subject to the

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<sup>31</sup> For more information about the content of this law at the stage of its adoption, see the CSO Meter Early Warning Update 'Belarus: Draft law 'On Essentials of Civil Society' on Parliament's agenda', 16 December 2022, <https://csometer.info/updates/belarus-draft-law-essentials-civil-society-parliaments-agenda>.

<sup>32</sup> Electoral Code of the Republic of Belarus, 11 February 2000, No. 370-3, <https://pravo.by/document/?guid=3871&p0=hk0000370>.

<sup>33</sup> Ministry of Justice of Belarus, [https://minjust.gov.by/directions/compare\\_coverage/](https://minjust.gov.by/directions/compare_coverage/).

<sup>34</sup> Human Rights Centre 'Viasna', Second analytical report by the 'Human Rights Defenders for Free Elections' campaign: 'Analytical report on the formation of territorial and district election commissions'. The Central Election Commission published official statistics on the nomination of representatives to territorial commissions (<https://rec.gov.by/uploads/files/Calendar/stat1-2.pdf>) and on the composition of these commissions according to the results of their formation (<https://rec.gov.by/uploads/files/Calendar/stat3-4.pdf>). The overall advantage of a small group of privileged CSOs was also confirmed later at the stage of formation of precinct election commissions.

<sup>35</sup> Edict No. 275 of 31 August 2023 on the Support of Selected State Cultural Organisations, National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=P32300275>.

<sup>36</sup> Draft Law of the Republic of Belarus on the Republican Budget for 2024, National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=3941&p0=2023078018>.

provisions of the Law on Public Associations, but operate in accordance with a special Law on National State Public Associations.<sup>37</sup> In addition, there is a special law for the Belarusian Red Cross Society (BRC).<sup>38</sup> However, the involvement of this organisation in the state functions of Belarus has also led to a loss of funding; the UN is looking to replace the BRC<sup>39</sup> following its suspension from the IFRC.<sup>40</sup> At the same time, there has been an increase in the number of grants provided in Belarus by donors from Russia, including social CSOs and associations of disabled people.

There are reports that the authorities are facilitating and encouraging an increase in membership of these mass GONGOs, including disabled people's organisations, enrolment in Belaya Rus at enterprises and in the BRYU at universities.

### **3) Persecution of those who are not included by the authorities in their new model of civil society.**

Legislative norms are much stricter in practice for CSOs that are not included in this hierarchy - they are limited in their opportunities for freedom of speech, in access to information, in receiving funding and are not protected from state interference in their activities, especially within the framework of state control measures, tax and other inspections, searches and other abuses within criminal cases, the seizure of personal data, and the application of sanctions up to liquidation.

However, the most stringent measures are related to the possible inclusion of CSOs in the Index of Extremist Formations, which threatens the application of criminal liability norms.

Currently, the following CSO-connected persons have been imprisoned under various articles of the Criminal Code: Ales Bialiatski (Nobel laureate) and four of his colleagues from the Human Rights Centre 'Viasna', Uladzimir Matskevich and Tatsiana Kouzina (well-known CSO figures), Aliaksandr Yarashuk (leader of the Belarusian Congress of Democratic Trade Unions), Ryhor Kastusiu (chairman of the BPF Party, the public association BPF 'Revival' and former presidential candidate), Mikalai Kazlou (chairman of the United Civil Party), Zmicier Dashkevich (former leader of the Young Front organisation), Nasta Loika (co-founder of the human rights organisation Human

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<sup>37</sup> Law of 19 July 2006 No. 150 on National State Public Associations, <https://minjust.gov.by/upload/iblock/a46/zakon-respubliki-belarus-o-respublikanskikh-gosudarstvenno-obshchestvennykh-obedineniyakh.docx>.

<sup>38</sup> Law of 24 October 2000 on the Belarusian Red Cross Society, [https://continent-online.com/Document/?doc\\_id=38458359#pos=2:-46](https://continent-online.com/Document/?doc_id=38458359#pos=2:-46).

<sup>39</sup> 'The international organisation is now looking to complete the current projects with the BRC and eventually replace it as a partner. They may choose to work through other NGOs, or to directly with the hospitals. According to the BRC report for 2022, which is available to Buro, 57.2% of the organisation's total budget was funded by foreign sources.' BuroMedia, 'UN seeks to replace Belarusian Red Cross to work in Belarus', <https://buromedia.io/en/news/oon-ischet-zamenu-belaruskomu-krasnomu-krestu-dlya-proektov-v-belarusi>.

<sup>40</sup> Statement on the suspension of the Belarus Red Cross as a member of the IFRC, 1 December 2023, <https://www.ifrc.org/article/statement-suspension-belarus-red-cross-member-ifrc>.

Constanta), Maxim Znak and Marya Kalesnikava (members of the Coordination Council), Pavel Nazdra (representative of the 'Green Patrol'), Valeryia Kastsiuhova (founder of the expert group 'Our Opinion'), Andrey Dzmitryeu (co-chair of the association 'Tell the Truth' and former presidential candidate), Pavel Belavus (founder of the Symbal.by initiative), Uladzimir Bulauski (CSO manager), Eduard Babaryka (founder of the crowdfunding platform MolaMola), and Pavel Mazheika (head of the 'City Life Centre'). These people are among the at least 1,500 CSO, political party and trade union activists that make up the at least 1,500 political prisoners currently in Belarus. According to Solidarity, there are 44 trade union activists and leaders of democratic trade unions imprisoned in Belarus.<sup>41</sup> In 2023, the deputy chairman of the Belarusian Congress of Democratic Trade Unions Siarhei Antusevich and a member of the Human Rights Centre 'Viasna' Leanid Sudalenka were released after serving their full sentences.

As of the end of 2023, Human Rights Centre 'Viasna' was aware of 4,248 persons sentenced to various types of punishment on politically-motivated charges, of which 1,603 were convicted in 2022. As a result of unprecedented repression, Belarus had 1,452 political prisoners as of 31 December 2023. While the level of criminal repression remained high, there was an increase in criminal cases on charges of 'creating, leading and participating in extremist formations', together with 'facilitating and financing extremist activities'. At the same time, individuals are still routinely prosecuted in criminal cases for participation in protests and for commenting online. Political prisoners are kept in particularly harsh conditions, subjected to enhanced security and supervision measures, and to restrictions not provided for by law.<sup>42</sup>

CSOs that are viewed unfavourably by the authorities are subject to blocking of their websites and searches and seizure of phones and computers. Pressure on relatives, searches, seizure of real estate and freezing of bank accounts are used against accused CSO activists who have taken refuge abroad. In general, continued activity abroad under the brand of a previously liquidated CSO often serves as a reason for repression. Thus, after the start of the pre-election monitoring initiative 'Human Rights Defenders for Free Elections' in November-December 2023, searches of former observers and activists of this campaign took place across the country. The announcement by the Coordination Council of the opposition in exile that they would hold their own election campaigns as an alternative to the parliamentary elections scheduled for 25 February 2024 led to a wave of searches in Belarus in the homes of members of this initiative and their relatives. A chain of searches of former members of the organisation accompanies

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<sup>41</sup> Lawtrend, 'Monitoring the situation of freedom of association and civil society organisations in the Republic of Belarus November 2023', <https://www.lawtrend.org/english/monitoring-the-situation-of-freedom-of-association-and-civil-society-organisations-in-the-republic-of-belarus-november-2023>.

<sup>42</sup> Human Rights Centre 'Viasna', 'Human Rights Situation in Belarus in 2023', 15 January 2024.

an attempt to resume the work of the Movement for Freedom, which was liquidated in 2021, from abroad. Human rights activists have states that in 2023 there were at least 207 known cases of activists being arrested following their return to Belarus from abroad.<sup>43</sup> An alarming trend in 2023 was the holding of some political prisoners *incommunicado*, i.e., in complete isolation.

Finally, in 2023, a practice was seen whereby law enforcement agencies forced individuals who had several years before transferred donations for human rights purposes or to entities included in the Index of Extremist Formations to transfer a 'ransom' in multiple amounts to certain charitable and social organisations loyal to the authorities. For example, the management of software companies receive lists of employees who have donated to solidarity funds via Facebook, with an invitation to come to the KGB RB for an interview. Those who attend are warned of possible criminal liability for supporting extremist activities, forced to write confessions about donations to 'extremist funds' and obliged to transfer money to support state social institutions.<sup>44</sup>

#### Specific recommendations under Area 2:

1. Release all individuals recognised as political prisoners and stop all politically-motivated criminal cases and investigations;
2. Extend the notification procedure for registration of commercial organisations to registration of CSOs, including the possibility to submit and update constituent documents online;
3. Regulate the procedure for changing the owner of an institution;
4. Allow public associations to conduct entrepreneurial activities without creating a separate commercial entity;
5. Stop the practice whereby CSOs are provided with targeted benefits and direct funding by naming them in the budget and tax laws; extend rental benefits to all CSOs and introduce a mechanism of state funding on the basis of competition call, which all CSOs, including unregistered ones, can participate in;
6. Cease all forms of repression and discrimination against protesters, representatives of the opposition and CSOs, including mass civil and criminal prosecution, abuse of investigative powers, searches, seizures of data and communication devices, fines, arrests, the freezing of assets, and forced public disclosure in the media (including social media) of personal data during investigations or arrests; and
7. Close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents.

<sup>43</sup> According to Human Rights Centre 'Viasna' – see more: 'At least 207 detained upon return to Belarus: current statistics from Viasna for 2023', 11 January 2024.

<sup>44</sup> Human Rights Centre 'Viasna', 'Word combinations, sticker packs, songs and books. The most absurd 'extremist materials' in 2023' (in Russian), 5 January 2024.

## 3.3 Access to Funding

Overall score per area: **2.2/7**

Legislation: **2.5/7** | Practice: **1.9/7**

Access to funding for CSOs is tightly restricted by tough legislation, sanctions for its violation, the mass liquidation of CSOs, and the forced relocation of many CSOs abroad. CSOs are not free to seek, receive, use, and dispose of funds and property. They are subject to restrictions on both receiving assistance within the country and from abroad. In Belarus, preliminary state approval is required to receive foreign funding and there are restrictions on entrepreneurial activities for public associations. As a positive step, two laws that came into force in 2023 establish new mechanisms for competitive public funding for local citizens' initiatives in a form close to the participatory budgeting and for youth initiatives. This legislative consolidation of competitive funding of CSOs from the budget is actually an implementation of the measures mentioned in the recommendations of previous editions of the CSO Meter, albeit a band-aid solution due to the selection of a suboptimal model of participatory budgeting. The overall score in the Area of Access to Funding remains low; despite the noted improvement in the dimension of Law from 2.4 in 2022 to 2.5 in 2023, this is balanced by the terrible and deteriorating score in Practice from 2 in 2022 to 1.9 in 2023.

### **1) The height of severe sanctions for violation of the strict restrictions on CSO funding was the verdict against members of Human Rights Centre 'Viasna'.**

Members of Human Rights Centre 'Viasna' were found guilty of money smuggling and sentenced to long prison terms. Four activists were convicted to a long prison term in Belarus and one of them was sentenced in absentia. The three representatives of 'Viasna' - Nobel Peace Prize laureate Ales Bialiatski and legal advisers Uladzimir Labkovich and Valiantsin Stefanovic - were accused of 'smuggling' (Part 4 of Article 228 of the Criminal Code) and 'financing group actions that disrupted public order' (Part 2 of Article 342 of the Criminal Code). On 3 March 2023, the human rights defenders were sentenced to 10, 9 and 7 years in prison respectively. Zmitser Salauyou, who had already fled Belarus, was handed down an eight-year prison sentence in absentia.<sup>45</sup> All imprisoned Viasna members were called political prisoners by the country's leading human rights organisations. The criminal case against the Human Rights Centre 'Viasna' in charges of smuggling represents the high point of the financial methods used by the authorities to suppress CSOs in Belarus.

<sup>45</sup> OSCE Human Rights Office, 'Latest conviction of human rights defenders in Belarus criminalises their work and is contrary to international standards', 3 March 2023, <https://www.osce.org/odihr/538329>.

This was a qualitative leap: not only were the activities of the Belarusian organisation that allegedly financed protests by paying legal fees declared unlawful (which has been practiced by the authorities since 2020), but the model of obtaining funds for activities in Belarus through a foreign CSO in the form of legally transferred cash (in this case, from the Lithuanian-based human rights organisation Pavasaris) was also criminalised.

**2) In 2023, the tax authorities, the KGB RB and the financial police conducted checks on people who donated money to foreign foundations for Belarus.**

In 2023, the tax authorities, the KGB RB and the financial police conducted checks on people who donated money to foreign funds to help victims of political repression in Belarus (especially through crowdfunding platforms). In the process, it has been alleged that some donors were told that if they donated ten times the amount of their original donation to state foundations, this would lead to exemption from possible criminal liability (there is no official confirmation of such deals, although there were a fair amount of reports of its use).<sup>46</sup> Criminal cases were initiated against almost 60 people who had donated the largest amounts or had refused to pay the ‘ransom’, which in some cases resulted in the conviction of the accused to long prison terms for financing ‘extremist activities’. In at least one case, a person convicted in April 2023 for making donations and sentenced to three years’ imprisonment died in prison, allegedly due to inappropriate and delayed medical care.<sup>47</sup>

In these conditions, given the preservation of all previous legislative amendments, many foreign donors, whose representative offices were expelled from Belarus, have abandoned work on direct financial support for CSOs in Belarus, focusing instead on supporting relocated and emigrant structures in the diaspora. The few remaining donors choose the path of either small cash grants without control and reporting according to the *Fire and Forger* Grants principle, or of working through the UN Development Programme and the few remaining registered CSOs that have good relations with the authorities or connections with local authorities at the level of district executive committees.

**3) A positive change - the legislative consolidation of mechanisms for financial support from the budget on a competitive basis for youth initiatives and especially for local civic initiatives.**

On 21 October 2023, amendments to the Law on Local Government and Self-Government came into force in Belarus, which enshrined in law the mechanism for

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<sup>46</sup> See more in Area 7 (Right to Privacy).

<sup>47</sup> Statement by the human rights community of Belarus on the death of political prisoner Vadzim Khrasko.

state support of civic initiatives at the local level, resembling participatory budgeting.<sup>48</sup> Civic initiatives are defined as activities aimed at improving the quality of life of the resident population, including the improvement of public land areas, the (re)construction of socially significant objects, the general prevention of offences, the prevention of injuries and deaths of citizens, as well as the resolution of other issues of local significance.

The newly introduced Article 36<sup>1</sup> of the Law on Local Government and Self-Government significantly differs from the draft law originally submitted to the National Assembly. The draft law required a mandatory minimum number of participants in a civic initiative (10 or more residents could propose a project at the rural level, 20 or more at the urban level, and 50 or more at the district level and in the city of Minsk). However, these criteria were removed from the final version of the law, and now even a single resident can submit a civic initiative project. The dominant role of local governments has remained unchanged compared to the draft law. Local councils and their associations have the right to announce competition calls, approve regulations and criteria for support, and evaluate the proposed projects. The residents themselves are, however, not entitled to participate in the selection of projects, thus their role is passive compared to the one they have in participatory budgeting.

During October–November 2023, all regional local councils announced competition calls for financial support for local civic initiatives in 2024.

According to the draft national budget for 2024, about 300,000 EUR in total will be allocated to regions and the capital city of Minsk to finance civic initiatives. In addition, the law established that local budgets must allocate the same amount. Thus, in total, about 600,000 EUR will be allocated to finance projects awarded in the ongoing competitions - almost a third more than was allocated for civic projects in 2023 before the law was passed (that time, local initiatives were supported under the regulatory basis of the decisions of local councils themselves). For several years, as a form of an experiment, competition calls for the support of civic initiatives were carried out in accordance with the provisions approved by local councils and associations of local councils. From now on, their implementation will be regulated by the newly adopted amendments to the Law on Local Government and Self-Government.

A concerning element of the Law is the extremely short timeframe for submitting civic initiative projects to the calls. For example, in the Homiel and Mahileu regions, applicants only had two weeks to develop and submit their projects. They also had to raise at least ten per cent of the total budget of the civic initiative from their own

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<sup>48</sup> CSO Meter, 'Belarus: New legislation increases financial support for civic initiatives', <https://csometer.info/updates/belarus-new-legislation-increases-financial-support-civic-initiatives>.

resources or other sponsors and this mandatory co-funding requirement is stated in the Law.

Support for local civic initiatives has long been advocated for by CSOs. However, these changes, came at a time when the civil society environment is still marked by mass persecution of people for their civic position and abuse of legal norms against CSOs.

The Public Association 'Belaya Rus', which is one of the GONGOs closest to the authorities, also implemented a small grants programme at the end of 2023.<sup>49</sup> The '100 Ideas for Belarus' call for proposals implemented by another GONGO, the BRYU, announced the receipt of 1,300 project applications for funding.<sup>50</sup>

Specific recommendations under Area 3:

- Abolish the restrictive list of objectives for which CSOs can receive foreign gratuitous aid or sponsor aid from internal resources;
- Move from an authorisation-based system for registration of foreign aid to a notification-based system; simplify the conceptual construct and provide precise definitions, as well as set a reasonable threshold for the amount of donations from abroad for which registration is not required;
- Abolish the Edict of the President No. 300 'On the provision and use of gratuitous (sponsor) aid';
- Remove from the Criminal Code articles punishing the financing of extremist activities (Article 361<sup>2</sup>) and violation of the procedure for using foreign aid (Article 369<sup>2</sup>);
- Allow public associations to conduct economic entrepreneurial activities on their own behalf, as well as to have bank accounts abroad;
- Introduce the definition of 'endowment' into legislation, taking into account the role of such instruments as a mechanism for CSO support;
- Introduce amendments to the law on state social contracting to ensure access to this mechanism for a broad range of CSOs, as well as introduce the tools for CSO funding from the budget on a competitive basis;
- Stop the practice of criminal and other persecution, demonisation, and stigmatisation of CSOs and individuals for receiving foreign donations, fundraising for legal assistance, and other types of legitimate civic activity or philanthropy; and

<sup>49</sup> Minsk News, <https://minsknews.by/v-minske-vybrali-pobeditelej-konkursa-proektov-na-prisuzhdenie-grantov-beloj-rusi/>.

<sup>50</sup> BelTA, <https://www.belta.by/society/view/bolee-13-tys-zajavok-postupilo-dlja-uchastija-v-novom-sezone-proekta-100-idej-dlja-belarusi-604142-2023/>; 100 Ideas for Belarus, <https://100ideas.by/>.



- Bring the regulations adopted at the regional level on the support of civic initiatives to a unified form, defining a single list of criteria for support and providing at least a one-month period for accepting projects after the publication of a call and abolish Resolution of the Ministry of Justice No. 49 of 13 August 2005 'On Some Issues of Establishment of Public Associations and their Unions (Associations)'.

## 3.4 Freedom of Peaceful Assembly

Overall score per area: **1.5/7**

Legislation: **1.9/7**

Practice: **1.1/7**

In 2023, Freedom of Peaceful Assembly continues to be the lowest scoring area. The public exercise of freedom of assembly leads to detention and prosecution, both administrative and criminal. The exercise of the right is de facto available almost only to groups and individuals expressing support for the actions of the authorities and at the initiative of the authorities. Assemblies of a social and political nature that oppose the authorities cannot be held legally, but mass gatherings of a commercial and, less often, cultural nature are held. Cultural events are also subject to restrictions and participants are subject to arrest sanctions.<sup>51</sup> The fee for legally holding such events was increased by government decision. The authorities took new restrictive measures in 2023, which contradicted the CSO Meter recommendations. The scores for Practice in this Area have deteriorated from 1.2 in 2022 to 1.1 in 2023, which has also contributed to a decline in the overall score for Freedom of Peaceful Assembly in Belarus from 1.6 in 2022 to 1.5 in 2023.

**1) Legislation and practice on assemblies features growing restrictions and is used by law enforcement agencies as a tool of repression against those who do not agree with the authorities.**

Under current practice, a tattoo on the body, a screensaver on a phone, a picture on a personal page on a social network or on a wall inside a private apartment, and a loudly-spoken political slogan in a private conversation can all be interpreted as 'illegal picketing' which is subject to a fine or arrest for up to 15 days, since 'an opinion on social and political issues was expressed in this way'. At the same time, national and

<sup>51</sup> For example, in December 2023, almost 10 participants in a Hentai Party in a Minsk nightclub on New Year's Eve were jailed for 3-15 days. See 'Participants of a private party in Belarus detained', *Deutsche Welle*, 31 December 2023. In Belarus, since 2022 a special licence is required to organise concerts (<https://www.kultura.by/reestr-organizatorov/>), and in September-October 2023 these were re-certified ([https://www.kultura.by/informatsiya/postanovlenie-soveta-ministrov-respubliki-belarus-ot-19-sentyabrya-2023-g-608-ob-organizatsii-i-prov/?fbclid=IwAR2d5\\_N-58qnpm50ul6u7IYfr-iiIX67AzWAslxKYwqICz3yPTgmw2uhfcQ](https://www.kultura.by/informatsiya/postanovlenie-soveta-ministrov-respubliki-belarus-ot-19-sentyabrya-2023-g-608-ob-organizatsii-i-prov/?fbclid=IwAR2d5_N-58qnpm50ul6u7IYfr-iiIX67AzWAslxKYwqICz3yPTgmw2uhfcQ)), which about 50 organisations out of 730 licence holders did not pass (<https://sputnik.by/20231023/okolo-50-kompaniy-isklyucheny-iz-kontsertnogo-reestra-v-belarusi-1080477238.html>).

international mechanisms for effective protection and restoration of violated rights practically do not exist.

However, peaceful assemblies are taking place in Belarus. The number and visibility of pro-government actions in support of the current political regime is increasing. The format of peaceful ‘opposition’ assemblies has commonly been changed. Such assemblies are pointedly illegal, brief, covered only by independent media, and in most cases participants are anonymous (wearing masks) or non-public. Such actions are designed for media effect on the internet, but, as envisioned by participants, they should not be noticeable to law enforcement agencies. Traditional mass opposition rallies, such as the *Chernobyl Way* or the remembrance of the victims of communism rally *Dziady*, are no longer held.

At the same time, criminal prosecution for participation in peaceful assemblies that occurred in 2020 continues on the basis of discovered photographs and films. If, during the search of a personal phone, photographs from the 2020 protests are found, if the person was on the roadway and ‘blocked the movement of vehicles’, the standard charge is under Article 342 of the Criminal Code ‘Organisation and preparation of actions that grossly violate public order, or active participation in them’. As of 23 December 2023, the database of the Human Rights Centre ‘Viasna’ contains 1,711 records of those convicted under Article 342.

## **2) Reduction in the locations in which election mass events not requiring notification to the authorities can be held.**

In December 2023, the list of locations where pickets to collect signatures during elections of deputies to the National Assembly and local councils are prohibited was significantly expanded by decisions of local authorities. Such pickets are able to be held without prior notification to the authorities and without obtaining permits, but the possibility of holding them has now been significantly limited in many cities.

Practice during the election campaign at the end of 2023 has shown that this option is available only for obviously pro-government initiatives.

## **3) Payment rates for the holding of mass events were increased by decision of the Government.**

Government Resolution No. 577 of 2 September 2023 has increased some of the fees required to be paid by organisers of public assemblies.<sup>52</sup> The 2018 amendments to the Law on Mass Events led to the introduction of fixed fees for obligatory services relating

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<sup>52</sup> Resolution No. 577 of 2 September on Amending Resolution of the Council of Ministers of the Republic of Belarus No. 49 of 24 January 2019, National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=C22300577>.

to public assemblies. These services include the payment for policing during mass events meant to protect public order, as well as medical and city cleaning services. Since April 2020, organisers must enter into contracts and pay for such services prior to submitting a request for permission to hold an assembly. The fees have become a significant obstacle to holding peaceful assemblies, as organisers cannot afford to pay large sums of money in order to exercise their rights. Even the submission of a request to hold an assembly becomes almost impossible, as it depends on the prior consent of the internal affairs authority.

In September 2023, the Government further reviewed the fees for policing services and increased the fee for mass events with more than 5,000 participants. While the precise amount to be paid by organisers depends on the number of participants, the Resolution has also more than tripled the fee for gatherings of up to 10 people and introduced ascending fees for larger gatherings of more than 1,000 people. The fee for police services during events with 11-5,000 participants has not changed. The Resolution further clarifies that the fees apply for each day of an event separately, requiring additional payments for multi-day events. The updated fee to be paid by organisers of mass events for policing services is now according to the following scale, based on the number of participants:

- up to 10 people – 10 basic units (370 BYN/135 EUR)
- from 11 to 100 people – 25 basic units (925 BYN/337 EUR)
- from 101 to 1,000 people – 150 basic units (5,550 BYN/2,021 EUR)
- from 1,001 to 5,000 people – 250 basic units (9,250 BYN/3,368 EUR)
- from 5,001 to 10,000 people – 500 basic units (18,500 BYN/6,735 EUR)
- more than 10,000 people – 600 basic units (22,200 BYN/8,082 EUR)
- + 100 basic values (3,700 BYN/1,347 EUR) for every additional 10,000 people

This means, for example, that organisers of a rally of 1,500 people will first be obliged to have a contract requiring them to pay 3,360 EUR to law enforcement. Only then can they submit a request for permission for the rally to the local authorities, with no guarantee that this will be granted. This is in addition to similar contracts signed in advance with medical and city cleaning services.

#### Specific recommendations under Area 4:

- Bring the legislation and practice of state regulation of peaceful assemblies in line with human rights standards, including General Comment No. 37 of the UN Human Rights Committee and the OSCE Guidelines on Freedom of Peaceful Assembly, so that restrictions do not make the exercise of the right to freedom of peaceful assemblies by citizens (including foreigners and minors) and CSOs impossible;

- Release all political prisoners, provide mechanisms for compensation for violated rights, conduct rehabilitation and pay compensation. Stop political repression and politically-motivated criminal cases;
- Cooperate with the UN bodies (the Human Rights Committee, Special Rapporteurs and Working Groups) to restore violated rights and prevent violations;
- Establish legal and practical conditions that allow the conducting of counter-demonstrations and spontaneous rallies; allow peaceful demonstrations in practice and do not disperse them with violence and the arbitrary preventive use of force; introduce a notification procedure for holding assemblies; abolish restrictions on places for assemblies; abolish payment for policing, medical and cleaning services during assemblies;
- Stop the criminalisation of peaceful assemblies and remove the respective articles from the Criminal Code;
- Stop the unfounded and disproportionate use of force against participants and organisers of peaceful protests, as well as torture against arrested protesters; and
- Conduct efficient investigations into torture against participants in peaceful assemblies; bring those responsible for violence by law enforcement agencies to justice.

## 3.5 Right to Participation in Decision-Making

Overall score per area: **2.6/7**

Legislation: **3.1 / 7**

Practice: **2.1/7**

In 2023, the environment for participation in decision-making remained very bad both for CSOs and for citizens. As a result of the amendments to the Constitution in 2021 and 2022, there had been no elections in the country for more than three and a half years and only in November 2023 did the parliamentary and local election campaigns began, with both elections scheduled for 25 February 2024. Meanwhile, alternative voices have been hushed up and sometimes even punished. An atmosphere of fearmongering and mass repression has still induced self-censorship among CSOs and led to the minimisation of any forms of interaction with the authorities, especially when it came to participation in decision-making. Expressing criticism of the Government, the president, judges, individual officials, individual decisions of the authorities, or of the political regime as a whole, even in the forms stipulated by law (petitions, public hearings, assemblies organised by the authorities), can become grounds for prosecution, including criminal prosecution. Legislative initiatives implemented in 2023 were taken into account in last year's scores, but new practical barriers to participation in decision-making contributed to the overall decrease in score in this area from 2.7 in 2022 to 2.6 in 2023.

**1) The liquidation of public associations, independent trade unions and political parties in 2021-2023 has dealt a heavy blow to the opportunities for public participation in the preparation and conduct of elections.**

The closure of the remaining opposition political parties because of the requirement for spontaneous re-registration within three months deprived the political opposition of the opportunity to nominate party candidates for parliament and local councils. As a result of liquidation, many CSOs also lost the right to nominate representatives to election commissions.

The formation of district and territorial election commissions in December 2023 occurred without the participation of the opposition and independent CSOs. While previously, CSOs were simply denied inclusion in the commissions, now there is no one to be nominated to them except for GONGOs and the public associations most loyal to the state (all political parties and public associations previously active in this area were liquidated, and the few public associations that have maintained a legal status try to stay as far away from politics as possible).<sup>53</sup>

A similar situation exists in relation to election observation. Since 2008, the 'Human Rights Defenders for Free Elections' campaign unites the efforts of the oldest human rights organisations in Belarus, the Human Rights Centre 'Viasna' and the Belarusian Helsinki Committee, to monitor the observance of the electoral rights of Belarusian citizens. However, in practice, observation can now only be carried out by pro-government trade unions and public associations. The long-standing observation campaign 'Human Rights Defenders for Free Elections' has stated that it refuses to observe the elections (among others, one of the stated reasons are repression and liquidation of the Belarusian Helsinki Committee in 2021) and will only monitor the electoral process without nominating observers to polling stations and election commissions. However, this did not protect this public initiative from repression. In December, a campaign of searches, detentions and interrogations swept across Belarus against individuals who had previously been observers, especially during the controversial presidential election of 2020 or within the 'Human Rights Defenders for Free Elections' campaign.

**2) Downward trend in the number of regulatory legal acts that are submitted for open public discussion on the official 'Legal Forum' resource.**

As before, the most controversial and crucial draft laws are examined and adopted without public discussion. The increase in the average number of comments to draft laws was achieved primarily due to the traditionally high interest in the Draft Law on

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<sup>53</sup> The second analytical report by the 'Human Rights Defenders for Free Elections' campaign: 'Analytical report on the formation of territorial and district election commissions'.

the Treatment of Animals (which has failed to be successfully developed for more than 20 years, since 2001) which received 1,835 comments out of a total of 2,841 comments to all drafts submitted for discussion on the ‘Legal Forum’, as well as high-impact draft amendments to the laws on housing which received 562 comments.<sup>54</sup>

Table 1: Public interest in the discussion of draft laws and by-laws.

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of legislative acts brought up for public online discussion on the ‘Legal Forum’	1	1	6	12	26	76	165	195	178	133	92
Number of comments	3	1	34	488	709	1,557	3,021	7,437	1,166	881	2841
Average number of comments to a draft	3	1	5.6	40.6	27.2	20.4	18.3	38.1	6.5	6.6	30,8

Very little time is provided for discussion of draft laws; it is insufficient to prepare high-quality proposals. For example, public discussion of the draft law introducing amendments to the Law on Freedom of Conscience and Religious Organisations started on 5 June and lasted only 10 days.<sup>55</sup>

**3) The Law on the Essentials of Civil Society has cemented the unequal status of CSOs in terms of their access to decision-making.**

The Law on the Essentials of Civil Society, adopted on 14 February 2023, singles out CSOs with a special status as those endowed with the right to interact with the state and has legislated the segregation of civil society into two parts. First, GONGOs integrated into the political system and having maximum influence (these are state trade unions included on a special list by the Ministry of Justice and four public associations that are

<sup>54</sup> Legal Forum, <https://forumpravo.by/publicnoe-obsuzhdenie-proektov-npa/forum15/>.

<sup>55</sup> Despite the short timeframe, the largest Belarusian religious denominations, including the Conference of Catholic Bishops and the Department for Relations with Secular Education of the Belarusian Orthodox Church, submitted extensive comments on the bill. However, in total, only 18 comments were received on this controversial draft law that affects the interests of millions of believers and provides for the re-registration of thousands of churches and religious communities, <https://forumpravo.by/publicnoe-obsuzhdenie-proektov-npa/forum15/17160-proekt-zakona-respubliki-belarus- o-svobode-sovesti-i-religioznykh-organizatsiyakh>.

absolutely loyal to the state authorities) and, secondly, other CSOs that are weak and have limited access to information.

**4) Access to official statistics in Belarus becomes increasingly closed, which negatively affects opportunities for access to information and influence on decision-making.**

For example, there is no information in open sources about the number of newly registered public associations and foundations. The official digest of statistical information 'Belarus in Numbers', published annually by the National Statistics Committee, has 'thinned down' by half over the 10 years since 2012 and contains significantly less data. Much information from the economic sphere becomes classified and inaccessible due to the policy of countering and circumventing economic sanctions imposed on Belarus by the EU, the United States, Switzerland, Canada and other countries.<sup>56</sup>

Specific recommendations under Area 5:

- Extend approaches, regulations and practice applied to participation of CSOs in decision-making on the development of draft normative acts at the local authority level;
- Make all organisational and legal forms of CSO equal in their participation in decision-making, using the term 'non-commercial organisations' instead of 'public associations' in the respective legislation;
- Establish a practice whereby all affected CSOs are invited to consultations on draft legislative acts, instead of the practice of state bodies deciding to invite only certain CSOs;
- Extend the list of normative legal acts which are subject to public discussions, making it obligatory to also bring up drafts affecting civil rights and freedoms for public discussion;
- Publish actual draft laws online in a constantly-updated form in accordance with the stages of the current legislative process of that draft law;
- Restore the registration of CSOs that were forcibly liquidated during 2020-2022, including those dissolved by the courts or local administrations' decisions;
- Establish in law a mechanism for the consideration and harmonisation of the opinions of the involved stakeholders which had been submitted by them in the framework of public discussions of draft regulatory and legal acts; and
- Enshrine in legislation the obligation to introduce draft laws to the National Assembly and to adopt laws, government orders and edicts of the president in both state languages – Russian and Belarusian.

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<sup>56</sup> By Resolution of 6 April 2022 No. 209, the Government of Belarus approved the list of foreign states committing unfriendly actions against Belarusian legal entities and (or) individuals. The compiling of such a list was intended as one of the retaliatory measures to counter the sanctions pressure exerted on the country.

## 3.6 Freedom of Expression

Overall score per area: **1.8/7**

Legislation: **2.4 /7** | Practice: **1.2 /7**

Belarus is no longer one of the many autocracies where the media are treated badly, but it is one of the most dangerous countries for journalists in the world (only the People's Republic of China and Myanmar have more imprisoned journalists). Freedom of expression is restricted in Belarus for individuals and for media and journalists, as well as for CSOs and other public entities. The legislation on combating extremism, especially the articles of the Criminal Code, as well as criminal liability for libel, insults against the president and state officials and hate speech ('inciting hostility or discord'), have become a powerful means of restricting and prosecuting the expression of 'incorrect thoughts' that do not correspond to the state ideology and political course of the Government. Not only are public statements and publications on social networks persecuted, but also private conversations, pictures on smartphones, stickers in private apartments, tattoos on the body, books in private libraries, private correspondence on instant messengers, etc. The list of texts, books, songs, websites, pages on social networks and images that are prohibited under the law on extremism is extensive. Many journalists and bloggers have been sentenced to long terms of imprisonment and are kept in prison, the most popular social and political media have moved abroad and do not have legal reporters inside the country, and those that conduct interviews with such media can be sentenced to years in prison. Conduct of opinion polls on social and political topics requires special accreditation by the agency under the Academy of Sciences.<sup>57</sup> There is a ban on publishing results of such opinion polls conducted without accreditation, violation of which is punished with a fine. Publications in the media on behalf of unregistered CSOs are forbidden. Whistleblowers are harshly prosecuted, including multi-year prison sentences under the 'Treason' Article 356 of the Criminal Code. The overall score in this area decreased from 1.9 in 2022 to 1.8 in 2023 in connection with the continued and increased abuse of anti-extremist powers, including to block websites and penalise the dissemination of links to them.

### **1) People in Belarus are deprived of freedom of speech both at the legislative level and in practice.**

According to the Belarusian Association of Journalists, as of the end of 2023, there were 32 journalists in prison. Aliaksandr Mantsevich, editor of the 'Rehiyanalnaya Gazeta' was convicted on 3 November 2023 of discrediting the Republic of Belarus (Article 369<sup>1</sup> of the Criminal Code) and was sentenced to four years in prison.

In addition, hundreds of people are in prison for their publications on the internet (especially on social networks) criticising the government, the president or judges, for

<sup>57</sup> On the eve of the parliamentary elections scheduled for 25 February 2024, the Central Election Commission reported that 12 entities have accreditation, among which 6 are state-owned educational institutions and 2 are state-owned mass media, <https://rec.gov.by/uploads/files/Calendar/opr.pdf>.



interviews to independent foreign media or quoting them, as well as for desecration of the national flag. At least two of these prisoners died in prison in 2023. The painter Ales Pushkin, sentenced to five years in prison for an exhibition of paintings, died in prison in the summer of 2023, allegedly due to untimely provision of medical care.<sup>58</sup> The BPF Party member Mikalai Klimovich, sentenced to a year in prison for publishing a caricature of President Lukashenko on his personal blog, died in May 2023.<sup>59</sup> There is a separate stream of prisoners made up of the authors of anti-war statements criticising the Russian army for the invasion of Ukraine. The latter are also convicted under Article 130 of the Criminal Code for ‘incitement of social hatred or discord’.

## **2) The Index of Extremist Materials compiled on the basis of court decisions is growing.**

As of 25 December 2023, the Index comprised 834 pages, 352 of which (or 42 per cent of the total volume) were decisions made in 2023.<sup>60</sup> The number of court decisions recognising materials as extremist was unprecedented in 2023 (see Table 2). Moreover, one decision can either cover one object or list dozens of websites and pages on social networks, including those administered from abroad. These can be both physical objects and files (e.g., flags, patches, badges, the contents of private postal items), books, pages on social networks, YouTube videos or channels, newspaper issues, images, symbols, or even songs. A total of 1,721 information products have been recognised as ‘extremist materials’ by the courts during 2023.<sup>61</sup> The Index includes the websites and social networks of many CSOs, including the Human Rights Centre ‘Viasna’, Ecodom, the Belarusian Investigative Center, the United Civil Party, the Country for Life, the Belarusian Association of Workers, as well as numerous informal communities on social networks and the media. The practice of adding private pages of individuals on social networks to the Index of Extremist Materials is growing.

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<sup>58</sup> New York Times, ‘Ales Pushkin, Dissident Artist in Belarus, Is Dead in Prison at 57’, <https://www.nytimes.com/2023/07/25/world/europe/ales-pushkin-dead.html>.

<sup>59</sup> Alarabiya News, ‘Belarusian man jailed over caricature dies in prison: Rights group’, <https://english.alarabiya.net/News/world/2023/05/07/Belarusian-man-jailed-over-caricature-dies-in-prison-Rights-group>.

<sup>60</sup> Republican List of Extremist Materials – Ministry of Information of the Republic of Belarus, <http://www.mininform.gov.by/documents/respublikanskiy-spisok-ekstremistskikh-materialov/>.

<sup>61</sup> Overview of Combating ‘Extremism’ in Belarus October-December 2023 by Human Constanta, <https://d91b3qyw8jhbr.cloudfront.net/obzor-borby-s-ekstremizmom-v-belarusi-za-oktyabr-dekabr-2023/>.

Table 2: Dynamics of court decisions on the recognition of information materials as 'extremist' (According to the Ministry of Information's official Index of Extremist Materials)

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of court decisions declaring materials 'extremist'	2	1	0	1	0	1	2	13	38	37	39	22	19	426	637	<b>889</b>

**3) Recognition of CSOs, media outlets and informal communities on social networks as extremist formations is carried out without recourse to the courts, but carries severe consequences for individuals who are members of these groups or contribute to their activities.**

In practice, any even indirect involvement in such activities can become grounds for criminal prosecution and harsh prison sentences.

According to official data, more than 150 media outlets and blogs (as well as communities in social networks and on CSOs' websites) became 'extremist formations' following decisions by the KGB RB and the Ministry of Internal Affairs, including, in 2023, the Belarusian Association of Journalists (with 1,500 members) and Human Rights Centre 'Viasna', as well as the youth CSO 'Belarusian Students' Association' and the think tank SYMPA. Current and former members of these organisations, as well as any individuals assisting them, have become at risk of criminal prosecution.

It is important to emphasize that an interview to a media outlet included in the Index of Extremist Formations is interpreted as 'promotion of extremist activity' and can be punished under Article 361<sup>4</sup> of the Criminal Code with up to six years of imprisonment (and this provision is applied in practice).

There are currently 21 media entities on the Index<sup>62</sup> (the number of CSOs on the list at the end of 2023 is lower). In 2023, 62 'extremist formations' were recognised by the KGB RB and the Ministry of Internal Affairs (in 2022, this indicator stood at 80), 11 of which are media outlets.<sup>63</sup> The majority of the most reputable independent media outlets

<sup>62</sup> Ministry of Internal Affairs of the Republic of Belarus, <https://www.mvd.gov.by/ru/news/8642>.

<sup>63</sup> Human Rights Centre 'Viasna', 'In 2023, 62 'extremist groups' were recognised, 11 of them are media outlets', 10 January 2024.

based outside of Belarus are included in the Index (but not all of them - some are only recognised by the courts as extremist materials). However, the recognition of the Ranak TV channel from the city of Svietlahorsk as an extremist formation stands out considering that the channel was de facto loyal to the current government media outlet. Ranak TV was recognised as an 'extremist formation' by a decision of the Ministry of Internal Affairs on 5 September 2023. Prior to this, on 11 June 2023, eight employees of Ranak TV were detained in Svietlahorsk. The actual reason for these arrests could have been due to footage of the explosion at the Svietlahorsk Pulp and Paper Mill which killed three people. Protocols were drawn up against all detained journalists under Part 2 of Article 19.11 of the Code of Administrative Offences. The men were sentenced to 7 days of administrative arrest; the women were sentenced to fines of 25 base values.

In 2023, according to the Belarusian Association of Journalists, a total of 46 cases of arrests of journalists and 34 searches was recorded, many of which were accompanied by confiscation of equipment. In general, these indicators are decreasing simply due to the disappearance of the independent press in Belarus itself, but in this context the authorities are putting pressure on individuals with previous connections to independent media. This can be seen in the raids on former employees of independent media that took place in the city of Mogilev from 5-6 December 2023 in the homes of 36 activists of *Mogilev.media* and 6TV, both recognised as extremist formations.

#### **4) Sources of alternative information online are blocked and replaced by hijacking.**

A new trend in 2023 is forced domain takedown, whereby new content from sources loyal to the authorities is placed on the website of a popular alternative resource. Sometimes this happens by pressuring editorial offices to hand over a domain for free or for a nominal fee. For example, this occurred at the popular newspaper *Narodnaya Volya*, whose website was sold and then reconfigured against the will of the editorial board. The Belarusian Association of Journalists has stated that there have been several such cases in 2023. However, the most large-scale case of forced confiscation of domain names was recorded on 29 December 2023. On that date, a whole conglomerate of the formerly most popular website domain names that were CSO-friendly and widely covered the work of civil society (including *tut.by*, the most popular website for the two decades before 2021) was taken away from the owner on technical grounds under the pretext of clarifying the owner's identity (the owner was requested to report to an office in Minsk in person to fix the violations and show their passport).<sup>64</sup> Earlier in the spring of 2023, using the same scheme, the Operational and Analytical Centre deprived the

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<sup>64</sup> Statement of 29 December 2023 by Eugenia Chernyavskaya, successor of web-conglomerate founder Yuri Zisser, <https://www.facebook.com/jenny.chernyavskaya/posts/pfbid0ckR6mMV4QWNQuXq4E3GpkfSWHd3yWb2oebgtRv9efJcTFsLHghpxVhiWprGvc7tXl>.

independent publication *ex-Press.by* and at least one other media outlet of their domain names without a court decision.<sup>65</sup>

The non-judiciary blocking of websites, bans on websites and pages in social networks and on Telegram messenger that are recognised as extremist, putting obstacles in the way of the publishing and distribution of newspapers, criminal prosecution (including imprisonment) of journalists and bloggers, beatings of journalists by law enforcement, as well as threats to media editorial staff with demands to close their media, are all used as restrictions on freedom of speech. In particular, the Office for European Expertise and Communication and the Belarusian Helsinki Committee have reported restrictions on access to their pages in 2023, but many other CSOs' websites had been blocked earlier. A distributed denial-of-service (DDoS) attack was carried out on the websites of the BPF Party in the summer of 2023 (even before its official liquidation) and of the Public Association 'BPF Revival' which led to blocking of these websites.

New Year's Eve 2023 was a striking example of how access to online information resources is arbitrarily blocked for millions of people. On the late evening of 31 December 2023, Belarus blocked access to YouTube on its territory, allegedly to prevent citizens from listening to the opposition leader's greetings instead of the New Year's Eve address of the acting president.<sup>66</sup>

Overall, the Belarusian authorities have pursued a deliberate policy of discrediting CSOs in the media. For example, the newspaper of the presidential administration *Belarus Segodnya* published a number of articles aimed at discrediting human rights CSOs during the trial of the Nobel Peace Prize laureate Ales Bialiatski and his colleagues from the Human Rights Centre 'Viasna'. There has also been a constant discrediting of CSOs through official statements at various levels.

There are alarming allegations that the Government plans to explore the possibility of developing and implementing a new system for checking network packets by content (dpi system) in 2024-2025 to regulate and filter traffic in order to effectively counter the use of anonymisers, VPNs and proxy servers for illegal purposes in the Belarusian segment of the internet.<sup>67</sup> This could potentially put an end to the use of these tools to

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<sup>65</sup> REFORM.by, <https://reform.by/oac-lishil-domena-nezavisimoe-izdanie-ex-press-bu>.

<sup>66</sup> *Metrobey.pro*, 'On New Year's Eve, YouTube was blocked in Belarus. Can the authorities really 'turn it off?', <https://metrobey.pro/en/v-belarusi-zablokirovali-youtube/>.

<sup>67</sup> As reported by the Belarusian Association of Journalists reports, referring to the (not officially) published 'Comprehensive Action Plan for Effective Measures to Counter Cybercrime, Prevent its Commitment, Increase Digital Literacy of the Population for 2024-2025' (<https://sh10.zhlobinedu.by/wp-content/uploads/2023/11/202-378-%D0%9A%D0%BE%D0%BC%D0%BF%D0%BB%D0%B5%D0%BA%D1%81%D0%BD%D1%8B%D0%B9-%D0%BF%D0%BB%D0%B0%D0%BD.pdf>) which, according to sources, was approved by the Government in November 2023. See 'Belarus decides to fight VPNs to limit access to independent sources of information', 24 January 2024, by the Belarussian Association of Journalists.

**overcome censorship and close the opportunities to view websites that are previously blocked by the Government.**

Specific recommendations under Area 6:

- The release of all individuals recognised as political prisoners, including journalists, bloggers and people sentenced to prison for defamatory articles of the Criminal Code, the review and lifting of all sentences imposed on them and pending decisions on their liability, to pay adequate compensation to all political prisoners, and to stop all politically-motivated criminal cases;
- Make laws and the practice of state regulation of freedom of speech congruent with human rights standards, including the UN Human Rights Committee's General Comment No. 34 on Article 19 of the ICCPR (2011), so that restrictions do not make exercise of the right to freedom of expression impossible for citizens (including foreign and underage ones) and CSOs;
- Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
- Abolish the 'ideological vertical' as contradicting the Constitution of Belarus and human rights principles;
- Carry out the de-monopolisation of electronic media and the privatisation of printed media;
- Funding of media from the state budget should be allocated through transparent competition and open calls;
- State TV channels should become public service television, in respect of which a special law should be adopted;
- Exclude liability for defamation (Article 188), defamation of the president (Article 367), insult of the president (Article 368), insult of a state official (Article 369), discrediting the Republic of Belarus (Article 369<sup>1</sup>), public calls for organising or holding illegal assemblies, rallies, street marches, demonstrations or picketing, or involving persons in participating in such mass events (Article 369<sup>3</sup>), insult against a judge (Article 391) and calls for restrictive measures (i.e., sanctions) and other actions aimed at harming the national security of the Republic of Belarus (Article 361) from the Criminal Code, and stop the practice of abusing Article 130 of the Criminal Code ('Incitement of racial, national, religious or other social hatred or discord') against authors of anti-war statements or critics of the authorities;
- Eliminate legislative possibilities and the practice of internet disruption and the blocking of websites without court decisions, the system of website blocking and termination of newspaper publishing should be reformed and under the sole jurisdiction of the courts; and
- Abolish obligatory accreditation of pollsters for conducting opinion polls.

## 3.7 Right to Privacy

Overall score per area: **2.4/7**

Legislation: **3.3 /7** | Practice: **1.5/7**

Implementation of the national legislation on personal data protection has been taking place in Belarus since 2020, which is generally in line with the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR) and in line with the regulations on information privacy in the EU. The National Center for Personal Data Protection is developing methodological recommendations in this area, including those focused on the specifics of CSO work. However, the protection of personal data does not take into account the possibility of interference by government agencies, which are endowed with significant rights to collect information and control private life and extensively practice collection, processing and usage of private information, including the abuse of criminal investigations for the purpose of political persecution. Political prosecution bodies not only broadly broadcast footage of secret video surveillance, but also practice mass 'confessions' in front of a video camera by those arrested, including those who have been tortured. Compulsory outings of LGBTQ+ persons are practiced. Refusals to provide access to private correspondence or a smartphone are interpreted as disobeying law enforcement and, in practice, are often punished with arrests. Opposition political groups are afraid to disclose personal data of their members to the authorities - this was particularly evident during the re-registration of political parties, during which none of the opposition parties provided a list of their members. The main threats to the privacy of CSOs in Belarus are currently related to violations of privacy in the electronic sphere, including in matters of donations. Nowadays, at least seven state agencies, i.e. almost all law enforcement authorities of Belarus, have permanent access to surveillance camera recordings. The scores in Legislation and Practice in this area deteriorated, causing a deterioration in the overall score from 2.5 in 2022 to 2.4 in 2023.

- 1) In 2023, persecution of citizens for donations to political and human rights initiatives made in previous years has significantly increased in Belarus.**

Political persecution bodies practice mass summons for interrogation of persons who have made donations to CSOs recognised as 'extremist formations'. This mainly relates to donations made in 2020-2021, but also to those made in subsequent years. Donors are requested to formally admit criminal guilt and pay informal tenfold (or greater) indemnities to social infrastructure facilities (e.g., hospitals and orphanages) or to CSOs that are close to the authorities, which is not stipulated by law. Those who refuse are prosecuted and convicted under either Article 361<sup>4</sup> ('Promoting extremist activities') which provides for punishment of up to six years in prison, or Article 361<sup>2</sup> ('Financing

extremist activities'), which provides for punishment of up to five years in prison.<sup>68</sup> Data from Belarusian banks on previous transfers are used as evidence. In particular, in practice in 2023, any donations made through Facebook in the summer/autumn of 2020 are automatically interpreted as addressed to 'extremists', since this was the period in which human rights initiatives and mutual assistance groups for those arrested collected the largest amounts of transfers, specifically via Facebook. Also, the results of inspection of people's personal electronic devices can be used as evidence, while data on donations often cannot be deleted in accordance with the tech company Meta's policies or due to a refusal to delete information about a donation by an arbitrary decision of a Meta moderator (however, there is at least one known case in which Meta moderators have agreed to remove sensitive content about donations).

Donations to the Belarusian military formation in the Armed Forces of Ukraine (the so-called 'Kalinouski Regiment') constitute a separate ground for prosecution. Donors identified by the security agencies face criminal prosecution without the possibility of paying a 'ransom' (as is often possible in the cases of 2020-2021 donations to recipients now recognised as extremist groups).

**2) State media use information about activists' private lives to discredit CSOs.**

This is especially typical for media coverage of court and criminal prosecution cases at the pre-trial stage, when state media actually act on the same team with law enforcement agencies. For example, state television channels, together with the KGB RB, participate in provocations against opposition activists abroad, and publish materials from cultivations and data obtained from moles planted in CSOs. The widespread dissemination of personal data to discredit activists of the Human Rights Centre 'Viasna' during the trial of its leaders in the winter/spring of 2023 should be noted as a separate case.

**3) Abuse of investigative powers and searches are carried out in large numbers and publicly to put pressure on activists.**

Searches are filmed and video footage of them is published with discreditable comments on state and bloggers' channels. This is often accompanied by coerced confessions on camera by arrested activists. CSO activists who have moved abroad are also subject to searches - in their absence, searches are carried out in their private

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<sup>68</sup> The Human Rights Centre 'Viasna' reported in its message to the UN Special Rapporteur on Freedom of Association that it is aware of 47 people in custody for such donations, 30 of which were convicted under Article 361<sup>2</sup> of the Criminal Code for 'financing extremist activities'. 60 people were convicted for donations and Vadzim Khraskom, sentenced to three years' in prison for donations, died in prison on 13 January 2024 – see more from Human Rights Centre 'Viasna'.

homes, as well as in the homes of their relatives and former colleagues in the organisation. For example, at the end of 2023, with the start of the election campaign, mass searches in the homes of activists based abroad from the Coordination Council of the political opposition took place in Belarus, while their property in Belarus, especially real estate such as land and apartments, was seized. Vadzim Saranchukou, the deputy chairperson of the BPF Party in exile, was subject to search and real estate seizure as well. Mass searches took place on 5-6 December in the homes of media activists from *Mogilev.media* and 6TV (recognised as ‘extremist formations’) members of the Human Rights Centre ‘Viasna’, former members of the Movement for Freedom that was liquidated in 2021, and others. According to the Belarusian Association of Journalists, there were 34 searches of journalists’ homes in 2023.

Torture with the aim of obtaining a password for a smartphone during arrests is broadly used. The presence of opposition websites or applications being among a person’s viewed data resources can become grounds for arrest and for criminal prosecution. Seizure of all data storage and devices is broadly used during both searches in homes and during arrests. In the investigation of politically-motivated cases, the authorities hunt out protest coordinators, forcibly de-anonymising and arresting the administrators of local protest chats and channels. There have been more than one hundred known cases in which people were detained after examination of their phones upon entry into Belarus on the discovery of photographs from protests or subscriptions to ‘extremist resources’. Photos taken during the 2020 protests, especially those on private data storage devices and social networks, became one of the main reasons for criminal prosecution under Article 342 of the Criminal Code for participation in those protests.

During searches and investigative actions, an extensive volume of personal data of an extremely wide range of individuals is often collected in a deliberate manner. This was evident in particular on 27 December 2023, when a company that runs Polish language courses was asked for all of its client lists and ordered to cease its operations and self-liquidate.<sup>69</sup>

The Ministry of Internal Affairs has created a unified database of participants in unauthorised demonstrations on the basis of resolutions aimed at bringing participants to administrative and criminal justice (known as the *BESporiadki* database). This system can automatically prepare reports on ‘rioters’. In 2023, there were reports about the development of this practice and integration of control databases with access to banking transactions and databases of service providers, such as taxi and delivery companies, with this access being available to law enforcement officers in real time.

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<sup>69</sup> ‘The director of the Polish courses where the security forces came a week ago: ‘They demand lists of all clients’ (Дырэктар польскіх курсаў, куды тыдзень таму прыйшлі сілавікі: «Яны патрабуюць сьпісы ўсіх кліентаў»).



### Specific recommendations under Area 7:

- Establish sanctions for unlawful acts relating to the collection, processing, provision and imparting of personal data that are appropriate and connected with the real threats from the state, also introducing specific norms of liability for state agencies' officials;
- Ensure sufficient guarantees that the legislation on protection of personal data will not be used to restrict the activities of journalists and CSOs, but is aimed at the protection of public interests;
- Stop publishing data on private life that has come to the knowledge of government agencies as part of programmes to discredit and stigmatise individuals, especially CSO leaders and activists;
- Close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents; and
- Put an end to non-selective electronic surveillance of citizens, including the interception of CSOs' internet communications without court orders.

## 3.8 State Duty to Protect

Overall score per area: **1.9/7**

Legislation: **2.5/7**

Practice: **1.2/7**

Scoring in this area is deteriorating in line with previously identified trends, as the state not only represses and continues to suppress CSOs, but also deprives them of existing protection mechanisms, including the elimination of defence attorneys' independence and access to international human rights mechanisms. The state does not protect CSOs and their activists from forced liquidation by decisions of government agencies, from repression, from slanderous attacks through propaganda, or from interference of government bodies in the internal affairs of CSOs and the private lives of people. Laws against extremism have become one of the important mechanisms of persecution applied both against CSO activists and against any other people who disagree with the policies of the authorities. AML/CTF regulations have become the basis for the liquidation of CSOs and the blocking of bank accounts of activists and politicians. The overall score in this Area, as well as the scores for Legislation and Practice, remained the same.

### 1) **Belarus continues to leave international human rights mechanisms.**

Since 8 February 2023, Belarusians have lost the right to submit individual appeals to the UN Human Rights Committee relating to violations of their rights guaranteed by the International Covenant on Civil and Political Rights (ICCPR). This happened due to Belarus' denunciation of the first Optional Protocol to the Covenant in 2022.

Belarus has stopped participating in many mechanisms of the OSCE, for example the Moscow Mechanism (launched in the spring of 2023)<sup>70</sup> and the Human Dimension Conferences in the autumn of 2023, also by not inviting an OSCE mission to observe the election campaign which commenced in November 2023.

**2) In 2023, human rights activist Nasta Loika was sentenced for publishing a report on abuses by the authorities during investigation of extremism cases.**

On 20 June 2023, the Minsk City Court passed a verdict in the case of human rights activist Anastasiya (Nasta) Loika. The political prisoner was sentenced to seven years of imprisonment under Part 3 of Article 130 of the Criminal Code ('inciting social hatred'). These accusations are based on the contribution Loika made in 2018 to a report that assessed human rights violations by law enforcement officers against the anarchist community in Belarus: 'Persecution of anarchists, anti-fascists, leftists and social activists in Belarus (2017-August 2018)'. According to the Prosecutor's Office, the report allegedly contained a negative assessment of the illegal actions of police officers. The report allegedly incited hatred against a 'professional social group of law enforcement officers'. Human rights activists say that this interpretation of the Article does not comply with international human rights standards, as evidenced by the practice of international judicial bodies. The trial was held behind closed doors and, as such, the precise details and Loika's position in court are unknown. Loika was first detained on 6 September 2022. The human rights defender was initially released but was soon arrested again following a house search. A 'repentance video' of Loika then appeared on pro-government Telegram channels, in which she 'confesses' to allegedly 'receiving funding from foreign organisations'.

**3) A law allowing filing of individual constitutional complaints was adopted.**

According to the amendments to the Constitution adopted in 2022, the notion of an individual constitutional complaint emerged in Belarus - before, only some government entities had the right to file complaints to the Constitutional Court. The implementation of this mechanism was consolidated on 17 July 2023 by the adoption of the amendments to the Laws on Issues of Constitutional Proceedings. A mechanism has emerged that directly provides for the opportunity for citizens to initiate assessment of the constitutionality of laws without such 'intermediaries' as other government agencies.<sup>71</sup> However, only citizens were endowed with the right to file an individual complaint - CSOs and other legal entities cannot file such a complaint to defend their own or public interests. Moreover, within the context of constitutional litigation, public

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<sup>70</sup> OSCE Moscow Mechanism, 'Report on the serious threat to the OSCE human dimension in Belarus since 5 November 2020', 11 May 2023, <https://www.osce.org/odihr/543240>.

<sup>71</sup> Right to Defence, 'Constitutional complaint in Belarus. Is it possible to file it and does it make sense?' (in Belarusian), [https://www.defendersbelarus.org/constitucionnaja\\_zhaloba](https://www.defendersbelarus.org/constitucionnaja_zhaloba).

associations are completely deprived even of the status of a public representative, which gives them the right to express their opinion in general civil courts up to the Supreme Court of Belarus according to Article 78 of the Code of Civil Procedure of Belarus. The new mechanism of the constitutional complaint can only be used in respect of laws and other regulations applied in particular cases after 1 October 2023.

Specific recommendations under Area 8:

- Introduce the possibility for CSOs to appeal against any action of state bodies in court, which, in their opinion, violates their rights or the rights of their members, including to the Constitutional Court;
- Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
- Prosecute persons who have committed targeted and politically-motivated actions to eliminate freedom of association under Article 194 of the Criminal Code ('the obstruction of the lawful activities of public associations'); and Introduce the risk-based approach to the legislation on AML/CTF, as well as stop assessment of CSOs' financial transactions' compliance with their charters as a criterion for relating financial transactions to those requiring special control.

## 3.9 State Support

Overall score per area: **2.4/7**

Legislation: **2.8 / 7** | Practice: **1.9/7**

In 2023, some mechanisms for state support to CSOs on a competitive basis came into force and started to be implemented; the relevant acts of local authorities have been adopted. It is noteworthy that these mechanisms will already be available for state funding in 2024 to informal initiatives, but not to registered CSOs. Some of these mechanisms were tested in 2022. Despite the discussion of the Law on Volunteering since 2019, this draft has not been submitted for official consideration by legislators. At the same time, certain regulations use the notion of a volunteer in legislative practice. State support for CSOs has been underdeveloped and the scores in this area for law and for practice remain the same as in 2022.

### **1) State funding of civil initiatives enshrined in the Law on Local Government and Self-Government in 2023.**

A positive change was the legislative consolidation in 2023 of mechanisms for financial support from the budget on a competitive basis for local civic initiatives. On 21 October 2023, amendments to the Law on Local Government and Self-Government came into force in Belarus, which enshrined in law the mechanism for state support of civic

initiatives at the local level, resembling participatory budgeting.<sup>72</sup> Civic initiatives are defined as activities aimed at improving the quality of life of the resident population, including the improvement of public land areas, (re)construction of socially significant objects, general prevention of offences, prevention of injuries and deaths of citizens, as well as the resolution of other issues of local significance. The newly introduced Article 36<sup>1</sup> of the Law on Local Government and Self-Government significantly differs from the draft law originally submitted to the National Assembly. In the final version, the Law does not contain quantitative criteria for the group submitting the project, so a request for funding of a civic initiative can be submitted by even one initiator. The dominant role of local authorities has remained unchanged - local councils and their associations have the right to announce call, approve regulations and criteria for support, and to evaluate the proposed projects.

During October-November 2023, all regional local councils adopted new provisions on civic initiatives and announced calls for financial support for local civic initiatives in 2024. According to the draft national budget for 2024, about 600,000 EUR will be allocated from national and local budgets to finance projects of civic initiatives awarded in the 2023 call for implementation in 2024.

A concerning element of the Law is the extremely short timeframe for submitting civic initiative projects to the call. For example, in the Homiel and Mahileu regions, applicants only had two weeks to develop and submit their projects. They also had to raise at least ten per cent of the total budget of the civic initiative from their own resources or other sponsors and this mandatory co-funding requirement is stated in the Law.

Support for local civic initiatives has long been advocated for by CSOs. These changes, however, came at a time when the civil society environment is still marked by mass persecution of people for their civic position and abuse of legal norms against CSOs.

## **2) Starting from 2024, non-profit organisations will no longer be able to file tax returns in hard copy.**

Starting from 1 January 2024, the new edition of the Tax Code will come into force stipulating that non-profit organisations must file tax returns (if the obligation to file them arises). This may only be done electronically; the formerly available option of filing a return in hard copy will be unavailable, even in cases where a minimal amount of information needs to be provided.<sup>73</sup> This change in practice will lead to new costs for

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<sup>72</sup> CSO Meter, 'Belarus: New legislation increases financial support for civic initiatives',

<https://csometer.info/updates/belarus-new-legislation-increases-financial-support-civic-initiatives>.

<sup>73</sup> Belarusian Human Rights House, 'Amendments to tax legislation for non-profit organisations' (in Belarusian),

<https://belhumanrights.house/en/news/instrukciya-lawtrend-predstavlenie-nalogovyh-deklaracij-sushestvennye-izmeneniya-dlya-nko>.

many CSOs due to the need to pay for electronic keys in order to make the electronic filing of tax returns possible.

### **3) Volunteering remains unregulated at the legislative level.**

In Belarus, there is no special law on the engagement of volunteer activities or any kind of volunteering regulation. At the same time, announcements of competition calls for funding of civic initiatives from the 2024 budget indicate the engagement of volunteers as one of the criteria that will determine support for a civic initiative project.

Specific recommendations under Area 9:

- Abolish the ban on the activities of public associations without registration, set this out in the Law on Public Associations and cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193<sup>1</sup> of the Criminal Code);
- Enshrine provisions on a non-discriminatory and open system for funding of non-state NCOs from the state budget on a competitive basis in legislation, which would stipulate publication of the data on the volumes of the allocated state aid to CSOs, as well as publication of reports by recipient organisations on its use;
- Release all individuals imprisoned for tax violations for civil activities or CSOs' activities and lift all sentences imposed on them and pending decisions on their liability;
- Introduce income tax percentage designation to CSOs for individuals;
- Enshrine in the Law on Accounting and Reporting the possibility for simplified accounting in NCOs by the heads of such organisations without the need to employ a professional accountant and simplify tax reporting for CSOs which do not conduct entrepreneurial business activities both online and on paper; and
- When developing a framework legal regulation on volunteering, it is necessary to provide the opportunity to carry out volunteer activities both in the form of CSOs or business entities and in the form of volunteer initiatives without the formation of a legal entity being necessary.

## 3.10 State-CSO Cooperation

Overall score per area: **2.3/7**

Legislation: **2.7 / 7** | Practice: **1.9 / 7**

Many CSOs deliberately gave up on advocacy and cooperation, or even any form of contact with the authorities in the atmosphere of repression (in rare cases, communications and interactions take place at the non-political level of individual professionals). CSOs' cooperation with the state has also diminished due to the authorities stoking an atmosphere of fear throughout the whole public sphere and through direct decisions to eliminate CSOs from the sphere of interaction with the state. For example, liquidated CSOs were excluded from the Public Councils. In general, the organisations that have been liquidated are unable to interact with the authorities. There are no framework regulations or policy documents on mechanisms for cooperation and consultation between the state and CSOs. Certain plans and programmes approved by the state provide for interaction between state agencies and CSOs during their implementation. The scoring for this area has decreased from 2.4 in 2022 to 2.3 in 2023 primarily due to the legislative consolidation of the division of organisations into those close to the state, which have special rights to interact with government agencies, and all other CSOs that do not enjoy such rights.

- 1) The Law on the Essentials of Civil Society has consolidated varying degrees of cooperation with CSOs depending on the established criteria for the number of members, the aims of their activities and the requirement to have organisational branches in all regions of the country.**

Adopted on 14 February 2023, the Law on the Essentials of Civil Society has consolidated previously existing discriminatory factors and supported the existence of GONGOs that are integrated into the state system and monopolise the representation of public opinion in the process. Up until now, the notion of civil society has not been defined in Belarus at the legislative level, and it has traditionally been understood that it includes all organisational and legal forms of non-state, non-profit legal entities, both membership and non-membership. However, the Law provides a fairly broad definition of 'civil society', but a narrow definition of 'civil society entities', which contains a list of the goals of such organisations and does not include many non-profit organisations. Civil society entities are defined as membership-based associations of citizens or unions of legal entities, regardless of quantitative, territorial or other qualifications, whose statutory activities are aimed at accomplishing the main objectives of interaction between state agencies (organisations) and civil society, specified in Article 4 of the Law (among which, for example, there are none related to human rights or gender equality).

In addition, CSOs with more than 100,000 members and that have branches in all regions, as well as trade union federations that unite at least half of the trade unions, are singled out in a privileged group. The Law provides them with the right to interact with the Government in special forms, primarily through delegating representatives to the All-Belarusian People's Assembly in accordance with the Constitution as amended in 2022 and the Law on the All-Belarusian People's Assembly.<sup>74</sup> In 2023, the Ministry of Justice determined that only five associations that are the ones most loyal to the authorities meet these criteria - the public association 'Belaya Rus', the Belarusian Public Association of Veterans, the BRYU, the Public Association 'Belarusian Women's Union', and the Federation of Trade Unions of Belarus.<sup>75</sup>

It is likely that, for the general population, the adoption of this Law will increase the attractiveness of membership and interaction with CSOs that fall under the notion of 'civil society entities'. At the same time, the Law does not support and discriminates against those CSOs whose goals do not fall within those listed in the Law.

#### Specific recommendation under Area 10:

- Adopt a governmental Order, based on relevant evidence and analysis on cooperation between CSOs and the state with the participation of a wide range of CSOs and state agencies. The Order should also contain an action plan for up to three years which would provide for funding for CSOs as co-complementers of its activities on a competitive basis, as well as with a procedure for regular monitoring, execution assessment and assessment of influence on policies; and
- Expand the notion enshrined in law of 'civil society entities' to all possible forms of non-governmental non-profit organisations, civic initiatives, youth initiatives and other associations of citizens that do not form legal entities, providing them with extensive mechanisms for various forms of interaction with the Government at the national level and with local authorities.

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<sup>74</sup> For more information about the content of this law at the stage of its adoption, see CSO Meter Early Warning update 'Belarus: Draft law 'On Essentials of Civil Society' on Parliament's agenda', <https://csometer.info/updates/belarus-draft-law-essentials-civil-society-parliaments-agenda>.

<sup>75</sup> Ministry of Justice of the Republic of Belarus, [https://minjust.gov.by/directions/compare\\_coverage/](https://minjust.gov.by/directions/compare_coverage/).

## 3.11 Digital Rights

Overall score per area: **2.1/7**

Legislation: **2.6 / 7** | Practice: **1.5 / 7**

The digital rights of Belarusian CSOs and citizens are significantly restricted at both the legislative and practical levels, and, in 2023, a decrease in the scores for Law was recorded from 2.7 in 2022 to 2.6 in 2023. The legislation does not guarantee the existence of a safe and enabling online environment and the protection and exercise of digital rights. Despite the fact that some private providers of internet services have certain benefits and programmes for CSOs, the online exercise of digital freedoms is strictly limited by state regulation and law enforcement's harsh practice of a policy of total control, repression, and the silencing of all independent voices. The law establishes requirements for private digital service providers to provide the possibility to trace, control and intervene into private communications, without the knowledge of the object of the control. Freedom of speech online is restricted by surveillance as well as by searches in providers' offices and in the editorial offices of online media. National security, border control or counter-terrorism laws authorise opaque and unaccountable government requests for data, where the user has no knowledge or right to remedy. Measures to fight cybercrime, disinformation, hate speech/incitement to violence and terrorism are widely used to limit digital rights. Imprisonment for clicking 'like' or 'share' on social media continues to be a common practice. Many CSO websites are blocked by decisions of the Prosecutor's Office and the Ministry of Information. Many websites of government agencies (including the Ministry of Justice as a regulatory institution for non-profit organisations and lists of extremist formations) are blocked for access from abroad. In 2022-2023, due to the Belarusian Government's support for the Russian invasion of Ukraine, the owners of many online tools closed access (or legal updates) to users from Belarus, including cybersecurity and privacy software for CSOs.

### **1) The law has reduced the opportunities for online filing of complaints and other appeals to government agencies.**

The opportunities for online petitions have narrowed for both citizens and legal entities, including CSOs. With the entry into force on 2 January 2023 of amendments to the Law on Appeals of Citizens and Legal Entities dated 28 June 2022, applicants can file electronic appeals to government agencies and other state organisations only through a unified (integrated) national state information system for recording and processing of such appeals (<https://обращения.бел>). This means that regular email appeals will not be considered in compliance with the requirements and guarantees regarding the timing and procedure for consideration established by law.

### **2) The amendments to the Law on Public Associations have established the possibility for online filing of documents with the justice agencies (for registration of public associations, amendments to a charter, as well as annual reports).**



The updated version of the Law on Public Associations has not changed the mechanism for registration of public associations - in fact, it remains just as complex, requiring the submission of a large number of documents to the registration authority and making it possible for the authority to refuse registration of any public association.

At the same time, the new Law has established the opportunity to submit documents for state registration of a public association, union, amendments and (or) additions to their charters not only in person or by post, but also by sending an electronic document. However, this regulation does not actually translate to fully-fledged online registration, since the list of documents required for registration includes a list of founders which must contain the handwritten signatures of citizens so it can practically be submitted only in hard copy. It is also separately mentioned that charters and appendices to charters must be submitted to the relevant registration authority in hard copy.

Documents for state registration of an organisational branch of a public association can also be submitted in person, by post or online. According to the amendments, annual reports can also be submitted to the registration authority not only through personal submission and by post, but also in electronic form.

The amendments to the Tax Code, which will come into force on 1 January 2024, also represent an example of poor regulation, since they deprive CSOs of the opportunity to choose between filing tax returns in hard copy or online. From now on, information from CSOs to the tax authorities must be filed online only, which will require the purchase of an electronic key and additional costs even for CSOs that are not engaged in entrepreneurial or other economic activities.

### **3) The possibilities for surveillance and law enforcement interference in banking transactions and other online services have increased significantly.**

The Edict of the President No. 270 of 29 August 2023 introduces new measures to counteract unauthorised payment transactions.<sup>76</sup> According to the Edict, the National Bank is obliged to transmit information to law enforcement about any payment that raises the suspicions of the authorities. Monitoring and transfer of information will apparently be done automatically by the National Bank's Automated System of Processing of Incidents (ASOI). The Edict will come into force in March 2024, but it is already known that law enforcement agencies will have access to data that are subject

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<sup>76</sup> Edict No. 270 on Amending the Edict of the President of the Republic of Belarus, which makes amendments to Edict of the President of the Republic of Belarus No. 414 of 16 October 2018 on Improving Non-Cash Payments, National Legal Internet Portal of the Republic of Belarus, <https://president.gov.by/bucket/assets/uploads/documents/2023/270uk.pdf>.

to banking confidentiality, information on unauthorised transfers (including electronic money) and suspicious payments. The Prosecutor's Office, state security bodies, the Ministry of Internal Affairs, investigative bodies and the Operational and Analytical Centre will have access to the ASOI.

This Edict continues the trend, established by the Edict of the President No. 368 of 18 October 2022, according to which the KGB RB and the Operational and Analytical Centre received direct and real-time non-stop access to databases and information systems of internet resources in Belarus for the purpose of operational and investigative activities. All websites, to which they point, are obliged to install a system, which will give law enforcement direct access (this includes online providers of products and services, including internet of things, geolocation, delivery etc.).<sup>77</sup> The main part of this Edict and its approved 'Regulation on the procedure for interactions between telecommunications operators, telecommunications service providers and owners of internet resources with operative and investigative bodies' entered into force on 21 January 2023.

#### **4) The Government abolished the last of the restrictions put in place due to the Covid-19 pandemic, affecting CSOs' registration.**

From May 2020 until December 2023, the procedure for offline registration of two legal forms of CSO (institutions and unions of legal entities) has been restricted regarding one of the earliest technical steps in the registration process - the verification and confirmation of the organisation's name. Due to the Covid-19 pandemic, it has been possible to go through the procedure for approval of the entity name only online or by post, but not in-person. No pandemic state of emergency was declared in Belarus, and all measures in response to Covid-19 had been cancelled previously in 2022-2023. Despite the intention of this restriction on name verification being stated as temporary, a special government decision on the cancellation of the suspension has been adopted only now.

This measure was introduced by the Resolution of the Council of Ministers of 22 May 2020, No. 305 ('On measures to combat the spread of infection caused by COVID-19') and abolished by Resolution of the Council of Ministers of 22 December 2023, No. 933.<sup>78</sup> Name approval by post or online also remains possible.

The procedure for CSO name approval is a purely technical check to ensure that the names of newly-registered CSOs are not identical to those of already existing

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<sup>77</sup> Edict No. 368 of 18 October 2022 'on the interaction of telecommunication operators, telecommunication service providers, and owners of Internet resources with bodies carrying out operational-search activities', National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=P32200368&p1=1&p5=0>.

<sup>78</sup> Resolution of the Council of Ministers of 22 December 2023, No. 933, National Legal Internet Portal of the Republic of Belarus, <https://pravo.by/document/?guid=12551&p0=C22300933>.

organisations. In practice, however, the authorities misuse it as a pretext to block unwanted initiatives and as a real barrier to register new CSOs at this very early stage.

Therefore, one element of the digital gap has now been removed in Belarus: the CSO registration procedure being available online but not available in person. Participation in this procedure in person makes it easier to hear the official's clarifications and to amend the name immediately on the spot.

Specific recommendations under Area 11:

- The release of all individuals imprisoned for tax violations for civil activities or CSOs' activities in crowdfunding or 'financing extremism' and 'financing public disorder', the lifting of all sentences imposed on them and of pending decisions on their liability, and the payment of adequate compensation to all such political prisoners;
- Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
- To close and destroy the Ministry of Internal Affairs' unified database of participants in unauthorised demonstrations (also known as the *BESporiadki* database) and its equivalents;
- Eliminate legislative possibilities for and the practice of internet disruption and the blocking of websites without court decisions; and
- To include the creation of a system of effective digital registration of non-profit organisations (public associations and foundations) in the State Programme 'Digital Development of Belarus', as well as legal and technical facilitation for digital crowdfunding platforms.

## IV. KEY PRIORITIES

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In 2023, the conditions for CSO activities in Belarus continued to deteriorate in accordance with the trends that were established in 2021-2022. The continuation of political repression against citizens and the continuation of the campaign of forced liquidation of CSOs led to a decrease in civil society activity. Taken together, the destruction of independent media inside the country and the stigmatisation of media outlets and some leading CSOs as 'extremist formations' reduced public representation of CSOs inside the country to a minimum and deprived them of the opportunity for advocacy at the national level. Simultaneously, the state has formed its own controlled hierarchy of organisations and initiatives which it recognises as 'civil society', supports financially, ensures favourable conditions for and provides special channels for representing its interests and its relations with the state. The banning of all opposition political parties in 2023 formalised a new political reality for Belarus, in which there is now no room for the public expression of an alternative view of government policies.

The suspension of political persecution, the restoration of opportunities for the legal existence of the opposition, independent media and previously liquidated CSOs, and the abolishment of hierarchical inequality of civil society actors are the key changes for the environment for CSOs in Belarus to be properly assessed by the CSO Meter indicators.

The following key priorities identified by this report aim to stop the pogrom on civil society in Belarus, overcome the negative impacts of repression, and restore the basic conditions under which CSOs' activities are possible. The state should:

1. Release all individuals recognised as political prisoners and stop all politically-motivated criminal cases and investigations;
2. Abolish the Law on the Countering of Extremism and all by-laws adopted under it, especially the Index of Extremist Formations and the Index of Extremist Materials;
3. Cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193<sup>1</sup> of the Criminal Code) and abolish the ban on the activities of public associations without registration;
4. Stop the practice of forced liquidation of CSOs and restore real opportunities to operate for those organisations previously forced liquidated in 2020-2023, including public associations, foundations and private institutions, trade unions and their independent associations, and opposition political parties;

5. Cease all forms of repression and discrimination against protesters, representatives of the opposition and CSOs, including mass civil and criminal prosecution, abuse of investigative powers, searches, seizures of data and communication devices, fines, arrests, the freezing of assets, and forced public disclosure in the media (including social media) of personal data during investigations or arrests;
6. Eliminate legislative possibilities and the practice of internet disruption and the blocking of websites without court decisions; and
7. Cease the misuse of AML/CTF legislation and investigative powers in hate speech crimes to restrict freedom of expression and freedom of thought, as well as to restrict access to funding for charities and human rights and humanitarian CSOs.

Only after the above priority steps are taken will it be possible to report any positive implementation of the previous recommendations of the CSO Meter Reports for Belarus (2021 and 2022 editions) and the additional recommendations laid out in this report.

# V. METHODOLOGY

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The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in 11 different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

ECNL has worked with the methodology experts RESIS since 2020 on adapting the CSO Meter methodology package to enable both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for this model was consulted on and tested with the extended regional CSO Meter Hub via email and an online event. With the updated comparison model, we aim to (i) assess the environment for civil society in each of the 11 areas; (ii) enable tracking of developments/progress over the years per country; and (iii) compare the environments regionally.

The country partners, together with other CSOs part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established Advisory Boards in each country, composed of expert representatives of key local stakeholders. The members of the Boards have two main tasks: to review the narrative reports and to assign scores for every Standard based on the narrative reports.

The current report covers the period from January to December 2023.

## Monitoring process

The empirical basis of this report has been data from the consultative activities of CSO Meter experts, as well as the results of their previous advocacy and monitoring work in the field of freedom of association and the legal conditions for the activities of NCOs and initiatives, as well as analysis of advocacy outcomes.

In the course of this research, online meetings and interviews with CSO leaders were organised and the authors analysed legislation and current law enforcement practices. The members of the country Advisory Board have made a special contribution to the improvement of the research methodology to adjust it to the Belarusian reality. Namely, the report was discussed among 14 representatives of CSOs, including CSO Meter Hub members from Belarus. Three discussions were organised with experts in a

hybrid format in Gdańsk, Poland (September 2023), Tbilisi, Georgia (October 2023) and in Vilnius, Lithuania (December 2023).

For the Belarusian part of the research, data from the two sets of expert surveys of Belarusian CSOs were used. The first was held from April-May 2023 with the participation of 55 CSO leaders from the relocated Belarusian civil society and the second took place in November-December 2023 (53 CSO experts participated in the survey, representing 19 clusters of civil society activities, including charity, youth, LGBTQ+, trade unions, human rights, sports, urban development, faith-based organisations, national minorities, protection of consumers' rights and other spheres of CSO operations in Belarus).<sup>79</sup>

In addition, while compiling this report, for secondary analysis, the authors studied 258 publications from human rights organisations, state and independent media, reports from government agencies and other official publications affecting the CSO Meter indicators in Belarus in 2023. Among other things, these include materials from the civil society studies presented at the XI International Congress of Belarusian Studies (Gdańsk, Poland, 22-23 September 2023) within the special section 'Civil Society Studies', as well as other analytical papers, a complete list of which is provided below in the reference list.

## Limitations and increased complexity in studying the state of civil society in Belarus

As a special remark, it is worth emphasising the methodological complexity of studying the state of civil society in Belarus in a situation where not only leading CSOs, but also leading experts and specialists in the areas and indicators covered by the monitoring within the CSO Meter, have left the country. In a situation where Belarus is isolated from the outside world, neither official publications and government statistics (which are often distorted or not published at all for many previously available indicators) nor independent reports (which are now in most cases prepared from abroad, even if their authors are CSOs that formally identified themselves as Belarusian organisations) can be fully relied upon.

As a result, the reliability of data is reduced not only due to intentional or unintentional distortions related to the subjectivity of assessments, but also owing to the narrowing of the scope of empirical data collection and the frequent impossibility of double-checking stated facts with secondary sources (even if they are widely published in the media or the blogosphere).

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<sup>79</sup> The research materials will be released in 2024.

Another methodological difficulty is the lack of inclusion in the indicators of factors directly affecting the environment for CSOs, such as:

- 1) the dropping of the ‘velvet curtain’ and related difficulties in mobility (e.g., inability to obtain visas due to embassy closures);
- 2) the mutual imposition of sanctions between the EU and Belarus, which directly affects capacity to exchange bank transfers and therefore complicates the opportunities for international financial exchanges between CSOs; and
- 3) public acceptance by some CSOs in exile of the acceptance and use of violent and military action to achieve political goals.

The cessation of the practice of public and advocacy campaigns in Belarus, a decrease in the number of requests by Belarusian CSOs for CSO Meter experts’ legal advice, as well as the continuation of the trend first observed in 2020 of the constant reduction of the number of responses to online surveys initiated among CSOs by various research centres and think tanks are indicators of the narrowing of the empirical study base.

By the end of 2023, it has become extremely difficult to find an expert from inside Belarus who will agree to answer the researcher’s questions during an interview, even on condition of anonymity. These fears are not groundless, since a number of researchers have been sentenced to long prison terms in Belarus, and some CSOs and research centres were not only subjected to forced liquidation, but were also included by the authorities in the list of ‘extremist formations’.<sup>80</sup> Therefore, in relation to expert surveys, trustworthy and knowledgeable experts from Belarus are gradually replaced by others who agree to participate in focus groups and interviews with representatives of CSOs from abroad, whose knowledge may be not so deep due to their separation from the situation inside the country.

While analysing monitoring and research materials, an additional complexity now arises due to the fact that data on CSOs inside the country and the data on CSOs that have for a long time been operating from abroad are analysed within the same data array without any separation. Thus, two completely different subjects are uncritically mixed, which distorts the picture of the state of CSOs in Belarus and leads to incorrect conclusions. Methodological difficulties associated with the unavailability of information on the state of civil society, which have previously arisen due to the

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<sup>80</sup> On 12 June 2023, the SYMPA organisation was added to the list of extremist formations by decision of the KGB RB (before liquidation in 2021, registered as the Educational and Research Institution ‘SYMPA Public Administration Research Centre’) which has for many years been an important centre for conducting civil society research, carrying out expert surveys and, after 2020, also publishing reviews on the development of civil society on a semi-annual basis. Since then, publication of this organisation’s materials, interviews within its surveys, training, funding or other assistance in its activities, as well as joining the ranks of its members, can be interpreted as a criminal offence under Articles 361<sup>1</sup>, 361<sup>2</sup>, 361<sup>4</sup> or 361<sup>5</sup> of the Criminal Code of Belarus. The co-founder of this organisation, Tatsiana Kouzina, was sentenced to 10 years in prison and included in the list of persons involved in terrorist activities.



relocation of CSOs, are now aggravated by the fact that many relocated CSOs, for various reasons, are interested in presenting themselves as Belarusian organisations.<sup>81</sup> As a result, during a survey or interview, an organisation that has moved abroad *en bloc* can identify itself as a CSO operating inside Belarus. These factors significantly complicate the ability to compare studies from different sources and reduce the reliability of secondary data evaluation.

This data verification is complicated by the involvement of the Belarusian Government and some parts of Belarusian civil society (in the country and abroad) in various military and non-military aspects of the Ukrainian-Russian conflict. This distorts some CSO Meter indicators and makes it difficult to cross-check different official sources due to both parties' military propaganda and the publication of deliberate fakes as part of the information confrontation between the parties to the conflict.

## Scoring process

The country researchers and the 6 Advisory Board members in Belarus reassessed each standard of the 11 areas of the CSO Meter tool in legislation and practice where change has occurred. Accordingly, scores have increased in cases where progress is shown, and decreases are motivated by certain cases of deterioration. The final score of each standard was then calculated according to a formula in which the researchers' score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent. The score of each area is then calculated as the average value of the final scores of each standard and calculated and rounded with one decimal for presentation purposes. Generally, for the scoring procedure, a 7-point scale is used. The extreme values of the scale are conceived as the most extreme or ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process, and the calculation, please visit <https://csometer.info/>.

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<sup>81</sup> For example, in the survey conducted in late 2022 (published in 2023), 97 per cent of the surveyed Belarusian CSOs claimed that they acted in the interests of Belarusian society, <https://research.lawtrend.org/>.

# VI. REFERENCES

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*Note: The links to some source cannot be provided, since the Belarusian authorities arbitrarily recognised all the information posted on this resource as extremist material. These resources include, among others, links to materials produced by Human Rights CSOs and media outlets, whose courageous journalists struggle selflessly for freedom of speech at the risk of their own personal security.*

## LEGISLATION

- Constitution of the Republic of Belarus of 1994, with subsequent amendments.
- Civil Code of the Republic of Belarus of 7 December 1998, with subsequent amendments.
- Code of Civil Procedure of the Republic of Belarus of 11 January 1999, with subsequent amendments.
- Tax Code of the Republic of Belarus of 19 December 2002, with subsequent amendments.
- Criminal Code the Republic of Belarus of 9 July 1999, with subsequent amendments.
- Electoral Code of the Republic of Belarus of 11 February 2000, with subsequent amendments.
- Code of the Republic of Belarus on Administrative Offences of 21 January 2021, with subsequent amendments.
- Code of the Republic of Belarus on Culture of 20 July 2016, with subsequent amendments.
- Law ‘On Public Associations’ of 4 October 1994, with subsequent amendments.
- Law ‘On Mass Events in the Republic of Belarus’ of 30 December 1997, with subsequent amendments.
- Law ‘On mass media’ of 17 July 2008, with subsequent amendments.
- Law ‘On combating terrorism’ of 3 January 2002, with subsequent amendments.
- Law ‘On normative legal acts’ of 17 July 2018, with subsequent amendments.

- Law ‘On operative-investigative activity’ of 15 July 2015, with subsequent amendments.
- Law ‘On physical culture and sports’ of 4 January 2014, with subsequent amendments.
- Law ‘On the Essentials of Civil Society’ of 14 January 2023.
- Law ‘On the All-Belarusian People’s Assembly’ of 7 February 2023.
- Law ‘On Political Parties’ of 4 October 1994, with subsequent amendments.
- Law ‘On Freedom of Conscience and Religious Organisations’ from 17 December 1992, with subsequent amendments.
- Law on ‘National State Public Associations’ of 19 July 2006, with subsequent amendments.
- Law on ‘Local Government and Self-Government’ from 4 January 2010, with subsequent amendments.
- Law ‘On Issues of Constitutional Proceedings’ of 8 January 2014, with subsequent amendments.
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- Law ‘On the Republican Budget for 2023’ of 30 December 2022.
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- Law ‘On Countering Extremism’ of 4 January 2007, with subsequent amendments.
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- Law ‘On the Fundamentals of State Youth Policy’ of 7 December 2009, with subsequent amendments.
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