

FORCED LABOR IN BELARUS

LEGAL ASPECTS, INTERNATIONAL
CONVENTIONS, PRACTICE,
AND PROTECTION OF RIGHTS

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Forced labor in Belarus is a system constructed and implemented by the state, involving all possible structures at all levels of power.



As of 2021, up to 50 thousand citizens of Belarus were subjected to labor exploitation.



Forced labor is inefficient, and its organization requires substantial expenses.

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INTRODUCTION

For a long time, Belarusian society did not pay much attention to the problem of forced labor. A significant part of the inhabitants of Belarus either does not face this phenomenon, or is not inclined to perceive such labor as “forced.” This is unsurprising, since the victims of the state system of labor exploitation were, as a rule, the poorest and socially disadvantaged population groups. For many years, only the human rights community and a number of civic and trade union activists have been engaged in research and work on the topic. Sometimes the media also reacted to the problems of labor exploitation, e.g. the coverage of the case of A. Bialiatski, head of the Viasna human rights center, or the death of a school student during forced agricultural work in 2016.

The events of 2020 and the ensuing massive repression made a large part of society pay attention to slave labor in the penitentiary system. Almost every week, the media publish reports on labor exploitation, sometimes bordering on torture, of famous political prisoners (such as, for example, Viktor Babariko and Natalia Hershe); interviews with those serving sentences involving forced labor, descriptions of the working and living conditions of prisoners.

The study of forced labor in Belarus is limited by a significant lack of data, especially with regard to labor in the penitentiary system. The sources of data for this paper, in addition to the rather meager website of the Penitentiary Department of the Ministry of Internal Affairs and its divisions, were the Supreme Court of Belarus, local executive authorities, state media reports, and interviews with former prisoners published in independent media. Other important sources included papers by other researchers and organizations tracking labor in the penitentiary system, the main one of which being the extensive report of the Viasna Human Rights Center and the International Federation for Human Rights (FIDH) 2013. In addition, an international consortium of research organizations led by CASE Belarus published a report “Labor in the penitentiary system of Belarus” in 2017 (this is the latest extensive research available). However, it should be noted that these papers did not pay enough attention to the economic aspects of forced labor. This paper attempts to fill this gap.

1

FORCED LABOR IN BELARUS: SCALE AND SCOPE

The term “forced or compulsory labor” means any work or service required of a person under threat of any penalty, and for which that person has not voluntarily offered their services (ILO Convention No. 29 on Forced Labor).

The Human Rights Center “Viasna” together with the International Federation for Human Rights (FIDH) in their fundamental report introduce the following classification of forced labor in Belarus¹:

- Saturday clean-ups;
- forced labor in the penal system;
- compulsory assigning of state-financed students of different levels of education;
- unpaid work of military personnel unrelated to their military duty;
- labor of “obliged persons” (according to Presidential Decree No.18, the obligation to reimburse the costs of maintaining children supported by the state is imposed on their parents, and if these costs are not paid, the court imposes forced labor, the evasion of which entails administrative arrest or imprisonment);
- labor of persons sent by the court to a compulsory rehabilitation center.

According to the paper, the most common forms of forced labor are various types of Saturday clean-ups, work in the field and at construction sites, and landscaping works. As a rule, in order to engage people in such work, the heads of local authorities (regional executive committees, district executive committees, city executive committees) issue illegal orders in which they order various departments, such as the department of education, sports and tourism, as well as the heads of certain state enterprises to provide “help.” In their turn, the CEOs and managers issue orders to send their employees during working hours to different activities such as flax, corn, potatoes, and hay harvesting, woodland cleaning, etc. Then, a cen-

tralized delivery of the employees to locations of forced labor is organized. As a rule, these activities are organized without asking for the employees’ consent, in a compulsory manner, and without proper legal registration of such labor. It should be noted that such harvesting is not connected with business needs of employers sending their employees.

In Belarus, the forced labor of military personnel in military service, cadets of educational institutions of the Ministry of Internal Affairs and the Ministry of Defense is equally widespread, as well as the forced allocation of government scholarship graduates to jobs.

On the one hand, the use of broad criteria in defining forced labor provides insight into the nature of the political and legal system in Belarus. On the other hand, when such broad criteria are applied, the resulting group of those engaged in forced labor is extremely heterogeneous, which makes it difficult to analyze forced labor and identify ways to counter this phenomenon. It is obvious that a high school student’s degree of dependence on the administration is very different from that of a prisoner in a penal institution. In this regard, for the purposes of this work, it is proposed to use an additional criterion distinguishing forced labor of a relatively “hard” nature from relatively “light” manifestations of this phenomenon. The criterion is the severity of the sanctions following refusal to work. The range of sanctions against a “refuser” can vary, from a complete absence of sanctions (when someone did not show up for a Saturday clean-up at school) to 1–2 additional years of imprisonment in the case of prisoners. Applying this criterion, we can narrow down the concept of forced labor to the following categories:

- forced labor in the penal system;
- work of persons sent by the court to rehabilitation labor centers (LTPs);
- labor of “obliged persons.”

Next, we will discuss each of these categories in detail.

¹ https://spring96.org/files/book/ru/2013_compulsory_labour_belarus_ru.pdf

Table 1
Structure of non-custodial and custodial court sentences in Belarus, 2020

| Punitive measure | Number of persons | % |
|--|-------------------|--------------|
| Arrest | 7,143 | 33.0 |
| Restriction of freedom, incl. | 6,777 | 31.3 |
| with sending to open correctional institutions | 1,613 | 7.4 |
| without referral to open correctional institutions | 5,164 | 23.8 |
| Custodial restraint | 7,750 | 35.8 |
| Total | 21,670 | 100.0 |

Source: Supreme Court of Belarus, http://www.court.gov.by/ru/justice_rb/statistics/g5fg7011a1cc4ba2.html

1.1 FORCED LABOR IN THE PENAL SYSTEM

The largest group of forcibly employed persons are those working in the penal system. According to Art. 2 of the Regulation on the Penitentiary Department, the penal system of the Ministry of Internal Affairs of the Republic of Belarus includes the Penitentiary Department, its regional offices, republican unitary production enterprises, and the institutions executing punishments in the form of restriction of freedom, arrest, imprisonment, life imprisonment, and the death penalty.

The system includes a number of correctional institutions:

- Arrest houses intended for the execution of punishment in the form of arrest (a type of short-term imprisonment from one to three months, according to Article 54, clause 1, of the Criminal Code of the Republic of Belarus), but in the conditions of closed confinement. Those sentenced to arrest are subject to the conditions of detention of those serving a sentence of imprisonment, similar to the general regime conditions in prison. In 2020, 7,134 people were sentenced to arrest (Table 1).
- Open correctional institutions (total number: 29). The types of open correctional institutions are indicated in Article 47, clause 4 of the Criminal Code. They are subdivided into:
 - open correctional institutions (IUOTs) for persons who have not previously served a sentence of imprisonment;
 - open correctional institutions for persons who have previously served a sentence of imprisonment.

Of the 29 open correctional institutions included in the penitentiary system of the Ministry of Internal Affairs of

the Republic of Belarus, 24 are for males (of which 15 are for persons who have not previously served a sentence of imprisonment, 9 for persons who have previously served a sentence of imprisonment), and 5 for females². These institutions are colloquially called "chemistry." In 2020, 1,613 people were sent to them.

- Correctional institutions intended for the execution of sentences of imprisonment and life imprisonment. These include correctional labor camps, educational labor camps, prisons, and medical correctional institutions.

Correctional labor camps are subdivided into:

- 1) correctional labor camps-settlements (total number: 3) of two types: for those convicted of crimes committed through negligence, and for convicts who have taken the path of correction, transferred from "ordinary" correctional camps;
- 2) correctional labor camps for persons serving a sentence of imprisonment for the first time (total number: 7, of which one is for women);
- 3) correctional labor camps for persons who previously served a sentence of imprisonment (total number: 7, of which one is for women);
- 4) correctional labor camps with a special regime (1) for especially dangerous recidivists or those sentenced to life imprisonment.

In educational labor camps (1), sentences are served by imprisoned minors as well as convicts left in educational labor camps after they reach the age of eighteen in accordance with Art. 132 of the Criminal Code.

² <https://mvd-din.by/services/>

Table 2
The number of people in correctional institutions in Belarus as of May 1, 2013.³

| Institution type | Number of persons |
|--------------------------------------|-------------------|
| Forced labor camps and prisons | 23,402 |
| Houses of arrest | 1,596 |
| Open correction institutions (IOUTs) | 3,747 |
| Rehabilitation labor centers (LTPs) | 4,943 |

Source: Report "General information on execution of sentences and detention in the Republic of Belarus,"

<https://bsblog.info/penitenciarnaya-sistema-belarusi>

In prisons (3), persons sentenced to imprisonment for a term of more than five years for the commission of especially grave crimes and a number of other categories of convicts serve their sentences.

The medical correctional institutions (1) are for convicts with active tuberculosis, HIV-positive, AIDS patients, or those who have not completed the full course of treatment for a sexually transmitted disease (Art. 16, part 5 of the Criminal Code). In 2020, 7,750 people were sentenced to imprisonment.

- Pre-trial detention centers (total number: 6). They contain persons under investigation, as well as persons who are convicted and left in pre-trial detention centers to carry out maintenance work, since the former cannot be involved in labor.

There is another widespread form of restriction of freedom without sending to open correctional institutions: the so-called "home chemistry." In 2020, this method of punishment was applied to 5,164 persons.

All convicts serving sentences are obliged to work, with the exception of minors, pensioners, disabled persons (disability groups 1 and 2) and some other categories of convicts. Persons sentenced to imprisonment are employed in the subordinate enterprises of the Penitentiary Department located on the territory of the correctional institutions. In the penal system of the Ministry of Internal Affairs of the Republic of Belarus, there are 15 enterprises (including 1 agricultural enterprise), 4 branches and 9 off-budget production workshops with their own production facilities. They produce hundreds of different kinds of products, which are listed on the Penitentiary Department website⁴. An analysis of the websites of the unitary

enterprises showed that their counterparties include divisions of the penal system, government and private businesses. De facto, they all acquire products of forced labor, thereby encouraging the practice.

According to a report of unidentified authorship, in the first quarter of 2013, 19,572 people were employed in paid work at enterprises, correctional institutions and medical and labor dispensaries, or 91.9% of those subject to compulsory employment (in the first quarter of 2012–24,668 people, or 91.8%). Still, in March 2013, 1,558 people in correctional institutions and medical and labor dispensaries (LTPs) did not get any job (in March 2012–2,142 persons)⁵. In other papers on the topic, as well as in media reports, it is often stated that the share of employed prisoners is 70%. Apparently, the level of employment is calculated on the basis of the total number of convicts, which includes those who are not subject to labor, as well as those serving a sentence in the form of short-term arrest, in which case, most likely, it makes no practical sense for the administration of institutions to involve such prisoners in labor.

According to the Penitentiary Department's website, "currently convicts held in open type institutions are involved in labor in various fields of the economy. The largest number of convicts work in manufacturing: Minsk Automobile Plant OJSC (MAZ), Minsk Tractor Plant OJSC (MTZ), Minsk Gear Plant OJSC (MZSH), etc. In addition, convicts are involved in labor in agriculture and the construction industry, as well as in the housing and utility services. The assignment of convicts to work is carried out by the administration of the institution without taking into account the desires and abilities of the convicts. As a rule, convicts are provided with low-paid types of work either in the institution itself or in nearby settlements. Quite often, convicts work in the collective and state farms that are the closest to the institution; the wages are quite low there. Labor becomes a method of pressure on prisoners who are disliked by the administration: they are deliberately sent to work that does not suit them (for medical or other reasons) in order to punish them. Since violation of internal regulations is punishable, refusal to work is fraught with various punishments, up to criminal punishment in case of systematic failure to comply with the demands of the administration. Article 98 of the Criminal Code of the Republic of Belarus ("Bringing convicts to work") clearly states: refusal to work or unauthorized termination of work is a malicious violation of the established procedure for serving the sentence and entails the application of penalties. Refusal to go to work, regardless of the reasons, is equated with the most severe violations of the detention regime and threatens the convict with placement in a punishment cell.

³ Arguably, the data are incomplete, and the numbers can be increased by 1–2 thousand. There are no other publicly available data in the field.

⁴ <https://mvd-din.by/catalog/s/>

⁵ Unfortunately, these are the most recent data available in the public domain; however, the figures presented give an understanding of the scale of the problem.

1.2 REHABILITATION LABOR CENTERS (LTPS)

Despite the reference to the term “rehabilitation” in the name of these institutions, LTPs are de facto detention institutions, where the declared assistance in the treatment of alcoholism is either not provided at all, or is present only formally. It is necessary to emphasize that LTPs are subordinate to the Ministry of Internal Affairs, and not to the Ministry of Health — the fact speaks for itself. This is a rudiment of the Soviet system, supposedly designed to deal with the problem of alcoholism in the country: citizens are sent to these institutions by court decision (4,494 persons in 2020) after 3 or more reports of being in a public place in a state of alcoholic intoxication within one year. As a rule, the trial lasts a few minutes, and the vast majority of offenders do not receive any professional legal assistance. In addition, there is a practice of public trials. In total, there are 9 LTPs operating in Belarus, containing 7,000–8,000 people at a time. Their stay in these institutions ranges from 6 months to 2 years. It is noteworthy that, despite the fact that LTPs allegedly perform a therapeutic function, obliged persons who refused to work are also placed there (more details below), although they might not have problems with alcohol. They make up about 1/3 of those placed in these institutions. According to the data for 2013, 25% of those detained in LTPs are women (there are reasons to believe that the proportion of women remains at about the same level).

Isolation of citizens in LTPs is regulated by: the Law of the Republic of Belarus No. 104–3 dated January 4, 2010, “On the procedure and conditions for sending citizens to rehabilitation labor institutions and conditions of stay in them;” the provisions of the Code of Civil Procedure of the Republic of Belarus (paragraph 12 of Chapter 30 (special proceedings) of Rules of Civil Procedure); the Internal Regulations in rehabilitation labor institutions approved by the Decree of the Ministry of Internal Affairs dated March 25, 2021, No. 86 (previous edition — dated October 9, 2007, No. 264). Persons contained in LTPs, according to the Rules, are obliged to work at production facilities they are assigned to by the LTP administration and comply with safety rules. The working conditions of persons detained in LTP are regulated by labor legislation, with specific details associated with their stay in LTPs (Chapter 21 of the Rules). These persons are not covered by the following legislation: on the employment contract; on the collective bargain agreements; on the part-time work; on the preservation of wages when transferring and moving to another permanent lower-paid job; on the staff of an enterprise; on the guarantees for employees during the performance of their state or public duties; on the disciplinary responsibility of employees.

In accordance with Art. 47 of the Law, persons contained in LTPs, are obliged to work. Refusal of employment or independent termination of work entails the imposition of disciplinary measures (placement of such a person in a dis-

ciplinary cell for up to 10 days). Multiple disciplinary sanctions entail an increase in the period of stay at the LTP up to 6 months by a court decision.

1.3 OBLIGED PERSONS

The architecture of the national child protection system is based on the principle that if a child is taken away from the family, their parents have the obligation to cover the expenses for such children (the parents receive the status of obliged persons). The implementation of this principle began with the adoption of Decree No.18 and has been going on for over 10 years. Parents become obliged persons once it is decided that a child requires state protection. The parents are obliged to pay the state from BYN 162 to BYN 307 (USD66–125, as of November 2021) on a monthly basis, depending on the child’s age and the type of child care provided⁶. If the parent is employed, then this amount is obligatorily deducted from their salary. If a parent does not have a job, they can be forced into employment: local executive committees form a list of organizations and enterprises obliged to employ such people. These enterprises include both state and privately owned ones. It is almost impossible to dismiss the obliged person from the workplace, or refuse to hire them. Due to the extremely low motivation of obliged persons in forced employment, the efficiency of their work is questionable. The internal affairs bodies also spend enormous efforts on keeping records and monitoring the fulfillment of obligations by these persons. There are numerous cases of forced delivery of obliged persons to their workplaces by police squads. The number of administrative offense report is measured in tens of thousands a year.

As of September 1, 2017, 11,494 obliged persons were registered with the internal affairs bodies, of which 11,242 (97.8%) were employed in enterprises and organizations of various forms of ownership (the indicators probably remain at about the same level now). 3,585 (2016–3,820) obliged persons were registered with the Department of Internal Affairs for outreach work. Within 9 months of 2017, the courts declared wanted 724 (2016–897) non-working obliged persons who were absent from their places of residence for a long time and whose location was not established; 760 were found, including those wanted in the previous years (2016–910); 819 (2016–836) obliged persons were sent to rehabilitation labor institutions. Under Article 174 of the Criminal Code (parents’ evasion from supporting their children or from reimbursement of expenses on children who are or were supported by the state), 1,104 (2016–1,026) obliged persons were brought to justice for the same period. 16,030 reports on administrative offenses were drawn up under Article 9.27 of the Administrative Code concerning obliged persons evading work or employment.

6 RESOLUTION OF THE COUNCIL OF MINISTERS OF THE REPUBLIC OF BELARUS No. 354 of June 19, 2020. <https://pravo.by/document/?guid-12551&p0=C22000354&p1-1&p5-0>

In the same period, in institutions subordinated to the Penitentiary Department of the Ministry of Internal Affairs, there were 3,356 obliged persons, of whom 2,116 were in correctional institutions, 188 were in open correctional institutions, and 1,052 — in rehabilitation labor institutions.

Excerpt from the resolution of the Borisov regional executive committee no. 424 of April 11, 2008:

Employers should:

- create new jobs for the employment of obliged persons, in accordance with the previously established task for priority employment of obliged persons;
- hire an obliged person on the basis of a job assignment issued by a state employment service body on the day the obliged person arrives or is delivered by the internal affairs bodies⁷.

Resolutions of local executive bodies similar to the above are regularly published on the executive authorities' websites. They also contain lists of business entities employing obliged persons, either voluntarily or under duress. As part of this work, such resolutions of 130 local authorities for 2020–2021 were collected and processed. As a result, a database of 4,505 enterprises using the labor of obliged persons was compiled. For example, in Minsk there are 85 such companies, almost all of them belong to the state and operate in the following sectors: housing and utility services (housing, operational land management), road services, energy, healthcare, machine building, light industry, etc.

Among the enterprises using forced labor are subsidiaries of foreign companies and joint ventures with shares of foreign companies. Some of them are affiliated with world famous corporations such as Danone or LC Waikiki. The analysis of the database made it possible to identify 48 such companies, a significant part of which (17) are located in the Free Economic Zone "Brest."

1.4 VIOLATION OF LABOR RIGHTS

The violation of the labor rights of forced workers is widespread and systemic.

To begin with, the employment itself is compulsory: in case of refusal, a number of measures of influence can be applied to a person, ranging from disciplinary to criminal prosecution. Criminal punishment is imposed by the court under the following articles of the Criminal Code: for obliged persons — Art. 174 (the number of convicts in 2020: 5,948),

for prisoners in the correctional camp — Art. 411; for those detained in open correctional institutions — Art. 415 (1,164 convicted in 2020)⁸.

In case of the penal system, the labor relations with those employed there are not properly formalized (labor contracts are not concluded). They are also not subject to the minimum wage legislation. Thus, the persons employed are in no way protected from the abuse of power by the "employer" when setting production standards, determining and measuring the results of labor as well as the amount of compensation for it. The actual level of wages is far from fair and can be underestimated by orders of magnitude: according to numerous testimonies of prisoners, wages in institutions are no more than 10–20 USD per month, of which about 2–4 USD are credited to the account (the difference is supposedly spent to compensate expenses for the accommodation of the prisoner).

As a rule, work in places of confinement is not included in the length of service, since this can only be done if workers meet the production norms established by the administration. However, the norms are established in such a way that it is either physically impossible to fulfill them, or the technological process is organized in such a way that it cannot be done.

Violation of labor protection rules and regulations is a widespread practice. Numerous evidence suggest non-compliance with temperature standards in industrial premises (it is cold in winter and hot in summer). Collective and personal protective equipment is lacking everywhere.

In correctional institutions, with the exception of correctional labor centers, at least 25% of the accrued wages or other income is credited to the personal account of convicts, regardless of all deductions, or at least 50% to the personal account of convicted men over 60 years old, convicted women over 55 years old, convicts who are disabled persons of disability groups I and II, convicted minors, convicted pregnant women, convicted women with children in children's homes of the correctional institution. At least 10% of the accrued wages and other income are credited to the personal account of convicts who are obliged to reimburse the expenses of state on children on state support. Convicted persons serving sentences in correctional labor centers, regardless of all deductions, shall be paid at least 50% of the wages accrued.

According to the HRC "Viasna," the Republican Hospital of the Penitentiary Department of the Ministry of Internal Affairs, located at the Pre-trial Detention Center No.1 (Minsk),

⁷ <http://mail.mgazeta.by/ru/news/obshchestvo/item/6850-organizatsiya-raboty-po-trudoustrojstvu-obyazannykh-lits-v-borisovskom-rajone>

⁸ http://www.court.gov.by/ru/justice_rb/statistics/95f97011a1cc4ba2.html

has repeatedly received prisoners from various correctional labor camps (IK-10, IK-5, IK-19, etc.) with eye injuries caused by the lack of eye protection against metal and wood shavings in production that, in some cases, lead to complete loss of vision. In conversations with hospital staff, the inmates admitted that they were injured due to the lack of protective goggles, but they indicated that immediately after receiving the injury, they were forced to write or sign a statement claiming they were injured due to their own negligence in observing safety measures. Also, convicts from the nearby detention centers (IK-14, IK-2) with fingers and parts of hands cut off by woodworking machines are often delivered to the Republican Hospital of the Penitentiary Department of the Ministry of Internal Affairs.

According to information received by human rights defenders from the convict, in the correctional labor camp No.12 (Orsha town, industries: sewing, furniture, metalworking), the production rates are very high, especially given that the convicts in this correctional labor camp, for the most part, have such diseases such as hepatitis, HIV, or tuberculosis. The convicts who are in remission work at the factory. However, according to one of the convicts, they still cannot work at full capacity due to their health condition. At the same time, according to the convict, the working conditions are: "not meeting any standards: there is no ventilation, no overalls, no protective equipment. Much has to be done manually or using completely outdated equipment. The attitude of production staff towards convicts is disgusting."

2

LEGAL ASPECTS OF THE USE OF FORCED LABOR

Belarus is a party to a number of universal international human rights instruments that address the issue of forced labor⁹. These include the International Covenant on Civil and Political Rights (ratified in 1973)¹⁰. Article 8, paragraph 3 of the Covenant reads: "No one shall be compelled to forced or compulsory labor", but "the term" forced or compulsory labor" in this paragraph does not cover the work or service of persons in custody, service of a military nature, service obligatory in cases of emergency or disaster, work or service which is part of ordinary civic obligations.

Also, Belarus has ratified 51 Conventions of the International Labor Organization (of which 42 are in force)¹¹. This number includes 8 fundamental ILO Conventions. Forced labor is directly addressed by the Forced Labor Convention No.29, 1930 (ratified in 1956) and the Abolition of Forced Labor Convention No. 105, 1957 (ratified in 1995).

Article 2 of ILO Convention No.29 defines "forced or compulsory labor" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily", excluding:

- a. "any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
- b. any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
- c. any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or

placed at the disposal of private individuals, companies or associations;

- d. any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
- e. minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services."

According to Article 8 of the Constitution of the Republic of Belarus "The Republic of Belarus recognizes the priority of the generally recognized principles of international law and ensures the compliance of its legislation with them." Thus, all legislative documents are subject to examination for compliance with international treaties.

In national legislation, the prohibition of forced labor is enshrined in the Constitution of the Republic of Belarus (Article 41, Part 4 "Forced labor is prohibited, except for work or service determined by a court verdict or in accordance with the law on the state of emergency and martial law.") and in the Labor Code of the Republic of Belarus (Article 13 "Prohibition of Forced Labor"). In the Labor Code of the Republic of Belarus, forced labor is defined as "work exacted from an employee under the menace of using any violent influence, including:

- means of political influence or education, or as a punishment for holding or expression of political views or ideological beliefs that are contrary to the established political, social or economic system;
- method of mobilizing and using labor for the needs of economic development;
- means of maintaining labor discipline;
- means of punishment for participation in strikes."

⁹ In addition to the documents of the UN system, Belarus is a party to the regional document — the CIS Convention on Human Rights and Fundamental Freedoms.

¹⁰ The common core document constituting part of the reports submitted by states and parties: Belarus, 2011 https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/CoreDocuments.aspx

¹¹ https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103154

The exceptions are: "1) work performed as a result of a court verdict that has entered into legal force under the supervision of state bodies responsible for compliance with the law in the execution of court sentences; 2) work, the performance of which is stipulated by the legislation on military service, on alternative service, or extraordinary circumstances."

According to experts, the common practice of holding Saturday clean-ups in Belarus does not comply with Article 2, part 2 (e) of the ILO Convention No.29, since the scale of organizing those Saturday clean-ups goes beyond the permissible norms of "minor communal services," and also does not meet the condition that "members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services." Failure to participate in Saturday clean-ups is often fraught with consequences, thus it can be considered as forced labor. Also, the practice of holding Saturday clean-ups can be regarded as "a method of mobilizing and using labor for the needs of economic development," which contradicts Article 1 (b) of the ILO Convention No.105.

Human rights activists regard containing people in rehabilitation labor centers as a deprivation of freedom. Work in such institutions cannot be attributed to the exception provided for in Article 2, part 2 (c), since the decision to send persons to the LTPs is made by a civil court; accordingly, this type of forced labor is prohibited. Conditions of detention and work in LTPs often violate Articles 11 (the right to an adequate standard of living, including adequate food, clothing and housing, and to continuous improvement of living conditions) and Article 12 (the right to the highest attainable standard of physical and mental health) of the

International Covenant on Economic, Social and Cultural Rights. In addition, FIDH and HRC "Viasna" became aware of cases of work of persons staying in LTPs for the benefit of the private sector, which violates the provisions of ILO Convention No.29.

Experts believe that the work of obliged persons does not constitute an exception described in Article 2, part 2 of the ILO Convention No.29: it contradicts the Constitution of the Republic of Belarus and the Labor Code of the Republic of Belarus. Moreover, Article 174 of the Criminal Code of the Republic of Belarus provides for sanctions for "parents' evasion of reimbursement of expenses of state on the sustenance of children who are or were on state support, expressed in failure to appear at work <...>" — up to one-year imprisonment.

The working conditions of prisoners in the Republic of Belarus violate a number of international acts, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (Articles 11 and 12), ILO Convention No.29 (Article 2 part 2 (c) not applicable in conditions where adequate guarantees are not provided in the litigation, the use of labor in the interests of private persons, the absence of employment contracts) and No.105, Standard Minimum Rules for the Treatment of Prisoners (rules 71–76).

Sanctions for refusal to work are not hypothetical, but, on the contrary, are widely used in practice: in 2020, 1,164 people were convicted for evading serving a sentence of restriction of freedom (Article 415 of the Criminal Code)¹². For most of them, the verdict had to do with evasion from work.

¹² http://www.court.gov.by/ru/justice_rb/statistics/95f97011a1cc4ba2.html

3

ECONOMIC ASPECTS OF THE USE OF FORCED LABOR

3.1 INDUSTRY SPECIFICS

As follows from the previous sections, forced labor in Belarus is widely used both at the enterprises of the penal system and by ordinary business entities. Below are the main industries in which the first category of enterprises operates.

LOGGING AND WOODWORKING

Woodworking production in the penal system of the Ministry of Internal Affairs of Belarus is organized at 20 enterprises (hereinafter referred to as the enterprises of the penal system) with about 8,000 workers, which have over 1,400 units of operating technological equipment and transport.

At the enterprises of the Penitentiary Department system, about 200 thousand cubic meters of wood are processed, which is slightly above 1% of all processed wood in the country. The abovementioned raw material is used to produce furniture, door and window blocks, glued beams, floorboards and other molded products, furniture boards, floor trusses, containers, incl. special ones for the Ministry of Industry and the Ministry of Defense of Belarus, log cabins, wooden structures, and various lumber.

With the Decree of the President of the Republic of Belarus dated No.214 of May 7, 2007 "On some measures to improve activities in the field of forestry," the state provides special conditions for access to forest resources. In particular, it gives the right to allocate standing timber outside of exchange trading to organizations of the penal system and rehabilitation labor centers (LTPs) of the Ministry of Internal Affairs from the logging fund for their own production and/or consumption.

In addition to the enterprises of the Penitentiary Department system, forced labor is used by other enterprises in the field of logging and woodworking, both public and private. Considering the export orientation of the country's forest industry, a significant part of the results of forced labor in this industry is exported abroad, including exports to the EU countries. For example, the Correctional Insti-

tution no. 5 states that it exports products to Germany and France.¹³

MECHANICAL ENGINEERING

Metalworking enterprises at the correctional institutions specialize in the production of spare parts for automotive and agricultural machinery, as well as metal structures, PI pipes and components for them, sandwich panels, racks, safes, "Egoza" security structures, garden furniture with forging elements, galvanized dishes, children's sleds, entrenching tools, metal canisters, and other consumer goods. For example, the correctional institution No.14 produces spare parts for automotive and tractor equipment, which it supplies to MTZ, MAZ and BelAZ.¹⁴ The products of these companies, containing the results of forced labor, are actively exported all over the world.

CONSUMER GOODS MANUFACTURING

The sewing and footwear industry produces uniforms, work clothing, clothing for recreation and tourism, bedding, special footwear, high ankle boots, and equipment for law enforcement agencies. In total, over 250 different items are manufactured. The main consumers are government institutions and services — the army, internal affairs bodies, housing and utility services. At the same time, an analysis of the lists of counterparties of the unitary enterprises of the Penitentiary Department directly indicates that uniforms and other textile products are actively supplied to many business entities, including privately owned ones.

3.2 DIRECT COSTS FOR SOCIETY

The use of forced labor is not only allowed by the Belarusian state, but is actively encouraged by the authorities through

¹³ <https://www.rypp5.by/about/>

¹⁴ https://www.rup14.by/catalog/zapchasti_k_avtotraktornoy_tekhniki/

the tax system and other benefits. Thus, in accordance with the Law of the Republic of Belarus "On public procurement of goods (works, services)," the purchase of goods produced by organizations of the penal system of the Ministry of Internal Affairs of Belarus can be carried out using the so-called "one-source procedure," i.e. without a tender. In the case of purchasing goods (works, services) at their own expense — they do not have to follow the procurement procedure on the basis of the resolution of the Council of Ministers of the Republic of Belarus No.229 dated March 15, 2012 "On improving relations in the field of procurement of goods (works, services) at their own expense."

October 23, 2006, the Decree of the President of the Republic of Belarus No.628 "On some issues of taxation of rehabilitation labor centers in the penal system of the Ministry of Internal Affairs" was adopted. This Decree ensures employment of persons serving sentences in correctional institutions and undergoing compulsory treatment rehabilitation labor centers, and exempts republican unitary production enterprises of the Penitentiary Department from paying value added tax.

Article 94 of the special part of the Tax Code of the Republic of Belarus exempts goods manufactured by correctional institutions of the penal system and rehabilitation labor centers from value added tax; Article 140 exempts organizations of the penal system and rehabilitation labor centers from profit tax; Article 194 exempts from the land tax the land plots provided for use by the republican unitary production enterprises of the penal system and rehabilitation labor centers.

Doing business in closed institutions has an important feature, namely increased security requirements arising from the need to guard convicts. According to information received from a former employee of the Penitentiary Department of the Ministry of Internal Affairs, the economic activities of the department's enterprises are organized in such a way that prisoners perform only part of the work, while the functions of shop foremen, engineers and technical workers and employees are mainly performed by regular employees. All of them are initially hired for this job to perform production functions that have nothing to do with ensuring the serving of sentences, guarding of prisoners or any premises, etc. These employees are de jure ordinary employees of the internal affairs bodies: they wear uniforms, enjoy all the benefits provided by the state (provision of housing, special conditions for retirement and its amount, etc.); they are awarded with titles. Thus, the organization of forced labor in correctional institutions is associated with increased social obligations of the state to this group, numbering several thousand people.

3.3 MACROECONOMIC ASPECTS

Forced labor creates a false system of incentives for economic agents and distorts market indicators — the price

of labor and the price of products. In an equilibrium economic system, only those products and services are produced, the production of which is expedient, i.e. their production costs are less than the price offered. Forced labor with a level of compensation below the market level creates incentives for economic agents to use it. For example, the employment of those serving sentences in "chemistry" allows agricultural enterprises to clear fields of stones. If there was no possibility of using slave labor, then the enterprise would have to change its behavior strategy to a more economically viable one: it would use mechanical cleaning methods, stop the agricultural use of the field, increase the operational efficiency, or hire workers to collect stones at market rates.

As mentioned above, up to 50,000 residents of Belarus are employed in forced labor. In 2020, the total number of people employed in the country amounted to 4,320 thousand people¹⁵, i.e. at least 1% of all employed people work involuntarily. There is a kind of "binding" of the labor force when the state, in fact, reduces the supply on the labor market. A paradoxical situation arises: enterprises of the real sector complain about problems with finding personnel, and at the same time tens of thousands of people throughout the country are forced by the state to slave labor with practically zero efficiency.

The existing system of justice in Belarus should be compared with the more progressive systems of Western countries, where:

- a much smaller proportion of the population is subject to criminal prosecution;
- the average time spent in correctional institutions is much shorter;
- LTPs, as well as the institution of obliged persons do not exist;
- the labor of convicts is not compulsory, and thus is more effective.

Summing up the abovementioned facts and comparing the penitentiary system in Belarus with the more humane one in Western countries, one can identify the mechanism of the influence of forced labor on the country's economy (Table 3).

To assess the total impact of forced labor practices used by the Belarusian state, it is necessary to obtain the values of the indicators (3rd column). Unfortunately, most of such data is classified and not publicly available. Nevertheless, considering the total number of forcedly employed (in various forms about 50,000 people), arguably, the country economy's losses from such practices can reach up to 1% of the gross domestic product annually.

¹⁵ Belstat, <https://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/trud/>

Table 3.
The mechanism of the influence of the use of forced labor on the economy of Belarus

| Phenomenon | Channel of influence | Indicators |
|---|---|--|
| Tax incentives | Tax revenues not received by the country's budget (VAT, etc.) | Gross turnover and gross profit of enterprises of the Penitentiary Department system, the amount of tax revenues |
| Law enforcement workload | Cost of incarceration | The difference between the existing number of prisoners and that potential, average cost per person |
| | Personnel costs associated with the organization of labor of convicts (as well as those placed in LTPs) | Number of such persons, average cost per person |
| | Personnel costs associated with forced labor of obliged persons (registration of protocols, forced delivery to the place of work) | Number of such persons, average cost per person |
| Labor market imbalances ("binding" the labor force) | Deteriorating access of business entities to labor resources, losses in labor productivity | The number of "bound" workforce |
| The work is not included in the employment term; there are no pension contributions | The Federal Social Welfare Fund gets less money | The number of forcibly employed in the Penitentiary Department system, the average amount of pension contributions from 1 worker |

Source: developed by the authors

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POLITICAL PRISONERS AND FORCED LABOR

According to the law enforcement center "Viasna," as of November 14, 2021, 843 people in Belarus were recognized as political prisoners (Table 4)¹⁶. More than half of them are in institutions where prisoners are required to work.

Table 4
Places of detention of political prisoners in Belarus.

| Institution type | Number of political prisoners |
|------------------------------------|-------------------------------|
| Pre-trial detention centers | 349 |
| Temporary detention institutions | 21 |
| Correctional institutions | 287 |
| Open correctional institutions | 168 |
| Juvenile correctional institutions | 9 |

Source: calculations based on the data of the HRC "Viasna" as of November 12, 2021.

Political prisoners face similar labor rights abuses as most ordinary prisoners. Most of the work does not require any qualifications and is low-paid. There are cases of poor working conditions and low wages. It is important to point out that underaged political prisoners are also subject to labor exploitation.

One example is Viktor Babaryka, a potential candidate for the 2020 presidential elections. According to information provided by his headquarters, in August 2021, at the time when the report was written, Babaryka was held as a political prisoner serving a sentence in correctional institution No.1. He worked as a stoker in a bakery six days a week. Accrued wages for this period amounted to BYN 6.41. After all the deductions, Viktor Babaryko received BYN 1.60. In September, he was transferred to the position of

a bakery stacker, where working conditions were much worse. Babaryka had to work in a room with high temperature (over 30 degrees centigrade), poor ventilation, with no possibility to open windows¹⁷. There were several reported cases of video recording of the political prisoner during his work¹⁸.

Political prisoners, journalists of the Belsat TV channel, Yekaterina Andreeva and Darya Chultsova, were placed in correctional institution No.4 and employed at a garment factory. They had a six-day workweek; on some occasions, they also had to work on Sundays. The pay accrued for a month of Daria Chultsova's work was BYN 41, of which BYN 30 was held back. In addition to working in production, prisoners are usually assigned additional tasks (for example, cleaning)¹⁹.

Prisoners have no choice of the type of work to perform. Penalties may be imposed for refusal to perform the assigned work. For instance, in the correctional institution No.4, political prisoners Natalya Hershe and Olga Klaskovskaya refused to sew uniforms for law enforcement officers. After that, they were placed in punitive confinement (ShIZO), and later transferred to a cell-type room (PKT)²⁰. Stanislav Pavlinkovich, an activist from Mogilev serving his sentence in the open institution No.39 in Krupki, describes the employment problem as follows: "The town is small, there are no jobs for its own residents, to say nothing of us. First, for those who have some profession or qualification, they try to find a job according to their profile. If there is none, they suggest what is available. You cannot refuse to work; otherwise a penalty is filed. One can get a maximum of three penalties. After the fourth, a criminal case is initiated under Article 415 for evading the sentence"²¹.

¹⁷ <https://t.me/viktarbabarykaofficial/2986>

¹⁸ <https://smartpress.by/news/11081/>

¹⁹ <https://belsat.eu/ru/news/14-09-2021-veryat-cto-preodoleyut-vse-eti-slozhnosti-kak-darya-chultsova-i-katerina-bahvalova-zhivut-v-kolonii/>

²⁰ <https://belsat.eu/ru/news/18-09-2021-za-mesyats-raboty-zarabotala-41-rubl-kak-v-belarusi-ispolzuyut-trud-osuzhdennyh/>

²¹ <https://belsat.eu/ru/news/29-04-2021-usloviya-kak-v-srednevekove-storonnikov-vlasti-zdes-net-mogilevskij-aktivist-ohimii-v-krupkah/>

¹⁶ <https://prisoners.springg6.org/ru>

Political prisoners from the administration of closed institutions are placed on the so-called "preventive record," which deprives them of the possibility of parole. They are also required to wear yellow tags on their clothes.

The repression also affected a certain number of people who were involved in the protection of labor and social rights, including representatives of independent trade unions. Starting in fall 2020, activists have been subjected to

harassment, including administrative arrests and criminal prosecution. In September 2021, 7 representatives of the Belarusian Independent Trade Union from Grodno-Azot were detained and charged with treason (5 of them were recognized as political prisoners at the time this paper was published). In total, there are 11 political prisoners among the members of the Belarusian Independent Trade Union, as well as 3 activists of the labor movement from the Belarusian Railways.

CONCLUSION AND RECOMMENDATIONS

The analysis of the use of forced labor by the Belarusian state made it possible to conclude that thousands of economic entities in the country are involved in this issue. At least 5,000 enterprises and organizations, many of which are privately owned, including foreign companies, organize and use forced labor. It is not possible to count the number of agents using the results of forced labor.

At the same time, it cannot be argued that the country's private sector is an important beneficiary of slave labor, as is the case in some other countries. Slave labor in Belarus is a system built and operated by the state, with the involvement of all possible structures at all levels of government.

In total, up to 50,000 citizens of Belarus are subjected to labor exploitation in various forms and places (in closed institutions, in "home chemistry" and through the institute of obliged persons). There are at least 500 political prisoners among them (excluding "home chemistry"). Their labor is used in agriculture and forestry, industry, construction, housing and utility services. Belarusian giants of heavy engineering, often called "family silver" (MAZ, MTZ, MZKT, etc.) are deeply intertwined in the system of slave labor: from the purchase of overalls, wooden containers and components for equipment produced in penal institution, to the labor exploitation of obliged persons and convicts in open correctional institution. Unfortunately, international companies operating in the country also use slave labor. Products containing the results of such labor are actively exported all over the world.

Slave labor is ineffective, and its organization requires significant costs. The net effect of such labor on the economy as a whole is negative. Based on the available data, it can be argued that the use of forced labor generates economic losses of up to 1% of GDP.

The international community must take proactive measures to combat forced labor in Belarus.

UN STRUCTURES, WESTERN GOVERNMENTS, AND THE EUROPEAN COMMISSION SHOULD:

- conduct constant monitoring and identify the facts of the use of labor in Belarus as well as the organizations and structures involved in this process;
- develop and implement a mechanism of pressure on the government of Belarus in order to end the use of forced labor;
- to the extent possible, exclude the results of slave labor entering their markets;
- influence private companies in their countries to stop their use of forced labor in Belarus and its results.

PRIVATE COMPANIES IN WESTERN COUNTRIES, BUSINESS ASSOCIATIONS AND TRADE UNIONS SHOULD:

- review their activity in Belarus and cooperation with Belarusian counterparties in order to completely exclude the use of forced labor and its results.

THE DEMOCRATIC FORCES OF BELARUS SHOULD:

- conduct ongoing monitoring of the use of forced labor in Belarus and create a database of enterprises using it as well as of products they produce.
- provide assistance to the above stakeholders in obtaining information on the use of forced labor in Belarus.

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FORCED LABOR IN BELARUS LEGAL ASPECTS, INTERNATIONAL CONVENTIONS, PRACTICE, AND PROTECTION OF RIGHTS



Forced labor in Belarus is a system constructed and implemented by the state, involving all possible structures at all levels of power.



As of 2021, up to 50 thousand citizens of Belarus were subjected to labor exploitation.



.Forced labor is inefficient, and its organization requires substantial expenses.