



THE ASSEMBLY
of pro-democratic
NGOs of Belarus

Monitoring

**of the situation with non-governmental organizations
and freedom of association**

**Prepared by the Assembly of Pro-Democratic
Non-Governmental Organizations in Belarus**

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(the Interim Report #3)

During the monitoring period a significant worsening of the situation with the registration of new civil organizations is recorded: the total number of newly registered organizations decreased in comparison with previous years, a number of well-known unregistered civil organizations and two parties were denied registration on unfounded or questionable grounds. The parliament began its discussion of the bill, which, if approved, will worsen the terms of registration of civil organizations and political parties even more, by expanding possible grounds for refusal of registration. Civil organizations still have problems with renting premises to carry out their daily activities or organizing certain events. In May 2009, for the first time since April 2008, a person was charged and convicted under Article 193-1 for the work in unregistered civil organization.

1. Changes in legislation on registration of civil associations and political parties are prepared

The House of Representatives of the National Assembly (Belarusian Parliament) started discussing the Law on Introducing Changes in Some Laws of Republic of Belarus Concerning Administrative Procedures. This Law will introduce changes regarding the procedure of registration, among others, into the Law on Public Associations and into the Law on Political Parties. Contrary to the reports of the state media, the bill does not simplify the procedure of registration, but makes the situation even worse by expanding significantly possible grounds for refusal of registration.

In general, the proposed changes are aimed at bringing legislation into line with current practice of unfounded denial of registration for spurious reasons for the associations, which legalization is undesirable for the authorities. In current edition the Law on public Associations provides denial of registration only in cases when those goals, objectives, methods, or territory of activity, mentioned in the statute of organization, contradict relevant legislation. Other disadvantages may be interpreted as amendable and can not constitute grounds for refusal. The proposed new edition of the Law provides that mistakes in any provisions of the statute of organization, as well as in any documents submitted for registration (information about the founders, a graphical scheme of organizational bodies, a document on the payment for the registration, advertisement about the registration in a newspaper, etc.), can become the grounds for refusal in registration. The proposed edition actually denies any possibility of correcting mistakes in the papers submitted for registration.

Simplifying the procedures for setting tax accounting and other records in the bodies of newly registered organizations is indeed a positive change, but it is not anyhow connected with the increasing rate of opportunities for registration.

Other minor changes in the law have just a technical character, but even they cannot be seen as aimed at simplifying the registration procedure. For example, the new Law requires that the initiative groups submit not only a paper, but also a digital version of the statute of the organization they want to register. It is highly possible that this bill could cause re-registration of all existent civil organizations, because they hadn't provided the digital version of their statute when being registered.

The published version of the bill is just a draft, but it is very unlikely that Belarusian parliamentarians would change it significantly. Last spring some provisions of the new Law (which has not been approved yet) were actually used in courts as reasons of denial of registration of some organizations. This regards expansion of grounds for refusal of registration and also the situation with the Party of Belarusian Christian Democracy, which registration was «suspended», though this procedure is not provided by the present edition of the Law.

2. Criminal penalty for taking part in the activities of non-registered public associations

“Recovery” of the practice of using Article 193-1 of the Criminal Code became a symbolic sign of the end of a short period of hope for liberalization in the sphere of civil society. In May 2009, in Homiel Andrej Nesciarovic was convicted for his participation in an unregistered organization's activities. But he was granted an amnesty, so he didn't get to prison. It was the first time since April 2008 when a person was convicted under Article 193-1. In general, Andrej Nesciarovich is the seventeenth person convicted under this article.

3. Registration of organizations.

In the end of 2008, after the registration of the Civic Organization for Human Rights Defense and Education «The Movement «For Freedom»», among the activists of the third sector a cautious hope for the possible registration of other civil societies and parties arouse. Several organizations have begun the preparation of constituent assemblies. But six months passed, and practically none of the independent civil societies or political parties obtained registration, facing usual denials.

The Ministry of Justice refused to register the Assembly of non-Governmental Pro-Democratic Organizations; Belarusian Christian Democracy Party, the Party of Freedom and Progress (it was its fourth attempt to register since 2003), Civil Human Rights Organization “Nasha Viasna”—it was its second attempt to register in 2009; Youth and educational civil organization Youth Christian Social Union “Young democrats”, Youth civil organization “Young Social Democrats—Young Hramada (Society)” The situation with local organizations is not better: human rights civil organization “Bierasciejskaja Viasna” (Viasna of Bieracie/Brest city) was denied in registration for the third time in 2009.

Grounds for denial in registration may be most vividly illustrated by the refusal to register Horadnia regional branch of the BPF Party (Belarusian Popular Front) and Hrodna regional branch of the civil organization “BPF” «Adradzenne» («Renaissance»). They were denied in registration on the grounds that the documents submitted for registration have been printed in an improper font, though the law does not regulate this issue (the font was big enough and, in general, standard).

All appellations against the refusal of registration of civil organizations were rejected by judicial authorities. Also the courts have confirmed the decision to deny the registration of a number of primary branches of trade unions of radio-electronic industry workers (including in Homiel, Viciebsk and Mahilou). The cases of appellations against refusal to register the Belarusian Christian Democracy Party, Human Rights Civil Organization “Nasha Viasna” are currently pending in the Supreme Court, the case of the Human Rights Civil Organization “Bierasciejskaja Viasna” is dealt with in the Brest regional court. On April 22nd, 2009 Supreme Court did not grant the appeal of the co-founders of “Nasha Viasna” against the previous refusal of registration.

In June 2009 the optimism born thanks to the registration of the Movement «For Freedom» faded away. To register a new civic organization in Belarus is now no easier than it was before, new political parties have not been registered in Belarus since 2000.

Some non-governmental organizations (for instance, Youth Organization «Right Alliance», which unsuccessfully attempted to register in 2004) without hoping to be registered as civic organizations, register in the form of institutions (it’s been established a stating way of registering institutions recently). But this organizational form does not fit to associations and does not allow to use many of the rights of civic organizations (to represent citizens’ interests in court, to send its observers to the elections and to the electoral commissions, to apply for state financial support, etc.).

According to the statistical report of the Ministry of Justice, for the first three months of 2009, judicial authorities had registered 14 new civic organizations (including 5 national and 9 local), as well as 3 new funds (including 1 international and 2 local). During the same period 144 new organizational structures of trade unions, 1190 the organizational structures of other civic organizations and 4 new organizational structures of political parties have been registered or put on the record. However, these figures do not show the increase in the number of registrations. In 2008 and even in 2007 this number was noticeably higher. Considering the situation, the number of the newly registered civic organizations will be the lowest in 2009, comparing with the last three years (2006-2008). It seems that the end of the “liberalization period” is connected with the upcoming campaign on presidential elections which in Belarus is traditionally accompanied with the increasing pressure on the structures of the civil society.

4. Warnings, inspections and other sanctions

Despite the moratorium on the inspections of activities of legal entities of all types, which was announced in December 2008, many civic organizations still experience checks from various supervisory bodies. In May, 2009 the civic organization «Ekadom» was accused of tax violations and was fined for 14 million rubles (more than 5 thousand dollars), its bank account was frozen and all the state donations received by the organization were confiscated. Now “Ekadom” is in the process of appealing against the economic sanctions.

5. Implementation of the UN Human Rights Committee recommendations

In April 2009, human rights activist Alexander Bialacki, who is the head of the Council of the civic organization Human Rights Center «Viasna» liquidated in 2003, received a reply to his appeal from the Ministry of Foreign Affairs. Mr. Bialacki requested the MFA to inform him what steps have been taken by the Ministry to implement the UN Human Rights Committee recommendations regarding the abolition of the registration of «Viasna». On July 24, 2007 the UN Human Rights Committee adopted Communication No. 1296/2004 on the base of individual complaint, concluding that the dissolution of Viasna was a violation of Article 22, paragraph 1, of the International Covenant on Civil and Political Rights. The Committee also concluded that, according to article 2, paragraph 3 (a) of the Covenant, the author and co-authors of the complaint were entitled to an appropriate remedy, including the re-registration of «Viasna» and compensation. The response signed by the Vice-Minister of Foreign Affairs reported that Belarusian side considers the Communication of the UN Human Rights Committee as a recommendation and, thus, not obligatory for implementation. So, Belarusian authorities are not going to implement the decisions of the UN Human Rights Committee.

6. Access to Premises

During May 2009 a BPF Party was constantly threatened that its lease contract would be terminated. The landlord (actually, public service controlled by authorities) has expressed dissatisfaction with the timeliness of payment of rent. The lease agreement of the office, according to the landlord, will not be prolonged. The party is also facing the threat of losing its legal address, which will probably lead to the loss of registration.

Barysau branch of the charitable civil organization «Children in distress» was forced to halt its work in April 2009 because of its inability to pay the rent for municipal property. Multiple requests of the organization to provide it with a reduced rate of rent, addressed to the local authorities, were not satisfied.

7. Restrictions in holding constituent meetings and other activities

In May the annual congresses of Belarusian Association of Journalists and of the oppositional Belarusian Party of Communists took place in Minsk. On June 20, 2009 a meeting of the BPF Party members was organized in Minsk, as well as the meeting of supporters of the European way of development for Belarus. Organizing Committee of the V Congress of Belarusians of the world, which had been scheduled by the World Alliance of Belarusians «Backauscyna» («Fatherland») for 18-19 July, 2009, reported that they've never had such problems with finding premises before. The organizers had received 19 rejections and were planning to conduct the Congress abroad. But finally they were granted premises by the Minsk City Executive Committee. At the same time, many registered organizations and initiative groups creating new organizations have problems in finding a large enough room for holding their meetings.

Civil Human Rights Organization «Nasha Viasna» faced some problems when searching premises for holding its ordinary constituent meeting in the end of April 2009. Almost all organizations whom the founders of «Nasha Viasna» addressed a request to rent them premises so «Nasha Viasna» could hold a constituent meeting, denied them. As a result the founders of «Nasha Viasna» had to organize their meeting in the office of the BPF Party.

The initiative group aiming to re-register Belarusian Party of Work liquidated in 2004 is also complaining that it had difficulties organizing its constituent meeting.

The representatives of the unrecognized by Belarusian authorities part of the Union of Poles in Belarus had planned to participate in the meeting, dedicated to the election of delegates to the congress of the Union, which was organized by «legal» part of the Union of Poles in Horadnia. However, authorities denied those representatives in access to this event.

Horadnia authorities did not allow the members of the trade union of radio-electronic industry to hold a picket, scheduled for April 3, 2009.