

# AGENDA FOR INTERNATIONAL SUPPORT OF A HUMAN RIGHTS AND DEMOCRACY TRANSITION IN BELARUS

## Civil society recommendations to the international community

01 December 2020

This document has been produced by international and Belarusian civil society organisations at the end of November 2020. It contains recommendations to governments of concerned states, inter-governmental organisations, and civil society regarding international support to a human rights and democracy transition in Belarus. The document aims to stimulate various international actors to take active, consistent, and coordinated steps to end the current severe human rights crisis in Belarus and support the transition of this European country to democracy and rule of law. The recommendations draw inspiration from several documents, including the report in the framework of the OSCE Moscow Mechanism, resolutions of the European Parliament and statements of the PACE Legal Affairs Committee, as well as deliberations at recent roundtable meetings and workshops organised by civil society groups<sup>1</sup>.

### 1. Ending human rights abuse by representatives of government bodies and weakening the support base of the regime

- a) States should much **more actively and widely apply individual sanctions on representatives of government bodies, engaged in systematic and grave human rights violations** (visa ban and asset freeze). This would serve to deter law enforcement personnel from committing new offences. Individual sanctions should cover a much wider circle of people than now, including low and medium rank officers and their high level superiors in the entire chain of command. They should include such sectors as police, prosecutors, judges, the staff of detention centres and the penitentiary system, and the KGB. Also, the management of enterprises, responsible for harassing and dismissing employees who speak out in favour of human rights and democracy, should be put on the sanctions list (see also point 4 d). States should regularly, on a monthly basis, expand the sanctions lists until tangible progress in stopping human rights abuse is achieved. In the EU, these sanctions should be applied at both the EU level and national level of EU member states. Magnitsky-type laws should also be used for applying sanctions where possible. Requirements for the proof of complicity could be less stringent as compared to criminal proceedings.
- b) States, civil society organisations (CSOs), and donors should **support efforts to stimulate members of law enforcement and public servants in Belarus to distance themselves from the regime**. As opposed to the negative stimulus of sanctions, this would positively stimulate thousands of those who are still in the system but feel uncomfortable about the regime policies and criminal orders. Such efforts address those who hesitate to resign because they are obliged to pay back large sums of money to the state in the case of resignation, have due bank loans, lack civilian occupation, suffer pressure from their superiors and peers, do not receive sufficient moral support from wider public, fear lustration in the case of transition of power, and have insufficient knowledge about the existing support systems. Larger support should be provided to the solidarity initiative By\_Pol created by former law enforcement officers

---

<sup>1</sup> In November 2020, an international NGO network the Civic Solidarity Platform organised a series of round tables and workshops to discuss the next steps of the international community to support a human rights and democracy transition in Belarus, with the participation of a wide range of international and Belarusian non-governmental organisations and experts, and coordinated the production of this document.

who recently resigned or were fired, which works to support and encourage their former colleagues to leave the system and choose the side of the people. Larger funding should be provided for the direct support of law enforcement members who have left the system and their families, including for living costs and paying back “debts” to their agencies resulting from the resignation. States concerned and international donors should support vocational and educational programmes for the professional reorientation of former employees of law enforcement bodies and civil servants who were fired or voluntarily left the civil service.

- c) States and CSOs should **run active informational campaign to target wide circles of members of the law enforcement bodies and civil servants, sending them a clear signal**: “if you choose to continue being part of the criminal system, you will inevitably bear personal responsibility, including by inclusion in the sanctions lists and becoming a subject of criminal prosecution, both at the international level and in Belarus after a transit of power; if you step down and side with the people, you will receive strong moral support, financial support to pay back debts, vocational training to acquire a civilian occupation, or will be admitted into a reformed law enforcement system after a transit of power, if you choose so”.

## **2. Ensuring justice and accountability**

- a) States, inter-governmental organisations, and CSOs should take active steps to **establish an international investigation body** for the in-depth investigation of human rights violations in the context of the presidential election and the ensuing protests in Belarus. Out of several possible models, a speedy establishment of such a body by a group of like-minded states from among the invokers of the OSCE Moscow Mechanism appears the most expedient. Urgency is essential as state violence and repression continue to increase in Belarus. The establishment of such a body may have a preventive effect on the human rights situation on the ground and weaken the regime’s key support base among law enforcement employees. An attempt to create such a body by a decision of an inter-governmental organisation, similar to commissions of inquiry established by the UN on situations in various countries, would take much longer and would not guarantee a favourable decision. However, political, institutional and expert support from the UN, the OSCE and the CoE would be essential for upholding the body’s legitimacy since it will not be derived from an official IGO mandate. Like-minded states beyond the group of the Moscow Mechanism initiators should be welcome to join at any stage.

The body would need to work closely with Belarusian and international CSOs, forensic experts, and lawyers working to collect data, including evidence of crimes and linkages of perpetrators with crimes. The body’s objective would be to gather, analyse and preserve evidence to ensure that justice can be done. The body’s mandate would include collecting and storing documentation of human rights crimes that could be used in the future criminal justice procedures, be it at the national or international level; providing guidance and support to groups working on documentation to ensure high professional standard and quality of data collection; analysing collected information and presenting it in the form of reports and statements.

The structure of the body could include: (1) a data depository (evidence collection centre) based in a respected and neutral academic institution which has strong expertise in international human rights law and the capacity to store evidence in a safe manner to make it available on request to judicial institutions; (2) an expert taskforce (secretariat) carrying out the day-to-day work on collecting and analysing evidence, establishing links, etc., to which the initiating states and inter-governmental organisations like the CoE (CPT), OSCE (ODIHR) or UN OHCHR (HRC special procedures) would provide experts as seconded personnel; (3) an expert commission (panel), composed of several high-profile, respected international experts such as former ICC and ECtHR judges, former members of the

international tribunals, former members of the UN treaty bodies (Human Rights Committee, Committee against Torture, etc.) and mandate holders of the relevant UN special procedures (e.g., Special Rapporteur on torture, Working Group on enforced and involuntary disappearances, etc.), and responsible for formulating key findings and conclusions, issuing reports and making public statements, etc.; and (4) an advisory group composed of representatives of well-known and respected international and Belarusian NGOs.

The body would need to have a representation on the ground to work directly with the documenting CSOs and victims, including in Belarus and countries where victims of abuse have fled to (Lithuania, Poland, etc.). An inclusive approach should ensure that anybody who wants to contribute to the work of the investigative body should be able to do so.

In order to preserve the integrity of the investigation body and to ensure impartiality and credibility of its findings, it should not be drawn into the political process, but rather be considered a professional tool to serve the interest of ensuring accountability and preventing impunity. Therefore, the group of initiating states, after taking the decision on its creation and making necessary arrangements for its work in terms of appointing an academic institution to host the data depository, inviting experts, hiring personnel, providing resources, etc., should abstain from influencing its work but commit to follow-up upon its findings and conclusions both at the national level and level of IGOs. Funding for the investigation body could come from the European Union and concerned states.

In addition to this international mechanism whose work may extend for several years, a separate parliamentary investigation could be undertaken, e.g., under the auspices of the OSCE Parliamentary Assembly, similarly to the one performed in the case of Osh events in Kyrgyzstan in 2010. The Parliamentary Assembly of the Council of Europe and the European Parliament / Euronest could also be part of this process.

- b) States, inter-governmental organisations, and CSOs should cooperate to use international and national legal mechanisms **to prosecute perpetrators of international human rights crimes in Belarus and hold them accountable**. For this, two main avenues could be used.

(1) First, it is a request to the International Criminal Court (ICC) to open an investigation of the situation in Belarus with a view of prosecuting perpetrators of crimes. To ensure that jurisdiction of the ICC extends to these crimes, two options are in principle available. A more immediate one, before the transit of power in Belarus, would require identifying human rights crimes with multiple elements, starting on the territory of Belarus (a non-party to the ICC) but completing on the territory of another country (a state party over whose territory the ICC has jurisdiction) by virtue of victims crossing the border to this state through expulsion, deportation, other coercive acts, or preventing individuals from returning to their own country. This would make the crime fall within the parameters of Article 12(2)(a) of the Statute. A precedent exists when the ICC took a decision in 2018 that it has jurisdiction over the alleged deportation of members of the Rohingya people from Myanmar to Bangladesh.

There are two ways to bring a request to the ICC: file a communication directly to the ICC Prosecutor and ask her to investigate, or submit a referral by a state party (or a group of state parties) under Article 14 of the Rome Statute. The latter option would carry more weight and can potentially speed up things considerably because a preliminary examination, which is the most time-consuming phase of the ICC proceedings, might be skipped and the process would go directly to the investigation phase. This can potentially mean that the arrest warrants would be issued in short terms. Opening a criminal investigation by the ICC could be a potential game-changer.

Another possibility exists in a longer-term perspective when after a transit of power, a new government of Belarus would lodge a declaration under Article 12.3 of the Rome Statute, extending the ICC's jurisdiction over alleged crimes committed on its territory in a certain period of time. National

democratic leader of Belarus Sviatlana Tsikhanouskaya has already announced that an interim government would take this step immediately after coming to power. Opening an ICC investigation before a transit of power would be preferable as it may help speed up the termination of repressions.

(2) The second main direction of work to bring perpetrators to justice is to build universal jurisdiction cases in different European countries that have this mechanism embedded in their national justice systems and where victims of human rights crimes have fled to. Already ongoing efforts in this direction should be supported and funding for them should be allocated, especially given that specialised units in the national justice systems are relatively small and overwhelmed with the existing caseload.

Both legal tools, the ICC and the universal jurisdiction, should be applied in parallel.

### **3. Compelling the government of Belarus to implement the OSCE report's recommendations, including ending repression, releasing political prisoners and all those arrested during the protests, agreeing to hold fresh elections, and engaging in a genuine dialogue with opposition and civil society**

- a) States should **build up stronger pressure on the Lukashenko regime by applying effective economic sanctions**, depriving it of resources necessary for the continuation of repressive policies, and weakening its support base. The underlying principle should be that no normal international economic relations are possible while the population is subject to a terror regime with large scale arbitrary detention, beating and torture while expressing opinions in a completely peaceful manner, including both at peaceful assemblies and while at their place of work or engaging in their daily activities.

The immediate task includes placing on the sanctions list businesses and oligarchs with ties to the Lukashenko regime and providing it with financial support ("Lukashenko wallets" and "channels"). To facilitate this process, a comprehensive investigation should be conducted into the financial flows of the family of Alexander Lukashenko and his associates, including the activities of Belarusian state enterprises in offshore zones, as well as corruption schemes of Belarusian enterprises.

Furthermore, a complete freeze should be instituted as soon as possible on all transfers from International Financial Institutions and EU funds, including loans from the European Investment Bank, European Bank for Reconstruction and Development, and others, to the current Belarusian government and state-controlled projects. Support programmes implemented through the EIB, EBRD, World Bank, UN, and other international organisations must be conditioned on tangible progress in the situation of human rights, rule of law and democracy.

Application of economic sanctions is the most effective tool for influencing the regime's policy, as confirmed by the past experience and by Belarusian experts and CSOs. Targeting companies with links to the regime may prove to be insufficient. Therefore, economic pressure should be building up constantly, with new measures added at regular intervals of time if no tangible progress is recorded. For this purpose, states concerned should seriously consider applying more far-reaching sectoral sanctions on Belarus, in case the regime continues and increases the crackdown. Such sanctions should be calibrated to further increase pressure on the regime but not entail a long-term negative impact on the population. Restrictive trade measures could include a ban on imports of various sectors of the economy such as petrochemical, potash, metal, sugar, and other products from Belarus, while continuing importing products and services from private SMEs not controlled by the regime. Likewise, freezing foreign accounts of state companies and freezing foreign investment to Belarus could be the next step. The prospects should be explored of applying various restrictive measures against foreign individuals and companies that support the Lukashenko regime and help Belarusian companies, organisations and individuals included in the sanctions lists to circumvent the sanctions.

Going further, targeting the banking system may start with freezing capital support to two state-owned banks of Belarus and go all the way to disconnecting Belarusian banking system from SWIFT, should the

repressions increase further. Economic sanctions should be regularly and constantly updated and extended according to the level of crimes committed by the regime. Application of economic sanctions should be consistent and based on clear benchmarks to avoid a too early lifting of restrictions after smaller steps are taken by the regime, as it happened during the previous human rights crisis in Belarus in 2010-2014.

The ultimate goal of sanctions should be attaining systemic change in Belarus through the full implementation of all recommendations in the OSCE report, including ending repression, releasing all political prisoners and everyone detained during the protests, investigation into human rights violations and bringing perpetrators to justice, holding genuine and inclusive national dialogue, and holding fresh free and fair elections according to international standards.

- b) States and inter-governmental organisations should **push more actively for holding a genuine and inclusive national dialogue** in Belarus in order to resolve the political crisis. Assistance for this process was offered by the current and the incoming OSCE Chairpersons-in-office. Such dialogue may pave the way for altering the balance of power, the release of political prisoners, and a decision to hold fresh elections. An active role of the states holding the current and the incoming OSCE Chairpersonships is key, and they should not rest their case, despite the regime's refusal to take their offer of assistance. Other states should provide strong support to this proposal for the OSCE to take on a mediation role. All the necessary efforts should be taken and all avenues should be explored at a domestic and international level to create a conducive environment for a genuine and inclusive political dialogue in Belarus. Importantly, the international community should firmly reject an imitation of a dialogue staged by Lukashenko where he talks with hand-picked organisations created or controlled by the regime.

#### **4. Providing strong international support for democracy movement and strengthening the resilience of Belarusian society**

- a) States, international donors, CSOs, and Belarusian diaspora should substantially **increase support to victims of human rights abuse**, persons who were fired from their jobs on political grounds, participants of strikes, human rights defenders, lawyers, journalists, students, small business owners and members of other groups affected by repression, located both inside and outside Belarus. For this purpose, targeted assistance programmes should be developed and implemented to help victims of political repression, including by provision of medical treatment of people who have been injured and traumatised, access to legal counsel, financial assistance, rehabilitation, and relocation when necessary. It is necessary to provide psychological assistance to democratic activists and human rights defenders. The experience of countries that have gone through violent and military conflicts and the participation of psychologists working with PTSD would be important. Needs assessment with participation of Belarusian experts should be conducted and regularly updated. Provision of international financial, organisational and technical support to independent Belarusian solidarity funds providing assistance to victims of repression should be an important part of this work, in particular to the BY\_Help fund and the BY\_Sol network of funds, including several funds acting under its common brand, such as MEDIASOL, Sport Solidarity Foundation, Art and Culture Solidarity Foundation, Medical Solidarity Foundation, Aid to Strikers, Honest University, and By\_Pol.
- b) States should **accept on their territory Belarusians fleeing repression and provide assistance to them** with a temporary status, social security, health care, access to labour market, etc. They should develop a clear procedure to fast-track consideration and issuance of visas and create a humanitarian corridor in cases where Belarusians are in urgent need of medical assistance or seek refuge for political reasons.

States should implement the recommendations of the OSCE Moscow Mechanism rapporteur in relation to granting asylum in cases of persecution covered under the Geneva Refugee Convention and facilitate the procedure for obtaining visas for those fleeing Belarus for political reasons and to extend to them and their families all the support and assistance necessary.

- c) States should set up new or substantially **expand scholarship programmes for Belarusian students** expelled from Belarusian universities for their pro-democratic stance. Likewise, **scholarships for academics** who lost their teaching and research positions over participation in the protests, should be provided. Urgent humanitarian assistance, including Schengen visas and scholarships, should be provided to athletes and their family members who have been deprived of income for their political position and have had to endure acts of physical and psychological repression by the regime.
- d) States should **provide the necessary support for Belarusian workers and employees of various organisations who went on strike**, participated in protests, joined independent trade unions, or publicly expressed their critical views and who were punished by the regime for exercising their democratic rights. Enterprises and their management, responsible for harassing and dismissing their employees on political grounds, should be put on the sanctions list. Re-training possibilities should be provided to those who lost their jobs due to participation in strikes. Independent trade unions should be supported financially and technically. European trade unions should be supported in establishing partnerships with the independent Belarusian trade unions.
- e) States and international donors should further **increase support to Belarusian civil society organisations, human rights defenders, independent media, and media activists**, including through the provision of funding, equipment, security assistance, rehabilitation, etc. The assistance should be flexible, taking into account legal and practical impediments on access to international funding, imposed by the Lukashenko regime, and travel restrictions due to the COVID-19 pandemic. A strategy for distribution of the international funds in cooperation with civil society and democratic representatives of the Belarusian people, international civil society organisations and institutions with experience of working with Belarus should be developed.
- f) States and CSOs should **pay special attention to access to information** of the Belarusian citizens who are deprived of this right due to pressure on independent media and censorship on the Internet.
- g) States, CSOs, and Belarusian diaspora should **support, provide visibility and access to the international level for different groups of pro-democracy activists that have emerged in Belarus**. The aim of these efforts should be to isolate regime-aligned bodies, to seek cooperation with alternative democratic proto-associations and institutions and to ensure that Belarusian democratic activists play an important role in the elaboration of the international community's strategies and actions to support human rights and democracy in Belarus. Such pro-democracy groups include athletes, people from the cultural sector, teachers and academics (engagement by UNESCO, various cultural associations and creative initiatives would be important), independent trade unions and striking committees (support from ILO and trade-unions from different countries would be helpful), local court yard committees, etc. European solidarity with Belarusian society can be promoted and mobilised in various ways, including by involving local civil society organisations and initiatives from different countries and through cultural expression.
- h) In line with the demands of Belarusian athletes and the Belarusian Sports Solidarity Foundation, **international sports events scheduled in Belarus should be canceled**. Cancelling international sports

events scheduled in Belarus should help to isolate the regime and to damage its reputation in the eyes of the public. No Belarusian official participation in international sports competitions should be permitted unless all athletes imprisoned or otherwise harassed in Belarus for their political positions are released. Steps should be taken towards revoking of the recognition of the regime-aligned sports associations and at the same time ensuring that independent Belarusian athletes are able to take part in international competitions.

## **5. Assistance with holding free and fair elections and assistance to reforms after a transition of power**

- a) Inter-governmental organisations and states should **provide assistance to democratic forces and a transitional government of Belarus in holding fresh free and fair elections** according to international standards and under international observation. The role of the OSCE ODIHR is central in this process. States should provide sufficient funding for training and capacity building of new electoral commissions on all levels and providing other technical support. This process should be organized in close cooperation with CSOs specializing in civic electoral oversight.
- b) States and inter-governmental organisations should provide major **support to the reform process after free and fair elections take place**, including reform of the election legislation, legal reform, reforms of the law enforcement bodies and the judiciary, economic reform, etc. Developing a comprehensive international economic support plan after the new presidential elections are held is essential in order to assist in restructuring of the economy and mitigate early negative effects of this process. For this purpose, a donors' conference for democratic Belarus could be organised, which would bring together international financial institutions, G7 countries, EU institutions, governments of concerned states, and others willing to pledge a multi-billion Euro financial package to support the future reform efforts.
- c) States and inter-governmental organisations should **actively engage Belarusian civil society actors at all stages of the reform process** to ensure comprehensiveness, inclusiveness and the local ownership of reforms and to uphold the legitimacy of civil society.

### ***Signed by the following civil society organisations:***

1. Centre for the Development of Democracy and Human Rights (Russia)
2. Belarusian human rights organisation whose name cannot be disclosed for security reasons
3. The Netherlands Helsinki Committee (the Netherlands)
4. Belarusian human rights organisation whose name cannot be disclosed for security reasons
5. International Strategic Action Network for Security (iSANS), Poland
6. Belarus Free Theatre (the UK/Belarus)
7. Creative Politics Hub (the UK)
8. Global Belarus (international)
9. German-Russian Exchange (DRA) (Germany)
10. International Rehabilitation Council for Torture Victims (IRCT) (international)
11. Human Rights Centre ZMINA (Ukraine)
12. Swedish OSCE-Network (Sweden)
13. Belarusian human rights organisation whose name cannot be disclosed for security reasons
14. Norwegian Helsinki Committee (Norway)
15. Belarusian human rights organisation whose name cannot be disclosed for security reasons
16. Swiss Helsinki Committee (Switzerland)

17. World Organisation against Torture (OMCT) (international)
18. Human Rights Monitoring Institute (Lithuania)
19. Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT) (Georgia)
20. Libereco Partnership for Human Rights (Germany)
21. Östgruppen - Swedish Initiative for Democracy and Human Rights (Sweden)
22. Freedom Files (Poland)
23. Human Rights Centre (HRC) (Georgia)
24. Belarusian human rights organisation whose name cannot be disclosed for security reasons
25. Free Press Unlimited (the Netherlands)
26. Free Press for Eastern Europe (Czech Republic)
27. Centre for Participation and Development (Georgia)
28. Kazakhstan International Bureau on Human Rights and the Rule of Law (Kazakhstan)
29. Belarusian Documentation Centre (Lithuania)
30. International Partnership for Human Rights (IPHR) (Belgium)
31. Helsinki Citizens' Assembly – Vanadzor (Armenia)
32. Promo LEX (Moldova)
33. Bulgarian Helsinki Committee (Bulgaria)
34. Public Association “Dignity” (Kazakhstan)
35. Belarusian human rights organisation whose name cannot be disclosed for security reasons
36. Macedonian Helsinki Committee (Northern Macedonia)
37. Citizens Watch (Russia)
38. Helsinki Foundation for Human Rights (HFHR) (Poland)
39. Truth Hounds (Ukraine)
40. Public Verdict Foundation (Russia)
41. Human Rights Movement “Bir Duino” (Kyrgyzstan)
42. Crude Accountability (USA)
43. The Free Belarus Initiative (Inicjatywa Wolna Białoruś) (Poland)
44. IDP Women Association “Consent” (Georgia)
45. Legal Policy Research Centre (Ukraine)
46. Human Rights House Foundation (Norway)
47. Centre for Civil Liberties (Ukraine)
48. Women of the Don (Russia)
49. Association UMDPL (Ukraine)
50. Public Foundation Notabene (Tajikistan)
51. KRF “Public Alternative” (Ukraine)
52. Belarusian Association in Germany “RAZAM”
53. The Barys Zvozkau Belarusian Human Rights House (Lithuania)
54. Albanian Helsinki Committee (Albania)
55. UNITED for Intercultural Action: European Network against nationalism, racism, fascism and in support of migrants and refugees
56. Institute for Reporters Freedom and Safety (Azerbaijan)
57. Human Rights Club (Azerbaijan)
58. Human Centre “Memorial” (Russia)
59. Women’s International League for Peace and Freedom (WILPF) (Germany)
60. Human Rights Centre of Azerbaijan (Azerbaijan)