



INTERNATIONAL MONITORING OF THE HUMAN RIGHTS SITUATION IN BELARUS THROUGH THE UNIVERSAL PERIODIC REVIEW: LIGHTS AND SHADOWS OF THE UN HUMAN RIGHTS COUNCIL MECHANISM

MIĘDZYNARODOWA KONTROLA SYTUACJI PRAW CZŁOWIEKA NA BIAŁORUSI W RAMACH POWSZECHNEGO PRZEGLĄDU OKRESOWEGO – BŁASKI I CIENIE MECHANIZMU KONTROLNEGO RADY PRAW CZŁOWIEKA ONZ

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— ABSTRACT —

The Universal Periodic Review (UPR) of the United Nations Human Rights Council is an international monitoring mechanism established within the frames of the universal human rights protection system, which involves systematic assessment of the performance of all member states of the UN with respect to a broad range of their human rights obligations and international humanitarian law standards. Since Belarus does not participate in the regional human rights protection system operating under the auspices of the Council of Europe, the application of the UPR in relation to that country gains particular importance. So far Belarus has been under review twice – in 2010 and 2015. The aim of the paper is to describe the rules of the mechanism and the process of the UPR concerning Belarus, to present

— ABSTRAKT —

Powszechny przegląd okresowy (UPR) Rady Praw Człowieka ONZ to międzynarodowy mechanizm utworzony w ramach uniwersalnego systemu ochrony praw człowieka, za którego pomocą prowadzona jest systematyczna kontrola wykonywania przez wszystkie państwa członkowskie Organizacji szerokiego zakresu ciężących na nich zobowiązań z dziedziny praw człowieka oraz międzynarodowych standardów humanitarnych. Ponieważ Białoruś nie uczestniczy w regionalnym systemie ochrony praw człowieka działającym pod egidą Rady Europy, możliwość zastosowania UPR dla oceny sytuacji praw człowieka w tym kraju nabiera szczególnego znaczenia. Dotychczas Białoruś została poddana przeglądowi dwukrotnie – w latach 2010 i 2015. Niniejszy artykuł ma na celu przybliżenie zasad UPR, przedstawienie jego

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the results of the review, including main human rights issues identified and the recommendations received by Belarus in the course of the UPR, as well as to explain the position of Belarusian authorities on such recommendations. The paper also attempts to discuss the drawbacks and the advantages of the UPR, using the perspective of the review undergone by Belarus.

Keywords: human rights protection, Belarus, Universal Periodic Review, Human Rights Council, international monitoring

przebiegu w odniesieniu do Białorusi i rezultatów, w tym wskazanie głównych problemów praw człowieka zidentyfikowanych podczas przeglądu, oraz analizę zaleceń otrzymanych przez Białoruś od państw uczestniczących w przeglądzie, a także stanowiska białoruskich władz wobec wspomnianych rekomendacji. W artykule podjęta została ponadto próba oceny UPR jako mechanizmu kontrolnego z perspektywy doświadczeń uzyskanych w związku z przeprowadzonymi już przeglądami Białorusi.

Słowa kluczowe: ochrona praw człowieka, Białoruś, powszechny przegląd okresowy, Rada Praw Człowieka, kontrola międzynarodowa

GENERAL INFORMATION ON THE UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review (hereinafter: UPR) was established within the frames of the United Nations human rights protection system under the UN General Assembly resolution 60/251 of 15 March 2006. Hence its origins are closely connected with the creation of the Human Rights Council (hereinafter: HRC), which in 2006 replaced the Commission on Human Rights as the main UN subsidiary body responsible for promoting universal respect for the protection of all human rights and fundamental freedoms, the effective coordination and the mainstreaming of human rights within the UN system, as well as addressing situations of violations of human rights and making recommendations thereon (UN GA Res. 60/251, 2006, paras. 2–3).

The Council fulfills its monitoring duties making use of a number of mechanisms developed by the former Commission and then assumed and reviewed by the new body (UN GA Res. 60/251, 2006, para. 6). Among those procedures are, for example, special procedures established either to report and advise on selected thematic issues concerning human rights all over the world, called ‘thematic mandates’, or set up to deal with a specific human rights situation in a given country, called ‘country mandates’ (Kedzia, 2003, p. 49; Manual on Human Rights Monitoring, 2011, p. 7). The UPR, however, is a unique, innovative monitoring mechanism (McMahon, 2012, p. 4) which enables the HRC to systematically assess the performance of all member states of the UN with respect to their

human right obligations, commitments and international humanitarian law standards, including positive developments and challenges faced by states in that area (Rezmer, 2014, pp. 340, 356).

Basic principles of the UPR were determined by the UN General Assembly in the resolution of 15 March 2006, which stated that the review should be 'based on objective and reliable information' and conducted 'in a manner which ensures the universality of coverage and equal treatment with respect to all States.' In addition, the resolution emphasized that the UPR 'shall be a cooperative mechanism based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs.' At the same time the General Assembly entrusted the HRC with the task of developing the modalities of the review (UN GA Res. 60/251, 2006, para. 5e). Therefore detailed rules governing the mechanism in question were prepared and adopted by the Council as a part of its institution-building package (UN HRC Res. 5/1, 2007, Annex) and further developed in subsequent documents (decisions, resolutions, statements) of the HRC and its President (see e.g.: UN HRC Dec. 6/102, 2007, para. I; President's Statement 20/1, 2012).

It must be added that although the UPR is a comparatively new mechanism, it has already been reviewed by the Human Rights Council and undergone considerable changes with the view of its improvement, as a part of a broader review process of the work of the HRC (UN HRC Res. 16/21, 2011, Annex, pp. 3–5; UN HRC Dec. 17/119, 2011).

According to the rules and modalities of the review established by the Council, the objectives of the UPR include: the improvement of the human rights situation on the ground; the fulfilment of the state's human rights obligations and commitments, as well as the assessment of positive developments and challenges faced by the state under review; the enhancement of the state's capacity and of technical assistance, in consultation with, and with the consent of the state concerned; the sharing of best practice among states and other stakeholders; support for cooperation in the promotion and protection of human rights; and last but not least, the encouragement of full cooperation and engagement with the HRC, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights (UN HRC Res. 5/1, 2007, para. 4).

The review shall promote the universality, interdependence, indivisibility and interrelatedness of all human rights and fully integrate a gender perspective. It is supposed to be a cooperative, inter-governmental, member-driven and action-oriented mechanism based on objective and reliable information and on interactive

dialogue, with the full involvement of the country under review and with the participation of all relevant stakeholders, including non-governmental organizations (hereinafter: NGOs) and national human rights institutions. It should ensure universal coverage and equal treatment of all states, and be conducted in an objective, transparent, non-selective, constructive, nonconfrontational and nonpoliticized manner, but at the same time take into account the level of development and specificities of countries. Moreover, it is required that the UPR does not duplicate other human rights mechanisms. It shall not diminish the capacity of the Council to respond to urgent human rights situations. Nor should it absorb a disproportionate amount of time and resources, be overly long or burdensome to the concerned state (UN HRC Res. 5/1, 2007, para. 3).

The assessment of the UN member states under the UPR takes into account a broad range of their human rights obligations contained in the UN Charter (1945), the Universal Declaration of Human Rights (1948), the human rights instruments to which the concerned state is party, voluntary pledges and commitments made by states and applicable international humanitarian law (UN HRC Res. 5/1, 2007, para. 1).

The UPR is a cyclical and multistage process. The first cycle began in 2008 and lasted four years. Under the new modalities the periodicity of the review for the second cycle (which began in June 2012) and for all subsequent cycles is four and a half years. The third cycle of the mechanism is already underway. It started in May 2017 and shall be finished by November 2021 (Calendar of Reviews, 2017). Over the course of the entire cycle there are fourteen UPR sessions and 42 countries are reviewed each year. As a rule, the sessions are convened three times per year and each session is dedicated to fourteen states (A Guide for Recommending States, 2015, p. 7).

Edward R. McMahon distinguishes the following stages of the mechanism (McMahon, 2012, pp. 9–10):

- Preparation of a national report by the concerned state, in accordance with the general guidelines adopted by the HRC. States are encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders (UN HRC Res. 5/1, 2007, para. 15a);
- Preparation of stakeholder and UN documentation. The required materials include a compilation drawn up by the Office of the High Commissioner for Human Rights of the information contained in the reports of the UN treaty bodies, special procedures and other relevant official

UN documents, as well as a summary of additional, credible and reliable information provided by other relevant stakeholders – NGOs, national human rights institutions, or regional organizations (UN HRC Res. 5/1, 2007, paras. 15b–15c);

- Assessment of the national report and preparation of questions and recommendations by the UN members participating in the UPR. Each review is facilitated by ‘troika’ – a group of three states, selected by lot from the members of the HRC and coming from different regional groups, who act as rapporteurs. The ‘troika’ collate all advance issues or questions to be transmitted to the state under review in order to pave the way for its preparation and focus the interactive dialogue (UN HRC Res. 5/1, 2007, paras. 18d, 21; Redondo, 2008, p. 727; *A Guide for Recommending States*, 2015, pp. 7–8);
- Review of the concerned state conducted in the HRC Working Group composed of 47 members of the Council. It takes the form of an interactive dialogue between the country under review and other UN member states and observers. The duration of the dialogue used to be three hours, but since the start of the second cycle of the UPR, it has been extended to three hours and thirty minutes for each state under review. Seventy minutes are reserved for the concerned state and the speaking time left is divided among all delegations inscribed, in such manner that every speaker may take floor (Rezmer, 2014, p. 356). Other stakeholders, e.g., NGOs, may attend sessions of the Working Group, but they shall not engage directly in the interactive dialogue (Górzyńska, 2009, p. 526);
- Preparation and adoption of a report consisting of a summary of the proceedings of the review process, conclusions, recommendations and the voluntary commitments of the state under review. The report is prepared in the Working Group with the assistance of the ‘troika’, the UN Secretariat, and the concerned country. It is released one week after the end of the Working Group session (*A Guide for Recommending States*, 2015, p. 9);
- Adoption of the final outcome of the review at the plenary session of the HRC. Before it happens, the state under review is offered the opportunity to reply to questions or issues that were not sufficiently addressed during the interactive dialogue. It may also (so may the member states of the Council and the observers) express views on the outcome of the review. Similarly, other stakeholders have the opportunity to make general com-

ments before the adoption of the outcome by the plenary of the HRC (UN HRC Res. 5/1, 2007, paras. 29–31; Redondo, 2008, p. 732). It is of utmost importance that the state under review should clearly communicate to the Council, preferably prior to the Council plenary, its positions on all received recommendations (UN HRC Res. 16/21, 2011, para. 16).

The final phase of the procedure involves the follow-up of its outcome. According to the HRC, the outcome of the UPR, as a cooperative mechanism, should be implemented primarily by the concerned country, nevertheless the states are encouraged to conduct broad consultations with all relevant stakeholders in this regard. What is more, each UPR should focus, *inter alia*, on the implementation of recommendations accepted by the concerned country in the course of the previous review and on the developments of the human rights situation on the ground. The states are also requested to provide the Council, on voluntary basis, with a midterm update on follow-up to accepted recommendations (UN HRC Res. 16/21, 2011, paras. 6, 17–18).

HUMAN RIGHTS OBLIGATIONS OF BELARUS

Being one of the original members of the UN, Belarus has right from the start participated in the so called charter-based human rights protection system operating within the organization. Consequently, it has been subject to the monitoring mechanisms established on the basis of resolutions or decisions of those UN bodies (e.g., the special procedures and the complaint procedure of the HRC), whose competence to create such mechanisms can be derived from the UN Charter.

So far Belarus has also acceded or ratified a considerable number of the core human rights instruments constituting the UN treaty-based system. Detailed data on the status of ratification are presented in Table 1.

Table 1. Status of ratification of the UN core human rights instruments by Belarus

Treaty	Date of ratification/ accession
International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966	12.11.1973
Optional Protocol to ICESCR, 2008	-
International Covenant on Civil and Political Rights (ICCPR), 1966	12.11.1973

Treaty	Date of ratification/ accession
Optional Protocol to ICCPR, 1966	30.09.1992
Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty, 1989	-
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965	08.04.1969
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), 1984	13.03.1987
Optional Protocol to CAT, 2002	-
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979	04.02.1981
Optional Protocol to CEDAW, 1999	03.02.2004
Convention on the Rights of the Child (CRC), 1989	01.10.1990
Optional Protocol to CRC on the involvement of children in armed conflict, 2000	25.01.2006
Optional Protocol to CRC on the sale of children, child prostitution and child pornography, 2000	23.01.2002
Optional Protocol to CRC on a communications procedure, 2014	-
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990	-
Convention on the Rights of Persons with Disabilities (CRPD), 2006	29.11.2016
Optional Protocol to CRPD, 2006	-
International Convention for the Protection of All Persons from Enforced Disappearance (CPEd), 2006	-

Source: Author's own work based on data retrieved from: <http://indicators.ohchr.org/>, and https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=16&Lang=EN.

Nonetheless, it should be noted that, with some exceptions, only reporting procedures provided for in the treaties listed above are obligatory in nature. As a rule, other monitoring mechanisms, such as inter-state communications, individual communications or inquiries, apply to the states parties which have consented to it, either by making a special declaration or by ratifying an optional protocol to a particular treaty. Unfortunately, Belarus has expressed necessary consent with respect to few mechanisms – namely, two individual communications procedures (concerning the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women), as well as two inquiry procedures (provided for in the Optional Protocol to the Convention on the Elimination of All Forms of Discrimina-

tion against Women and in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). It has also recognized the competence of the UN treaty body – the Human Rights Committee – to consider inter-state communications dealing with alleged violations of the International Covenant on Civil and Political Rights (Ratification Status, 2018). Other monitoring procedures within the UN treaty system, in particular seven individual communications mechanisms, are yet to be accepted by Belarus.

What is more, Belarus has not ratified the most important European human rights instrument – the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and does not participate in the human rights protection system operating under the auspices of the Council of Europe. Nor does it recognize the competence of the European Court of Human Rights.

At the same time, the situation of human rights in Belarus for years has been the subject of growing concern of the international community, which led to the establishment of the country mandate dedicated to that state. In 2012, after the UN High Commissioner for Human Rights had presented a comprehensive report to the Human Rights Council indicating the existence of a pattern of serious violations of human rights in Belarus since the presidential elections in 2010 (Report of the United Nations High Commissioner, 2012, para. 73), the HRC decided to appoint a special rapporteur to monitor the situation and make recommendations for its improvement; help to implement the recommendations contained in the report of the High Commissioner; assist the interested government in fulfilling its human rights obligations; offer support and advice to civil society; seek, receive, examine and act on information from all relevant stakeholders pertaining to the situation of human rights in Belarus (UN HRC Res. 20/13, 2012, para. 3). On 1 November 2012, Mr. Miklós Haraszti assumed the functions of the Special Rapporteur and in 2018, the HRC decided to extend the mandate for a period of one year (UN HRC Res. 38/14, 2018, para. 11).

In his latest report presented in 2018, the Special Rapporteur described ‘an unchanged oppressive environment for the rights and freedoms of citizens’ in Belarus (Report of the Special Rapporteur, 2018, Note by Secretariat) and warned that the situation of human rights in the monitored country had not improved since the mandate had been established. The report also identified main human rights issues, including: the systemic curtailing of the freedom of expression (along with the freedom of the media and freedom of the Internet); undue restrictions on the freedoms of association and peaceful assembly; ill-treatment, amounting in some cases to torture, used as a systemic tool serving

the oppressive legal framework, in conjunction with the absence of a national preventive mechanism to monitor the conditions in places of deprivation of liberty and with the lack of effective legal remedies for victims of acts of ill-treatment; arbitrary arrests and detentions; the harassment of human rights defenders, trade unionists and civil society organizations; the absence of the rule of law caused by the extent of the power of the executive over the legislative, the judiciary and legal professionals; the lack of a national human rights institution; forced labour; discrimination, particularly discrimination based on gender or sexual orientation. Moreover, the Special Rapporteur pointed out that Belarus is the only European state still retaining the death penalty in law and in practice, and that executions are carried out without guarantees of due process, in the way which entails violations of basic rights for the convicted and their relatives (Report of the Special Rapporteur, 2018, paras. 11, 28–104). It is worth mentioning that in general the concerns expressed by Mr. Haraszti are shared by the non-governmental organizations working in the field of human rights (see: Belarus. Events of 2016. Human Rights Watch; Belarus: Detention of Journalists... Amnesty International, 2018). The Rapporteur, the HRC and the NGOs agree also that so far the Belarusian authorities have not shown willingness to cooperate with the mandate holder. According to the Council, the response of the government of Belarus to the requests made by the HRC, including appeals concerning access of the special procedure mandate holders to the country, has been inadequate (UN HRC Res. 38/14, 2018).

THE PERIODIC REVIEWS OF BELARUS AND THEIR OUTCOME

Belarus has already undergone the UPR twice. During the first cycle of the mechanism, the review of Belarus was held on 12 May 2010 and the troika selected to facilitate the process were: Norway, the Philippines, and Senegal (Report of the Working Group, 2010, paras. 1–2). In the course of the second cycle, the review was held on 4 May 2015 and the troika consisted of Algeria, Pakistan, and Paraguay (Report of the Working Group, 2015, paras. 1–2). The third review is scheduled for April/May 2020.

It should be noted that Belarus cooperated with the mechanism – submitted required documents in a timely manner and participated in the interactive dialogue at the sessions of the Working Group. However, the key elements of the UPR are the recommendations formulated as a result of the review. For that

reason, further reflection will concentrate on the recommendations received by Belarus and the response of the Belarusian government. The analysis will be based on the classification of the UPR recommendations developed by Edward R. McMahon with the support of UPR Info (NGO working towards promoting and strengthening the process of the UPR). Taking into account the type of action requested by recommending states, the recommendations can be divided into five categories (McMahon, 2012, pp. 14–15; *Beyond Promises*, 2014, pp. 21–25):

- Category 1 – recommendations directed at countries other than the state under review, or calling upon the concerned state to request financial or other assistance from, or share information with other states (e.g., ‘Share its best practices in the area of combating trafficking in women and children with other countries in contemporary situation’);
- Category 2 – recommendations emphasizing continuity in actions and/or policies (e.g., ‘Continue active cooperation with human rights mechanisms’);
- Category 3 – recommendations to consider change (e.g., ‘Consider abolishing the death penalty’);
- Category 4 – recommendations of action that contain a general element (e.g., ‘Improve the overall situation of media freedom’);
- Category 5 – recommendations of specific action (e.g., ‘Establish a moratorium on the death penalty as a step towards its abolition’).

One must agree with Edward R. McMahon that category 1 recommendations require the least cost and effort from the state under review, therefore they are easily accepted, while category 5 recommendations generally tend to be the furthest-reaching and most important, but since they represent the greatest potential cost, they are hardest to accept (McMahon, 2012, p. 15).

In the course of its two UPR cycles, Belarus received 441 recommendations offered by 100 states (169 recommendations coming from 47 states during the first cycle of the UPR and 272 recommendations from 94 states during the second cycle). The UN members which submitted the highest number of recommendations were, with two exceptions, European countries: Spain (14), Canada and Lithuania (13), the Czech Republic (12), France, Norway and Brazil (11).

The Belarusian government supported 124 recommendations received during the first review and 161 recommendations during the second review. In total, 285 recommendations (64.6%) were accepted. Detailed data on the number of recommendations and recommending states are presented in Table 2.

Table 2. Recommendations received by Belarus during the 1st and the 2nd cycle of the UPR

Recommending State	1st cycle		2nd cycle		1st & 2nd cycles	
	Total number	Number of supported recom.	Total number	Number of supported recom.	Total number	Number of supported recom.
Algeria	4	4	2	2	6	6
Argentina			2	2	2	2
Armenia	2	2			2	2
Australia			4	1	4	1
Austria	6	4	4	2	10	6
Azerbaijan	2	2	1	1	3	3
Bahrain			3	3	3	3
Bangladesh	3	3	2	2	5	5
Belgium	4	3	3	2	7	5
Bhutan	3	3			3	3
Bolivia	3	3	4	4	7	7
Bosnia & Herzegovina			1	1	1	1
Botswana			2	1	2	1
Brazil	9	4	2	0	11	4
Brunei Darussalam			2	2	2	2
Canada	8	5	5	2	13	7
Chile			3	2	3	2
China	2	2	2	2	4	4
Costa Rica			5	2	5	2
Croatia			2	1	2	1
Cuba	2	2	3	3	5	5
Czech Rep.	7	4	5	3	12	7
Denmark			4	1	4	1
Djibouti	3	3			3	3
Democratic People's Rep. of Korea	2	2	3	3	5	5
Ecuador			2	2	8	8
Egypt	5	5	3	3	2	2
El Salvador			3	2	3	2

Recommending State	1st cycle		2nd cycle		1st & 2nd cycles	
	Total number	Number of supported recom.	Total number	Number of supported recom.	Total number	Number of supported recom.
Estonia			3	1	3	1
Ethiopia			1	1	1	1
Finland	2	1	2	1	4	2
France	4	0	7	3	11	3
Germany			3	1	3	1
Ghana			7	1	7	1
Greece			3	0	3	0
Guatemala			4	1	4	1
Holy See			3	3	3	3
Hungary	6	5	3	2	9	7
Indonesia	1	1	2	1	3	2
Iran	4	4	2	2	6	6
Iraq	1	0	1	1	2	1
Ireland	5	0	3	1	7	1
Israel	3	1			3	1
Italy	3	1	5	1	8	2
Japan			2	2	2	2
Kazakhstan	3	3	3	3	6	6
Kuwait			2	2	2	2
Laos	1	1	1	1	2	2
Latvia			3	0	3	0
Libya	4	4			4	4
Lithuania	7	4	6	1	13	5
Luxembourg			5	3	5	3
Malaysia	4	4	3	3	7	7
Mexico			3	1	3	1
Montenegro			2	0	2	0
Morocco	2	2	2	2	4	4
Myanmar			2	2	2	2
Namibia			3	1	3	1
Netherlands	4	2	2	0	6	2
Nicaragua	2	2	2	2	4	4

Recommending State	1st cycle		2nd cycle		1st & 2nd cycles	
	Total number	Number of supported recom.	Total number	Number of supported recom.	Total number	Number of supported recom.
Nigeria			2	2	2	2
Norway	7	6	4	0	11	6
Oman	3	3	1	1	4	4
Pakistan			2	2	2	2
Palestine	5	5	2	2	7	7
Paraguay			3	2	3	2
Peru			4	2	4	2
Philippines			2	2	2	2
Poland	3	3	4	1	7	4
Portugal			4	0	4	0
Rep. of Congo			2	0	2	0
Rep. of Korea			4	2	4	2
Romania			3	2	3	2
Russian Federation	2	2	4	4	6	6
Rwanda			3	3	3	3
Senegal			4	4	4	4
Serbia			3	3	3	3
Sierra Leone			4	1	4	1
Singapore	1	1	2	2	3	3
Slovakia			3	2	3	2
Slovenia			5	2	5	2
Spain	10	3	4	1	14	4
Sri Lanka			2	2	2	2
Sudan	2	2	2	2	4	4
Sweden			3	0	3	0
Switzerland	5	3	3	2	8	5
Syria	2	2	2	2	4	4
Tajikistan	4	4	3	3	7	7
Thailand			2	2	2	2
Tunisia	1	1			1	1
Turkmenistan			2	2	2	2
Uganda			1	1	1	1

Recommending State	1st cycle		2nd cycle		1st & 2nd cycles	
	Total number	Number of supported recom.	Total number	Number of supported recom.	Total number	Number of supported recom.
United Arab Emirates			1	1	1	1
United Kingdom			2	0	2	0
USA			3	1	3	1
Uruguay			6	1	6	1
Uzbekistan	2	2	2	2	4	4
Venezuela	1	1	4	4	5	5
Viet Nam			2	2	2	2
Zimbabwe			2	2	2	2
Total	169	124	272	161	441	285

Source: Author's own work based on UPR Info data retrieved from: https://www.upr-info.org/database/index.php?limit=0&f_SUR=16&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&MRRgrp=&SMROrg=&pledges=RecoOnly.

The human rights issues raised in the recommendations directed to Belarus generally reflect the concerns expressed by the UN Special Rapporteur and NGOs. Nearly fifty recommendations referred to the use of the death penalty and encouraged the Belarusian government to abolish the capital punishment or introduce a moratorium on executions. Many others dealt with the matters concerning freedom of association and peaceful assembly, freedom of opinion and expression, the problem of arbitrary detentions, the difficult situation of the human rights defenders and civil society organizations. The needs to establish an independent national human rights institution in Belarus and to increase the cooperation of Belarusian authorities with the UN human rights mechanisms (particularly with special procedures) were also frequently pointed out by recommending states.

On the other hand, the recommendations were often repetitive and not specific. Fortunately, Belarus received only three category 1 recommendations during the first cycle of the UPR, and none during the second cycle. Still, the recommendations falling into categories 2 and 3 constituted 29.7% of the total number of recommendations. As regards the action required by the recommending states, a positive change could be observed during the second review, when

over 43.3% of recommendations directed to Belarus were category 5 (requesting a specific action), in comparison to 29.6% during the first review. Such recommendations mostly suggested the ratification of international instruments or the abolishment of the death penalty.

Although the response of the Belarusian government to the received recommendations seems at first glance promising, with the acceptance at the level of over 64%, it should be noted that such a positive attitude is actually limited to the least specific recommendations. Only 20 (11.8%) recommendations falling into category 5 were supported by Belarus in the course of the first review, and no more than 28 (10.3%) in the course of the second review. Thus, it can be said that while the number of the 'strongest' recommendations has increased, the willingness of Belarusian authorities to support them has decreased.

CONCLUDING REMARKS

The UPR, though operating for a relatively short time in comparison to other international human rights monitoring procedures, has already been discussed at length by various commentators (scholars, NGOs), who attempted to identify both the strong points and the deficiencies of the mechanism. It appears that the most appreciated features of the UPR are universality (not only in law but also in practice) and the broad scope of the review, as well as its public nature (Górzyńska, 2009, p. 529; Redondo, 2008, p. 733; Rezmer, 2014, p. 352). The main weaknesses of the UPR include: the unsatisfactory quality of national reports prepared for the purpose of the review; the interactive dialogue, which is not always objective and constructive; the large number of recommendations, which are often repetitive and imprecise; and the lack of effective follow up (Górzyńska, 2009, p. 529; Ramcharan, 2011, p. 46; Rathgeber, 2008, pp. 5–6; Rezmer, 2014, pp. 350–351).

The process of the review and the outcomes of two cycles of the UPR concerning Belarus seem to support those observations. Ideally, the state under review, while preparing its national report should undertake a detailed, objective and bona fide assessment of its human rights situation and the status of implementation of its human rights obligations. In reality, which is not surprising, Belarusian reports focused on positive aspects and tended to avoid discussing any serious shortcomings or human rights problems (National Report, 2010; National Report, 2015).

As it was mentioned above, numerous recommendations received by Belarus were not adequately specific or were ‘made with a light touch’. One may even come under the impression, that, to quote Bertrand G. Ramcharan, ‘many member states with atrocious human rights records are treated by their peers with kid gloves’ (Ramcharan, 2011, p. 64). For instance, during the second cycle of the UPR, Bolivia ‘acknowledged progress in the implementation of human rights in Belarus’ and made four recommendations proposing that Belarus shall ‘continue working so that women’s rights are fully respected; continue working to fight against human trafficking and share its best practices in that regard; continue implementing economic, social, cultural, civil and political rights for the benefit of all its population; continue implementing access for all women to reproductive health services and improving the quality of care given’ (Report of the Working Group, 2015, paras. 100, 127.42, 127.68, 127.90, 127.99).

Notwithstanding the aforementioned deficiencies, it must be remembered that Belarus does not participate in the human rights protection system operating under the aegis of the Council of Europe, has not accepted most of the voluntary monitoring mechanisms established within the UN treaty-based system and so far has shown no willingness to cooperate with the special procedures. Therefore the possibility to evaluate its performance in the field of human rights obligations and humanitarian standards by means of the UPR gains particular importance and should not be underestimated.

REFERENCES:

- A Guide for Recommending States at the UPR (2015). Geneva: UPR Info.
- Belarus: Detention of Journalists, Harassment of Independent Media and New Unduly Restrictive Legislation Mark a Low Point for Freedom of Expression. Amnesty International Public Statement, 31 August 2018. Retrieved from: <https://www.amnesty.org/download/Documents/EUR4990262018ENGLISH.pdf>.
- Belarus. Events of 2016. Human Rights Watch. Retrieved from: <https://www.hrw.org/world-report/2017/country-chapters/belarus>.
- Beyond Promises: The Impact of the UPR on the Ground (2014). Geneva: UPR Info.
- Calendar of Reviews for the 3rd Cycle (2017). Retrieved from: https://www.ohchr.org/Documents/HRBodies/UPR/UPR_3rd_cycle.pdf.
- Górczyńska, M. (2009). Powszechny Przegląd Okresowy – nadzieje i rzeczywistość. Kilka refleksji w związku z zakończeniem pierwszych sesji Grupy Roboczej Rady Praw Człowieka ds. Powszechnego Przeglądu Okresowego. In: T. Jasudowicz, M. Balcerzak, & J. Kapelańska-Pręgowska (eds.), *Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego* (pp. 505–530). Toruń: TNOiK.

- Kedzia, Z. (2003). United Nations Mechanisms to Promote and Protect Human Rights. In: J. Symonides (ed.), *Human Rights: International Protection, Monitoring, Enforcement* (pp. 3–90). Aldershot: Ashgate Publishing, UNESCO Publishing. DOI: 10.4324/9781351218467–1.
- Manual on Human Rights Monitoring. Chapter 03: Human Rights Monitoring, Fact-Finding and Investigation by the United Nations (2011). United Nations. Retrieved from: <https://www.ohchr.org/Documents/Publications/Chapter03-MHRM.pdf>.
- McMahon, E.R (2012). The Universal Periodic Review: A Work in Progress. An Evaluation of the First Cycle of the New UPR Mechanism of the United Nations Human Rights Council. Retrieved from: <https://library.fes.de/pdf-files/bueros/genf/09297.pdf>.
- National Report Submitted in Accordance with Paragraph 15 (a) of the Annex to Human Rights Council Resolution 5/1. A/HRC/WG.6/8/BLR/1. 22 February 2010.
- National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/2. Belarus. A/HRC/WG.6/22/BLR/1. 9 February 2015.
- President's Statement 20/1 of 6 July 2012. Reports of the Working Group on the Universal Periodic Review. A/HRC/PRST/20/1.
- Ramcharan, B.G. (2011). The UN Human Rights Council. New York: Routledge.
- Rathgeber, T. (2008). The HRC Universal Periodic Review: A Preliminary Assessment. *Dialogue on Globalization*. FES Briefing Paper 6.
- Ratification Status of International Human Rights Treaties (2018). Retrieved from: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx.
- Redondo, E.D. (2008). The Universal Periodic Review of the UN Human Rights Council: An Assessment of the First Session. *Chinese Journal of International Law*, 7(3), 721–734. DOI: 10.1093/chinesejil/jmn029.
- Report of the Special Rapporteur on the Situation of Human Rights in Belarus. A/HRC/38/51. 15 May 2018.
- Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Belarus. A/HRC/20/8. 10 April 2012.
- Report of the Working Group on the Universal Periodic Review. Belarus. A/HRC/15/16. 14 May 2010.
- Report of the Working Group on the Universal Periodic Review. Belarus. A/HRC/30/3. 8 May 2015.
- Rezmer, J. (2014). Powszechny przegląd okresowy (*Universal Periodic Review*) – nowe reguły, stare i nowe wyzwania. In: J. Jaskiernia (ed.), *Uniwersalny i regionalny wymiar ochrony praw człowieka. Nowe wyzwania – nowe rozwiązania*. Vol. 1 (pp. 340–356). Warszawa: Wydawnictwo Sejmowe.
- UN General Assembly Res. 60/251 of 15 March 2006. *Human Rights Council*.
- UN Human Rights Council Dec. 6/102 of 27 September 2007. *Follow-up to Human Rights Council Resolution 5/1*.
- UN Human Rights Council Dec. 17/119 of 17 June 2011. *Follow-up to the Human Rights Council Resolution 16/21 with Regard to the Universal Periodic Review*.

UN Human Rights Council Res. 5/1 of 18 June 2007: *Institution-building of the United Nations Human Rights Council.*

UN Human Rights Council Res. 16/21 of 25 March 2011. *Review of the Work and Functioning of the Human Rights Council.*

UN Human Rights Council Res. 20/13 of 5 July 2012. *Situation of Human Rights in Belarus.*

UN Human Rights Council Res. 38/14 of 6 July 2018. *Situation of Human Rights in Belarus.*