

Call for inputs on human rights in Belarus for the report of the Special Rapporteur on the situation of human rights in Belarus to the UN General Assembly

31 May 2021

Introduction

1. Access Now, ARTICLE 19, Human Constanta, and International Media Support (IMS) welcome the opportunity to make a submission to the United Nations (UN) Special Rapporteur on the human rights situation in Belarus (Special Rapporteur) and contribute to the report on the situation of human rights in Belarus to be presented before the UN General Assembly.¹ We acknowledge the efforts of the Special Rapporteur to address and shed light on the human rights violations in Belarus.
2. Access Now is an ECOSOC accredited non-governmental organization that works to defend and extend the digital rights of users at risk around the world through policy, advocacy, and technology support, grants, legal interventions, and global convenings like RightsCon.² ARTICLE 19 is a global freedom of expression organisation, working on five interacting areas: civic space, digital, media, protection, and transparency.³ Human Constanta is a Belarusian human rights organization with a mission to promote public interests and joint actions in response to contemporary challenges for human rights.⁴ IMS is a global non-profit organisation, working in more than 30 countries across four continents to promote press freedom, good journalism, and safety for journalists.⁵
3. This submission builds upon the previous submissions to the Special Rapporteur on the situation of human rights in Belarus.⁶ This submission specifically focuses on internet shutdowns, Domain Name Server (DNS) spoofing, the use of facial recognition, and anti-extremism laws, which continue to occur in the context of larger government efforts to stifle freedom of expression and peaceful assembly in Belarus.

Internet shutdowns

4. As of 31 May, it has been 295 days since the Belarusian people rushed to the streets to protest against the widely disputed August 9, 2020 election results and violence that ensued. The government responded with more violence, internet shutdowns, and blocking of hundreds of websites.⁷ Internet shutdowns have lasted for 121 days,⁸ and the government continues attempts to block independent websites and social media services.

¹ OHCHR, United Nations Special Rapporteur on the human rights situation in Belarus, [Call for inputs on human rights in Belarus for the report of the Special Rapporteur on the situation of human rights in Belarus to the UN General Assembly](#).

² Access Now, [About Us](#).

³ Article 19, [About Us](#).

⁴ Human Constanta, [About Us](#).

⁵ International Media Support, [About Us](#).

⁶ Human Constanta and Article 19, [Submission pursuant to Human Rights Council resolution 45/1](#); Human Constanta, Access Now, Agora, Article 19, International Media Support, and Internet Protection Society, [Submission Pursuant to UN Human Rights Council Resolution 44/19](#).

⁷ Felicia Antonio and Peter Micek, Access Now, [Belarusian election tainted by internet shutdown and state-sponsored violence](#).

⁸ Access Now, [Shattered dreams and lost opportunities: A year in the fight #KeepItOn](#).

5. As of today, neither the government, nor private companies — such as the U.S.-Canadian company Sandvine, which facilitated government censorship and repression⁹ — have faced any accountability for the internet shutdowns in Belarus.
6. While the 2020 shutdowns lacked legal basis,¹⁰ on 24 May, 2021 Alexander Lukashenko signed a new amendment to the laws on telecommunications, which will allow the government to suspend or completely cut off the provision of telecommunications services “in order to prevent situations threatening the national security of Belarus.”¹¹ The new legal provisions give Belarusian *de facto* authorities official grounds to implement internet shutdowns.
7. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) requires that any restrictions on the freedom of expression, including any limitations on internet access, must be “provided by law,” pursuant to specified legitimate interests, and are necessary and proportionate.¹² However, General Comment 34 clarifies that the burden of proof lies with the government to demonstrate that it has legitimate ground for such restrictions, including demonstrating “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.”¹³ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has warned against “[t]he use of an amorphous concept of national security to justify invasive limitations on the enjoyment of human rights” because broadly defined aims are “vulnerable to manipulation by the State.”¹⁴
8. Therefore, even under the newly amended law, the Belarusian authorities would still be unlikely to meet the extremely high necessity and proportionality threshold of Article 19 of ICCPR to justify internet shutdowns, “for even if they are premised on national security or public order, they tend to block the communications of often millions of individuals.”¹⁵

Domain Name System (DNS) spoofing

9. Belarusian civil society has also documented another censorship technology used by the government - DNS spoofing. DNS spoofing is a tactic to compromise the security of the internet through injecting fake entries into DNS servers causing users to be directed to fake and malicious websites. In April 2021, independent volunteer observers noted that whenever individuals would try to access the websites associated with alternative

⁹ Natalia Krapiva and Peter Micek, [Francisco Partners-owned Sandvine profits from shutdowns and oppression in Belarus](#); Ryan Hallgher, Bloomberg, [U.S. Company Faces Backlash After Belarus Uses Its Tech to Block Internet](#).

¹⁰ Human Constanta et al., [Urgent appeal concerning Internet service disruptions in Belarus in the context of the presidential elections of 9 August 2020](#).

¹¹ President of the Republic of Belarus Official Website, [The Law on Telecommunications signed](#).

¹² [International Covenant on Civil and Political Rights](#).

¹³ International Covenant on Civil and Political Rights, [General Comment No. 34](#).

¹⁴ UN General Assembly, [Report of the Special rapporteur on the promotion and protection of the right to freedom of opinion and expression](#), 17 April 2013.

¹⁵ UN General Assembly, [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#), 6 September 2016; UN General Assembly, [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#), 30 March 2017.

democratic forces in Belarus (e.g., belarus2020.org, golos2020.org, golos-belarus2020.org, tempail.com), the DNS response would be substituted and the connection would get interrupted.¹⁶ According to the information gathered by tech experts, the party responsible for halting the normal network operation through DNS spoofing is state-owned National Traffic Exchange Center.¹⁷

10. DNS spoofing not only allows the government to limit access to independent websites, but also compromises the security of online users by directing them to potentially malicious links. Such government interference with users' right to privacy and access to information is unacceptable under the international human rights law.

Facial Recognition

11. Belarusian authorities are using facial recognition technologies to identify and persecute protesters. The European Union has recently sanctioned the Belarusian company Synesis¹⁸ for the use of face recognition technology "Kipod."¹⁹ Although the company denies cooperating with security forces and intends to appeal the sanctions,²⁰ a former Belarusian Organized Crime and Corruption Task Force official confirmed that the government uses Synesis' algorithms to identify protesters.²¹
12. According to Access Now's recent global report on peaceful assembly and association in the digital age, the use of facial recognition technology to monitor protesters triggers fear of identification and persecution, creating a chilling effect on free expression and assembly.²² In its new policy on biometric technologies and freedom of expression, ARTICLE 19 recommends *inter alia* that states should ban biometric mass surveillance.²³

Anti-extremism laws

13. The Belarusian government continues to actively resort to anti-extremism laws to censor and intimidate independent media and voices critical of the regime, online and offline. As outlined in prior submissions,²⁴ such laws use excessively vague terminology, which allows overbroad interpretation and misuse. In determining if a given statement is a form of "extremist" expression or hate speech, no consideration is given to the speaker's intent, the expression's context, its audience, or the likelihood of harm to occur.

¹⁶ Human Constanta, [Госпровайдер подменяет DNS-ответы для пользователей](#).

¹⁷ *Ibid.*

¹⁸ Belsat, [IT company Synesis, which is now under EU sanctions, is connected with Lukashenka](#).

¹⁹ Kharon, [Used By Repressive Governments, Belarusian Facial Recognition Software Tracks Dissidents](#); Biometric Update, [Police facial recognition use in Belarus. Greece, Myanmar raises rights, data privacy concerns](#).

²⁰ Synesis, [Synesis will appeal the sanctions of the Council of the European Union](#).

²¹ Euroradio, [Ex-policeman says Synesis did help to identify Belarus protesters](#).

²² Access Now, [Defending peaceful assembly and association in the digital age: takedowns, shutdowns and surveillance](#).

²³ ARTICLE 19, <https://www.article19.org/resources/biometric-technologies-expression-must-be-protected/>

²⁴ Human Constanta and Article 19, [Submission pursuant to Human Rights Council resolution 45/1](#); Human Constanta, Access Now, Agora, Article 19, International Media Support, and Internet Protection Society, [Submission Pursuant to UN Human Rights Council Resolution 44/19](#).

14. As of May 31, 2021, the total number of political prisoners in Belarus is 449, according to the Human Rights Center “Viasna.”²⁵ Many of them have been charged with extremism and related laws. Here are some of the latest most notable cases of using such laws as a tool of political repression:

15.

- *NEXTA’s case:* Popular Telegram channel NEXTA²⁶ remains on the list of “extremist” materials.²⁷ Anyone who reposts or shares NEXTA materials can be penalized. On May 23, NEXTA creator Raman Pratasevich, who was previously added to a “list of individuals involved in terrorist activities”²⁸ and charged with “inciting hatred and bias,”²⁹ was kidnapped and arrested by Belarusian authorities after his Athens to Vilnius Ryanair plane was forced to land in Minsk under the pretence of a false terrorist threat and accompanied by a pursuit plane.³⁰ Pratasevich’s partner Sofia Sapega, was also arrested with him and forced to confess that she is the editor of Black Book of Belarus – a Telegram channel which has published the personal information of security officials.³¹ Belarus has classified the channel as an “extremist” group;³²
- *Anton Motolko’s case:* On March 10, 2021 it became known about the initiation of a criminal case against the popular opposition blogger Anton Motolko: he is accused of inciting social hostility, mass riots, organizing actions that grossly violate public order, calling for actions aimed at harming national security, as well as creating an extremist group.³³ His Telegram channel was included in the list of extremist materials, and Anton himself was included in the “list of persons involved in terrorist activities”,³⁴ having to leave Belarus as a result of persecution;
- *Persecution of opposition chats participants:* The Ministry of Internal Affairs is actively fighting the opposition “courtyard chats” in Telegram, where neighbours communicate and coordinate local peaceful protests.³⁵ Police officers actively identify the administrators of such local chats and issue a warning to them about the prohibition of “extremist activities,” and some of the administrators are charged with creating or leading extremist groups. Ordinary users of such chats are also persecuted: many people are accused of insulting government officials or threatening to use violence against police officers;³⁶

²⁵ Human Rights Center “Viasna,” [List of Political Prisoners](#).

²⁶ [NEXTA on Telegram](#).

²⁷ Radio Free Europe/Radio Liberty’s Belarus Service, [Belarus Labels Popular Telegram Channel ‘Extremist’](#).

²⁸ Meduza, [Belarusian KGB adds creators of opposition Telegram channel ‘Nexta’ to terrorism list](#).

²⁹ Meduza, [Belarusian authorities open criminal case against creators of opposition Telegram channel ‘Nexta’](#); Mediazona Belarus, [КГБ внес 17 беларусов в список причастных к террористической деятельности](#).

³⁰ The Financial Times, [Lukashenko claims ‘planned provocation’ forced interception of Ryanair flight](#); Politico, [Alexander Lukashenko, international terrorist](#).

³¹ CNN, [Sofia Sapega, Russian student arrested alongside Belarus activist, appears in ‘confession’ video](#).

³² Naviny.by, [Телеграм-канал «Черная книга Беларуси» признан экстремистским](#).

³³ Investigative Committee of the Republic of Belarus, [УСК по городу Минску возбуждено уголовное дело в отношении Антона Мотолько](#).

³⁴ Belsat, [Matolka’s Telegram channel labeled extremist media](#).

³⁵ Human Constanta, [Review of the fight against “extremism” in Belarus for January-March 2021](#).

³⁶ Deutsche Welle, [В Беларуси задержали участников протестных “дворовых чатов”](#).

- *Inclusion of regime critics and opposition figures in the list of terrorists:* The State Security Committee regularly updates the “List of organizations and individuals involved in terrorist activities.”³⁷ This list, along with the persons recognized as involved in terrorist activities by the UN Security Council, also includes Belarusian former police officers, bloggers, opposition politicians (including former presidential candidate Svetlana Tikhanovskaya and popular politician Pavel Latushko), as well as other political dissenters of the current regime;
- *Repression of the Union of Poles:* Five representatives of the unregistered Union of Poles of Belarus, including its chairman Anzhelika Boris and members of the association Andrzej Poczobut, Maria Tishkovskaya, Irena Bernatskaya and Anna Panisheva, have been detained by the Belarusian authorities.³⁸ The five individuals are accused of inciting “national and religious enmity and discord,” as well as “rehabilitating Nazism” for organizing educational events on the history of the Second World War.
- *“Attempted coup” case:* For the first time in history, a criminal case has been opened in Belarus for conspiracy or other actions committed with the aim of seizing or retaining state power in an unconstitutional way.³⁹ According to the film “Kill the President” aired by one of the state-owned and controlled TV channels, the participants of a criminal group, including detained lawyer Yuri Zenkovich, leader of the Belarus People’s Front party Grigory Kostusev, and political analyst Alexander Feduta, were plotting an armed coup with the physical elimination of the key figures of the country, including the president and his family. The arrested individuals remain in detention;⁴⁰
- *Belarusian Sport Solidarity Foundation:* On April 22, 2021 the Investigative Committee of the Republic of Belarus accused Aleksandra Gerasimena and Aleksandr Opeikin, the founders of the Belarusian Sport Solidarity Foundation, of calling for actions aimed at causing harm to the national security of the Republic of Belarus.⁴¹ According to the investigation, they disseminated false information about the course and results of the election campaign, and also appealed to foreign states and international organizations, aiming to cause harm to the national security of Belarus.

16. On May 14, 2021, Alexander Lukashenko signed the Law “On Amendments to Laws on countering Extremism.”⁴² According to the law, the concept of extremism is further expanded to include any manifestations of political views that are undesirable for the authorities. Thus, insulting government officials, spreading false information about the state, as well as violating the procedure of organizing and holding mass events will be considered extremist activity. Due to the overly broad wording and wide range of powers afforded to the state bodies by the law, even using the historical white-red-white flag and

³⁷ Human Constanta, [Whom do the Belarusian authorities consider terrorists?](#)

³⁸ Deutsche Welle, [Лукашенко создает образ внешнего врага. Поляки в Беларуси - в заложниках?](#)

³⁹ Deutsche Welle, [Дело о попытке госпереворота в Беларуси: КГБ обманул оппозиционеров?](#)

⁴⁰ Belsat, [Alleged military coup perpetrators plead guilty on state TV.](#)

⁴¹ Nasha Niva, [СК: Герасименя и Опейкин объявлены в розыск.](#)

⁴² Reform.by, [Лукашенко подписал закон «О противодействии экстремизму».](#)

emblem will be prosecuted. The law also places restrictions on certain rights for another 5 years for those who have served their sentence under the law.

17. Anti-extremism laws disproportionately affect women, as in addition to legal persecution, women protesters, activists, and opposition figures also face sexism, harassment, and gender-based violence offline and online.⁴³ There is also a worrying, continuing trend of threatening women protesters with depriving them of their custodial rights of their children.⁴⁴
18. In addition, the conditions in detention centers for those with criminal charges, including based on anti-extremism legislation, are of great concern. Belarusian political activist Vitold Ashurak, who was sentenced in January 2021 to five years in prison for participating in peaceful protests, died in prison in May 2021.⁴⁵ The cited cause of death is a heart attack, although the exact circumstances remain unknown. His body was only returned to the family four days after his death, with a bandage on his head.⁴⁶ There are also concerns that Raman Pratasevich, who was kidnapped and arrested by the Belarusian authorities earlier this month, has been mistreated while in custody. Experts agree that Raman's "confession" video was made under pressure and Pratasevich's face showed signs of beating.⁴⁷
19. Repressive anti-extremism laws and their application violate freedom of expression and freedom of peaceful assembly, as well as the freedom from arbitrary detention and arrest, guaranteed by both the ICCPR and the Belarusian Constitution. These laws are arbitrarily used to silence political dissent and disproportionately affect civil society actors.

Recommendations

20. We, therefore, request that the Special Rapporteur make the following recommendations for the upcoming report to be presented to the General Assembly:

21. Belarusian Government

- a. Immediately release all political prisoners;
- b. Immediately stop and refrain from all future interference with the access to the internet, including mobile internet and specific websites, and provide information concerning the orders and implementation of internet shutdowns;
- c. Immediately stop and refrain from all future use of mass surveillance, including the use of facial recognition technologies, to suppress the right to freedom of assembly and freedom of expression;

⁴³ Wolfgang Benedek, OSCE, '[OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus](#)', Amnesty International, [Власти Беларуси прицельно преследуют женщин, причастных к протестной активности — заявление Amnesty International](#).

⁴⁴ Wolfgang Benedek, OSCE, '[OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus](#)', 29 October 2020, p. 34.

⁴⁵ Radio Free Europe/Radio Liberty's Belarus Service, [Belarusian Activist Serving Prison Sentence For Protests Reportedly Dies Of Heart Attack](#).

⁴⁶ Radio Free Europe/Radio Liberty's Belarus Service, [Body Of Jailed Belarusian Activist Reportedly Returned With Bandaged Head, But Family Silent](#).

⁴⁷ Committee to Protect Journalists, [Detained Belarusian journalist Raman Pratasevich appears in 'confession' video](#).

- d. Bring national laws and their enforcement in compliance with international human rights standards in order to prevent arbitrary limitations on the rights to freedom of expression, peaceful assembly and association, and in particular, immediately revoke “anti-extremism” laws in their current form.

22. Technology Companies

- a. Immediately stop facilitating internet shutdowns, censorship, and surveillance in Belarus and comply with the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, including through contesting the legality of government orders, preserving and providing evidence, and providing effective remedies for past disruptions; and
- b. Join civil society and peer companies to push back against government repression.

23. Other Member States

- a. Immediately stop providing censorship and surveillance technologies to the Belarusian government;
- b. Ensure that companies in their jurisdictions that facilitate and aid censorship, shutdowns, surveillance, and other human rights violations abroad are held accountable; and
- c. Explore and pursue all appropriate legal mechanisms of holding Belarusian government and individual perpetrators accountable for alleged violations of international law.

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