



Memo
to the fourth meeting of the EU-Belarus Coordination Group
(Brussels, 19-20 December 2017)

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INTRODUCTION

The fourth meeting of the EU-Belarus Coordination Group is taking place against the background of gradual improvement of relations between Belarus and the EU in the last two years. The Joint Declaration of the Eastern Partnership Summit (Brussels, 24 November 2017) noted that the parties "appreciate that the EU's critical engagement with Belarus has become more comprehensive, including within the EU-Belarus Coordination Group, the Human Rights Dialogue and the Dialogue on Trade"¹. The members of the Belarusian EaP CSF National Platform fully support the common rapprochement between Belarus and the EU, the expansion of cooperation formats and areas of sectoral cooperation. An important achievement is the gradually growing openness of the Belarusian authorities and the EU in contacts with civil society. Meetings of the EU-Belarus Coordination Group and the Human Rights Dialogue are held with partial participation of representatives of the Belarusian civil society. In October 2017, representatives of the Ministry of Foreign Affairs of the Republic of Belarus for the first time since the inception of the initiative took part in the annual Assembly of the Eastern Partnership Civil Society Forum.

One of the main promising issues in the development of cooperation is the parties' discussion on negotiations on a new bilateral agreement between Belarus and the EU. The Comprehensive and Enhanced Partnership Agreement (CEPA) between the Republic of Armenia and the European Union can serve as a model for Belarus as a member of the Eurasian Economic Union. Nevertheless, the possibility of starting negotiations on a bilateral agreement depends to a large extent on the fulfillment of the commitments already undertaken by the parties. The road to establishing a full-fledged format of relations can be opened after the signing of the Agreements on visa facilitation and readmission, the completion of the coordination and signing of the Partnership Priorities, as well as the practical implementation of the necessary steps aimed at fulfilling Belarus's intentions to join the WTO.

The goal and meaning of the cooperation between Belarus and the EU is ultimately the improvement of the stability of Belarus as an independent country, the growth of the well-being of its population and, most importantly, its progress towards the common values of good governance, the rule of law and human rights identified in the documents of the Eastern partnership signed by Belarus. On this path, there are both positive changes and still unresolved issues. Here we will outline the most important and most pressing issues of the current agenda from the point of view of the members of the Belarusian National Platform of the EaP CSF, as well as some necessary actions to resolve them.

The Belarusian National Platform of the Eastern Partnership Civil Society Forum was established in 2010 during the institutional development of the Forum as a full-fledged stakeholder of this initiative and is one of the 6 national platforms in the EaP countries. The goal of the BNP is articulation and representation of the position of its CSOs in various frameworks and formats of Belarusian-European and wider international relations, as well as in policy dialogue with state bodies. To date, the BNP unites more than 80 organizations and initiatives of civil society in Belarus. Within the BNP there are 5 working groups, as well as a number of ad hoc commissions that provide policy monitoring in various sectors, prepare analytics, proposals and recommendations, offer common grounds for joint positions and statements of civil society organizations.

¹ Joint Declaration of the Eastern Partnership Summit (Brussels, 24 November 2017), <http://www.consilium.europa.eu/media/31758/final-statement-st14821en17.pdf>

Human Rights

Positive trends

The adoption by the Council of Ministers of the Republic of Belarus of the Interagency Action Plan on Human Rights for 2016-2019² is a positive step and opens up opportunities for a comprehensive improvement of the situation with human rights in Belarus. Likewise, Belarus ratification of the UN Convention on the Rights of Persons with Disabilities and the adoption of National Action Plans for Gender Equality, the Rights of Persons with Disabilities and the Improvement of the Situation of Children provide opportunities for improving the situation for specific groups of Belarusian society.

Issues for resolution

The general situation with human rights in Belarus remains extremely complicated, in particular: the death penalty remains; national legislation and law enforcement restrict basic civil and political rights; there are no effective mechanisms for the protection of human rights, including a special national institution for the protection of human rights; there are no effective mechanisms for dialogue and consideration of the opinion of civil society at the national level. In spring 2017, more than 1,000 participants of peaceful protests were subjected to repression and more than 100 of them were arrested. Two people, Mikhail Zhemchuzhny and Dmitry Polienko, who are considered by Belarusian human rights activists as political prisoners, remain in prison. Belarusian human rights activist Elena Tonkacheva remains in exile and despite repeated requests to reduce the term of the ban on stay in Belarus she cannot obtain an official permit to enter the country.

Possible actions

Improvement of the human rights situation could be facilitated by:

- Providing the Interagency Human Rights Action Plan with mechanisms for its implementation, a roadmap including the publication of a list of actions of state institutions in the framework of the plan and reports on the implementation of the plan; creation of a special public council for its implementation with the participation of human rights organizations independent of the state, etc.;
- Invitation to the official visit of the UN Special Rapporteur on the situation of human rights in Belarus and other UN special rapporteurs; full cooperation with treaty bodies and UN mechanisms; the fulfillment of the human rights obligations voluntarily concluded by the State, including the empowerment at the national level of the views of the UN Human Rights Committee and other human rights treaty bodies;
- Taking steps to implement the OSCE / ODIHR recommendations on reforming electoral legislation;
- Establishment of a national human rights institution in accordance with the Paris Principles;
- Stable and irrevocable exclusion of repression practices against human rights defenders, independent media and journalists, representatives of civil society organizations and political activists.

² INTERAGENCY ACTION PLAN on implementing the accepted recommendations from the Second Universal Periodic Review of the UN Council and from the Human Rights Treaty Bodies, for 2016-2019. Approved by the Resolution of the Council of Ministers No. 860 dated 24.10.2016

Ecology and Right to a Healthy Environment

Positive trends

Over the past few years, Belarus has taken some positive steps to improve legislation to implement the provisions of the Aarhus Convention (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters); Implementation of Decision V / 9c on compliance by Belarus with its obligations under the Convention³ of the Meeting of the Parties on the construction of the Ostrovets Nuclear Power Plant; significant efforts to address large-scale environmental problems, including cross-border impact and ratification of the Paris Agreement on Climate Change.

Issues for resolution

Despite some efforts made by the government, decisions on basic environmental issues (including cross-border ones) are still taken without regard to the interests of the country's citizens, the expert community, often non-transparently. The practice and policy of the state administration in the sphere of environmental policy in Belarus, despite the positive changes in legislation, do not change for the better, as evidenced by the growing number of conflicts on environmentally significant issues and the chronic state of Belarus' non-compliance with the environmental conventions of the United Nations Economic Commission for Europe (UNECE).

Belarus' lobbying for its environmentally risky and controversial projects (like the construction of the Belarusian NPP) often creates not only **additional and high risks for the environment of the European space**, but also **undermines the basis for international environmental cooperation** at the level of the UNECE Conventions.

Possible actions

In the field of environment and environmental rights of citizens, it is necessary to develop a dialogue, the full-fledged part of which will be not only the government of Belarus, but also the consolidated entities of civil society, actively and systematically acting in this field. In the field of EU-Belarusian cooperation, it is possible to maintain a broader dialogue with the environmental civil society of Belarus on the development, monitoring and evaluation of environmental programs; on increasing the transparency of spending of financial resources and of decision-making; on greater attention to attempts to replace independent civil society actors with engaged organizations having state support but missing social support. It is also important:

- Stop persecution and pressure on environmental and social activists exercising their rights under the Aarhus Convention and other legislation.
- Fully implement the decisions of the Meetings of the Parties to the UNECE Conventions of the Aarhus and Espoo Conventions on the Belarusian Nuclear Power Plant, aimed, among others, at improving the practice of environmental decision-making.
- Continue to work with the UNECE Convention bodies in a constructive manner, and take real action to reduce the degree of tension in relations with Lithuania under the project of the Belarusian NPP and to discuss key decisions in accordance with international obligations under the Conventions.

³ https://www.unece.org/fileadmin/DAM/env/pp/mop5/Documents/Category_I_documents/ECE_MP.PP_2014_L.12_RUS.pdf ;
https://www.unece.org/fileadmin/DAM/env/pp/mop5/Documents/Category_I_documents/ECE_MP.PP_2014_L.12_ENG.pdf

Social Dialogue

Positive trends

In Belarus there is the State Program on Social Protection and Employment Promotion for 2016-2020⁴, which provides for the solution of the problems of creating new jobs, increasing labor competitiveness in the labor market, its territorial mobility, and reducing unemployment. Decisions taken to revise the provisions of Decree No. 3 "On the Prevention of Social Dependency" have positively affected the reduction of the general social tension in winter-spring 2017 caused by mass social protests against the provisions of Decree No. 3 and the introduction of a tax on the unemployed.

Issues for resolution

The Republic of Belarus has not ratified ILO Social Security (Minimum Standards) Convention (No.102), but in practice adheres to some of its norms. Convention No. 102 establishes minimum standards for 9 branches of social security: medical care; sickness benefit; unemployment benefit; old-age benefit; employment injury benefit; family benefit; maternity benefit; invalidity benefit; survivors' benefit. Currently, the unemployed can receive a maximum of 46 BYN (about 20 EUR) per month from the state, but in practice the benefit is less and according to National Statistical Committee of the Republic of Belarus, in January this year it averaged 21 BYN (about 9 EUR). The existing system of protection of the unemployed is symbolic in nature, it cannot provide simple physical survival of people caught in a difficult life situation.

The situation in the labor market is complicated by the system of short-term contracts operating in the country (Decree No. 29 of 26.07.1999) and aggravated by Decree No. 5 of the President of the Republic of Belarus of December 15, 2014 "On Strengthening Requirements for Managers and Employees of Organizations" In fact, in Belarus, almost 98% of employed people work in conditions of unstable (temporary) employment. In many respects, the condition for continuing work is employee's loyalty to unlawful employer decisions. In addition, an unprecedented violation of human rights was the publication in 2015 of Decree No. 3 "On the Prevention of Social Dependency," according to which a citizen who has not worked 183 days in a calendar year is required to pay tax. Decree No. 3 unconditionally violates human rights, contradicts international and national legal norms, de facto providing for the use of forced labor. Currently, a new concept of the Decree is being developed, however, the nature of the changes remains unclear, and the process itself is non-transparent and non-inclusive.

Possible actions

Today, in the field of social dialogue development, solutions are needed that are aimed at:

- The policy of expanding employment, including by reviewing the provisions of Decree No. 3 in the direction of promoting employment;
- Development of a system of social protection for vulnerable groups of the population in danger of poverty;
- Abolition of restrictive legislation in the field of labor and employment regulation, including the abolition of mandatory short-term contracts;

⁴ State Programme on Social Protection and Employment Promotion for 2016–2020 by Council of Ministers Decree No 73 of 30 January 2016,
<http://www.mintrud.gov.by/system/extensions/spaw/uploads/files/Programma-sodejstvija.pdf>

- Undertaking efforts to implement the recommendations of the International Labor Organization (to date, only 2 of the 12 points of the ILO recommendations have been implemented).

Higher Education Reform

Positive trends

In 2015, at the Yerevan Summit of the EHEA, Belarus was admitted to the Bologna Process on the condition that the Roadmap for Higher Education Reform is implemented by 2018. In accordance with the timetable for the implementation of the Roadmap, Belarus had to fulfill all its obligations to date, however, it fulfilled only a small part of its obligations. From the list of the most anticipated changes by the public, only the requirements of the Roadmap are implemented or planned for implementation concerning:

- transition to a three-level system of education Bachelor-Master-Ph.D. and
- ensuring the automatic free issue of the Diploma Supplement.

Issues for resolution

The Ad Hoc Commission of EaP CSF Belarusian National Platform and the Public Bologna Committee have prepared a regular report on the implementation of the Roadmap as of autumn 2017. The monitoring of the implementation of the Roadmap demonstrates that none of the commitments undertaken by the Belarusian side in 2015 has been fully implemented and on time. Vast majority of commitments:

- Establishment of the National Qualification Framework;
- Establishment of the Independent Quality Assurance Agency;
- Changes to the current system of mobility permits, to allow for longer periods of mobility within EHEA for both staff and students without ministerial approval;
- Abolition of the existing practice of graduate work placement;
- Overcoming discrimination against private university students in the provision of financial assistance (subsidized loans);
- Guarantees of academic freedom and the expansion of institutional autonomy, including the expansion of student participation in university governance;
- Ensuring the rights of students and faculty to create and register organizations, in particular, the repeal of Article 193.1 of the Criminal Code.

- have not been implemented and their implementation is not ensured by the draft legislative acts.

In view of this, out of nine of the Roadmap obligations that are societally significant, only two can be implemented by the Belarusian authorities and only under condition that the new Education Code is adopted by May 2018. However, this is an unlikely development since the transfer of this bill to the National Assembly is postponed indefinitely. Lack of progress is observed in those areas that have previously caused great concern among the members of the EHEA, which in 2012 caused the postponement of consideration of the application of Belarus to join the EHEA.

Possible actions

Maintaining the reform vector of Belarusian higher education will require the EHEA members to be persistent and consistent in their approaches to implementing Belarus' Road Map commitments and

adherence to the principles in evaluating the implementation in the Belarusian legislation and practice of fundamental academic values.

- The best way out in such a situation would be to extend the Roadmap implementation timeline for 2-3 years and to maintain international control over its implementation, including extension of the AG2 BFUG mandate to monitor the Belarus' Roadmap implementation.
- If there is a political will for real implementation of the road map, it is necessary to find funds both from the budget of the Republic of Belarus and in the format of sectoral support from the EU for implementing the main provisions and giving a qualitatively different dynamics to this process.

Entrepreneurship and Development of Small and Medium Business

Positive trends

In recent years, the government's policy in the field of economic regulation has become more balanced. The full implementation of the provisions of Decree No. 7 of November 23, 2017 "On Entrepreneurship Development" can give positive dynamics to the development of small and medium-sized businesses. Representatives of business associations of Belarus positively assess the provisions of the decree in terms of: simplifying the procedure for registration and starting a business; reducing the number of requirements for fire safety, sanitary and epidemiological requirements, requirements in the field of environmental protection, etc. for conducting economic activity; abolishment of administrative barriers, complex and lengthy procedures for approvals, various permits; the introduction of a moratorium on raising tax rates.

Issues for resolution

If there are positive moments, many questions of the development of small and medium-sized businesses remain relevant. In the general regional position paper of the business community of the Eastern Partnership⁵, there are a number of challenges that are typical for Belarus, in particular:

- Corruption and other abuses continue to prevail, despite the existence of anti-corruption legislation;
- Complex bureaucratic procedures and administrative barriers increase corruption risks;
- The quality of laws and legislative acts is often low and their impact is not assessed;
- Courts are unpredictable and administratively dependent, which makes it difficult and unpredictable to settle economic disputes;
- Property rights are not protected both at the legislative level and in their implementation;
- Dialogue between the public and private sectors in the region is insufficient, and the level of consolidation of positions in the segment of SMEs is very low;
- There is an inequality on the field for state, large companies and SMEs, non-transparent subsidies for state and large companies and additional fees in public funds paid mainly by SMEs, etc.

⁵ REGIONAL POSITION PAPER (RPP), RPP is prepared for the East Invest 2 Annual conference in Kiev on 21 June 2017 as a contribution to the 4th EaP Business Forum in Tallinn in October 2017, https://www.east-invest2.eu/wp-content/uploads/2017/06/Regional-Position-Paper_Final_Kyiv-21-June-2017.pdf

Possible actions

The situation in the sphere of small and medium business and general business conditions can be improved due to the consistent implementation of decisions taken on the development of entrepreneurship, as well as:

- Involving private sector actors in the implementation of the necessary reforms as partners to develop and implement reforms, economic development strategies and regional cooperation;
- Developing mechanisms for systematic public-private dialogue (PPD) in understandable language for SMEs, on a regular basis, focusing on specific topics and adequate time frames.

Environment for CSOs

Positive trends

In Belarus the drafting of a normative legal act aimed at improving the procedure for obtaining, using foreign gratuitous aid, its exemption from taxes, fees (duties) established by the Decree of the President of the Republic of Belarus of August 31, 2015, No 5 "On Foreign Donations" was launched. Positive (as far as possible to assess with a positive characteristic) changes proposed by the draft decree can include provisions on the exclusion of the need to register contributions of foreign founders and members of non-profit organizations in the Department for Humanitarian Activities, excluding the rule for non-profit organizations to send no more than 20% of gratuitous aid to pay their staff, an attempt has also been made to introduce a size of assistance that can be used in the event of a residue without additional coordination with the Department. At the same time, it should be noted that the introduction of only these changes would not qualitatively improve the situation with access of non-profit organizations to financial assistance.

Issues for resolution

The issues of enabling the environment for civil society directly relate to the first cross-cutting deliverable identified in December 2016 by the European External Relations Service and the European Commission in the document "Eastern Partnership: focusing on key priorities and deliverables"⁶. As before, the general conditions for civil society organizations remain unchanged and unfavorable, including the existence of restrictive norms and practice of registration of public associations; the existence of Art. 193.1 of the Criminal Code prohibiting activities on behalf of an unregistered organization; restrictions on access to foreign financing and charitable assistance at the national level; regular cases of administrative and criminal persecutions of civil society activists.

Possible actions

Priority steps to improve the situation in the field of general conditions for civil society in Belarus could be:

- Simplification of civil society organizations registration procedure, similar to the registration of commercial organizations; refusal to practice unreasonable refusals to register civil society organizations;
- Repeal of the article 193.1 of the Criminal Code;
- Changes in the procedure of obtaining and using foreign gratuitous aid, in particular:

⁶

https://eeas.europa.eu/sites/eeas/files/swd_2016_467_f1_joint_staff_working_paper_en_v3_p1_8733051.pdf

- Introduction of notification principle for registering foreign assistance;
- Introduction of a minimum size of assistance received by non-profit organisations that does not need registration;
- Changes and introduction of open list of objectives
- Change and the introduction of an open list of goals for the implementation of which it is possible to use foreign funding.

EU-Belarus Coordination Group: needs and ways to modernize the format of coordination meetings in 2018

Positive trends

An unconditional achievement of the Belarus-EU Coordination Group is the format of the tripartite dialogue with the participation of the relevant ministries of Belarus, relevant structures of the European Commission and the European External Action Service and, in part, representatives of Belarusian civil society organizations. The regularity of this format with the participation of responsible officials allows resolving the issues that arise in the current mode. Flexibility and adaptability of the format of the Coordination Group makes it possible to respond to complex and problematic moments of bilateral relations, which makes the construction of actual interactions between Belarus and the EU more sustainable.

Issues for resolution

For two years of its existence, the EU-Belarus Coordination Group, on the one hand, has shown that in this format a constructive discussion of complex issues is possible. At the same time, for any external observer it is very difficult to demonstrate measurable and concrete results of the Coordination Group, to show significant progress in the issues discussed, or to demonstrate the relationship of the work of the Coordination Group with other processes of EU-Belarusian cooperation. There is place for comments from civil society, but their impact on the process is minimal; they are practically absent in the further implementation. Each time the meetings of the group begin anew, without continuity with the results of previous meetings. The agenda, if it exists, is very general, without emphasis on special issues, problems, results. The coordination of the agenda at the last minute and only in the form of broad themes does not allow preparing sophisticated expert proposals for meetings. While the situation looks like the process is more important than the result, but after two years of existence, it is necessary to move on to another logic of setting priorities, first of all, focusing on achieving concrete results (at least intermediate ones).

Possible actions

To develop the effectiveness of the Belarus-EU Coordination Group, it is necessary:

- To move away from formulating broad themes for each separate meeting of the Coordinating Group to a more or less permanent agenda with the ability to monitor progress in discussions or in the adoption and implementation of decisions;
- To formulate, at least to draft, the EU-Belarus road map with specific indicators on the basis of which it is possible to measure progress in the framework of the agenda;
- Increase the share of participation of independent civil society organizations from 2 sessions to a full day of work (4 sessions);

- Organize direct (non-public) consultations of civil society organizations (primarily from the Belarusian EaP CSF National Platform) with the Ministry of Foreign Affairs and individual ministries on the agenda of the Coordination Group between the meetings;
- Introduce the practice of preliminary preparation of recommendations, interaction plans and other documents (both from the government and civil society side), which are discussed at the meeting;
- The meetings of the Coordination Group should not only start the next half-year cycle of communication, but should also be able to sum up and record the achieved intermediate results of cooperation between Belarus and the EU;
- The Belarusian National EaP CSF Platform as a permanent and institutional participant of this platform could have a permanent extended representation (4-5 people) to provide more expert input to the discussion of thematic issues.