



General Assembly

Distr.: General
15 September 2010
English
Original: Russian

Human Rights Council
Fifteenth session
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Belarus

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translations services.

Views and responses of Belarus on the conclusions and/or recommendations adopted for further consideration by the competent State authorities during the universal periodic review on 14 May 2010

Recommendation 98.1

1. Not acceptable.
2. We consider it premature for Belarus to adhere to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The decision to abolish, or introduce a moratorium on, the death penalty cannot be taken without considering the results of the 1996 referendum on the issue in the country, which have supreme legal force. The decision then depends on whether a majority of public opinion comes to favour abolition of the death penalty.

Recommendation 98.2

3. Acceptable.

Recommendation 98.3

4. Belarus accepts the recommendation in respect of accession to and ratification of the Convention on the Rights of Persons with Disabilities.
5. The recommendation concerning accession to the Optional Protocol to the Convention cannot be accepted at this stage. It will be considered at a later date, taking account of the outcome of implementation of the Convention.

Recommendation 98.4

6. Not acceptable.
7. As a party to the Convention against Torture, Belarus has established, enshrined in legislation and brought into effect domestic remedies to protect individuals against torture, violence and other degrading treatment or punishment, and to guarantee the human rights of prisoners.

Recommendation 98.5

8. Not acceptable.
9. Supporting and promoting the social, economic and cultural rights of its citizens is a priority in Belarus' State policy. A wide range of measures have been introduced since independence in 1991, allowing significant progress to be made in the area. As a party to the International Covenant on Economic, Social and Cultural Rights, Belarus intends to extend the range of its international commitments in the area, giving due regard to the financial consequences and the need to amend legislation and practice.

Recommendation 98.6

10. Not acceptable.

11. National legislation already reflects the provisions of the Convention that qualify abduction of persons as a crime against humanity, criminalize such offences, do not allow for exemption from criminal responsibility or punishment in connection with expiry of the statute of limitations, and ensure that investigations are conducted to establish the circumstances relating to enforced disappearances, etc.

Recommendation 98.7

12. Not acceptable.

13. The legislative framework was reviewed during the drafting of the 2009 Mass Media Act, which took account of the views of a broad section of the professional public, international experience of the lawmaking process and law enforcement practice in respect of the media.

14. On 1 June 2010, the State media register had accredited 1,300 printed media titles, of which 397 were State-owned and 903 were non-governmental. This testifies to the favourable environment for media activities and freedom of expression in Belarus.

15. Thus, national legislation on media freedom is consistent with the country's international obligations, including those under the International Covenant on Civil and Political Rights.

Recommendation 98.8

16. Implemented.

17. The following have been incorporated into national legislation in compliance with international standards for a fair justice system.

18. The principle of presumption of innocence is set forth in article 26 of the Constitution, under which no one may be convicted of a crime unless his or her guilt is proved in accordance with legal procedure and established by an enforceable court judgement. It is also laid out in article 16 of the Code of Criminal Procedure, which states that it is not incumbent on the accused to prove his or her innocence. The court may not transfer the obligation of proof to the accused. Any doubts concerning the validity of the accusation shall be interpreted in favour of the accused.

19. The accused is guaranteed a competent defence under article 62 of the Constitution, articles 17 and 43 of the Code of Criminal Procedure, and the Advocacy Act of 15 June 1993.

20. The right of the accused to defence and legal assistance is provided for under article 62 of the Constitution and article 17 of the Code of Criminal Procedure.

21. The right to appeal against court sentences, rulings and decisions is established in article 115 of the Constitution and article 17 of the Code of Criminal Procedure; a convicted person has the right under the law to petition the Head of State for clemency, including commutation of a death sentence to life imprisonment.

Recommendation 98.9

22. Not acceptable.

Belarus' legislation on freedom of expression, assembly and association, peaceful action and demonstration fully meets the country's international commitments, enshrined, in particular, in the International Covenant on Civil and Political Rights.

Recommendation 98.10

23. Not acceptable.

24. There is a favourable environment in Belarus for the real development of civil society. The country has more than 2,200 voluntary associations and 15 political parties.

25. The legal standards regulating the establishment and activities of voluntary associations conform to international standards, particularly the International Covenant on Civil and Political Rights.

26. Legal restrictions ban the establishment and activities of voluntary associations, political parties and other associations whose purpose is to advocate war, extremism, or social, ethnic, religious or racial hatred.

Recommendation 98.11

27. Not acceptable, as Belarus' Mass Events Act is compatible with the International Covenant on Civil and Political Rights and is intended to protect civil rights and freedoms.

Recommendation 98.12

28. Not acceptable.

29. Belarus has a standard registration procedure for all media outlets, whether governmental or non-governmental. The new Mass Media Act that came into force in 2009 has significantly simplified the procedure for State registration. Specifically, it has abolished the requirement for agreement with the local executive and regulatory authorities on the location of media premises, discontinued the system of extending the time frame for consideration of an application for State registration, and shortened the list of grounds for refusal of State registration. Best practices from abroad in ensuring media freedom were considered during the process of drafting the Act.

30. In Belarus, media freedom is guaranteed by the law. This is borne out by the fact that, of the 1,533 print and electronic media outlets registered in the country as of 1 June 2010, 972 were non-governmental; and only 2 of the 9 news agencies were governmental.

Recommendation 98.13

31. Not acceptable.

32. Belarus has given due consideration to the question of inviting the special procedures. Attesting to our willingness to have constructive collaboration with the Human Rights Council, invitations to visit the country have furthermore been sent to eight mandate holders whose mandates are of particular interest to us at this stage. They are: the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special

Rapporteur on the right to education, the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on contemporary forms of slavery.

33. To date, the Special Rapporteur on the human rights of migrants has accepted the invitation.

34. The Special Rapporteur on freedom of expression, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on trafficking in persons, and the Working Group on arbitrary detention have already visited Belarus.

Recommendation 98.14

35. Implemented.

36. Belarusian legislation relating to ethnic minorities is based on the principles of international law and is intended to create conditions for the free development of ethnic minorities and to protect their rights and lawful interests.

37. Any action aimed at discrimination on the grounds of ethnicity, obstruction of the enjoyment by ethnic minorities of their rights or incitement to inter-ethnic hatred is punishable by law.

38. In the performance of their duties, the internal affairs authorities have adopted comprehensive measures to prevent acts of discrimination against ethnic minorities. No information on such acts is available.

39. In practice there are no problems associated with discrimination against persons belonging to any ethnic group, including the Roma. The State provides the necessary assistance, including financial, to representatives of the Roma for the organization of cultural and educational events, production of publications and artistic performances.

40. The leaders of the Belarusian Roma Diaspora voluntary association participate in the work of the advisory inter-ethnic council reporting to the Office of the Commissioner for religious and ethnic affairs.

Recommendation 98.15

41. Implemented.

42. Belarusian legislation guarantees that the principle of equality between men and women is upheld and does not contain any discriminatory provisions relating to the rights and responsibilities of women. Three national action plans for gender equality have been implemented. The Government of Belarus intends to continue to adopt appropriate measures along those lines. Belarus achieved the Millennium Development Goal relating to gender equality before the deadline.

43. The point concerning [draft] legislation on gender equality is not relevant, since matters relating to gender equality are fully addressed in sector-specific legislation (i.e., family and labour law, etc.).

Recommendations 98.16 and 98.17

44. Not acceptable.

45. The temporary and exceptional nature of the death penalty is explicitly laid down in the Constitution and the Criminal Code, as provided for in the International Covenant on Civil and Political Rights. The procedure for granting pardon to prisoners sentenced to death is regulated by the law. Death sentences are very rarely carried out. The Constitutional Court has issued a ruling on the legal possibilities available for the abolition of the death penalty in Belarus.

46. The decision to abolish this form of punishment depends on the prevailing view in society coming to favour abolition of the death penalty.

47. At present we are “bound” by the result of the 1996 referendum, when more than 80 per cent of the Belarusian population voted to retain this form of criminal punishment.

48. Efforts are currently being made in Belarus to gradually resolve the problem. To this end, Parliament has established a working group, which is already planning to hold parliamentary hearings on the issue of the death penalty this autumn. Public opinion is shifting towards the abolition of the death penalty: information on the topic is regularly provided by the State media, advocacy campaigns are being organized. Belarus is keen to learn from international experience relating to the non-application of the death penalty, including experience gained in the framework of the Council of Europe.

49. Since Belarus is not a Member State of the Council of Europe, it cannot accede to Protocols Nos. 6 and 13 to the European Convention on Human Rights.

Recommendation 98.18

50. Implemented.

51. Information on the acts committed by A. Zhuk and V. Yuzepchuk and the enforcement of the sentence against them was disseminated in the media to the extent allowed under Belarusian legislation.

52. In accordance with the law, the administration of the institution where the death penalty is carried out is required to notify the court that handed down the sentence that it has been enforced, and the court then informs the next of kin. The law does not provide that other organizations or individuals should be informed of the enforcement of the death penalty.

Recommendation 98.19

53. Not acceptable.

54. In accordance with Belarusian legislation, when a person disappears without trace, a criminal case is opened and procedural and police inquiries are conducted to establish the person’s whereabouts.

55. The law criminalizes such offences, does not allow for exemption from criminal responsibility or punishment in connection with expiry of the statute of limitations for such offences, and ensures that investigations are conducted to establish the circumstances relating to enforced disappearances, etc.

56. In Belarus there is no information available concerning the involvement of State authorities or their officials in such unlawful activities.

Recommendation 98.20

57. Not acceptable.
58. Belarus is not a member of the Parliamentary Assembly of the Council of Europe (PACE).

Recommendation 98.21

59. Acceptable.

Recommendation 98.22

60. Being implemented.
61. In Belarus, all complaints of cruel or inhuman treatment or punishment are properly followed up by arrest, detention or deprivation of liberty.
62. In accordance with the law, complaints from persons detained on suspicion of having committed an offence or remanded in custody as a preventive measure must be referred within 24 hours by the administration of the detention facility to the authority conducting the criminal proceedings. An official who has received a complaint concerning his or her or own actions or decisions is required to refer the complaint, within 24 hours, to the appropriate procurator; similarly, a judge must do so to a higher court.
63. Proposals, applications and complaints from convicted persons, addressed to the State authorities responsible for supervising and monitoring the activities of penal institutions are not subject to censorship, and reach their destination within 24 hours.

Recommendation 98.23

64. This recommendation is not acceptable, since there is no factual basis for the allegations that persons are detained and brought to trial on political grounds in Belarus.

Recommendation 98.24

65. Implemented.
66. There are specific provisions enshrined in Belarusian legislation prohibiting child abuse, including the corporal punishment of children. Under the Belarusian Marriage and Family Code, the misuse by parents of their parental rights and/or child abuse are grounds for termination of parental authority.
67. The Criminal Code and the Administrative Offences Code establish criminal and administrative liability, respectively, for causing grave, moderate or minor bodily harm, torture and other forms of violence.
68. Belarus has established a system of government bodies and agencies to uphold children's rights and guarantees, including the prevention and detection of violence against children, the rehabilitation and reintegration of victims, and the prosecution of offenders. Voluntary organizations are also involved in these activities.
69. The President's Children of Belarus programme 2006–2010 includes measures to prevent violence against children and promote the rehabilitation and reintegration of victims.

Recommendation 98.25

70. Implemented.

71. The independence of judges is, furthermore, ensured by the statutory procedure for their appointment, suspension and removal from office; their integrity is ensured by the procedure for processing cases and other matters, by the holding of confidential deliberations for the adoption of judicial decisions and by a prohibition on requests for any lifting of that confidentiality; liability for contempt of court or interference in the court's activities is secured by other guarantees befitting the status of judges, as well as by the provision of the organizational and technical conditions necessary for the work of the courts.

72. Interference in the administration of justice by judges is prohibited and punishable under Belarusian law, including criminal law.

Recommendation 98.26

73. Implemented.

74. The Constitution embodies a comprehensive set of legal guarantees and defines juridical procedures for ensuring the fairness of judicial decisions in line with international standards, and protecting and promoting citizens' rights, including: the right to judicial protection of rights and freedoms; the right to file a judicial appeal against decisions of government authorities that restrict or violate citizens' rights, freedoms or legitimate interests; the right, in accordance with international instruments ratified by Belarus, to have recourse to international organizations for the defence of rights and freedoms, provided that all available domestic remedies have been exhausted; the right to expert legal assistance with the assertion and protection of rights and freedoms, including before a court; and the right to sue for damages for material or moral injury in order to defend rights, freedoms, honour and dignity.

75. The Government of Belarus duly responds to all requests concerning legal action; pursuant to its international obligations and national legislation, it submits information to international organizations in accordance with established procedure. The term "human rights defender" does not exist in Belarusian law, that term not being enshrined in any international legal instruments to which Belarus is a party.

Recommendation 98.27

76. Implemented.

77. Belarusian legislation guarantees implementation of the principle of freedom of expression enshrined in the Constitution and an enabling environment for the operation of the media.

78. Belarusian law contains no restrictions on the ability of the mass media to criticize government authority. Pluralism and diversity of views, opinions and assessments in the media are guaranteed. The opposition press enjoys unfettered access to the State printing and distribution system.

79. The principles governing the activities of the media, as established in the Mass Media Act, are consistent with equivalent legislative standards in Germany, Poland, Bulgaria and Ukraine, while standards for the protection of sources of information are consistent with Norwegian law. The provisions of the Act regulating the right of reply of

individuals in the mass media echo equivalent legislative standards in Austria, France, Germany, the Netherlands and Norway. Sweden's experience was taken into account in defining the concept of responsibility of the originator for the content of information published in media that he or she has established. The obligations of journalists were also formulated with international practice in mind.

80. Thus, national legislation on media freedom is developing in line with international norms and standards and is consistent with Belarus' obligations, including those under the International Covenant on Civil and Political Rights.

Recommendations 98.28, 98.30, 98.31, 98.35

81. Implemented.

82. A wide spectrum of rights and guarantees of freedom of association are already enshrined in Belarusian legislation, which is based on the principles of the International Covenant on Civil and Political Rights. Political parties and voluntary organizations may freely pursue their activities in accordance with their statutes and programmes.

83. This creates a favourable environment for the development of civil society, with more than 2,200 voluntary associations and 15 political parties active in Belarus.

84. The statutory procedure and requirements for the registration of non-governmental organizations and political parties are standard, irrespective of the nature or orientation of their activities.

85. Presidential Decree No. 1 of 16 January 2009 on the State registration and liquidation (dissolution) of economic entities significantly simplified the procedure for the registration of commercial and non-commercial enterprises.

86. The regulations governing the establishment, registration and activities of voluntary associations and political parties are freely accessible on the Internet.

87. Plans are under way to afford all voluntary associations, political parties and trade unions free access to an electronic database on the legal regulation of the activities of voluntary associations currently being compiled by government agencies with the support of the office of the Organization for Security and Co-operation in Europe (OSCE) in Minsk.

88. A bill on non-commercial organizations will be submitted in December 2010 for the consideration of the Government, with the aim of enhancing legislation in line with international standards and standards regulating the activities of non-governmental organizations.

89. Belarus does not accept the recommendation in paragraphs 98.28, 98.30 and 98.31 concerning abolition of article 193-1 of the Criminal Code. This article is intended to suppress the activities of extremist groups and organizations in the country. The only non-governmental organizations and political parties whose establishment and activities are prohibited are those that advocate war, extremism or social, ethnic, religious or racial hatred, as provided for in the Covenant.

Recommendation 98.29

90. Implemented.

91. The procedure for the registration of media outlets in Belarus is transparent and non-discriminatory. It is clear and standard for all the mass media. The Mass Media Act of 2009 significantly simplified the procedure for State registration: it abolished the requirement for

local authority approval for the location of media premises; it prohibited any extension of the time frame for consideration of an application for media registration; and it shortened the list of grounds for refusal of State registration of a media outlet.

92. The Ministry of Foreign Affairs grants accreditation to foreign journalists on an equitable and non-selective basis. Permanent accreditation has been granted to 213 foreign journalists, and temporary accreditation to more than 450.

Recommendation 98.32

93. Implemented.

94. Belarusian law provides for careful examination and investigation of all representations and complaints concerning unlawful acts committed against citizens. In the event that a violation is identified, offenders are prosecuted in accordance with the law.

Recommendation 98.33

95. Implemented.

96. Such measures are already established in various laws and regulations of Belarus. Violations carry criminal, administrative or disciplinary liability.

Recommendation 98.34

97. Not acceptable.

98. The statutory procedure for the organization and holding of meetings, demonstrations, picketing or other mass events is designed to create an enabling environment for the realization of citizens' constitutional rights and freedoms and to ensure public safety. Belarusian legislation regulating the holding of peaceful activities and demonstrations is fully consistent with our country's international obligations and does not require simplification.

Recommendation 98.36

99. Not acceptable.

100. There is no factual basis for the allegations that persons are detained and brought to trial on political grounds in Belarus.

101. Existing legislation regulating the freedom of the media and of non-governmental organizations and political parties is based on the principles of the International Covenant on Civil and Political Rights and fully guarantees freedom of expression and association.

102. Political parties and voluntary organizations may freely pursue their activities in accordance with their statutes and programmes. The law prohibits the dissolution of parties and voluntary associations on political grounds.

103. Legislative restrictions on the media are intended to prevent the dissemination of materials advocating war or extremist activities, the use of narcotic drugs, violence or cruelty, inter alia.

Recommendation 98.37

104. Not acceptable.

105. There is currently no need to reform the electoral laws in Belarus. All provisions relating to elections in the international treaties to which Belarus is a party are incorporated in legislation and implemented in practice.

106. The most recent amendments to the Electoral Code, drafted with reference to the recommendations of the OSCE Office for Democratic Institutions and Human Rights, were introduced in January 2010 to enhance the democratic nature and transparency of the electoral system and to guarantee fair and democratic elections.

107. Belarus regularly expresses support for the strengthening of international law on elections through the development of uniform and universal standards for the preparation and conduct of electoral campaigns. It consistently invites international observers to monitor its own national elections.

Recommendation 98.38

108. Not acceptable.

109. This recommendation is unclear from both a procedural and a practical perspective.
