

Resolution of the Belarusian participants of the international conference "Human Rights and Combating Extremism"

Minsk, June 4, 2019

We, participants of the international conference "Human rights and Combating Extremism," expressing our commitment to combating all kinds of extremism, warmongering, hatred and incitement to violence and discrimination on whatever grounds, having discussed the current anti-extremist legislation of Belarus and the law-enforcement practice in the light of international standards in the field of human rights, point out the following:

- The current anti-extremist legislation and law-enforcement practice do not fully comply with international standards in the field of human rights protection, which often leads to incidents of anti-extremist legislation abuse affecting citizens expressing their opinions on various issues of the social and political life of the state and society.
- In many cases, holding citizens administratively liable for the distribution of extremist materials represented an unacceptable restriction of freedom of expression that has nothing to do with real countering extremism in society.
- The law-enforcement practice under art. 130 of the Criminal Code (incitement to racial, national or other social hatred or discord) is also of significant concern for us. It is increasingly becoming a tool to suppress dissent.
- In our opinion, amendments to the Extremism Combating Act adopted in the first reading by the House of Representatives may also result in abuse and violation of the right to freedom of expression.

In this regard, we call on the Belarusian authorities to:

- bring national legislation in line with international standards to prevent the arbitrary application of restrictions on freedom of expression, and specifically revise the definition of extremism in the national legislation with the aim of eliminating the ambiguous concepts and concepts that are subject to overly broad interpretation;
- dissolve the expert boards; to solve the issues of commissioning expert studies and evaluating the expert findings pursuant to the procedure established by the relevant code of practice;
- provide for a separate civil procedure for consideration of cases on declaring information products extremist which would enshrine a broad range of procedural guarantees of human rights and fundamental freedoms; to change the process of declaring groups extremist so that it would provide for a possibility of revision of the decision by the higher court;
- harmonize the customs law and legislation on extremism;
- retain criminal liability for organizing and participating in activities and funding of activities exclusively of those groups whose activities are declared extremist and outlawed by the court;
- if applicable, declare extremist and outlaw the activity of all groups regardless of their registration status in a civil action;
- in determining the permissibility of restrictions on freedom of expression, be guided by the Constitution of the Republic of Belarus (arts. 33, 34 of the Basic Law) and

international legal obligations of the Republic of Belarus (primarily art. 19 of the International Covenant on Civil and Political Rights, commitments within the OSCE agreements), considering the interpretation thereof by the UN Human Rights Committee and the European Court of Human Rights (under art. 8 of the Constitution, the Republic of Belarus recognizes the priority of generally accepted principles of international law and ensures compliance of the national legislation with these principles);

- prevent arbitrary restrictions on freedom of expression under the guise of combating extremism;
- while considering cases on declaring materials extremist, rely upon the Johannesburg principles on national security, freedom of expression and access to information, and consider expression of opinion extremist only where (a) the expression of opinion is intended to provoke imminent violence, (b) it is fraught with the possibility of provoking violence; and (c) there is a direct and immediate connection between the expression of opinion and the likelihood of expression or actual expression of violence), and Camden principles governing in particular the grounds for and limits of the restriction on freedom of expression;
- rely upon the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes an incitement to discrimination, hostility or violence;
- if required to restrict access to extremist materials online, apply blocking only as a last resort, with due regard to the procedural rights of the website owners, including the right to participate in the procedure and the opportunity to appeal on the merits the decision on declaring materials extremist;
- extend an invitation for a set visit to UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.;
- extend an invitation for a set visit to UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;
- fully achieve the cooperation within the UN Treaty Bodies, take measures for the implementation into the national legislation of adopted concluding observations made upon the consideration of progress reports of the Republic of Belarus;
- summarize the applicable case law on combating extremism and adopt a resolution of the Plenum of the Supreme Court on the judicial examination practice of such cases;
- publish the court decisions on occurrence or absence of elements of extremism in information products.