

Biélorussie : intensification de la répression contre la population civile

Renseignement de l'analyse-pays de l'OSAR

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Ce rapport repose sur des renseignements d'expert-e-s et sur les propres recherches de l'Organisation suisse d'aide aux réfugiés (OSAR). Conformément aux standards COI, l'OSAR fonde ses recherches sur des sources accessibles publiquement. Lorsque les informations obtenues dans le temps imparti sont insuffisantes, elle fait appel à des expert-e-s. L'OSAR documente ses sources de manière transparente et traçable, mais peut toutefois décider de les anonymiser, afin de garantir la protection de ses contacts.

1 Introduction

Les questions suivantes sont tirées d'une demande adressée à l'analyse-pays de l'OSAR :

1. Quelles sont les dispositions légales en Biélorussie interdisant les voyages à l'étranger ?
2. Quelles sont les sanctions en cas d'infraction ?
3. Un requérant d'asile débouté renvoyé en Biélorussie risque-t-il de subir des représailles de la part du gouvernement au motif qu'il a cherché à obtenir l'asile à l'étranger ?
4. Existe-t-il des exemples de cas d'arrestations arbitraires et de procédures pénales illégitimes de personnes qui n'ont pas de profil politique ou militant ?

L'analyse-pays de l'OSAR observe les développements en Biélorussie depuis plusieurs années.¹ Sur la base de ses propres recherches ainsi que de renseignements transmis par des expert-e-s externes, elle apporte les réponses suivantes aux questions ci-dessus.

2 Un cadre légal instrumentalisé pour réprimer toute forme de dissidence

2.1 Répression dans le sillage d'une élection présidentielle contestée

Grave détérioration de la situation des droits humains en Biélorussie suite à l'élection présidentielle du 9 août 2020. Les manifestations populaires de protestation ont été durement réprimées et plus de 35 000 personnes arrêtées. Selon le *Rapporteur spécial des Nations unies sur la situation des droits de l'homme en Biélorussie, Anaïs Marin*, la situation des droits humains en Biélorussie a commencé à se détériorer de manière significative au printemps 2020, mais surtout au lendemain de l'élection présidentielle du 9 août 2020. Celle-ci a été remportée par le président Lukashenko, mais les résultats ont été largement contestés, notamment en raison du fait que la plupart des candidat-e-s de l'opposition avaient été évincé-e-s de la course, mais aussi en raison de rapports crédibles de fraude pendant le décompte. Les manifestations de contestation, massives et largement pacifiques, ont été durement réprimées par les autorités qui, selon le Rapporteur spécial, ont fait un usage de la force injustifié, disproportionné et souvent arbitraire. Plus de 35 000 personnes ont depuis été arrêtées et mises en détention simplement pour avoir exercé leur droit à la liberté de réunion pacifique (OHCHR, juillet 2021).

¹ www.osar.ch/publications/rapports-sur-les-pays-dorigine.

2.2 Restriction des droits civiques et de la liberté d'expression

Adoption en mai 2021 d'une loi facilitant la fermeture des médias d'information et leur interdisant de couvrir les manifestations. Selon *Associated Press* (AP), le 24 mai 2021, le président Lukashenko a signé une loi restreignant fortement les activités des médias d'information et permettant de les fermer sans décision de justice. Cette loi interdit aux médias de couvrir en direct des rassemblements de masse non-autorisés. Le ministère de l'information peut également décider d'ordonner la fermeture d'un média sans avoir à motiver sa décision devant la justice. Sont également interdits les sondages d'opinion non-autorisés par le gouvernement. Selon le président de l'Association des journalistes biélorusses, cité par AP, cette loi sur les médias est la plus restrictive en Europe (AP, 24 mai 2021).

Adoption en juin 2021 d'une loi qui punit plus lourdement les personnes qui participent à des manifestations « illégales », celles qui sont reconnues coupables d'« extrémisme », celles qui menacent les policiers ou qui publient des informations « fausses ». *Euronews* a rapporté en juin 2021 que le président Lukashenko avait signé une nouvelle loi renforçant les sanctions contre les manifestant-e-s qui prennent part à des rassemblements non autorisés. Une personne qui participe à plus de deux manifestations « illégales » encourt désormais jusqu'à trois ans de prison. La loi punit également de sanctions plus lourdes les personnes reconnues coupables d'« extrémisme ». Celles-ci risquent jusqu'à six ans de prison. Les personnes qui « financent » l'extrémisme risquent jusqu'à cinq ans de prison. En outre, une personne reconnue coupable de « violence ou menace de violence » contre des policiers risquent jusqu'à sept ans de prison. Finalement, une personne qui publie, notamment sur internet, des informations jugées comme « fausses » encourt une peine de prison pouvant atteindre quatre ans (*Euronews*, 8 juin 2021).

Fermeture en 2021 de plus de 200 groupes indépendants, dont les principales ONG de défense des droits humains. Action en justice du gouvernement contre l'ONG *Belarusian Helsinki Committee*. Fin septembre 2021, *Human Rights Watch* (HRW) a dénoncé les mesures prises par le gouvernement pour réduire au silence toutes les voix indépendantes ou critiques dans le pays. HRW s'est notamment insurgé contre l'action en justice intentée par le ministère biélorusse de la Justice visant à dissoudre le *Belarusian Helsinki Committee*, l'une des plus anciennes associations indépendantes de défense des droits humains du pays. Selon le directeur adjoint du bureau de HRW pour l'Europe et l'Asie centrale, Rachel Denber, cette action en justice est « une mesure de rétorsion flagrante à l'encontre du travail du groupe et constitue un autre élément de l'effort visant à anéantir le mouvement des droits de l'homme au Belarus. ». HRW indique que ces derniers mois, les autorités ont fermé plus de 200 groupes indépendants, y compris des groupes de défense des droits humains parmi les plus importants du pays. Les autorités ont également emprisonné, dans l'attente d'un procès au pénal, sept membres de *Viasna*, une autre des principales associations de défense des droits humains du pays (HRW, 29 septembre 2021).

2.3 Restrictions pour les voyages à l'étranger

Sous couvert de lutte contre le Covid-19, les autorités ont adopté en décembre 2020 des restrictions limitant la possibilité pour les citoyens biélorusses de se rendre à

l'étranger. Seuls ceux qui ont un permis de séjour permanent à l'étranger et ceux qui ont un « motif valable » sont autorisés à quitter le pays par voie terrestre. En juillet, puis en septembre, ces restrictions ont été légèrement allégées. En juin 2021, la BBC a rapporté que le gouvernement biélorusse avait temporairement interdit à la plupart de ses citoyen-ne-s de quitter le pays. Parmi ceux et celles qui détiennent des permis de résidence à l'étranger, seuls ceux et celles qui disposent d'une résidence permanente à l'étranger ont le droit de quitter le pays. Sont aussi exemptés, les fonctionnaires en voyages officiels et le personnel des transports publics. Selon le Comité national des frontières, organe public chargé de la sécurité des frontières, ces restrictions sont destinées à lutter contre la pandémie Covid-19 (BBC, 1^{er} juin 2021). Selon le *Moscow Times*, ces restrictions ne concernent pas les voyages par avion, toutefois, en raison de l'interdiction imposée par l'Union européenne aux avions biélorusses d'utiliser son espace aérien, le nombre de destinations disponibles depuis la Biélorussie est limitée. Cette interdiction faisait suite à l'arrestation d'un journaliste biélorusse dont l'avion avait été détourné par les autorités biélorusses. Les restrictions de voyage imposées par le gouvernement ont été dénoncées par le conseiller du leader de l'opposition Svetlana Tikhanoskaya comme « une violation absolue de la loi » (*The Moscow Times*, 1^{er} juin 2021). Selon le courriel envoyé à l'OSAR le 28 septembre 2021 par une *personne de contact qui est le représentant d'une ONG biélorusse de défense des droits humains*, les restrictions de voyage sont basées sur le décret #705 adopté en décembre 2020 par le Conseil des ministres. Ce décret précise qu'il n'est possible de quitter le pays par voie terrestre qu'une fois tous les six mois, mais que pour cela il faut soit disposer d'un permis de séjour permanent à l'étranger, soit avoir un motif valable. Ce motif peut être soit lié au travail, aux études ou à l'obtention d'une assistance médicale à l'étranger. Selon cette *personne de contact*, le 14 juillet 2021, le Conseil des ministres a adopté le décret #401 selon lequel même les citoyen-ne-s qui ne disposent que d'un permis de séjour temporaire à l'étranger peuvent quitter le pays par voie terrestre. En septembre 2021 est entré en vigueur le décret #504 qui permet aux citoyen-ne-s biélorusses qui ont un motif valable de quitter le pays par voie terrestre tous les trois mois, au lieu de six précédemment.

2.4 Sanctions pour les personnes qui traversent illégalement la frontière

Une personne qui sort du pays illégalement risque une sanction administrative et une amende de plus de 1000 francs suisses. Jusqu'à deux ans de prison en cas de récidive. Selon le courriel envoyé à l'OSAR le 1^{er} octobre 2021 par une *personne de contact qui est le représentant d'une ONG biélorusse de défense des droits humains*, une personne qui a franchi la frontière illégalement encourt une sanction administrative et peut se voir infliger une amende allant jusqu'à environ 2900 roubles, ou l'équivalent de 1066 francs suisses². Celle-ci est basée sur le code des infractions administratives de la Biélorussie, spécifiquement l'article 24.18 qui stipule que le franchissement illégal de la frontière « sera puni d'une amende de dix à cent unités de base ». Selon *Grata International*, un cabinet d'avocats international actif dans les pays de l'ancienne Union soviétique et de l'Europe de l'Est, les « unités de base » sont utilisées en Biélorussie pour déterminer le montant des amendes administratives. En janvier 2021, la valeur de cette unité est passée de 27 à 29 roubles, soit l'équivalent de

² Selon le taux de change du 4 octobre 2021.

10.7 francs suisses³ (*Grata International*, 18 janvier 2021). La *personne de contact* précise que s'il ne s'agit pas de la première infraction de ce type, une personne peut être condamnée à une peine de prison pouvant aller jusqu'à deux ans, conformément à l'article 371 du code pénal de la Biélorussie.

3 Répression contre la population civile

Plus de 35 000 personnes ont été arrêtées à ce jour, des milliers ont été mises en cause, plus de 3000 ont été poursuivies et des centaines ont été condamnées à de longues peines de prison. Selon AI, la Biélorussie traverse la pire crise des droits humains de son histoire depuis son indépendance. Des militant-e-s de l'opposition, des journalistes et des blogueurs-euses, des dissident-e-s, des manifestant-e-s pacifiques et, parfois de simple passant-e-s, ont été appréhendés par milliers par les forces de l'ordre, dont beaucoup agissent en civil et sans signes distinctifs, et font souvent un usage excessif de la force (AI, 20 juillet 2021). *Article 19* estimait en septembre 2021 que plus de 35 000 personnes ont fait l'objet d'une arrestation et détention arbitraire (*Article 19*, 24 septembre 2021). Selon les estimations citées par AI, en juillet 2021, le nombre de personnes arrêtées depuis le 9 août 2020 se situait autour de 30 000. Des milliers d'entre elles ont fait l'objet de procédures en vertu du Code des infractions administratives, qui ont abouti à des amendes ou à une « détention administrative » pouvant aller jusqu'à quinze jours, qui peuvent être imposés consécutivement, ce qui conduit à des périodes de détention beaucoup plus longues. Plus de 3000 personnes ont été poursuivies dans le cadre d'événements et de manifestations de masse, et des centaines ont déjà été condamnées à de longues peines de prison (AI, 20 juillet 2021).

Toutes les sections de la société civile sont visées par la répression. Selon le *Rapporteur spécial des Nations unies sur la situation des droits de l'homme en Biélorussie*, toutes les composantes de la société civile ont été et continuent d'être visées par les mesures prises par les autorités : organisations de la société civile, médias indépendants, défenseurs-euses des droits humains, dirigeant-e-s de l'opposition, personnes actives sur le plan social et politique, notamment les femmes, les étudiant-e-s, les travailleurs-euses en grève et les retraité-e-s. Le Rapporteur spécial se dit particulièrement préoccupé par l'augmentation des poursuites pénales à l'encontre du personnel médical, des professionnel-le-s des médias, des avocat-e-s et des défenseurs-euses des droits humains simplement pour avoir fait leur travail (UN HRC, 4 mai 2021).

Torture contre les manifestants et les passants. Le Rapporteur spécial des Nations unies sur la situation des droits de l'homme en Biélorussie a explicitement fait état de tortures et de poursuites à l'encontre de simples participant-e-s aux manifestations et de passant-e-s. Selon cette source, plusieurs manifestant-e-s - et des passant-e-s - ont été sévèrement battu-e-s lors des interrogatoires, et certain-e-s ont été menacé-e-s de viol. Les forces de l'ordre ont eu recours à des violences verbales et psychologiques telles que des insultes et des menaces de mort, par exemple en obligeant les femmes à regarder des hommes nus se faire battre. Les traitements humiliants étaient souvent utilisés lors des transferts entre les centres de détention ou les cellules, les détenu-e-s étant conduit-e-s dans des « couloirs à matraque

³ Ibid.

» où les agents de sécurité les battaient, les insultaient et les humiliaient systématiquement (UN HRC, 4 mai 2021).

Poursuites pénales contre les manifestants, les passants et les spectateurs. Si les manifestations et les marches de solidarité ont été largement pacifiques, selon le Rapporteur spécial des Nations unies sur la situation des droits de l'homme en Biélorussie, de nombreux participant-e-s, ainsi que des passant-e-s et des spectatrices et des spectateurs, se sont plaints d'avoir été arrêtés ou convoqués au tribunal sans avoir été correctement informés des charges retenues contre eux et/ou sans avoir eu suffisamment de temps ou de possibilités pour préparer leur défense. De nombreuses audiences contre des manifestant-e-s pacifiques ont eu lieu dans des postes de police ou des centres de détention, ce qui a fortement limité la publicité des procédures (UN HRC, 4 mai 2021).

Exemple Viachaslau Rahashchuk, passant non impliqué dans une manifestation : arrestation arbitraire, torture et condamnation à six ans de prison. Le 20 juillet 2021, *Amnesty International* (AI) a rapporté le cas exemplaire de poursuites à l'encontre de personnes « à faible notoriété ». Viachaslau Rahashchuk est un chauffeur de taxi de la ville de Pinsk, en Biélorussie, qui a été détenu arbitrairement, torturé puis condamné à six ans de prison. Il est derrière les barreaux depuis le 10 août 2020 et continue de nécessiter un traitement médical urgent en raison des tortures et autres mauvais traitements subis en détention. Le 10 août 2020, Viachaslau Rahashchuk a été détenu de force et arbitrairement par au moins cinq policiers alors qu'il se promenait avec sa sœur et son fils de douze ans à Pinsk. Le 11 août 2020, un ancien compagnon de cellule de Viachaslau Rahashchuk a contacté sa mère et l'a informée que Viachaslau Rahashchuk avait été brutalement battu par des agents pénitentiaires. Malgré des problèmes de santé sérieux consécutifs à son passage à tabac, il ne reçoit pas le traitement médical dont il a besoin (AI, 20 juillet 2021). Le 30 avril 2021, Viachaslau Rahashchuk a été condamné à six ans d'emprisonnement dans une colonie pénitentiaire en vertu de l'article 293, partie 2, du code pénal biélorusse (participation à des troubles de masse). Son audience d'appel a eu lieu le 6 juillet 2021 et sa peine a été confirmée. L'affaire Viachaslau Rahashchuk est l'une des quatorze « affaires Pinsk » qui ont été condamnées à de longues peines de prison pour avoir participé à des « troubles de masse ». Ces personnes ont soit pris part à des manifestations pacifiques postélectorales, soit sont passées par hasard dans la zone où se déroulaient ces manifestations. Elles ont été arrêtées par la force et torturées, accusées d'avoir jeté des objets sur la police et d'avoir détruit des biens, puis condamnées à la prison et à verser un total de plus de 65 000 euros de dommages et intérêts à la ville et aux 109 policiers qui ont témoigné au tribunal en tant que victimes (AI, 20 juillet 2021).

4 Risques au retour pour un requérant d'asile débouté

Un système judiciaire défaillant, absence d'État de droit. Des personnes ayant séjournées à l'étranger peuvent être accusées d'être des « agents étrangers ». Selon la *personne de contact*, actuellement, le système judiciaire de la Biélorussie, y compris les tribunaux, ne fonctionne pas correctement. Une personne peut être arrêtée sous un faux prétexte et jugée, même s'il n'existe que peu ou pas de preuves de l'infraction. Cela est particulière-

ment le cas pour les personnes qui ont séjourné à l'étranger, car elles peuvent être considérées comme des « agents étrangers » (langage parfois utilisé par les fonctionnaires de l'État). Par conséquent, il est difficile de dire si une personne peut être arrêtée en Biélorussie simplement pour avoir demandé l'asile dans un pays étranger. Selon la loi, c'est peu probable, cependant, selon la pratique actuelle, il est possible que de telles arrestations aient lieu.

5 Sources:

AI, 20 juillet 2021:

« Viachaslau Rahashchuk is a taxi driver from the Belarusian city of Pinsk who was arbitrarily detained, tortured and later sentenced to six years in prison. He has remained behind bars since 10 August 2020 and remains in need of urgent medical treatment as a result of torture and other ill-treatment in detention. [...]

On 10 August 2020 Viachaslau Rahashchuk was violently and arbitrarily arrested by at least five police officers while walking with his sister and her 12-year-old son in Pinsk. On 11 August, one of Viachaslau Rahashchuk's former cellmates contacted his mother and told her that Viachaslau Rahashchuk had been very badly beaten by prison officers. He said Viachaslau Rahashchuk had a hematoma behind his ear, three cuts to his head and bruises all over his spine. Viachaslau Rahashchuk has had a continuous ringing noise in his head and after the beatings he would lose consciousness for up to twenty minutes at a time. In May this year Viachaslau was examined by a medic at the detention centre and was assured that he was fine. However, his medical conditions have not improved; the continued requests from his family for him to be examined by an independent doctor have been declined, and he is not receiving the medical treatment he urgently requires.

On 30 April Viachaslau Rahashchuk was sentenced to six years in a strict regime colony under Article 293 Part 2 of the Belarusian Criminal Code (participating in mass riots). His appeal hearing took place on 6 July and his sentence was upheld. [...]

Viachaslau Rahashchuk is one of the 14 people of the so called 'Pinsk case' who were sentenced to lengthy prison terms for taking part in 'mass riots'. Those people either participated in peaceful post-election protests or happened to pass by the area in which the protests took place. They were violently arrested and tortured, accused of throwing objects at police and destroying property and later sentenced to prison terms and ordered to collectively pay over 65 thousand euro in damages to the city and the 109 police officers that have testified as victims in court. According to credible reports, the 109 police officers have claimed to lose sleep and appetite after peaceful protests on 9 and 10 August 2020. If this sum is not paid collectively by the 'Pinsk case' prisoners, all their property will be confiscated 30 days after the appeal hearing that took place on July 6. One of the 'Pinsk case' prisoners is a mother of five children.

The 'Pinsk case' is representative of the widespread and egregious human rights violations that continue against those in Belarus who express dissent, or are suspected of

showing dissent, or those the authorities want to target, following the beginning of mass peaceful protests against the widely contested results of the presidential election on 9 August 2020. Belarus is facing its most serious human rights crisis in its post-independence history. Opposition activists, journalists and bloggers, those expressing dissent, peaceful protesters and, as in the case of Viachaslau Rahashchuk, by-standers, have been swept up in their thousands by law enforcement officers, many of whom operate in plain clothes, with no identifying insignia and often using excessive force. Current estimates are that over 30,000 people have been detained since 9 August. Thousands have faced proceedings under the Code of Administrative Offences resulting in fines or periods of “administrative detention” up to 15 days which can be imposed consecutively leading to much longer periods of detention. Over 3,000 people have been prosecuted under criminal charges related to mass events and protests, with hundreds already sentenced to long terms of imprisonment. All those who have been targeted solely for exercising their human rights must be immediately and unconditionally released. Local and international human rights organizations have collected hundreds of testimonies of detainees who have been subjected to torture and other ill-treatment at the time of arrest, during transportation and while in pretrial detention. As yet, not a single investigation has been opened by the Belarusian authorities against law enforcement officers.»

Source: Amnesty International (AI), Tortured prisoner still denied medical care; Second UA: 173/20 [EUR 49/4486/2021], 20 juillet 2021: www.ecoi.net/en/file/lo-cal/2056370/EUR4944862021ENGLISH.pdf.

AP, 24 mai 2021:

« The authoritarian president of Belarus on Monday signed a law sharply restricting news media activities and allowing them to be shut down without a court hearing.

The move by President Alexander Lukashenko came a day after the arrest of a prominent opposition journalist whose commercial flight was forcibly diverted to Belarus because of an alleged bomb threat. The arrest and flight diversion was condemned by Western countries and drew new attention to Belarus' crackdown on media since widespread protests against Lukashenko arose last year.

Under the new law, news media are banned from making live reports on unauthorized mass gatherings. It also allows the Information Ministry to order a media outlet's closure; previously media closures required a court decision.

Other strictures include prohibiting publication of the results of opinion polls that aren't authorized by the government.

“This is the most repressive media law in Europe, which turns the work of journalists in Belarus into a minefield,” said Andrei Bastunets, president of the Belarusian Association of Journalists.

Widespread protests rocked Belarus for weeks last year, following an allegedly fraudulent election that gave Lukashenko a sixth term in office. More than 30,000 people were arrested in the protests, many of them beaten by police.

The country has steadily cracked down on journalists, including blocking several major news websites and declaring opposition-minded messaging app channels to be extremist. » Source: Associated Press (AP), Belarus president signs tough new law on media restrictions, 24 mai 2021: <https://apnews.com/article/europe-belarus-media-business-government-and-politics-934283a5f4763a421391d8a55a89ad55>.

Article 19, 24 septembre 2021:

*« Belarus continues to face the largest human rights crisis in its modern history. **Over 35,000 people have been subjected to arbitrary detention in degrading conditions, with 674 people recognized as political prisoners, and almost all civil society organizations have been forcefully disbanded by the authorities. The Belarusian authorities continue to take deliberate actions to eliminate independent media and deprive the free flow of information. Currently, there are 27 journalists and 54 cultural workers behind bars. In the first 6 months of 2021 alone, there have been 621 cases of human rights violations against cultural workers. The widespread repression disproportionately impacts members of groups at-risk of discrimination, including based on sex, gender, age, socio-economic status, and political opinion.***

. In May, amendments to existing laws were introduced to ban any forms of public protest against the authorities, threatening individuals who participate and journalists or media outlets which cover such events. The tendency of equating any act of solidarity with extremism is especially worrisome. In modern-day Belarus, volunteering to assemble food packages to political prisoners is qualified as “financing extremism,” while prisoners are physically labeled with a “prone to extremism” badge.

The crisis is equally present online and offline. In the spirit of digital authoritarianism, online civil resistance tools – including Telegram chats and channels, online media outlets, and civic tech initiatives – are labeled “extremist.” In May, Alexander Lukashenko passed a law which legalised the power to shut down the Internet. » Source: Article 19, Belarus: UN addresses continued human rights crisis, 24 septembre 2021: www.ecoi.net/en/document/2060996.html.

BBC, 1er juin 2021:

« Belarus has temporarily banned most of its citizens from leaving, including many foreign residency permit holders.

There are some exceptions, such as for Belarusian civil servants on official trips and state transport staff.

The State Border Committee's tightening of the rules follows international outrage over Belarus's recent diversion of a Ryanair flight and arrest of a top dissident and his girlfriend on board.

Many dissidents have left Belarus since a disputed election last year.

In its statement on the Telegram messaging service, the border committee says it has received "many requests to leave Belarus on the strength of residence permits [issued] by foreign countries".

Only those with permanent residence in foreign countries - not temporary - are allowed to leave Belarus now, it says. The border committee blamed the measures on the coronavirus pandemic.

President Alexander Lukashenko's harsh crackdown on opponents since his disputed 9 August election victory has sent many into exile or to jail.

His main rival, Svetlana Tikhanovskaya, who insists that she won, moved to neighbouring Lithuania with her team. Poland also hosts many Belarusians.

Her foreign affairs adviser, Valery Kovalevsky, posted an angry tweet, saying President Lukashenko had "severely limited the right of Belarusians to travel, asserting that certain grounds (residency abroad) aren't sufficient to leave Belarus".

"Yet the Constitution stipulates no conditions at all. Outright violation of the law," he said.

Belarus was gripped by huge anti-Lukashenko demonstrations last year after the election, broken up brutally by the police.

The new travel rules also apply to foreigners: they can only leave after a 10-day period of self-isolation, as part of Covid restrictions. » Source: BBC, Belarus bans most citizens from going abroad, 1er juin 2021: www.bbc.com/news/world-europe-57316838.

Euronews, 8 juin 2021:

« Belarusian President Alexander Lukashenko has signed a law tightening sanctions against protesters who take part in unauthorised rallies.

The new legislation also increases the penalties for those found guilty of "extremism" in Belarus.

A protester who takes part in more than two "illegal" demonstrations will now face up to three years in prison, according to the reform published on Tuesday.

Meanwhile those of participate in or promote "extremist activities" face up to six years in prison. Anyone accused of "financing" extremism in Belarus can also be imprisoned for up to five years.

The legislation was signed into effect by Lukashenko on Tuesday, authorities said.

The laws come as the Belarusian regime continues to crack down on the historic opposition protest movement disputing Lukashenko's re-election in 2020.

The military response to the rallies has seen hundreds of opposition supporters and journalists imprisoned or forced into exile abroad.

Independent media, and opponents of the law, have said that the new legislation is too broad and does not set out a definition for "extremism".

In recent months, several demonstrators have been sentenced to heavy penalties for such offences. A law passed in May had already banned journalists from covering demonstrations deemed "illegal".

Critics say the law is similar to "extremism" charges which have been used in Russia to prosecute opposition organisations, such as Alexei Navalny's anti-corruption group.

In an interview with Euronews, Belarusian foreign minister Vladimir Makei defended his government's response to the rallies and said the actions of the police were "absolutely adequate and necessary."

The new Belarusian law signed on Tuesday also increases the maximum prison sentence for "violence or threat of violence" against the police, now up to seven years.

A new article in the Penal Code has also added to the sentence for publishing "personal" information about members of the police or their relatives.

In 2020, Belarus' opposition had repeatedly published the identities of riot police officers, who were involved in the violent repression of demonstrations.

Moreover, the publication of information deemed "false" about Belarus, especially on the Internet, could now be punished by four years in prison. » Source: Euronews, Belarus toughens laws against protesters and 'extremism', 8 juin 2021: www.euronews.com/2021/06/08/belarus-toughens-laws-against-protesters-and-extremism.

Grata International, 18 janvier 2021 :

« Since January 1, 2021, the size of the basic unit has increased in Belarus - 29 rubles. (approximately 9.2 euros). Previously, it was 27 rubles. (approximately 8.7 euros). The size of the basic unit determines the size of administrative fines, the amount of fees for the performance of an administrative procedure, state fees in courts, etc. » Source: Grata International, The new size of the basic unit, 18 janvier 2021: <https://gratanet.com/news/the-new-size-of-the-basic-unit>.

HRW, 29 septembre 2021:

« **The Belarusian Justice Ministry has filed a lawsuit to dissolve the Belarusian Helsinki Committee, one of the country's oldest independent human rights groups, Human Rights Watch said today. On September 30, 2021, the Belarus Supreme Court is scheduled to hold a hearing on the lawsuit. The move is part of wider effort by Belarusian authorities to silence all independent or critical voices in the country.**

In a September 22 letter, five international human rights organizations, including Human Rights Watch, urged the Justice Ministry to withdraw its lawsuit, calling it "inappropriate [and] inconsistent with the Belarusian government's obligations to respect and protect the legitimate work

of human rights defenders.” They also said the lawsuit “violates a number of fundamental rights, including those of freedom of expression and association and due process.”

“The Belarusian Helsinki Committee has a long record defending a wide range of human rights in the country and has worked with integrity to protect the rights everyone in Belarus,” said Rachel Denber, deputy Europe and Central Asia director at Human Rights Watch. **“The lawsuit is blatant retaliation for the group’s work and is another piece of the effort to annihilate the human rights movement in Belarus.”**

In recent months Belarusian authorities have taken measures to close more than 200 independent groups. Some of the country’s most prominent rights groups, including the Belarusian Association of Journalists, Lawtrend, Human Constanta, Office for the Rights of People with Disabilities, and the Belarusian Press Club, have already been forcibly closed. Authorities have also jailed, pending trial on criminal charges, seven members of another of Belarus’s top human rights groups, Viasna.

The lawsuit, filed on August 27, alleges discrepancies in financial information the Belarusian Helsinki Committee provided the ministry. The ministry’s petition to the Supreme Court, which Human Rights Watch read, said that these discrepancies constitute a “one-time gross violation of the law.” The petition also stated that the documents exposing the discrepancies came to light as part of a criminal investigation but does not provide any information about that investigation.

The September 22 letter from international organizations said the move to dissolve the Belarusian Helsinki Committee was “an attempt to impose a draconian, punitive and irreversible penalty to bring about the elimination of a long-standing body of human rights defenders.”

“The Belarusian authorities’ efforts at eviscerating independent groups have been comprehensive, but it is never too late to stop and reverse course,” Denber said. “A good place to start is to drop the arbitrary lawsuit against the Belarusian Helsinki Committee.” » Source: Human Rights Watch (HRW), Belarus: Authorities Target Top Human Rights Group, 29 septembre 2021: www.hrw.org/news/2021/09/29/belarus-authorities-target-top-human-rights-group.

République de Biélorussie, 22 janvier 2021 :

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Статья 24.18. Незаконное пересечение Государственной границы Республики Беларусь

Умышленное незаконное пересечение Государственной границы Республики Беларусь, а равно попытка такого пересечения – влекут наложение штрафа в размере от десяти до ста базовых величин с депортацией или без депортации.

Примечание. Действие настоящей статьи не распространяется на случаи прибытия в Республику Беларусь с нарушением правил пересечения Государственной границы Республики Беларусь иностранных граждан и лиц без гражданства, ходатайствующих о предоставлении статуса беженца, дополнительной защиты или убежища в Республике Беларусь, при условии, что они без промедления обратились с таким ходатайством.

» Source: République de Biélorussie, 22 janvier 2021, p. 131 : <https://pravo.by/document/?guid=12551&p0=HK2100091&p1=1>

RFERL, 9 avril 2021:

« Belarusian lawmakers have approved several amendments to legislation that severely restricts civil rights and the free flow of information amid a crackdown on protests challenging the official results of a presidential election that handed authoritarian ruler Alyaksandr Lukashenka his sixth consecutive term.

The texts of the controversial amendments to the laws on extremism and mass media -- which come amid an ongoing crackdown on opposition groups who have said a presidential election last August was rigged in favor of Lukashenka -- were approved in the first reading on April 2 and placed on the official website for legal documents on April 9, marking the first time much of the information has been made public.

According to the amendments, any activities by individuals, political parties, or domestic or international organizations defined as damaging independence, territorial integrity, sovereignty, the basis of the constitutional order, and public safety will be considered "extremist."

In the wake of the August vote, thousands of Belarusians have taken to the streets in what has become the largest and most persistent show of opposition to Lukashenka over the nearly three decades he has held power.

More than 33,000 people have been arrested for participating in the demonstrations. Many have been beaten by police, while some have said they were tortured while in custody. [...]

If approved and signed into law, the amendments would ban individual lawyers and private firms from defending people in some criminal and administrative cases. Most of the lawyers who work with Belarusian journalist associations and have defended RFE/RL reporters in recent months have already been stripped of their licenses.

The amendments also state that along with the violent seizure of power, the creation of illegal armed groups, and terrorist activities, the following actions will be considered as extremist activities: the distribution of false information; insulting an official; discrediting the state and governing organs; impeding the activities of the Central Election Commission and other state organs; the active participation and organization of events of so-called mass disorder; and making calls to take part in unsanctioned public events or financially supporting such events.

Media Crackdown

Amendments to the law on media will allow authorities to shut down media outlets after two written warnings regarding their activities during one year if the activities of such media outlets pose a "threat to the country's national security."

The amendments also mandate that state bodies can limit access to online publications if the Information Ministry finds that materials of such publications carry information that has been banned.

Belarusian state media reported earlier this week that lawmakers also approved amendments to the Criminal Code and laws on public assembly, state security, and the Internet, the full texts of which have not been made public yet.

Another amendment would make it mandatory to obtain preliminary permission from local authorities before holding public events, instead of preliminary notification to the authorities. It would also be illegal for media and social-network users to publish information about the dates, locations, and times of such public events. Live coverage of these events would also be illegal.

The amendments would also allow prosecutors to limit access to Internet publications that "distribute information that can damage the national interests of Belarus."

Amendments to six existing laws dealing with extremism would give law enforcement officers the right to use firearms at their own discretion without waiting for a command from supervisors. Police would also be allowed to ban taking photos or video. They would also be allowed to collect personal data of social-network users without court decisions or prosecutors' warrants.

Police would also be given the right to create lists of individuals they feel are inclined to participate in extremist activities. Once on such a list, a person would be banned from certain activities, including journalism, publishing, teaching, and their financial activities would be put under surveillance.

The amendments also allow the central bank to monitor cash withdrawals through foreign-issued debit cards and limit such withdrawals, as well as to freeze the bank accounts of "suspicious individuals." » Source: RFERL, Belarus Lawmakers Approve Amendments That Severely Restrict Civil Rights, Media, 9 avril 2021: www.rferl.org/a/belarus-lawmakers-approve-amendments-that-severely-restrict-civil-rights-media/31195872.html.

OHCHR, 5 juillet 2021:

« Belarus has witnessed an unprecedented human rights crisis over the past year, an independent expert appointed by the Human Rights Council said today, calling on authorities to end their policy of repression and to fully respect the legitimate aspirations of their people.

*In her annual report to the Human Rights Council, **Anaïs Marin said she had been informed about massive police violence against protesters, cases of enforced disappearance, allegations of torture and ill-treatment and the continuous intimidation and harassment of civil society actors.***

“The Belarusian authorities have launched a full-scale assault against civil society, curtailing a broad spectrum of rights and freedoms, targeting people from all walks of life, while systematically persecuting human rights defenders, journalists, media workers and lawyers in particular,” Marin told the Council.

“The crackdown is such that thousands of Belarusians have been forced or otherwise compelled to leave their homeland and seek safety abroad; yet the downing of a civilian plane in Minsk on 23 May, for the apparent sole purpose of arresting a dissident who was on board, signaled that no opponent to the current Government is safe anywhere.”, the expert added.

The significant deterioration of the human rights situation in Belarus started in late spring 2020 and climaxed in the aftermath of the presidential election of 9 August, the results of which were widely contested. Malpractices were reported during the election campaign, as most opposition candidates were forced out of the race, whereas vote-count was marred by allegations of fraud.

“Distrust in the legitimacy of the electoral outcome triggered spontaneous and largely peaceful popular protests to which the authorities responded with unjustified, disproportionate and often arbitrary force,” said Marin, who reminded that over 35,000 people have been detained since then for trying to exert their right to freedom of peaceful assembly, including women and children arrested for peacefully demonstrating solidarity with victims of police violence. » Source: OHCHR, Belarus: Massive human rights violations unprecedented in scope and gravity, says UN expert, 5 juillet 2021: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27264&LangID=E.

OMCT, 24 septembre 2021:

« Over the past 12 months, repression has come in waves, hitting one civil society group after another. For a Belarusian government obsessed with a supposed “colour revolution” organised from abroad, civil society and human rights defenders have become enemies, to be brought down by all means. Groups like Viasna, who together with others documented over 2.500 cases of torture by law enforcement, had to be silenced.

From September to November 2020, arrests targeted various political leaders and institutions, but also independent trade unions, strike committees, initiatives to support retired workers, and popular bloggers (many bloggers had been arrested even before the 9 August presidential election).

As of mid-November, mass rallies gave way to local demonstrations, which were more difficult for the authorities to target.

The systematic crackdown against civil society started late December 2020 with the arrest of the team at PressClub, an NGO, then of media managers Andrey Aleksandrau and Iryna Zlobina. In January 2021, it was the turn of Viasna human rights defenders Leanid Sudalenka and Tatsiana Lasitsa in Homel. In February, searches and arrests took place at the Office for the Rights of Persons with Disabilities. 16 February saw over 90 searches of civil society groups and interrogations of staff members.

Andrey, Iryna and Leanid were charged with financing protests because they had helped pay the fines leveraged against peaceful protesters.

The final blow

Between May and August 2021, the remaining Belarusian independent media were shut down: first TUT.by, Belarus' largest, where 15 employees were arrested, then Nasha Niva in July, with the arrest of the editor in chief and other staff members. Last came the closure of independent information centre BelaPAN in August. Many independent regional media have also been persecuted.

The final blow came this summer. In mid-July, over 100 searches took place at NGO offices and the homes of staff members. On 14 July, seven employees of leading human rights group Viasna were detained. Three of them remain behind bars, including the chairman, Ales Bialiatski, and his deputy, Valiancin Stefanovich. Over 200 NGOs were "liquidated" (the term dates back to Stalinist times), putting an end to practically any organised civil society activity in Belarus.

Legislative changes adopted in 2021 outlaw most human rights activities, including web-streaming during demonstrations and criticizing government policies. » Source: OMCT, Belarus: after one year of persecution, civil society hovers between hope and despair, 24 septembre 2021: www.omct.org/en/resources/blog/belarus-after-one-year-of-persecution-civil-society-hovers-between-hope-and-despair.

The Moscow Times, 1er juin 2021:

« Belarus said Tuesday it is further restricting citizens from leaving the country, including those with foreign residency permits, in a move the opposition denounced as "an absolute violation of the law."

The development comes as dozens of Belarusians, some of them illegally, have been fleeing their country in recent months amid a bloody crackdown in the wake of the disputed re-election of President Alexander Lukashenko last August.

The Belarusian border guards service said it has "received recently many requests to leave Belarus on the basis of a [foreign] residence permit," according to a statement published on the Telegram messaging app.

*However, it said **only citizens with papers granting them a "permanent stay in a foreign state" had the right to leave Belarus.***

It added that "permission for a temporary stay... does not constitute a reason for traveling abroad."

*Under Lukashenko, who has ruled the country since 1994, **Belarus imposed restrictions on foreign travel in December 2020, framing the decision in the context of fighting the coronavirus pandemic.***

Leaving the country by land routes is in any case only possible once every six months.

"The Lukashenko regime has severely limited the right of Belarusians to travel, asserting that certain reasons are not sufficient to leave Belarus," said Valery Kovalevsky, an advisor to opposition leader Svetlana Tikhonovskaya, who lives in exile in Lithuania.

"However, the constitution foresees no condition," he added, denouncing what he called "an absolute violation of the law."

Air travel remains open, but the destinations have been limited since the European Union banned Belarusian planes from its air space after Minsk last month scrambled a fighter jet to divert a Ryanair flight and arrested a dissident journalist onboard.

EU country Lithuania, which neighbours Belarus, has offered support to fleeing Belarusians by granting them six-month visas. » Source: The Moscow Times, Belarus Restricts Citizens From Leaving Country, 1er juin 2021: www.themoscowtimes.com/2021/06/01/belarus-restricts-citizens-from-leaving-country-a74073.

UN HRC, 4 mai 2021:

« Repression surged in the days following the election and continues to the present day, with reports of beatings and ill-treatment, including the torture of arbitrarily detained persons in a seemingly premeditated way by police and affiliated forces; intimidation based on administrative resources and judicial harassment to push dissenters to self-censorship or exile; and an increasing trend towards the criminalization of activities promoting internationally recognized human rights and fundamental freedoms.

All segments of civil society have been and continue to be targeted: civil society organizations, independent media, human rights defenders, opposition leaders, socially and politically active people, including women, students, workers on strike, and retirees.

The Special Rapporteur is particularly alarmed about multiplying cases of criminal prosecution of medical staff, journalists, lawyers and human rights defenders simply for doing their job. This trend is rooted in systemic problems identified in previous reports of the mandate holder. [...]

The Special Rapporteur received evidence of cases of torture during the interrogation of detained protesters. Several protesters – and also passers-by – were severely beaten, and some threatened with rape, during questioning. Interrogators used verbal and psychological ill-treatment, such as insults and death threats, for example by making women watch how men, who had been stripped naked, were being beaten. Humiliating treatment was frequently used during transfers between detention facilities or cells by making detainees go through “corridors of truncheons”, where security officers would systematically beat, insult and humiliate them.. Persons in pretrial detention or serving administrative arrest sentences have been held in inhumane conditions, in overcrowded cells lacking ventilation, access to water or to toilet privacy. Combined with delays in access to health care, such poor sanitary conditions have been a source of additional concern in the context of the coronavirus disease (COVID-19) pandemic. [...]

The Special Rapporteur notes with concern that the use of torture and ill-treatment has not abated since it reached a peak following the election on 9 August, owing to the apparent impunity guaranteed to perpetrators by the justice system. On 21 February 2021, while presenting her comprehensive report on the situation of human rights in Belarus in the context of the 2020 presidential election to the Human Rights Council, the High Commissioner recalled that preliminary investigation bodies in Belarus had received 4,644 complaints

about the use of physical force and special measures by the personnel of the Ministry of the Interior affairs interrupting unsanctioned protest actions. Either the majority of the complaints made were rejected or victims were informed that investigators had seen no grounds to initiate criminal proceedings. Moreover, many victims who lodged official complaints were subsequently subjected to intimidation by the police, judicial harassment and in some cases risked new detention or torture.

On 19 November 2020, the Special Rapporteur and other special procedures of the Human Rights Council expressed their concern at the increasing reports of mass detentions, intimidation and torture, and called upon the authorities to conduct a prompt, independent and impartial investigation into the excessive use of force and unlawful retaliation at peaceful protests. **At the time of writing, no criminal case had yet been opened against perpetrators.** Special procedure mandate holders recalled that ensuring institutional and personal accountability for human rights violations is an obligation for States under international law. Female protesters were not spared torture or ill-treatment during dispersal of demonstrations, transport and detention by police forces. Detained women were allegedly denied hygiene products and access to water and soap. Kept in small cells with dozens of other detainees, their right to privacy when using toilet facilities was denied, and it was not uncommon for male officers to enter cells without warning. **In addition, cases of sexual and gender-based violence against detained protesters, including rape or threats of rape, were reported, against both women and men. Some detainees were touched or beaten on their private parts by law enforcement agents using a truncheon. Despite assurances by the authorities that no cases of rape were reported to them, at least 143 women have claimed they were tortured or sexually assaulted by security officers. [...]**

The Special Rapporteur observed in her latest report to the General Assembly (A/75/173) that institutional deficiencies and **politically motivated interference and pressure on courts and the judiciary undermined judicial independence and negatively affected the realization of the right to a fair trial in Belarus. As much became evident in the context of the deterioration in the situation of human rights in 2020 and 2021. [...]**

While protests and solidarity marches have been largely peaceful, many participants, but also passers-by and bystanders, complained about being arrested or summoned to court without having been duly informed about the charges against them and/or without having had adequate time or opportunity to prepare their defence. Many hearings against peaceful protesters have been held in police stations or places of detention, seriously restricting the publicity of trials. In August, the average time for consideration of their cases varied from two to 15 minutes. Witnesses, with their faces covered with masks or balaclavas, and using pseudonyms to protect their identity, were often indiscernible from the men in plain clothes who made the arrest; in other cases no witnesses were invited or they were not called upon during hearings. Multiple reports indicate a trend towards the criminalization of all forms of dissent: in the summer of 2020, the charges pressed against peaceful protesters related mostly to article 23.34 of the Code of Administrative Offences (“violation of procedures for organizing or holding mass events”). As protests became recurrent and more diverse, the General Prosecutor’s office began initiating criminal cases more systematically. On 7 March 2021, the Deputy Minister of the Interior announced that more than 2,500 criminal cases had been initiated since August 2020 on charges including “organization of mass riots” or “actions that grossly violate public order” (articles 293 and 342 of the

Criminal Code), “property damage” (art. 218), “violence or threat of violence against a police officer” (art. 364), “slander” (art. 188) and “hooliganism” (art. 339) [...]

Internet-based independent media and information channels in social media were also targeted by the authorities. [...]

On 20 October, Telegram-based popular channel Nexta was officially designated as “extremist”; according to article 17.11 of the Code of Administrative Offences, just reposting its materials could subject authors to fines. [...]

The Special Rapporteur is deeply alarmed at the unprecedented escalation of human rights violations in Belarus witnessed during the period under review. While the political crisis and social events have proved once again the cyclical nature of surges in human rights violations during electoral periods in Belarus, they have also revealed the deep-rooted institutional deficiencies in the State machinery, in particular the police and the justice system, used not to protect human rights but rather to curtail them. Of particular concern is the fact that the situation continues to worsen in a climate of fear, impunity and lack of accountability for perpetrators. ». Source: UN Human Rights Council (UN HRC), Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin, 4 mai 2021, p. 2; 7-8,10-11; 14; 18: www.ecoi.net/en/file/local/2052910/A_HRC_47_49_E.pdf.

L'Organisation suisse d'aide aux réfugiés OSAR est l'association faitière nationale des organisations suisses d'aide aux réfugiés. Neutre sur le plan politique et confessionnel, elle s'engage pour que la Suisse respecte ses engagements en matière de protection contre les persécutions conformément à la Convention de Genève relative au statut des réfugiés. Les activités de l'OSAR sont financées par des mandats de la Confédération et par des dons de particuliers, de fondations, de communes et de cantons.

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