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Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights House Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Continued human rights violations in the Republic of Belarus**

Since the 19 December 2010 presidential elections, authorities have been harshly repressing human rights defenders and their organisations, lawyers, journalists, and any person who raises a critical voice or shows concern about the human rights situation in Belarus, such as students and citizens peacefully assembling.

On 21 February 2011, the High Commissioner for Human Rights gave the following assessment: “Acts of harassment and political and administrative pressure against human rights defenders and NGOs also continue, including arrests, interrogation, office raids, confiscation of material, and intimidation designed to prevent contact with international and intergovernmental organizations. [...] I have stressed before to the Belarus Government and I shall say it again: states have a duty to protect human rights defenders, journalists and civil society from threats, retaliation or pressure stemming from the legitimate exercise of their work in defence of human rights.”

The human rights situation in the Republic of Belarus has deteriorated since the Human Rights Council adopted the resolution at its 17th session (May-June 2011).

The Government persists with repressive policies against human rights defenders and their organisations, and against lawyers, journalists, political activists, and any person who raises a critical voice or shows concern about the human rights situation in the Republic of Belarus, such as students or other citizens protesting.

In November 2011, the United Nations Committee against Torture expressed its deep concern about numerous and consistent allegations of serious acts of intimidation, reprisals and threats against human rights defenders and journalists, as well as the lack of information provided on any investigations into such allegations.¹

The right of freedom of peaceful assembly is severely limited in the Republic of Belarus. Expressing what you believe in, out on the streets, without feeling fear and being threatened is close to impossible. Organising a demonstration often means taking a risk of facing severe retaliation and punishment.

Although the Human Rights Council called upon Belarusian authorities to respect freedom of peaceful assembly and to bring relevant legislation into line with its international obligations under human rights law, Belarus’ authorities have adopted even more restrictive measures in this regard.

Silent protests and the simple act of clapping hands in the streets are nowadays punishable by law. In July 2011 solely, about 400 people who were applauding as a sign of protest were arrested, which underlines that massive detentions still take place in Belarus.

Under the new legislation adopted in November 2011, organising a demonstration or simply a gathering without prior and explicit consent is a criminal offense. As mentioned in the press release of United Nations special rapporteurs on 24 November 2011, “disseminating information, including through the social media, without any permission for assembly is also strictly prohibited, as well as any public call for initiating assemblies.”

** Human Rights House Belarus in exile - Vilnius, an NGO without consultative status, also shares the views expressed in this statement.

¹ UN Committee against Torture, Concluding Observations on Belarus, 07.12.2011, § 25 (UN Doc.: CAT/C/BLR/CO/4).

In practice, requests to organise peaceful assemblies are constantly turned down while organizers face criminal liability for holding unauthorized assemblies and/or for disseminating any information related to it.

The Republic of Belarus has also undertaken to even further restrict the right to freedom of association in the law; authorities are gradually increasing the criminalisation of activities of non-governmental organisations.

Recent amendments to the Law on Public Associations forbid NGOs to have accounts in foreign banks. Moreover, the mentioned amendments criminalize foreign assistance, including numerous procedural rules and an increasing number of restrictions, which infringement leads to criminal liability as well as liquidation. Article 369.2 of the Criminal Code reads “[...] meetings, protests, streets marches, demonstration [...] conduct of seminars and other forms of political and propaganda activities amongst population, [...] are penalized by penalty or detention up to 3 months, or prison up to 2 years”.

Human rights NGOs in Belarus are systematically denied registration, which is a precondition to operate openly and legally in the country. Since the loss of its registration in 2003, “Viasna” was forced to continue its activities underground. Hence, the organization could not hold a bank account in Belarus, and was denied the right to receive official funding for its activities inside the country. The United Nations Human Rights Committee has ruled that the authorities were under an obligation to re-register Viasna and further prevent violations of the right to freedom of association guaranteed under the International Covenant on Civil and Political Rights ratified by Belarus (View Bialiatski et al. vs. Belarus of 24 July 2007)². This was not respected.

The arbitrary use of registration policies in Belarus is widespread. Registered NGOs fear to lose their registration if they speak out publicly.

The Belarusian Helsinki Committee (BHC) was officially warned of losing its registration due to its communication sent on 12 January 2011 to the United Nations Special Rapporteur on the Independence of Lawyers and Judges. The Ministry of Justice issued the warning with the following information: “The Ministry of Justice considers the information shared by the Belarusian Helsinki Committee with international organizations as biased against efforts of the state and law enforcement agencies to support the stability and security in the country, and a deliberate attempt to distort the real situation and to discredit the Republic of Belarus internationally.”³ BHC was warned again on 6 June 2011 for violation of tax law. Although BHC appealed both warnings, authorities undertake to close down the organisation.

In December 2011, the Belarusian Republican Human Rights LGBT organisation was refused registration, based on the grounds that one birthdate was incorrect and that the spelling of the names of 2 of the 61 organisation founders was incorrect. The government therefore considers that the information submitted for registration is unfaithful.

On the subject of the changes made to the Law on Public Associations, The Special Rapporteur on the Rights to Freedoms of Peaceful Assembly and of Association, Maina Kiai stated that “these amendments could constitute a direct affront to the exercise of fundamental civil and political rights which are at the core of any democratic society, such as the rights to assembly and to associate freely.”⁴

² See: <http://humanrightshouse.org/Articles/11201.html>.

³ See the warning as published on the Ministry’s website: http://www.minjust.by/ru/site_menu/news/?id=744.

⁴ Press release of United Nations special rapporteurs, 24.11.2011

One of the consequences of such laws and the practices of authorities is the incarceration of Ales Bialiatski, head of the Human Rights Centre “Viasna”, a prominent and internationally known human rights defender. In November 2011 Bialiatski was sentenced to 4.5 years imprisonment in a high security colony and to the confiscation of his properties.⁵ The detention and imprisonment of Ales Bialiatski illustrates again how seriously threatened freedom of association and freedom of expression are in Belarus. Ales Bialiatski was forced to develop his legitimate human rights activities underground.

Ales Bialiatski’s name enlarges today the already long list of political prisoners in the Republic of Belarus, including human rights activists and former presidential candidates; many of them arrested after crackdowns on demonstrations following the December 2010 presidential elections. During 2011 some political prisoners were released, often only after having signed appeals for pardon.

The United Nations Committee against Torture considered in November 2011 serious allegations of torture and ill-treatment against detainees and prisoners, and the lack of medical assistance provided to them. The reports included the cases of Andrei Sannikov and Vladimir Neklyaev, both former presidential candidates, who were arrested by officers in plain clothes making use of a disproportionate use of force, tortured in pretrial detention by masked men, denied of their rights to prompt access to a lawyer, to contact their families and to receive medical treatment, despite injuries following their arrests.

An additional area of concern in the Republic of Belarus is the lack of independence of the judiciary. The Committee against Torture expressed its deep concern about the persistent and prevailing pattern of failure of officials to conduct prompt, impartial and full investigations into the allegations of torture and ill-treatment and to prosecute alleged perpetrators.⁶

In 2011, lawyers actively engaged in protection of human rights and human rights defenders have been disbarred, threatened and deprived of access to their clients in Belarus. The policy of persecution and pressure against lawyers has a chilling effect on other lawyers. Since December 2010, seven Belarusian lawyers, who provided legal counsel in the politically motivated cases, were disbarred.

We call upon Belarusian authorities:

- To immediately and unconditionally release and rehabilitate all political prisoners.
- To revoke the recent restrictive amendments to the Belarusian legislation further limiting the rights to freedom of peaceful assembly and association, as well as other provisions in the legislation limiting the citizens’ rights to freedom of association and peaceful assembly;
- To re-register the Human Rights Centre Viasna, as ordered by the United Nations Human Rights Committee, and further let human rights and other civil society organisations fulfil their work without fearing retaliation and to abolish legislation criminalising human rights activities, including article 193.1 of the Criminal Code;
- To ensure unhampered operations of human rights defenders, journalists, civic activists and their organisations and take measures to safeguard the citizens’ rights to freedom of association and peaceful assembly;

⁵ See: <http://humanrightshouse.org/Articles/17537.html>

⁶ UN Committee against Torture, Concluding Observations on Belarus, 07.12.2011, § 12 (UN Doc.: CAT/C/BLR/CO/4).

- To respect the independence of the judiciary and to thoroughly investigate and revise sentences against lawyers disbarred since December 2010 presidential elections.
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