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CONTENTS

1	BELARUSIAN NGOs: BETWEEN BELARUS AND ABROAD
1	BELARUSIAN NGOs AND THE WEST: A WAY FORWARD
4	REGISTRATION OF BELARUSIAN NGOS ABROAD: FUNCTIONS AND TYPES OF NON-PROFIT OUTSOURCING

BELARUSIAN NGOs: BETWEEN BELARUS AND ABROAD

Non-governmental organizations (NGOs) are the key element in developing the civil society. Working smoothly in the West, public participation in post-Communist societies is still struggling. Even worse is the case of Belarus, where the NGOs are not the most beloved public actors for the regime. Registration problems, various restrictions, persecution and even imprisonment are always one step behind the organizations that are not loyal to the government.

Necessity to show your loyalty to the government in order to be able to function makes Belarusian less NON-governmental. Even with such conditions, third sector in Belarus finds a way to function independently, however there are some inside problems that makes it harder as well. Thus, the fourth issue of The Bell is dedicated to discuss the problems and solutions for the third sector in Belarus.

Tatsiana Chulitskaya in her article argues that there two possible categories of the NGOs in Belarus: pro-governmental and oppositional. The first ones

get the needed support from Minsk; meanwhile the second ones are living under the magnifying glass of the government. However, after naming strengths of the Belarusian NGO sector, the author demonstrates that the problems arise from the inside, too. Despite the fact, Tatsiana Chulitskaya summarizes the importance of the NGOs in the transformation of the state and gives some recommendations to foreign donors in how to improve the cooperation between the partners.

In the second article Yury Chavusau gives a review of the Belarusian NGOs that are registered and working outside the country. Author states that the main reasons for such situation are unfavorable domestic legal conditions and lack of possibility to be financed. Mr. Chavusau proposes four categories of the NGOs working abroad: from the ones that only need a status of registration to the others that are actually working only outside Belarus. The author concludes that a proper principle of action is combining inside activities (thus, reaching the target groups) and outside possibilities (mainly the financing).

Vytautas Keršanskas, Editor

BELARUSIAN NGOs AND THE WEST: A WAY FORWARD

Tatsiana Chulitskaya

The Belarusian civil society is permanently deemed to be a major beneficiary of foreign aid. Internationally, it is seen as a legitimate actor in need of support, something stressed in multiple public statements and decisions on situation in Belarus¹. NGOs' participation is mandatory for implementation of social assistance programs run by large international institutions, such as United Nations Development Programme (UNDP). There are numerous educational and youth programs targeting members of the third sector. However, the situation in the sphere of Belarusian NGOs remains quite challenging. It is caused by both objective restrictions imposed by undemocratic political regime and some problems inside NGOs themselves.

The subject of political regime's restrictions on NGOs in Belarus is well-presented in the analysis by international and local human rights organizations. Without an ambition to provide an in-depth description of all restrictions, we can outline the most significant ones:

- Persecution of organizations and public activists during and after political campaigns (with a threat of administrative and criminal prosecution);
- Penal sanctions for activities on behalf of un-registered organization (Article 193.1 of the Criminal Code of Belarus);
- Registration problems and multiple refusals to register NGOs;
- Mandatory registration of donor aid in state institutions with criminal liability introduced in autumn 2011 for violating rules of receiving foreign aid, along with tightening previous administrative sanctions. NGOs are

¹ E.g. the European Parliament resolution of 20 January 2011 on the situation in Belarus, http://eeas.europa.eu/delegations/belarus/press_corner/all_news/news/2011/20110121_be.htm

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- also banned from holding accounts in foreign banks²;
- Periodic enactments of increasingly restrictive regulations on NGO activities, e.g. growing rent rates.
- Experts agree that NGOs usually have no opportunity to participate in policy-setting³, something de facto depriving them of a status of full-fledged public actor (with NGOs of small businesses serving a rare exception from the trend).

The third sector of Belarus: state of the art

Formally, there are 15 political parties, 37 trade unions and 2477 NGOs registered in Belarus, out of them 229 international, 688 national and 1560 local ones (according to the data of the Ministry of Justice, 1 January 2013). The organizations cover different spheres of activities: charity (401 NGOs), sport (626), youth and children (277), culture and education (220), ethnic minorities (112). Also, there are 85 NGOs of veterans, 84 ones for research and technologies, 68 for environment and heritage protection, 49 artistic groups and 30 associations of women.⁴ This list demonstrates that many NGOs stick to the Soviet-time's perception of public activity. According to experts, majority of organizations, including those newly registered by the Ministry during recent years, act in the spheres of sport and charity. However, experts note that a range of organizations in Belarus act without formal registration. After repeated failures to obtain legal status inside Belarus, some organizations choose registration abroad, usually in neighboring countries.⁵

Traditionally, Belarus ranks low in international ratings and reports on civic and political freedoms, e.g. Freedom House or Amnesty International. On the other hand, we can see a trend towards more positive assessments of inherent development of the third sector. For example, the USAID NGO Sustainability Index 2011 report notes that 'the third sector is expanding its capacities' in Belarus, illustrated by generation of analytical products for use both within the sector, internationally, and in some cases even by the government; increasing CSO advocacy capac-

ity, CSOs working in coalitions and increasingly using social media to access target groups and promote their public image⁶. Still, the overall assessment of conditions for functioning of NGOs remains in the 'Sustainability Impeded' category.

The Belarusian government follows the practices of neo-corporatism in building relations with the third sector, whereas large organizations are allowed to monopolize certain group interests and are entitled to support, primarily financial, from the state, in exchange for loyalty to the regime. The Federation of Trade Unions of Belarus, the Belarusian Union of Women and the Belarusian Republican Youth Union are typical examples.

The President Lukashenko sets the attitude towards NGOs by multiple statements about the importance of "councils of deputies, trade unions, organizations of women, veterans and youth" as "pillars of the society" as opposed to "inconsiderable opposition parties and organizations relying on foreign sops and grants"⁷. Reproduced on the level of political practices, this discursive division determines opportunities for existence and activities of NGOs in Belarus. With a loyalty to the government as a primary criterion, analytically one can identify two categories of Belarusian NGOs: pro-governmental (both large and tiny ones) and oppositional⁸. There is a range of significant differences between them in terms of legal status, membership, financial sources and problems faced. Hereafter, predominantly NGOs of the second type are discussed, given their higher level of compliance with the democratic concept of civil society.

Strengths and weaknesses of Belarusian NGOs

The innovativeness of Belarusian NGOs constitutes their primary strength, with following competitive advantages:

- High potential for innovation, with a diversity of activities and spheres covered. NGO activities in Belarus cover a wide range of significant social, cultural and also political issues. Innovative approaches can be exemplified by activities of educational center

² Find more: «Правовое положение организаций гражданского общества в Беларуси. Обзорные и аналитические материалы за 2011 год» / Ассамблея демократических НПО, Фонд развития правовых технологий . - Минск. - 2012.

³ Ibid, c. 6

⁴ For more information see: http://minjust.by/ru/site_menu/about/struktura/obschestv/

⁵ The Assembly of Belarusian Pro-Democratic NGOs, one of the most influential and well-known organizations in Belarus, was registered on Lithuania in 2011. The leading think tank BISS and the poll agency IISEPS have the same status.

⁶ http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/reports/2011/2011CSOSI_Index_complete.pdf#page=44

⁷ Необходимо заняться вопросами укрепления в Беларуси гражданского общества – Лукашенко // Белта, 21.04.2011. http://www.belta.by/ru/all_news/president/Neobxodimo-zanjatsja-voprosami-ukreplenija-v-Belarusi-grazhdanskogo-obschestva---Lukashenko_i_551544.html

⁸ Find more: Matonyte I., Chulitskaya T. The Third Sector and Political Communication in Belarus: Highlights on the Topic of Social Policies from the Presidential Campaign 2010: Lithuanian Annual Strategic Review. Volume 10, Issue 1, Pages 235–263, ISSN, January 2013

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Despite the systemic and inherent difficulties, Belarusian NGOs are and should stay among the key beneficiaries of international support in the future, first of all because of their considerable potential to promote systemic change.

- POST and a number of projects / campaigns in the spheres of culture and education (e.g. Budzma) or media (34mag.net).
- Adaptation to challenging environment and prompt reaction to changing conditions. Regardless of systematic restrictions, they find a format of activities to articulate and defend interests of their target groups (e.g. Human Rights Center Viasna which provides legal assistance to victims of rights violations).
 - Dealing with socially significant issues / social groups impossible for the government to address for a number of reasons. Environmental NGOs serve examples of good practices in this regard, e.g. Green Network, as well as the Office for the Rights of People with Disabilities. These cases demonstrate an attempt to accompany the representation of group rights by broader advocacy efforts.
 - High potential for self-evaluation and self-analysis. Belarusian NGOs possess possibilities and skills for analysis of both their own activities and systemic framework of their work, making cooperation easier for donors (e.g. research activities by the NGO Assembly);
 - Attractive and active regional initiatives / organizations facilitating spread of participation practices, e.g. "Third Sector", a good example of multifunctional regional activities in Hrodna.

However, some weaknesses of the Belarusian NGO sector prevent it from more effective functioning:

- Politicization of activities. On the national level, this problem is visible in discussions of goals and tasks of the Belarusian third sector as well as an opportunity to act as a consolidated political actor. The National Platform of the Civil Society Forum of the Eastern Partnership is one of the supporters of the "political development". Proposals by some of the members of the Platform's Coordinating Committee resulted in a conflict amongst its participants in autumn 2012⁹. On a local level, civic and political activists are often the same people; it results in a complete lack of distinction between civic and political activism.
- Calls on internal hierarchization of Belarusian NGOs in the framework of the single platform. This trend became visible because of the activities of the National Platform of the Civil Society Forum, too.
- Marginalization and ghettoization of Belaru-

⁹ More about the politicization problems: Шрайбман А., Нужны ли гражданскому обществу политические рельсы? // Naviny.by, 30.11.2012. Режим просмотра: http://naviny.by/rubrics/society/2012/11/30/ic_articles_116_180062/print/

sian NGOs as a result of their isolated focus, lack of access to media (except for web-media) to promote their activity, and a lack of tradition in the Belarusian society of organized civic participation. During one of the researches on the role of NGOs in the society, only 24 per cent stated that they have participated in some events held by civic groups¹⁰.

- Insignificant membership and problems in recruiting new members as well as the personalization of NGOs, whereas organizations are led by the same leaders, frequently founders, for a long period of time.
- Substitution of systematic support of organizations by individual charitable initiatives, especially in the social sphere. Because of difficulties and a lack of regulation on providing donor support, as well as likely political risks¹¹, businesses find it easier to provide assistance individually rather than publicly.
- Competition over aid is a key problem for Belarusian NGOs, since in the virtual absence of domestic support they have to rely on foreign resources. In this light, organizations often compete in a way that personalities and capacity to force out rivals prevail over the clash of ideas.

On opportunities to cooperate with Belarusian NGOs

Despite the systemic and inherent difficulties, Belarusian NGOs are and should stay among the key beneficiaries of international support in the future, first of all because of their considerable potential to promote systemic change. There are some possible recommendations on providing foreign aid:

1. To focus on organizations that seek to change cultural paradigms and practices of public participation (cultural, educational, national-identity projects / programs).
2. To support regional organizations, initiatives and campaigns as likely promoters of long-term transformation throughout Belarus.
3. To move from providing support on the basis of leader's recognition towards quality-based assessment of initiatives / projects.

¹⁰ Аналитическая записка "Общественные объединения: их роль в современном белорусском обществе", Ассамблея НГО, Eastern European Studies Center, Минск, 2011.

¹¹ More about the fundraising problems: «Внутристрановой фандрейзинг НГО: возможности и перспективы», <http://www.belinstitute.eu/images/doc-pdf/bppf032010ru.pdf>, and «Обоснование необходимости (краткая концепция законопроекта) Закона Республики Беларусь «О благотворительной деятельности и благотворительных организациях» // Центр правовой трансформации, 2011.

There is a notable detail that characterizes international contacts of Belarusian NGOs since recent years: you can meet an increasing number of organizations that introduce themselves as “NGOs denied registration in Belarus, yet registered in Lithuania”.

REGISTRATION OF BELARUSIAN NGOs ABROAD: FUNCTIONS AND TYPES OF NON-PROFIT OUTSOURCING

Yury Chavusau

There is a notable detail that characterizes international contacts of Belarusian NGOs since recent years: you can meet an increasing number of organizations that introduce themselves as “NGOs denied registration in Belarus, yet registered in Lithuania”. Noticeable since mid-2000s, the phenomenon has grown really massive in recent years. This article aims at clarifying the nature of this phenomenon for foreign observers and explaining functional differences between types of Belarusian NGOs registered abroad.

Current situation in Belarus and abroad

One should have in mind that both registered and unregistered NGOs keep existing and acting inside the country, too. It is true that conditions are extremely unfavorable for activities of CSOs in Belarus, beyond any comparison with those in the EU member states. However, 2487 NGOs, 139 foundations and a considerable number of non-profit establishments were registered and legally worked in Belarus on 1 April, 2013. Simultaneously, hundreds of organizations and initiatives (both grass roots and reputable ones, such as Human Rights Center Viasna) are acting without the state registration, under a threat of penal persecution.

Referring to PADOR, the database of the European Commission, is sufficient to see how widespread the practices of registering Belarusian NGOs abroad are. A number of Belarusian or Belarus-related NGOs outside Belarus that apply for European grants is comparable to a number of applicants registered in Belarus.

The geographic footprint of locations hosting Belarusian NGOs outside Belarus is broad, including Czech Republic, Slovakia, Germany, Sweden, Ukraine, England, Belgium, Latvia, Ukraine, and Russia. However, neighboring Poland¹ and Lithuania² are the most popular destinations for Belarusian NGOs in search of formal registration.

¹ A special manual in Belarusian language has been published in Poland on founding NGOs in this country: «Я ствараю арганізацыю ў Польшчы. Дапаможнік для Беларусаў» (Варшава, Група Zagranica і Таварыства “Клён”, 2012)

² There is a specialized website in Lithuania which provides legal support for registering and administering Belarusian NGOs in Lithuania: <http://ngo.in.lt/>.

We could list many Belarusian organizations registered outside Belarus: the Young Front, the Belarusian Institute for Strategic Studies (BISS), the Independent Institute of Socio-Economic and Political Studies (IISEPS), the Human Rights Alliance, the Institute of Belarusian History and Culture, the Belarusian Schuman Society and dozens of other respectable and well-known NGOs. The Assembly of Pro-Democratic NGOs, a major NGO association which has been working in Belarus since 1997, is also registered in Lithuania after three failed attempts to formally register the organization with the Ministry of Justice of Belarus.

Both practical aspects, e.g. available facilities for activities, presence of permanent partners, political support from the government, transport and communications, etc., and legal aspects, such as an opportunity to obtain registration without a need for founders to constantly reside in a foreign state, user-friendly procedures and their costs, legal forms of NGOs, a requirement to possess an office space, taxation regulations and a legal opportunity for foreign citizens to participate in steering bodies of the organization, are taken into consideration by Belarusian NGOs when choosing a place for registration.

Notably, such initiatives have received political support from the EU. The European Parliament in its resolution on 20 January, 2011, called on the European Commission to develop a mechanism of registration of NGOs that are denied registration in Belarus for political reasons, in order to enable them to benefit from the EU programmes.

Why abroad?

Unfavorable domestic legal conditions are the main factor for Belarusian NGOs to seek formal registration abroad. The authorization procedure established by law for registering NGOs and foundations enables the Ministry of Justice to arbitrarily deny registration to any new organization. Dozens of NGOs, including some quite well-known and reputable ones, face refusals for years. One should bear in mind that activities of unregistered NGOs and foundations in Belarus are prohibited and punishable by a fine or imprisonment of up to two years, according to the

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Article 193.1 of the Criminal Code³.

Conditions for raising funds both from abroad and domestically are extremely restricted. Receiving foreign grants is subject to authorization procedure with the state bodies, making it virtually impossible for many to obtain support legally (e.g., for the Belarusian Helsinki Committee). Interestingly, anonymous donations were made equal by the law to foreign ones and are subject to the same rigid authorization procedure. Criminal liability has been enacted for violating rules of receiving foreign donations (e.g., using foreign donations without registration) in 2011. Donations from individuals are *de facto* the only legal source of funds for NGOs in Belarus, uncontrolled by the state.

Acquiring legal capacity in one of neighboring states is what many Belarusian NGOs see as a way-out in such circumstances. There are three main possibilities that they get via registration abroad:

- To avoid criminal prosecution for activities without registration (relevant for NGOs denied registration in Belarus).
- To gain a simple and uncontrolled (by Belarusian authorities) access to foreign aid, including that from the EU (relevant for registered and unregistered in Belarus NGOs alike).
- To implement activities that are impossible or too risky to carry out in Belarus (seminars, conferences, schools, hosting websites, publications).

Combinations of these three possibilities are subject to the needs of a particular NGO. They enable to distinguish four major categories of Belarusian NGOs registered abroad that are crucial for foreign partners and donors to be aware of.

Different categories of NGOs abroad

Category I – NGOs that only need a status of a registered organization. They stay fully Belarusian and function in Belarus. The Young Front, a pro-democratic youth movement registered in Czech Republic, is the most typical example. The members of the Young Front were primarily targeted by the Article 193.1 of the Criminal Code. Having registered their movement abroad in 2008, leaders of the Young Front can now le-

³ 18 individuals were prosecuted and found guilty by Article 193.1 between 2005 and 2008. The Article has been de facto suspended since 2008, thanks to the pressure of the international community. However, the prosecutors and the KGB keep warning members of unregistered NGOs, parties and religious organizations about likely penal liability in case if they do not stop membership.

gally speak on its behalf and present themselves as leaders of the Young Front, because the Belarusian legislation does not prohibit membership in 'foreign' NGOs. Moreover, the foreign registration enables NGOs to be covered by media. Journalists are not allowed to cover activities of unregistered organizations, but they are free to write about 'foreign' ones.

Category II – NGOs willing to circumvent restrictive Belarusian legislation on foreign aid and obtain funds from foreign private or public sources. The relevance of such a solution became obvious after the notorious case against Ales Bialiatski, a well-known Belarusian human rights defender who provided his personal account for receiving grants on behalf of the unregistered Viasna and was prosecuted for tax evasion. This is why many Belarusian NGOs are seeking registration in Lithuania or/and Poland, even if they possess registration in Belarus. They need an 'avatar' organization in Poland or Lithuania to receive European grants. Foreign NGOs can hire staff in Belarus and pay them honoraria and taxes in Belarus. It is also legal for a foreign NGO to pay for events in Belarus (including rent), book publication and equipment purchase. Examples of such NGOs can be found in the abovementioned PADOR system. This is the largest category of Belarusian NGOs abroad, but they are not very visible, because their role is limited to that of intermediary, while activities take place in Belarus and are seen as implemented by the Belarusian NGOs.

Category III – NGOs originally created abroad to implement activities not possible to carry out in Belarus. For example, the Belarusian Human Rights House in exile in Vilnius was founded by a consortium of Belarusian human rights defenders to host annual Belarusian human rights schools, other seminars and conferences, providing assistance to political refugees from Belarus, etc. Created by initiative and with support of the Belarusian democratic opposition for lobbying and advocacy at the EU institutions, the Office for Democratic Belarus in Brussels is probably the most successful and effective case in this category. However, the experience of the Office also illustrates a risk for this category of NGOs: when the mother organization disappears in Belarus (e.g. the coalition of the United Democratic Forces who stood behind the Office before breaking apart), foreign-born organizations stop fulfilling their service function and start pursuing their own interests, thus migrating into the forth category.

Category IV – probably the smallest in number, but the most visible in media: a variety of civil representations / offices founded by the newest wave of the Belarusian emigration. The Belarusian house in Warsaw and the Solidarity with Belarus Information Office are well-known exam-

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ples from this category, as well as some NGOs who had to flee political repression with almost all their membership, e.g. the Third Way NGO after 2006 and many other NGOs after 2010. A predominant majority of such Belarusian NGOs assembled in Tallinn at the Fifth Congress of the New Belarusian Diaspora on 23-25 November, 2012, where they showed they fully realize and stress their difference from traditional 'old' Belarusian diasporas.

Obviously, these categories differ in terms of degree of activities run inside Belarus. NGOs of Category I are completely Belarusian, with formal registration being the only 'foreign' element; NGOs of Category II use their outsourcing facilities also for fundraising; those in Category III also implement some activities abroad, while organizations of Category IV are fully based, plan and work abroad. The last ones are, in essence, not different from any other non-Belarusian partners of Belarusian organizations in international projects.

Certainly, these categories represent ideal types of NGOs, as real cases can differ and transform as time goes by. Nevertheless, the categorization is useful for assessing impact of some specific projects on situation in Belarus, if run by NGOs registered outside the country.

A proper combination of activities inside and possibilities provided by a registration outside is a considerable factor of as successful efforts as possible in today's Belarusian reality. Outsourcing some of NGO functions abroad, including the registration, is a legitimate process caused by conditions of activities in Belarus.

However, one should keep in mind that many things are still possible inside the country. Parties and NGOs that work in Belarus ensure the best reach-out to target groups. In most cases, foreign outsourcing is limited to registration and secure fundraising, something that helps to outmaneuver the harsh legislation and still keep the mother NGO in Belarus.



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