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CSOs' activities in Belarus:

overall situation and latest trends

CSOs statistics: A brief overview

Analysis by reputable Belarusian and international experts indicates that the situation of civil society organizations in Belarus remains very difficult. *“That is particularly the case if their activities are perceived as challenging governmental policies or covering sensitive topics. For many, their organizations are not registered owing to restrictions on freedom of association, which expose them to a range of potential administrative and criminal violations,”* the most recent (May 2019) report of the UN Special Rapporteur on the situation of human rights in Belarus says.¹ Although the Belarus' constitution guarantees the right to freedom of association (Article 36), in practice *“it is restricted by repressive legislation, presidential decrees, and by overzealous interpretation of these laws and decrees by ministry officials and judges,”*² the Amnesty International 2013 report says.

According to official statistics, by 1 January 2019 around 3,000 public associations were registered in Belarus.³ Belarusian legislation does not require the Ministry of Justice to regularly provide statistics on registered CSOs to the public. A governmental regulation only instructs the Ministry to run the State register of political parties, republican trade unions, and civil society organizations. In practice,

¹ Situation of human rights in Belarus - Report of the Special Rapporteur on the situation of human rights in Belarus, A/HRC/41/52, 8 May 2019, https://ap.ohchr.org/documents/dpage_e.aspx?m=140

² What is not permitted is prohibited. Silencing civil society in Belarus. Amnesty International, April 2013, p.8. Available at https://amnesty.org.pl/wp-content/uploads/2013/04/Belarus_EUR490022013.pdf

³ The registration procedures of political parties and civic organizations are to be eased in Belarus (in Russian). TUT.by, 5 February 2019, <https://news.tut.by/society/625143.html>

occasionally the Ministry of Justice publishes more detailed data on registered NGOs. The latest publication of this kind concerns the data on registered NGOs as of 1 July 2018.⁴

It follows that 2,907 CSOs were registered in Belarus by that time. Of them, 227 had international status, 770 and 1,910 were republican and local CSOs, respectively. A more detailed information on the sectors of their activities is given below.

Belarusian SCOs by sectors or target groups in 2018

Sector	Number	Sector	Number
Sport	809	War veterans, people with disabilities	94
Charity	403	Science and technology	85
Youth	355	Environment, history, and culture	87
Education and leisure time	250	Art	50
National minorities	110	Women	32

Source: *Belarusian Ministry of Justice*

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An unknown part of these organizations are non-governmental only nominally and in practice are governmentally controlled (so called GONGOs). They include both small local associations and large republican ones, such as the Belarusian Republic Youth Union, the Belarusian Union of Women, and the Belarusian Union of Journalists. The share of GONGOs in the list of registered public associations is unknown as no such comprehensive analysis has been undertaken, to our knowledge. Collecting organization-specific information to differentiate GONGOs from genuine CSOs in accordance with reasonable criteria would be a time-consuming endeavor. Furthermore, a complete up-to-date register of Belarusian CSOs is not publicly available.

⁴ https://minjust.gov.by/directions/compare_coverage/

The benefit of a relatively simple registration procedure of institutions is outweighed by some potentially adverse characteristics.

In addition to public associations, institution⁵ (учреждение) and foundation are two other legal forms of CSOs in Belarus. As of 2018, 195 foundations were registered in Belarus, Ministry of Justice data shows. Mentioned statistics do not include institutions, the most popular organizational and legal form for CSOs in Belarus lately. During the times when the Ministry of Justice used to publish information on institutions, no distinction was made between CSOs and public schools or libraries. Hence, the numbers of CSOs registered as institutions are not known. However, supposedly a few hundred of them are registered in Belarus. While political parties, public associations, and foundations register with the Ministry of Justice or its territorial offices, institutions and trade unions are registered with local authorities across the country.

The benefit of a relatively simple registration procedure of institutions is outweighed by some potentially adverse characteristics. First, founders of institutions bear subsidiary liability for the obligations of the organization. Second, legal and practical specifics inherited by this type of CSO – power concentrated in the hands of one person – do not contribute to democracy and transparency within the organization.

“The founder of institutions is a tsar who can appoint himself/herself a director, assign salaries, etc. without consulting others,” one of the interviewed experts said.⁶ Only a small share of teams which organize themselves into institutions realize the management dangers which can arise.

In order to function in a less regulated environment and to preserve a larger extent of political independence, a few hundred Belarus-focused CSOs were established outside Belarus, mainly in neighboring Poland and Lithuania. Finally, an unknown number of initiatives operate in Belarus without any registration. This had been a rather adventurous undertaking until late 2018, when the activities of non-registered organizations were finally decriminalized.

⁵ Sometimes this legal form of NGO is translated into English as institute or not-for-profit establishment

⁶ Interview with Yury Chavusau, legal advisor at the Assembly of Pro-Democratic NGOs of Belarus, 24 August 2019, Minsk.

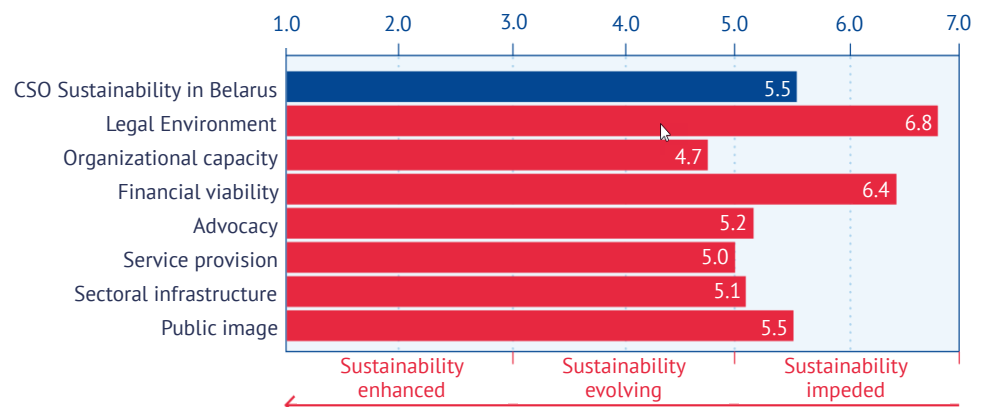
No new political parties have been registered in Belarus since 2000.

Legal environment and practical conditions

There are a number of laws in Belarus which regulate different types of organizations: the Law on Political Parties, the Law on Trade Unions, the Law on Freedom of Conscience and Religious Organizations, and the Law on Associations. There is a consensus among domestic and foreign experts that the legal environment for CSOs' activities in Belarus is restricted. "NGOs in Belarus are subject to very detailed requirements which can serve as reasons for the authorities to refuse registration in the first place or to liquidate the organization for failure to comply with requirements,"⁷ Amnesty International 2013 report on the Belarusian civil society says. When it comes to political parties, no new political parties have been registered in Belarus since 2000.⁸

The CSO Sustainability Index for Belarus elaborated by the USAID shows that indicators of various aspects of CSOs' functioning are rather low. In 2017 the overall CSO Sustainability Index in Belarus was assessed by experts at 5.5 points on a 1–7 point scale, where seven is the worst, whereas the Legal Environment sub index received the lowest rate among all sub indexes (6.8).

CSO Sustainability Index 2017 for Belarus



Source: 2017 Civil Society Organization Sustainability Index, USAID

⁷ Op.cit. Amnesty International, 2013, p.10.

⁸ https://minjust.gov.by/directions/compare_coverage/registration/information/

Practices of arrests of human rights defenders and activists (as well as members of independent trade unions), the prevention of peaceful assemblies and interference with the work of journalists and civil society organizations continue to be regularly reported, the 2019 Report of the Special Rapporteur on the situation of human rights in Belarus says.

The Report continues that although the number of such cases in 2018 seems to have fallen in comparison to the previous year, the same policies are in place, showing that there has been no fundamental change in approach. *“With a restrictive legal framework and practices still in place, a relapse into widespread repression can easily occur... With presidential and parliamentary elections due to take place in or before 2020, the risk of a further deterioration in the situation, especially regarding fundamental freedoms, is far from excluded,”*⁹ the report concludes.

The experts interviewed within this research mostly agree with the UN report’s view and the conclusions of CSO Sustainability Index research. *“Factual situation [with Belarusian CSOs activities] is better than it is on paper. If state authorities applied all available mechanisms [of control and compliance], then civil society would have much less space for action. Latest improvements mostly result from factual softening rather than from changes in legal environment,”*¹⁰ one of the interviewed experts said. He believes conditions for human rights defenders and civil society organizations with a political transformation agenda have hardly eased, whereas cultural and entrepreneurship associations have seen some facilitations.

The most significant legal improvement which occurred lately is the repeal of article 193.1 of the Criminal Code criminalizing the activities of non-registered organizations. This norm had been continuously criticized by national and foreign stakeholders for its blatant violation of basic human rights standards. At least 18 people had been convicted under Article 193.1 during 2005-2010, the report on freedom of association and legal conditions for non-commercial organizations in Belarus says.¹¹ At the same time, the UN Special Rapporteur stresses

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⁹ Situation of human rights in Belarus - Report of the Special Rapporteur on the situation of human rights in Belarus, A/HRC/41/52, 8 May 2019, p.19, https://ap.ohchr.org/documents/dpage_e.aspx?m=140

¹⁰ Interview with Andrei Yadorau, Senior Analyst at the Center for European Transformation, 9 August 2019, Minsk.

¹¹ Freedom of association and legal conditions for non-commercial organizations in Belarus, 2018. Legal Transformation Center (Lawtrend) and Assembly of Pro-Democratic NGOs, p. 16.

that “*this development can only be considered a partial success*”, since administrative liability for the activities of non-registered organizations was introduced instead.¹² The same is true for the partially softened regulation on the notification procedure for assemblies, which is valid only for those taking place in areas designated by authorities.

Membership and activities of unregistered civil society organization were penalized by a presidential decree in December 2005 ahead of the presidential elections in March 2006. Article 193-1 treated any activity on behalf of an unregistered organization, including political parties and religious organizations as a criminal offence punishable by a fine or imprisonment for up to two years.

In its Opinion on Article 193-1 issued in October 2011 the Venice Commission held that as a party to the ICCPR Belarus violated its legally binding obligations to respect and protect fundamental rights such as freedom of expression. It also opined that, “*merely by its existence, Article 193-1 has a chilling effect on the activities of NGOs, its members and its leaders. It is intimidating for social mobilization and civic activism on the forum of NGOs and may thus obstruct the work of human rights defenders... The Venice Commission holds that Article 193-1 penetrates the thoughts and attitudes of activists even without being put into effect. And when put into effect, the Venice Commission considers that the restriction is so severe that it not only restricts freedom of association but also freedom of opinion and expression to a unjustifiable degree.*”¹³

In retrospective, another example of repressive legislation concerning the CSOs which came out of Belarus’ presidential administration was the Presidential Decree №2 of 1999. Among other things, it included a requirement on all CSOs to re-register and those that did not pass the registration procedure were liquidated. It resulted in the liquidation of a large number of Belarusian CSOs.¹⁴ The same Decree considerably restricted activities of political parties, trade unions and CSOs by introducing the requirement for them to be located in business premises and not residential premises, because the private sector in Belarus remains concerned about possible repercussions from state authorities for hosting a CSO.

¹² Report, op.cit., p.10.

¹³ Opinion on the Compatibility with Universal human rights standards of Article 193-1 of the Criminal Code on the rights of non-registered associations of the Republic of Belarus, Adopted by the Venice Commission at its 88th Session, Venice, 14 – 15 October 2011, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e)

¹⁴ Op.cit. Amnesty International, 2013, p.10.

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Interviewed experts shared contradicting observations on the level of activity of grassroots initiatives in Belarus over the last years. Some note an increase in their activity, be it informal parental committees or BMW motorcycle owners' clubs, while others do not subscribe to this view. In particular, experts of the Assembly of Pro-Democratic NGOs and the Legal Transformation Center Lawtrend involved in consultations for CSOs on legal aspects of their activities do not confirm this observation, based on the statistics available to them.¹⁵ Nevertheless, most of the interviewed experts shared the view that the number of cultural, urban and local development initiatives, creative spaces, and informal education initiatives have lately increased in Belarus. Generally disproportions in the development of different civil society sectors remain, recent the most comprehensive study of Belarusian civil society sectors shows.¹⁶

Financial viability of CSOs

Belarusian CSOs continue to have limited access to funding, the 2017 SCO Sustainability Index concludes. Presidential Decree No. 5 on Foreign Aid, which came into force in March 2016, regulates the receipt, accounting, registration, and utilization of foreign aid. Whereas public associations are not allowed to engage in economic activities, CSOs registered as institutions have the right to engage in such activities.¹⁷

CSOs are allowed to seek government contracts but, in practice, due to state favoritism of GONGOs such as the Belarusian Republican Youth Union and other organizations loyal to the state who receive direct funding from the budget on a non-competitive basis, independent organizations can rarely access public funding. In practice, social contracts are assigned by local authorities to a very limited number of CSOs with close relationships with the authorities – most contracts are awarded to the Belarusian Red Cross.¹⁸

¹⁵ Interview with Yury Chavusau.

¹⁶ Aksana Shelest, Andrei Yahorau, and Volha Smalianka. Civil society in Belarus: the present situation and development conditions [in Russian]. Minsk, 2018. Available at https://eurobelarus.info/files/userfiles/5/DOC/2018_Civil-Society-Belarus-RU.pdf

¹⁷ 2017 SCO Sustainability Index, p.40, https://www.usaid.gov/sites/default/files/documents/1866/2017_CSO_Sustainability_Index_for_Central_and_Eastern_Europe_and_Eurasia.pdf

¹⁸ Ibid, p. 42.

A recent negative trend is increased reallocation of funds by international donors to GONGOs, rather than independent CSOs.

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A negative trend identified by both the CSO Sustainability Index report and some of the interviewed experts is increased reallocation of funds by international donors to GONGOs, rather than independent CSOs. *“In 2017, CSOs’ funding diversification declined due to cuts in funding from key international donors, including USAID, the EU, and the Global Fund to Fight AIDS, Tuberculosis and Malaria,”* the CSO Sustainability Index report says.¹⁹ The report gives data from the OECD which shows that between 2007 and 2016, CSOs received 34.6 percent of international technical aid, while in 2017 their share was less than 20 percent.

The revised European Neighborhood Policy (ENP) of 2015, with its greater focus on stabilization, resilience and security, has put part of Belarusian civil society in a difficult situation. Although one interviewed expert assesses the total amount of EU support to Belarus as remaining on the same levels as before 2015 (around EUR 100-120m annually, of those around 11-12% is directed to the Belarusian civil society), he stressed that a shift towards supporting state actors and GONGOs has taken place since then.²⁰

The greater emphasis on local development, fight with climate change, etc. requires the closer cooperation of civil society organizations with central and local authorities. Hence, politically neutral and openly government-controlled CSOs in a number of sectors find themselves in a better position relative to genuinely independent CSOs than they had been in before. *“I would not say that nowadays many donor organizations are positive towards various protest initiatives, while some time ago this was rather trendy,”*²¹ one of the interviewed experts said.

Furthermore, the adoption of a revised ENP coincided with the release of political prisoners in Belarus. It brought the start of the gradual normalization of EU-Belarus relations, which resulted in an even greater channeling of EU finance towards the Belarusian government at the expense of support provided to civil society. To make use of this change central state authorities encouraged local administrations to establish GONGOs to also compete for foreign donors’ money. The interviewed expert²² spoke of the fairly recent illustrative case when, in order to comply with the formal requirement to have a partner

¹⁹ Ibid, p. 41.

²⁰ Interview with Andrei Yahorau.

²¹ Interview with Maryna Korzh, expert at the Office for European Expertise and Communications, 15 August 2019, Minsk.

²² Ibid.

CSO in the call for applications on water safety, a local administration in Belarus partnered with a local CSO assisting persons with disabilities. Despite the fact the organization, apparently, was not a meaningful stakeholder when it comes to water safety and didn't have previous experience in the sector, it was brought in as a nominal partner.

This observation, however, does not mean that cooperation between local authorities and GONGOs are always smooth. One of the interviewed practitioners who carried out research in non-capital regions stated that regional offices of the Belarusian Republic Youth Union were often unhappy about their cooperation with local officials and complained about them.

The changed EU support paradigm is criticized on two main accounts. First, by placing emphasis on stability it curtails the EU's transformation ambitions in Belarus, which is seen as a weak response to increasingly assertive Russian actions. Second, by excessively prioritizing cooperation with state authorities and GONGOs which often have no interest in good governance and the rule of law and resort window-dressing instead, the EU undermines the efficiency of its support. Systemic changes and reforms are hardly possible without sufficient engagement of domestic actors who are genuinely interested in progressing towards better institutions.

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While many CSOs continue to rely on foreign funding, increased efforts to raise money from local sources, including the public and businesses, are a well-marked trend. *"Less state control over civil society has made business support to CSOs more common,"*²³ one of the interviewed experts said. Another practitioner confirmed increasing legal inquiries on behalf of CSOs about fundraising from local resources. *"A decade ago CSOs would normally ask for legal consultation concerning the registration of a foreign grant. Nowadays, they increasingly seek advice on the project's legal format which would allow the use of various sources of funding, including crowdfunding."*²⁴ Since its establishment in April 2019 until September 2019, a new Belarusian crowdfunding platform Molamola.by designed for various civil society initiatives approved over 400 submissions for crowdfunding, an interviewed platform's initiator said.²⁵

²³ Interview with Alexander Adamiants, director at ECLAB, 9 August 2019, Minsk.

²⁴ Interview with Yury Chavusau.

²⁵ Interview with Anton Motolko, civic activist and blogger, 10 August 2019, Minsk.

In less experienced CSOs decision-making procedures, election for board members, and other management principles are not followed or are frequently disrespected.

Lately civil society actors are included in a number of consultative forums more often than it was before, however, often such forums continue to exist only on paper.

Organizational capacity of CSOs

The CSO Sustainability Index defines the Organizational Capacity sub index as its strongest dimension. Yet the actual sub index rate is rather low (4.7 points on a 1-7 point scale, where seven is the worst), so it stands out mostly because other sub-indexes are even worse and high dedication of Belarusian civil society activists. The report concludes that the constituency-building capacity of Minsk-based CSOs is rather high, in contrast to non-capital CSOs. Normally leading Belarusian CSOs have well-defined missions and strategic plans and maintain internal management procedures, whereas in others, less experienced CSOs decision-making procedures, election for board members, and other management principles are not followed or are frequently disrespected. In 2017 ten key Belarusian CSOs in the human rights sector developed strategic plans with donor support.²⁶

In recent years, faced with cuts in foreign funding, part of Belarusian CSOs had to reduce their number of staff and to increasingly rely on volunteers. Generally, CSOs find it very difficult to employ permanent, full-time staff, since they rely almost entirely on project-based donor funding. Most CSOs employ just a few people on full-time basis, while many do none, turning to short work contracts instead when such necessity arises. In case of country-wide GONGOs with regional offices the number of permanent staff can reach tens of persons.

The recent positive trend specified by the UN Rapporteur is the gradual inclusion of civil society actors in a number of consultative forums. However, often high-quality comments of CSOs on draft laws and regulations are not taken into consideration sufficiently, the report says.

This observation is corroborated by the experts interviewed as part of this research: *“Around 80% of dialogues [between state authorities and CSOs], particularly discussions in the parliament, are only nominal. Proposals by CSOs are not taken into account, so it is all about formal participation of civil society in the consultation process.”*²⁷

The same is often true on a local level. Rarely, in non-capital regions local authorities maintain consultative councils to make use of civil society expertise when a need arises, while often such forums continue to exist only on paper.

²⁶ Report, p.40.

²⁷ Interview with Yury Chavusau.

Although 25,5% of Belarusians are aware of CSO activity, 80% have not participated in their activities.

Over ten Belarusian CSOs (mostly cultural CSOs) have at least 10,000 subscribers on social networks.

Public Perception of CSOs

National surveys show that the public generally has a positive or neutral perception of CSOs and activists. According to a 2017 survey, 48 percent of Belarusians expressed trust in CSO activists, which is a higher indicator than businessmen (44,6%), journalists (39,6%), politicians (23,2%), and public servants (24,9%) received. It also turned out that the level of trust in GONGOs is even higher (29,2%) than in independent CSOs (24,6%), which is a worrying fact. Another 2017 survey found out that although 25,5% of Belarusians are aware of CSO activity, 80% did not participate in them. Data shows that the types of CSOs most known to Belarusians are trade unions and youth and sports organizations.²⁸

Belarusian CSOs have developed considerable visibility in print and online media, maintaining a fairly active social media presence, and regularly organize public events. Experts from think tanks and other types of CSOs are regularly invited to give commentary or participate in TV programs. The larger interest in civic activity cannot be attributed solely to the repeal of the criminal liability for activities in the name of non-registered CSOs. Furthermore, this development may have played only a minor role given that many newbies in civic sector were not aware of repressive legislation before the repeal took place and remain unaware of administrative liability which is in place at present.

As of late 2017 twelve Belarusian CSOs (not GONGOs) had over 10,000 subscribers on social networks. Among those five are cultural CSOs, two represent human rights sector, the rest are youth and environmental CSOs, one trade union, a fund-raising platform, and a voluntary movement for searching of missing people “Angel”, the latter is leading in terms of subscribers (145,000).²⁹ Internet-based petition platforms have lately become a rather important channel for public efforts to influence state bodies. These are mostly individual public initiatives at Petitions.by, however, Belarusian CSOs mostly made use of them to promote their cause at Zvarot.by, an interviewed core member of Zvarot.by Internet-based petition platform said.

²⁸ CSO Sustainability Index report, p. 46.

²⁹ <https://ideaby.org/ngo/>

Conclusion

This study aimed to give a brief overview of CSOs' activities in Belarus and the latest trends in various aspects of CSOs' functioning. It is based on analysis of official documents, specialized reports, and deep interviews with a number of leading experts, practitioners, and civil activists.

Despite the fact the situation of civil society organizations in Belarus remains very difficult, one cannot say that it has worsened over the last years from the legal point of view. On the contrary, some positive developments have taken place lately in this regard. Most notably, article 193.1 of the Criminal Code criminalizing the activities of non-registered organizations was repealed in late 2018. Even more importantly, state authorities softened their control over civil society in recent years, which gave CSOs some more space even in the absence of meaningful sustainable legal liberalization. It has to be stressed, though, that the risk of a further deterioration in the situation cannot be excluded.

The change of the EU support paradigm in 2015 resulted in the situation when GONGOs are increasingly favored at the expense of independent NGOs. This turn sidelined independent CSOs in many sectors and undermined efforts to genuinely promote good governance and the rule of law instead of favoring window-dressing on behalf of state authorities and GONGOs. Increased efforts to raise money from local sources, including the public and businesses, are a well-marked trend when it comes to CSOs' financial viability.

Whereas the Legal Environment sub index has the lowest rating among all in the CSO Sustainability Index for Belarus, Organizational Capacity is its strongest dimension. Although in recent years civil society actors are more often involved in various state consultative forums than was true before, their opinions are normally disregarded and their participation is often seen by state bodies as purely nominal. When it comes to public perception of CSOs, it is largely positive or neutral. However, surveys indicate that GONGOs enjoy an ever higher level of trust among Belarusians than independent CSOs.

Recommendations to the Belarusian authorities

This study reiterates recommendations which have previously been made by the civil society actors, experts and practitioners:

- To make national legislation regulating CSOs functioning congruent with the best international standards as proposed by authoritative practitioners and international actors. This would include facilitation of CSOs registration procedures, implementation of concrete measures to ensure genuine freedom of association, inter alia by abolishing all restrictions on activity of unregistered CSOs, the removal of the ban for CSOs to have legal address in private residential houses, etc.
- To remove excessive limitations on access to funding and improve legislation regulating financial activities of CSOs, among other things through the consideration of best practices in the V4/EU countries and specific measures proposed by domestic experts (see, inter alia, here).³⁰
- To end state favoritism of GONGOs and other organizations loyal to the state when it comes to receiving funding from the budget, assignment of social contracts, etc.
- To facilitate the participation of CSOs in public decision-making processes in a transparent, impartial and non-discriminatory manner as specified, inter alia, in the OSCE Recommendations in Enhancing the Participation of Associations in Public Decision-Making Processes.³¹

³⁰ Aksana Shelest, Andrei Yahorau, and Volha Smalianka. Civil society in Belarus: the present situation and development conditions [in Russian]. Minsk, 2018, pp. 102-104.

³¹ Recommendations on enhancing the participation of associations in public decision-making processes. PC.SHDM.NGO/11/15, April 2015. Available at <https://www.osce.org/pc/151631?download=true>