

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	172
Land:	Belarus
Kilde:	Human Rigths Watch
Titel:	Human Rights Watch Submission to UNHCR: Belarus
Udgivet:	17. september 2014
Optaget på baggrundsmaterialet:	3. februar 2015

<http://www.hrw.org>



HUMAN RIGHTS WATCH

Human Rights Watch UPR Submission to UNHRC: Belarus ^[1]

September 17, 2014

UPR Submission on Belarus

August 2014

Summary^[1]

The human rights situation in Belarus has deteriorated drastically and was marked by flawed presidential elections in 2010 and an ensuing crackdown on peaceful protesters and opposition activists. During the Human Rights Council's initial review of Belarus under the Universal Periodic Review (UPR) procedure in 2010, the government rejected recommendations to protect freedom of speech, association, and assembly, as well as to implement a moratorium on the death penalty. While Belarus accepted some broad recommendations on such issues as harassment of activists and human rights defenders, the government would not acknowledge allegations of abuse and rejected any concrete commitments to implement them. Belarus continues to use the death penalty and to severely restrict freedom of expression and association, including through harassment and intimidation of journalists and restrictive nongovernmental organization (NGO) laws.

Death Penalty

Belarus has executed at least five people despite requests by the United Nations Human Rights Committee (HRC) to stay the executions pending the outcome of the committee's review of the cases.^[2] In July 2011, two men were executed who had been convicted of murder, but whose right to fair trial may have been violated as they alleged they were tortured during interrogations. In March 2012, Belarusian authorities executed Dzmitry Kanavalau and Uladzislau Kavalyou, convicted of carrying out a terrorist attack in the Minsk metro in April 2011 after a trial that raised serious due process concerns, including allegations of torture to extract confessions. On April 17, 2014, Pavel Selyun was executed.

Freedom of Assembly and Crackdown on Peaceful Protests

Over the last four years authorities have continued to repress and discourage peaceful assemblies. An onerous application process restricts the right to hold peaceful assemblies and civil society activists are frequently arrested, fined, and detained for participating in unsanctioned assemblies.

On the night of December 19, 2010, riot police violently dispersed a massive largely peaceful post-election demonstration, beating everyone within reach. They arrested more than 700 protesters, including dozens of journalists and seven presidential candidates. Hundreds served up to 15 days in detention for misdemeanor charges of “hooliganism.”

Detainees suffered various kinds of due process and other violations, including beatings, denial of medical care, and other ill-treatment, that were documented by the Special Rapporteur on the situation of human rights in Belarus.^[3] More than 40 persons—including journalists, civil society leaders, and five former presidential candidates—were sentenced to up to six years of imprisonment on unfounded rioting charges.

Since its last UPR, the government adopted more restrictions on public gatherings, including, among other things, broadening the definition of mass events and establishing criminal liability for organizing them in violation of the law; placing new restrictions on where demonstrations can be held; and banning the dissemination of information about a public gathering until the authorities approve the assembly.

Belarusian authorities frequently arrest individuals on fabricated charges in advance of societally meaningful events to prevent them from attending peaceful rallies. Authorities routinely detain people for holding small, peaceful protests. For example, in August 2013, police detained people while handing out postcards in support of then-imprisoned Ales Bialiatski. A court fined each 3 million Belarusian rubles (approximately US\$350) for violating regulations on organizing public events.

Freedom of Expression and Information, Attacks on Journalists

Most media is state-controlled, and television, radio, and internet censorship is widespread. The authorities continue to harass independent journalists for their work, including through arbitrary arrests, warnings, and criminal convictions. Journalists, especially those who work for foreign news outlets, face great difficulties in obtaining accreditation. Media outlets have been threatened with closure. The authorities frequently prohibit reporting on public marches and open court hearings.

In 2013, police arrested 25 journalists as they covered public protests, and courts sentenced at least four to short-term detention following convictions on misdemeanor charges. In the first half of 2014 the authorities arbitrarily detained 17 journalists. At least three were charged with “hooliganism,” a misdemeanor, and courts imposed fines and up to 10 days of detention on them.^[4]

In two positive developments, the authorities in June 2013 allowed a visit to Belarus by the OSCE Representative on Freedom of the Media, and in May 2013 registered *Arche-Pachatak*, an independent monthly that had been denied registration four times in previous years.

In the months following the December 2010 re-election of Lukashenko, the authorities unleashed a harassment campaign against journalists who covered the protests. For example, in May 2011 a court handed independent journalist Iryna Khalip a two-year suspended sentence on trumped-up riot charges in connection with the December protests.

In May 2011, the authorities initiated closure proceedings for the independent newspapers *Nasha Niva* and *Narodnaya Vola*. Although legal proceedings were discontinued in August, both newspapers received fines for trumped-up violations of the media law.

In 2011 Andrzej Poczobut, a journalist, was convicted for libeling President Lukashenko and sentenced to three years of imprisonment but was later exempted from serving his sentence. In June 2012, Poczobut was arrested again on charges of libel but the case was closed in March 2013 due to lack of evidence.

In 2014, the prosecutor's office issued warnings to six local freelance journalists because they worked with foreign media outlets, claiming they were foreign media operating without accreditation.

In March 2013, the authorities once again denied registration to *Belsat*, the Poland-based satellite television channel known for its critical reporting on Belarus. In the spring of 2014, a court fined at least two journalists for their work with *Belsat*.

Internet Freedom

Since July 2010 a presidential edict requires registration of online resources in Belarus, identification of users at internet cafes and storage of their internet history for a year, and restricts access to "banned" information on the internet. For this reason, since August 2011, the site spring96.org, run by Viasna Human Rights Centre, has been included on a restricted access list. A court rejected a complaint challenging this.

In February 2014, the blogger Aleh Zhelnov was prosecuted on charges of resistance to authority for posting audio and video on his blog of potentially illegal police action. Zhelnov has had 14 cases initiated against him in the last year. Zhelnov had recorded a reception at the police department and posted this recording on the internet despite orders from an officer on duty to hand over any recording devices. Over the course of the investigations, Zhelnov's apartment was searched twice and his electronic equipment – including mobile phones, a laptop, hard drives, and audio and visual recorders – was confiscated.

Harassment of Human Rights Defenders, Opposition Activists, Civil Society Groups, and Lawyers

During the 2010 review, Belarus rejected a recommendation regarding harassment of government critics, and the authorities have continued to pursue opposition activists and human rights defenders on charges of “hooliganism” and other misdemeanor offenses leading to arbitrary detention.

Involvement in an unregistered organization constitutes a criminal offense, and the authorities continue routinely to arbitrarily deny registration to most key groups, making activists constantly vulnerable to prosecution, forcing them to function on the margins of the law.

Legislative amendments adopted in October 2011 established criminal liability for receiving foreign grants in violation of the law, and broadened the definition of treason to include “any form of assistance to a foreign state” that is detrimental to Belarus’s national security.

On November 4, 2013, legislative amendments decreased the number of documents required for NGO registration, and simplified the process for registration of international organizations, but also introduced the failure to submit a required annual report within three years as an additional ground for authorities to liquidate public organizations.^[5]

In the months following the December 2010 election protests, state security forces repeatedly raided offices of human rights groups, confiscating equipment, interrogating staff, and arresting those suspected of participating in pro-democracy protests. The Ministry of Justice arbitrarily disbarred or revoked the licenses of seven lawyers representing clients charged in connection with the December events.

In August 2011, Ales Bialiatski, vice-president of the International Federation for Human Rights (FIDH) and head of the Viasna Human Rights Centre, was arrested on politically motivated criminal charges of large-scale tax evasion, and, in November 2011, a court sentenced him to four-and-a-half years in prison. Belarusian authorities freed Bialiatski on June 21, 2014.

In July 2012, President Lukashenko signed a decree expanding the grounds on which the State Security Service (KGB) can impose travel bans on individuals. At least 15 activists and journalists were arbitrarily banned that year from leaving Belarus.

In October 2012, the Economic Court of Minsk ruled to dissolve *Platforma*, a prison monitoring group, for alleged tax violations.

In mid-January 2013, Siarhei Androsienka, Chairman of the Gay Belarus Human Rights Project, a group that had unsuccessfully tried to register earlier in January, was detained at the Belarusian border and his passport was confiscated on the pretext that it was on “the list of falsified passports,” thus preventing him from foreign travel. The document was returned to him only in the

beginning of May.^[6] Separately, more than 60 founders of GayBelarus have been summoned for questioning by the police in Minsk and other cities.

On February 25, 2013, Taxation Ministry officials served AlehHulak, leader of the Belarusian Helsinki Committee, with a warrant to seize the group's property. The Belarusian Helsinki Committee is the only human rights organization with registration status to operate nationally.^[7]

In April 2014, Andrey Bondarenko, a defender of prisoners' rights who called for accountability for the August 2013 death of a detainee was charged with hooliganism and placed under preventative detention. On August 12, 2014, he was sentenced to three years in prison.

Political Prisoners

The June 2012 Human Rights Council resolution urged the Belarusian government to free all "political prisoners" and "to put an immediate end to arbitrary detention of human rights defenders."^[8]

As of June 21, 2014, there are still seven people in detention in Belarus that Belarusian and international rights-defending organizations believe were prosecuted on politically motivated charges: EvgeniyVaskovich, Nikolai Dedok, Eduard Lobov, Igor Olinevich, VasiliyParfenkov, Nikolai Prokopenko, and Nikolai Statkevich.

In response to international pressure, Lukashenko's government has gradually released some political prisoners since Belarus' last review. For example, between January and September 2011 and again in August and September 2012, Belarusian authorities released, pardoned, or reclassified the offenses as less serious for several of the detainees facing riot charges from the December 2010 post-election events. Most, however, had to admit guilt as a condition of their release. In April 2012, apparently responding to international criticism, the authorities released former opposition presidential candidate Andrei Sannikau and his aide, convicted in connection with the peaceful protests in 2010. Once released, such individuals remain on police "watch lists," and their civil and political rights are not fully restored. Some have also been forbidden, without explanation, from leaving Belarus.

Recommendations for steps the Government of Belarus should be urged to take:

- Establish an immediate moratorium on the death penalty with a view to its permanent abolition; continue positive steps towards reform taken with the establishment of the parliamentary working group on the death penalty in 2012;
- Release immediately and unconditionally EvgeniyVaskovich, Nikolai Dedok, Eduard Lobov, Igor Olinevich, VasiliyParfenkov, Nikolai Prokopenko, Nikolai Statkevich and all other political opponents, human rights defenders and activists who have been convicted solely in

retaliation for exercising their civil and political rights and ensure their full rehabilitation; lift travel and other restrictions imposed on political prisoners who have been pardoned;

- Ensure that Belarus complies with all the provisions of the United Nations Declaration on Human Rights Defenders and end all forms of harassment of human rights defenders including arbitrary detention and other acts of retribution against human rights defenders and civil society activists;
- Ensure the absolute prohibition of torture and other ill-treatment and bring detention conditions in places of deprivation of liberty in line with international standards;
- Initiate legislation to repeal article 193.1 of the criminal code, which imposes criminal penalties for participating in unregistered organizations;
- Further amend the law “On public associations” and other legislation governing work of NGOs with a view to ensuring it does not unduly restrict freedom of association; simplify the administrative process for registration of NGOs, and minimize reporting obligations to authorities; allow domestic non-governmental organizations to register and function without undue interference;
- Amend the law “On mass gatherings” to comply with international standards ensuring in particular that any sanctions for violations of organizing mass events are proportionate and do not create undue obstacles to freedom of assembly;
- Grant unfettered access to Belarus for international human rights monitors, including the UN Special Rapporteur on the situation of human rights in Belarus and other special procedures mandate holders;
- Ratify and implement the Rome Statute in national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity, and war crimes before its national courts in accordance with international law.

^[1] Unless otherwise noted, information in this submission derives from chapters on Belarus in Human Rights Watch’s World Report, for 2012, 2013, and 2014. Some information derived from Human Rights Watch visit to Belarus in MONTH 2014.

^[2] UN Human Rights Council, Report of the Working Group on the Universal Periodic Review Belarus, A/HRC/15/16, June 21, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/145/21/PDF/G1014521.pdf?OpenElement> ^[2] (accessed August 12, 2014); UN Human Rights Council, Report of the Working Group on the Universal Periodic Review Belarus, Addendum, A/HRC/15/16/Add.1, September 15, 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/BY/A.HRC.15.16.Add.1_BELARUS_eng.pdf ^[3] (accessed August 12, 2014).

[3] UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Belarus, A/HRC/23/52, April 18, 2013, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/133/10/PDF/G1313310.pdf?OpenElement> [4] (accessed on August 12, 2014).

[4] “UN: Interactive Dialogue with the HCHR on Belarus,” Human Rights Watch submission, June 18, 2014, <http://www.hrw.org/news/2014/06/18/un-interactive-dialogue-hchr-belarus>.

[5] International Center for Not-for-Profit Law, “NGO Law Monitor: Belarus,” May 2, 2014, <http://www.icnl.org/research/monitor/belarus.html> [5] (accessed August 12, 2014).

[6] “UN Human Rights Council: Human Rights Remain “Systemically and Systematically” Restricted in Belarus,” Human Rights Watch statement, June 4, 2013, <http://www.hrw.org/news/2013/06/04/un-human-rights-council-human-rights-remain-systemically-and-systematically-restrict>.

[7] Ibid.

[8] Human Rights Watch, “UN Human Rights Council: Eritrea, Belarus Told to End Abuses.”

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