

Human Rights and Business Country Guide

# Belarus



# How to Use this Guide

*This Human Rights and Business Country Guide contains information regarding the potential and actual human rights impacts of businesses. The information in this Guide is gathered from publicly available sources, and is intended to help companies respect human rights and contribute to development in their own operations and those of their suppliers and business partners.*

## About the Human Rights and Business Country Guide

The Human Rights and Business Country Guide provides country-specific guidance to help companies respect human rights and contribute to development.

For companies to manage their potential human rights impacts, they must have comprehensive information about the local human rights context in which they operate. The Country Guide provides a systematic overview of the human rights issues that companies should be particularly aware of. For each issue, it provides guidance for companies on how to ensure respect for human rights in their operations or in collaboration with suppliers and other business partners.

The Country Guide is not only a resource, but a process. This Guide was produced through a systematic survey carried out by the Danish Institute for Human Rights (DIHR) and the Belarusian Helsinki Committee. The aim of this Guide is to improve the human rights practices of companies, including through facts-based dialogue regarding the issues presented here.

### **How the Human Rights and Business Country Guide can be used by companies**

- Develop company policies and procedures related to human rights issues in the local environment.
- Assess and track the potential human rights impacts of your own operations or in suppliers, business partners and investments.
- Raise awareness among staff, suppliers and other business partners.
- Engage with workers, potentially affected communities, consumers and other stakeholders whose human rights might be affected by your operations.
- Engage with civil society organisations, government bodies or international organisations on human rights-related issues.
- Provide background information for auditors.
- Establish or collaborate with mechanisms for workers, communities and other whose human rights might be affected by your operations.
- Contribute to development initiatives that align with human development needs and priorities in the local context.

### **How the Human Rights and Business Country Guide can be used by governments**

- Review and reform public policy and legislation relevant to the human rights impacts of business, including in the areas of labour, environment, land, equal treatment, anti-corruption, taxation, consumer protection or corporate reporting.
- Ensure respect for human rights in the state's own business affairs such as state-owned companies, sovereign wealth funds and other investments, public procurement, development assistance, export credit and other activities.

- Build awareness and capacity on human rights and business issues within relevant areas of public administration.
- Provide targeted advice to domestic companies.
- Inform the development of trade policy, trade and investment agreements and trade and investment promotion.
- Improve effective access to judicial and non-judicial remedies for victims of business-related human rights abuses.
- Enhance the contribution of the private sector in national and regional development programmes relevant to human rights.

#### **How the Human Rights and Business Country Guide can be used by civil society organisations**

- Inform human rights research and monitoring related to business operations.
- Work with affected workers and communities to define human rights and human development priorities related to the role of business.
- Provide capacity-building to government, business and civil society stakeholders on human rights and business.
- Work with local stakeholders to provide recommendations to business and government.
- Facilitate dialogue and engagement with, including multi-stakeholder forums, with state agencies and businesses.

The Country Guide aims to work with all stakeholders to promote, monitor and expand the activities described above. We request that all stakeholders who use the findings of the Country Guide in their work notify the Country Guide team of their activities and lessons learned. These experiences will be included in the Country Guide website, [HRBCountryGuide.org](http://HRBCountryGuide.org).

## Country Guide Process

The Belarusian Country Guide was produced by the Danish Institute for Human Rights (DIHR) and the Belarusian Helsinki Committee.

The Country Guide is a compilation of publicly available information from international institutions, local NGOs, governmental agencies, businesses, media and universities, among others. International and domestic sources are identified on the basis of their expertise and relevance to the Belarusian context, as well as their timeliness and impartiality.

The initial survey of publicly available, international sources was carried out by DIHR from November 2015 to April 2016. The draft was then updated and localized by the Belarusian Helsinki Committee with some interaction with local stakeholders from May to August 2016.

The completed Country Guide aims to provide a comprehensive overview, on the basis of the information available, of the ways in which companies do or may impact human rights in Belarus. The current Country Guide is not meant as an end product, or a final determination of country conditions. It is intended to be the basis, and the beginning, of a process of dissemination, uptake and modification. DIHR and the Belarusian Helsinki Committee seek further engagement with local stakeholders, and intend to update the Country Guide on that basis.

# Country Guide Content

*The Country Guide contains the following information:*

## Areas for Attention

Each section of the Country Guide identifies areas for particular attention by businesses. The Country Guide identifies these areas through an analysis of the country's legal framework for human rights protection; enjoyment of human rights in practice; and the proximity of third-party human rights violations to company operations.

The headline and risk description describe the relevance of each issue for businesses. The text that follows the risk description presents the quantitative and qualitative information upon which this determination was based.

- **Background & Context** gives an overview of economic, political and demographic characteristics.
- **Rights Holders at Risk** identifies groups that may be vulnerable to workplace discrimination or community impacts.
- **Labour Standards** identifies areas for attention related to employees and working conditions. This section includes child labour, forced labour, trade unions, occupational health & safety and working conditions.
- **Community Impacts** identifies areas for attention related to communities whose human rights may be affected by company operations. This section includes impacts related to environment, land & property, revenue transparency & management and security & conflict.
- **Access to Remedy** identifies judicial, state-based and non-state-based non-judicial grievance mechanisms, informal as well as regional and international avenues of redress for victims of corporate human rights abuse. Where possible, this also includes practice information about the effectiveness of such bodies, and the number of cases they have heard and redressed.
- **Sector Profiles** identifies human rights and business impacts related to a particular industry sector, such as extractive operations, manufacturing or agriculture.

## Cases

Each rights issue includes cases from media and law where the rights issue in question has been allegedly violated. These cases are drawn from the Business and Human Rights Resource Centre, international and local NGOs and stakeholder consultations. The cases presented here should not be considered comprehensive.

## Human Rights Guidance for Businesses

This section includes guidance for businesses to prevent and mitigate their adverse human rights impacts. This guidance is drawn from the Danish Institute for Human Rights' (DIHR) existing library of human rights due diligence recommendations, as well as international frameworks, principles and guidelines. Where available, this section includes recommendations issued by local NGOs and directed specifically at companies operating in the country.

This section also includes examples of initiatives carried out by companies to mitigate their human rights impacts. These are organized into Due Diligence Initiatives—activities that aim to meet the company's responsibility not to violate human rights—and Beyond Compliance Initiatives—activities that aim to contribute to development beyond this baseline obligation.

## Engagement Opportunities

Companies have a responsibility to prevent negative human rights impacts, but they also have an opportunity to contribute to positive human rights impacts. Each section of this Guide includes information for companies to link their policies and community engagement processes to ongoing governmental and institutional efforts to promote and fulfil human rights.

This includes Public Sector Initiatives—activities where the government is aiming to fulfil or promote the right in question through discrete programmes—as well as Development Priorities—themes identified by international institutions as warranting deliberate attention, or where companies could have the greatest impact with their development initiatives.

The purpose of the information in this section is to inspire further efforts and engagement by businesses, as well as to identify existing programmes that companies could support or take part in.

## About DIHR

The Danish Institute for Human Rights is a National Human Rights Institution accredited under the UN Paris Principles, and carries out human rights and development programmes in Denmark and around the world. Since 1999, the Danish Institute has worked closely with the business and human rights communities to develop tools and standards for better business practice.

*For more information, see [humanrights.dk](http://humanrights.dk).*

## About the Belarusian Helsinki Committee

The Belarusian Helsinki Committee (BHC) is an independent, non-political and non-profit public association, and is a partner of the Council of Europe and an active participant in the international Helsinki movement. Through its work, BHC seeks to protect human rights in Belarus, to promote human rights initiatives as well as raise legal awareness of citizens, and to assist in the training of competent legal personnel.

This work is done through the exposure of human rights violations, by providing legal assistance to individuals, by holding human rights seminar and trainings, by publishing human rights literature and by seeking to draw public attention to the issues of human rights violations that are taking place in the country. Furthermore, BHC is active in the analysis of existing legislation and in the drawing up of proposals for improvement of the existing law.

*For more information, see <http://belhelcom.org/en>*

# Table of Contents

<b>How to Use this Guide .....</b>	<b>2</b>
<b>Table of Contents .....</b>	<b>6</b>
<b>Background &amp; Context.....</b>	<b>7</b>
<b>Rights Holders at Risk .....</b>	<b>17</b>
<b>Child Labour .....</b>	<b>28</b>
<b>Forced Labour .....</b>	<b>32</b>
<b>Occupational Health &amp; Safety .....</b>	<b>36</b>
<b>Trade Unions.....</b>	<b>40</b>
<b>Working Conditions.....</b>	<b>46</b>
<b>Environment .....</b>	<b>53</b>
<b>Land &amp; Property .....</b>	<b>62</b>
<b>Revenue Transparency &amp; Management .....</b>	<b>65</b>
<b>Security &amp; Conflict.....</b>	<b>73</b>
<b>Access to Remedy.....</b>	<b>78</b>
<b>Sector Profiles .....</b>	<b>81</b>
<b>Sources .....</b>	<b>85</b>
<b>Endnotes .....</b>	<b>89</b>

# Background & Context

*Overview of political and socio-economic conditions in which businesses operate. This information is designed to inform businesses of the broader political and development trends in the country.*

Demographics & Economy	
Population	9,589,689 (2015)
Ethnic Groups	Belarusian 83.7%, Russian 8.3%, Polish 3.1%, Ukrainian 1.7%, other 2.4%, unspecified 0.9% (2009 est.)
Religious Groups	Eastern Orthodox 80%, other (including Roman Catholic, Protestant, Jewish, and Muslim) 20% (1997 est.)
Languages	Russian (official) 70.2%, Belarusian (official) 23.4%, other 3.1% (includes small Polish- and Ukrainian-speaking minorities), unspecified 3.3% (2009 est.)

## Political, Economic & Development Statistics

*Quantitative indicators and country rankings*

Country Rankings & Ratings			
	2009	2012	2015
Reporters Without Borders: Press Freedom Index <i>(Where 1 indicates the highest degree of freedom)</i>	151	157	157
Freedom House: Map of Freedom - Political Rights	7	7	7

(On a scale of 1 through 7, where 1 indicates the highest level of freedom)			
Freedom House: Map of Freedom - Civil Liberties  (On a scale of 1 through 7, where 1 indicates the highest level of freedom)	6	6	6
Form of government	Republic in name, although in fact an authoritarian system centered on the executive		
Most recent general election	11 October 2015		
Current head of state	Aleksander Lukashenko, President (fifth term)		
Ruling party	Independent		
Other major parties	<p><b>Pro-government parties:</b>                      Belarusian Agrarian Party                      Belarusian Patriotic Party                      Belarusian Socialist Sporting Party                      Communist Party of Belarus                      Liberal Democratic Party                      Republican Party                      Republican Party of Labor and Justice</p> <p><b>Opposition parties:</b>                      Belarusian Christian Democracy Party                      Belarusian Liberal Party of Freedom and Progress                      Belarusian Party of the Green                      Belarusian Party of the Left "Fair World"                      Belarusian Popular Front                      Belarusian Social-Democratic Assembly                      Belarusian Social Democratic Party ("Assembly")                      Belarusian Social Democratic Party (People's Assembly)                      Christian Conservative Party                      United Civic Party</p>		

Development Indicators & Trends			
	2013	2014	2015
GDP growth	1	1.6	-3.9

GDP growth in neighbouring countries (Russia/Ukraine)	1.3/0	0.7/-6.6	-3.7/-9.9
GDP per capita (PPP)	18,100	18,400	17,800
Human Development Index rank	53	50	n/a
Human Development Index score	0.786	0.798	n/a
Human Development Index score – Europe and Central Asia	0.738	0.748	n/a
HDI discounted for inequality	0.726	0.741	n/a
Gini coefficient	26.1(2012)	n/a	n/a
Percentage of population below national poverty rate	5.5	n/a	n/a
Percentage of population below absolute poverty rate (\$1.25 per day)	n/a	n/a	n/a

## Political Context

### *Governance structures and political developments*

Belarus gained independence from the Soviet Union in 1991 and a new Constitution was adopted in 1994.<sup>1</sup> Belarus is a presidential republic, governed by a president and the Parliament – National Assembly. The constitution gives most power to the president, granting him control over the government, the legislative and the courts.<sup>2</sup> In 2004, the Constitution was amended so that to remove the limit of two consecutive presidential terms.<sup>3</sup> In 2015, Alexander Lukashenko was elected for a fifth consecutive term.<sup>4</sup>

According to the report of the OSCE/ODIHR Mission, the elections in Belarus did not follow the standards set up by the Organization for Security and Cooperation in Europe.<sup>5</sup> In that line, the United Nations Special Rapporteur on the situation of human rights in Belarus considered the 2015 presidential election as “neither free nor fair”.<sup>6</sup>

The opposition has not reportedly been represented in the legislature at all since 2004.<sup>7</sup>

The UN Special Rapporteur also expressed concern in 2015 about the widespread disrespect for human rights in Belarus, particularly of civil and political rights.<sup>8</sup> The constitution guarantees freedom of expression and association.<sup>9</sup> However, Human Rights Watch noted in 2015 that they were severely restricted in Belarus and that authorities routinely harassed and interfered with the work of independent and opposition journalists and bloggers.<sup>10</sup> Amnesty International added in 2015 that opposition politicians and human rights activists were detained for conducting legitimate activities.<sup>11</sup>

In 2014, amendments to the law on Mass Media were adopted which enabled the Ministry of Information to legally block websites without court authorization and made website owners responsible

for unlawful content.<sup>12</sup> According to the OSCE, these rules represent a serious threat to freedom of expression and media freedom.<sup>13</sup>

Due to continuous violations of human rights and violation of electoral standards, the European Union first imposed restrictive measures against the Belarusian regime in 2004 and has been maintaining them up until late 2015.<sup>14</sup> The sanctions comprised an arms embargo, an embargo on equipment for internal repression as well as asset freezes and travel bans.<sup>15</sup> The United States has also been pursuing similar sanctions policy against Belarusian officials and entities as of 2016.<sup>16</sup> In October 2015, the EU eased the sanctions against 170 persons and 3 companies after the release of the political prisoners, and in 2016, the sanctions were lifted.<sup>17</sup> The sanctions remain in force against the four persons who are deemed by the EU to be involved in the disappearances of the opposition politicians in 1999-2000.

## Socio-Economic Context

### *Human development indicators and trends*

The World Bank reported in 2014 that Belarus was an upper middle-income country.<sup>18</sup> Additionally, the United Nations noted that the Belarusian economy generated impressive GDP growth rates in the period 1996-2011, with an average yearly GDP growth rate during 2004-2008 of 9.92 percent.<sup>19</sup> In 2015, due to the economic downturn in Russia and lower commodity prices, the economy of Belarus was in recession for the first time in the last twenty years, with the GDP falling by 3.9%.<sup>20</sup> In 2016-2017, a decline in the real GDP is expected.<sup>21</sup>

Belarus ranked 50 out of 188 countries in the Human Development Report 2015, placing it among the countries in the high human development category, and with a HDI value of 0.79, higher than the European and Central Asia average of 0.74.<sup>22</sup> When the value was discounted for inequality<sup>23</sup>, it fell to 0.741, a loss of 7.1 percent, much lower than the region's average fall of 13 percent.<sup>24</sup>

The country has reportedly made significant progress in improving its HDI between 2005 and 2013 – its growth was the highest among countries in Central and Eastern Europe, the Western Balkans and the Commonwealth of Independent States.<sup>25</sup>

Latest available data from 2005 reported that 0,4 percent of the population was multidimensionally poor while an additional 1,1 percent was close to multidimensional poverty.<sup>26</sup> The World Bank further reported that 5.5 percent of the population lived below the poverty line, lowest rate within the Commonwealth of Independent States.<sup>27</sup> Absolute poverty in rural areas was twice as high as in urban areas, particularly in Brest, Vitebsk, Gomel and Mogilev.<sup>28</sup> Its latest GINI coefficient from 2012 was 26.0, showing a high level of income equality.<sup>29</sup>

In terms of the millennium development goals, latest national progress report from 2010 indicated that Belarus generally met all of the MDGs, particularly eradicating poverty, reduction of maternal and child mortality rates, access to universal education and gender equality.<sup>30</sup> The government reported in 2015 that those achievements were done as a result of the implementation of social welfare policies characterised by a high level of budget outlays to provide benefits and allowances.<sup>31</sup> At the same time, the international and national experts, in particular the World Bank, note that the social benefits are rather categorical, than targeted: the vast majority of the social programs do not use the needs assessment criteria; as a result a significant portion of benefits is spent on recipients who are not needy.<sup>32</sup> Less than 10% of the total public assistance reaches the population living below the poverty line.<sup>33</sup>

According to the Word Bank in 2015, main challenges in Belarus were excessive state intervention in the economy, poor state-owned enterprises performance, weak international competitiveness, and

macroeconomic imbalances.<sup>34</sup> The private sector in Belarus was reportedly small compared to other countries in the region as a result of the dominance of state-owned enterprises.<sup>35</sup>

## Development Frameworks

*Companies should consult affected communities and align their development initiatives with national and local authorities. The following section identifies existing strategies for poverty alleviation and community empowerment.*

### National Strategy For Sustainable Development 2004-2020

The strategy's goal is the dynamic improvement of public welfare, enrichment of culture and morals of people on the basis of intellectual and innovative development of the economy, the social sector and spirituality, along with the conservation of the environment for the present and future generations.

The document was prepared by various Ministries including the Ministry of Economy, Ministry of Environment, Ministry of Foreign Affairs, Ministry of Industry, and Ministry of Food and Agriculture, as well as with the participation of NGOs.<sup>36</sup>

The strategy has set out the following priorities:

- Sustainable livelihoods and quality of life;
- Poverty alleviation;
- Changes in consumption and production patterns;
- Health care and improvement;
- Improvement of the demographic situation; and
- Counteracting crime in the life of society.<sup>37</sup>

### National Strategy for Sustainable Socio-Economic Development until 2030

The strategy determines the socio-economic and environmental policies of the State for a 15-year period.<sup>38</sup> It was developed by various ministries and agencies of the Republic of Belarus, including the Ministry of Economy, Ministry of Environment, Ministry of Foreign Affairs, Ministry of Industry, Ministry of Agriculture, and NGOs.<sup>39</sup> The strategic goal of sustainable development in Belarus is to ensure high living standards for the population and conditions for harmonious development of an individual in the context of transition to high-performance economy, based on knowledge and innovation, while maintaining a favorable environment for the present and future generations.

The strategy outlines the following key national priorities:

- Restriction of state involvement in economic activities and reduction of excessive regulation by the State;
- Exports increase;
- Development of a public administration system in the interests of sustainable development;
- Accelerated development of high-tech enterprises and services;
- Improvement of the institutional environment and the creation of a favourable business environment;
- Sustainable production and ensure environment security.<sup>40</sup>

## European Bank for Reconstruction and Development Strategy for Belarus 2013

The strategy has set out the following priorities:

Political sphere:

Progress towards meaningful accountability, including the strengthening of checks and balances in the political system, removal of impediments to NGOs and opposition parties' active engagement in political life and even-hand application of the rule of law;

Progress in increasing media freedom and freedom of expression; and

Progress in enforcing the human and civil rights protection guaranteed in the Constitution.

Economic sphere:

Creating adequate space for private sector development and competition including protection of property rights;

Strengthening market-supporting institutions and the legal and regulatory framework for private sector firms to enter and compete in the market;

Significant reduction in arbitrary and distortionary state intervention in the economy, including through directed lending by state-owned banks, wage restrictions and price controls.<sup>41</sup>

In the autumn of 2016, the EBRD is planning to adopt the new country strategy for 2016-2019.<sup>42</sup>

## United Nations Development Assistance Framework for the Republic Of Belarus for 2016-2020

*A programme document between the government and the UN Country Team describing collective actions and strategies toward achieving national development*

The UNDAF has been prepared by the United Nations Country Team in Belarus in consultation with the Government of the Republic of Belarus, civil society, the private sector, vulnerable groups, and national and international partners, with the aim of promoting and protecting human rights and improving the lives of the people of Belarus.<sup>43</sup>

The strategic areas identified include:

- Inclusive, responsive and accountable governance;
- Sustainable economic development;
- Environmental protection and sustainable environmental management based on the principles of green economy;
- Sustainable development of human capital, such as health, education, social inclusion and protection, and
- Comprehensive post-Chernobyl development.<sup>44</sup>

The strategy contemplates the participation of the private sector as a key stakeholder in the design and implementation of governmental development plans and sustainable development programmes.<sup>45</sup>

## The World Bank Group's Country Partnership Strategy for Belarus for 2014-2017

*International priorities and activities that help end extreme poverty, increase share prosperity and drive private sector growth*

The partnership is based on an analysis of Belarus's key development challenges informed by the recent economic and sector work; alignment with the country's development priorities and commitments; examination of the World Bank Group's track record and lessons learned in implementing support programs in the country.<sup>46</sup>

*The strategy is based in the following three areas:*

- Increasing competitiveness of the economy by supporting structural reforms, including reducing the role of the state, transforming the state-owned enterprises sector, and promoting private and financial sector development and integration into the global economy;
- Improving quality and efficiency of public infrastructure services, use of agricultural and forestry resources and increasing global public goods benefits; and
- Enhancing human development outcomes through better education, health and social services.<sup>47</sup>

The CPS was developed through extensive consultations with key stakeholders including authorities, business associations, civil society and development partners.<sup>48</sup>

## International Legal Commitments

*Accession and ratification of international human rights instruments*

UN Conventions	
International Covenant on Economic, Social and Cultural Rights	<b>RATIFIED</b>
International Covenant on Civil and Political Rights	<b>RATIFIED</b>
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty	<b>NOT SIGNED</b>
Convention Against Corruption	<b>RATIFIED</b>
Convention Against Torture	<b>NOT SIGNED</b>
Convention on the Elimination of All Forms of Racial Discrimination	<b>RATIFIED</b>
Convention on the Elimination of All Forms of Discrimination Against Women	<b>RATIFIED</b>
Amendment to article 20, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women (1995)	<b>NOT SIGNED</b>

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)	<b>RATIFIED</b>
Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)	<b>RATIFIED</b>
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	<b>RATIFIED</b>
Amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination (1992)	<b>NOT SIGNED</b>
Convention on the Rights of Persons with Disabilities	<b>SIGNED</b>
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)	<b>NOT SIGNED</b>
Convention on the Rights of the Child	<b>RATIFIED</b>
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	<b>ACCEDED</b>
Optional Protocol on the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	<b>ACCEDED</b>
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	<b>NOT SIGNED</b>
International Convention on the Protection of All Migrant Workers and Members of Their Families	<b>NOT SIGNED</b>
Convention Against Transnational Organized Crime	<b>RATIFIED</b>
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime	<b>RATIFIED</b>
<b>Regional Instruments</b>	
CIS Convention on Human Rights and Fundamental Freedoms	<b>SIGNED</b>
CIS Convention Guaranteeing the Rights of Persons Belonging to National Minorities	<b>SIGNED</b>
Convention on Standards for Democratic Elections and Electoral Rights and Freedoms in CIS Member States	<b>SIGNED</b>
Agreement on Guaranteeing the Pension Rights of CIS Citizens	<b>SIGNED</b>
Agreement on Cooperation in the Field of Occupational Safety and Health	<b>SIGNED</b>

Agreement on Cooperation in the Field of Labor Migration and Social Protection of Migrant Workers	<b>SIGNED</b>
Agreement on Priority Measures for Protection of Victims of Armed Conflicts	<b>SIGNED</b>
<b>International Labour Organization Conventions</b>	
ILO Hours of Work (Industry) Convention (C1, 1919)	<b>NOT RATIFIED</b>
ILO Forced Labour Convention (C29, 1930)	<b>RATIFIED</b>
ILO Hours of Work (Commerce and Offices) Convention (C30, 1930)	<b>NOT RATIFIED</b>
ILO Night Work of Young Persons (Non-Industrial Occupations) Convention (C79, 1946)	<b>RATIFIED</b>
ILO Labour Inspectors Convention (C81, 1947)	<b>RATIFIED</b>
ILO Freedom of Association and Protection of the Right to Organise Convention (C87, 1948)	<b>RATIFIED</b>
ILO Night Work of Young Persons Employed in Industry Convention (C90, 1948)	<b>RATIFIED</b>
ILO Protection of Wages Convention (C95, 1949)	<b>RATIFIED</b>
ILO Right to Organise and Collective Bargaining Convention (C98, 1949)	<b>RATIFIED</b>
ILO Equal Remuneration Convention (C100, 1951)	<b>RATIFIED</b>
ILO Social Security (Minimum Standards) Convention (C102, 1952)	<b>NOT RATIFIED</b>
ILO Abolition of Forced Labour Convention (C105, 1957)	<b>RATIFIED</b>
ILO Discrimination (Employment and Occupation) Convention (C111, 1958)	<b>RATIFIED</b>
ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962)	<b>NOT RATIFIED</b>
ILO Equality of Treatment (Social Security) Convention (C118, 1962)	<b>NOT RATIFIED</b>
ILO Employment Policy Convention (C122, 1964)	<b>RATIFIED</b>
ILO Minimum Age (Underground Work) Convention (C123, 1965)	<b>DENOUNCED</b>
ILO Medical Care and Sickness Benefits Convention (C130, 1969)	<b>NOT RATIFIED</b>
ILO Minimum Wage Fixing Convention (C131, 1970)	<b>NOT RATIFIED</b>
ILO Holidays with Pay (Revised) Convention (C132, 1970)	<b>NOT RATIFIED</b>
ILO Workers' Representatives Convention (C135 of 1971)	<b>NOT RATIFIED</b>

ILO Minimum Age Convention (C138, 1973)	<b>RATIFIED</b>
ILO Migrant Workers (Supplementary Provisions) Convention (C143, 1975)	<b>NOT RATIFIED</b>
ILO Working Environment (Air Pollution, Noise and Vibration) Convention (C148, 1977)	<b>NOT RATIFIED</b>
ILO Occupational Safety and Health Convention (C155, 1981)	<b>RATIFIED</b>
ILO Workers with Family Responsibilities Convention (C156, 1981)	<b>NOT RATIFIED</b>
ILO Termination of Employment Convention (C158, 1982)	<b>NOT RATIFIED</b>
ILO Indigenous and Tribal Peoples Convention (C169, 1989)	<b>NOT RATIFIED</b>
ILO Night Work Convention (C171, 1990)	<b>NOT RATIFIED</b>
ILO Prevention of Major Industrial Accidents Convention (C174, 1993)	<b>NOT RATIFIED</b>
ILO Worst Forms of Child Labour Convention (C182, 1999)	<b>RATIFIED</b>
ILO Maternity Protection Convention (C183, 2000)	<b>RATIFIED</b>
<b>Environmental Instruments</b>	
Stockholm Convention on Persistent Organic Pollutants (2001)	<b>ACCEDED</b>
Kyoto Protocol (1997)	<b>ACCEDED</b>
United Nations Convention on Biological Diversity	<b>RATIFIED</b>
United Nations Framework Convention on Climate Change	<b>APPROVED</b>
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987	<b>ACCEPTED</b>
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, 1989	<b>ACCEDED</b>
<b>Other International Instruments</b>	
Declaration on the Rights of Indigenous Peoples	<b>SIGNED</b>
Rome Statute of the International Criminal Court	<b>NOT SIGNED</b>
UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	<b>RATIFIED</b>

# Rights Holders at Risk

*Societal groups particularly vulnerable to employment-related discrimination or poor development outcomes*

Operating Environment		
	Belarus	Europe and Central Asia
HIV/AIDS prevalence (ages 15-49)	0,49 (2013)	n/a
Female labour participation rate	50	n/a
Percentage urban population	76.7 (2015)	71 (2015)
Percentage rural population	23.3 (2015)	25 (2015)
Human Development Index score	0.79 (2014)	0.748 (2014)
HDI adjusted for inequality	0.74 (2014)	0,65 (2014)
HDI Gender Equality Gap Index score	1,02 (2014)	0.94 (2014)
Population below PPP US\$1.25 per day (%)	0,1 (2006)	2 (2015)
Literacy rate, 15-24 years old (%)	99.8 (2009)	95 (2015)
Maternal mortality ratio (per 100,000 births)	4 (2015)	39 (2015)
Seats held by women in national parliament (%)	27.3 (2015)	18 (2015)
OECD Social Institutions and Gender Rank	value 0.0036 (very low) – 2014 est.	
Labour force	4.546 million (2013 est.)	
Percentage of population who are 15-24 years	11 (2015)	
Law prohibits discrimination on the grounds of	sex, race, national or social origin, language, religious beliefs or political views, participation or non participation in trade	

	unions or other public associations, financial status or official position, age, place of residence, physical or psychological disadvantages
Major ethnic groups	Belarusian 83.7%, Russian 8.3%, Polish 3.1%, Ukrainian 1.7%, other 2.4%, unspecified 0.9% (2009 est.)
Recognition of indigenous groups in law	n/a
Major Indigenous groups	n/a
Major religious groups	Eastern Orthodox 80%, other (including Roman Catholic, Protestant, Jewish, and Muslim) 20% (1997 est.)
Major migrant groups	n/a
Persons with disabilities	515.400 persons (2014 est.)
Relevant legislation	<ul style="list-style-type: none"> <li>• Constitution of the Republic of Belarus, 2004</li> <li>• Law on Social Protection of Persons with Disabilities, 1991</li> <li>• Law on National Minorities, 1992</li> <li>• Labour Code, 2007</li> <li>• Law on Disability Prevention and Rehabilitation of Persons with Disabilities, 2008</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Culture</li> <li>• Office of the Commissioner for Religious and Ethnic Affairs - Council of Ministers of the Republic of Belarus</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Belarusian Helsinki Committee</li> <li>• Viasna Human Rights Center</li> <li>• Refugee Counselling Service</li> <li>• Belarusian Community of PLWH</li> <li>• La Strada</li> </ul>

- Belarusian Young Women Christian Association
- Gay Belarus
- Belarusian Society of Disabled People

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution of the Republic of Belarus provides that all persons are equal before the law and have the right to equal protection of their rights and legitimate interests without discrimination.<sup>49</sup> A number of domestic laws also contain similar provisions prescribing general principles of equality and non-discrimination, however there is no specific anti-discrimination law in Belarus.<sup>50</sup>

The Labour Code prohibits discrimination on the grounds of sex, race, national or social origin, language, religious beliefs or political views, participation or non participation in trade unions or other public associations, financial status or official position, age, place of residence, and physical or psychological disadvantages that do not impede the performance of official duties or any other circumstances that are not connected with professional qualities or worker's performance.<sup>51</sup> The UN Committee on Economic, Social and Cultural Rights stated in 2013 that the Belarusian legislation did not provide for full protection against any kind of discrimination prohibited by the International Covenant on Economic, Social and Cultural Rights, and that the prohibition of discrimination in employment was limited to direct discrimination only.<sup>52</sup> In this regard, the Committee recommended Belarus to adopt a comprehensive anti-discrimination law.<sup>53</sup>

## Ethnic Minorities

The 1992 law on national minorities prohibits any direct or indirect restriction of the rights and freedoms of citizens of the Republic of Belarus for belonging to a national minority group.<sup>54</sup> The law also guarantees equal political, economic, and social rights to all national minorities.<sup>55</sup> Only Belarusian citizens may be considered persons belonging to national minorities.<sup>56</sup> The law does not explicitly prohibit incitement of racial discrimination and there is no legislation to combat hate speech.<sup>57</sup>

According to the latest census of 2009, there are about 140 ethnic groups living in Belarus.<sup>58</sup> The main minority groups in the country were Russians (8.3 percent), Polish (3.1 percent), Ukrainians (1.7 percent) and others, including Jews, Armenians, Tatars, Roma, Azerbaijanis and Lithuanians (0.9 percent).<sup>59</sup> Russians were reportedly located in central and northern regions, Polish in the western region of Grodno, and the Ukrainians in the south including Brest and Gomial regions.<sup>60</sup> Additionally, as of 2016, more than 45,000 Chinese worked in Belarus as a result of Chinese-funded projects.<sup>61</sup>

According to Minority Rights Group International in 2014, the government has encouraged development of a liberal approach to minorities in order to remain in good terms with its neighbouring countries.<sup>62</sup>

Additionally, Roma in particular faced widespread discrimination, especially in employment and education, as reported by the UN Special Rapporteur for the situation of human rights in Belarus in 2015.<sup>63</sup> Unemployment rates among Roma reached 31.5 percent compared to 6.4 percent among the rest of the population, as of latest official data from 2009.<sup>64</sup> While the government provided most jobs to citizens, Roma were employed exclusively in the private sector, according to the Committee on the Elimination of Racial Discrimination in 2013.<sup>65</sup> They are mainly employed for underpaid, seasonal work,

which requires no higher education.<sup>66</sup> Many Roma do not have official documents,<sup>67</sup> thus being deprived of the possibility to find formal employment.<sup>68</sup>

A joint 2013 Equal Rights Trust and the Belarusian Helsinki Committee report noted that the limited access to the labour market of Roma was due to significant lower education levels of its population.<sup>69</sup> In that line, the 2009 Census further informed that 12 percent of Roma aged 10 years and older were illiterate; 41 percent had primary education, 19 percent had basic education, 17 percent had secondary, vocational or specialized secondary education and only 0.5 percent had higher education.<sup>70</sup>

The joint report also noted that low employment rate of Roma was as a result of deeply rooted negative stereotypes in the public mind. The state reportedly did not adequately combat such prejudice, and even perpetuated such negative stereotypes through state media and statements of government officials.<sup>71</sup> According to the monitoring of the national press and electronic media (2012-2015), Roma, along with "Caucasians", most often face hate speech<sup>72</sup>, which results in the spread of the negative stereotypes in the society.<sup>73</sup> Roma also face ethnic profiling practiced by the law enforcement agencies.<sup>74</sup>

## Human Rights Defenders

The procedure for registration of NGOs is governed by the Law on Public Associations and remains challenging, while the activities of unregistered organizations are prohibited and entail criminal liability.<sup>75</sup> A wide range of grounds for refusal enables the Ministry of Justice to deny registration arbitrarily on the grounds of technical violations or minor flaws in the documents design. The Belarusian Helsinki Committee reported in 2015 that refusal to reject organizations on grounds of insignificant flaws was common, and organisations generally applied more than once for the process to be completed.<sup>76</sup> A 2015 joint study conducted by the Legal Transformation Center and the Assembly of Pro-Democratic NGOs noted that in general, the government tend to approve the registration of local organizations over international ones.<sup>77</sup>

The procedure for obtaining of foreign grants by non-governmental organizations is extremely difficult. The law provides for compulsory registration of donations and establishes a narrow list of purposes for which financial assistance may be obtained. Violations of the law on foreign donations entail administrative and criminal liability.<sup>78</sup>

The UN Special Rapporteur noted in 2015 that the police continuously arrested human rights defenders, and that the practice was used to discouraged public civil activism in the society. Additionally, administrative harassment, warnings and threats to intimidate human rights defenders' activities were common.<sup>79</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process added that LGBT activists were subjected to hate crimes.<sup>80</sup> Additionally, environmental campaigners were also arrested in connection with their actions against the construction of the nuclear plant.<sup>81</sup>

## Persons living with HIV/AIDS

As a consequence of the general problem of the lack of anti-discrimination legislation, Belarus lacks the law that would explicitly prohibit discrimination against persons living with HIV/AIDS, except for the general declarative rules.<sup>82</sup> The law defines HIV as a socially dangerous disease and provides for compulsory testing of persons believed to be HIV positive. According to the UN Committee on Economic, Social and Cultural Rights, this could exacerbate stigma and discrimination against persons living with HIV/AIDS.<sup>83</sup>

According to 2014 UNAIDS estimates, the number of people living with HIV/AIDS in Belarus was 29,000.<sup>84</sup> The prevalence rate in adults aged 15-49 was 0.4 percent, the lowest in the Western Commonwealth of Independent States, but still quite high by European standards.<sup>85</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process noted that persons living with HIV/AIDS were constantly exposed to stigmatization and discrimination, including in the workplace and in relation to the access to the labour market.<sup>86</sup>

Additionally, according to the 2013 People Living with HIV Stigma Index Report, 5.9 percent of respondents reported being refused employment due to their HIV positive status, while 16.7 percent reported changes in their job responsibilities or being refused a career promotion due to their HIV positive status and 9 percent stated that this had occurred more than once.<sup>87</sup> Finally, of those who had been employed over the last 12 months and changed/lost their job, 11.8 percent believed their HIV status to be the reason, with a further 14.1 percent believing it happened both because of their HIV status together with other reasons.<sup>88</sup>

In 2015, the Belarusian government removed restrictions on the entry, stay and residence of HIV positive foreign nationals.<sup>89</sup>

## Persons with Disabilities

The Belarusian legislation provides for a number of measures aiming to integrate people with disabilities into the labor market and to combat discrimination on the grounds of disability in terms of employment, as well as to ensure social support. However, the overall efficiency of these measures is reduced due to the lack of the specialized anti-discrimination legislation, as well as of clear rules as regards the right of every disabled person for a reasonably equipped workplace.<sup>90</sup>

The rules regulating the support and protection of people with disabilities are established in the Constitution; the 1991 Law on Social Protection of Persons with Disabilities and the 2008 Law on Disability Prevention and Rehabilitation of Persons with Disabilities. The right of persons with disabilities to work is provided in the Labour Code.<sup>91</sup> Additionally, the Labour Code provides that employers who hire persons with disabilities receive significant tax benefits.<sup>92</sup>

Equal Rights Trust and the Belarusian Helsinki Committee stated in 2013 that despite well-developed legislation, labour rights of persons with disabilities were often not effectively protected in practice.<sup>93</sup>

According to the Ministry of Labour and Social Protection latest available data, 515,400 persons with disabilities lived in Belarus, which represented 5.4 percent of the population.<sup>94</sup>

The UN Special Rapporteur noted in 2015 that persons with disabilities faced physical and regulatory barriers, and challenges in relation to access to education and employment, particularly reasonable accommodation in the workplace.<sup>95</sup> In that line, the employment rate among persons with disabilities was reportedly very low. According to official data, only 17.2 percent of persons with disabilities aged 18 and older were employed. Among those employed, 54.7 percent were men and 45.3 percent women.<sup>96</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process added that persons with disabilities did not have legal capacity on an equal basis with others in all aspects of life, and infrastructure in general was not accessible to them.<sup>97</sup>

## Refugees

The national legislation does not mandate the provision of housing, a means of subsistence or language courses for refugees.<sup>98</sup> Refugees have reportedly used Belarus as a transit point to the European Union, according to the Belarus Digest in 2015.<sup>99</sup>

The UN Refugee Agency in 2015 reported that there were approximately 1,500 refugees in Belarus, particularly from Syria, Afghanistan and Iraq.<sup>100</sup> Since the conflict in southeastern Ukraine started, more than 150,000 Ukrainians migrated to Belarus seeking refugee status.<sup>101</sup> As a result, Belarus had more Ukrainian migrants per capita than any other country as of 2015.<sup>102</sup>

## Sexual Minorities

There was no law to protect sexual minorities from discrimination, and homophobic violence was not considered a hate crime.<sup>103</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process noted that the LGBT community faced negative stereotyping and social prejudice, and those attitudes were supported by the authorities.<sup>104</sup> Cases of employees dismissed from their jobs as a result of their sexual orientation were further reported by the organization Gay Belarus.<sup>105</sup>

Additionally, the UN Special Rapporteur stated in 2015 that the LGBTI community suffered from double discrimination and were frequently targeted of violence and abuse, including by law enforcement authorities.<sup>106</sup> Although same-sex relationships are not illegal in Belarus since 1994, social prejudice against sexual minorities was widespread. According to a survey conducted by the Belarusian Institute for Strategic Studies in early 2010, 62 percent of Belarusians voted in favour of the criminalisation of same-sex relationships.<sup>107</sup> The police also repeatedly raided Belarusian LGBT clubs with the aim of intimidating and degrading them, with people lined up, body searched and interrogated about their sexual habits.<sup>108</sup>

## Women

The constitution guarantees women equal rights in terms of access to education and vocational training; promotion in labour; and in social, political, cultural and other spheres of life.<sup>109</sup> Additionally, the labour law guarantees equal pay for work of equal value.<sup>110</sup> It further prohibits to arbitrarily deny women an employment contract because of pregnancy or having children under the age of 3 or, in case of single mothers, with children under the age of 14.<sup>111</sup> Women are entitled to 18 weeks of maternity leave,<sup>112</sup> in line with international standards. Working mothers are also granted childcare leave for children up to the age of 3 without loss of employment while being paid a monthly state allowance.<sup>113</sup>

Employing women in work that is hazardous and/or harmful to their health and underground work, even with their consent, is prohibited.<sup>114</sup>

A joint 2013 Equal Rights Trust and the Belarusian Helsinki Committee report noted that the overall situation of Belarusian women in the labour market was characterised by a systemic discrimination, which was reflected in lower salaries, under-representation at the higher levels of the career ladder and their concentration in less prestigious and less profitable sectors of the economy. Particularly vulnerable women were the ones with childbearing age.<sup>115</sup>

62 percent of women participated in the labour market, compared to 69 in case of men, as of 2012.<sup>116</sup> Women representation in senior positions was reportedly low, with the exception in the public sector.<sup>117</sup> Women represent 31% of the parliamentarians, and 68.5% of the civil servants, of which 28.5% occupy senior positions at various levels.<sup>118</sup> According to latest data available from the United Nations Economic Commission for Europe from 2007, women were mostly employed in areas such as education, humanities and arts.<sup>119</sup> The government also reported in 2015 that women made 68 percent of public employees, 54 percent of all teachers and 34 percent of total doctors and candidates of science.<sup>120</sup>

According to the 2009 population census data, 104,713 women reported to be unemployed, which constituted 36 percent of all unemployed persons.<sup>121</sup> Additionally, the Census found that it took one month on average for men to find new employment while more than two months in case of women.

Women also accounted for two-thirds of all officially unemployed persons seeking a job for more than a year.<sup>122</sup>

According to the National Report of the Republic of Belarus in the second round of the UPR, in spite of the guarantees of equal pay for work of equal value for women and men, enshrined at the legislative level, the gender pay gap persists: on average, women earn 74% of men's wages.<sup>123</sup>

In practice, employers usually tried to avoid the fulfilment of legal obligations to their female workers by firing them or denying them employment under false premises (usually referring to the "lack" of experience or level of education), according to the 2013 joint report.<sup>124</sup>

On its latest report from 2011, the UN Committee on the Elimination of Discrimination against Women expressed concern about the persistence of stereotypes concerning the roles and responsibilities of women and men in the family and in society, which overemphasised the traditional roles of women as mothers and spouses, undermined women's social status, and hampered their equal participation in political and economic life.<sup>125</sup>

The Criminal Code prohibits sexual violence. The Law on Crime Prevention Basis of 2008 introduced the concept of "domestic violence" for the first time; in 2014, the provision about protective orders was added as a measure to protect those exposed to domestic violence. In 2014, a draft of the special Law on Prevention of Domestic Violence was developed.<sup>126</sup> However, in practice, Freedom House reported in 2015 that domestic and sexual violence against women were quite common.<sup>127</sup> According to the national sociological survey conducted in 2014, one in three women was subjected to physical violence, and one in five women was subjected to sexual violence.<sup>128</sup> The law does not contain provisions that would define and prohibit sexual harassment in the workplace.<sup>129</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **November 2015, Viasna Human Rights Center:** The Court of Polack suggested in the framework of a case that the consideration of discrimination claimed by a worker should be settle outside the court between the employee and employer. Conversely, the claimant stated that discrimination in a labour relationship should be established by the Court.<sup>130</sup>
- **2015, UN Special Rapporteur on the situation of human rights in Belarus:** The registration of the Mahiliou Human Rights Center that had been involved in human rights work for 17 years, was suspended due to "the failure to provide documents required for the registration of changes regarding the legal address".<sup>131</sup>
- **2015, UN Special Rapporteur on the situation of human rights in Belarus:** The Human Rights Centre Viasna, one of the largest NGOs in Belarus, has been denied registration since 2003.<sup>132</sup>
- **February 2015, Belarusian Helsinki Committee:** A group of Roma (over 30 people) applied to the BHC for help. In their collective appeal they told about insults, humiliation on the part of the police, arbitrary detentions practiced only on the basis of their Roma origin, illegal expropriation of their property (vehicles), unlawful compulsory fingerprinting.<sup>133</sup>
- **June 2016, Naviny.by:** The authorities of Mahiliou denied registration to the Ruzha gender center, since one of the organization's purpose – rooting out gender discrimination - allegedly means the recognition of the existence of such discrimination, which "does not conform to the legal standards of the equality of women and men, enshrined at the legislative level".<sup>134</sup>

- **March 2016, United Civil Party:** The Ministry of Justice refused to register the Gender Partnership NGO since one of their purposes is "to root out gender-based discrimination".<sup>135</sup>
- **March 2016, Viasna Human Rights Center:** The Supreme Court dismissed the complaint of the human rights NGO "For Free Elections" against the denial of registration for minor reasons. That was the fourth refusal to register the NGO since 2011.<sup>136</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

#### Discrimination

*Does the company ensure that employment-related decisions are based on relevant and objective criteria?*

- The company identifies different types of discrimination, including those rooted in formal structures and cultural traditions.
- It is company policy to ensure that decisions concerning hiring, wages, promotion, training, discipline, retirement and termination are based only on unbiased criteria, and are not linked to any of the discriminatory characteristics listed in the description for this question.
- Each job category in the company has a written description stating the salary level and the qualifications required for that job category.
- The company ensures that employment advertisements do not reference discriminatory criteria, such as race, gender or age (unless listed as part of a legal equal opportunities promotion).
- The company ensures that job applicants are not asked to give information about their marital status, pregnancy, intent to have children, number of dependents, or similar information that may lead to discriminatory hiring decisions.
- All hiring managers receive training regarding the company's non-discrimination policies.
- The company has established a procedure, accessible and known to all workers, where workers can safely report incidents of workplace discrimination.
- The company takes reasonable steps to enable qualified persons with disabilities or health conditions to gain employment opportunities with the company, for example by providing wheel chair access, flexible working hours, longer breaks etc.

#### Fair Treatment

*Does the company protect workers from workplace harassment including physical, verbal, sexual or psychological harassment, abuse, or threats?*

- The company has a commitment to prevent workplace harassment.

- The company actively informs workers of their obligations to refrain from violent, threatening or abusive conduct.
- Managers receive training on how to identify and deal with instances of harassment in the workplace.
- The company investigates all complaints of workplace harassment and takes appropriate preventative and disciplinary action including reporting of criminal actions to the appropriate authorities.

### Privacy

*Does the company respect the privacy of its employees whenever it gathers private information or monitors the workplace?*

- The company has a procedure stating which kinds of workplace monitoring are allowed; what kind of personal worker information is retained; where it is stored; who has access; and why the information is necessary.
- Workers are made aware of all workplace monitoring, including cameras and Internet or e-mail monitoring, and the specific purpose of the monitoring.
- The company obtains the worker's prior written consent before gaining information from an individual with whom the worker has a privileged relationship, including a former employer, doctor or lawyer.
- Workers have access to all personal data collected about them, including data concerning disciplinary decisions and data obtained through monitoring, but excluding confidential management specific information related to performance evaluations, salary negotiations, promotions, rotation and similar employment decisions.

### Community Engagement

*Does the company engage with local communities on the actual or potential human rights impacts of its operations?*

- The company has a commitment to engage openly with communities in and around its area of operations, prior to, during and after commencing activities that may negatively impact their access to resources (e.g. water, food, land) or livelihoods (e.g. fishing or hunting grounds).
- The company communicates and consults with local communities prior to, during and after commencing activities to prevent, reduce and mitigate impacts.
- The company takes steps to remedy the legitimate concerns of local communities regarding any negative impacts of the company's operations on the access to resources or livelihoods.

### Country Risk

*Does the company seek to avoid involvement in human rights abuses owing to government or societal practices?*

- If operating in a country or region with systematic human rights abuses, the company seeks to become aware of and avoid the risk of contributing to, endorsing or benefiting from such abuses.
- Where the company risks involvement in systematic human rights abuses owing to government or societal practices, the company seeks to identify solutions through dialogue with other businesses, civil society organisations, experts and other relevant stakeholders, including where possible with the authorities.

- The company ensures that it does not endorse any state imposed discriminatory limitations on the right to vote, and does not pass along information concerning religious, racial, political affiliations or other characteristics of employees which could be used by the government as a reason to restrict the right to vote.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- International Labour Organization Core Labour Standards on Non-discrimination and the ILO Bureau for Gender Equality: Non-discrimination comprises one of the four core areas of the ILO Declaration on Fundamental Principles and Rights at Work, which comprises the ILO core labour standards. The ILO integrates gender throughout its work, with the objective of achieving gender equality as an essential feature of decent work. This can include advisory services, research and information dissemination, training and capacity building.
- Oxfam Australia: Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment (2009): This Guide is intended to inform mining company staff of potential gender impacts of mining projects and introduces some tools and approaches that can be used to conduct a gender impact assessment.
- Women's Empowerment Principles (2010): Developed in collaboration between UN Women and the UN Global Compact, the Women's Empowerment Principles are a set of principles for businesses offering guidance on how to empower women in the workplace, marketplace and community.
- The Forest Peoples Programme: Established in 1990, the Programme is dedicated to supporting Indigenous Forest Peoples protect their land rights and human rights. The Programme works directly with indigenous communities, assisting them in building their own capacities and exercising their human rights.
- IFC Performance Standard 7: Indigenous Peoples (2012): The IFC PS7 and its accompanying guidance offer directions on how private sector projects can respect the human rights of Indigenous Peoples through following the stated requirements.
- International Council on Mining and Metals Good Practice Guide: Indigenous Peoples and Mining (2010): The ICMM is the industry organisation for the mining and metals sector. The Guidance provides advice to companies on how they can build effective relationships with Indigenous Peoples, as well outlining ways in which companies can effectively engage throughout the lifecycle of a project.
- International Working Group for Indigenous Affairs (est. 1968): IWGIA is an international human rights organization specialising in Indigenous Peoples' rights. IWGIA works to further the understanding, knowledge, and engagement with the rights of Indigenous Peoples through publications, advocacy programmes and support of local projects.
- The Manila Declaration of the International Conference on Extractive Industries and Indigenous Peoples (2009): The Declaration is a statement on behalf of Indigenous Peoples and support organisations from 35 countries that calls on different stakeholder groups, such as extractive companies, communities and civil society organisations, to respect and uphold the recognised rights of Indigenous Peoples.

- Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education): The Foundation's main purpose is to work for the respect, protection and fulfilment of Indigenous Peoples' rights and the operationalisation of Indigenous Peoples' self-determined sustainable development. The Foundation offers a number of relevant resources on issues such as traditional knowledge and traditional livelihoods, biodiversity and climate change.
- UN Permanent Forum on Indigenous Issues (est. 2000): The Forum was formed to advise the United Nations Economic and Social Council on a number of Indigenous Peoples' rights issues, such as economic and social development, culture, education, environment, health and human rights.
- UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (est. 2001): The Special Rapporteur mandate is to advise on and monitor the human rights situation of Indigenous Peoples. This includes country reports, promoting good practice, addressing relevant human rights violations and contributing to thematic study on topics related to Indigenous Peoples.

# Child Labour

*Work that interferes with the health, development, education or family life of persons under 18*

Operating Environment		
	Belarus	Europe and Central Asia
Net Enrolment Ratio in Primary Education (% both sexes)	93.7 (2014) <sup>137</sup>	94,5 (2012)
Percentage of pupils starting grade 1 and reaching last grade of primary	98.7 (2012)	97,9 (2011)
One-year-old children immunised against measles (%)	99 (2013)	94 (2012)
Mortality rate of children under 5 years old (per 1,000 live births)	4.9 (2013)	33 (2015)
Percentage of population below 14	15,5 (2015)	
<a href="#">Legatum Prosperity Index</a> : Education	31 (2015)	
Restrictions on children under 18 from working	The national legislation prohibits employment of minors for heavy work, hazardous work, or in underground and mining sites	
Minimum age of employment	14	
End of compulsory education	15	
Relevant legislation	<ul style="list-style-type: none"> <li>• Constitution, 2004</li> <li>• Labour Code, 2007</li> <li>• Trafficking in Persons Act, 2012</li> <li>• Decree 67, 2013</li> </ul>	
Responsible ministries	<ul style="list-style-type: none"> <li>• Ministry of Education</li> <li>• National Commission on the Rights of the Child</li> </ul>	

	<ul style="list-style-type: none"> <li>• Prosecutor-General's Office</li> </ul>
Local NGOs addressing this issue	

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Labour Code prohibits employment of children under 14 years of age. Children aged 14-16 may conclude employment contract with a written consent of one parent or a legal guardian.<sup>138</sup> The national legislation also sets a shorter working week for workers under the age of 18: No more than 23 hours a week for children aged 14-16, and no more than 35 hours a week for children aged 16-18.<sup>139</sup>

According to latest UNICEF statistics from 2012, 1.4 percent of children between 5 to 14 years of age were working in Belarus.<sup>140</sup> Child labour was more commonly observed in rural areas (1.8 percent) than in urban areas (1.3 percent), and varied from 0.1 percent in Grodno Region to 2.3 percent in Gomel Region.<sup>141</sup> The popular Soviet practice persists to use the work of schoolchildren and students, during the term time, for harvesting and processing of crops, as well as on construction sites.<sup>142</sup>

Additionally, students who got their tuitions paid by the government were assigned to a mandatory one or two year work placement (graduates of vocational schools and graduates of colleges/ universities, respectively) after their graduation in an institution chosen by the administration of the educational institution.<sup>143</sup>

In 2013, the government revived labor and recreation camps on the basis of various enterprises for adolescents aged 14-18, which used to be popular in the Soviet Union. Minors work voluntarily under labor contracts, in accordance with the law, and receive payment for their work.<sup>144</sup> The system of labor and recreation camps is positioned as an alternative method to spend leisure time, combined with community service, obtaining of practical work skills and occupational guidance.<sup>145</sup> It should be noted that, at the same time, the age limit for summer recreation and health improvement camps was lowered from 18 to 15 years.<sup>146</sup>

## Worst Forms of Child Labour

The national legislation prohibits employment of minors for heavy work, hazardous work, or in underground and mining sites.<sup>147</sup> The law also provides a full list of activities and occupations that are hazardous and prohibited for children under 18 years of age.<sup>148</sup> According to the media in 2013, the government was considering expanding the list of allowed jobs for adolescents' aged 16-18 years due to the reduced number of Belarusian labour force over the last couple of years. In this line, the Minister of Education stated in 2013 that it was preferable that adolescents work in their free time than being involved in other activities.<sup>149</sup>

Additionally, the law prohibits sex and labour trafficking, with penalties ranging from three to 15 years imprisonment.<sup>150</sup>

According to the US Department of State in 2015, Belarus was a source, transit, and destination country for children subjected to sex trafficking and forced labour.<sup>151</sup>

## Education

The Constitution guarantees accessible and free general, secondary and vocational and technical education.<sup>152</sup>

Latest UNICEF data from 2012 reported that 98.2 percent of children attended primary school.<sup>153</sup> The Ministry of Labour noted that in Belarus child labour was not a barrier to school attendance, and labour was generally not performed during school hours. As a rule, children engage in labor activity in their leisure time. 99.4% of working children aged 5-14 attend school or pre-school.<sup>154</sup>

Roma children in particular showed a very low enrolment rate at educational facilities, especially at secondary and tertiary level, according to the UN Committee on Economic, Social and Cultural Rights in 2013.<sup>155</sup>

Additionally, a 2015 submission by civil society organizations to Belarus Universal Periodic Review process reported that the lack of physical accessibility and of teaching materials in accessible formats restricted the education of some children with disabilities.<sup>156</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **November 2013, Belarus Digest:** Teenagers from Barysau schools were forced to clean up industrial enterprises in Barysaudreu without receiving any salary.<sup>157</sup>
- **May 2013, Viasna Human Rights Center:** high school students in the Dzeranaya village, Slonim district, were sent to agricultural work in school hours. 40% of their earnings were given to them, while 60% were transferred to the school account.<sup>158</sup>
- **September 2013, Viasna Human Rights Center:** Vocational school students in Hlubokaye, Vitebsk region, harvested potatoes and carrots in the farms of Hlubokaye and Sharkaŭshchyna districts.<sup>159</sup>
- **September 2015, Zarya newspaper:** High school students in Astroŭna harvested potato.<sup>160</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

- The company does not employ workers under 15 years of age for full-time work, 13 years of age for light work and 18 years of age for hazardous work (please see the question description for exceptions).
- If the company employs minors below the age of 18, the company has a list of job functions that can safely be performed by minors.

- The company is aware of local age-levels for completion of compulsory education and does not employ workers under that age for work that may interfere with such education.
- The company has a reliable procedure to check the age of young job candidates by birth certificate, other official forms of identification, or by alternative means such as physical appearance or knowledge of historic events.
- Company apprenticeship programmes do not constitute the main portion of the workforce, are limited in duration, are performed in conjunction with a school programme (or supervised by Labour Ministers or Labour Organisations), and do not interfere with the child's compulsory education.
- If the company becomes aware that it is employing young workers below minimum age, it ensures that they are enrolled in education programme, and that their dependents are compensated for the resulting loss of income.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Business and Human Rights Resource Centre, Business & Children Portal: The Portal is an information hub developed to give practical assistance to people from all business sectors in their work and decision-making, leading to better protection of the rights and welfare of children. The Portal has sections on: issues, positive initiatives, alleged abuses, lawsuits and guidance.
- Children's Rights and Business Principles (2012): Developed by UNICEF, UN Global Compact and Save the Children, these Principles are the first comprehensive set of principles to guide companies on the full range of actions that they can take in the workplace, marketplace and community to respect and support children's rights.
- ILO Programme on the Elimination of Child Labour (est. 1992): The Programme has the overall goal of the progressive elimination of child labour, to be achieved through strengthening the capacity of countries to address it and promoting a worldwide movement to combat child labour.
- UN Committee on the Rights of the Child General Comment No.16 on State obligations regarding the impact of the business sector on children's rights (2013): The Committee is the body of independent experts that monitors the implementation of the Convention on the Rights of the Child and the Optional Protocols. In April 2013, the Committee issued a general comment on business and children's rights. The objective of General Comment No.16 is to provide States parties with a framework for implementing the CRC, particularly with regard to the business sector.
- Children's Rights in Impact Assessment – A Tool For Companies (2013): Developed by UNICEF and the Danish Institute for Human Rights, this checklist is a practical tool intended to help companies to identify and manage their impact on children's rights. The checklist contains a set of questions and indicators covering the 10 Children's Rights and Business Principles, addressing different aspects of company policies and operations and the impact on children's rights.
- Better Work (ILO, IFC): Guidance Sheet on Child Labour (2009)

# Forced Labour

*Debt bondage, human trafficking or other coercion that makes workers unable to freely leave employment*

Operating Environment	
U.S. Department of Labour Trafficking in Persons: Tier Placement	3 (2016) <sup>161</sup>
Relevant laws	<ul style="list-style-type: none"> <li>• Constitution, 2004</li> <li>• Criminal Code, 1999</li> <li>• Labour Code, 2007</li> <li>• Decree 9, 2012<sup>162</sup></li> <li>• Trafficking in Persons Act, 2012</li> <li>• Decree on the prevention of social parasitism, 2015</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Labour and Social Protection</li> <li>• Ministry of the Interior – National Rapporteur on Human Trafficking</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Belarusian Helsinki Committee</li> <li>• Viasna Human Rights Center</li> <li>• Trade unions</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution states that forced labour is prohibited, however, work or service specified in a court judgment or in accordance with the law on the state of emergency or martial law is allowed.<sup>163</sup> Presidential Decree #9, adopted in 2012, prohibits the wood-processing industry workers to quit work on their own initiative, and if the employer terminates the employment, the workers are required to pay back the monthly benefits paid in addition to the wages (repealed in May 2016).<sup>164</sup> Presidential Decree #3, adopted in 2015, the so-called 'Decree on Parasites', actually introduced a new form of forced labor, requiring to pay a special tax those who has failed to participate in the financing of the public spending for more than six months. In case of non-payment, the decree provides for administrative arrest with compulsory community service. The Belarusian Helsinki Committee called on the Parliament to abolish

the decree, as it violates the Constitution and the country's obligations under the international treaties.<sup>165</sup> The Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization expressed their concern that the decree forces to work socially vulnerable groups of population.<sup>166</sup> According to the Ministry of Labour, as of April 1, 2016, the number of the officially registered unemployed amounted to 53.5 tsd, which makes 1.2% of the economically active population (and which is 1.4 times as much it was on April 1, 2015).<sup>167</sup>

The UN Special Rapporteur on the situation of human rights in Belarus noted in 2015 cases of individuals who had been forced to work in activities unrelated to their occupation or situation, including military conscripts and inmates in detention facilities.<sup>168</sup>

Belarus inherited the Soviet system of medical and labor centers, which is part of the Ministry of Internal Affairs system and is used for forced isolation of alcohol and drug addicts. The work of this centers is regulated by the Law on Procedure for and Conditions of Sending to and Treatment in Medical and Labor Centers, 2010, by the Civil Procedure Code and other legislative acts. The isolation period in the center is 12 months, and the conditions are similar to imprisonment. The isolated individuals are obliged to work. Choosing not to work entails disciplinary sanctions, including incarceration in the disciplinary room for up to 10 days and extending the “treatment” period up to 6 months.<sup>169</sup> The medical and labor centers may also sign contracts with private businesses.<sup>170</sup> The UN Committee on Economic, Social and Cultural Rights urged to abolish this form of forced labor.<sup>171</sup>

Furthermore, the Committee on Economic, Social and Cultural Rights reported in 2013 that parents who did not comply with their child-bearing responsibilities were subjected to compulsory labour and that 70 percent of their salaries were retained to compensate for the child-bearing expenses incurred by the State.<sup>172</sup>

A system called ‘subbotniks’ is applied to the working population. The system requires employees of the government, state enterprises and many private businesses to work on occasional Saturdays and donate their earnings to finance government projects.<sup>173</sup> Though the system was voluntary, in practice, according to the UN Special Rapporteur in 2015, the non-participation in such a scheme resulted in negative repercussion, such as non-renewal of employment contracts and the revocation of monthly bonuses.<sup>174</sup>

Forced labor of students and schoolchildren, which was widespread in the Soviet times, persists, often in the term and school time. The work is either extremely underpaid or not paid for at all. One can refuse to engage in this work only for health reasons. Unexcused absence is punished at the discretion of the educational institution (for example, it is viewed as truancy, or entails problems during the exams). Besides, the participation in the so-called community service may be a condition for nonresident students willing to obtain a place in the dormitories.<sup>175</sup>

## Trafficking

In 2012, the government adopted the Trafficking in Persons Act.<sup>176</sup> The national law also defines the concept of “victim of human trafficking”, and incorporates measures to protect victims and provides with services for rehabilitation.<sup>177</sup> Additionally, the Criminal Code prohibits both sex and labor trafficking and prescribes penalties ranging from three to 15 years imprisonment in addition to the forfeiture of offenders’ assets.<sup>178</sup> According to the Ministry of Internal Affairs, 875 crimes in the sphere of human trafficking were identified in 2015,<sup>179</sup> and 787 crimes for the first 6 months of 2016.<sup>180</sup> The majority of the crimes were related to pornography and involvement of minors in antisocial behavior.

According to the UN Committee for the Elimination of Racial Discrimination in 2013, Belarus was a source and transit country for human trafficking for the purpose of sexual exploitation and forced labour.<sup>181</sup> The US Department of States added in 2015 that Belarus was a destination country for men

and women subjected to sex trafficking and forced labour, and victims included Belarusians, Moldovans, Russians, Ukrainians and Vietnamese citizens.<sup>182</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **September 2014, Naviny.by:** The students of the regional universities were obliged to take part in the harvesting of root crops and vegetables.<sup>183</sup>
- **October 2013, Onliner.by:** The students of the Belarusian State University of Informatics and Radioelectronics were taken from the classes and sent to the Chyzhoŭka Arena construction site, where they had to clean away construction waste. No individual safety equipment was provided.<sup>184</sup>
- **October 2012, Charter'97:** The students of the General Medicine faculty of the Gomel State Medical University were sent to do agricultural work. The absentees were viewed as truants.<sup>185</sup>
- **February 2013, Charter'97:** A female worker of the Homeldreŭ wood-processing plant was forbidden to quit at her own request due to Decree #9.<sup>186</sup>
- **September 2013, Viasna Human Rights Center:** The students of the Polack University were sent to reconstruct a dairy farm in the term time.<sup>187</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

- Workers can give notice and leave employment within a reasonable length of time. This is clearly communicated to workers prior to starting employment.
- The company (or its recruitment agencies) ensures that it does not withhold wages or bonuses and that it pays them in a timely and regular manner.
- The company ensures it does not make deductions from wages for disciplinary measures or other deductions not authorised by national law.
- Within normal working hours workers are able to earn a living wage sufficient to meet the basic needs of themselves and their closest dependents.
- Overtime work is paid, voluntary and not compelled through threat of pay deductions, termination or other sanctions.
- The company (or its recruitment agencies) ensures that it does not retain identity cards, passports, travel documents or other personal items without which workers cannot leave employment. If

letters of release or other documents are needed for the worker to leave employment, such letters are issued without delay.

- All workers are allowed to leave company premises during breaks and at the end of their shifts, and workers in company housing may freely enter and exit their accommodation at any time.
- The company (or its recruiting agencies) ensures that it does not require workers to pay recruitment fees or lodge money deposits.
- Loans or salary advancements to workers are based on fair terms that are clearly explained to the worker, are not granted to cover basic living expenses, are limited in size, and do not require the worker to remain with the company until repayment is completed.
- If the company uses prison labour it ensures that all prison workers have been convicted by a court of law, and that the work is voluntary and supervised by a public authority.
- The company ensures that it does not use labour from agencies or firms involved in human trafficking or other forms of bonded labour.

# Occupational Health & Safety

*Unsafe or unhealthy working conditions that expose workers to the risk of accidents or occupational illnesses*

Operating Environment	
Relevant laws	<ul style="list-style-type: none"><li>• Constitution, 2004</li><li>• Criminal Code, 1999</li><li>• Labour Code, 2007</li><li>• Occupational Safety and Health Act, 2008</li><li>• Act on the Industrial Safety of Hazardous Production Sites,</li><li>• Fire Safety Act</li></ul>
Responsible agencies	<ul style="list-style-type: none"><li>• Ministry of Labour and Social Protection - Department of State Labour Inspection</li></ul>
Local NGOs addressing this issue	Trade Unions

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution prescribes the right of all citizens of the Republic of Belarus to health care that shall also be secured by, among others, the improvements in occupational safety.<sup>188</sup> It also guarantees the right to health and safe working conditions.<sup>189</sup> Additionally, occupational safety and health issues are covered by the Law on Occupational Safety and Health, the Labour Code, the Civil Code, and other legal acts, including technical legal acts that regulate social relations in the sphere of occupational safety and health. Numerous by-laws regulate specific issues.<sup>190</sup> The law does not however provide for the right of workers to remove themselves from situations that endangered their health or safety without jeopardizing their employment.<sup>191</sup>

A list of high-risk work activities was approved in 2008, and includes the following four categories: work related to the use of objects and tools, representing increased danger; work related to the processes that create a hazard; work performed in a high risk working environment; and operations posing high risk due to their performance under special conditions.<sup>192</sup> The Labour Code and other legal acts regulating occupational health and safety issues provide special restrictions in doing certain types of

work, including for categories such as female workers, young people, and persons with disabilities. Workers involved in heavy, dangerous and hazardous work are entitled to compensation.<sup>193</sup>

A mandatory insurance to be paid by employers covered all salaried workers against accidents at work and occupational diseases, and it was set at a general rate of 0.6 percent. The insurance contemplates a disability pension, sickness allowance, and a compensation of the difference between previous average salary and actual salary of a victim who is temporarily transferred to an easier and less paid job.<sup>194</sup> The Department of State Labour Inspection at the Ministry of Labour and Social Protection is in charge of monitoring the implementation of legislation on labour and occupational safety.<sup>195</sup> 3754 inspections were conducted in the first half of 2016, of which 2478 were unplanned. Inspections resulted in the issuing of 2740 requirements (regulations) to eliminate 53.3 thousand violations of legislation on labor and labor protection.<sup>196</sup>

According to the Department, 123 people died and 597 people were seriously injured in 2015 because of industrial accidents.<sup>197</sup> The accidents were mainly caused by the weakened control over the labor and production discipline,<sup>198</sup> the poor training and instructing of workers,<sup>199</sup> the formal approach to the occupational safety, and the outdated equipment in the workplace.<sup>200</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **March 2016, TUT.by:** A female worker of the DeliOst woodworking plant in Vitebsk lost her hand when working at a wood splicing machine. The woman had not been instructed on the safety rules and was formally recorded as a sorter.<sup>201</sup>
- **April 2016, Belarusian Free Trade Union Movement:** The branch director of the milk processing holding 'Babushkina Krynka' was detained for concealing the fact of a worker's injury. She was also accused for issuing an obviously false order, according to which, on the day of the incident, the worker had been on unpaid leave.

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company ensure that its workers are provided safe, suitable and sanitary work facilities?*

- Responsibilities for health and safety tasks are clearly defined.

- The company routinely monitors its production processes, machinery and equipment to ensure that they are safe and in good working order.
- Workers and managers are trained to respond to workplace emergencies; first aid kits and fire extinguishers are readily available; and escape exits are clearly marked and free from obstruction.
- The workplace is maintained to ensure clean and comfortable conditions including a suitable temperature, ventilation and lighting; suitable washing and sanitation areas appropriate for both genders.
- Residential or overnight facilities are safe and sanitary and meet the basic needs of workers including with regard to safety, space, temperature, lighting, ventilation, food, water, sanitary facilities, privacy, and affordability.
- The company provides safe drinking water for workers and facilities for clean and sanitary food storage and eating.
- Where relevant the company has put in place special health and safety precautions for pregnant women, employees with disabilities, night workers, young workers and other vulnerable groups.

*Does the company ensure that workers are provided with the protective equipment and training necessary to perform their tasks safely?*

- The company has a procedure to ensure that all workers are provided, free of charge or deposits, with the protective equipment necessary to safely perform their job functions.
- The company is committed to ensuring that workers use the protective equipment provided and understand why it is necessary to use the equipment.
- The company ensures that all workers have the necessary training to safely perform their job functions and keeps workers fully informed, in a language and form understandable to them, of the health and safety procedures.
- An accurate record is kept of who has been trained and for what tasks.
- On a regular basis and when assigned to new tasks, workers receive training in the safe use of equipment and processes.
- A company function or member of staff is responsible for keeping informed of scientific and technological developments regarding health and safety risks and protective equipment.

*Does the company actively involve workers in health and safety work?*

- The company consults employees on health and safety issues either directly or through a freely elected safety representative(s) for relevant groups of employees.
- A health and safety committee has been established including employee safety representatives and representatives from management.
- Health and safety accidents are reported and investigated including involving the relevant worker(s), and actions are taken to prevent recurrences.
- Health and safety near-misses (accidents not resulting in injury) are reported and investigated to help improve safety.
- Health and safety accidents are monitored including hours lost as a result of injury or illness and e.g. compared to total hours worked (lost time injury frequency).

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- IFC Performance Standard 2: Labour and Working Conditions (2012): FC PS2 is guided by the international labour standards as outlined by the ILO and covers health and safety.
- Portal for Responsible Supply Chain Management: The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.
- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.

# Trade Unions

*Restrictions on the right of workers to collectively represent their interests*

Operating Environment	
Largest trade unions and union confederations <i>Names, sectors and number of employees represented</i>	<ul style="list-style-type: none"><li>• Federation of Trade Unions of Belarus: 4 million members.<sup>202</sup></li><li>• Belarusian Congress of Democratic Trade Unions: 10,000 members.<sup>203</sup></li></ul>
Relevant laws	<ul style="list-style-type: none"><li>• Constitution, 2004</li><li>• Trade Unions Act, 1992</li><li>• Decree 2 on a number of issues relating to the regulation of the activity of political parties, trade unions and other voluntary associations, 1999</li><li>• Decree 29 on Additional Measures to Improve Workplace Relationships and Strengthen Labor and Performance Discipline, 1999</li><li>• Law on Trade Unions, 2000</li><li>• Labour Code, 2007</li></ul>
Responsible agencies	<ul style="list-style-type: none"><li>• Ministry of Labour and Social Protection</li><li>• Ministry of Justice</li></ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"><li>• Trade Unions</li><li>• Belarusian Helsinki Committee</li><li>• Viasna Human Rights Center</li></ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The situation of trade unions in Belarus is to a large extent similar to the situation in the USSR, where the All-Union Central Council of Trade-Unions existed under the strict control of the ruling party.<sup>204</sup> The majority of the Belarusian trade unions are united in the Federation of Trade Unions of Belarus; the total number of trade union members exceeds 4 million people.<sup>205</sup> In addition to their main tasks, the Belarusian trade unions fulfil the political and ideological function. The Federation of Trade Unions regularly expresses its support for the government and calls on the citizens to support A.R. Lukashenka during the presidential election campaigns. It is extremely complicated to establish and operate an independent trade union in Belarus, which has been repeatedly criticized by the international organizations.<sup>206</sup>

### Barriers to Unionisation

The Constitution recognizes freedom of association, and guarantees the right to form trade unions.<sup>207</sup> Additionally, issues related to trade union activities are mainly regulated by the Labour Code and the Law on Trade Unions.<sup>208</sup>

Decree No 2 adopted in 1999 requires a legal address and a 10 percent minimum membership to register a trade union, which, according to the European Union in 2014, hindered the establishment and functioning of trade union practices.<sup>209</sup> In 2004, the Commission of Inquiry of the International Labour Organization adopted the report on Belarus, in which the Commission recommended *inter alia* to eliminate the abovementioned obstacles to the registration. To date, 3 of the 12 recommendations are fulfilled, and 2 recommendations have been fulfilled partially. The International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations (ILO CEARC) has also requested the government in various occasions to amend those provisions as obtaining a legal address was reportedly difficult.<sup>210</sup> The 10 percent requirement was reportedly excluded by a 2015 amendment to the Decree.<sup>211</sup> The Belarusian Congress of Democratic Trade Unions considers these changes formal, for there are still many obstacles there to the registration of trade unions.<sup>212</sup> Directors have refused to give proof of legal address to many unions, leaving them unable to undergo their registration process, according to a joint 2013 International Federation of Human Rights and the Human Rights Center Viasna report.<sup>213</sup>

Unregistered unions were not allowed to conduct activities (violations of this rule may entail even criminal liability),<sup>214</sup> and trade unions may be deleted from the registry by a decision of the registrar, without any court procedure.<sup>215</sup>

In practice, according to the UN Committee for Economic, Social and Cultural Rights in 2013, the free exercise of trade union rights was not guaranteed.<sup>216</sup> Obstacles to the establishment of independent trade unions were reportedly frequent and common.<sup>217</sup>

Following Decree No. 29 on Additional Measures to Improve Workplace Relationships and Strengthen Labor and Performance Discipline, adopted in 1999, most workers in Belarus were switched to short-term labour agreements.<sup>218</sup> The decree, according to the 2013 joint report, was viewed as an effective method for fighting the creation of unions as it allows employers simply not to prolong the contracts for the union activists and members of unions that were troublesome, once their labour agreements expired.<sup>219</sup>

The Federation of Trade Unions of Belarus (FTUB) was controlled by the government, according to the 2015 US Department of States report.<sup>220</sup> In 2005, President Decree No. 503 gave the Federation of Trade

Unions of Belarus the exclusive right to use state-owned premises on a free-of-charge basis.<sup>221</sup> De facto, the Federation has become an additional controlling body<sup>222</sup>, which ensures the integration of workers and freezes their protest activities.<sup>223</sup>

The independent unions that did not want to become part of the FTUB system were reportedly facing severe limitations in their activities and even subjected to the dismantling of their existing structures.<sup>224</sup>

## Collective Bargaining

The Constitution guarantees the right to collective bargaining agreements.<sup>225</sup> The General Agreement between the Government and the national associations of employers and trade unions establishes the basic guarantees and serves as the basis for the execution of collective bargaining agreements. The Labour Code states that if trade union requests the initiation of collective bargaining, the employer is required to start the negotiations within seven days.<sup>226</sup> A compulsory conciliation procedure in the event of a dispute related to a collective bargaining agreement was mandated by the law, and in case the parties did not agree with the decision, they may apply to a mediator or a labor arbitration, established specifically to resolve the dispute.<sup>227</sup>

According to the decision of the Supreme Court, collective bargaining agreement applies to all employees, regardless of whether they have applied for the accession.

Presidential Decree No. 278 recommends that each company and organisation conclude one collective agreement.<sup>228</sup> The collective bargaining should include representatives of all trade union units, which is not always observed by companies.<sup>229</sup> The prior consent of the trade union is required in case of an annulment of an employment contract covered under a collective agreement.<sup>230</sup>

## Strikes

The Constitution guarantees the right to strike.<sup>231</sup> The organisation of a strike is regulated by the Labour Code. A strike can only be organised to resolve a collective labor dispute.

Rather a complicated and lengthy conciliation procedure should precede a strike, on a mandatory basis.<sup>232</sup> The Belarusian Congress of Democratic Trade Unions estimates that its actual duration is at least 45 days. The workers' representative body is obliged to notify the employer about the decision to strike at least two weeks prior to the beginning.<sup>233</sup> The employer should also be informed about the strike duration.

The legislation obliges the workers to provide the minimum necessary work (services) during the strike, which is defined in the collective bargaining agreement or through negotiations within five days after the decision to strike. In case of a disagreement between the parties, the local executive body will define the required minimum of work (services).<sup>234</sup>

If the strike is declared illegal by the court, the participants may be subject to disciplinary or other liability.<sup>235</sup>

The President may cancel a strike or suspend it for a period of up to three month in the interest of national security, public order, public health, or when the rights and freedoms of others are at threat, which, according to the International Trade Union Confederation, limited the right to strike.<sup>236</sup>

According to the U.S. Department of State in 2015, union members who participated in public demonstrations were subjected to arrest and detention. Due to a persistent atmosphere of repression and the fear of imprisonment, few public demonstrations took place in Belarus.<sup>237</sup> In that line, the ILO CEARC reported in 2015 various cases where the government repeatedly refused to authorise trade unions demonstrations.<sup>238</sup>

Trade unions cannot accept financial assistance from foreign sources in order to among others, hold strikes, which, according to the ILO' CEARC, was not in line with ILO Convention 87.<sup>239</sup> Civil servants exercising authority in the name of the State are not allowed to the right to strike.<sup>240</sup>

Other forms of public expression of trade unions' interests, including vigils and rallies, are regulated by the Law on Mass Events. To obtain a permission from the local authorities to hold a mass action, one needs to sign contracts with the appropriate services, which will ensure safety protection, cleaning of the territory and medical care. In most cases, this is actually impossible, since the relevant services often require a permit to hold the event. Holding an illegal mass event entails responsibility, which includes even the liquidation of the trade union.

## Anti-Union Discrimination

The Labour Code prohibits discrimination on the grounds of trade union participation.<sup>241</sup> Additionally, the Law on Trade Unions provides that the fact of membership of a trade union should not affect the rights and freedoms of a citizen.<sup>242</sup>

According to the 2013 joint report, workers engaged in trade union activities were systematically repressed.<sup>243</sup> The report further noted that the authorities persistently interfered with union activities, prevented their normal operation, fired active union leaders, and forced rank-and-file members to leave independent unions and moved to state-controlled ones under threats of dismissal or refusal to enter into or extend labour contracts.<sup>244</sup>

According to the Belarusian Congress of Democratic Trade Unions in 2014, the government prosecuted members of independent trade union organisations and dismissals of workers for being members of independent unions occurred.<sup>245</sup> Therefore, members of independent trade unions often try not to advertise their membership in them for fear of reprisals.<sup>246</sup>

In 2015, Lukashenka ordered to create pro-governmental trade unions at organizations of all types of ownership, including private and foreign enterprises, in order to take ideological control over workers to prevent social tension and dissenting moods, as experts say.<sup>247</sup> The establishment of these trade unions in the private sector also creates an additional lever of pressure on private businesses.<sup>248</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **April 2016, Independent Trade Union Movement of Belarus:** The management of the Slonim worsted and spinning factory refused, in violation of the law, to apply the collective bargaining agreement to an activist of the independent Belarusian Trade Union of Radio and Electronics Workers (the REP Trade Union).<sup>249</sup>
- **January 2016, Independent Trade Union Movement of Belarus:** The Director of Polack-Steklovolokno JSC refused to include representatives of the Belarus Free Trade Union in the commission for collective bargaining regarding a violation of Section 45 of the General Agreement.<sup>250</sup>
- **2015, UN Special Rapporteur on the situation of human rights in Belarus:** Authorities reportedly pressured and threat leaders of the Free Metal Workers Union.<sup>251</sup>

- **2015, ILO, Committee of Experts on the Application of Conventions and Recommendations:** Trade unions structures affiliated to members of the Belarusian Congress of Democratic Trade Unions were reportedly denied registration on five occasions.<sup>252</sup>
- **2015, ILO, Committee of Experts on the Application of Conventions and Recommendations:** The enterprise Granit reportedly denied to provide a primary organization of the Belarus Independent Trade Union with a legal address in order to proceed to register an union.<sup>253</sup>
- **June 2015, International Trade Union Confederation:** Workers at Bobruisk Factory of Tractor Parts and Units were prosecuted for participating in an unauthorised public event (hunger strike) and imposed fines. The workers were members of the Belarusian Free Trade Union and were demonstrating against their alleged unfair dismissal due to union affiliation.<sup>254</sup> The company reportedly abused the short-term contract scheme to dismiss workers and later on hire new ones with same qualifications and skills of the ones who were fired.<sup>255</sup>
- **July 2012, Belarusian Congress of Democratic Trade Unions:** The administration of the Bobruisk Plant of Tractor Parts and Units (OAO BZTDiA) blocked the access to the plant territory for Mikhail Kovalkov, the Chairman of the Belarusian Free Trade Union's unit acting at the plant, within eight months.<sup>256</sup>
- **November 2012, ILO Committee on Freedom of Association:** Soon after the creation of the Belarusian Independent Trade Union's unit at the Granit mining plant, three of its members were fired, including the chairman.<sup>257</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company recognise the rights of its workers to freedom of association and to bargain collectively?*

- The company has a commitment to recognise the rights of its workers to freedom of association and collective bargaining, including the right to freely form and/or join independent trade unions, and this commitment is clearly communicated to all employees.
- The company recognises workers' organisations for collective bargaining purposes and has procedures in place to ensure regular collective bargaining with authorised worker representatives concerning all workplace related issues.
- The company allows worker representatives access to collective bargaining agreements, company premises, employees and other relevant documentation needed to fulfil their duties.
- The company prohibits discrimination or adverse actions against worker representatives or employees for participating or refraining to participate in lawful trade union activities.
- The company has agreed with workers' representatives about the requirements of a fair hearing to be followed in relation to all disciplinary cases and employee grievances.

- The company has a committee, with participation of employee-elected representatives, which is responsible for hearing, processing, and settling disciplinary cases and employee grievances.

*If independent trade unions are either discouraged or restricted, does the company enable workers to gather independently to discuss work-related problems?*

- The company allows employees to engage in regular employee-only meetings within normal working hours, where employees can discuss concerns regarding working conditions.
- Where allowed by local legislation, and if independent trade unions are not present, the company informs employees of their right to form independent collective representation at the workplace.
- Where allowed by local legislation, the company informs workers of their right to engage in regular collective bargaining concerning all workplace issues.
- Company management meets regularly with worker representatives to discuss work-related problems and any concerns/complaints employees may wish to raise.

# Working Conditions

*Employment status, wages, working hours and social security*

Operating Environment	
Minimum wage	BYR 2,300.000 (US\$ 107) (2016)
Relevant laws	<ul style="list-style-type: none"> <li>• Constitution, 2004</li> <li>• Labour Code, 2007</li> <li>• Law On the Fundamentals of the State Social Insurance, 1992</li> <li>• Pension Law, 1992</li> <li>• Law On Social Services, 2000</li> <li>• Decree on the prevention of social parasitism, 2015</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Labour and Social Protection</li> <li>• National Council for Labour and Social Issues</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Trade unions</li> </ul>

Working Conditions: National Law		
	Country	International Standard
Standard workweek	40	48
Overtime pay rate	2x	1.25x
Holidays with pay, per year	24 days	Not less than 3 weeks
Maximum daily working hours	8	10
Maximum weekly working hours	40	48
Uninterrupted weekly rest period	42 hours per 7 days	24 hours per 7 days

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution guarantees the right to work.<sup>258</sup> In practice, labor is viewed not as a right, but as a duty, as shows the logic of the “decree on parasites” adopted in 2015.<sup>259</sup>

Following Presidential Decree No. 29 on Additional Measures to Improve Workplace Relationships and Strengthen Labor and Performance Discipline, adopted in 1999, most workers in Belarus were switched to short-term labour contracts.<sup>260</sup> Short-term contracts, according to the Committee on Economic, Social and Cultural Rights in 2013, created job insecurity among workers and discretion was given to employers to either conclude a contract of indefinite duration after five years, sign a new contract, or dismiss employees when the contract ended.<sup>261</sup> Additionally, the UN Special Rapporteur on the situation of human rights in Belarus noted in 2015 that an estimated 90 percent of workers were under precarious conditions as short-term contracts subjected them to pressure, threats and discrimination.<sup>262</sup> During the period January- March 2015, more than 99,000 workers were reportedly switched to part-time work, figure three times larger than same period during 2014.<sup>263</sup>

Furthermore, the 2014 International Trade Union Confederation (ITUC) Global Rights Index, which rates working conditions in countries according to 97 indicators, ranked Belarus among the 24 “worst countries in the world to work in”, under category 5 (No guarantee of rights).<sup>264</sup>

In 2015, the government adopted a Decree “on the prevention of social parasitism” by which every persons residing in Belarus for more than half a year have to pay a tax equivalent to US\$ 250 if she or he does not work in an officially recognised institution. Exemptions applied to persons with disabilities, retired, full-time students, guardians of young children, farming households or officially registered unemployed looking for jobs. The decree, according to media sources, was criticised by various organizations.<sup>265</sup>

## Wages

The Constitution states that employees shall be guaranteed a fair salary, which allows the worker and his family a decent and independent life.<sup>266</sup>

A minimum wage is set annually on January 1<sup>st</sup> taking into account the availability of funding from national and local budgets, and the availability of employers to pay. The minimum wage levels (monthly and hourly) set in the legislation are binding for employers as the lowest threshold for the payment of all categories of workers.<sup>267</sup> The minimum wage for 2016 was set at BYR 2,300.000 (US\$ 107) per month.<sup>268</sup> At the same time, the General Agreement for 2016-2018 aims to reduce the number of organizations with the average wages below US\$ 200.<sup>269</sup> Recently there has been a significant drop in the income of the population. According to official statistics of the National Bank of Belarus, the actual incomes of the population in January-May 2016 decreased by 7% against January-May 2015 (by 4.7% in the previous year).<sup>270</sup>

Wage Indicator further reported in 2016 that an estimated 15-30 percent of workers earned the minimum wage.<sup>271</sup>

The economic crisis in Russia aggravated the problems of a number of Belarusian enterprises, for which the neighboring country was the main market. Part-time work and unplanned vacations have become a common practice, which significantly reduces the real wages.<sup>272</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process noted disproportionate differences between the salaries of management and staff, which reportedly failed to reflect the value of their contributions.<sup>273</sup>

## Working Hours

The Constitution states a working week of 40 hours, shorter hours at night, an annual paid leave and weekly rest days.<sup>274</sup> According to the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (ILO CEARC) in 2014, the Labour Code did not establish an absolute limit to daily or weekly hours of work in the context of working time arrangements for special categories of workers.<sup>275</sup>

Additionally, the law allows the possibility to work on a weekly rest day at the request of the employer with the consent of workers. The ILO's CEARC noted in 2015 that ILO Convention 106 only allowed exemptions from weekly rest under specific circumstances, which are listed exhaustively.<sup>276</sup>

## Social Security

The Constitution guarantees citizens of Belarus the right to social security including in old age, in the event of illness, disability, loss of working ability, and in other cases specified by law.<sup>277</sup> It additionally provides for unemployment benefit in accordance with the law.<sup>278</sup>

Belarus had an extensive statutory social security system based on solidarity.<sup>279</sup> It is divided between salaried persons, self-employed persons and pension coverage for persons of certain professions. Social security contributions are mandatory at a flat rate of 34 percent of gross payroll for employers and 1 percent of wages for pension coverage for employees.<sup>280</sup>

According to the World Bank, Belarus did not provide adequate unemployment insurance.<sup>281</sup> As of May 2016, the average unemployment benefits made BYR 265,600, which covered only 15.4% of the minimum subsistence budget.<sup>282</sup> The Minister of Labour and Social Security announced in 2016 that unemployment benefits might be raised up to the minimum subsistence budget, if "a situation arises when the enterprises are liquidated".<sup>283</sup> Unemployment benefits were reportedly 10 times lower than in neighbouring Poland.<sup>284</sup>

As of May 2016, the unemployment rate was 1.1%. However, it should be borne in mind that the official statistics calculated the unemployment rate based on the number of the officially registered unemployed workers, while workers reportedly did not want to subscribe to the unemployment registry as benefits were too low, and they were mandated to participate in public works programmes while looking for a job.<sup>285</sup>

Additionally, the Committee on Economic, Social and Cultural Rights noted in 2013 that the social security system did not guarantee universal coverage.<sup>286</sup>

According to the World Bank, Belarus has one of the largest social care systems in the region, with the total cost of 2.7 percent of the GDP, reaching almost a half of the country's population. Despite the fact that social assistance programs provide a wide coverage of the poor, these programs are badly targeted.<sup>287</sup> The Bertelsmann Foundation added in 2015 that the Belarusian social protection system was very costly, since the priorities of social services were too indiscriminate and were closely associated with ideological rather than social goals. Social benefits did not cover the cost of living in Belarus.<sup>288</sup>

## Employment Status

The government estimated in 2015 that the shadow economy accounted for 11 percent of GDP.<sup>289</sup> However, according to a 2015 Belarusian Institute for Strategic Studies, the informal economy corresponded to 33 percent, highest level among countries in the Baltic region.<sup>290</sup> Additionally, economists suggested that it could account to as much as 40-45 percent of GDP as of 2015.<sup>291</sup>

According to a 2015 Lithuania Free Market Institute study, young people and women were more likely to work in the informal sector of Belarus, as well as workers in rural areas.<sup>292</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **November 2015, Belarus Digest:** A restaurant in Niamiha, Minsk owned by a Russian businessman reportedly paid half of the workers salaries in “envelopes” to reduce paying taxes and social security benefits.<sup>293</sup>
- **July 2015, Viasna Human Rights Center:** Between 200-300 Chinese workers in a paper factory in Bobrus demonstrated to demand the payment of due salaries.<sup>294</sup>
- **June 2015, Charter 97:** Workers at a metal construction plant in Maladzechna went on strike in order to demand the payment of due salaries.<sup>295</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

### Working hours

*Does the company ensure that the workweek is limited to 48 hours; that overtime is infrequent and limited; and that workers are given reasonable breaks and rest periods?*

- Normal company working hours are limited to 48 per week by both company policy and practice, or fewer if provided by national law, collective agreement or industry standards.
- Overtime is infrequent, remunerated at premium rate, and does not exceed 12 hours in any one week, or 36 hours per month.
- The company has a system to plan, record and monitor hours worked by each employee, and regularly evaluates whether the number of workers is sufficient to meet production targets without resorting to overtime.

- Where overtime per worker systematically exceeds 12 hours per week, the company increases its workforce to correspond to production targets, or puts in place measures to increase worker productivity and reduce overtime.
- Workers are allowed at least 24 consecutive hours of rest (or more if provided by national law or industry standards) in every seven day period.
- The company ensures that workers have no less than a 30-minute break for every 4 hours of work (or more if provided by national law or industry standards) and that workers are allowed to use toilet facilities whenever necessary and not just during designated breaks.

## Wages

*Does the company provide a living wage that enables workers to meet the basic needs of themselves and their dependents?*

- It is company policy to provide workers with a living wage sufficient to meet basic food, clothing and housing needs and provide some discretionary income for themselves and their dependents.
- The company is aware of whether the legal minimum wage in the country of operation meets the requirement for a living wage.
- If no national minimum wage is established, or if national minimum wage standards are insufficient to meet the basic needs of workers and their dependents, the company calculates a living wage based on the cost of living in its area of operation.
- Part-time workers receive wages and benefits that are proportionate to those of full-time workers, and receive overtime compensation at a minimum of 1.25 times their hourly salary.
- The company pays wages at regular intervals and does not take deductions from wages for disciplinary measures or other deductions not authorised by national law.
- Bonus and piece-rate payment systems are monitored to ensure that the total salary paid meets living wage requirements without resort to overtime.

## Leave

*Does the company ensure that workers are paid holiday leave, sick leave, and parental leave in accordance with international minimum standards?*

- Workers are granted at least three weeks of paid holiday leave per year or more if required by national law or collective agreements. Part-time and short-term workers are provided with paid holiday leave proportionate to the number of hours worked, at a rate equal to that of permanent full time employees.
- Workers are entitled to paid sick leave in accordance with the applicable national law. If sick leave is not provided for in national law, the company consults with union or worker representatives to establish alternative means of protection in case of illness or injury.
- The company ensures that sick leave is not deducted from workers' vacation time.
- Female workers are entitled to no less than fourteen weeks of paid maternity leave per child.
- The company grants compassionate or parental leave to workers who have recently adopted a child or children, or have taken on the responsibility to care for foster children or other dependent children.

## Employment status

*Does the company ensure that all workers have an official employment status?*

- The company ensures that all employees receive employment contracts prior to starting work for the company, and that contracts are understood by each employee.
- Contracts detail each employee's rights and obligations of employment, including clear job description, bonus and salary systems, and reasonable notice periods.
- Reference to company handbooks or other relevant documents on employment terms are integrated into the contract.
- The company ensures that contractors provide workers operating within company premises with an official employment status in line with company standards.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of different business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.
- Institute for Human Rights and Business and Global Business Initiative on Human Rights, State of Play: The Corporate Responsibility to Respect Human Rights in Business Relationships (2012): The Report examines how the UN Guiding Principles can contribute and guide the complex network of business relationships that now exist in a global economy. It explores how companies of all sizes are now beginning to implement human rights considerations and the UN Guiding Principles into both traditional and contemporary business relationships.
- Portal for Responsible Supply Chain Management (est. 2008): The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.
- IFC Performance Standard 2: Labour and Working Conditions (2012): IFC PS2 is guided by the international labour standards as outlined by the ILO and covers a range of aspects, including: terms and conditions of employment, non-discrimination, health and safety, and forced labour. The Standard addresses employees, contracted workers and supply chain workers.
- International Labour Organization: The International Labour Organization (ILO) is the UN agency responsible for preparing and overseeing international labour standards. The mission and objectives of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.

- OECD Guidelines for Multinational Enterprises (2011): The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. Chapter 5 is on employment and industrial relations, aligning with the international labour standards of the ILO.

# Environment

*Company impacts on the environment that affect the health or livelihoods of local communities*

Operating Environment	
Percentage of population with access to improved water sources	100 (2015)
Environmental Performance Index rank	82.3 (2016)
Food Security Index rank	44 (2015)
Relevant laws	<ul style="list-style-type: none"><li>• Constitution, 2004</li><li>• Law On Environmental Protection, 1992</li><li>• Public Health and Disease Control Act, 1993</li><li>• Drinking Water Act, 1999</li></ul>
Responsible agencies	<ul style="list-style-type: none"><li>• Ministry of Health</li><li>• Ministry of Natural Resources and Environmental Protection</li></ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"><li>• Green Network NGO</li></ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution provides for the right to a conducive environment and to compensate for loss or damaged caused by the violation of the right. It also states that it is the duty of everyone to protect the environment.<sup>296</sup> The mineral wealth, waters and forests are the exclusive property of the State.<sup>297</sup>

In 2016, Belarus with a score of 82.3 points ranked 35th out of 180 countries in the ranking of Environmental Performance Index (of EPI) of Yale University (4th place in the region after Croatia, Azerbaijan, and Russia)..<sup>298</sup>

The Belarusian legislation provides for economic motivation of environmental management, including the relevant incentives, tax benefits, and accelerated depreciation of equipment for the protection and improvement of the environment.<sup>299</sup>

In practice, according to a 2016 Bertelsmann Foundation report, the government actively demonstrated that economic interests were more important than protecting the environment.<sup>300</sup>

## Participation and Access to Information

The obligation of public authorities to provide environmental information is enshrined in the Constitution as well as on the Law on Environmental Protection.<sup>301</sup> The Law on Environmental Protection requires legal entities and individual entrepreneurs to keep records of the use of natural resources and other forms of operational impact.<sup>302</sup> Additionally, a regulation adopted in 2008 mandates the Ministry of Natural Resources and Environmental Protection to publish an annual report with consolidated information on the state of the environment in Belarus.<sup>303</sup>

Although Belarus has signed the Aarhus Convention on free access to ecologically important information, individuals and environmental organisations faced significant difficulties in claiming these rights, according to the Bertelsmann Foundation in 2016.<sup>304</sup> According to the study performed by the Center for European Transformation, the Belarusian legislation does not fully comply with the principles of the Aarhus Convention in terms of timely access to information, public participation procedures and taking into account the public opinion.<sup>305</sup> In fact, the public has no real tools to influence the environmental decision-making process.<sup>306</sup>

The environmental assessment of economic activities comprises two processes: Environmental Impact Assessment (EIA), and State Environmental Review (SER). EIAs deal with initiatives at project level, while SER deals with proposed projects, plans and programmes for socio-economic, sectorial and special development based on technical notes. The public participation in these processes takes the form of the public hearings of the EIA reports, and the public environmental impact assessment, the results of which are taken into account during the SER. According to the Swedish Cooperation Agency's Helpdesk on Environment and Climate Change in 2010, the law on state environmental review did not cover all aspects of EIAs.<sup>307</sup>

## Food and Livelihoods

In terms of availability of food, Belarus was in the group of countries with the lowest level of undernourished persons worldwide (less than 2.5 per cent) and lead in per capita food production and consumption among the Commonwealth of Independent States.<sup>308</sup>

## Water

The provision of good quality drinking water to the general public is regulated by the Drinking Water Act, the Public Health and Disease Control Act and other laws and departmental regulations.<sup>309</sup>

According to latest official data from 2010, 84.7 percent of the population had access to drinking water.<sup>310</sup> Rural areas were the ones having more challenges accessing drinking water in Belarus.<sup>311</sup>

The government noted on its latest report from 2004 that underground water of most shaft wells used for rural drinking water did not meet quality standards in terms of chemical and microbiological content.<sup>312</sup> According to the WHO data for 2010, the quality of drinking water in many water systems is unsatisfactory, in most cases due to the high content of ferrum.<sup>313</sup> The Government regularly implements the Clean Water state program to improve the infrastructure of water supply and the quality of water.

## Air and Soil Pollution

The government reported in 2004 that major cities and towns regularly recorded pollutants exceeding by up to 10 percent the maximum allowed concentrations. Soil with highly radioactive pollution was widespread, resulting in soil erosion and degradation.<sup>314</sup> Additionally, as a result of the 1986 Chernobyl Nuclear Plant Power Accident in Ukraine, 1.3 million hectares of agricultural land and 1.6 million hectares of forested land were contaminated in Belarus.<sup>315</sup>

In 2011, the construction of the Belarusian nuclear power plant was started, under the Russian AES-2006 project, near the border with Lithuania. The NPP is expected to be put into operation in 2018. Experts believe that the project Environment Impact Assessment is not thorough enough,<sup>316</sup> and the NPP threatens the regional safety.<sup>317</sup> The civil society of Belarus and Lithuania noted in 2015 that the government violated the right to information and failed to take into account the public opinion in decision-making within the NPP construction.<sup>318</sup> During the inspection in November 2014, the Gosatomnazor revealed numerous violations in the construction of the Belarusian NPP; nevertheless, the report and other inspection materials were not disclosed to the public.<sup>319</sup>

According to a 2016 Bertelsmann Foundation report, the environment in Belarus was heavily threatened by nuclear and chemical pollution associated with industrial sources.<sup>320</sup>

The government added that the main volume of pollutant emissions from stationary sources was associated with the industry (including energy) and housing and communal services.<sup>321</sup>

The Government supports the certification of environmental management systems in accordance with ISO 14001, implemented by the national authority for certification of environmental management systems.<sup>322</sup> The owners of the certificate have the right to environmental tax reduction within three years after receiving it.<sup>323</sup>

## Waste Management

The legal framework for waste management in Belarus is defined in the Law on Waste Management No. 271-3. It defines the obligations of individuals and legal persons engaged in waste management, the functions of the public agencies, and regulates the state control in this sphere. The legislation also enshrines the extended producer responsibility principle.

In 2015, the proportion of processed municipal solid waste amounted to 15.6% (against 7.5% in 2008). The Government intends to bring it closer to the European indicators and to increase it to at least 25% by 2020.<sup>324</sup>

In 2013, the Minister of Natural Resources and Environmental Protection said that waste management is one of the most problematic environmental industries in Belarus, which causes the greatest number of criticism on the part of the monitoring bodies.<sup>325</sup>

Radioactive waste management is also topical issue for Belarus. Since 1963, a burial facility for radioactive waste has operated at a distance of a few kilometers from Minsk of (it is mainly used to manage radioactive waste of industrial, medical and scientific institutions). In the context of the NPP construction, the Government adopted a strategy for management of radioactive waste produced by the Belarusian NPP; according to this strategy, 9360 cubic meters of solid radioactive waste of different categories and 60 cubic meters of high-level radioactive waste will be buried on the territory of Belarus within the NPP operation period.<sup>326</sup> Experts believe that this is a serious environmental threat.<sup>327</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **August 2013, Belarus Digest:** The decision to build a nuclear plant near the border with Lithuania was made without a mandated Environmental Impact Assessment, and information about the project was not distributed publicly in a timely manner.<sup>328</sup>
- **March 2016, Green Network:** The local authorities of the Molodechno District invited the public to discuss the EIA report on a pig farm construction, although they had already decided to permit the construction.<sup>329</sup>
- **May 2016, Green Network:** In Minsk, felling of trees for the construction of a tennis center was started in the park area, without a public debate.<sup>330</sup>
- **February 2016, Vitebsk Regional Committee for Natural Resources and Environmental Protection:** As a result of the inspections performed in 2015, the Committee made a "black list" of the companies violating the environmental laws. This practice also exists in other regions of the country.<sup>331</sup>
- **January 2016, Green Network:** Most of the audits, performed in 2015, found serious violations of the environmental legislation at the enterprises of Minsk, the majority of which is related to waste management.<sup>332</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

## Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

### Precautionary Approach

*Does the company support a precautionary approach to environmental issues?*

- The company provides information to stakeholders about uncertainties and potential risks to workers, consumers, the public and the environment of the company's products and processes.
- The company identifies any soil and water contamination at its site or sites, assesses the environmental impacts and remedies any significant contamination.
- The company tries to avoid environmental damage by regular maintenance of production processes and environmental protection systems (air pollution control, waste water treatment systems etc.).
- The company conducts systematic risk assessments of materials used, products and processes to apply the precautionary approach.
- The company ensures transparency and engages in regular stakeholder dialogue with neighbours, civil society organisations and others with an interest in the company on critical environmental issues.

- If relevant, the company supports scientific research on environmental issues relating to the company's products and processes.

### Emergency Response

*Does the company have emergency procedures in place to prevent and address accidents affecting the environment and human health?*

- The company has identified the hazardous operations and the potential consequences on human health and the environment if an accident occurs.
- The company has detailed procedures, plans, equipment and training programmes to prevent accidents and emergencies.
- The company has detailed procedures, plans and equipment to effectively respond to accidents and emergencies if they occur.
- The company trains workers to respond to accidents and emergencies, including carrying out emergency drills at least once a year involving all workers.
- Where there is significant risk of impacts on local communities, the company has a procedure that enables it to immediately notify affected local communities about industrial emergencies, and informs about emergency response, evacuation plans and medical response.

### Energy Consumption and Climate Change

*Does the company take measures to reduce energy consumption and emissions of greenhouse gasses?*

- The company complies with regulation regarding use of energy resources and emissions of greenhouse gases.
- The company has a climate strategy that identifies opportunities to reduce the company's energy consumption and/or emissions of greenhouse gases.
- The company has initiated practical activities to reduce energy consumption and/or greenhouse gas emissions.
- The company provides information and trains employees to implement energy reduction measures.
- The company monitors its energy consumption and/or emissions of greenhouse gases.
- The company has defined a baseline for its greenhouse gas emissions, which includes a definition of the business operations and activities, and the greenhouse gases that are accounted for e.g. as described in the Greenhouse Gas Protocol.
- The company has targets for reducing its energy consumption and/or emissions of greenhouse gases.
- The company engages with the government and civil society organisations to develop policies and measures that provide a framework for the business sector to contribute to building a low carbon economy.

### Water and Waste Water

*Does the company take measures to reduce water consumption and treat waste water?*

- The company has the necessary permits to extract water or obtain water from the public water supply and for any waste water discharges.
- The company treats waste water before discharge to reduce adverse environmental impacts. If waste water treatment takes place outside the company's premises, the company is aware of the effectiveness of the treatment.
- The company monitors waste water discharges, including types, limit values and quantities of pollutants in the waste water.

- The company has targets for reducing water consumption and/or increasing the amount of water reused or recycled in different business operations and activities.
- The company provides information and trains workers to implement measures to reduce water consumption and reduce the need for waste water treatment.
- The company's use of water and its waste water discharges do not negatively affect the sustainability of water resources, the natural environment or the availability of water for drinking and sanitation purposes.
- The company engages with national, regional and local public authorities, and civil society organisations to address water sustainability issues related to affected water resources.

### Waste Management

*Does the company take measures to prevent and reduce the production of waste and ensure responsible waste management?*

- The company has the necessary permits for the handling, storage, recycling and disposal of waste, and, if relevant, complies with requirements for transporting hazardous waste across borders.
- The company has a strategy to manage waste responsibly and continuously attempts to prevent and reduce the production of waste.
- The company ensures that waste relevant for recycling is sorted and handed over to a recycling company.
- The company monitors the types and quantities of waste produced, including where and how waste is recycled, treated or disposed of.
- The company has targets for reducing waste production and/or increasing waste reused/recycled and measures its progress against these targets.
- The company provides information and trains workers on the safe handling, storage, transport and disposal of hazardous and special waste types.
- The company marks areas used for storage of waste, and properly labels all containers for storing waste, including a relevant symbol of danger for hazardous waste.
- The company requests recycling/treatment/disposal receipts from transport contractors.
- The company uses licensed contractors for the transport, recycling, treatment and disposal of hazardous waste.

### Air Emissions

*Does the company prevent, reduce and treat air emissions?*

- The company has the necessary permits for emissions to air, and complies with legal requirements (e.g. air pollution standards and limit values).
- The company provides information and trains workers on how to manage air emissions.
- The company monitors the types and quantities of relevant emissions to air.
- The company treats relevant pollutants before they are emitted to the atmosphere (e.g. by using filters).
- The company continuously attempts to prevent and reduce air emissions.

### Noise, Odour, Light and Vibrations

*Does the company prevent and reduce impacts on the surrounding environment from noise, odour, light and vibrations?*

- The company has the necessary permits for levels of noise, odour, light and vibrations, and complies with legal requirements (e.g. standards or procedures).

- The company provides information and trains workers to manage noise, odour, light and vibrations.
- The company monitors levels of noise, odour, light and vibrations on the surrounding environment.
- The company treats/minimises impacts to ensure that there are no significant levels of noise, odour, light and vibrations.
- The company continuously attempts to prevent and minimise the levels of noise, odour and light (e.g. enclosed production, shielding, etc.).
- Chemicals and Other Dangerous Substances
- Does the company minimise the use and ensure safe handling and storage of chemicals and other dangerous substances?
- The company has the necessary permits and complies with legal requirements for the handling, use and storage of chemicals and other dangerous substances.
- The company does not manufacture, trade and/or use chemicals and other dangerous substances subject to national or international bans or phase-outs.
- The company provides information and trains workers on the safe handling and use of chemicals and other dangerous substances.
- The company monitors the quantities of all chemicals and other dangerous substances used in production and maintenance.
- The company marks areas used for storage of chemical substances and products.
- The company properly labels all chemical substances and products including name of the chemical and a relevant symbol of danger.
- The company considers substitution important and continuously tries to use less harmful chemicals and substances.

### Biodiversity

*Does the company prevent, minimise and remedy significant impacts on biodiversity?*

- The company has the necessary permits to operate in or alter the natural environment, and complies with legal requirements.
- The company is committed to operating within the framework of international conventions addressing biodiversity (e.g. the Convention on Biological Diversity, Cartagena Protocol on Bio-safety and the CITES Convention).
- The company has assessed important positive and negative impacts of its operations and activities on the natural environment and biodiversity (e.g. IUCN's Red List of Threatened Species and no alien invasive species).
- The company has previously and/or is currently taking measures to prevent and reduce the impacts of its operations and activities on biodiversity.
- The company clearly labels products containing GMOs and indicates if GMOs have been used in the production process.
- The company ensures that it has not had any unintended releases of GMOs.
- The company documents that workers have been adequately trained to handle GMOs.

### Natural Resources

*Does the company ensure that natural resources are used in a sustainable manner?*

- The company has the necessary permits and complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc).
- The company complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc.).

- The company ensures that workers are trained in the sustainable cultivation, harvesting, extraction and/or use of natural resources.
- The company continuously attempts to prevent, minimise and remedy significant impacts on natural resources through environmentally friendly methods and alternative resource use.
- The company ensures that its use of renewable resources does not negatively affect the sustainability of the resource (i.e. the resource's ability to regenerate).
- The company demonstrates efforts to substitute non-renewable resources used in production with renewable resources.
- The company works with local and national public authorities as well as with international institutions to address sustainability issues related to natural resources (e.g. wood, water, fish, metals, oil etc.).

### Environmentally Friendly Technologies

*Does the company encourage the development and use of environmentally friendly technologies?*

- The company uses environmentally friendly technology.
- The company regularly evaluates its processes and technologies to see if there are more environmentally friendly alternatives.
- When developing new technologies and products, the company focuses on developing environmentally friendly technology e.g. by using life cycle assessments (LCA), design for sustainability or a cradle-to-cradle approach.
- When planning new investments in technology, the company considers the best available technology and stipulates minimum environmental criteria.
- When investing in new buildings, the company implements environmentally responsible and resource-efficient materials and/or technologies.
- The company makes information describing the environmental performance and benefits of using environmentally friendly technologies available to stakeholders.

### Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- CEO Water Mandate (2011): Launched as a collaborative initiative of the UN, UN Global Compact, the Government of Sweden and a dedicated group of companies, the CEO Water Mandate is a public-private initiative designed to assist companies with the development, implementation and disclosure of policies and practices relating to water sustainability. It covers six core elements: direct operations, supply chain and watershed management, collective action, public policy, community engagement and transparency.
- IFC Performance Standards on Environmental and Social Sustainability (2012): The IFC Performance Standards provide directions to businesses on due diligence on environmental and social matters. Several of the standards are pertinent to environment, including: Assessment and Management of Environmental and Social Risks and Impacts (PS1), Resource Efficiency and Pollution Prevention (PS3), Community Health, Safety, and Security (PS4), and Biodiversity Conservation and Sustainable Management of Living Natural Resources (PS6).
- Institute for Human Rights and Business, Business, Human Rights & the Right to Water—Challenges, Dilemmas and Opportunities: This report summarises the views of various stakeholders on issues pertaining to the right to water, including consideration of the scope of a company's responsibility

to respect the human right to water; the applicability of the human rights-based approach to management of water-related issues; and the business case for engaging with water-related issues.

- ISO 14000 Standards on Environmental Management Systems: Developed by the International Organisation for Standardisation, the ISO 14000 Standards provide businesses and organisations with a number of tools to assist in their environmental management systems. The key objective of the standards is to encourage different actors to reduce the negative impact that their activities may have on natural resources such as air, water or land.
- United Nations Special Rapporteur on the Human Right To Safe Drinking Water and Sanitation (est. 2008): Amongst a range of issues, the mandate of the Special Rapporteur includes consideration of the regulation of the private sector in the context of private provision of safe drinking water and sanitation.
- Global Water Tool (2007): Developed by the World Business Council for Sustainable Development, this tool is designed for companies and organisations to map their water use, including risks associated with water use in global supply chains.

# Land & Property

*Human rights impacts related to company acquisition, use and management of land*

Operating Environment	
International Property Rights Index rank	n/a
Heritage Foundation: Economic Freedom Index Property Rights score	20 (2016)
Relevant law	<ul style="list-style-type: none"><li>• Constitution, 2004</li><li>• Civil Code, 2007</li><li>• Land Code, 2008</li><li>• Decree No. 667 on Expropriation and Allocation of Land Plots, 2015</li><li>• Law on Payments for Land, 1991</li></ul>
Responsible ministries	<ul style="list-style-type: none"><li>• State Property Committee</li><li>• State Land Cadastre</li></ul>
Local NGOs addressing this issue	

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The Constitution guarantees the right to property.<sup>333</sup> Additionally, laws regulating land administration in Belarus includes the Civil Code, the Land Code, the Law “On State Registration of Real Estate, Rights to It and Transactions with It”, Presidential Decree No. 667 “On Expropriation and Allocation of Land Plots” and the Law “On Payments for Land”.<sup>334</sup>

The Constitution defines two types of property: state-owned and private.<sup>335</sup> More than 90 percent of land in Belarus was reportedly owned by the State as of 2015.<sup>336</sup>

Additionally, land for agricultural use is exclusive property of the State.<sup>337</sup> In that line, 90 percent of agricultural land in Belarus was state-owned.<sup>338</sup>

In accordance with the Constitution, the agricultural land is owned by the state.<sup>339</sup> This land may be offered to legal entities for permanent or temporary use and for rent.<sup>340</sup>

## Land Acquisition

Land rights to domestic legal entities included the right to permanent use, the right to temporary use, the right to ownership, and the right to rent. Foreign legal entities were only allowed the right to rent property for a maximum period of 99 years.<sup>341</sup> Project investors in the priority sectors of the national economy (the list of such sectors is established by the government) have the right to acquire the land plots included in the special lists by the local authorities.<sup>342</sup> The Constitution allows for expropriation by reasons of public need, and with the payment of a timely and complete compensation.<sup>343</sup> Meanwhile, the property market value is often underestimated,<sup>344</sup> and the estimates of the public and private organizations may differ by several times.<sup>345</sup>

State-owned land could be acquire through a public action or at the discretion of local executive committees or the President, without an auction being held, and privately-owned land can be acquire under a relevant commercial contract concluded between the parties.<sup>346</sup>

Private ownership of land by a Belarusian citizen was limited to one hectare of agricultural land in a household plot, including 0.25 hectares of agricultural land under and around a private house.<sup>347</sup>

Though in theory companies had the right to acquire state-owned land, in practice, it was not common.<sup>348</sup> Non-governmental entities are required to use the land they have obtained in compliance with the intended purpose. The land may be disposed of on a wide variety of grounds, including its improper use for one or two years.

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **March 2010, TUT.by:** A land plot in the center of Minsk was transferred to the ownership of investors from Oman. That was the first case of a land plot acquired by the foreign investors.<sup>349</sup>
- **April 2014, TUT.by:** The independent real estate assessment estimated the house in Minsk scheduled for demolition 2.7 times higher than the state assessment, but the court did not take that into account.
- **February 2016, Onliner.by:** The owners of private houses scheduled for demolition for the construction of the Minsk-Mir complex protested against the underestimated amounts of compensation.

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Before buying, renting, acquiring or otherwise accessing land or property, does the company ensure that all affected owners and users of the land or property, have been adequately consulted and compensated?*

- Prior to buying, renting, acquiring or otherwise accessing land or property, whether directly or through a third party, the company identifies all existing owners and users of the land or property, including information land users and customary owners.
- The company investigates the past usage and ownership of the land or property to ensure that past users and owners have not been wrongfully removed, and that any expropriations by the authorities have been conducted in accordance with international law.
- The company consults with affected users and owners of the land or property (including women, tenants, settlers, minorities and other vulnerable groups including indigenous peoples) and seeks their free, prior and informed consent before continuing to acquire or access the land or property.
- The company ensures that its lease or purchase of residential property and sourcing of food commodities does not considerably make housing and food scarce or too expensive for the local people.
- The company ensures that affected owners and users of the land or property are adequately compensated to help them restore their standards of living or livelihoods to the same or higher than before, and that the compensation standards are transparent and applied consistently to all communities and persons affected.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- **FAO Voluntary Guidelines on the Responsible Governance of Tenure (2012):** Developed by the Food and Agriculture Organisation of the UN (FAO), the Guidelines promote responsible governance of tenure of land, fisheries and forests by outlining the principles and internationally accepted standards for the responsible governance of tenure. The Guidelines inform States and non-government actors on relevant policies, strategies and activities.
- **IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement, and IFC Handbook for Preparing a Resettlement Action Plan (2002):** The IFC Performance Standards are contractually binding on certain projects receiving IFC finance. PS5 is accompanied by a Guidance Note and a Resettlement Handbook that gives detailed guidance on managing resettlement and associated impacts.
- **Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (2010):** A joint initiative of UNCTAD, FAO, IFAD and the World Bank, these seven principles cover all types of investment in agriculture, including between principal investors and contract farmers. The Principles provide a framework for national regulations, international investment agreements, global corporate social responsibility initiatives, and individual investor contracts.

# Revenue Transparency & Management

*Human rights impacts related to transparency of government revenues received from business and the distribution of such revenues*

<b>Operating Environment</b>	
World Economic Forum Global Competitiveness Ranking	n/a
Legatum Prosperity Index rank: Governance	121 (2015)
Ease of Doing Business Index (where 1 indicates greatest ease for doing business)	44 (2015)
Transparency International: Corruption Perceptions Index rank (where 1 indicates the lowest level of corruption)	107 (2015)
<b>World Bank Good Governance Indicators</b>	
Voice and Accountability	6.9
Political Stability	51.9
Government Effectiveness	35.1
Regulatory Quality	13.9
Rule of Law	22.6
Control of Corruption	47.6 (2014)
Government revenue	n/a
Government expenditure	n/a
EITI Country	No
Relevant law	<ul style="list-style-type: none"> <li>• Constitution, 2004</li> <li>• Criminal Code, 1999</li> </ul>

	<ul style="list-style-type: none"> <li>• Law on Measures to Prevent Legalisation of Income acquired in an illegal way, 2014</li> <li>• Public Service Law, 2003</li> <li>• Law on public procurement of goods (works, services), 2012</li> <li>• Decree on some issues of public procurement of goods (works, services), 2013</li> <li>• Decree on the procurement procedures for construction, 2013</li> <li>• Ordinance of the Council of Ministers On some issues of regulation of public procurement of certain goods, 2014</li> <li>• Law on Information, Informatization, and the Protection of Information, 2014</li> <li>• Law to Combat Corruption, 2015</li> </ul>
Responsible ministries	<ul style="list-style-type: none"> <li>• Ministry of Internal Affairs</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• “Kosht Urada” project</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

### Corruption

In July 2015 a new Law to Combat Corruption was adopted in Belarus with the aim to improve its legal framework in that sphere. The law determines mechanisms of preventing corruption and prohibits re-admission to the civil service of officials formerly dismissed on grounds of crimes against the interests of office while on duties. The law also introduces the mechanism of conversion of illicit enrichment obtained by a public official into state revenue.<sup>350</sup>

Additionally, the Criminal Code also criminalizes corruption, extortion, active and passive bribery, bribery of foreign officials and money laundering.<sup>351</sup>

In 2010, Belarus acceded to the Group of States against Corruption (GRECO). The anti-corruption legislation was not properly enforced in Belarus, according to the GRECO 2014 report.<sup>352</sup> In its 2015 report, the GRECO indicated that most of its recommendations entailed no significant consequences, while the actual situation of corruption in Belarus obviously requires a large-scale approach and more decisive action; the GRECO also expressed concern about the fact that the executive branch of the government (especially the President of the country) retains the powers which are disproportionate for a democratic state.<sup>353</sup>

The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem in the country as of 2014.<sup>354</sup> According to official data from 2013, sectors where most corruption cases occurred included the state administration; industrial sector; construction industry; health-care services; and education sector.<sup>355</sup> In that line, the Business Anti-corruption Portal noted in 2014 that in Belarus the highest corruption rates were registered in the construction sector, where almost one-fifth of companies expected to give gifts in order to obtain a construction permit. However, corruption has decreased in the construction sector since 2010, although mainly because of the decrease in the number of state-financed projects following the financial crisis.<sup>356</sup> In the first half of 2016, the majority of the corruption crimes were registered in the trade, industry and education sectors.<sup>357</sup>

## Public Procurement

Issues related to public procurement are mainly regulated by the Law on public procurement of goods (works, services), the Presidential Decree on some issues of public procurement of goods (works, services), the Presidential Decree on the procurement procedures for construction and the Ordinance of the Council of Ministers on some issues of regulation of public procurement of certain goods.<sup>358</sup> In accordance with the latter, the official website for public procurement [icetrade.by](http://icetrade.by) was created, «providing information about the needs and procurement of enterprises and organizations of the Republic of Belarus".<sup>359</sup>

The national legislation recognises 'single source procurement' (procurement from only one supplier), and according to the Business Anti-Corruption Portal in 2014, the information on the procedure involved was not public.<sup>360</sup> The legislation provides for the possibility to subdivide the state orders into individual lots, but in practice, this is done only in rare cases.<sup>361</sup> Also, the exploitation of the legal concept of 'secret trade' reportedly resulted in a non-transparent selection of the winning bidder.<sup>362</sup>

The Ministry of Trade considers complaints in the area of public procurement and is responsible for the policy in this area.<sup>363</sup> There is no independent body in the country that would consider the complaints.

The Portal further stated in 2014 that public procurement in Belarus suffered from corruption due to the complicated and inconsistent system of legislative regulations governing procurement in particular.<sup>364</sup>

Belarus has signed agreements with other countries for mutual admission to the public procurement market, but in reality, the proportion of foreign companies operating in the Belarusian market is extremely low.<sup>365</sup> The U.S. Department of State noted in 2015 that foreign companies were likely to face discrimination in favour of state-owned enterprises in public procurement processes.<sup>366</sup> Also, according to the 2013 Belarus Enterprise survey conducted by the World Bank, many companies expected to offer gifts to secure government contracts.<sup>367</sup>

The Bertelsmann Foundation further reported in 2016 that covert procurement fraud schemes were believed to be frequent in the oil refining industry and in the arms trade.<sup>368</sup>

## Revenue Transparency

Amendments to the Law on Information, Informatization, and the Protection of Information were introduced in 2014, expanding the list of information that should be available to citizens. The law also

establishes open meetings of national institutions, except when it contains secret or confidential information.<sup>369</sup>

In August 2016, the Council of Ministers and the National Bank adopted a resolution on the enactment of the International Financial Reporting Standards on the territory of Belarus.<sup>370</sup> Since 2016, the Law on Accounting and Reporting requires entities of public interest<sup>371</sup> to publish their annual consolidated financial statements in accordance with the IFRS in the public domain.<sup>372</sup>

The Bertelsmann Foundation also reported in 2016 that information on public spending was very limited.<sup>373</sup> The head of the project "Cosht Urada" (Cost of Government), dedicated to information on the public expenditure and revenue, said that this information is legally open, however, it is neither published in full, nor provided by the public authorities in response to written requests.<sup>374</sup> Moreover, the Law on Information, Informatization and Information Protection enables the heads of the state bodies to limit the spread of a wide range of information, classifying it information "for official use only".

## Revenue Sharing

Belarus corporate income tax was set at 18 percent.<sup>375</sup> *Paying Taxes 2016* rates the tax burden in Belarus as the 63<sup>rd</sup> among 189 economies in the world.<sup>376</sup> The total tax burden decreased from 137.3% in 2004 to 51.8% in 2014.<sup>377</sup>

Tax evasion from legally registered companies was common. According to the Ministry of Taxes and Levies, in early 2015, the proportion of hidden economy was 11% of the GDP; however, some analysts believe that the actual figure is much higher.<sup>378</sup> According to the research of the Belarusian Institute for Strategic Studies, employment in the informal economy is explained by economic reasons and is more common for the most vulnerable social groups.<sup>379</sup> The informal sector accounted to up to 44 percent of GDP.<sup>380</sup>

Belarus Digest further reported in 2015 that in practice, the government did not want to confront the private sector as they were reportedly backing political support to the ruling party.<sup>381</sup> As a result, the number of inspections on companies were substantially reduced.<sup>382</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **October 2015, Belarusian Telegraph Agency:** 13 executives at ZAO Konsul enterprise were arrested in Brest on charges including moving foreign currency abroad and tax evasion.<sup>383</sup>
- **June 2015, Belarus in Focus:** Former Deputy Minister was sentenced to 5 years imprisonment on charges including misusing budgetary funds.<sup>384</sup>
- **June 2015, Belarus in Focus:** Owners and top managers at Motovelo plant were arrested for allegedly capital and equipment withdrawal from the company after the government announced that it would be nationalising it.<sup>385</sup>
- **July 2016, Investigative Committee of Republic of Belarus:** The Director of the Slutsky Hlebavod (Sluck Bakery) JSC was arrested for accepting a bribe of US\$ 800.<sup>386</sup>
- **July 2016, TUT.by:** Three lecturers of the Belarusian National Technical University were accused of abuse of office and sentenced to imprisonment for 3 to 4 years, with a grace period of 2 years.<sup>387</sup>

- **July 2016, Belarusian Telegraph Agency:** The Supreme Court sentenced two judges of the Economic Court of Minsk to 11 and 13 years of imprisonment with confiscation of property for bribery.<sup>388</sup>
- **March 2016, TUT.by:** Top managers of the Naftan JSC refinery would take bribes for assistance in contracting for unreasonable prices and caused damage to the company of more than US\$ 2 million.<sup>389</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

#### Signalling a Non-Corrupt Environment

*Does the company take a clear stand against corruption?*

- The company's CEO, director or president has declared that the company will not engage in corruption at any time or in any form.
- The company has a policy rejecting corruption and requiring all directors, managers and workers worldwide to behave ethically and in conformity with the law.
- The company anti-corruption policy includes how to handle requests for facilitation payments, giving and receiving gifts, engaging in sponsorships, giving political contributions, and how to conduct responsible lobbying.
- The company has defined benchmarks and indicators regarding its anti-corruption initiatives and reports these to the public (e.g. in its annual CSR report)

#### Anti-Corruption Risk Assessment

*Does the company assess the risk of corruption when doing business?*

- The company evaluates the potential areas of corruption including factors such as type of transaction, countries of operation, industries, and customers or business partners involved.
- The company evaluates the risk of corruption when workers, agents, intermediaries or consultants deal with public officials (including workers of state owned companies).
- The company evaluates the risk of internal and external conflicts of interest in relation to business partners.
- The company has developed an action plan to address the risk of corruption, and has defined responsibilities for each task, as a minimum for high-risk areas.
- The company has identified internal functions with the highest risk of corruption within the company and seeks to address these weaknesses.

## Awareness Raising

*Does the company ensure that relevant workers are properly trained?*

- The company informs all workers about its anti-corruption commitment.
- The company provides regular anti-corruption training for all relevant workers within the organisation e.g. procurement and sales staff.
- Information on disciplinary procedures for violations of company anti-corruption policies is available to workers.
- The company actively seeks worker feedback and dialogue on its anti-corruption initiatives.
- The company has and promotes a function by which workers can safely report suspicion of corruption related cases (e.g. hotline or mailbox) and allocates resources to systematically address the issues that are identified.

## Anti-Corruption Procedures

*Do the company's internal procedures support its anti-corruption commitment?*

- The company has assigned different individuals or departments to be responsible for handling contracts, placing orders, receiving goods, processing invoices and making payments.
- The company mentions 'anti-corruption' and/or 'ethical behaviour' in its contracts with business partners.
- The company prohibits informal employment and any 'off the books' record-keeping
- The company performs internal audits and has checks in place in connection with all anti-corruption commitments.
- The company's procurement, financial and internal audit personnel have clear instructions to look for and to identify alarms, report them to management, and follow-up counter measures.
- The company requests external auditors to maintain a critical eye and follow all alarms and irregularities.
- Any alarm or irregularity reported by external auditors is systematically addressed by management.
- The company monitors compliance and continuously identifies strengths and weaknesses in the anti-corruption initiatives to remain effective and up-to-date in addressing changing risks.

## Agents and Other Associates

*Does the company's anti-corruption initiative cover agents, intermediaries and consultants?*

- The company conducts an inquiry and/or attentiveness (e.g. financial, legal, labour, tax, IT, environment, market/commercial) on all agents, intermediaries and consultants.
- All agreements with agents, intermediaries and consultants are fully documented in written, signed contracts.
- The selection and terms of reference of agents, intermediaries or consultants are approved at the senior management level or at a level above that of the management involved in the operations for which the intermediary is hired.
- Contracts with agents, intermediaries and consultants include a section on anti-corruption and that the contract-holder must comply with all applicable laws and regulations.

- Agents, intermediaries and consultants are provided with information on the company's anti-corruption commitment, anti-corruption policies, training material on anti-corrupt behaviour and information on disciplinary procedures for violations of company anti-corruption policies.
- The company ensures that payment to agents, intermediaries and consultants are in line with standard payments for other service providers of similar ranking.
- The company only makes payments by bank transfer or check – never in cash – in the country of the agent, intermediary and consultant and never to a third party without prior examination.

## Communicate

*Does the company communicate progress on the Global Compact principles with stakeholders?*

- The company identifies stakeholders who affect or can be affected by the company's activities, products and services e.g. a person, group, organisation, authority.
- The company communicates progress openly about how issues covered by the Global Compact principles are managed, including performance results as well as forward-looking information on strategy and management approach, challenges, and dilemmas.
- The company regularly engages in dialogue with stakeholders to keep up-to-date with stakeholder expectations.
- The company communicates openly about how issues covered by the Global Compact principles are managed including challenges, dilemmas, success and failures.
- The company's communication on progress and other performance reporting on issues covered by the Global Compact principles is publically available and communicated to external stakeholders e.g. via the company's and Global Compact website.

## Joint Actions

*Does the company take joint actions with others to engage in and promote anti-corruption initiatives?*

- The company shares experience, procedures and challenges of corruption with other organizations i.e. the local business community, sector initiatives, networks etc.
- The company has initiated or joined initiatives with other companies in the same sector for the purpose of promoting a fair business environment.
- The company stimulates multi-stakeholder dialogue on challenges of corruption.
- The company encourages the local business community and business partners to initiate cooperation to fight corruption.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Transparency International Business Principles for Countering Bribery provide a checklist for companies to identify and reduce bribes and facilitation payments in their operations.
- The OECD Guidelines for Multinational Enterprises, applicable to enterprises in OECD Member States (and some others), require companies to respect human rights, including through due diligence. The OECD Guidelines constitute recommendations by OECD member states to

multinational enterprises operating in or from adhering countries. The OECD Guidelines include competition, fiscal systems and anti-corruption.

# Security & Conflict

*Human rights impacts related to company interaction with public and private security providers and related to the impact of business on societal conflict.*

Operating Environment	
Fragile States Index <sup>390</sup>	87 (2015)
Legatum Prosperity Index: Safety & Security	53 (2015)
Freedom House: Map of Freedom - Political Rights <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	7 (2015)
Freedom House: Map of Freedom - Civil Liberties <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	6 (2015)
Relevant law	<ul style="list-style-type: none"> <li>• Constitution, 2004</li> <li>• Law on security activities, 2006</li> <li>• Law on Internal Affairs, 2007</li> <li>• Presidential Decree on the Measures to Improve Security Activities, 2007</li> <li>• Regulation on licensing of certain types of activities, 2010</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Internal Affairs</li> <li>• State Control Committee</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Belarusian Helsinki Committee</li> <li>• Viasna Human Rights Center</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution guarantees the right to life, personal liberty, inviolability and dignity, and that no one should be subjected to torture, cruel, inhuman or undignified treatment or punishment without consent.<sup>391</sup>

Death Penalty is allowed in Belarus. The UN Special Rapporteur on the situation of human rights in Belarus expressed concern in 2015 that those subjected to death penalty were denied a fair trial, date and time of execution was not released, their bodies were not returned to relatives and the location of the burial site was not disclosed.<sup>392</sup>

In 2010, in the first UPR cycle, the states recommended to Belarus to include in the domestic law the definition of torture, which is used in the Convention against Torture. In 2015, amendments to the Criminal Code were adopted, which complemented Article 128 with the definition of "torture", fully compliant with the terms used in the Convention.<sup>393</sup>

In 2016, the US extended sanctions against the Belarusian Belvneshpromservice defense industry enterprises, suspected in violating of the US law on non-proliferation of technologies for production of weapons of mass destruction.

### Public security forces

The main legal acts regulating public security issues in Belarus are the Law on Internal Affairs, the Law on the Security Activities, the Law on State Security and the Decree on measures to improve security activities.<sup>394</sup>

Law enforcement services in Belarus are provided by the Ministry of Internal Affairs, which comprises the militia, internal forces, administrative bodies and other structural divisions. At the same time, the Belarusian militia includes the criminal militia, the public security militia and the task militia.<sup>395</sup>

The UN Special Rapporteur noted in 2015 that in practice, preventive arrests, administrative arrests and arbitrary detention of citizens was systematic in Belarus, particularly prior to a political or social event.<sup>396</sup> The government would reportedly use those measures to discourage public civic activism.<sup>397</sup> The most vulnerable to arbitrary arrests were human rights defenders and independent journalists.<sup>398</sup> There were also cases of arrest on demonstrators for participating in approved events.<sup>399</sup> The Belarusian Helsinki Committee reported in 2015 that before the presidential election of 2015, the situation of arbitrary detention improved significantly and the level of persecution decreased, but organisers of unauthorised actions were still subjected to administrative sanctions in the form of disproportionately big amounts of fines.<sup>400</sup>

A 2015 submission by civil society organizations to Belarus Universal Periodic Review process noted that in some cases prisoners did not have access to lawyers and many suffered from ill-treatment.<sup>401</sup> Additionally, the problem with prisoners' access to medical examinations and inability to contact family members while in detention was further reported.<sup>402</sup> Political opponents and human rights defenders were commonly imprisoned within a long period.<sup>403</sup> However, during the election campaign in 2015, the authorities of Belarus took important steps to mitigate the situation of human rights in the country, and on August 22 released all the six political prisoners who had previously been sentenced to long terms of imprisonment.<sup>404</sup>

GayBelarus and Equal Rights Trust reported in 2015 on cases of hate crimes against LGBT persons and particularly against activists for LGBT rights. When such cases were reported to the police, criminal proceedings were not initiated, even when there was clear evidence of a crime there.<sup>405</sup>

## Private security forces

The Ministry of Internal Affairs is in charge of granting special permits (licenses) for private security activities.<sup>406</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **January 2016, Viasna Human Rights Center:** The European Union called on the government of Belarus to impose a moratorium on the death penalty to a person who committed the murder of his common-law wife.<sup>407</sup>
- **January 2016, Viasna Human Rights Center:** A journalist was beaten by police officers while covering the detention of two protesters in the Frunze district of Minsk. The OSCE Representative on Freedom of the Media condemned the attack and stated that that kind of intolerable and disturbing action by law enforcement authorities was not acceptable.<sup>408</sup>
- **2015, UN Special Rapporteur on the situation of human rights in Belarus:** Several long-term political prisoners were released in 2015. However, many political prisoners remained in detention centers, and it particularly includes human rights defenders and journalists.<sup>409</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company take steps to ensure that company security arrangements are in accordance with international principles for law enforcement and the use of force?*

- The company regularly conducts security risk assessments, and ensures that company security arrangements, including the deployment of private guards or public security personnel, are proportionate to the security risk.
- Company security risk assessments include the risk of human rights abuses by private and public security personnel.
- The company selects private security firms based on information about professional ability, level of staff training, quality of equipment, past involvement in human rights abuses, links with political factions or organisations and other relevant criteria.

- Contracts with private security firms include requirements related to international human rights standards for law enforcement and use of force; require the investigation and discipline of any unlawful or abusive conduct by security guards; and allow for termination of the contract in case of such conduct.
- There is a manual defining the duties of security personnel, and all security personnel receive training on rules of conduct based on international human rights standards for law enforcement and the use of force.
- Where public security personnel are assigned to company facilities, the company seeks to ensure transparency concerning its interactions with public security agencies, and the company communicates to the relevant public security agencies its desire that security functions be conducted in accordance with international human rights standards for law enforcement and the use of force.
- The company has a procedure for recording security-related incidents, including a mechanism for handling complaints from staff or local communities related to the conduct of security personnel, and forwards credible allegations of human rights abuses to the relevant authorities.
- The company has a procedure for monitoring and evaluating its security arrangements, including the proportionality of the security arrangement; impact on local communities; impact on existing local tensions or conflicts; security incidents recorded; and credible allegations of human rights abuses by company security personnel. Representatives from the local community are consulted as part of the monitoring.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- International Alert, *Conflict Sensitive Business Practices: Guidance for Extractive Industries* (2005): International Alert is a peace-building NGO working with civilians and other affected stakeholders in conflict areas. This Guidance is intended for companies in the extractive industries sector, providing advice on conflict-sensitive business practices and the ways in which they can contribute to peace-building.
- International Alert and Fafo Institute, *Red Flags: Liability Risks for Companies Operating in High-Risk Zones* (2008): The Red Flags address illicit business activities under international and national law. The initiative's objective is to clearly define what types of activities, when committed or aided by businesses, represent breaches of international humanitarian law and international criminal law.
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noting relevant distinctions between international human rights law and international humanitarian law.

# Access to Remedy

*Bodies to which victims of corporate human rights abuses can file grievances and seek redress.*

## Judicial Mechanisms

According to the UN Economic, Social and Cultural Rights Committee in 2013, the judiciary was not independent from the executive. The President reportedly determined the status of judges, including their appointment and dismissal.<sup>410</sup> The UN Special Rapporteur on the situation of human rights in Belarus further reported in 2015 the lack of independence of courts and law enforcement agencies from the executive branch.<sup>411</sup>

There was reportedly no effective mechanism to investigate cases of torture reported by prisoners or detainees, and officials accused of those crimes were not suspended while on trial.<sup>412</sup>

## Courts of General Jurisdiction

Courts of general jurisdiction hear non-commercial civil cases where, as a rule, one of the parties is an individual. The Courts hear on disputes relating to personal property, family matters, housing and labour.<sup>413</sup>

The government reported that between 2011 and 2014, Belarusian courts heard only one case related to unfair denial of employment and four cases involving claims of early termination of contract of women who were pregnant or had dependent children; three of the claims were dismissed on the grounds that they were ill-founded, one claim was withdrawn and another claim was settled in court.<sup>414</sup>

Additionally, during the period 2002-2014, 5,063 persons were victims of trafficking, particularly for sexual exploitation (4,463) and to a lower extent, for forced labour (597). According to Belarus Digest in 2014, the number of trafficking cases has been decreasing over the last couple of years.<sup>415</sup> At the same time, the U.S. Department of State noted in 2015 that the number of investigations of trafficking cases progressively declined over the past nine years, from 95 in 2006 to one in 2014.<sup>416</sup>

## Economic Courts

Economic courts adjudicate commercial disputes arising from economic activities, such as disputes based on commercial contracts, corporate and tax disputes, and cases related to economic bankruptcy. Parties involved in a process could be legal entities or individual entrepreneurs.<sup>417</sup>

## Non-Judicial Mechanisms

### Prosecutor General Office

The Prosecutor supervises the precise and uniform execution of laws and other regulations in Belarus. According to the U.S. Department of State in 2015, individuals have the right to report police abuse to a prosecutor, although the government often did not investigate reported abuses or hold perpetrators accountable.<sup>418</sup>

Additionally, the Prosecutor is responsible to monitoring law enforcement operations to combat corruption.<sup>419</sup> As of December 2013, 2,301 corruption crimes were registered, an increase of 29.3 percent from 2012 figures.<sup>420</sup> Furthermore, 632 cases of bribery were reported between the period January-September 2014, a decrease of 42.7 percent compared to the same period during 2013.<sup>421</sup>

## Arbitration-based Mechanism

The law allows civil, commercial and non-commercial disputes to be submitted to arbitration.<sup>422</sup>

The Chamber of Commerce and Industry has set an International Arbitration Court. In practice, the Court hears more than 100 international and domestic cases on an annual basis.<sup>423</sup>

## Conciliation-based Mechanisms

Conciliation is introduced by economic courts in connection to a case, and where the consent of the parties is not necessary. The procedure sets terms for a settlement. The court appoints a conciliator, who may be an employee of the court (not a judge) or any another person. If an agreement is reached, the Court approves it.<sup>424</sup>

## Mediation-based Mechanisms

The law allows mediation for civil (both commercial and non-commercial), labour and family disputes.<sup>425</sup> The process is conducted by a mediator who has been certified by the Ministry of Justice. It is mandatory that the parties agree on the process.<sup>426</sup>

# International Mechanisms

## UN Human Rights Council

The Human Rights Council has Special Procedures that are independent human rights experts with a mandate to report on human rights from a thematic or country-specific perspective. They can act upon information received on alleged violations of human rights and send communications to States and non-State actors asking for clarification and action.<sup>427</sup> Among the mandated Special Procedures is the Working Group on the issue of human rights and transnational corporations and other business enterprises.<sup>428</sup>

## The European Bank for Reconstruction and Development Project Complaint Mechanism

The Bank's accountability mechanism is called the Project Complaint Mechanism, which assesses and reviews complaints about Bank-financed projects. It provides individual(s) and local groups that may be directly or adversely affected by an EBRD project, as well as civil society organisations, a means of raising complaints or grievances with the Bank, independently from banking operations.<sup>429</sup>

## The World Bank Independent Inspection Panel

The Panel that has the mandate to receive complaints from communities who have been or are likely to be affected by a World Bank-financed project.<sup>430</sup>

## The International Finance Corporation Compliance Advisor Ombudsman

Adverse impacts related to projects financed by the IFC or Multilateral Investment Guarantee Agency of the World Bank can be mediated or investigated by the Compliance Advisor Ombudsman (CAO). CAO has a dispute resolution function and an investigatory one.<sup>431</sup>

## The Organisation for Economic Cooperation and Development National Contact Point

Although Belarus is not an OECD member and currently has no OECD National Contact Point (NCP), complaints about breaches of the OECD Guidelines for Multinational Enterprises by companies registered in OECD countries can be filed to the NCP of that country. The NCP mediates among parties to find a conciliatory solution to the dispute.<sup>432</sup> Should mediation fail, the NCP can make an assessment of the alleged violations in its final statement.<sup>433</sup>

The Guidelines are recommendations addressed by governments to multinational enterprises and they provide voluntary principles and standards for responsible business conduct. The Guidelines include chapters on the following topics: Human Rights (Chapter IV); Employment and Industrial Relations (Chapter V); Environment (Chapter VI); Combating bribery, bribe solicitation and extortion (Chapter VII); Consumers Interests (Chapter VIII); Science and Technology (Chapter IX); Competition (Chapter X); and Taxation (Chapter XI).<sup>434</sup>

## International Labour Organization

Trade unions and employers' organisations can submit complaints to the International Labour Organization's Committee on Freedom of Association.<sup>435</sup> As of 2015, all cases presented to the Committee were closed.<sup>436</sup>

# Sector Profiles

*Industry-specific human rights risks*

## Manufacturing

Operating Environment	
Sector contribution to GDP (%)	41,3 (2015)
Sector contribution to employment (%)	32,7
Major products	Petrochemicals, metal-cutting machine tools, tractors, trucks, earthmovers, motorcycles, televisions, synthetic fibers, fertilizer, textiles, radios, refrigerators.

## Sector Profile

Manufacturing was the largest sector of the economy, and accounted to 41.3 percent of the country's GDP, as of 2015.<sup>437</sup> The largest GDP-forming companies engage in the production of oil products, potash fertilizers, motor vehicles and agricultural machinery. The majority of these enterprises are state-owned companies.

Belarus was one of the world's largest suppliers of mining and quarrying vehicles, while Minsk Tractor Works produced a tenth of the world's tractors.<sup>438</sup> In 2009, the government exempted from taxes for three years auto manufacturers that place their plants at the territory of Belarus.<sup>439</sup>

The dependence of the Belarusian production on the Russian markets caused a deep industrial crisis following the economic downturn in Russia. In the first quarter of 2015, the export of industrial enterprises under the Ministry of Industry decreased by 40.3 percent against the previous year.<sup>440</sup> As a result, the labor conditions of workers deteriorated, including forced transfer part-time work and unscheduled leaves and layoffs.<sup>441</sup>

In Belarus, there are more than 40 town-forming enterprises.<sup>442</sup> According to the UNDP 2005 data, the well-being of more than 70 towns in Belarus depends on the work of one enterprise.<sup>443</sup> Many of them loss-making productions, but the government continues subsidizing them from the budget. With the economic crisis, the government announced in 2015 the intention to change the state support mechanisms and to assist the productions only on a competitive basis.<sup>444</sup>

# Areas for Attention

## Working Conditions

*Workers are massively switched to part-time mode or laid off due to the economic crisis.*

In January-March 2015, more than 99 thousand workers were transferred to part-time mode, which is three times as many as for the same period in 2014.<sup>445</sup> According to the Ministry of Finance for the second quarter of 2015, 30 largest Belarusian companies fired over 17 thousand employees within a year.<sup>446</sup> The machine-building industry was a leader in the number of layoffs.

## Environment

*Industrial production waste is dangerous for the environment.*

As of 2011, the total volume of industrial production waste in Belarus amounted to 950 million tons. The production potash fertilizers accounts for 85% of industrial waste.<sup>447</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **March 2016, Sputnik news agency:** The Gomselmash enterprise put 13 thousand employees on enforced leave.<sup>448</sup>
- **March 2015, Naviny.by:** MAZ suspended the main conveyor for 10 days, having put workers on enforced leave.<sup>449</sup>
- **January 2016, Independent Trade Union Movement in Belarus:** The Baranavichy Automatic Lines Plant placed on leave more than 500 workers out of 700.<sup>450</sup>

# Agriculture

Operating Environment	
Sector contribution to GDP (%)	9,3 (2015)
Sector contribution to employment (%)	9,7 (2015)
Major products	grain, potatoes, vegetables, sugar beets. <sup>451</sup>
Relevant laws	Law on the Right to Land Ownership, 1993

## Sector Profile

According to a 2015 European Union report, 26,8 percent of total land in Belarus was used for agriculture. As a result of the Chernobyl accident, approximately 5 percent of agriculture land was excluded from utilization.<sup>452</sup> Most of agriculture production was done by large state-owned farms,<sup>453</sup> the so-called kahalas (collective farms) that reportedly received substantive subsidies to operate.<sup>454</sup> At the same time, private farms comprised only 2 percent of all farms.<sup>455</sup>

The agriculture sector accounted to 9.3 percent of Belarus's GDP, as of 2015<sup>456</sup> and the share of agriculture in employment was approximately 10–11 percent of total workforce.<sup>457</sup> 320,000 people reportedly worked in the sector as of 2013.<sup>458</sup>

Agriculture was the primary source of employment in rural areas, accounting to approximately half of its total employment as of 2011.<sup>459</sup>

Wages in the sector were reportedly among the lowest throughout all sector of the economy, accounting to a third of the average national salary in 2013.<sup>460</sup>

Challenges in the agriculture sector included a lack of a competitive environment and low average of soil productivity, according to the European Union in 2015.<sup>461</sup> In that line, the absence of reforms made the sector ineffective as most state-owned farms survived due to subsidies paid by the government, which reportedly accounted to between 9-12 percent of GDP.<sup>462</sup>

## Areas for Attention

### Forced Labor

*Schoolchildren and students are forced to perform agricultural work.*

Belarus continues to use the popular Soviet practice of engaging in agricultural work persons employed in other sectors of the economy. In most cases, these are students and schoolchildren. The work is either extremely underpaid or not paid for at all. One can refuse to engage in this work only for health reasons. Unexcused absence is punished at the discretion of the educational institution (for example, it

is viewed as truancy, or entails problems during the exams). Besides, the participation in the so-called community service may be a condition for nonresident students willing to obtain a place in the dormitories.<sup>463</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- **September 2014, Naviny.by:** The students of the regional universities were obliged to take part in the harvesting of root crops and vegetables.<sup>464</sup>
- **October 2012, Charter'97:** The students of the General Medicine faculty of the Gomel State Medical University were sent to do agricultural work. The absentees were viewed as truants.<sup>465</sup>
- **May 2013, Viasna Human Rights Center:** highschoolers in the Dzeraunaya village, Slonim district, were sent to agricultural work during school hours. 40% of their earnings were given to them, while 60% were transferred to the school account.<sup>466</sup>
- **September 2013, Viasna Human Rights Center:** Vocational school students in Hlubokaye, Vitebsk region, harvested potatoes and carrots in the farms of Hlubokaye and Sharkaŭshchyna districts.<sup>467</sup>
- **September 2015, Zarya newspaper:** Highschoolers in Astroŭna harvested potato.<sup>468</sup>

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