

Universal Periodic Review on Belarus

Second Cycle, 4 May 2015

Within the framework of the Universal Periodic Review of Human Rights (UPR), Belarus was under Review at the UPR Working Group on 4th May. This is the second UPR cycle for Belarus. The country reported on implementation of recommendations received during the first UPR cycle in 2010.

The position of Belarus was presented by the official delegation headed by the **Deputy Foreign Minister Valiancin Rybakou** with the participation of an impressive range of officials from the Ministries of Justice, Health, Labor and Social Protection, Information, Internal Affairs, Department of Corrections and the Supreme Court. They noted the importance of the UPR procedures for Belarus, spoke about the measures taken to implement the recommendations made in 2010 and answered questions from other States.

Among the topics that were raised during the interactive dialogue of the Belarusian delegation with other states, the greatest attention was paid to the issue of the death penalty, the necessity of signing by Belarus the UN Convention on the Rights of Persons with Disabilities, the status of the International Criminal Court and other international instruments on human rights, the issue of political prisoners, the prevention of torture, freedom of assembly and association, freedom of speech. A number of countries (Mexico, Canada) expressed concern about the threat of deterioration of the human rights situation during the future presidential elections in 2015.

A large number of countries, such as Ghana, Peru, Romania, the Republic of Korea, Latvia, Slovenia, Montenegro, Norway, Lithuania, Belgium and others, urged Belarus to cooperate with the UN human rights mechanisms. For instance, they recommended to invite special rapporteurs to Belarus (in particular, the Special Rapporteur on the situation of human rights in Belarus), implement the recommendations of the UN Human Rights Committee, present up to date reports to UN treaty bodies.

The issue of freedom of association was raised by a number of countries. The recommendation to abolish the criminalization of activities of unregistered organizations (Article 193.1 of the Criminal Code) were made, among others, by the United States, Switzerland, the Czech Republic, Denmark, Lithuania, Poland. Also, proposals on improving the legal environment for non-profit organizations were voiced by Canada, Estonia, Germany, India, Ireland, Italy, Japan, Croatia, Luxembourg, the Netherlands and others.

Several countries, such as Luxembourg, Lithuania, the Czech Republic, Denmark, Norway, Poland, Canada, Australia, urged the Belarusian authorities to immediately release political prisoners and discontinue the practice of persecution and putting pressure on independent journalists and human rights defenders.

Follow up Side Event

Immediately after the official Review, a side event "[Freedom of association and legal conditions for civil society organizations in Belarus](#)" was held. During this event representatives of Belarusian NGOs evaluated the report given by the official Minsk. Three Belarusian activists, Olga Smolianko (Director of Legal transformation center), Yury Chavusau (Legal Advisor from Assembly of pro-democratic NGOs), and Valianstsin

Stefanovic (Deputy Chairman of Human Rights Center “Viasna”) spoke to shed light on the restrictive measures and laws that have been adopted by the Belarusian government further impeding the right to freedom of association.

Belarusian non-governmental organizations stressed the importance of preserving the institution of the UN Special Rapporteur on Belarus. They also suggested that those recommendations given by other governments to Belarus which were as specific as possible, during the second UPR round needed now to be focused to push authorities to pursue real steps in changing law and law enforcement practice. The speakers also recalled the existence of political prisoners in the country and drew attention to the trial against Mikalaj Statkievic which was held on the day of the side event.

Yury Chavusau mainly discussed how much has changed since the first cycle of the UPR session in 2010. In 2010, there was much hope that the recommendations would improve the human rights situation in the country but following the presidential elections a series of human rights violations became evident. Thus, there is much concern about the upcoming presidential election next November. In addition there has not been any genuine attempt to implement the recommendations. The freedom of association issue, especially, showed no positive change since it has been addressed in 2010. The government constantly threatens unregistered civil society organizations of criminal prosecution and refuses to extend an invitation to the Special Rapporteur of human rights and the freedom of association. The main problem lies in the fact that the real goals of the recommendations were not attained. The procedure of the national report and the consultation with CSOs are ineffective, as most organizations were not invited during the preparation of the 2nd UPR cycle.

Olga Smolianko discussed the registration of CSOs. Although Belarus in 2010 had received many recommendations regarding freedom of association, there were still problems in the legal framework and legal practice making it very difficult for the registration of public associations. The government takes note of tiny technical issues in the application such as mistakes in phone numbers or illegible texts and rejects the application. Many organizations had tried to express their concern on article 193.1 of the criminal code that stipulates that unregistered organizations can be criminally prosecuted. Since the first cycle of the UPR, some changes were made such as simplifying the registration procedure but there were no real attempts to rewrite the law to change and provide a positive environment for public associations. Furthermore in 2011, a new article in the criminal code, which criminalized the receipt of foreign aid and the general financing issue, was introduced. Only NGOs that have received support from the government could receive legal foreign donations. There are also problems with internal national donations. For example, Belarusian businesses cannot support activities related to human rights. Smolianko firmly stated that the recommendations proposed within the session must be very specific as opposed to general in order to determine whether any changes have been made. She also made a comment on the national report prepared through the consultation with CSOs and stated that the consultations were very formal with not much interaction going on. None of the submitted recommendations from the NGOs were taken seriously.

Lastly, **Valiantsin Stefanovic** more specifically highlighted the harassment and threats of CSOs and human rights defenders. He gave a personal account of **Viasna**, which was closed down in 2003 due to a controversial legislation, which controlled the registration and activities of NGOs. Ever since, Viasna had tried to reregister two times, but was turned down on the grounds of minor technical issues. He has individually faced pressure while crossing national borders by the customs who inspected him and his belongings thoroughly. Many activists have been imprisoned and lawyers have lost their licenses because they tried to help

political prisoners. Lastly, the issue of the death penalty shows that there are no real steps to abolish capital punishment especially because the current president is a great supporter of it.

In response to the comments and questions raised by the audience regarding the Special Rapporteur, situation of CSOs in the pre-post presidential elections, media restrictions and the Ukrainian crisis, the three speakers gave explanations to different aspect of the questions.

Chavusau's reply addressed the concerns of the upcoming presidential elections and the issue with the Special Rapporteur. Regarding the funding, although the government may open channels for financial aids from abroad, only the programs that the government favors will be able to receive the funds. Concerning the restrictions on the media, he raised the point that this will be a sensitive issue within the next few years. Media control is not the sole result of the threat of human rights issues, but can result from many other issues that the government is trying to block. The mechanisms to regulate access to the media are actively used to block access to any kind of information.

Smolianko admitted that it is difficult to forecast what steps the government will take in the upcoming presidential elections. However, she urged the audience not to slow down their support. Smolianko drew particular attention to the fact that Belarusian law-enforcement bodies took a decision to deport human rights defender Elena Tonkacheva, the Chairperson of the board of the **Legal Transformation Center**, without the right to return to Belarus for three years. Russian citizen Elena Tonkacheva has been living in Belarus for about 30 years. For 20 years Tonkacheva and her Legal transformation center provided professional legal and expert assistance to non-profit institutions of Belarus, as well as aid in situations when human rights are violated.

Stefanovic commented that human rights defenders are not the only victims during the presidential campaigns but could involve wide groups of people. He also added that the new amendments to the laws on the media are allowing the blocking of websites. If the media collaborates with foreign entities without the permission and the accreditation of the Pakistan, Oaraguay and Algovernment, they can be prosecuted.

On the issue of the Ukrainian crisis, Chavusau said that the current situation is very serious. There are over 60,000 refugees from the eastern region of Ukraine --- now in Belarus. Many civil society organizations are providing aid in the regions of conflict in Ukraine. Stefanovic showed concern on the Russian military presence in Belarus and about the new military base that will be created in the nearest future.

Overall, the event provided in-depth information of the situation in Belarus as opposed to the claims made by the government during the UPR session. Although changes were apparent to a certain extent compared to the first cycle, there is still so much more that needs to be done to develop a positive environment for the activities of CSOs.

The side event, organized by the Global Civil Society Alliance CIVICUS in cooperation with the International Federation for Human Rights, the Human Rights House Foundation and Human Rights Watch was well attended including, over 20 government delegations from the European Union, Finland, Great Britain, Poland, Slovakia, the Czech Republic, Belgium, Romania, Hungary, Lithuania and others.

Adoption of the Draft Report on Belarus by the UPR WG on 8 May

A few days later, on 8 May, the UPR Working Group adopted the Preliminary Report, prepared with the help of the Troika: Pakistan, Paraguay and Algeria, along with the Secretariat. From the 259 recommendations received, Belarus accepted 96, all of them of

very general nature. Further 96 recommendations were deferred for further consultation to the final official adoption at the HRC 30 session in September. These recommendations were specific and dealt with recommendations to improve the situation of CSOs, change of legislation, e.g. abolishment of 193-1, improve electoral laws and also recommendations to abandon forced labour and short term working contracts. A final set of 46 recommendations were flatly rejected which dealt with a moratorium or abolishment of the death penalty, the adoption and/ ratification of the OP on Torture, the Second OP on the ICCPR, the OP on the ICESCR the Rome Statute of the ICC, to cooperate with and get unfettered access of the SR on situations of human rights in Belarus or to release immediately and unconditionally all political prisoners.

The next step in the second UPR round will be to push and convince the Government of Belarus until September to adopt the new set of specific recommendations which they have so far deferred.