

State versus human rights defenders – unfair play

A briefing paper on human rights
defenders in Belarus

Introduction

In this briefing paper, Civil Rights Defenders examines the situation of human rights defenders in Belarus and the difficulties they face under the authoritarian rule of President Alexander Lukashenka.

This paper highlights trends in repressions against human rights defenders during 2012-2013. It was prepared ahead of Defenders' Days, an annual conference in Stockholm for human rights defenders who come from some of the world's most repressive countries and regions. Defenders' Days seeks to advocate for international recognition of human rights defenders at risk, to increase understanding of their vital work, and to create a forum for capacity building and networking. As part of this effort Civil Rights Defenders hands out an annual award to a prominent human rights defender. In 2014 the Civil Rights Defender of the Year Award was given to Ales Bialatski, imprisoned leader of the Belarusian Human Rights Centre Viasna.

Background

Since coming to power in 1994, President Lukashenka has restricted the space for civil society. The regime denies the people of Belarus basic human rights such as the right to freedom of expression, association, assembly and the right to a fair trial. Independent civil society organisations and activists critical of the authorities are considered enemies of the state, working against the interest of Belarus and being involved in subversive activities. There are no feasible options for human rights organisations to register and obtain permission to operate in the country. Restrictive legislation criminalises the activities of unregistered organisations while banning any foreign funding to both registered and unregistered NGOs, if not channelled through the state. Prosecutions, detentions, threats, and smear campaigns are some of the tools used by the regime against human rights defenders. Courts, tax authorities and state media are among the institutions that carry out the repression. In his first report on Belarus in 2013, the UN Special Rapporteur on the situation of human rights in Belarus Miklos Haraszti, calls the restrictions on human rights “systemic and systematic”. Despite this, human rights defenders continue with their efforts.

The amount of pressure applied by the regime against human rights defenders appears to reflect the needs of the regime of any given time and usually peaks around the time of political events. This was clearly seen during the presidential elections in December 2010, when the regime's response to protests against election fraud reached unprecedented levels of systematic repression. Arrests, confiscation of property, and raids against offices of NGOs and independent media took place soon after the elections on 19 December, and the campaign against activists continued throughout 2011. In November 2011, Ales Bialiatski, the leader of leading human rights group Human Rights Centre Viasna, convicted under tax evasion charges relating to money that was paid into Bialiatski's personal account in Lithuania for human rights work. He was sentenced to four and a half years in prison and confiscation of property.

The regime in Belarus takes a legalistic approach in its repression, introducing and using legislation as well as the criminal justice system to achieve its goals. The legislation and its enforcement clearly fail to live up to international human rights standards and the judiciary shows no independence as it takes on an active role in politically motivated cases.

The intensity of the attacks against human rights defenders was lower during the period covered by this report compared to the period after the elections of 2010, and the practice of administrative

arrests is currently not used to the same extent as in 2010–2011. Although the situation for human rights defenders is at the time of writing less dramatic on the face of it, the authorities' grip on society remains strong and new restrictive legislation has been introduced curtailing the activities of human rights defenders. Creative interpretations of the law regarding mass events aim to keep human rights defenders from conducting street activities, and several other measures are used to maintain and spread fear. One human rights defender commented that “nothing has changed” – meaning there have been no systematic changes in the law or practice to protect the activities of human rights defenders. All instruments are still in place, ready to be used in the same way as was done in 2010–2011.

Methodology and scope

This briefing paper seeks to provide an overview of the situation of human rights defenders in Belarus. It highlights a selection of incidents of human rights abuses against human rights defenders in an attempt to illustrate the general trends.

The paper is based on interviews with local human rights defenders during a visit early in 2014, and on information and documents gathered, including lists of human rights abuses provided by Human Rights Centre Viasna (Viasna) and the Belarusian Association of Journalists (BAJ), reports and statements from NGOs and international organisations, as well as independent media reports.

The briefing paper covers 2012 and 2013.

1 Legal framework and human rights infrastructure

1.1 Who is a human rights defender?

The term “human rights defender” is used to describe people who, individually or with others, act to promote or protect human rights. Human Rights Defenders are identified by what they do and the context they are active within. The definition in the UN Declaration on Human Rights Defenders adopted in 1998 includes both professional and non-professional human rights workers.¹ Even government officials could be human rights defenders according to this definition. Human rights defenders have an obligation under the Declaration to conduct peaceful activities. The Declaration itself is not a legally binding document, but contains a series of principles and rights enshrined in other legally binding documents, such as the International Covenant on Civil and Political Rights. The EU has furthermore adopted guidelines on human rights defenders with a definition based on the UN Declaration on Human Rights Defenders.

Reflective of the work of Civil Rights Defenders, the briefing paper focuses on human rights defenders working with civil and political rights within civil society, leaving aside those who focus on work with other rights, political activists and those who may be considered human rights defenders within the state structures or elsewhere outside civil society. The majority of the media cases highlighted in this report relate to independent journalists covering human rights events and/or examples of tools of repression typically used to target independent journalists.

1.2 International human rights framework

Belarus has ratified several international treaties, including the International Covenant on Civil and Political Rights (ICCPR) and Optional Protocol I, the International Covenant on Economic, Social, and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination Against Women. The ICCPR Optional Protocol II on the abolition of the death penalty has not been ratified and Belarus is the only country in Europe still retaining capital punishment.

Belarus is not a member of the Council of Europe and the mechanism of resorting to the European Court

of Human Rights is inaccessible to the citizens of Belarus. Therefore, the UN human rights system is of vital importance to the work of human rights defenders.

The country is one of the founding members of the UN. However, Belarus’ relationship with the UN is problematic. The regime cooperates in a seemingly selective manner with the UN. It ignores the UN position on the civil and political rights situation in Belarus as well as decisions taken under the special procedures mechanisms of the UN. The description of the civil and political rights situation is routinely discarded in Belarus, described as politicised and above all interfering with domestic affairs. UN recommendations are ignored and the decisions of the UN Human Rights Committee are not implemented by Belarus.

The UN Human Rights Council established the mandate of the Special Rapporteur on the situation of human rights in Belarus in 2012 and extended it in 2013. However, the authorities do not cooperate with the mandate and the Special Rapporteur has never been able to visit Belarus. The last visit of any Special Rapporteur was a visit by the Special Rapporteur on trafficking in persons, especially in women and children in 2009. Several Special Rapporteurs have tried to visit Belarus but have not been invited, among them the Special Rapporteur on Human Rights Defenders.

1.3 National legal framework and practice

The Constitution of the Republic of Belarus guarantees a number of human rights to the people of Belarus, such as freedom of association², freedom of expression³, and freedom of assembly⁴. However, these constitutional provisions that safeguard fundamental rights are disregarded by restrictive domestic law and practice.

The regime has put in place legislation directly aimed at curtailing the activities of human rights defenders and NGOs that defend human rights. Since the crack-down following the 2010 elections, so-called anti-revolution legislative changes have toughened the conditions for human rights defenders, whom the authorities often depict as a fifth column, often accused of conducting subversive activities against the interest of the state.

1 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

2 Article 36, Constitution of the Republic of Belarus

3 Article 33, Constitution of the Republic of Belarus

4 Article 35, Constitution of the Republic of Belarus

Registration, a legal requirement, is one of the major obstacles for NGOs. Extensive documentation requirements, limits on eligible founders and high registration fees are some of the more prominent features of the registration process. Decisions on registration are politicised and the possibilities of registering an organisation that works with civil and political rights are very slim. The law provides numerous grounds for denying registration and liquidating a public association.⁵ The authorities routinely deny registrations, and individuals attempting to register human rights organisations risk harassment and intimidation. Registered organisations also face the risk of having their registration revoked. At the same time, Belarusian law bans the activities of unregistered associations and establishes criminal responsibility for the illegal organising and participation in such activities.⁶

Only registered organisations can receive foreign funding. Foreign funding must be approved in advance by the Department for Humanitarian Affairs of the Presidential Administration. Obtaining foreign funding in other ways has been criminalised according to amendments to the Criminal Code introduced during autumn 2011, and can lead to up to two years of imprisonment.⁷ At the end of 2011, amendments to the legislation were introduced further hindering the possibilities of receiving foreign grants. The amendments criminalise receiving, handling or storing foreign funds for organisations and individuals.

The UN Human Rights Council adopted a resolution on 22 March 2013 calling on states to ensure “that no law should criminalise or delegitimise activities in defence of human rights on account of the geographic origin of funding thereto”.⁸

Civil society groups also struggle to maintain an international contact network. Human rights defenders from abroad are in many cases denied visas to Belarus, and early 2012, a black list came into effect essentially stopping several Belarusian human rights defenders from travelling abroad. It is evident that the authorities view information sharing as risky, and provision of information to foreign states and organisations or international organisations could according to Belarusian law discredit Belarus and is punishable by up to two years in prison.⁹

The possibilities for advocacy work inside the country are limited, not least due to administrative and criminal liability for holding unauthorised assemblies. Legislation in this area is typically interpreted so as to practically ban any planned public action of human rights defenders. Administrative charges are used against human rights activists and journalists either attempting to conduct street activities, or monitoring and reporting about them.

The Belarusian Law on Mass Media came into force in 2009 and requires the registration of new media outlets.¹⁰ Media outlets can also be shut down after two warnings issued by the prosecutor's office or the Ministry of Information.¹¹ Libel and defamation are criminalised and there is a ban on working without accreditation,¹² which is a direct impediment to access to information. Correspondents who contribute materials to foreign media outlets must have press accreditation in order to conduct journalistic activity within Belarus. Furthermore, accredited foreign correspondents and Belarusian journalists are often required to obtain special press credentials for work conducted at governmental bodies. These are very difficult to obtain, seemingly with the intention to prevent journalists from collecting information about these bodies.

The Law on Counteraction to Extremism has been used arbitrarily to limit media organisations from publishing and distributing articles and press materials. During the period 2012-2013, the practice was used against Arche Magazine, Belarus Press Photo, as well as the Lohvinau publishing house that lost its license on the grounds that the publication of the Belarus Press Photo 2011 allegedly contained extremist material.

5 Registration can be denied for instance if founding documents do not meet legislative requirements, failure to meet membership requirements and other, while violation of legislation after a written warning, actions aimed at violent change of constitutional system and other can lead to liquidation.

6 Article 193.1, Criminal Code of the Republic of Belarus

7 Article 369(2), Criminal Code of the Republic of Belarus

8 Human Rights Council Resolution 22/6, Protecting Human Rights Defenders

9 Article 369(1), Criminal Code of the Republic of Belarus

10 Article 11, Law on Mass Media of the Republic of Belarus

11 Article 51, Law on Mass Media of the Republic of Belarus

12 Article 35, Law on Mass Media of the Republic of Belarus

2 Attacks against human rights defenders

The attacks against human rights defenders presented in this report are divided into four categories: 1) enforcement of the legal restrictions relating to the work of human rights defenders; 2) fabricated administrative charges due to human rights work, but not related to their activities; 3) threats and warnings; and 4) harassment.

The categories are not mutually exclusive as targeted attacks against human rights defenders and organisations are usually not carried out in isolation. A targeted human rights defender may experience a series of attacks, and most have elements of threats and harassment. For the purpose of this briefing paper, we have tried to present attacks under the categories mentioned above, to illustrate the state of play.

2.1 Enforced legal restrictions for human rights defenders

The legislation intended to regulate and restrict human rights activities is often enforced against the human rights defenders, limiting their possibilities to monitor and report on human rights developments and to raise awareness regarding the state of human rights in Belarus.

Human rights organisations and defenders are constantly faced with the threat of judicial harassment, criminal prosecution for working for unregistered organisations, or the risk of closure once registered. Administrative sentences relating to organisations' activities regularly occur, as do criminal prosecutions. Prior to the time period dealt with in this briefing paper, Ales Bialiatski, the chairman of Human Rights Centre Viasna was sentenced to four and a half years in prison in November 2011 and confiscation of property on charges regarding the "concealment of income on a large scale" in relation to his human rights work.¹³ The Minsk City Court confirmed the sentence on January 24, 2012. The arrest of Bialiatski was considered by the UN Working Group on Arbitrary Detention in contravention of Article 20 paragraph 1 of the Universal Declaration on Human Rights and Article 22 of ICCPR.¹⁴ Bialiatski is serving his sentence at the Babruisk Penal Colony No. 2 and has been subject to pressure by the prison administration throughout his incarceration; he has received numerous reprimands for violation of rules, has had his visitation rights severely curtailed and was prohibited from receiving food parcels.

The campaign against Viasna has also been directed against the colleagues of Bialiatski. Valiantsin Stefanovich, Vice-Chairman of Viasna, on February 13, 2012, was sentenced for failure to declare money considered as personal income. The Minsk City Court dismissed his second appeal on the decisions issued against him by the Partyzanski District Court in Minsk on December 16, 2011. The Partyzanski District Court had issued a first ruling against him on October 19. Stefanovich was sentenced to pay a fine of 53 million BYR (4 800 EUR).

Liquidation of Platforma

The human rights organisation Platforma was liquidated in October 2012. Platforma worked with prisoners' rights since its creation and registration in 2011. The problems with the authorities started the same year and increased in 2012, when in March, its leader Andrei Bandarenka and other prominent activists were put on a travel ban list (see 2.4). Bandarenka was officially warned on June 20 2012 (see 2.3), and informed on July 19 that he was added to the preventive list of KGB limiting his possibilities to travel abroad. Furthermore, the deputy director of Platforma was subjected to an arbitrary detention at the end of July 2012 (see 2.2).

The authorities warned Platforma on July 26, 2012, that the organisation was under threat of closure for alleged failure to comply with tax requirements, the late submission of income tax declaration and for changing office location without informing the authorities about this. The income declaration was submitted on time but the tax authorities lost it. The organisation had not changed their office address but had been using additional premises, according to Bandarenka. The Savetski District Tax Inspection filed a claim, and the court hearing was scheduled for September 6. It was postponed and finally held on October 9. Bandarenka remembers the whole process as time-consuming. The tax authorities claimed to have visited the registered address subsequently not finding Platforma there. According to Bandarenka this visit never occurred. Furthermore, the organisation presented numerous documents submitted from their legal address to demonstrate their obvious presence at the legal address.

In Bandarenka's opinion, the court hearing at the Economic Court of Minsk attempted to follow procedural rules although it did not take into account all evidence provided by Platforma. After less than two

13 Article 243, part 2, Criminal Code of the Republic of Belarus

14 Working Group on Arbitrary Detention Opinion A/HRC/WGAD/2012/39

hours, the judge ruled that the organisation should be shut down, a decision criticised by Belarusian human rights defenders as well as international organisations who found it unfounded and a sanction for Platforma's legitimate human rights work.¹⁵ The decision was later appealed, but in January 2013 the Supreme Economic Court upheld the lower courts decision marking the end of the liquidation case.

While lawyers were busy liquidating Platforma, the organisation worked on obtaining registration as an institute under a new name, "Platforma Innovation" which it currently works under. Bandarenka is of the opinion that the process against the organisation had a somewhat positive effect as it provided attention to the organisation and prisoners' rights. It created a debate in mass media and was highlighted by international organisations.

Bandarenka explains that Platforma has since the beginning of its activities tried to communicate to the authorities that it does not deal with politics. "The moment you start doing something, they start monitoring you, tap your phone, provoke..." says Bandarenka.

- The LGBT-organisation **Human Rights Project Gay-Belarus** made its second attempt to register at the Ministry of Justice under the name Human Rights Centre Lambda at the beginning of 2013. It was denied registration by the Ministry, according to an official letter sent on 8 February. The reason for the refusal was that the organisation's charter did not contain any provisions that its activities aimed to "provide socialisation and all-sided development of youth". In its first attempt to register in January 2012, the denial was explained by the misspelling of names of the founders. The authorities initiated a campaign in 2013 against the LGBT-community in Belarus, the organisation and its activists after their failed attempt to register.
- Independent TV-reporter **Ales Barazenk**a was detained on January 8, 2012, while filming a solidarity protest for political prisoners near the KGB building. The court sentenced him to 11 days of administrative arrest for participating in an unauthorised event.¹⁶ The journalist protested the sentence by going on hunger strike throughout the 11-day arrest. The OSCE Representative on Freedom of the Media, Dunja Mijatovic, condemned his sentence.¹⁷

- The human rights defenders and Viasna board members **Tatsiana Reviaka** and **Uladzimir Labkovich** were detained by police on 5 August 2013 close to Jakuba Kolasa square in Minsk while distributing post cards in a solidarity protest for Ales Bialiatski. They were taken to the Savetski District Police Department and charged with violating the order of the holding of mass events.¹⁸ On August 6, they were sentenced to a fine of 3 000 000 BYR (260 EUR) each but appealed the decision. The appeal of Reviaka was dismissed by Minsk City Court, while the same Court reversed the decision of Savetski District Court in Labkovich's case. Reconsideration of the case by the Savetski District Court was postponed on several occasions due to the failure of the police officer to appear at the court as witness. It was finally held on October 8 and the sentence of 6 August was upheld. Labkovich appealed once more to the Minsk City Court, which considered the case on November 19 and upheld the ruling of Savetski District Court.

The liquidation of Platforma and the denial of legal registration of GayBelarus are two examples of how the law is specifically used to target human rights defenders when they become more visible or inconvenient to the authorities. Denials of registration are justified with references to absurd technicalities, and in the case of GayBelarus, the denial was followed by harassment, not only of the organisation, but the whole LGBT-community, which continues at the time of writing. When arranging Minsk Pride in December 2013, police raided venues and the office of the organisers, and their planned public demonstration was once again denied.

Public events planned by human rights defenders are routinely turned down by authorities that rarely grant authorisation. Only one public event by human rights defenders was authorised according to Viasna: a picket in Brest on human rights day in December 2013 to show solidarity with political prisoners. The picket was not held in the city centre but in a remote suburb. At the same time, participating in unauthorised events often leads to legal persecution.

Authorities are also interpreting the law on mass events in an increasingly distorted manner. The distribution of postcards is considered a violation of the order of organising and holding mass events as the case against Reviaka and Labkovich reveals.¹⁹

¹⁵ Urgent appeal of the Observatory for the Protection of Human Rights Defenders "Belarus: Arbitrary closure of the NGO Platforma" <http://www.omct.org/human-rights-defenders/urgent-interventions/belarus/2012/10/d21986/>

¹⁶ Article 23.34 Administrative code of the Republic of Belarus

¹⁷ See OSCE web page, <http://www.osce.org/fom/86949>

¹⁸ Article 23.34 Administrative code of the Republic of Belarus

¹⁹ Article 23.34 Administrative code of the Republic of Belarus

In January 2013 in the city of Hrodna, the human rights defenders **Raman Yurhel**, **Viktar Sazonau** and **Uladzimir Khilmanovich** were fined on the basis of police reports about photographs posted on the Internet of them holding the picture of Ales Bialiatski. It was used as evidence of mass disturbance and so a fine was imposed.²⁰ These kinds of interpretations clearly are an obstacle to human rights activities. Furthermore, administrative charges reported during the period show that both those monitoring any street action and journalists reporting on an event are treated as participants.

Tax claims are another method used to harass human rights defenders as in the case of **Ales Bialiatski** in 2011. The Belarusian Helsinki Committee, Belarus' only registered nationwide human rights organisation has also had tax-related issues for years with the authorities, which has led to on-going conflict with them.²¹

Libel charges are means used against critical journalists, as in the case of Andrzej Poczobut, correspondent of the Polish daily newspaper Gazeta Wyborcza, who was charged with libelling the president in 12 articles in Belarusian independent media, although these charges were subsequently dropped in 2013.

2.2 Fabricated administrative charges

The authorities are systematically using administrative charges against human rights defenders as retaliation for their human rights activities. Especially common throughout 2012, were charges for hooliganism, foul language and other misdemeanours, which were used repeatedly in what appeared to be done in retaliation for the defendants' human rights activities. Contrary to the attacks described under 2.1, the legislation used in these administrative charges was initially not intended to regulate human rights work.

Pavel Sviardlou

In June 2012 The Euroradio journalist Pavel Sviardlou was sentenced to 15 days of arrest for allegedly swearing at police officers, in what appeared to be a punishment for his journalistic work.

Pavel Sviardlou, journalist of the independent radio station Euroradio, was leaving his house for work on 22 June, 2012, when he was approached by five plain-clothed men. He was put into a Volkswagen minibus and taken to Maskouski district police station. Upon arrival, Sviardlou was informed that he would be held

at the station. The police took his bag, shoelaces and other items before placing him in a small room with nothing more than a wooden bench.

"It was psychologically stressful as I did not know what was going to happen and I was thinking of what I should do and who I should contact", says Sviardlou.

After spending two hours in the room, he was asked to sign a protocol describing how he had been cursing at uniformed police officers patrolling the street, and continued this behaviour despite being asked to refrain from doing so, leaving the police officers no other choice than to detain him. He disagreed with their description and wrote his version on the protocol before signing it. Soon after he was taken to court. Before the court hearing he was asked if he wanted to get something from his personal effects, which gave him the opportunity to smuggle his mobile phone up his sleeve. He managed to send a text message to colleagues and parents informing them on his whereabouts.

When the trial started the judge asked him if he wanted a lawyer and the court took a recess in order for Sviardlou to try to make contact his lawyer. After an unsuccessful attempt to get in touch with the lawyer who was on vacation, Sviardlou decided to defend himself. Two of the police officers that detained him were witnesses at the trial. According to the information in the court records the testimonies contradicted each other stating that Sviardlou had been swearing at two different streets at the same time. The court sentenced him to 15 days of arrest for swearing according to Article 17.1 of the Administrative Code. Sviardlou's colleagues arrived with a lawyer only after the trial, which was swift and they had been referred to the wrong courtroom so were unable to help their colleague.

He was taken to Akrestsina Detention Centre where he was to serve his sentence. He was handed a small soap and a piece of toilet paper and taken to the cell. The cell according to Sviardlou's estimation was around 10 square metres, with a small window and a toilet. Up to six detainees were held in the same room and all had to sleep on the floor. During the detention, Sviardlou had access to newspapers and was allowed to shower twice a week. "The worst thing was doing nothing", says Sviardlou, who lost 3 kilograms during the two-week period. When Sviardlou finally was released, he was met by colleagues, journalists and family members outside of the detention centre.

It was important for Sviardlou and Euroradio to appeal the sentence, both from a moral standpoint but also in order to help save his accreditation from being revoked. Higher appellate courts, and finally

20 See OHCHR web page, [https://spdb.ohchr.org/hrdb/23rd/public_-_AL_Belarus_19.02.13_\(1.2013\).pdf](https://spdb.ohchr.org/hrdb/23rd/public_-_AL_Belarus_19.02.13_(1.2013).pdf)

21 See Human Rights Watch web page, <http://www.hrw.org/news/2013/03/01/belarus-stop-harassing-rights-group>

the Supreme Court, upheld the court ruling on 14 January 2013, despite the fact that Sviardlou later found a witness following his arrest who disproved the testimonies of the policemen. Sviardlou's accreditation was temporarily revoked on 30 November 2012.

It is likely that the arrest was punishment for a story about lack of security in the Minsk subway earlier in spring. A colleague of Sviardlou, Vital Ruhain, also faced problems with authorities possibly in connection to that story. Sviardlou believes that the case was meant to be an example for others on what could happen to journalists criticising the police. Euroradio experienced some problems with the police in connection to another story in 2013. They claim that in communication with the Ministry of Foreign Affairs, a representative of the ministry told them to stop writing about the police, and to remember what happened in 2012. The case has not stopped Sviardlou from his journalistic activities. As a result of the case, Euroradio developed a manual for staff on how to act when detained by the police without any explanation.

- On 30 January 2012 the head of the human rights organization "Legal Assistance to Population" **Aleh Volchak** was sentenced to four days of administrative arrest by the Tsentralny District Court of Minsk on charges of using foul language on the street.²² Aleh Volchak denied the charges in court and was convicted on the basis of testimony given by the deputy head of Tsentralny District Police Department of Minsk. Volchak was detained on 27 January and spent three days in the Akrestsina detention centre before the commencement of his trial. He was once again faced with administrative charges for the use foul language on May 24 when plain-clothed policemen approached him on the street and took him to Tsentralny Police Precinct, and sentenced him to nine days of administrative arrest. Human Rights Watch believes it might have been related to Volchak meeting a Human Rights Watch researcher the day before the arrest.²³
- The Deputy Director of Platforma, **Alena Krasouskaya-Kaspiarovich** went missing on 31 July 2012. Her colleagues failed to make contact and started to search for her without success. When her colleagues attempted to register her as a missing person at the police station, they were advised that the police had managed to track her down and that she was being held at the detention centre.

A lawyer visited her in detention on 2 August, and was informed that she was going to be charged with hooliganism and tried on August 3. While her colleagues were waiting outside the Partizansky District Court, she was put in a car without any explanations by what appeared to be plain clothed policemen, and driven away from the detention centre and dropped off in a field approximately 30 kilometres from Minsk.

- The human rights activist **Viachaslau Dashkevich** was detained in Minsk on the evening of 26 April 2013, after the end of the authorised commemoration march "Chernobyl Way". Several people were also detained at the march and when Dashkevich went to the Savetski District Police Department to monitor the transportation of them he was stopped on the way and arrested. According to the court's verdict, he was found guilty of insubordination to the lawful demands of the police.²⁴
- The blogger **Dzmitry Halko** and Radio Racyja journalist **Aliaskandr Yarashevich** were detained by the Akrestsina Detention Centre on May 6, 2013 in connection to their coverage of the release of arrested demonstrators from the Chernobyl Way March on 26 April. They were brought to the Maskouski District Police Department by police officers who did not identify themselves.

Halko was found guilty of petty hooliganism and Yarashevich of insubordination to the lawful demands of the police and sentenced to 10 and 12 days' arrest respectively.²⁵ According to the detention protocol, Halko had used foul language in public. The witness testimonies had discrepancies and the protocol used in court in Yarashevich's case was not the joint detention protocol signed by the journalists. The journalists appealed but their sentences were upheld by the Minsk City Court on May 21.

Belarusian authorities regularly continue to use trumped up administrative charges against human rights defenders and other activists to curtail their activism and silence their voices, or simply use them in retaliation for their human rights work and criticism of the authorities. The courts, in the hands of the regime, readily play their role in enforcing the law so as to repress human rights defenders.

22 Article 17.1 on "disorderly conduct", Administrative Code of the Republic of Belarus

23 "Belarus: Free Rights Activist" <http://www.hrw.org/news/2012/05/30/belarus-free-rights-activist>

24 Article 23.4 of the Administrative Code of the Republic of Belarus

25 Article 17.1 and 23.4 of the Administrative Code of the Republic of Belarus

During proceedings, testimonies of police officers are usually pitted against those of human rights defenders. While Article 17.1 in the Code of Administrative Offences concerning hooliganism/disorderly conduct was often used in 2012, local human rights organisations have noticed a surge in the use of Article 23.4 for disobeying the police throughout 2013. Detentions by plain-clothed police are common, and the reasons for detention are in many cases not known to the detainee. In the case of Alena Krasouskaya-Kaspiarovich nobody was notified of her whereabouts and no detention protocol was written.

2.3 Threats and warnings

Human rights defenders are also faced with threats and warnings of the risk of prosecution. These threats are typically delivered in writing or sometimes orally, accompanied by intimidating calls to meet at the prosecutor's office, KGB or other security structures.

The interrogation of Tatsiana Reviaka

On August 17, 2012, member of the Human Rights Centre Viasna and President of the Belarusian Human Rights House in exile Tatsiana Reviaka received a phone call from an anonymous telephone number. The man on the other end presented himself with the surname Rubinau and asked Reviaka to come for a talk at the KGB office. Reviaka replied that she could do that provided that she was presented with a summons. 15 minutes later, the KGB arrived to the office of Viasna with the summons. Reviaka and her colleagues recognized KGB captain Aliaksandr Rubinau as the same person who had taken part in the searches of the Viasna office after the presidential elections in 2010. He was also mentioned on the case materials after he witnessed in the trial of Ales Bialiatski. At that time, he had presented himself as Matskevich. Rubinau asked Reviaka to come with him and his colleagues in their car to the KGB office. Reviaka declined as she had 40 minutes until the meeting according to the summons, which gave her enough time to contact and bring her lawyer. She describes feeling "heavy at heart" when she entered the KGB-building, as she did not know for how long she would stay.

Captain Rubinau and senior investigator Breyeu conducted the interrogation at the KGB office. She had been summoned as one of the leaders of Viasna. The interrogation concerned an article published by Viasna on its website about interference by KGB in Mahiliou in the electoral process. Rubinau inquired on the source of the information and its author and whether Reviaka checked the data mentioned in the article. They stated that the information was incorrect

and harmful. The KGB-representatives warned Reviaka that the information concerning the security services mentioned in the article could be viewed as discrediting a public authority and the Republic of Belarus in general, although they said that criminal proceedings on the charges were not relevant for the moment. While the interrogation was conducted in a peaceful and calm manner, Reviaka considers that the purpose of the interrogation to show that KGB knows everything. After approximately two hours the conversation ended with a demand to Reviaka to remember the chat and not to do things that upset security structures.

Reviaka, and her colleagues have been subjected to tax inspections and other forms of intimidation, and are used to such tactics. Reviaka wonders though whether all human rights defenders can withstand the intimidation, or whether some may start cooperating with the KGB.

- On 21 June 2012, **Andrei Bandarenka**, head of Platforma, was threatened with criminal prosecution when he was summoned to the Minsk city Prosecutor's office and issued with a warning for allegedly discrediting the Republic of Belarus. The reason for the warning was his address to the International Ice Hockey Federation with the request not to hold the Ice Hockey World Championships in Belarus in 2014, unless all political prisoners are released and the repression against human rights defenders, journalists and civil society is stopped.
- On 19 April 2013, activists of the initiative Against Lawlessness at Courts and Prosecutors' Offices tried to pass a petition to president Lukashenka who was holding a speech before the National Assembly. Human rights activist **Tamara Siarhei** and several other activists of the initiative were stopped from entering the building by guards and removed by force from Independence Square. On 23 April the Prosecutor General's Office handed over a written warning to Siarhei signed by the Deputy Prosecutor General detailing the risk of criminal punishment for activities by unregistered organisations under Article 193.1 of the Criminal Code. Siarhei submitted a complaint about the warning, but the Tsentralny District Court in Minsk confirmed the legality and validity of the official warning on 29 July. Subsequently the Minsk City Court found no procedural violations in its decision on October 24.
- On 25 April 2013, human rights defender and journalist **Uladzimir Khilmanovich** was summoned to the Regional KGB Department in Hrodna

on 26 April, where he received a warning for his publications in Niva, a weekly newspaper for Belarusians living in Poland. The KGB-representatives expressed that some of the articles were tantamount to discrediting Belarus.

Threats and warnings are used as routine methods to intimidate human rights defenders in order to prevent them from carrying out their human rights activities. There have not been any sentences on Article 193.1 of the Criminal Code against human rights defenders during the period of 2012 – 2013. However, threats of possible charges for activities on what the authorities deem an illegal organisation are reportedly used against activists. As the Venice Commission stated in its opinion on Article 193.1 in 2011 – “Article 193.1 penetrates the thoughts and attitudes of activists even without being put into effect”²⁶ Many of the warnings issued to journalists during the period concerned cooperation with foreign media without accreditation.²⁷

2.4 Harassment

Human Rights defenders are subjected to various forms of harassment. Some forms are used as a means to curtail human rights work; while other forms aim to discredit human rights defenders personally, linking them with common criminals or traitors. State controlled media plays an instrumental part in smear campaigns.

Bash na BAJ – smear campaign

On the evening of February 5, 2012, The Belarusian State TV Channel 1 aired the documentary “Bash na BAJ”. Announced as a “journalist investigation”, the program’s clear aim was to discredit the legally registered BAJ and its chairwoman Zhanna Litvina.

The programme was allegedly based on a letter received from an anonymous BAJ-member stating that the management of BAJ only strives for personal wealth and profit. The author of the letter referred to classified documents from the British Embassy, which also allegedly showed that the BAJ received funds from the embassy without registering it, in violation of Belarusian law.

There were also videos of BAJ members filmed with a hidden camera. Litvina was presented in a negative manner in the story, and a psychologist presented an “expert” opinion on her personality. The documentary started and ended with a story about children with

cancer whose treatment required large sums of money, indicating that donor support is spent on opposition rather than health care. The programme was aired twice on Belarusian TV.

Litvina questioned the origin and the allegations made in the programme, seeing them as a clear attempt to smear civil society and independent journalists in Belarus. The highly dubious and offensive content with its speculative character made her conclude that the authorities had no substance to their allegations. This could also explain the lack of follow-up.

Most media driven smear campaigns are intent on presenting the human rights defenders and opposition in Belarus as a fifth column or foreign agents. Other cases have included personal photos taken during confiscations of equipment and used in a negative manner.

The programme did not result in any changes or disruptions to the work of BAJ. The association continues to defend independent journalists in Belarus, and provides input to authorities on legislation and monitors the implementation of media laws in order to improve the situation of journalists in the country. At the time of the smear campaign, Litvina was blacklisted and unable to leave Belarus.

- As a response to the EU sanctions, it was reported in March 2012 that the Belarusian authorities had created a database with the names of individuals restricted from leaving Belarus. The list contained politicians, human rights defenders and journalists. Among these were **Andrei Bandarenka**, the head of Platforma, **Hary Pahanaila** and **Aleh Hulak** of the Belarusian Helsinki Committee, **Valiantsin Stefanovich**, deputy head of Viasna, **Aleh Volchak**, head of the Legal Assistance to Population, **Andrei Dynko**, editor-in-chief of Nasha Niva, **Zhanna Litvina** head of BAJ and **Mikhail Yanchuk**, official representative of BelSat. On March 11, Stefanovich was stopped without explanations at the border crossing Kamenny Loh between Belarus and Lithuania and prevented from leaving. The border guards have provided numerous different and conflicting official reasons in the above cases. In the case of Stefanovich, the travel ban was based on alleged draft evasion from military service. In Litvina’s case the authorities claimed that she was a debtor in a bankruptcy case. However, after several appeals from several human rights defenders the travel ban was in the end blamed on a technical glitch in the computer system.

²⁶ Opinion on the compatibility with universal human rights standards of Article 193-1 of the criminal code on the rights of non-registered associations of the Republic of Belarus, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)036-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e)

²⁷ Article 35.4, Law on Mass media of the Republic of Belarus

- Tax authorities also function as an instrument to harass human rights defenders by imposing tax inspections demanding declarations from human rights defenders and their families. The Savetski District Tax Inspection of Homel demanded on 27 September, 2012, that the human rights defender **Leanid Sudalenka**, his wife and their son who was serving in the army, to present income and assets declarations for the previous five years. Sudalenka considers that it was politically motivated harassment connected to the parliamentary elections, during which he actively helped candidates who weren't registered by preparing various appeals and complaints to the Central Election Commission and the Supreme Court.
- In the beginning of 2013, the Belarusian authorities launched an anti-LGBT campaign after the second attempt by Gay Belarus to register the organisation. 67 out of 71 signatories of registration documents were asked to come in for questioning at the Drug and Trafficking Control Department of the Ministry of Internal Affairs in at least 10 Belarusian cities, and gay clubs were subsequently raided in Minsk and Vitebsk. Its leader **Siarhei Androsenka** has been targeted on numerous occasions by the authorities in 2013 for his LGBT activism. For instance, in the first half of 2013, his passport was confiscated twice when crossing the Belarusian border for a total of 62 days. The reason offered by the authorities was that Androsenka's passport was listed in a database of invalid documents. Later it was said to be a technical error, but LGBT activists themselves see such actions as a way of putting pressure on the chairman of Gay Belarus. Furthermore, Androsenka was forced to end his lease for his apartment after authorities put pressure on his landlords by informing them on the alleged illegal activities of Androsenka and the potential problems of having him as tenant. These and other incidents have led to Androsenka leaving Belarus in June 2013.
- The authorities detained journalists on several occasions during the reporting period. A number of journalists gathered at the Minsk train station in order to report on the return to Minsk of the Christian-Democratic politician and political prisoner Pavel Sevyarinets who had been released after serving a three-year sentence following the demonstrations during the presidential elections in 2010. Ten journalists were detained by police on the train platform reportedly because they looked

suspicious and the authorities wanted to avoid mass disturbance. All were set free an hour later. In December, the Investigative Committee of Belarus who had investigated the detentions concluded that the police officers had committed no violations and had not interfered with the journalists' professional activities.

The harassment of human rights defenders has taken various forms during the monitored period. Using everything from time-consuming demands when it comes to tax declarations to travel restrictions in direct contravention to Belarus' international obligations the authorities continue to oppress human rights defenders. The reasons for removing the travel ban are far from clear, but blaming on technical failure indicates that the political reasons were too obvious as the legal explanations provided were far from airtight. Since the travel ban, Belarus has introduced regulations making it increasingly possible for the KGB to restrict travel for individuals through presidential decree 295 from July 2012. Other types of harassment have included the hacking of the Viasna Mahilou website on 2 March 2013, and hacking of Viasna main website on 25 April. The information on the sites was either destroyed or altered.

When it comes to the intensity of harassments during the two years, the campaign against LGBT activists in 2013 following their failed attempts to register have stood out. The practice of detaining journalists continues. The number of cases of detentions of journalists shrunk compared to 2011, with 60 cases recorded in 2012 and over 40 in 2013.²⁸

²⁸ Index on Censorship, Belarus: Time for media reform, http://www.indexoncensorship.org/wp-content/uploads/2014/02/IDX_Belarus_ENG_WebRes_FINAL.pdf

Conclusions and recommendations

There are no visible improvements in the situation of human rights defenders in Belarus. The situation remains stable negative. Interference and hindering of the work of human rights defenders remains a serious issue, as does the restrictive legislation used against human rights defenders and independent media. Increased activity of human rights defenders is met with increased pressure, such as the one experienced by GayBelarus and the LGBT-community throughout 2013. Belarus has obligations under international law to respect the work and space of human rights defenders and to protect them from human rights violations. These obligations are not met and the rights of human rights defenders are violated in a systematic way.

Recommendations to the Belarusian authorities:

Belarusian authorities must take measures to ensure the full implementation of international human rights standards. To achieve this they should:

- Protect human rights defenders, end all forms of harassment against human rights defenders and investigate, prosecute and punish those responsible for violations against human rights defenders.
- Immediately and unconditionally release Ales Bialiatski.
- Ensure the freedom of association by simplifying the procedure of registration for non-governmental organisations and thus ensuring that the decisions on registration are not made in an arbitrary and discriminatory manner.
- Decriminalise activities of unregistered organisations by abolishing Article 193.1 of the Criminal Code of Belarus and provisions in other laws.
- Abolish administrative and criminal liability for receipt of foreign grants.
- Ensure freedom of peaceful assembly by ensuring that legislation and implementation of the legislation is in line with international law, removing the restrictive provisions in current legislation and the practice of these provisions.
- Ensure freedom of expression and freedom of the media through legislative changes and practice.
- Cooperate fully with the UN, for instance by inviting special rapporteurs and implementing decisions and recommendations of the UN.

Recommendations to the international community

Continued involvement by the international community is necessary for the improvement of the situation for human rights defenders in Belarus. They should:

- Increase pressure on the authorities to ensure protection of human rights defenders. The EU should demand that Belarus takes the above-mentioned measures, and the human rights issue should form an integral part of all international relationships with Belarus.
- Support human rights defenders and human rights organisations, both registered and non-registered, through for instance active monitoring of the situation of human rights defenders at risk and amplifying their human rights concerns.
- Prolong the mandate of the Special Rapporteur on the human rights situation in Belarus.

About Civil Rights Defenders – Sweden's international human rights organisation

Civil Rights Defenders is an international independent human rights organisation founded in Stockholm, Sweden in 1982, with the aim of defending people's civil and political rights and empowering human rights defenders at risk.

With a long-term perspective, an active field presence, and regional expertise, we collaborate closely with local partners, striving to strengthen civil society and empower human rights defenders, including those at risk.

Together with a great number of partner organisations, we monitor the deeds and words of governments and authorities, demanding change, justice and reparations when people's civil and political rights have been violated. We take legal action against duty bearers and power holders, and conduct lobbying and advocacy work to effect change and influence public opinion. We support efforts to ensure that people have access to independent voices to inform discussions and public debate.

Civil Rights Defenders has been operating in Serbia and the Western Balkans for over 20 years. Over the course of these two decades, we have worked with hundreds of media outlets, human rights defenders, and organisations in Serbia. Based on this tradition, today we strengthen established partnerships with around a dozen human rights groups and civil society organisations with a clear human rights mandate.



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