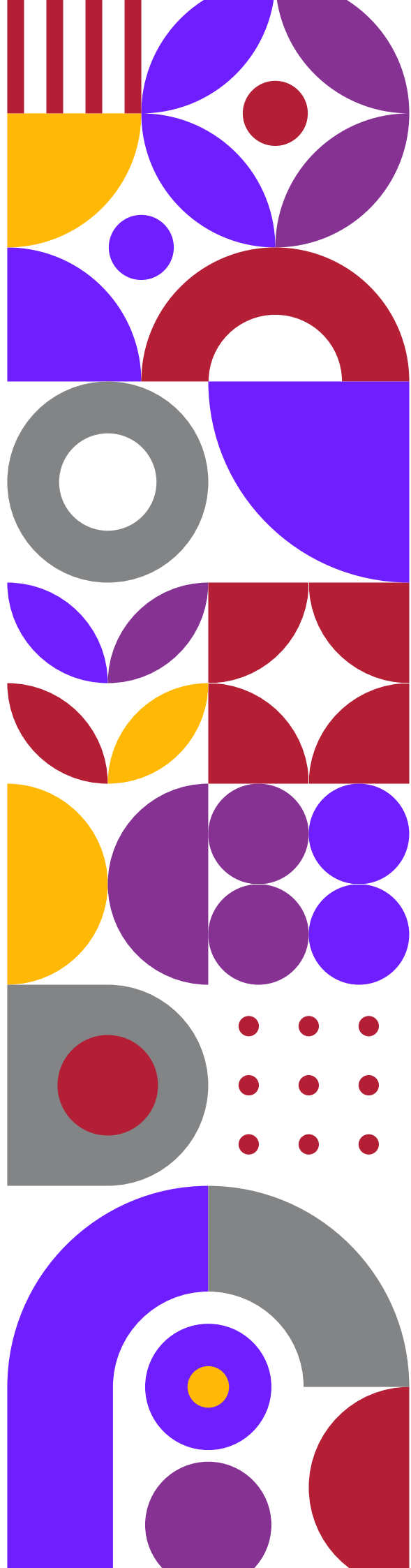


2024 DISCRIMI NATION BELARUS CERD

Report on the Implementation of
International Convention on the
Elimination of All Forms
of Racial Discrimination
by the Republic of Belarus
Prepared by Civil Society Organizations



Report on the Implementation of International Convention on the Elimination of All Forms of Racial Discrimination by the Republic of Belarus Prepared by Civil Society Organizations.

Committee on the Elimination of All Forms of Racial Discrimination,
113th Session

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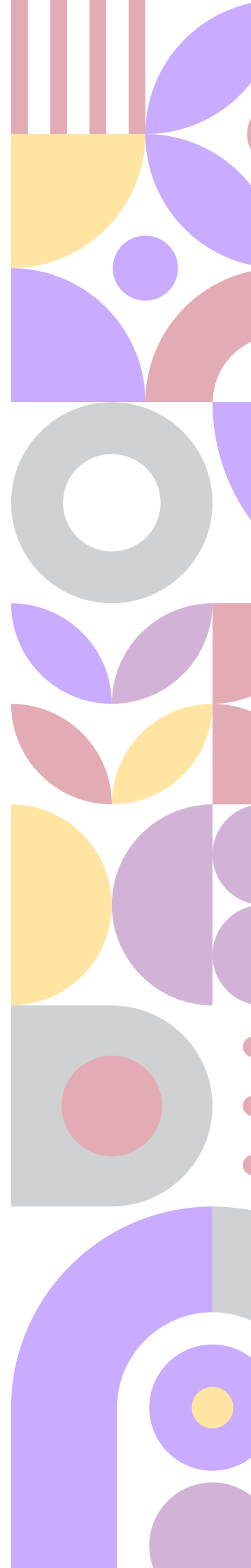
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Introduction

The report was prepared by the Belarusian Helsinki Committee and the human rights organisation Human Constanta, in cooperation with PEN Belarus and the human rights organisation Lawtrend. The report reflects the civil society's position on specific issues regarding Belarus' implementation of obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter – the Convention). The report does not aim to provide exhaustive information on all aspects of compliance with the Convention. It primarily addresses issues highlighted by the Committee on the Elimination of Racial Discrimination (hereinafter – the Committee) in the previous reporting cycle¹, as well as current topics that are of concern to civil society.

General context

After the aggravation of the political crisis following the fraudulent² 2020 presidential elections and subsequent mass protests, the human rights situation in Belarus has deteriorated to an unprecedented and increasingly critical extent. Legislation and practice have severely restricted (in some cases, completely eliminated the opportunity for realisation of³) not only freedoms of assembly, association, expression, and other civil and political rights, but also cultural, social, and economic rights and freedoms. Violations of these rights have become part of systematic and widespread political repression.

As of the preparation of this report, there are 1,415 political prisoners in the country⁴, held in conditions close to torture. By the end of 2023, the human rights centre "Viasna" documented 4,248 individuals sentenced on politically motivated charges⁵. Under various estimates, 200,000 to 500,000 Belarusians have been forced to leave the country due to fears of political persecution⁶. The state has launched a widespread, systematic campaign to persecute protesters and those it considers dissenters⁷. OHCHR, having assessed the evidence of human rights violations gathered over 3 years, found reasonable grounds to believe that the crime against humanity of persecution may have been committed, along with other underlying acts⁸. Moreover, the range of individuals at risk of persecution due to their actual or perceived positions continues to expand, including representatives of national minorities.

1. They are listed in the Committee's concluding observations (CERD/C/BLR/CO/20-23)

2. The national independent observation campaign stated that the electoral process at all its stages contradicted a number of basic international standards for democratic and fair elections and was accompanied by numerous violations not only of these principles, but also of the national legislation; the significance of the violations does not provide grounds to trust the election results announced by the CEC:

<https://elections2020.spring96.org/en/news/100928>

3. See Belarus Human Rights Index, figures for the year 2023 compared to previous periods:

<https://index.belhelcom.org/en>

4. <https://prisoners.spring96.org/en>

5. <https://spring96.org/en/news/113977>, p. 2

6. <https://pace.coe.int/en/news/8955/belarusians-in-exile-an-overlooked-issue-addressed-by-the-parliamentary-assembly>

7. A/78/327, p. 2

8. A/HRC/55/61, para. 52

In the general context of the situation in Belarus with regard to combating racial discrimination, special attention should be paid to the following:

Legislative changes and reduced effectiveness of institutional defence as part of repressive policies after 2020

- There is a gradual legalisation of discrimination in national legislation: inequality is formalised either on the basis of political views or in the context of a consumerist attitude towards an individual and their «usefulness» to the state⁹. Recent trends of such formalisation affecting the rights of national minorities include: a) the legislative abolition of the possibility to open schools and pre-school institutions with native language of education for national minorities (the right to establish specific classes was retained¹⁰); b) possession of foreign residency permits is gradually becoming an independent basis for discrimination: possessing foreign residency permit or other "documents from a foreign state granting rights to benefits and other advantages due to political or religious beliefs or national affiliation" (in practice, authorities particularly focus on holders of the "Pole's Card") serves as an obstacle to employment in various government positions (including those not related to civil service), as well as a basis for increased scrutiny when crossing the state border and for exerting pressure at workplace or in school¹¹. The amendments to the Electoral Code introduced in 2023 restricted citizens with the above-mentioned documents from exercising passive suffrage¹².
- Legislation formally aimed at countering extremism and terrorism, incitement of enmity or discord against any social group, in its current wording, in itself contradicts the international obligations of Belarus, and it is widely and systematically used to eliminate civil space and any actual or perceived dissent in the country¹³.
- Speaking about legislative changes related to discrimination based on nationality, it is important to note that the judicial system, lacking guarantees of independence, functions per se as a repressive mechanism¹⁴. Moreover, utilising even the existing legal remedies, regardless of their effectiveness, is hindered by the active persecution of lawyers who have worked or are willing to provide legal assistance in politically motivated cases, as well as the general erosion of advocacy¹⁵.

9. See Human Rights in Belarus: Key Trends in Public Policy. July – December'23, p. 22:

<https://trends.belhelcom.org/storage/reviews/February2024/jc4HGY7nx1A4rgU3PYzy.pdf>

10. Ibid, p. 12

11. Ibid, p. 12-13

12. Individuals with citizenship of another state or "documents of foreign states granting rights to benefits and advantages in connection with political, religious views or national affiliation" are deprived of the right to be candidates for president and deputies. For more details, see Situation on the eve of the elections*2024. First report of the campaign "Human Rights Defenders for Free Elections":

<https://elections2024.spring96.org/en/news/113507.p.4>

13. A/78/327, p. 2

14. A/77/195, para. 15

15. A/HRC/53/53, para. 11

Narratives forming negative attitudes towards nationals of certain countries, used as part of state propaganda and repressive policies since 2020

- In response to the particularly active, critical position of Belarus' neighbouring states (mainly Poland, Lithuania, and Ukraine) in particular and the EU countries in general, the authorities gradually shifted to the policy of "anti-Westernism"¹⁶, using the mentioned states as an image of an external enemy, accusing them of actions to undermine the sovereignty of Belarus (including their involvement in the organisation of mass peaceful protests in 2020) in the present, as well as of committing crimes against the Belarusian people in the past: the relevant events of the Second World War are declared "genocide of the Belarusian people"¹⁷. This concept has been enshrined in law and is used to impose a certain historical narrative, in which neighbouring nations are accused of participating in the "genocide of the Belarusian people" on the side of the Nazis. Criminal liability has been introduced for denial of the "genocide"¹⁸.
- This narrative serves as a justification for the violation of civil, political and cultural rights of national minorities (primarily Lithuanian and Polish). National organisations are liquidated, representatives of these minorities are individually persecuted, freedom of expression is restricted by labelling information products as "extremist", opportunities for learning national languages are narrowed, minority cultural heritage is destroyed and discriminatory cultural policy, accompanied by Russification, is being implemented (see paras. 17-22)¹⁹. It is particularly important to note that these narratives are actively disseminated to the general public in the media (including through the use of hate speech)²⁰, and are imposed on children at all levels of school education²¹.

Violation of cultural rights of national minorities as part of political repression after 2020

- Participation in cultural life is one of the rights that has been subjected to the most severe restrictions, including those affecting national minorities belonging to countries that have been labelled with the status of "enemy" in the state's repressive ideology (primarily Polish and Lithuanian minorities targeted). The situation regarding the respect for minorities' free access to their own culture, heritage, and other forms of expression, as well as their ability to freely exercise their cultural identity, has worsened according to Belarus Human Rights Index. It deteriorated from a score of 5.4 (out of 10) in 2019 to 1.3 (with a minimum possible score of 1) in 2023. The assessment of cultural diversity protection dropped from 4.5 points to 1.4.²²

16. See Human Rights in Belarus: Key Trends in Public Policy, 2023-2024:

<https://trends.belhelcom.org/storage/reviews/August2023/pzspkGp9ZZ3AHW9XN53D.pdf>, p. 8;

<https://trends.belhelcom.org/storage/reviews/February2024/jc4HGY7nx1A4rgU3PYzy.pdf>, p. 9;

<https://trends.belhelcom.org/storage/reviews/May2024/Ln6pcg0TcStHLNDeUimT.pdf>, p. 8

17. See the Law in Russian: <https://pravo.by/document/?guid=12551&p0=H12200146&p1=1>; legal overview of the law: <https://humanconstanta.org/en/on-the-genocide-of-belarusian-people-legal-overview-of-the-new-law/>

18. Art. 130-2 of the Criminal Code: <https://pravo.by/document/?guid=3871&p0=Hk9900275>

19. <https://penbelarus.org/en/2023/12/26/rusifikacziya-belarusi-sfera-kultury.html>

20. <https://mediaiq.info/ochednoy-novyy-1941-y-manipulyacii-istoriey-v-gossmi>,
<https://mediaiq.info/rech-pospolitaya-velikaya-i-uzhasnaya-sojuznyj-vzglyad-na-istoriju-polshi-i-vkl>

21. See Belarus Human Rights Index, Right to take part in cultural life (2023), p. 5:

https://belhelcom.org/sites/default/files/17_right_to_take_part_in_cultural_life_2023.pdf

22. See Belarus Human Rights Index, The right to take part in cultural life, expert assessments and comments (2019-2023): <https://index.belhelcom.org/en/>

The situation creating grounds for racial discrimination due to the migration crisis on the Belarus-EU border since spring 2021

- In spring 2021, the Belarusian authorities provoked the humanitarian crisis inside the country and on the borders with the EU states (Poland, Lithuania and Latvia), when tens of thousands of third-country nationals arrived and continue to arrive individually or in groups in Belarus to cross the border with the EU and seek international protection²³. At the same time, migrants seeking asylum in the EU continue to arrive in Belarus despite the suspension of the practice of mass issuance of Belarusian visas to citizens of Iran, Iraq and Syria, the organisation of the first evacuation flights from Belarus to facilitate the return of Iraqi citizens to Iraq in November 2021, as well as the return of other migrants to their countries independently or through the International Organisation for Migration (IOM) voluntary return programme²⁴. The humanitarian crisis in Belarus is accompanied by illegal refusals to accept asylum applications by migration services, forcing migrants to cross the border with EU countries outside official border crossings, and complete disregard for the vulnerable situation of migrants by the Belarusian authorities. There are no strategic programmes to support migrants in Belarus, and they are often denied even basic assistance. The situation is exacerbated by harassment, including website blocking and forced liquidation, of relevant organisations that deal with the problems of migrants, asylum seekers and refugees in Belarus.

Discrimination based on nationality as one of the consequences of the war in Ukraine and Belarus's involvement in Russian aggression

- Human rights situation in the country has aggravated due to the full-scale invasion of Ukraine by Russia and the provision of the territory, airspace, and infrastructure of Belarus for Russian military aggression. The political and informational support of the Belarusian authorities for the Russian policy includes accusations of the Ukrainian people and their political leaders of Nazism and fascism, as well as the use of hate speech against Ukrainians²⁵. The state's repressive policy has extended to Ukrainian citizens and individuals of Ukrainian origin (those whose place of birth is listed as Ukraine) within Belarus. This includes enhanced border checks (up to denial of entry into Belarus without explanation), persecution due to alleged "agent activities," and overall increased attention from the KGB. There are also profiling practices targeting individuals of Ukrainian nationality and origin by law enforcement agencies²⁶.

23. <https://humanconstantia.org/gumanitarnyj-krizis>

24. <https://humanconstantia.org/en/2022-humanitarian-crisis-in-belarus-and-at-the-border-with-the-european-union>

25. <https://mediaiq.info/strategiya-i-taktika-belpropagandy-ob-ukraine-konspekt-media-iq-za-god-vojny>,
<https://mediaiq.info/yazyk-vrazhdy-chto-obshchego-u-voyny-v-u>

26. <https://spring96.org/en/news/114922>

i. Efforts to combat discrimination in the international arena and the international obligations of Belarus

1. The domestic and foreign policy crisis, provoked by unlawful actions of the authorities in 2020, has also negatively affected Belarus' cooperation with international organisations and control mechanisms: the state has adopted a course of self-isolation and selective interaction with them²⁷. Specifically, Belarus consistently refuses to cooperate with the Office of the United Nations High Commissioner for Human Rights, to recognize its authority, or to grant it access to the country's territory²⁸. The situation remains the same regarding the Special Rapporteur on Belarus²⁹. In 2022, the authorities denounced the Optional Protocol to the International Covenant on Civil and Political Rights, leaving victims of human rights violations without another remedy³⁰. In the summer of 2022, amid the migration crisis, Belarus granted access to its territory to the Special Rapporteur on the human rights of migrants. However, he was not provided the opportunity to speak with migrants who attempted to cross the Polish-Belarusian border³¹.

2. There is no indication that the State is taking any measures to implement the Durban Declaration and Programme of Action at the domestic level.

3. The State hasn't acceded³², among others, to the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, International Labour Organization Convention No. 189 of 2011 concerning Decent Work for Domestic Workers, which the Committee recommended for ratification. The Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness also remain unratified.

4. Belarus still has not implemented the general **recommendation of a number of treaty bodies**, including the Committee on the Elimination of Racial Discrimination, to develop and adopt anti-discrimination legislation (Human Rights Committee³³, Committee on Economic, Social and Cultural Rights³⁴, Committee on the Elimination of Discrimination against Women³⁵, Committee on the Elimination of Racial Discrimination³⁶).

27. For more details on the situation regarding engagement with international mechanisms, see: Belarus Human Rights Index, General Measures (expert commentaries, 2021-2023): <https://index.belhelcom.org/en/>

28. A/HRC/46/4, para. 3

29. A/78/327, para. 5

30. <https://www.ohchr.org/en/press-releases/2022/11/belarus-withdrawal-individual-complaints-procedure-serious-setback-human>

31. A/HRC/53/26/Add.2, para. 2

32. <https://tbinternet.ohchr.org/layouts/15/TreatyBodyExternal/Countries.aspx>

33. Concluding observations on the fifth periodic report of Belarus (CCPR/C/BLR/5), 2018, paras. 15-16, 20, 22

34. Concluding observations on the combined fourth to sixth periodic reports of Belarus (E/C.12/BLR/4-6), 2013, paras. 8-11

35. Concluding observations on the eighth periodic report of Belarus (CEDAW/C/BLR/8), 2016, paras. 9, 21

36. Concluding observations on the combined twentieth to twenty-third periodic reports of Belarus (CERD/C/BLR/20-23), 2017, para. 24

5. In general, according to human rights defenders, Belarus fails to implement at least **17 recommendations** on combating discrimination out of 29 received in the framework of the third cycle of the **Universal Periodic Review**, nine recommendations are partially implemented. Three recommendations aimed at combating racial discrimination were reported as not being implemented, according to the interim report on the implementation of recommendations ³⁷.

6. In 2016 and 2017, experts from Belarus and the Council of Europe, in cooperation with national minority organisations, the Ministry of Foreign Affairs and other national and local authorities, conducted a comprehensive analysis of Belarusian legislation concerning the use of minority languages traditionally spoken in Belarus (Estonian, German, Latvian, Lithuanian, Polish, Roma, Tatar, Ukrainian and Yiddish). Following this analysis, a specialised working group identified the provisions of the European Charter for Regional or Minority Languages (ECRML) relevant to the situation in Belarus. In 2017, it was concluded that Belarus possesses the main elements (list of commitments) needed for a potential accession to the ECRML and is technically ready for an invitation to join the Charter³⁸. However, Belarus has not taken further steps in this regard, and the practice of eliminating various forms of minority language education after 2020 has undermined all previous achievements.

ii. Domestic application of the Convention. Definition and criminalisation of racial discrimination

7. The legislation of the Republic of Belarus does not contain norms that would define discrimination in accordance with Article 1 of the Convention.

8. In general, the state still has not adopted a separate anti-discrimination law that would provide, at a minimum, a) a conceptual framework with a clear definition of discrimination and its types, b) a mechanism for establishing the facts of discrimination, c) liability for acts of discrimination, d) enshrining the principle of reversal of the burden of proof necessary for the effective consideration of discrimination cases, e) mandatory anti-discrimination review of draft legislative acts for systematic and comprehensive combat against discrimination.

9. Within the framework of the 2016-2019 Interagency Plan for the Implementation of Recommendations adopted by the Republic of Belarus during the Universal Periodic Review and recommendations of UN treaty bodies, the state intended to analyse legislation to assess the feasibility of drafting a comprehensive anti-discrimination law. According to the report on the implementation of activities under this plan published in 2019³⁹:

37. <https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/midtermreports/ngosmidtermreports/UPR-Belarus-mid2023.pdf>

38. <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/promoting-ratification-in-belarus>

39. https://mfa.gov.by/kcfinder/upload/files/GUMDI/national_plan_HR.pdf

- a. The state claims that it has adopted a policy of consolidating in separate acts an explicit list of grounds on which discrimination is prohibited, as well as "developing anti-discrimination provisions concerning specific vulnerable social groups." However, it is important to note that, to date, only two legislative acts contain explicit anti-discrimination provisions (including the very definition of discrimination): the Labour Code (Article 14) and the Law on the Rights of Persons with Disabilities and their Social Integration of 2022 (Article 1);
- b. The State equates criminal liability for incitement to racial, national, religious or other social enmity or discord with liability for violation of the constitutional principle of equality, which, however, does not provide victims of discriminatory attitudes with an effective remedy;
- c. Based on the data of a sociological study, which is not referenced in the report, and the perception that non-discrimination law is associated in society "with the protection of the rights of individuals identifying as sexual minorities or transgender persons", the State concludes that it is *premature* to introduce comprehensive anti-discrimination legislation. Such research findings and conclusions may indicate inadequate diligence on the part of the state in fulfilling its obligations under Article 7 of the Convention.

10. Therefore, as early as 2019, the authorities rejected the idea of developing comprehensive anti-discrimination legislation, citing two main arguments: the sufficiency of existing norms to ensure equality and non-discrimination for specific groups (such as women, people with disabilities) as well as overall, and society's lack of readiness. Since then, information on progress in this matter has been absent. We suggest the Committee take these considerations into account when preparing recommendations and, in particular, clarify that the lack of progress in adopting legislative measures to implement the state's international obligations on eliminating discrimination cannot be justified by references to societal unpreparedness to accept such measures – especially in the absence of adequate informational and educational efforts by the state.

11. Article 22 of the Constitution enshrines the general principle of equality and the right to equal protection of rights and legitimate interests without discrimination. As noted above, the prohibition of discrimination is also mentioned in several acts, including the Labour Code (art. 14), the Law on the Rights of Persons with Disabilities and their Social Integration (art. 1), and the Law on the Foundations of Civil Society (art. 3). Merely enshrining such a prohibition and the principle of equality of citizens in a number of laws is not enough. In the absence of legislation ensuring the possibility of effective, systematic application of even existing norms, regulation remains fragmented and applicable only to a limited range of legal relations.

12. Furthermore, the practical implementation of even the above-mentioned norms is hampered by the lack of effective remedies. In particular, the legislation does not provide procedural conditions for the effective consideration of discrimination cases by the courts, there is no special body to hear such cases, while national courts often avoid considering the merits of discrimination cases. The national human rights institution in accordance with the Paris Principles has also not been established to date.

13. Despite the legislatively enshrined provision allowing for the direct application of norms

from international treaties of the Republic of Belarus, in practice, this still remains unattainable.

14. Based on information available to human rights defenders, no training programmes have been developed on appropriate methods for identifying, recording, investigating and prosecuting racist incidents, hate crimes and hate speech cases, and no relevant training has been provided to law enforcement officers, judges, lawyers and public officials. The methodological recommendations of the Investigative Committee on the investigation of incitement to racial, national, religious or other social enmity or discord available to human rights defenders demonstrate a distorted view of "incitement to enmity", which is in fact equated with "weakening the state", with the consequent possibility of using this article primarily as a tool to combat political opponents (see also paras. 29-32) ⁴⁰.

iii. Independence of judges

15. The situation with judicial independence has deteriorated due to changes in legislation regarding the election and dismissal of certain categories of judges, as well as due to the overall repressive state policy that has reached unprecedented levels since 2020, with courts playing an active role in it.

16. Following the 2022 referendum (which was marked by numerous violations and, according to experts, did not reflect the genuine will of the citizens⁴¹), amendments to the Constitution were adopted. These amendments grant the All-Belarusian People's Assembly (ABPA) the authority to elect the Chairperson, Deputy Chairperson, and judges of the Constitutional Court. They also empower the ABPA to appoint and dismiss the Chairperson, Deputy Chairpersons, and judges of the Supreme Court, based on grounds provided by law. This authority of the ABPA is exercised upon the proposal of the President, previously agreed upon with the Presidium of the ABPA. Doubts regarding the "representative" nature of this body have been expressed by both experts from the Venice Commission⁴² and Belarusian human rights defenders⁴³. Considering the composition of the ABPA (where only 15% of its members are formally elected through direct elections), and the opaque decision-making process with mandatory involvement of President Alexander Lukashenko as the Chairperson of the Presidium of this body, it is questionable whether judicial independence from political control and interference is ensured through the procedures of their appointment and dismissal.

40. <https://humanconstantia.org/tolkovanie-sledstvennym-komitetom-belarusi-norm-o-razzhiganii-rozni-ne-sootnositsya-s-trebovaniyami-mezhdunarodnogo-prava/#i-5>

41. See analytical reports of the expert observation mission of the 2022 referendum: <https://referendum2022.spring96.org/en/news/107864>

42. [European Commission for Democracy Through Law \(Venice Commission\). Belarus. Final Opinion On the Constitutional Reform \(Adopted by the Venice Commission at its 132nd Plenary Session \(Venice, 21-22 October 2022\). para. 58: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)035](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)035)

43. <https://elections2024.spring96.org/en/news/115232>

17. The judicial system remains overall dependent on the executive branch and serves as a tool of the state's repressive policies⁴⁴. The judicial handling of politically motivated cases under current conditions violates several aspects of the right to a fair trial⁴⁵. Many politically motivated cases are considered behind closed doors⁴⁶. The persecution of human rights defenders and individuals attending court sessions for politically motivated cases⁴⁷ effectively renders public monitoring of court proceedings impossible.

iv. Statistical data

18. Since 2020, the accessibility of information, particularly statistical data, has become increasingly problematic. Conducting independent sociological research is currently impossible, and the range of available statistics on crucial areas of public life has been narrowing in recent years. Since 2021, information on COVID-19 mortality rates has been concealed, detailed data on the country's demographic and economic situation, as well as on migration (see para. 36), is unavailable, let alone information on the realisation of social and economic rights for various ethnic/national population groups⁴⁸.

v. Violation of the rights of certain national minorities

v-a. Persecution of Polish, Lithuanian, Ukrainian minorities

19. Since 2020, a crackdown on civil society in Belarus persists, including the mass liquidation of civil society organisations (CSOs)⁴⁹ and the creation of conditions where the open activities of independent CSOs, especially those related to human rights, are practically impossible. The forced liquidation has directly affected CSOs dedicated to preserving and developing national cultures and traditions. In total, at least 204 cultural organisations were liquidated⁵⁰. Between 2021 and 2023, four Lithuanian organisations were liquidated, and at least four more decided to self-liquidate. Out of 11 registered Polish organisations, only two remained; and in 2023 alone, the "Oshmyany Gypsy Community," the Belarusian Romani Association "Roma," the Ukrainian Cultural Center "SICH," the Syrian Community Association, and the International Public Organization of Armenians "Urartu" were forcibly liquidated⁵¹. There are no signs of activity from the Polish Institute in Minsk; its website and social media pages have not been updated since spring or summer 2021⁵². CSOs loyal to the current authorities continue to operate and implement the state's ideology to demonstrate external pluralism.

44. See Belarus Human Rights Index, the Right to a fair trial (expert commentaries for 2021-2023):

<https://index.belhelcom.org/en>

45. <https://spring96.org/en/news/113977>, p. 9

46. Ibid.

47. <https://reform.news/gubopik-zaderzhal-zhitelej-brestchiny-za-sodejstvie-pravozashhitnomu-centru-vjasna>

48. See Belarus Human Rights Index, Right to Freedom of Expression, expert commentaries for 2020-2023 (access to Information component): <https://index.belhelcom.org/en>

49. The number of forcibly liquidated organisations is growing and stands at no less than 1,033 at the end of May 2024: <https://www.lawtrend.org/english/monitoring-of-the-situation-with-freedom-of-association-and-the-status-of-civil-society-organizations-in-the-republic-of-belarus-may-2024>

50. <https://penbelarus.org/en/2023/08/04/manitoryng-parushennya-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-belarus-studzen-cherven-2023-goda.html>

20. The persecution also extends to active representatives of certain national minorities. Within the narrative emphasising the sole correct assessment of events related to World War II⁵³ (see section "General Context"), a criminal case for "rehabilitation of Nazism" was initiated⁵⁴. There was a wave of searches in Polish educational centres across various cities in Belarus, and several activists⁵⁵ of the Union of Poles were detained. Andrzej Poczobut, a member of the Union of Poles and a journalist, was sentenced to 8 years in a penal colony and listed as involved in extremist and terrorist activities. Several searches and detentions of Polish language schools and activists of the Polish minority in Belarus also took place in December 2023. In November 2022, a criminal case was initiated under Article 193-1 of the Criminal Code of Belarus for the unlawful organisation of activities of a public association (the unregistered Union of Poles) and participation therein⁵⁶. Out of 11 registered national cultural and educational non-profit organisations of Poles in Belarus, only 2 remain since the start of mass liquidations in 2021: the Public Association "Polish Community" and the pro-government Union of Poles in Belarus.

21. In 2020-2022, two Polish schools were closed, the only remaining Lithuanian school in the country (the second one was also closed shortly before the start of the school year⁵⁷) was switched to Russian as the language of instruction. As of 2023, legislation no longer provides for the possibility of establishing pre-school, general secondary education institutions with teaching and upbringing in the languages of national minorities. The only format available for their education now is the creation of separate groups and classes within existing institutions. As part of efforts to combat the brain drain abroad, the state is exerting pressure on organisations and courses that provide Polish language learning services⁵⁸.

51. Belarus Human Rights Index, Right to take part in cultural life, expert commentaries: <https://index.belhelcom.org/en>

52. <https://penbelarus.org/en/2022/10/27/bel-manitoryng-parushennyau-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-belarus-studzen-verasen-2022-goda.html>

53. According to the Prosecutor General's Office, "citizens posing as members of the above-mentioned union", since 2018 held in Grodno and Grodno region "a number of illegal mass events to honour members of anti-Soviet gangs that acted during and after the Great Patriotic War, committed robberies, murders of civilian population of Belarus, destruction of property". "Their actions pursued the goals of rehabilitation of Nazism, justification of the genocide of the Belarusian people.": <https://baj.media/en/journalist-andrei-paczobut-detained-72-hours-part-case-incitement-hatred/>; for more detailed information about the persecution of individual representatives of the Union of Poles see <https://penbelarus.org/en/2023/03/03/rus-pravo-na-kulturu-belarus-2022.html>, <https://penbelarus.org/en/2022/02/16/prava-na-kulturu-belarus-2021-bel.html>

54. <https://www.belta.by/incident/view/prokuratura-bresta-vozbudila-ugolovnoe-delo-po-faktu-geroizatsii-voennyh-prestupnikov-432038-2021>

55. The charges against the journalist say that Poczobut called the Soviet attack on Poland in 1939 an aggression in the media. He was also accused of making statements in defence of the Polish minority in Belarus, articles in Gazeta Wyborcza about Belarusian protests in 2020 and a text in Magazyn Polski, written in 2006 and dedicated to Anatol Radziwonik, one of the commanders of the Polish anti-communist underground in Grodno Region: <https://prisoners.spring96.org/en/person/andrei-paczobut>

56. <https://prokuratura.gov.by/ru/media/novosti/nadzor-za-resheniyami-po-ugolovnym-i-grazhdanskim-delam/nezakonno-organizova/>

57. <https://penbelarus.org/en/2023/03/02/bel-prava-na-kulturu-belarus-2022.html>

58. With regard to 2023:

<https://trends.belhelcom.org/storage/reviews/February2024/jc4HGY7nx1A4rgU3PYzy.pdf>, pp. 26-27; 2024:

<https://trends.belhelcom.org/storage/reviews/May2024/Ln6pcg0TcStHLNDeUimT.pdf>, p. 18-19

22. As part of a targeted policy to preserve the "correct" historical memory, Belarusian and Polish historical and cultural heritage are being systematically destroyed. A significant portion of state propaganda is aimed at combating alternative information about Armia Krajowa, including the destruction of graves, memorials, and monuments dedicated to it⁵⁹. Public spaces are being stripped of memorials, tourist stands, and other visual reminders of events or figures deemed undesirable by the current authorities, while cultural events dedicated to them are subjected to censorship⁶⁰. Narratives hostile to Poles, Lithuanians, and Ukrainians are entrenched in educational materials⁶¹.

23. Discriminatory cultural policies are being implemented, including the cancellation or outright prohibition of cultural events associated with specific national minorities or their representatives. For instance, on the recommendation of the Belarusian KGB, events in Pinsk commemorating the 90th anniversary of renowned Polish writer and journalist Ryszard Kapuściński were cancelled. Due to its "pro-Polish" nature, the Grodno Executive Committee halted the naming procedure of the Ostrovets District Library after literary critic and translator Adam Maldis⁶². There's a pervasive atmosphere of suppressing any independent cultural activities and censorship, affecting national minorities as well. Furthermore, there's a known existence of a "blacklist" in Belarus that includes 87 artists and bands, with nearly every fifth name (18 out of 87) being Ukrainian musicians⁶³. Concurrently, there's a policy of active Russification and preferential access for Russian works and cultural figures to Belarusian cultural institutions and audiences in the country⁶⁴.

24. Since the beginning of the full-scale war in Ukraine, cases of persecution of persons of Ukrainian nationality and origin have become more frequent in Belarus. Displaying Ukrainian symbols, performing Ukrainian songs, or any other manifestations of Ukrainian culture (except those events approved by or initiated by the authorities) are viewed by the state as dissent against its official policy of supporting Russia in the war. Such displays of dissent are suppressed, as are other expressions of disagreement with the official course⁶⁵.

59. <https://penbelarus.org/en/2023/04/17/hronika-parushennyau-pravou-chalaveka-u-sfery-kultury-1-15-krasavika-2023-goda.html>

60. See the memorial policies with regard to Polish-language writer Eliza Orzeszkowa, Catholic priests-activists in Belarus in the 1930s, the 1863-1864 Uprising, etc.: <https://penbelarus.org/en/2023/11/08/manitoryng-parushennyau-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-2.html>

61. Thus, for instance, the textbook for pupils of grades 5-9 "Genocide of the Belarusian people during the Great Patriotic War" contains a tendentious description of the activities of the Armia Krajowa as "terrorist" and "anti-Belarusian", and states: "During the war Polish, Ukrainian, Latvian and Lithuanian nationalists encroached on the territorial integrity of Belarus". At the same time, information about the Holocaust is presented very superficially, and information about the genocide of the Roma people is absent: see experts' commentary on the right to take part in cultural life (2023):

https://belhelcom.org/sites/default/files/17_right_to_take_part_in_cultural_life_2023.pdf

62. <https://penbelarus.org/en/2023/03/02/bel-prava-na-kulturu-belarus-2022.html>

63. <https://penbelarus.org/en/2023/08/04/manitoryng-parushennya-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-belarus-studzen-cherven-2023-goda.html>

64. <https://penbelarus.org/en/2023/03/02/bel-prava-na-kulturu-belarus-2022.html>

65. For more information on prosecution for displaying Ukrainian symbols (including combinations of yellow and blue colours), performing Ukrainian songs and other analogous anti-war expressions, see:

<https://torturesbelarus2020.org/en/belarusian-participation-in-the-war-in-ukraine-regime-and-people/>;

<https://penbelarus.org/2023/06/26/presledovanie-za-simvoliku-belarus-2022-god.html>;

<https://spring96.org/en/news/110533>

Ukrainians often face intensified border checks (including denial of entry into Belarus without explanation), and persecution due to presumed "subversive" activities⁶⁶. Ethnic profiling of individuals of Ukrainian origin continues, involving workplace interviews, phone checks (including messenger apps, email, photo galleries, etc.) to identify contacts with Ukrainian residents and citizens, including relatives. During interviews, data about relatives and contacts in Ukraine are collected, KGB officers inquire about purposes of visits to Ukraine, attitudes toward Russia's invasion of Ukraine, and explore possibilities of aiding Ukrainian residents. There have also been documented cases of individuals of Ukrainian origin and activists from Ukrainian organisations in Belarus being denied appointments to leadership positions.

v-b. Situation of Roma

25. The ethnic profiling of Roma continues unabated, involving visits to their places of residence, fingerprinting, and the collection of biological samples (swabs from the mucous membrane of the mouth) by law enforcement officers. These visits are often accompanied by threats, and the purpose of the visits and sample collection is not explained.

26. Roma face widespread refusals to be referred to medical-rehabilitation expert commissions in healthcare institutions, resulting in a significant number of individuals being unable to obtain disability status. This denial deprives them of access to quality medical care and state benefits.

vi. Measures to counter extremism and terrorism

27. Since 2020, "anti-extremist" and "anti-terrorist" legislation has increasingly been used as a repressive tool to implement a "State-directed, widespread and systematic policy for eradicating civic space and any actual or perceived dissent in the country"⁶⁷. This instrument allows the state to suppress, among other affected rights and freedoms, freedom of expression, freedom of association, and the right to participate in cultural life – to the extent of rendering their exercise virtually impossible: broadly defined informational products (including independent media, civic and political initiatives, books, etc.) and information channels are labelled as "extremist." Organisations and formations (groups of individuals arbitrarily identified by authorities, sometimes unpredictable even to the group itself⁶⁸) are also classified as "extremist" and "terrorist," carrying serious legal consequences due to the criminalization of any interaction with them⁶⁹. Individuals face additional forms of persecution and pressure through prosecution under "extremist" and "terrorist" articles of the Criminal Code (e.g. Article 130, formally used to combat incitement of racial, national, religious, or other forms of social enmity, and simultaneously one of the most widely employed mechanisms, see paras. 29-32), and inclusion in lists of "extremists" and "terrorists"⁷⁰.

66. <https://spring96.org/en/news/114922>

67. A/78/327, p. 2

68. See paragraph D. Definition of "extremist formations": <https://baj.media/en/analytics/extremism-and-media>

69. Ibid.

70. See Human Constanta's regular reviews of the developments in this legislation and law enforcement practices: among others, <https://humanconstantia.org/en/overview-of-the-fight-against-extremism-in-belarus-for-april-june-2023/>

28. These mechanisms are also used by the authorities to restrict the rights and freedoms of certain national minorities: for example, the list of extremist materials includes, among others, the resource of the Polish-based media outlet Radio Racyja, the Polish websites polskieradio.pl and polskieradio24.pl, the collection "Polskie piesni patriotyczne", the website of the newspaper of the unofficial Union of Poles in Belarus "Głos znad Niemna", and books dedicated to the history of Poland. This list also includes many Ukrainian resources⁷¹.

29. International bodies⁷² as well as Belarusian human rights defenders⁷³ have repeatedly pointed out the blatant inconsistency of the norms within this system with the principle of legality: a) the relevant regulations are formulated overly vaguely and broadly⁷⁴, which grants politically influenced competent authorities excessive discretion and does not allow individuals to align their actions with the new regulations⁷⁵; b) the law enforcement practices are inconsistent, courts often conduct such proceedings in closed sessions, and the reasons for assigning a particular status to an organisation or "formation" are often unknown to the organisation itself – both before and after recognition⁷⁶.

30. The very procedures for determining "extremist" or "terrorist" status are simplified and in some cases do not require judicial intervention at all⁷⁷, vesting, for instance, the State Security Committee (KGB) full discretion, with no proper oversight by the courts or any other institution.

31. Thus, the ecosystem of "anti-extremist" and "anti-terrorist" legislation allows the authorities to systematically, on a large scale, persecute dissent in virtually every conceivable form, and is particularly dangerous due to the reduced level of legal protection for those subjected to such persecution. The current regulation and practice of application not only fail to take into account the link between racism and terrorism, but allow for the discriminatory use of these mechanisms to prosecute on any protected ground.

71. <https://penbelarus.org/en/2024/06/20/banned-books.html>

72. Among others, https://www.osce.org/files/f/documents/b/8/543246_0.pdf; A/78/327. www.coe.int/en/web/european-charter-regional-or-minority-languages/promoting-ratification-in-belarus

73. <https://baj.media/en/analytics/extremism-and-media/>, https://spring96.org/files/book/en/restrictions_freedom_expression_2024.pdf

74. Current wording does not take into account the UN concept of "violent extremism" (A/72/287) and the associated mandatory element of violence for the application of "anti-extremism" legislation, nor the link to terrorist acts/incitement to commit terrorist acts for a person to be listed as a "terrorist":

<https://baj.media/en/analytics/extremism-and-media>

75. In this regard, the regularly updated List of Extremist Materials (<http://mininform.gov.by/upload/iblock/556/1fxn68k8bjp43ucezs9wqtdwi7znvv31.doc>) is illustrative: it is a cumbersome (5,222 items as of 1 April 2024), inconvenient to use document, inaccessible to certain groups of the population (in particular, digitally illiterate persons); timely monitoring of its changes and elimination of all public and archived (!) publications referring in one form or another to "extremist materials" is an unreasonably heavy burden for journalists and media editors, let alone ordinary people.

76. <https://baj.media/en/analytics/extremism-and-media>

77. In particular, the law defines an extrajudicial procedure for designating an organisation or group as "extremist". The decision to include an individual in the list of organisations, formations, and individuals, including entrepreneurs, presumably involved in terrorist activities is made by the State Security Committee administratively. This process lacks clear evidence requirements or court rulings, except in cases of guilty verdicts, and does not involve the accused or their lawyers. Moreover, this list can include accused individuals whose innocence should still be presumed at this stage: <https://baj.media/en/analytics/extremism-and-media/>; A/78/327, section B-1

vii. Racist hate speech and hate crimes

32. In its report to the Committee, the state refers⁷⁸ to Article 130 of the Criminal Code ("Incitement of racial, national, religious, or other social hatred or hostility") as a means of holding individuals criminally liable for racial discrimination. It is important to note that this article is not only not used effectively to combat racial discrimination, but, on the contrary, it is widely applied to suppress dissent. Both the wording of this article and its application contradict international standards regarding freedom of expression: among other deficiencies,

- a. Its wording is excessively broad, depriving citizens of legal certainty and providing competent authorities with additional opportunities for abuse in interpretation. Moreover, it reflects a common problem with Belarusian "anti-extremist" legislation: the objective element of the conduct criminalised under this article includes actions that are in no way related to violence. For instance, one can be held accountable under the article "Incitement of racial, national, religious, or other social hatred or hostility" for "spreading ideas, views, assessments, or calls that undermine trust or respect" towards members of a particular group⁷⁹.
- b. The article operates with the concept of "social hatred" and "other social affiliation" of the victim as a motive for the offence, which, together with the broad understanding of "social affiliation" in the article's note⁸⁰, allows categorising any persons, including government officials, as belonging to the protected group. The current interpretation of "social group" effectively provides protection to groups of individuals who facilitate the functioning of the current regime and support its policies, while excluding genuinely vulnerable groups from such protection⁸¹.
- c. The sanction of the article entails unreasonably severe punishment⁸².
- d. Based on the current practice, when applying this article, international standards delineating the boundary between protected speech and speech that may incur liability⁸³ are not taken into account. Persons are held accountable for their expressions even when there is no incitement to violence, intimidation, hostility, or discrimination, and the context in which the statement is made is disregarded⁸⁴.

78. CERD/C/BLR/24-25, paras. 48, 52

79. See a comprehensive analysis of the article from the perspective of Belarus's international obligations: <https://humanconstant.org/tolkovanie-sledstvennym-komitetom-belarusi-norm-o-razzhiganii-rozni-ne-sootnositsya-s-trebovaniyami-mezhdunarodnogo-prava/#:~:text=130%20%D0%A3%D0%9A%20>

80. "Note. Under 'other social affiliation' in this article is understood a person's belonging to a particular social group based on gender, age, profession, occupation, place of residence, and other forms of social-group identification." <https://pravo.by/document/?guid=3871&p0=Hk9900275>

81. <https://humanconstant.org/tolkovanie-sledstvennym-komitetom-belarusi-norm-o-razzhiganii-rozni-ne-sootnositsya-s-trebovaniyami-mezhdunarodnogo-prava/#i-5>

82. The maximum penalty under Part 1 of Article 130 of the Criminal Code of the Republic of Belarus is up to 5 years of imprisonment. Additionally, the article provides for imprisonment for a term of three to ten years (without any alternatives) for 'intentional actions aimed at inciting racial, national, religious or other social hatred or hostility based on racial, national, religious, linguistic or other social affiliation,' committed by a public official using their official powers: <https://pravo.by/document/?guid=3871&p0=Hk9900275>

83. Such as the test proposed by the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and other instruments

84. <https://humanconstant.org/tolkovanie-sledstvennym-komitetom-belarusi-norm-o-razzhiganii-rozni-ne-sootnositsya-s-trebovaniyami-mezhdunarodnogo-prava/#:~:text=130%20%D0%A3%D0%9A%20>

33. In paragraph 52 of its report, the state presents statistics on prosecutions under Article 130 of the Criminal Code: from 2016 to 2020, 36 individuals were convicted under this article. Since 2020, however, this article has been more actively used as a repressive tool: from 2020 to 2023, courts have prosecuted at least 447 individuals under this provision⁸⁵.

34. The situation is further deteriorated by the aforementioned lack of guarantees of fair trial: practically all cases are heard behind closed doors; state authorities issue notices about court hearings using extremely vague excerpts from legislation, leaving the specifics of most cases unknown. In the overwhelming majority of cases, imprisonment is imposed as a punishment⁸⁶.

35. The law enforcement practice demonstrates a discriminatory and selective approach in prosecuting under this article: currently, the latter is predominantly used to criminally prosecute opponents of the government, while statements made by state media personnel, officials, and other supporters of the current regime, potentially falling under the scope of Article 130 of the Criminal Code, are ignored by law enforcement agencies⁸⁷.

viii. Migrants, refugees and asylum seekers

36. Despite Belarus' official statement in 2019 about beginning the process of joining two UN Conventions (the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness), Belarus has not yet acceded to these documents.

37. Paragraph 72 of the national report states that the Law "On the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus" enshrines the principle of non-refoulement, and foreigners cannot be expelled from Belarus to another state where their life or freedom would be endangered due to their race, religion, nationality, affiliation with a particular social group, or political beliefs, or where there is a risk of death penalty, torture or violence in conditions of armed conflict of international or non-international character. However, in practice, Belarusian authorities have repeatedly expelled foreign citizens to countries where they face direct danger. For example, Hijri Mamash, a Turkish citizen of Kurdish origin, despite the temporary measures adopted by the UN Human Rights Committee⁸⁸, and Nizomiddin Nasriddinov⁸⁹, a citizen of Tajikistan, were deported to their countries of citizenship despite the risk of torture based on their political beliefs.

generally, persons are prosecuted for statements of varying degrees of flatness containing negative assessments and condemnation of actions by government representatives, arguments about the necessity and inevitability of accountability for crimes against humanity, the possibility of using reciprocal violence against representatives of law enforcement agencies violating citizens' rights, and exceptionally rarely – specific calls for indiscriminate violence against law enforcement officials: https://baj.media/be/mediyaprava/primenenie-sostavov-prestupleniy-i-pravonarusheniy-v-oblasti-zloupotrebleniya-svobody/#_ftnref10

85. <https://spring96.org/en/news/113977>, p. 14

86. Ibid.

87. <https://baj.media/ru/propagandisty-uzhe-otkryto-prizyvajut-k-raspravam-nad-politicheskimi-opponentami-i-im-za-jeto-nichego-ne-delajut-vot-primery>

88. <https://humanconstant.org/komitet-po-pravam-cheloveka-oon-trebuem-ne-vysylat-kurda-xidzhri-mamasha-iz-belarusi>

89. <https://humanconstant.org/verxovnyj-sud-soglasilsya-s-resheniem-genprokuratury-tadzhikskij-aktivist-nizomiddin-nasriddinov-skoro-mozhet-byt-vydan-v-tadzhikistan>

Case example:

On January 8, 2023, Tajik activist Nizomiddin Nasriddinov was detained and placed in custody in Belarus. On February 21, 2023, the General Prosecutor's Office of Belarus decided to extradite Nizomiddin to Tajikistan, where he faces criminal charges under the article on "public calls for extremist activities".

In making the decision to extradite Nasriddinov, the General Prosecutor's Office did not take into account his refugee status in Germany or the serious risk of torture, unfair trial, and politically motivated persecution in Tajikistan. Nizomiddin also stated that after being forcibly returned to Tajikistan in 2017, one of his relatives was sentenced to a lengthy imprisonment on political grounds.

The extradition decision was appealed in court. Additionally, on May 13, 2023, while still in custody, Nizomiddin appealed to Belarusian authorities for international protection in Belarus. The Belarusian Department for Citizenship and Migration, as well as the court, disregarded Nasriddinov's refugee status in Germany and numerous reports and statements from international organisations regarding widespread human rights violations and politically motivated persecutions of government critics in Tajikistan, denying him protection and rejecting his complaint against the decision to extradite him to Tajikistan. On July 24, 2023, it became known that Nasriddinov had been extradited to Tajikistan.

38. Formally, Belarusian legislation provides for mandatory access to the procedure for obtaining international protection for all foreign citizens and stateless persons, as noted in paragraph 77 of the national report. Any foreigner can declare their intention to seek protection either upon crossing the Belarusian state border or while staying within the country. Since the humanitarian crisis began in Belarus and at its borders with EU countries in the summer of 2021, evidence has been gathered as to migrants being denied access to the asylum procedure in Belarus. When approaching local citizenship and migration departments, migrants were intimidated, refused acceptance of asylum applications, and given a deadline by which they must leave Belarusian territory.

Case example:

In December 2021, a group of Syrian citizens, including minors, who arrived in Belarus on tourist visas, referred to the Human Constanta public reception office. In Minsk, they applied to the citizenship and migration department for refugee status, additional protection, or asylum in the Republic of Belarus. However, they were verbally denied acceptance of their asylum applications without explanation, and were given a 15-day deadline to leave Belarus. Additionally, the migrants reported that many Syrians were forcibly placed on an evacuation flight from Minsk to Damascus in December 2021.

In December 2022, two families with minors, citizens of Iraq who arrived in Belarus from Russia, referred to the Human Constanta public reception office. They reported attempting to apply for refugee status, additional protection, or asylum in the Republic of Belarus in Minsk, but their applications were also not accepted. Employees of the citizenship and migration department threatened to take away their minors and place them in a shelter, and to detain the adult family members if they did not leave Belarus and return to Russia.

39. Paragraph 79 of the national report states that Belarus has established a monitoring system by international and non-governmental organisations regarding access to refugee status determination procedures for asylum seekers. However, only statistical information on the number of asylum applications, the number of granted refugee status, and their countries of origin is officially published. Information on access to refugee status determination procedures for asylum seekers is not disclosed and is only known from individual accounts provided by migrants themselves. Of particular concern is the situation of migrants who arrived in Belarus during the humanitarian crisis and the access of relevant organisations to these migrants. The UN Special Rapporteur on the human rights of migrants reported in 2022 that during his visit to Belarus, he was unable to meet with any migrants attempting to cross the border with Poland⁹⁰.

40. Regarding detained foreigners, the main source of information is the website and Telegram channel of the State Border Committee of the Republic of Belarus, which sporadically publishes the number and general information about detained foreigners. In other cases, obtaining information about foreigners detained by Belarusian law enforcement agencies, especially those detained not at the border or within the border area, their status, and fate, is practically impossible.

41. CSOs dedicated to migrant issues, asylum seekers, and refugees face various forms of pressure, including website blocks and forced liquidation. Criminal liability for activities on behalf of unregistered organisations was reintroduced into the Criminal Code (Article 193-1⁹¹), making any activism a risky endeavour with the potential threat of imprisonment. Widespread repression against civil society organisations, lack of public oversight, and procedural opacity prevent effective monitoring of human rights violations against migrants in Belarus. This situation was also highlighted by the UN Special Rapporteur on the human rights of migrants following his visit to Belarus in 2022. In his statement, he noted his inability to find any local Belarusian civil society organisation engaged in monitoring and reporting on the situation regarding migrant rights⁹².

90. A/HRC/53/26/Add.2, para. 2

91. <https://pravo.by/document/?guid=3871&p0=Hk9900275>

92. A/HRC/53/26/Add.2, para. 3

Recommendations

1. To review the State's position on the advisability of adopting comprehensive anti-discrimination legislation. To implement numerous recommendations from treaty bodies, including those from the Committee on the Elimination of Racial Discrimination, and develop and adopt a comprehensive anti-discrimination legislation;
2. To cease the practice of enacting discriminatory norms affecting the rights of national minorities or individuals with temporary connections to foreign states, a practice that began after 2020, as well as discriminatory law enforcement practices. Specifically:
 - a. To abolish the provision in the "Law on Languages" of the Republic of Belarus that deprives national minorities of the opportunity to establish separate schools or preschools with education and upbringing in their minority language;
 - b. To abolish legislative provisions that prevent citizens with foreign residence permits or other "documents from a foreign state that grant benefits and other advantages due to political, religious views, or national affiliation" (especially the "Pole's Card") from being employed in certain positions in state bodies (including positions not related to public service). This includes the provisions of the Regulation on Organising the Verification of Information about Candidates for Certain Positions of Employees that are not State Civil Service Positions, and the Regulation on Service in the Prosecutor's Office of the Republic of Belarus;
 - c. To abolish provisions in the Electoral Code that restrict citizens with the aforementioned documents from exercising their passive suffrage.
3. To cease the practice of persecuting (including the liquidation of) civil society organisations and individual activists engaged in preserving and developing national cultures and traditions. This includes ceasing the criminal prosecution for the "illegal organisation of activities of a public association" of the unregistered Union of Poles and membership in the latter.
4. To end discriminatory practices that violate the cultural rights of Polish, Lithuanian and Ukrainian national minorities, including the cancellation of cultural events, censorship and the destruction of memorial and other historical and cultural heritage.
5. To cease the persecution of individuals of Ukrainian nationality and origin, including the suppression of displaying Ukrainian symbols, performing Ukrainian songs, and other expressions of Ukrainian culture.
6. To end discriminatory practices against the Roma community: ethnic profiling, and widespread refusals by healthcare institutions to refer them to the medical rehabilitation and examination commissions, which results in the inability to obtain disability status and denies them access to quality medical care and state benefits.
7. To cease the practice of shaping narratives in school education that create grounds for inciting hostility and hatred towards certain nations and states. This includes the imposition of distorted historical narratives that encourage children to perceive the world in a dichotomous "us versus them" manner and create the image of an "enemy" concerning specific states (Western European countries, especially Lithuania and Poland, as well as Ukraine).

8. To align national anti-extremism legislation with international standards to prevent arbitrary restrictions of human rights. This includes revising the definition of "extremism" in national legislation to eliminate vague terms subject to excessively broad interpretation. End the practice of using provisions criminalising inciting racial, national, religious, or other social hostility to arbitrarily restrict human rights under the guise of combating extremism.
9. To accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and align national legislation with the provisions of these documents.
10. To ensure that courts and law enforcement agencies uphold the principle of non-refoulement in their decision-making, particularly when there are well-founded fears that deportation from Belarus could threaten the individual's life or freedom.
11. To guarantee equal treatment by law enforcement agencies towards migrants, regardless of their immigration status, and ensure their access to international protection procedures in Belarus.
12. To facilitate transparency in the operations of migration services and law enforcement agencies, ensuring the right of public organisations and individuals to access to information, and allow the provision of assistance to migrants and asylum seekers.
13. When detaining migrants, to ensure that their relatives or other connected individuals are informed about the whereabouts of the detained persons.
14. To ensure access for independent civil society organisations and representatives of international organisations to monitor the situation regarding the rights of migrants at the external borders of Belarus.
15. To consider other recommendations from the Committee and civil society that were not implemented during the reporting period.