

Belarus after the 9 August Presidential Elections

The report focuses on constitutional reform, tortures and abuse of power against the vulnerable groups (children and foreigners), judicial process in the courts and politically motivated criminal liability in extremism cases, digital freedoms as well as sport and human rights.

We regard these topics as crucial challenges for human rights in Belarus. Unfortunately, little attention is paid to these topics in human rights reports. Even the importance of these topics we have prepared the review.

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Introduction

Belarus is a country of 9.5 million people, located in the geographical center of Europe. When Alexander Lukashenko was elected president in 1994, he quickly turned into an authoritarian leader. The repressions and persecution for independent journalism, civil activism and political opposition have become wide-spread. In the last 26 years of Lukashenko's rule, several prominent politicians and journalists were kidnapped and disappeared while thousands have been imprisoned.

On August 9, 2020, Belarus went to the polls to elect a new president. Allegations of widespread electoral fraud marred the election. All opposition candidates have filed appeals to the Central Election Commission, calling for invalidated results. Most Belarusians did not believe the official results and took to the streets to protest peacefully.

The mass protests which erupted in the evening of August 9 were mostly of a peaceful and spontaneous nature. The protests did not present any threat to public order, nor did the protesters have or use any weapons or auxiliary means (such as batons, sticks, etc.).

However, the police and military brutally cracked down the protests with batons, rubber bullets, and stun grenades. During the first three days of protests (August 9-11), over 7000 people all over the country were jailed, and then brutally beaten, tortured, and even raped.

On September 1, the UN has officially confirmed over 450 documented cases of torture and ill-treatment of people since August 9th.

Overall during the last 5 months more than 13 000 people were detained for participation in peaceful protests and not less than 300 criminal cases opened against citizens.

Despite the high number of complaints against police officers and the obvious facts of human rights violations by them, to date the authorities have not opened a single independent investigation into such allegations, nor have they initiated a single criminal case. Cases against the demonstrators on charges of preparing for or participating in riots and mass disorders are being actively investigated.

The US, EU, Great Britain, Ukraine, Canada, and others have issued official statements condemning violence used by the Belarusian government, as well as human and voters' rights violations. Mr. Lukashenko is not recognized as a legitimate president by the international community.

Recommendations

- Release all political prisoners, as well as all persons accused of committing administrative and criminal offences related to the election campaign, election and post-election period;

- Investigate all cases of torture, cruel and inhuman treatment, and deaths of protesters that took place in the context of the election campaign period and after the elections and other human rights violations and provide compensations for victims;
- Prevent escalation between protesters and law-enforcement bodies by refraining from the disproportionate and unlawful use of special equipment and force against peaceful protesters.

Constitutional reform

The 1994 Constitution was amended twice by referenda in 1996 and 2004. Mr. Lukashenko has already stated the intention to change the Constitution in March 2019.¹ However from that time no clear information was published. Some opposition representatives announced the willingness to return to the 1994 Constitution.² No real discussion or consensus exists in the Belarusian society on this topic.

On 3 October at Belarus1 channel it was announced that the work on changes to the Constitution has started, the Parliament is on work and citizens can participate and send their proposal to the Parliament.³ The proposals need to be submitted no later than the end of October. No other public information is available about this process.

According to the legislation, changes to the Constitution may be adopted by the Parliament or by referendum. Sections I "Fundamentals of the Constitutional System", II "Personality, Society, State", IV "President, Parliament, Government, Court" and VIII "Constitution of the Republic of Belarus and the procedure for its amendment" can be changed only through a referendum.

The constitutional referendum may be initiated by the President, the Parliament and not less than 450 000 voters (with no less than 30 000 from Minsk and each region). Further the president appoints the referendum within two months from time of initiative.⁴ And it should be conducted not earlier than three months after the appointment decree.⁵

The president decides over legal power of the referendum as obligatory or consultative. There are no criteria or rules for such a decision. The president has the power to decline the referendum question in case of contradiction to the Election Code and other relevant

¹ Aleksandr Lukashenko [announced](#) the preparation of the new Constitution.

² Viktor Babariko [proposed](#) to conduct a referendum on the return to the 1994 Constitution.

³ <https://news.tut.by/economics/702688.html>

⁴ Article 117 of the Election Code.

⁵ Article 74 of the Election Code.

legislation.⁶ When the referendum is initiated by voters the questions need to pass expertise in the Ministry of Justice and General Prosecutor. There are no terms for such expertise.

To be adopted the constitutional change should be voted by more than 50 per cent of the registered voters. Previous changes to the Constitution adopted by referendum can be changed only by referendum. In case of failure at the initiation stage, it is possible to repeat the attempt not earlier than in a year. If rejected by voters the referendum on the same issue is possible not earlier than in three years.

The parliament can vote on the constitutional changes based on Presidential initiative or on citizens' initiative (not less than 150 000).⁷ The parliament has to vote twice by a qualified majority of two-thirds within an interval of not less than three months to adopt the changes. Parliament is not authorized to adopt constitutional changes during a state of emergency and the last six months of its term.

The underlying principle of a democratic State is that the people have the right to self-determination as it is defined in both International Human Rights Covenants.⁸ This article means that the people of a country should be the owners of the constitutional reforms.

Participatory and inclusive processes are considered a standard in the present-day Constitution-making process.⁹ The UN HRC has stated that the citizen's right to take part in public affairs includes constitutional processes. It has also recognized that the requirements of this right are met as long as important groups in society are represented and can participate.¹⁰

The Constitution directly approved by the referendum is one of the best solutions for this. Participants should be able to articulate their views freely and communicate with each other without impediments from the government. It is important that their opinions and views are considered in the framework of clear procedures, provided those responsible for overseeing the process are fair and impartial.¹¹

⁶ According to article 112 of the Election Code the following questions cannot be considered at referendum: which may cause violation of the territorial integrity of the Republic Belarus; related to the election and dismissal of the President, appointment (election, dismissal) of officials which normally falls within the competence of the President and the parliament; on the adoption and amendment of the budget, the establishment, amendment and abolition of taxes, fees (duties); about amnesty, about pardon.

⁷ Article 138 of the Constitution

⁸ Articles 1 of ICCPR and of the International Covenant of Economic and Social Rights prescribe that "all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

⁹ National ownership should include "the official actors, political parties, civil society and the general public", and "human rights defenders, associations of legal professionals, media and other civil society organizations, including those representing women, children, minorities, indigenous peoples, refugees, and stateless and displaced persons, and labour and business" should be given a voice in inclusive and participatory constitution-making processes. Guidance Note of the Secretary-General: United Nations Assistance to Constitution making Processes (April 2009), p. 4.

¹⁰ Communication No. 205/1986, *Marshall v. Canada* (CCPR/C/43/205/1986).

Such conditions can only be created when standards of freedom of expression, including the right to communicate one's opinion, freedom of speech and of media, freedom of association and assembly, are upheld. These rights need to be effectively protected. Those who wish to participate in the constitutional process need actually be in the position to do so, for example by communicating their views through the media, the Internet or other means, by campaigning for their proposals in public meetings and by having the freedom to associate with others. Where possible, the authorities should facilitate these actions.

Finally, procedures should be put in place to enable those who feel excluded from the process or claim that their rights have been abused to resort to remedies that should help them to restore their rights and provide redress. Most of these conditions are not in place in Belarus for this moment.

Recommendations:

- Authorities should openly and clearly announce rules and procedures for constitutional reform;
- The ways of participation in constitutional reform for different groups should be clear, effective and inclusive;
- Possibilities for broad genuine public discussions should be ensured by authorities and facilitated;
- Special drafting committee should be created transparently. Representatives of not only state institutions should be within this committee as a minimum requirement. It should work transparently and accept proposals from different stakeholders. Consideration should be given for election of this body by the people;
- Without respect of these preconditions any voting on constitutional changes should not be recognised as legitimate;
- In case of referendum it should be administered by the new Central Election Commission as this one is compromised and has no trust from the society.
- Constitutional reform should be premised on recognition of primacy of international obligations of Belarus with regard to both the substance of the constitutional provisions and the process of enacting them.

Court procedures and extremism cases

Court procedures (Fair trials)

According to ICCPR (art.14) "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law,

¹¹ See HRC, general comment No. 25 (1996).

everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". The National Legislation (Article 11 of the Code of the Republic of Belarus on the Judiciary and the Status of the Court) also enshrines the principle of publicity in the administration of justice.

However, after the elections it has been observed that the district courts of Minsk and the Minsk region (Zhodina, Smalevichy, Barysau, etc.), and of cities Hrodna, Baranavichy, Drahichyn, Mahileu, Brest, Pruzhany and in other cities, cases of administrative offences for participation in peaceful assemblies were considered and decided during the field sessions in the buildings of temporary detention centers, the center for isolation of offenders, pre-trial detention facilities, prisons (hereinafter - isolation wards). The court hearings were actually held behind closed doors.

In the court buildings, only information about the hearings, the names of the judges, and the address of the detention centers were provided. It was difficult to get to the court hearings inside the detention centers due to "the regime object" status, lawyers were not allowed as well and information about the results of the court hearings on the day of the trial was not provided.

Following the results of the court hearings, many detainees got a long standing penalty of administrative arrest without a real opportunity to appeal the decisions (the detainees were not given paper and pens, there were no facilities to pay the fee and to take legal advice).

The non-admission of lawyers, who wanted to participate in the hearings, to the territory of isolation wards is a direct violation of the right to the defense provided for by the national legislation, as well as international obligations of the Republic of Belarus.

Prosecution for extremism (administrative and criminal cases)

Belarusian anti-extremist legislation began to actively develop and be applied in practice only in recent years. Belarusian authorities are using anti-extremism legislation to "silence society". The threat for free speech lies in the broad definitions of "extremist activities" and "extremist materials". Under Belarusian legislation, extremist activities include "degrading of national honor and dignity". Such provisions are contrary to international standards of freedom of expression.

Against the background of gross violations of human rights during the election and post-election campaign, the Belarusian authorities began to actively use "anti-extremist legislation" for political persecution of dissent. The most common forms are criminal cases related to:

- "mass riots" (Article 293 of the Criminal Code) - at the moment it is known about 98 persons detained under this article for the events of August 9-11, most of them have already been recognized as political prisoners.¹²

- under article 361 of the Criminal Code “Calls to actions aimed at causing harm to the national security of the Republic of Belarus”, head of V. Babariko's headquarters Maria Kolesnikova, her lawyer Ilya Salei and lawyer Maxim Znak were detained.¹³
- according to Article 130 of the Criminal Code (“Incitement of racial, national, religious or other social hostility or hatred, rehabilitation of Nazism”), blogger Pavel Spirin was detained - his film “Edge 2019” was included in the Republican list of extremist materials by the decision of the court of the Central District of St. Minsk on October 21, 2019, but only on September 4, 2020, he was detained in a criminal case and is in a pre-trial detention center in Zhodino.^{14 15}

It seems that this year, “counter-extremism” offences are prosecuted under criminal legislation instead of administrative one. Last year according to the official statistics of the Ministry of Internal Affairs, there have been following number of “extremism” administrative cases: “propaganda or public demonstration of Nazi symbols” (article 17.10) - 98 cases and “dissemination of information containing calls for extremist activity” (article 17.11) 126 cases. In 2020, it is known about (only) at least 10 cases of such type, of which 4 were in the post-election period.¹⁶ It could be the case that most cases are not public and accused do not apply for legal support to human rights organizations.¹⁷

Recommendations:

- Lawyers should be allowed to take part in the judicial proceedings without hindrance, court proceedings should be public and open to anyone willing to attend. The rights of defendants’ for appeal should be ensured in any circumstances;
- The “counter-extremist” laws in their current form should be repealed;
- Article 130 of the Criminal Code should be revised to make it clear that this provision applies only to speech that amounts to incitement to discrimination, hostility or violence - which in turn requires the proof of intent to cause discrimination, hostility or violence. While the list of protected characters may be legitimately extended (e.g. to include gender, disability, and sexual orientation), “other social affiliation” should be removed on account of being too broad and unpredictable in its application;

¹² <https://spring96.org/be/news/99143>

¹³ Article 293 of the Criminal Code was last used in relation to the action after the presidential elections on December 19, 2010, Article 361 - also in 2010.

¹⁴ <https://humanconstantia.by/borba-s-ekstremizmom-v-belarusi-obzor-sobytij/>

¹⁵ Article 130 of the Criminal Code criminalises “intentional acts aimed at arousing racial, national, religious or other social hostility or strife on the grounds of racial, national, religious, linguistic or other social affiliation as well as intentional acts of rehabilitating Nazism. The ‘aggravating circumstances’ automatically attract more severe penalties include use of violence, abuse of one’s public office, acting in a group, and negligently causing death or other grave consequences. The penalties range from a fine to up to 5 years of imprisonment where such acts committed without any of the aggravating circumstances. The maximum penalty under this provision is 12 years of imprisonment.

¹⁶ <https://humanconstantia.by/obzor-borby-s-ekstremizmom-v-belarusi-za-aprel-iyun-2020-vypusk-3-na-fone-vyborov-i-covid-19/>

¹⁷ More information about the practice for 2018 and early 2019 in the report “Countering extremism and human rights: National anti-extremist legislation and law enforcement practice” https://spring96.org/files/book/ru/2019_extremism_ru.pdf

- 'Hate speech' criminalised under Article 130 of the Criminal Code should be moved from the category of crimes against humanity to crimes against the individual. Irrespective of the formal categorisation, prison sentences should be envisaged only for the most serious forms of incitement to violent action.

Human Rights violations of the vulnerable groups

Foreign citizens

The authors of the report are aware that more than 60 citizens of at least 14 foreign states were detained on 9 August and on the following days. Freedom of expression (article 33) as well as freedom of assemblies (article 35) according to the constitution should be guaranteed to everyone including foreigners. The wave of detentions and arrests was followed by a wave of expulsions of foreigners from the territory of Belarus. At least 20 cases of foreigners subjected to deportation or expulsion from Belarus in connection with their actual or alleged participation in peaceful protests are known to human rights organizations.

The Belarusian legislation provides for several procedures of refoulement of foreigners: deportation, expulsion and extradition. The expulsion procedure, unlike deportation, is not part of an administrative process. Consequently, foreigners under expulsion procedure are not guaranteed with the appropriate procedural rights. Moreover, the established appeal procedure does not guarantee non-refoulement prior to filing a complaint.

Some foreign journalists were subjected to hidden deportation by revoking their accreditation in the Republic of Belarus. The revocation of a foreign journalist's accreditation means immediate revocation of his press entry visa.

Another documented case is of a Russian citizen, who having been released from a temporary detention center, where he had been serving an administrative arrest, was subjected to immediate deportation.

In other cases known to the authors of the report, state bodies try to comply with the procedure established by law and even notify foreigners about the time of consideration of the issue of their expulsion from the country. However, in one of the cases, the foreigner was notified one day in advance, thereby effectively depriving him of the opportunity to collect the documents and certificates necessary for a positive resolution of his issue.

The authors of the report have repeatedly drawn attention to the problem of applying such a procedure as expulsion. The legislation contains a wide list of grounds for the expulsion of foreigners, which in fact allows the use of this procedure in relation to any foreigner, even without any objective reasons for his expulsion.

The process of appealing against decisions on expulsion is complicated by the fact that many foreigners were not given documents on their detention and bringing them to administrative responsibility. Many do not know about their right to appeal against expulsion from Belarus. That is undermining their right to effective remedy as prescribed by paragraph 5.10 of the 1990 OSCE Copenhagen Document.

The case of the citizen of Cuba, Roberto Kasanueva, who is denied the prolongation of the residence permit was documented by the human rights organizations and reported in the media. Roberto was invited to the Migration Office and requested to sign a document that he would not take part in the political events and activities. When he denied, the migration officer said that his residence permit would not be prolonged, and took away his documents. However, Roberto has children in Belarus, works here and lives for more than 30 years.¹⁸ The similar situation took place with a student-citizen of Russia, who is expelled from the country for having taken part in the student protests. He has been living in Belarus for more than 13 years, his mother and brother live in Belarus and he has no family members in Russia.¹⁹

The expulsion is a right of state bodies, not an obligation, in which the balance of the interests of society, on the one hand, and the rights of an individual and his family, on the other, must be observed.

Recommendations:

- Authorities should more carefully and deliberately make decisions on deportation or expulsion, to use expulsion as a last resort when there is a real threat to public safety;
- The expulsion of a foreigner in the interests of public order should be applied only in cases where there is a real threat to public order in connection with his stay in Belarus, when other restrictive measures cannot be applied;
- Taking a decision on expulsion following should be taken into account as extenuating circumstances, namely: the length of residence in Belarus, the presence of close family members - citizens of Belarus (taking into account the right to a family and the prohibition of deliberately breaking family ties), protection of children's rights, et.;
- Establish a judicial procedure for the expulsion of foreigners, as well as enable the possibility of expulsion of a foreigner before the expiration of the appeal consideration;
- Establish in the legislation of the Republic of Belarus the obligation for state authorities to use expulsion / deportation only as a last resort when there is a real threat public safety, as well as take into account mitigating costs: period of residence in the territory of the Republic of Belarus

¹⁸ Belsat, Cubino-Belarusian designer is on the edge of being deported, he is looking for legal aid, 17 September 2020, <https://belsat.eu/ru/in-focus/belarusko-kubinskomu-dizajneru-grozit-deportatsiya-i-on-ishhet-pravovoj-po-mosshi/>

¹⁹ Radio Free Europe/Radio Liberty, "This is for you for the coffin", A student from Russia is deported, despite his family lives in Belarus, 16 September 2020, <https://www.svaboda.org/a/30841747.html>

Serious violations of the rights of the child

During August-September 2020, the law enforcement authorities, as well as prosecutor's office and child welfare services committed serious violations of the rights of the child, including violence against children, torture and inhumane treatment of children-detainees, politically-motivated and falsified criminal prosecution, forced separation from families and intervention in education.

Politically-motivated criminal prosecution of children

At least one case of the politically-motivated criminal prosecution of a child is known. 16-year-old Mikita Zalatarou (Nikita Zolotarev) is arrested and suspected of hooliganism (part 3 art. 339 of the Criminal Code of Belarus). According to the police on August 10, 2020 Mikita was running after a policeman with a Molotov cocktail. Mikita's parents deny that, and tell that on August 10, 2020 Mikita was at the location of the protests, waiting for his friend at the bus station. His father assumes that he could run away from the police, fearing detention and beatings. Mikita was arrested at home in the morning of August 11, 2020 when his parents were at work. Mikita has epilepsy, and due to illness he has home-based education. He could meet with his parents and lawyer, only at 17 pm, before he was interrogated without them. Mikita told his mother that he had been beaten by police, and he felt very bad, and was taken to the hospital, to reanimation. However, the next day Mikita was taken back to prison. His father states that he managed to take part in the interrogation the next day, and when they were alone his son said about tortures and that he has been beaten every day. Nowadays, his parents denied meetings with him before the trial.²⁰

Detention of children during the protests and torture of children-detainees

On August 9-12, 2020 children, mainly teenagers (12-18), were massively detained by law enforcement together with the other protesters and by-passers. Despite being obvious from the appearance of the underage peaceful protesters that they have not reached 18 years yet and despite the mistreated minors trying to inform the authorities that they are under 18, the police and special forces, acting these days with especial cruelty and even sadism, have been beating and torturing children.

One of the most widely-known and outrageous case is torture of Tsimur Mitskevich, 16-years old boy. He was detained on August 12, 2020 in Minsk, and on August 13 he was hospitalized from the detention centre with heavy injuries: traumatic brain injury, brain concussion, open

²⁰ Radio Free Europe/Radio Liberty, "Father, I am being beaten every day". In Homel a teenager is arrested since August, and being accused of hooliganism, 30 September, 2020 <https://www.svaboda.org/a/30866854.html>

fracture of maxillofacial bones, numerous hematomas, injuries of eyes and others. Upon hospitalization he was put in reanimation and in a medical coma. According to his relatives, Tsimur was detained when he got off the bus. He was beaten in a paddy wagon, and then in the police station. He said to the police that he was 16, but they did not react. According to his relatives the policemen put a baton down his throat and forced him to sing, the police also used the stun gun against him. Only when he felt very bad and started to suffocate a policeman called an ambulance.²¹ Several weeks later the police recognized Tsimur as a suspect in the criminal case on mass disorder. On September 3, he was interrogated by the police without a lawyer or family members. The same day he was once again hospitalized from the police station. The investigation on the facts of torture of Tsimur was not initiated. On the contrary, the head of Hrodna regional administration and former minister of healthcare Uladzimir Karnik lied that Tsimur was intoxicated, and that's why he was hospitalized. The blood analyses taken upon hospitalization after the torture did not show any toxic substances.²² In addition, Tsimur's mother died at the end of September. The detention and torture of son deteriorated her state of health.

The other extremely brutal case was in the road incident provoked by the police, and where the military vehicle crashed into an ordinary civil car, and in result a 5-year-old girl was injured and needed hospitalization.²³

The other cases of torture and inhumane treatment of children on August 9-12 have been reported all around the country with the same testimonies of police brutality:

- In Hrodna, on August 12, Mikita Sidarovich (Nikita Sidarovich), 16, was detained, he was beaten, threatened and humiliated during detention and in police station, later released;²⁴
- In Homel, on August 13, a 16 years-old boy was hospitalized after he was severely beaten in the police station. He was detained when was waiting for the transport at the bus station;
- In Brest, on August 11, Raman, 15, was detained on August 11. He was kept in the garage because the detention centre was overcrowded, and severely beaten the whole night. He was released the next day. His father said that the next day at the hospital they met a lot of other 15-16 years old teenagers in the same situation,²⁵

²¹ Radio Free Europe/Radio Liberty, A teenager, that was beaten and then in coma, is wanted for interrogation within criminal case on mass disorder, 3 September 2020
<https://www.svaboda.org/a/30818920.html>

²² Radio Free Europe/Radio Liberty, Karanik said that the beaten boy who was in coma, had drug intoxication. The documents demonstrates that this is not true, 27 August 2020,
<https://www.svaboda.org/a/30804984.html>

²³ Radio Free Europe/Radio Liberty, "A face of a child was in blood": in Hrodna 5-years-old girls was injured in the accident with "Tiger" military vehicle, 12 August 2020,
<https://www.svaboda.org/a/30779705.html>

²⁴ Radio Free Europe/Radio Liberty, "We were marked with brilliant green and beaten": 16-years-old teenager told how he was detained by OMON, 09 September 2020,
<https://www.svaboda.org/a/30829322.html>

²⁵ Radio Free Europe/Radio Liberty, "They forced us to sing the anthem, who could not was beaten": in Brest a teenager told about the torture, 13 August 2020, <https://www.svaboda.org/a/30781512.html>

- in Pinsk (Brest region), on August 9, Dzenis, 16, was detained together with other peaceful protesters. During the detention, the police broke his arm. He was hospitalized only an hour later, when he lost consciousness²⁶
- in Minsk on August 10, Miron Vitushka, 16, was detained, beaten, humiliated and threatened, released the next day. When his parents came to the police station to learn the whereabouts of their son, they both were detained and spent several days in detention.²⁷
- In Minsk, on August 9, one teenager was beaten for allegedly throwing a Molotov cocktail. Then one of the OMON policemen (a special unit of Belarusian police) came and said that he had not. By that time, the boy was beaten so harsh that he was barely alive. He wet himself. The boy was thrown out of the patrol wagon.²⁸
- In Borisov, on August 9, one of the detained minors was a boy in a wheelchair. The boy was directly taken out by the OMON from the wheelchair, pushed into a bus and thrown on the bus floor. Subsequently, he was beaten on his legs as he was accused of lying that he is handicapped.²⁹
- In Brest, on August 11, Nikolay (the name changed), 14, was stopped on the way from his English classes to his grandmother. He was detained and beaten because of the black hood that he had on. The printed word on the hood, 'Antihero', was faulty taken by the law enforcement as a symbol of antifascists. He was threatened with death.³⁰

The total number of minors detained and tortured is unknown, at least several dozens. All of them experienced psychological and physical violence of different types and intensiveness. Some of them were detained for a few days. All the minors who went out from the detention center spoke as one that the police / the OMON were swearing at them, threatening and insulting. A group of arrested teenagers, and adults who were detained too, confirm that the minors, both male and female, were put on their knees in the corridors for many hours. They were beaten with fists and rubber batons.³¹ The father of a minor boy from Brest reported that when his son asked to drink, he was offered urine. When he asked to call a doctor, the police officer threatened him with a pistol that according to him would cure everything.³² The

²⁶ Radio Free Europe/Radio Liberty, A teenager told how the police broke his arm, did not call to ambulance and did not allow mother to him in Pinsk, 23 August 2020, <https://www.svaboda.org/a/30798290.html>

²⁷ BuzzFeedNews, Belarus Is Detaining Thousands Of Peaceful Protesters. Many Are Telling Gruesome Stories Of Physical And Psychological Abuse By Police, 15 August 2020, <https://www.buzzfeednews.com/article/christopherm51/belarus-protester-detained-police-abuse-lukashenko>

²⁸ Tut.by, "The guards turned on Kirkorov for us." Famous director was beaten and his hair were dyed, <https://news.tut.by/culture/696879.html>

²⁹ RFI, New evidence of torture, 700 detainees - fourth day of protests in Belarus, 13 August 2020 <https://www.rfi.fr/ru/>

³⁰ Online Brest, "They told me that I was a filthy anti-fascist, the guy's hair was cut off next to me": how minors were detained in Brest, <https://onlinebrest.by/novosti/mne-govorili-chto-ya-poganyy-antifashist-parnyu-ryadom-otrezali-volosy-kak-v-breste-zaderzhivali-nesovershennoletnih.html>

³¹ Human Rights Centre Viasna, Telegram Channel <https://t.me/viasna96/2020>

³² Brestskaya Gazeta, An employee of Gazoapparat on the arrest and beating of his son: "When asked to give him a drink, he was offered urine.",

17-year-old boy was tied to a chair, beaten, threatened with a huge penalty in prison. The other 17-years old boy, Ivan, was attacked by the OMON on his way home. The security forces poured glue on Ivan's head and beat him with boots. They brought him to the detention center, put him on the ground, poured water over him.³³ In Mahileu, a teenager was also brutally attacked and beaten by the security forces. The specialists treating the boy said that he could have died. The boy was threatened with rape and with criminal prosecution, if he told who had beaten him. When the boy in the hospital told the doctors, and subsequently the investigator about the beating by the security forces, he was informed that he would be imprisoned for 3 years, because he was told not to tell.³⁴ Female minor detainees were also often threatened of being raped by a group of people or by using some objects. There have been unconfirmed cases of rape both of boys and girls. However, none was properly documented by the human rights organisations, as victims are afraid to speak up.

The incidents of detention of children with their parents or on their own are documented also in September. On September 11, 2020, the General Prosecutor's Office stated that more than 200 incidents of participation of children in massive disorders, and more than 200 protocols were compiled.³⁵ While the treatment of children is not so brutal, their fundamental rights are being violated. For example, on September 13, 2020 15-years-old Palina Kurs was detained together with her sister in Hrodna when they were going to the zoo-shop. She was interrogated without a lawyer, parents, a social worker or a psychologist and was insulted and threatened.³⁶ On September 28, 2020 in Novapolatsk Zoya Skvortsova was detained by police with a 4-year-old child because they were drawing with chalk at the pavement a picture of a house with white-red-white flag. They were driven to the police station, and later released.³⁷

None of the mentioned about facts, including the most serious cases, have not been investigated by the law enforcement bodies. On the contrary, they threaten parents with deprivation of the parental rights and pressure them to keep silent and not to file complaints.

Right to family and guarantees of non-separation with parents

In Belarus the state police regarding children is directed at the removal of a child from the family if there are any problems, instead of providing social support to the families. Decree No 18,

<https://www.b-g.by/news/rabotnik-gazoapparata-o-zaderzhanii-i-izbieni-syina-na-prosbu-dat-popit-emu-pr-edlagali-mochu-video/>

³³ Nasha Niva channel on Telegram, 21.08.2020 at 14h40

³⁴ Tut.by, The doctors said: "another 2 mm and death". A 19-year-old boy from Mogilev is in the hospital after being detained by militants, <https://news.tut.by/society/697107.html?vk>

³⁵ Belta, The General Prosecutor's Office initiate increase of liability of parents for unlawful behaviour of children, 11 September 2020,

<https://www.belta.by/society/view/genprokuratura-initsiuruet-usilenie-otvetstvennosti-roditelej-za-protivopra-vnoe-povedenie-detej-406423-2020/>

³⁶ Radio Free Europe/Radio Liberty, "Behind them our country is". The underaged girl was detained in Hrodna and interrogated without parents, 17 September 2020 <https://www.svaboda.org/a/30843970.html>

³⁷ Radio Free Europe/Radio Liberty, A woman in Novopolotsk will be tried for drawing a national flag at the pavement. She was taken to the police with 4-years-old child, 30 August 2020, <https://www.svaboda.org/a/30811212.html>

adopted in 2006 provides that a child could be taken away from the family for six months without court decision, if the social services recognize the condition in which the child lives as a socially dangerous situation. In six months, a child could be returned to the family, or if the situation has not changed, the parents could be deprived of parental rights. However, the margin of appreciation taken by the government is very wide. The notion of 'socially dangerous situation' is interpreted extremely broadly in the Belarusian legislation. Moreover, there is no judicial control over separation of families. This legislation has been criticized by human rights organizations and the UN Committee on the Rights of the Child.³⁸ During the last two months, the parents, whose children have been detained at the protests or who, themselves were detained or took part in the political and civil activities, are threatened with Decree No 18 and taking their children away from families.

In September, the representative of the General Prosecutor's Office stated that the participation of children in the demonstration would result in the administrative liability for their parents, including taking children away from families in accordance with Decree No 18.³⁹ The Deputy Prime Minister stated that 280 cases of participation of children in the non-sanctioned demonstration are being under consideration, more than 100 parents received warnings,⁴⁰ and 26 parents have been already brought to the administrative liability. The Belarusian National Commission also stated the need for increasing liability of parents.⁴¹

At least, two cases are known when the Decree No 18 was used in relation to the protesters, however the separation of families continues just for several days:

- **Snezhkovy family, Homel.** Both parents were detained in connection with their civil and political activities - the father was arrested as a suspect in the criminal case, the mother was arrested on administrative grounds. Two children were taken to the orphanage, despite two other adult siblings living together with them. After the trial, the mother managed to return children to the family.⁴²
- **Lazarchuk family, Minsk.** Alena Lazarchuk, the activist of the European Belarus initiative was detained, and once again, while there were adult siblings, Alena's son was taken to an orphanage. He spent two days there, and then he was returned to the family.⁴³

³⁸Committee on the Rights of the Child, Concluding Observations on Belarus, 2020, para 25 -26 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsng3QhcRV Oo18YEahXg1g0FJuwmbOYaCZpwAR4rCCC4ZHA3LQ%2f3ORcdseLbECmStUlymRG5WkqL1goNtoTF YBuk5f76TGhWZ7rv5lxeLLx00>

³⁹ Radio Free Europe/Radio Liberty, General Prosecutor's Office: More than 200 protocols were composed on the facts of participation of children in mass disorder, 11 September 2020, <https://www.svaboda.org/a/30833705.html>

⁴⁰ Radio Free Europe/Radio Liberty, The prosecutor office warned more than 100 parents for participation of the children in rallies, it threatens to take children away, 14 September 2020, <https://www.svaboda.org/a/30837871.html>

⁴¹ Radio Free Europe/Radio Liberty, "Maternity leave is not intended for women to attend rallies" - vice-premier, 24 September 2020, <https://www.svaboda.org/a/30855968.html>

⁴² Radio Free Europe/Radio Liberty, A mother of four, whose husband was arrested and children were taken away was fined, 30 September 2020, <https://www.svaboda.org/a/30866136.html>

The other violation of the right to family is arrests of mothers of minor children within administrative processes. In accordance with the Belarusian legislation women that have children, below the age of 18, could not be punished with arrest for administrative offence. Being aware of that and intending to punish women somehow, the police detain women at the end of the week - on Thursday, Friday or Saturday, - for them to be left under arrest for the weekend, waiting for a trial. For example, on September 26, the journalist Maria Hryts was detained in Minsk, and was kept under arrest for three days, despite she has a daughter, who is less than 2 years old.⁴⁴

The threat of the taking away children from the families and deprivation of parental rights is widely used by the law enforcement agencies in order to hinder investigation of crimes committed against children and to make adults stop participation in political and civil initiatives.

Interference into education process

Lastly, there have been several facts of interference into the education process and institutions. On August 24, 2020, Alexander Lukashenko publicly announced that people who did not want to follow the principles of state ideology, should not teach in school. It violates General Comment No. 1 of the Committee on the Rights of the Child: The Aims of Education (article 29), (2001), that ensures children access to knowledge about human rights standards, both in theory and practice.

On September 13, 2020 in Gymnasium No 4 of Minsk the police officer came to the school, and spoke with the high-school pupils, giving her interpretation of the situation in the country and also providing misinformation, also threatening children and prohibiting assemblies to them. The situation became known due to protests of the parents on such interferences.⁴⁵

Recommendations:

- The Belarusian authorities must conduct the independent and effective investigation of each case of violation of the rights of children, to bring to responsibility the state officials guilty of the above-mentioned crimes to responsibility and to ensure that those who suffered from the illegal and brutal actions of the law enforcement receive all kind of needed help
- The government should refrain from separation of children and their parents, and take measures to protect the right to family life, essential for children.

⁴³ Radio Free Europe/Radio Liberty, "She was said that no one took a child away". Two days later Alena Lazarchuk was returned her 6-years-old son, 19 September 2020, <https://www.svaboda.org/a/30847321.html>

⁴⁴ Naviny.By, A journalist Maria Hryts was released from Minsk detention centre, 29 September 2020, <https://naviny.media/new/20200929/1601381456-zhurnalistka-mariya-gric-osvobozhdjena-iz-minskogo-centra-izolyacii>

⁴⁵ Radio Free Europe/Radio Liberty, A lecturer from police spoke in Minsk gymnasium. The parents requested a meeting with the director, 14 September 2020, <https://www.svaboda.org/a/30837634.html>

- School-children in Belarus should have a full access to education embodying human rights standards.

Digital freedoms

Nationwide internet shutdown on August 9-12, 2020

On August 9 2020, the day of the election, Internet access in Belarus was wholly or partly limited nationwide. Blockings were either total or concerned specific Internet services, web sites, social networks, messaging services, whether local or global. Internet measurements prove that since 18:00 UTC on August 8 a state-run telecom providers Beltelecom and National Center of Traffic Exchange have shut down six (100%)⁴⁶ and 4 (80%)⁴⁷ IPv6 uplinks accordingly. These two providers possess exclusive rights to terminate foreign traffic and thus control internet connectivity for all other internet providers. It is alleged that the Belarusian authorities decided to block data transfer protocols (SSL/HTTPS, SSH, OpenVPN, PPTP, L2TP) which led to the disruption of connectivity of the Belarusian networks.⁴⁸ All foreign traffic was directed through one channel only in an attempt to allow for deep-packet inspection making VPN services ineffective.

On August 9, media and users from all over the country reported limited or no access to major global services such as Gmail, Google Docs, Google Maps, YouTube,⁴⁹ Viber, Telegram, Facebook, Twitter, Instagram, and Vkontakte. Independent experts further reported that the network connectivity in Belarus was down to 20% from the usual levels. The problems were encountered across all landline and mobile service providers. A1, a landline and mobile service provider, tweeted that Internet access would be restored once the “superior provider” (entailing the government) so decided.

Furthermore, access to a number of mass media web-sites was blocked by a targeted governmental action. Alternative online vote-counting system Golos became a target of a DNS spoofing attack. Its DNS was manipulated allegedly by government agents so that users were directed to a web-site that attempted to collect the users’ personal data, including mobile phone numbers, which in Belarus are tied to identity papers.

In the evening of the election day, at approximately 9:30 p.m. Minsk time, major disruptions were recorded on the whole territory of Belarus. Its connectivity to other countries was almost non-existent in the evening. This major shutdown lasted until approximately 5:00 a.m. the following morning, with service only being partially restored. Belarus’ publicly-owned telecom

⁴⁶ Beltelecom (Belpak network AS6697) uplinks August 8-13, 2020

<https://radar.qrator.net/as6697/ipv6-providers#startDate=2020-08-05&endDate=2020-08-15&tab=current>

⁴⁷ National Center of Traffic Exchange (NCTE AS60280) uplinks August 8-13, 2020

<https://radar.qrator.net/as60280/ipv6-providers#startDate=2020-08-05&endDate=2020-08-15&tab=current>

⁴⁸ <https://netblocks.org/reports/internet-disruption-hits-belarus-on-election-day-YAE2jKB3>

⁴⁹

https://transparencyreport.google.com/traffic/overview?hl=ru&fraction_traffic=start:1596672000000;end:1597449599999;product:21;region:BY&lu=fraction_traffic

provider Beltelecom and the National Traffic Exchange Centre stated that it was a DDoS attack.

Smaller disruptions have continued since the election day. On Friday, August 14, 2020 a localised, hour-long internet disruption was registered in central Minsk. On Monday, August 17, 2020 a nation-wide internet disruption of approximately 15 minutes was observed⁵⁰, coinciding with a Lukashenko meeting with factory workers. Depending on the development of the situation it is believed that further disruptions will follow

Local shutdowns of mobile internet services (3g/4g) in August

In addition to permanent blocking of access to foreign resources at the level of main traffic providers Beltelecom and the National Center of Traffic Exchange Belarusian users for the first time faced another type of blocking - a complete shutdown of the Internet in the networks of mobile operators.

For three days, from August 9 to 12, in the evening, users of all three mobile operators - A1, MTS, life completely lost access to the mobile network.⁵¹ As a result, mobile internet was not available:

- 20:45 August 9 - 5:00 August 10
- 19:30 August 10 - 06:00 August 11
- 18:00 August 11 - 07:00 August 12

Shutdown occurred simultaneously in all 3 operators, raising allegations about the centralized nature of these actions. We assume that the operators' networks were disconnected at their uplinks.

None of the operators, A1, MTS and life, admitted that they had "turned off the Internet" in connection with the instructions of the law enforcement bodies.

⁵⁰<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=country/BY&lastView=overview&from=1597573860&until=1597746840>

⁵¹<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=asn/42772&lastView=overview&from=1596796260&until=1597401240>

<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=asn/25106&lastView=overview&from=1596796260&until=1597401240>

<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=asn/44087&lastView=overview&from=1596796260&until=1597401240>

Mobile internet services were restricted also during mass protests on August 21⁵², 23, 26, 30 and this practice has become a weekly routine each Sunday in September. On August 21 mobile providers started to acknowledge that internet services are restricted due to governmental orders.⁵³ According to our analysis Belarusian legislation does not have any provisions allowing to shut down or restrict Internet services except in an emergency situation, declared state of emergency or state of war.

Online content blocking

Based on the decision of the Ministry of Information of the Republic of Belarus, access to 72 websites have been blocked, including websites of leading independent media and human rights organisations⁵⁴

Unfortunately, the Belarusian legislation allows such restriction to information. Legislation adopted in 2014 authorized the Information Ministry to compel internet providers to block access to websites without judicial review.⁵⁵

In the run-up to the 2015 presidential election, amendments were introduced to the Law on Mass Media, extending restrictions on traditional media to online media, too. Consequently, owners of online outlets are responsible for any information they post, including on blogs and social networks. Under the pretext of preventing possible violations, public agencies have a right to limit access to websites upon the decision of a court of law or, in some cases even, without such judicial authorisation.

Registration of online media

Amendments to the Law on Mass Media in 2018 introduced a burdensome registration procedure for online media to be able to cover the government.⁵⁶

Since 2018, online media organisations have to register with the Ministry of Information, which is allowed to request information about people commenting online, while also reserving the right to block any online content, even in the absence of a court decision.

⁵²<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=asn/42772&lastView=overview&from=1598092260&until=1598265240>

<https://ioda.caida.org/ioda/dashboard#view=inspect&entity=asn/25106&lastView=overview&from=1598092260&until=1598265240>

⁵³<https://www.a1.by/ru/company/news/o-rabote-mobilnogo-interneta-3g-v-minske/p/rabota-mobilnogo-interneta-3g>

<https://42.tut.by/697836>

⁵⁴ More details can be found in a report co-authored by Human Constanta: [Belarus protests: From internet outages to pervasive website censorship](#)

⁵⁵ <http://pravo.by/document/?guid=12551&p0=H11400213>

⁵⁶ <http://pravo.by/document/?guid=12551&p0=H11800128>

Further, as per article 22.9 of the Administrative Code, media institutions (including online media) may be fined up to 200 basic units for the dissemination of “prohibited” information, while the Criminal Code broadly prohibits defamation and public insult. In cases where a media institution would call for the obstruction of the lawful activity of state bodies, including of the Central Election Commission, such remarks may be considered extremist under the Law on Countering Extremism, while it is also forbidden for media to report on calls to boycott elections.

In addition to these considerable limitations, widespread political pressure and criminal and administrative prosecution also have a negative influence on the working conditions for journalists in Belarus, with the country ranking 153rd out of 180 states in the 2020 Press Freedom Index.

Recommendations

- Limit the powers of the Ministry of Information on interference with the activities of the media, inter alia abolish the permit-based procedure for registration of print and online media, as well as extrajudicial blocking of access to Internet-based resources.
- Exclude the possibility of arbitrary disabling or limitation of the Internet, which are not connected with emergency situations or martial law.

Sport and Human Rights

Even before the elections many athletes and people in the industry were forced to continue working despite the risk of being infected with COVID-19. The ministry, federations and clubs did not take systemic measures to prevent the spread of coronavirus infection - games and championships continued, there were no restrictions on attending matches. As a result, many people were infected, and the head of FC "Naftan" died.

On the election eve, the football championship games were canceled to prevent people from gathering at the stadiums. Even all amateur leagues in Minsk. After the elections, the state allegedly began to take measures against COVID-19 and gave instructions to sell no more than 25% of the seats in the stands, but this is primarily in order to limit the gathering of people for political reasons.⁵⁷

Sport federations and clubs publicly emphasized the apolitical nature of sports, but numerous publications of information and appeals in support of Lukashenko appeared on the pweb ages and in social networks of the federations of football, hockey and others. Also, the leaders and representatives of the sports authorities (ministries, federations, clubs) informed the athletes for whom they needed to vote for.⁵⁸

⁵⁷ <https://euroradio.fm/ru/v-minske-otmenili-futbolnye-matchi-na-7-i-8-avgusta>

⁵⁸ <https://ua.tribuna.com/tribuna/blogs/hockeyfootball/2815805.html>

Officials of the Sport Ministry, individual federations and clubs continue to ignore Human Rights violations.

Pressure on representatives of the sports industry, who condemn violence and express support for victims of Human Rights violations continued. An Open Letter which has already been signed by more than 650 athletes and industry workers with demands to the authorities has been published.⁵⁹ For publicly expressing their opinion (including signing the Open Letter), many sportsmen are currently under the pressure of dismissal, expulsion from the clubs, national teams, and are facing refusal of contracts, rent of premises for training.⁶⁰

Many sportsmen are forced to leave the country. Sport clubs receive penalties and disqualifications from competition. The Fundamental Principles of Olympism in the Olympic Charter⁶¹ state that sport is a human right and prohibit discrimination of any kind, Article 4 (1) of The European Sports Charter prohibits discrimination in access to sports facilities or sports activities on the grounds of sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, and birth or other status.⁶²

For coverage of events in the industry and expression of solidarity, the popular sports media resource by.tribuna.com was included in the list of resources to which access was restricted in Belarus by the Ministry of Information, which is a violation of art. 19 of the ICCPR, freedom of expression.

Recommendations

- End pressure against athletes, as well as sports clubs.
- Revise the legislation on peaceful assemblies in line with the requirements of the International Covenant on Civil and Political Rights, as well as the OSCE's Guide- lines on Freedom of Peaceful Assembly.
- Stop pressuring Belarusian independent media, and unblock access to the websites of foreign and Belarusian media.

⁵⁹ <https://www.pressball.by/pbonline/other/87900>

⁶⁰ <https://www.pressball.by/news/handball/368496>

⁶¹ <https://www.olympic.org/olympic-studies-centre/collections/official-publications/olympic-charters>

⁶² <https://web.archive.org/web/20180210223205/https://rm.coe.int/16804c9dbb>