Boris Zvozkov

DECREE NO. 8 — COMMENTS

The Decree No. 8 "On Certain Measures of Regulation of the Procedure of Receipt and Use of the Foreign Gratuitous Aid" of March 12, 2001 was issued, as it asserts, pursuant to part three of the Article 101 of the Constitution of the Republic of Belarus.

At the same time:

The Article 101 in its first part states, that the Legislative Body may delegate the power on issuing decrees to the President.

Part two of the same Article states that "the delegation to the President of powers on issuing decrees providing for restriction of the constitutional rights of the citizens is inadmissible."

It follows from analysis of a number of provisions of this Decree that it has been issued in defiance of part two of the Article 101 of the Constitution of the Republic of Belarus.

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The Decree No. 8 assumes the possibility of confiscation of property and funds from those persons, who are not the owners of such property.

Confiscation is deprivation an owner who has not committed any unlawful act of its property. Such actions do not agree with part 2 of the Article 17 of the Universal Declaration of Human Rights, as well as with the Article 13 of the Constitution of the Republic of Belarus, and with the parts 1, 2 and 3 of its Article 44.

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Civil society does not provide for intervention of the State in the legal activity of organisations and institutions of this civil society itself. The citizens have the right to define the directions of their public activity on their own, provided that such activity ensures recognition and respect of rights and freedoms of the others, and meets the just requirements of morality, public order and public security.

Restriction or depreciation of these rights is inadmissible by political causes, on consideration of reasonability.

The Decree noticeably complicates and restricts the receipt of the foreign gratuitous aid and its use for such kinds of activity as creative work, protection of human rights, enlightenment, propaganda of healthy way of life, youth programs, etc.

Such actions of the State contradict to Article 30 of the Universal Declaration of Human Rights, part 1 of Article 2 of the Declaration "On the Right and Obligation of Individuals, Groups, and Bodies of a Society to Stimulate and Protect Universally recognised Human Rights and Basic Freedoms," and Article 10 of the named Declaration.

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Bans and restrictions imposed by the Decree do not as well conform to the regulations of the International Pact on Economic, Social and Cultural Rights (Articles 2, 4, 15), the International Pact on Civil and Political Rights (Articles 19, 21, 22).

In the whole, the Decree forces the citizens to fulfil obligations not provided for by the Constitution of the Republic of Belarus, or to deny their rights, what is treated as the infringement of Article 58 of the Constitution.

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Conditions for forced liquidation of non-governmental organisations are defined in Article 29 of the law "On Non-Governmental Associations." The provision of the Decree as regards to the forced liquidation in case of violation of the Decree do not conform to the named Article.

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The measures of responsibility for disregard of the requirement of this Decree do not correspond to the notion of adequacy and justice.

Thus, the minimum wage in Belarus, as of March 23, 2001 equals to 4.47 USD. Consequently, the amount of penalty imposed on a natural person can amount to about 900 USD, and on a leader of the organisation up to 1300 USD (the average wage in Belarus does not exceed 70 USD).

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