

# POLITICAL REPRESSION, THE HUMAN RIGHTS SITUATION, AND REPRESSIVE LEGISLATIVE CHANGES IN BELARUS IN 2022





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# Introduction

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The human rights situation in Belarus in 2022, the persecution of political opponents, and the dynamics of repressive changes in legislation are underlain by a deepening of the political, economic and social crisis in the country, the crisis in human rights and the involvement of the Belarusian regime in the war of aggression of the Russian Federation against Ukraine. In general, the regime is intensifying its repression of the people of Belarus, especially with regard to socially and politically active citizens. It is possible to distinguish four main changes in the above-mentioned dynamics of the situation in Belarus as it unfolded in 2022.

First, developments have been characterised by a continuation of the repressive campaign that began in 2020, i.e. as a continuation of the persecution of those citizens, social groups and organisations that actively expressed their civic and political position during and after the 2020 presidential campaign;

Second, 2020 was a year of further ‘cleansing’ of the legal, political, media and civic realms in the Republic of Belarus. This applies primarily to those categories of citizens and organisations which could still be potential opponents of the current regime - activists, independent journalists and politicians, as well as human rights defenders, lawyers and figures from the worlds of culture and science;

Third, an important factor influencing the situation has been Russia’s full-scale military aggression against Ukraine, which began on 24 February 2022. For most Belarusians the attack on Ukraine was an extremely significant event, comparable to, or even more important than, the 2020 protests in Belarus. The context of the war has been significant not only for the internal political situation in Belarus, but also in terms of geopolitics, for the future development of Belarus as a whole;

Fourth, a new framework for the functioning of political and all other systems was created after the adoption of amendments and changes to the Constitution of Belarus. Although the situation following the ‘constitutional referendum’ generally had an indirect impact so far as the majority of Belarusian citizens were concerned, it created new conditions for the functioning of the state system at the macro level.

Each of these dimensions can be considered separately, but for a full analysis

of the dynamics of 2022, all four dimensions need to be analysed together. The purpose of the report and research is to analyse changes in the human rights situation, the political repression and the persecution of political opponents, as well as legislative changes introduced in 2022 related to the strengthening of legal accountability for, or criminalisation of, various actions, which are indicators of increasing repression by the Belarusian authorities against their own citizens.

This report presents examples of the application of these legal norms by the Belarusian regime, based on data about repressive measures directed against Belarusian society gathered by human rights organisations (primarily, the Viasna Human Rights Centre, Lawtrend, DISSIDENTBY and the Belarusian PEN Centre, as well as other specialised studies and organisations).



# I. DEFINITION OF THE CONCEPT OF ‘POLITICAL PRISONER.’ METHODS OF COLLECTING AND ASSESSING INFORMATION

## 1. Who makes the decision to recognise a person as a political prisoner in Belarus, and how?

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In Belarus, the decision to recognise a person deprived of liberty as a political prisoner is taken by a coalition of human rights organisations. The coalition includes the Viasna Human Rights Centre, Legal Initiative, Lawtrend, Belarusian Helsinki Committee, Belarusian Association of Journalists, Belarusian PEN Centre, and the Boris Zvozskov Belarusian Human Rights House. According to the human rights defenders themselves, the coalition was formed voluntarily as a result of many years of cooperation.<sup>1</sup>

Each organisation in the coalition monitors human rights violations in its area. For example, the Belarusian Association of Journalists defends the rights of media workers, the Belarusian PEN Centre monitors violations of cultural rights and human rights violations against those working in the field of culture, and Lawtrend monitors the situation in the field of freedom of association and civil society organisations. If a person, whose situation meets the criteria for being a political prisoner, comes to the notice of an organisation, that organisation initiates a discussion within the coalition. Recognition as a political prisoner takes place by means of a general vote.

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1. <https://belarusinfofocus.pro/be/kak-schitat-politzaklyuchennyx-nuzhny-li-novye-kriterii/>

## 2. Guidelines on the definition of a political prisoner: key points

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Belarusian human rights organisations use the Guidelines on the Definition of a Political Prisoner. The document was adopted by organisations participating in the Third Belarusian Human Rights Forum, which took place on 26-27 October 2013 in Vilnius<sup>2</sup>. A group of human rights defenders from Eastern European countries- Azerbaijan, Belarus, Georgia, Lithuania, Poland, Russia and Ukraine- worked in the course of a year to produce the guide.<sup>3</sup> It was deemed necessary to develop detailed criteria since use of the term ‘political prisoner’ has become increasingly common in the media and in reports by national and international organisations. At the same time, authoritarian regimes in Eastern Europe and the Caucasus increasingly rejected as unfounded accusations of politically motivated prosecution of those whom journalists and media outlets classified as political prisoners.

The guidelines on the definition of a ‘political prisoner’ has the following wording<sup>4</sup>:

**‘A political prisoner** is a person deprived of liberty if at least one of the following is the case:

a) a person has been deprived of liberty solely on account of their political, religious or other beliefs, as well as on account of the non-violent exercise of freedom of thought, conscience and religion, freedom of expression and information, freedom of peaceful assembly and association, or other rights and freedoms guaranteed by the International Covenant on Civil and Political Rights or the European Convention on Human Rights and Fundamental Freedoms;

(b) a person has been deprived of liberty solely for non-violent activities aimed at the protection of human rights and fundamental freedoms;

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2. <https://spring96.org/ru/news/66648>

3. <https://spring96.org/ru/news/100870>

4. <https://spring96.org/ru/news/100870>

(c) a person has been deprived of liberty solely on the basis of sex, race, colour, language, religion, national, ethnic, social or family origin, birth, citizenship, sexual orientation or gender identity, property holding or other status, or on the basis of a sustained association with communities united by such characteristics.'

Political prisoners punished for the non-violent exercise of civil rights in Belarus include, in particular, those convicted under Article 342 of the Criminal Code of the Republic of Belarus, 'Organisation and preparation of actions grossly violating public order.' Under this article, ordinary participants in anti-government demonstrations in Belarus are punished by imprisonment of up to five years. As Pavel Sapelka, a lawyer with the Viasna Human Rights Centre, has pointed out, international experts have concluded that the authorities have no right to punish citizens with imprisonment for such offences.<sup>5</sup> Citizens imprisoned under **Article 367** 'Defamation of the President of the Republic of Belarus', **Article 368** 'Insulting the President of the Republic of Belarus' and **Article 369** 'Insulting a representative of the authorities' are automatically included in the category of those punished for the peaceful exercise of their rights.

According to the Guidelines, human rights defenders should demand the immediate and unconditional release of such individuals. The state must rehabilitate them and compensate them for the harm suffered.

However, the Guidelines not only categorise those convicted for nonviolent civic activities, the right to which is guaranteed in international instruments, as political prisoners. Human rights defenders can also consider a person convicted of 'classic' criminal offences as a political prisoner. This can be done if human rights defenders have evidence that the person's right to a fair trial has been violated.

The Guidelines state that 'a political prisoner is also a person deprived of liberty where the prosecution is politically motivated and at least one of the following factors is present:

a) a person has been deprived of liberty in violation of the right to a fair trial or other rights and freedoms guaranteed by the International Cove-

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5. <https://mediazona.by/article/2022/01/27/1000-political-prisoners>

-nant on Civil and Political Rights or the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(b) A person's deprivation of liberty was based on falsification of evidence of the offence charged or in the absence of the event or elements of the offence or if it was committed by someone else;

(c) The duration or conditions of deprivation of liberty are manifestly disproportionate (inappropriate) for the offence of which the person is suspected or for which they have been charged or convicted;

(d) A person's deprivation of liberty has been selective in comparison to the treatment of other persons.'

If a person's punishment is disproportionate to the act committed, or is the result of a rigged trial, the Guidelines recommend that human rights defenders seek a review of the judicial ruling, while respecting the right to a fair trial.

### 3. Which victims of politically motivated prosecution are not considered political prisoners?

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The Guidelines **do not categorise all victims of politically motivated prosecution as political prisoners**. A person must meet strict criteria. First, they must be deprived of liberty, that is, they must not be able to leave the place of detention on their own, prevented either by physical restraints or fear of a harsher punishment.

A person held in a remand centre, prison or penal colony will be considered a political prisoner. Belarusian human rights activists also consider as political prisoners citizens sentenced to corrective labour in closed institutions, to which access by members of the public is restricted.

At the same time, a large number of people who have been victims of politically motivated prosecutions do not fall into the category of political prisoners. As Pavel Sapelka, lawyer with the Viasna Human Rights Centre, has said, 'a person sentenced to, for instance, restrictions of freedom



without being sent to an open-type institution will not be recognised as a political prisoner. A person who has to hide abroad from prosecution will not be recognised as a political prisoner. A person on whom pre-trial conditions have been imposed in the form of a written undertaking not to leave the country will not be a political prisoner. This is despite the fact that all these are forms of political repression.’<sup>6</sup>

Persons sentenced to short terms in jail under administrative law are very rarely recognised as political prisoners. Exceptions may be cases where a person has been sentenced to several such jail terms in a row. Such tactics enable the authorities to keep their political opponents continuously in jail, often in torturous conditions, for months at a time. Such punishment is comparable to imprisonment for a criminal offence.<sup>7</sup>

A second mandatory criterion for recognising a person as a political prisoner is the political nature of the prosecution. Human rights activists must be convinced that the authorities are prosecuting a citizen specifically for political reasons and not, for example, for financial reasons. The oppositional nature of a civil society activist’s activities alone cannot constitute grounds for inclusion in the list of political prisoners. According to the Guidelines, human rights defenders are bound to consider actions by the authorities aimed at ‘consolidation or retention of power by those in authority’ as well as those intended to bring about the ‘involuntary termination or change in the nature of a person’s public activities’ as politically motivated.<sup>8</sup>

It is important to note that the coalition of human rights defenders in Belarus does not include in the list of political prisoners those persons who have committed acts of violence. They consider any attempt to cause physical harm to another person, as well as any damage to property, to be acts of violence. Only symbolic damage to objects (such as a flag) to express an opinion is considered permissible by human rights defenders.<sup>9</sup> The use of force in self-defence or in response to disproportionate force by the authorities may, however, be justified.<sup>10</sup>

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6. <https://mediazona.by/article/2022/01/27/1000-political-prisoners>

7. <https://spring96.org/be/news/110029>

8. <https://spring96.org/ru/news/100870>

9. <https://belarusinfocus.pro/be/kak-schitat-politzaklyuchennyx-nuzhny-li-novye-kriterii/>

10. <https://spring96.org/ru/news/100870>

The criteria listed in the Guidelines on the Definition of a Political Prisoner, approved by human rights activists from eastern Europe in 2013, are stricter than those adopted by the Parliamentary Assembly of the Council of Europe. PACE Resolution 1900, adopted in October 2012, states that only persons convicted of terrorist crimes are not political prisoners ‘if the trial for such crimes was conducted, and the conviction handed down, in accordance with national law and the European Convention on Human Rights.’<sup>11</sup> However, given the specifics of the development of repression in Belarus in 2022, the very definition of ‘terrorist’ takes on a different meaning and is used by the authorities as a potential instrument for the intimidation of society and political opponents.

## 4. Data collection methods

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State authorities in Belarus do not publish information on the number of detainees, which makes it extremely difficult for human rights defenders to estimate the number of victims of politically motivated prosecutions. Staff of human rights organisations and volunteers collect data independently, and their figures cannot be complete.

In August 2022, the Investigative Committee of Belarus reported that more than 11,000 criminal cases had been opened with respect to ‘extremist crimes’ from 9 August 2020 to 1 July 2022.<sup>12</sup> However, as Pavel Sapelka, lawyer with the Viasna Human Rights Centre, stressed, this figure, often mentioned in Belarusian media, provides information only about the dynamics of the protests. At the same time, it does not say anything about the number of people prosecuted in criminal cases: ‘11,000 is the number of crimes recorded by the Ministry of Internal Affairs. There may be several cases where no defendants have been found, but the crimes have been registered. There may be one case, say, under **Article 342**, involving 250 people as defendants, for example a case initiated in the autumn of 2020 after the march on Dziady [*a tradi-*

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11. [https://www.coe.int/T/r/Parliamentary\\_Assembly/%5BRussian\\_documents%5D/%5B2012%5D/%5BOct2012%5D/Res1900\\_rus.asp](https://www.coe.int/T/r/Parliamentary_Assembly/%5BRussian_documents%5D/%5B2012%5D/%5BOct2012%5D/Res1900_rus.asp)

12. <https://sk.gov.by/ru/news-ru/view/v-sledstvennom-komitete-podveli-itogi-raboty-za-pervoe-polugodie-11675/>

-tional day in Belarus for remembering the dead - trans.].<sup>13</sup> There are cases with more than a hundred defendants, such as the ‘Round Dance’ prosecution in Brest.<sup>14</sup>

Information about the number of people subjected to politically motivated prosecutions can be found in court schedules, court decisions, and lists of those allegedly involved in extremist activities, published by the Ministry of Internal Affairs. Human rights defenders are also contacted by persons who have already been convicted and are in prison.

Some groups of prisoners, such as those detained and convicted for ‘Organisation and preparation of acts in gross violation of public order’ or ‘Insulting a representative of authority,’ are automatically categorised as political prisoners. In order to assess whether defendants in prosecutions brought for other alleged offences can be classified as political prisoners, human rights defenders evaluate court verdicts, rulings by investigative bodies, video and audio recordings related to a particular case and even propaganda videos published by the authorities, given them by relatives of those convicted.<sup>15</sup>

The mass revocation of lawyers’ licences, intimidation of relatives, and the bringing of criminal cases against activists of non-governmental organisations [NGOs] lead to a reduction in the number of people able to report political prosecutions to human rights defenders. However, even in such conditions, according to Pavel Sapelka, only about one third of detentions remain unknown to the human rights community.

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13. <https://spring96.org/be/news/100215>

14. <https://mediazona.by/news/2022/05/04/khorovod>

15. <https://mediazona.by/article/2022/01/27/1000-political-prisoners>



## II. NUMBER OF VICTIMS OF POLITICALLY MOTIVATED REPRESSION IN 2020-2022

### 1. Political prisoners and defendants in politically motivated criminal cases

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According to the Viasna Human Rights Centre, 1,441 people were recognised as political prisoners in Belarus as of 26 December 2022.<sup>16</sup> By that time, more than 440 political prisoners had already been released on account of changes in pre-trial restrictions or because they had served their sentence.

According to human rights activists, since the beginning of the presidential campaign in May 2020, the regime of Aliaksandr Lukashenka has most frequently used the following articles of the Criminal Code of the Republic of Belarus to prosecute his political opponents<sup>17</sup>:

**Article 342** - 'Organising or actively participating in group actions that grossly violate public order' - punishable by imprisonment for up to four years;

**Article 293** - 'Rioting' - punishable by imprisonment for up to 15 years;

**Article 363** - 'Resisting a police officer or other person guarding public order' - punishable by imprisonment for up to two years;

**Article 364** - 'Violence or threat of violence against a police officer' - punishable by imprisonment for up to seven years;

**Article 339** - 'Hooliganism' - punishable by imprisonment for up to 10 years;

**Article 243** - 'Tax evasion' - punishable by imprisonment for up to 12 years.

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16. <https://prisoners.spring96.org/en>

17. <https://spring96.org/ru/news/99641>

In addition, hundreds of criminal cases were initiated for slander, insulting representatives of the authorities and police officers, and insulting or slandering the president (**Articles 188, 369, and 368 of the Criminal Code of the Republic of Belarus**).

The number of formally recognised political prisoners is most often used in the media and in speeches by political and public figures to give an idea of the scale of political repression in Belarus. However, the number of people who have been victims of politically motivated criminal trials in Belarus is many times higher.

On 1 December 2022, the list of defendants in politically motivated criminal cases published on Viasna's website contained 3,650 names.<sup>18</sup> This list includes both political prisoners and imprisoned citizens not recognised as political prisoners by human rights defenders. The latter may include, for example, detainees about whom insufficient data have been collected, as well as convicted persons who used violent methods of struggle. Prisoners belonging to the latter two categories constitute about 15 percent of the list, i.e. about 550 people.

More than 25 percent of those on the list are people who can be **conditionally** described as being at liberty. These are citizens who have been sentenced to various restrictions of liberty without being sent to open facilities, as well as people who are at liberty but are suspects. The list of persons involved in politically motivated criminal cases also includes citizens who have been fined, served their sentence or fled the country. The website of the Viasna Human Rights Centre publishes a separate list of those convicted in politically motivated criminal prosecutions. As of the end of December 2022, this list contained 2,582 names.<sup>19</sup>

The list of political prisoners compiled by the civil society activist group DISSIDENTBY is somewhat larger than that of Viasna. As of the end of December 2022, there were 1,726 names on this list.<sup>20</sup> The list of persons prosecuted in politically motivated criminal cases also contains 200 more names than Viasna's list. The DISSIDENTBY list contains 3,872 names.<sup>21</sup>

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18. <https://spring96.org/ru/news/99641>

19. <https://prisoners.spring96.org/ru/table-convicted>

20. <https://dissidentby.com/>

21. <https://dissidentby.com/prisoners>

The difference in numbers is explained by the fact that the DISSIDENTBY activists include those who participated in violent protest as political prisoners. In their view, the criteria adopted by human rights defenders in 2013 are based on the belief that violated rights can be restored in a non-violent manner. They consider the criteria inappropriate for application in states where there has been a violent seizure of power and the law has ceased to function. ‘We believe those who have resisted a more serious crime by defending their rights and democratic values (in line with the “lesser evil” doctrine) are also political prisoners,’ the DISSIDENTBY activists argue in their policy paper.<sup>22</sup>

Since the beginning of 2022, the number of political prisoners in Belarus recognised by the coalition of human rights defenders has increased by 477 people. As of the end of December 2022, Viasna listed 1,447 political prisoners, while a year earlier it had listed 970.<sup>23</sup> The statistics compiled by the human rights defenders show the greatest number of criminal prosecutions took place in 2021. At that time, 801 names were added to the lists of political prisoners. As of the end of December 2020, there were 169 political prisoners. Only three of these had been imprisoned before the start of the presidential election campaign.<sup>24</sup>

The number of persons convicted in politically motivated criminal cases also grew at a similar rate. According to Viasna, by the end of December 2020, courts had handed down 103 convictions in criminal cases related to events during and after the August 2020 presidential election.<sup>25</sup> By the end of 2021, the Belarusian authorities had convicted 1,285 people, with 537 given prison sentences, that is 42 percent of the total number of those convicted.

The Viasna website for the last two years has published monthly data on the number of citizens convicted in politically motivated criminal cases. Unfortunately, data on those convicted from February to May 2022 are not available. However, the current trend suggests that at least 1,100

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22. <https://dissidentby.com/articles/o-chrezvychnoi-politicheskoi-situacii-v-belarusi-i-chisle-politicheskikh-zakluchennykh>

23. <https://spring96.org/ru/news/106290>

24. <https://spring96.org/ru/news/101199>

25. <https://spring96.org/ru/news/101199>

citizens will have been sentenced in political trials by the end of 2022. While the number of persons convicted compared to the previous year has not changed significantly, the number of persons sentenced to terms of imprisonment has increased. Since August 2022, about 65 percent of those tried have been sentenced to prison.

Thus, in the second half of 2022, Belarusian courts **sentenced on average four citizens** every working day in politically motivated criminal cases. Three out of four persons convicted were sent to prison. Based on the data from Viasna and Sapelka's estimates, in December 2022 anywhere from 2,000 to 2,600 individuals involved in politically motivated criminal cases were held in Belarusian remand centres, prisons and penal colonies. They make up between six and eight percent of all prisoners in Belarus, the number of which, according to the British Institute for Criminal Policy Research (ICPR), exceeds 32,000.<sup>26</sup>

On 8 December 2022, Lukashenka signed a law on amnesty, which, however, did not affect political prisoners. 'The amnesty law will not apply to those who have committed crimes of terrorism or extremism,' the press service of the Belarusian leader stated. According to official pronouncements, the authorities planned to release about 1,600 people from prison. It should be noted that this number is very close to the number of those convicted and sentenced to terms in prison in politically motivated criminal trials. It can be assumed that the purpose of the amnesty was to free up space in the penitentiary system, which had become overstretched as a result of ongoing political repression. The amnesty allows the authorities to continue to prosecute their opponents in an easily manageable manner that does not require increased expenditure on the penal system.

## 2. Другие виды политического преследования: административные аресты и штрафы

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As noted above, criminal prosecution is not the only form of politically

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26. [https://www.prisonstudies.org/sites/default/files/resources/downloads/world\\_prison\\_population\\_list\\_13th\\_edition.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_13th_edition.pdf)

27. <https://www.belta.by/president/view/lukashenko-podpisal-zakon-ob-amnistii-539006-2022/>

motivated prosecution. According to the Viasna Human Rights Centre, in the period from the beginning of the 2020 election campaign until early December 2020, the Belarusian authorities arrested and placed in detention approximately 43,000 people. The largest number of citizens - more than 33,000 - were detained in 2020, which became known for its protests<sup>28</sup>. About 13,500 of these were detained by security forces during the first days following the voting on 9-14 August 2020.<sup>29</sup>

The vast majority of those detained are fined or jailed under administrative law, although human rights activists only come to know of about half of the total number of such court decisions. The Viasna Centre, for example, is aware of 6,443 people detained in 2021. However, data on administrative penalties were known only in 3,060 cases. In three cases out of four, the court sentenced the person detained to a term in jail, and in one out of four to a heavy fine.<sup>30</sup>

In the monthly reviews of the human rights situation published on Viasna's website, the human rights defenders recorded a lower number of detainees in 2022 - approximately 3,400.<sup>31</sup> On average 260 people were detained each month, with the exception of February. In February 2022, there was a sharp increase in repression: 952 people were detained,<sup>32</sup> of whom 900 were detained on 27 February. On that day, protests were held in Minsk, Novopolotsk, Zhlobin and other cities against Russia's invasion of Ukraine (which was carried out, inter alia, from Belarusian territory), as well as against the referendum held by the authorities on amendments to the Constitution.<sup>33</sup>

In the second half of 2022, the average administrative fine (in cases known to human rights defenders) exceeded 4,600 roubles or \$1,800, term was 15 days.<sup>34</sup> Since the summer of 2020, 'political' detainees who were jailed have been held in conditions that human rights activists

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28. <https://spring96.org/ru/news/101195>

29. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/276/99/PDF/G2227699.pdf?OpenElement>

30. <https://spring96.org/ru/news/106328>

31. <https://spring96.org/ru/publications>

32. <https://spring96.org/ru/news/106991>

33. <https://spring96.org/ru/news/106932>

34. <https://spring96.org/persecution?JDateFrom=2022-07-01&JDateTo=2022-11-30>



were jailed have been held in conditions that human rights activists equate to torture. Cells hold four to five times as many people than they are designed for. Those jailed are not given mattresses or bedding and sleep on the bare floor or on metal bunks. In winter, their outer clothing is taken away from them. They are not taken to shower or for exercise and they do not receive medical assistance.<sup>35</sup>

In order to put pressure on some activists, new administrative law cases are initiated against them while they are still in jail. 'Re-arrests' are also used to deprive a person of their liberty for the time needed to gather data for a criminal prosecution.<sup>36</sup> There are known administrative cases where citizens have been convicted and sentenced up to seven times in a row, thereby forcing them to remain in inhumane conditions for more than three months continuously. This was the case, for example, for the priest Vladislav Bogomolnikov, who was held in jail for a total of 100 days in 2022, only to be prosecuted for the criminal offence of 'Serious disturbance of public order.'<sup>38</sup>

An additional risk associated with an administrative jail sentence is inclusion of information about the detainee in the 'BESpokrashki' [DISorders] national database, created after the protests against electoral fraud in 2020.<sup>39</sup> In mid-2021, the database contained information about 39,000 citizens, including those detained during protests, defendants in politically motivated criminal prosecutions, NGO activists and citizens who simply oppose the authorities. Inclusion in the database can provide grounds for being searched at the border, as well as for surveillance to gather material for criminal proceedings.<sup>40</sup>

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35. [https://spring96.org/files/book/ru/politicheski\\_motivirovannye\\_administrativnye\\_dela\\_21\\_22.pdf](https://spring96.org/files/book/ru/politicheski_motivirovannye_administrativnye_dela_21_22.pdf)

36. [https://carbide-datum-297715.appspot.com/article/2022/12/13/againagain?fbclid=IwAR1APtOLTd2sbk9Kmp7mat9n\\_Ixdc9LdwRhwoFLGKZiRoPmG\\_48xBgsUbeg](https://carbide-datum-297715.appspot.com/article/2022/12/13/againagain?fbclid=IwAR1APtOLTd2sbk9Kmp7mat9n_Ixdc9LdwRhwoFLGKZiRoPmG_48xBgsUbeg)

37. <https://belsat.eu/ru/news/14-11-2022-svyashhennika-sluzhivshego-panihidu-po-romanu-bondarenko-perezaderzhali-v-shestoj-raz/>

38. <https://mediazona.by/news/2022/12/09/bogomolnikov>

39. <https://www.dw.com/ru/kiberpartizany-vzlomali-bazu-dannyh-mvd-chto-oni-rasskazali-dw/a-58990013>

40. <https://belsat.eu/ru/news/11-10-2021-byvshij-sledovatel-gubopik-azarov-o-tom-kak-eto-podrazdelenie-voyuet-s-belorusskim-narodom/>

### 3. Politically motivated dismissals from work. Mass purges in the public sector

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The most widespread type of repression in 2020-2022 was politically motivated dismissals from work.<sup>41</sup> Starting in August 2020, people who had been detained for participating in protests or had otherwise publicly expressed disagreement with the regime began to be dismissed en masse from the security services and law enforcement, from public administration, from state-owned enterprises and from cultural institutions.<sup>42</sup>

A truly massive and systematic purge of the public sector took place between November 2021 and January 2022. According to reports from independent media outlets, the dismissals affected the security and law enforcement agencies, public administration, hospitals, schools, universities, museums, railways, forestry, factories, power plants and grids, and state-owned banks.<sup>43</sup> The lists of names of those to be fired were drawn up by the Belarusian special services and sent to the heads of state institutions, demanding strict compliance.

According to information from the media, we may conclude that the security services drew up lists of candidates for dismissal on the basis of a number of sources:

- 1) data about those detained for participating in protests;
- 2) lists of citizens who gave their signatures in support of Lukashenka's rivals in the 2020 presidential election in Belarus (the signatures were submitted to the Central Election Commission, with personal data stamped on them);

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41. [https://studium.uw.edu.pl/wp-content/uploads/2022/04/Raport\\_Bialorus\\_5PL.pdf](https://studium.uw.edu.pl/wp-content/uploads/2022/04/Raport_Bialorus_5PL.pdf)

42. <https://www.dw.com/ru/mest-protestujushhim-belorusam-vygonjajut-s-raboty-i-objavlajut-tunejadcami/a-56333960>

43. <https://motolko.help/ru-news/kadrovye-chistki-naczbank-kommunarka-i-naczionalnyj-istoricheskij-muzej/?fbclid=IwAR23VAX9gXAYDDTJ5PO6oL9aPpPiHuzKN4IyLGRqa8eFaGspjxkOlAeC8e8>

3) the results of applying facial recognition technology to videos and photographs from the protests;

4) data on the location of mobile phones on the days of major protests.

In most of the cases described in the media, those dismissed from their place of work said that their bosses had received lists of those disloyal to the regime directly from the State Security Committee [KGB]. In some cases, purges were carried out by units created within state institutions.

For example, the internal security department (an organisational unit made up of former or current members of the security services) oversaw dismissals from the State Committee for Forensic Expertise. Some departments of this forensic institution lost up to half of their staff.<sup>44</sup> Those dismissed from industrial enterprises and government media also told journalists that security departments there were now being staffed by former special services and police officers.<sup>45</sup>

It can be concluded that, by the end of 2021, yet another agency for political surveillance had been created in Belarusian state organisations. Unlike deputy directors for ideology, whose position has existed since 2004, these structures are not engaged in propaganda or the delivery of workers to pro-government rallies. The deputy directors for security and the internal security departments are engaged in finding and eliminating enemies of the regime.

In most cases covered by bloggers and journalists, politically motivated dismissals affected between five and ten percent of staff. For example, according to blogger Anton Motolko, the National Bank of Belarus blacklisted 180 people out of about 2,000 employees.<sup>46</sup> The Vavilov Minsk Mechanical Plant, which produces sights for military equipment and employs about 1,800 people, fired 160 staff. Managers at the Gomel Glass Plant were instructed to dismiss 100 of 1,900 employees, while

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44. [https://www.bbc.com/russian/features-59306484?fbclid=IwAR1a4pxx\\_MR1FN7AIx4uVooahNDakZBc8scVU5oHzr0JuJBSzPlnZr4uFAw](https://www.bbc.com/russian/features-59306484?fbclid=IwAR1a4pxx_MR1FN7AIx4uVooahNDakZBc8scVU5oHzr0JuJBSzPlnZr4uFAw)

45. <https://www.dw.com/ru/novye-chistki-neugodnyh-v-belarusi-uvolnjajut-za-sobytaja-2020/a-60077829>

46. <https://motolko.help/ru-news/kadrovye-chistki-naczbank-kommunarka-i-naczionalnyj-istoricheskij-muzej/?fbclid=IwAR23VAX9gXAYDDTJ5PO6oL9aPpPiHuzKN4IyLGRqa8eFaGspjxkOlAeC8e8>

another 200 suspected of disloyalty had to undergo 'precautionary talks'.<sup>47</sup> The Forestry Enterprise in Bykhov, eastern Belarus, which employs about 360 people, was required to dismiss 18 employees.<sup>48</sup> A hospital in the town of Mozyr fired 10 of 140 doctors.<sup>49</sup> The list of candidates for dismissal sent to the Belarusian Railways consisted of 1,500 people out of a total workforce of 75,000.<sup>50</sup>

According to the State Statistical Committee of the Republic of Belarus, there were 2,250,000 people employed in the public sector (government administration, army, educational institutions, health care, state enterprises, etc.) in 2020, i.e. 52 percent of the total population in employment.<sup>51</sup> If political purges throughout the country affected between five and ten percent of public sector employees, as many as 100,000 to 200,000 employees could have been dismissed. It should be noted that there is no data about any such mass, systematic dismissals from private enterprises in Belarus.

Lukashenka himself admitted to carrying out mass political purges in December 2021. He stated that he had given orders to fire the heads of state organisations suspected of having 'anti-state' views.<sup>52</sup> The decisive attitude of the authorities is evidenced by the fact that employees were fired irrespective of their qualifications or of the damage their dismissal would cause to the organisation. Even the heads of state bodies, who tried to prevent the dismissal of valuable employees, were deprived of their jobs.<sup>53</sup>

An administrative measure supplementary to the mass political purges in the public sector was the decree signed by Lukashenka in October

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47. <https://t.me/flagshtok/6271>

48. <https://t.me/belamova/23640>

49. <https://www.dw.com/ru/novye-chistki-neugodnyh-v-belarusi-uvolnjajut-za-sobytija-2020/a-60077829>

50. [https://dcsfxzu8xls6u.cloudfront.net/?c=ar&i=281780&fbclid=IwAR3AXv4CukVFFfklk\\_txaH02ZIaHMA0l8lAylKqhwBhwNl2FI5FCZY8InqI](https://dcsfxzu8xls6u.cloudfront.net/?c=ar&i=281780&fbclid=IwAR3AXv4CukVFFfklk_txaH02ZIaHMA0l8lAylKqhwBhwNl2FI5FCZY8InqI)

51. [https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public\\_compilation/index\\_57394/](https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public_compilation/index_57394/)

52. <https://president.gov.by/ru/events/soveshchanie-o-protivodeystvii-sankcionnym-meram-1639641613>

53. [https://dcsfxzu8xls6u.cloudfront.net/?c=ar&i=281780&fbclid=IwAR3AXv4CukVFFfklk\\_txaH02ZIaHMA0l8lAylKqhwBhwNl2FI5FCZY8InqI](https://dcsfxzu8xls6u.cloudfront.net/?c=ar&i=281780&fbclid=IwAR3AXv4CukVFFfklk_txaH02ZIaHMA0l8lAylKqhwBhwNl2FI5FCZY8InqI)

2021 that henceforth obliged applicants for jobs in state institutions and state-owned enterprises to submit a character reference from their previous place of work. The reference must contain information about ‘the attitude to the state and public institutions, and the constitutional system,’ as well as about ‘instances of anti-state behaviour or sentiment among employees in the workplace.’<sup>54</sup>

A former employer faces criminal liability for providing ‘information known to be false’ in a reference.<sup>55</sup> On 7 December 2022, another step to ‘strengthen discipline’ in the public sector was taken by the House of Representatives of the Republic of Belarus. The parliament adopted in first reading amendments to the Criminal Code that introduce the death penalty for a civil servant or military personnel found guilty of high treason.<sup>56</sup>

Despite a wave of disturbing reports in independent media, official statistics have not recorded any increase in layoffs. According to Belstat’s monthly data on dismissals and hirings, the figures for the autumn 2021 did not differ from those of previous years.<sup>57</sup> According to the annual data, the number of those employed in the state sector fell by 68,000 during the year, which is comparable to reductions in previous years, while the number of those employed in the economy as a whole dropped by 35,000- not significantly more than before.<sup>58</sup>

## 4. The scale of repression in Belarus: an assessment by sociologists

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By December 2020, more than 700,000 of the nine million people living in Belarus had participated in protests provoked by the rigged presidential elections. These figures were obtained in a poll conducted by the German Centre for East European and International Studies. According to this

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54. <https://pravo.by/document/?guid=12551&p0=C22100585&p1=1>

55. <https://www.gb.by/aktual/trebovaniya-k-kharakteristike-i-novyy-po>

56. <https://www.dw.com/ru/v-belarusi-vvodat-smertnuu-kazn-za-izmenu-gosudarstvu/a-64013239>

57. <http://dataportal.belstat.gov.by/Indicators/Preview?key=153148>

58. [https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public\\_compilation/index\\_50202/](https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public_compilation/index_50202/)

poll, about 14 percent of Belarusian citizens aged 16 to 64 participated in protests.<sup>59</sup> The number of opponents of the Lukashenka regime was four times greater than that. In December 2020, the German sociologists considered about 54 percent of citizens to be strong or moderate critics of the regime. In June 2021, this figure was approximately 51 percent.<sup>60</sup> Similar results were registered a year later by the authors of the research 'Belarusian Change Tracker.' According to their data, in May 2022, 'ardent opponents of the regime' and 'those inclined not to trust [the regime]' accounted for approximately 52 percent of citizens. The share of 'ardent supporters' of the Lukashenka regime and 'those inclined to trust' him was 48 percent. In June, according to the researchers' data, this proportion 'did not change significantly.'<sup>61</sup>

So far only the authors of research carried out in August 2022 by the Centre for New Ideas and the 'People's Poll' initiative have tried to calculate the percentage of Belarusian citizens who underwent the traumatic experience of repression. According to the survey, about seven percent of citizens supporting the protest movement have been fined in the last two years. More than five percent have been jailed for administrative law offences. Twelve percent have been dismissed from their employment for political activism. At the time of the survey, six percent of respondents had a family member or friend in prison, a further 32 percent had an acquaintance or colleague.<sup>62</sup> The survey was conducted among participants in protest Telegram channels and projects using the Viber messenger.<sup>63</sup>

However, it is not possible to extrapolate the data from this research to all opponents of the regime. If it is assumed that the 'People's Poll' sample is valid for about 3.7 million adult opponents of the authorities, the number of those fined and jailed in Belarus would reach 450,000. This figure is 10 times higher than the data of the Viasna Human Rights Centre. If one extrapolates the results of the 'People's Poll' to the 700,000

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59. <https://www.zois-berlin.de/publikationen/belarus-at-a-crossroads-attitudes-on-social-and-political-change>

60. <https://www.zois-berlin.de/en/publications/societal-fragmentation-in-belarus>

61. <https://library.fes.de/pdf-files/bueros/belarus/19564.pdf>

62. [https://newbelarus.vision/wp-content/uploads/2022/12/Collective-Trauma\\_CNI\\_Research.pdf](https://newbelarus.vision/wp-content/uploads/2022/12/Collective-Trauma_CNI_Research.pdf)

63. <https://narodny-opros.net/#monitoring>

participants in the 2020 protests, 84,000 people would have been fined and jailed. This figure also seems to be an overestimate. Most likely, the 'People's Poll' sample is valid for a smaller population, represented not by all opponents of the regime, but by active users of the protest Telegram channels.

Political repression, worsening economic prospects and the threat of the Belarusian army joining the Russian invasion of Ukraine have forced tens of thousands of Belarusian citizens to leave the country. The Belarusian authorities do not publish statistics on migration, so it is extremely difficult to estimate the numbers of political refugees. According to Belarusian sociologist Andrei Vardomacki, in one of the surveys 18 percent of participants confirmed that they had family, friends or colleagues who had been forced to leave the country and unable to return. According to his estimates, more than 250,000 people left Belarus after 2020 for political or economic reasons.<sup>64</sup>

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64. <https://t.me/pozirkonline/12102>



# III. MAIN FEATURES OF REPRESSION IN 2022

## 1. Security and law enforcement agencies engaged in the investigation and prosecution of opponents of the regime

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Aliaksandr Azarov, a representative of the Association of Former Employees of Belarusian Security Services, BYPOL, interviewed for this research, believes that four security agencies were largely responsible for political repression in 2022. These were the Committee for State Security [KGB] of the Republic of Belarus, the Main Department for Combating Organised Crime and Corruption of the Ministry of Internal Affairs, the Main Department of Criminal Investigation of the criminal police of the Ministry of Internal Affairs, and the Hi-Tech Crimes Detection Unit of the Ministry of Internal Affairs (the so called 'Department K').

These bodies seek out and identify individuals who leave comments and likes under articles or statements criticising officials in the security services, law enforcement or government. The evidence of the 'crime' is sent to the investigative bodies which initiate criminal cases under Article 130 of the Criminal Code of Belarus- 'Incitement of racial, national, religious or other social hatred.' Punishment under this article can be up to 12 years' imprisonment.<sup>65</sup> In an interview for this study, lawyer of the Viasna Human Rights Centre Pavel Sapelka noted that, in 2022, persons prosecuted under this article made up a significant proportion of defendants in politically motivated criminal cases.

Of all the above-mentioned repressive bodies, independent media most often mention the Main Department for Combating Organised Crime and Corruption (GUBOPiK).<sup>66</sup> Such prominence is explained by the tactics adopted by the security forces themselves. As noted by the International

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65. <https://www.dw.com/ru/srok-za-lajk-ili-kak-milicija-stala-ujazvimoj-gruppoj-v-belarusi/a-62899045>

66. <https://bypol.org/gubopik/>



Committee for the Investigation of Torture in Belarus, ‘They openly flaunt all their atrocities: they write on their Telegram channels and talk on government media about the persecution of citizens, thereby pursuing a policy of intimidation of the opposition-minded part of the population of Belarus.’<sup>67</sup>

In August 2020, officers of the GUBOPiK were involved in breaking up demonstrations, detaining and beating citizens. Later, they began conducting searches, interrogations, checking phones in order to find subscriptions to Telegram channels banned in Belarus or to prove involvement in ‘extremist’ groups. Detentions and interrogations are accompanied by beatings, humiliation, and threats of sexual violence and murder. If an opponent of the authorities manages to travel abroad, GUBOPiK officers ransack their homes to punish and intimidate them.

However, as Aliaksandr Azarov emphasises, GUBOPiK is often only the body implementing the repressive measures. The KGB itself carries out the preparatory investigative work to uncover enemies of the regime. ‘The KGB’s working methods are such that they do not show that it is they who are doing the persecution. They enlist the services of other bodies, such as the financial police, so that the work is done with other hands than theirs. [...] The KGB works very actively in collaboration with GUBOPiK and can implement the greater part of its operations through them,’ Aliaksandr Azarov said in an interview.

## 2. Mechanisms for initiating criminal cases

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As Aliaksandr Azarov pointed out in August 2022, security and law enforcement agencies work in a ‘cumulative mode’: they identify participants in protests one by one in order to then methodically detain them.<sup>68</sup> They seek out those they want to detain in three ways. The first is through analysis of the ‘BESpokrashki’ database, which lists about 39,000 people previously detained at protests. Data on these people

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67. <https://torturesbelarus2020.org/page31791322.html>

68. <https://malanka.media/news/11724>

people have been sent to the local police departments where the individuals concerned live so that their ‘treatment’ can be handled by the local criminal investigative service. Security and law enforcement officers compile dossiers on cases relating to the 2020 protests and use them to methodically check thousands of people who may have been involved in the civil unrest.<sup>69</sup>

Azarov describes the process of conducting searches and arrests of the regime’s enemies as follows: ‘They draw up a dossier on a case, write a report that such-and-such a person may have been involved in riots, get a wiretap authorisation for a person’s phone, and listen to the suspect’s phone conversations over several months. If the person does something “criminal,” they can arrest them for it. If the security and law enforcement officers find nothing, the case has to be dropped. Before the case is dropped, the final thing they can do is conduct a search. Then they get authorisation to search the premises. The most valuable thing for them is to find a mobile phone or laptops and, using Israeli technology, extract all the contents. If they find anything there, they may initiate a criminal case.’

It can be assumed that the mass searches and detentions carried out by the security and law enforcement agencies in the district centres of Belarus from mid-2022 are a part of the process of mining the ‘BESpokrashki’ database for potential defendants in criminal cases. In July-August 2022, officers of the GUBOPiK and Almaz, a specialist anti-terrorist unit, conducted such actions in Fanipol, Drohiczyn, Ivanava, Mazyr, Khoyniki, Norovlya and Pruzhany.<sup>70</sup> In November and December, arrests were carried out in Postavy,<sup>71</sup> Braslau,<sup>72</sup> Miory,<sup>73</sup> and Zhlobin.<sup>74</sup> In each case, from five to 20 people were detained. According to media reports, searches and detentions took place, among other places, in the homes of those previously convicted in connection with the 2020 protests.<sup>75</sup> In most cases, the detentions did not result in criminal charges,

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69. <https://news.zerkalo.io/life/19290.html>

70. <https://news.zerkalo.io/life/20543.html>

71. <https://nashaniva.com/ru/303963>

72. <https://t.me/viasna96/15919>

73. <https://news.zerkalo.io/life/27272.html>

74. [https://d367rzjs5oyeba.cloudfront.net/\\_mobile\\_/articles/305544/](https://d367rzjs5oyeba.cloudfront.net/_mobile_/articles/305544/)

75. <https://nashaniva.com/295447>

but rather in fines and jail terms under administrative law.<sup>76</sup>

‘Detentions and searches are carried out with the help of the special services. A person may become afraid and say things that will help them bring charges. That is why I have repeatedly said that one must never confess to “crimes.” That is the thing they want most of all,’ Azarov said in an interview recorded for the purposes of this study.

A second explanation for the mass arrests in small towns may be that security and law enforcement officers are conserving their resources. Arrests in politically motivated cases are always carried out by special units which are simply not available in district centres. Security and law enforcement officers in small towns build up a list of potential candidates for detention from various sources in order to then call in the GUBOPiK and riot police units to detain them.<sup>77</sup>

According to Azarov, a second source of data for politically motivated prosecutions is the analysis of photographs and videos of the 2020 protests, taken both by journalists and by members of the Interior Ministry police and security services themselves. Security and law enforcement agencies use the Kipod video surveillance system to recognise faces. According to media reports, this system has been installed on every work computer in the Interior Ministry and Investigative Committee.<sup>78</sup> According to a representative of BYPOL, the investigation of videos and photographs from the protests had already been completed by the end of 2022.

Those individuals who have been able to leave the country, whether listed in the ‘BESpokrashki’ database, figuring in videos or photographs of the protests, or otherwise, are not in danger of being detained. According to BYPOL, operational cases where evidence of the ‘guilt’ of such citizens has been collected remain on hold pending their return to Belarus. For those who are abroad, Interior Ministry or KGB officers do not file criminal cases because unsolved cases spoil their statistics.

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76. <https://belsat.eu/ru/news/18-07-2022-popytka-sterilizovat-informatsiyu-o-vojskah-na-granitse-chto-stalo-prichinoj-hapuna-v-drogichine-i-ivanove>

77. <https://belsat.eu/ru/news/12-12-2022-gubopik-s-omonom-zaderzhali-zhitelya-slonima-za-kommentarij-o-silovikah>

78. <https://news.zerkalo.io/life/19290.html>

‘Each operative has a list of such persons, about whom they have already collected the necessary information and for whom they are watching at the border,’ Azarov commented in August 2022. ‘If someone from the list arrives in Belarus, then, having already prepared the material, the security and law enforcement officers apply to the prosecutor to sanction a search, the person is arrested and the case materials are passed to the Investigative Committee to initiate a criminal case. In this way, they have good figures for solving “crimes”.’

The third source of information for finding candidates for detention is, as noted above, analysis of social networks, ‘protest’ chat rooms, forums and Telegram channels. Cases have been known in which people have been convicted and sentenced for online comments written over a year before.<sup>79</sup> The number of arrests for ‘wrong’ comments and likes increases dramatically during events that cause a public outcry. For example, on 29 and 30 September 2021, approximately 200 people were detained for comments the authorities did not like about the death of KGB officer Dmitry Fedosyuk, killed in an exchange of fire while trying to break into the home of computer programmer Andrei Zeltzer.<sup>80</sup> The Investigative Committee soon reported that criminal cases had been opened against 136 detainees for ‘insulting a representative of the authorities’ and ‘inciting social hatred.’ A similar situation was observed in November 2022. At that time, according to pro-government Telegram channels, security and law enforcement officers identified 20 people who ‘insulted the memory’ of Belarusian Foreign Minister Uladzimir Makei, who died in November 2022.<sup>81</sup>

Since Russia’s full-scale invasion of Ukraine, dozens of citizens have been detained and convicted for criticising the invasion on social media and sharing information about Russian troop movements.<sup>82</sup> From March to November 2022, Gomel Regional Court alone sentenced 12 people to prison for sharing videos, photographs or text messages about the movement of Russian troops on the territory of Belarus on ‘destructive’

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79. <https://belsat.eu/news/29-05-2022-muzhchynu-zatrymali-za-kamentar-yaki-toj-napisau-god-tamu>

80. <https://news.zerkalo.io/cellar/3868.html>

81. <https://www.currenttime.tv/a/belarus-makey/32155899.html>

82. <https://www.currenttime.tv/a/32112154.html>

Telegram channels.<sup>83</sup> Most probably, by ‘destructive Telegram channels’ the authorities meant the monitoring project ‘Belaruski Hayun,’ created by Belarusian activists. Among those convicted was Pavel Piskun, a minor, who was sentenced to three years in a penal colony.<sup>84</sup>

Pro-government activists began to help in the search for enemies of the regime in 2022. About 10 state media employees and pro-Russian activists - despite their small number - managed to gain widespread media publicity.<sup>85</sup> In particular, after a visit by pro-regime activists, the authorities closed the Knigauka shop in Minsk, which sold literature in the Belarusian language. Its staff were punished with jail terms for offences under administrative law.<sup>86</sup> Following a denunciation by activists in August 2022, the head of one of the oldest travel agencies in Belarus was detained,<sup>87</sup> while a criminal case under Article 342 for ‘Gross violation of order’ was brought against the tour guide Igry Khmara, who conducted tours in the Belarusian language and did not adhere to the pro-government version of history.<sup>88</sup> However, it is unclear how long such a pro-regime ‘civil society’ will be active in Lukashenka’s system, which continues the traditions of the late USSR. The Belarusian leadership, like the late Soviet one, believes that any initiative, especially in the area of repression, must come from the state authorities.

If the main source for the selection of victims by the security and law enforcement agencies is indeed the ‘BESpokrashki’ database, detentions, searches and criminal cases in connection with the events of 2020 may continue for a long time yet. At the current rate of prosecutions (approximately 3,400 convictions under administrative law and 1,100 criminal convictions a year), it would require more than eight years to convict the 39,000 persons on the database. At the same time, it should be kept in mind that a substantial portion of these individuals may have

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83. [https://newsgomel.by/news/society/za-razmeshchenie-v-internete-foto-i-video-voennoy-tekhniki-mozhno-okazatsya-za-reshetkoy-\\_82614.html](https://newsgomel.by/news/society/za-razmeshchenie-v-internete-foto-i-video-voennoy-tekhniki-mozhno-okazatsya-za-reshetkoy-_82614.html)

84. <https://spring96.org/ru/news/108432>

85. <https://www.the-village.me/village/culture/home-guide/292409-new-slivy>

86. <https://bel-news.by/v-minske-posle-zakrytiya-kniga%D1%9Eki-otrylsya-knizhnyj-magazin-s-pravilnoj-literaturoj-i-portretom-lukashenko/>

87. <https://news.zerkalo.io/life/19215.html>

88. <https://udf.name/news/politic/248918-na-minskogo-jekskursovođa-zaveli-ugolovnoe-delo-po-protestnoj-state.html>

left the country.<sup>89</sup> On the other hand, analysis of videos and of the activity of citizens on the internet also provides security and law enforcement agencies with targets for prosecution. Therefore, it can be argued that there is no shortage of candidates for detention.

The above calculations suggest that the reduction in the number of arrests in 2022 has not been so much a result of the decline in protest activity as in the capacity of the system itself. The current number of detentions, convictions and sentences allows the system to work ‘comfortably’ and does not place an excessive burden on security and law enforcement agencies, the courts or the penal system. The level of repression will only decline if the security and law enforcement agencies receive orders to reduce the number of prosecutions.

### 3. ‘Risk groups’ and groups most affected by repression

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Based on information about the mechanism for instituting criminal proceedings, the main groups at risk of detention in Belarus in 2022 would seem to have been those who participated in the 2020 protests. Those most at risk of being arrested, searched and held in detention are those previously detained at protests or involved as witnesses. Also at risk are those whose videos and photographs were published by the media or social media users, especially creative protesters who have attracted public attention. Second, the risk group includes active participants in protest chat rooms, backyard communities and social media users who disregard safety precautions and have not sought to remain anonymous.<sup>90</sup>

For 2022, Viasna’s statistics on victims of political repression, in addition to those detained for disagreeing with the fraudulent 2020 elections, journalists, human rights activists and lawyers, include a new category: those prosecuted for anti-war activism. In early August, Viasna reported to the UN Special Rapporteurs that more than 1,000 people had been

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89. <https://www.sb.by/articles/na-strazhe-spokoystviya.html>

90. <https://malanka.media/news/11724>

detained for participation in peaceful anti-war protests and 32 criminal cases had been filed for anti-war activities since 24 February 2022.<sup>91</sup> According to the data published on Viasna's website, every month from August to November at least five citizens were sentenced to various prison terms in Belarus for protesting against the Russian aggression.

Among them are Sergei Glebko, a resident of the district centre Glubokoe, sentenced to 11 years in a penal colony for blocking the movement of trains carrying equipment belonging to Russian troops,<sup>92</sup> 19-year-old Gomel resident Ilya Veremeev, sentenced to six years and five months in a penal colony for calling for anti-war protests on a Telegram chat,<sup>93</sup> and first year student Ivan Maslov, sentenced to two years six months in a penal colony for attempting to go to Ukraine to join the Ukrainian army.<sup>94</sup> The risk group included not only citizens who spoke out against the war on social networks, participated in anti-war protests, publicised information about the movement of Russian and Belarusian troops, or joined the Ukrainian army. Relatives of Belarusian citizens fighting in Ukraine were also subjected to periods in jail under administrative law.<sup>95</sup>

The authors of the study *The Practice of 'Banning Professions' in Belarus in 2020-2022* name the non-profit sector, the bar and the media as the professional communities that have suffered most from political repression.<sup>96</sup> According to the human rights organisation Lawtrend, the number of NGOs in the country has decreased by 1,102, i.e. by one third, since the summer of 2020.

Before the mass repression, there were about 3,000 civil society associations and about 200 foundations in the country. By December 2022, 699 organisations had been forcibly liquidated by the authorities, or were in process of liquidation. The activities of another 403 civil society associations and foundations were terminated by their own founders,

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91. <https://spring96.org/be/news/108653>

92. <https://spring96.org/ru/news/109645>

93. <https://spring96.org/ru/news/109294>

94. <https://spring96.org/ru/news/108901>

95. <https://www.racyja.com/hramadstva/brat-zaginulaga-va-ukraine-kalinouts/>

96. <https://cet.eurobelarus.info/ru/library/publication/2022/11/08/praktika-zapreta-na-professiyu-v-belarusi-v-2020-2022-godah.html>

often under pressure from the authorities as well.<sup>97</sup> As of the start of 2022 there were 309 organisations listed as being closed down by the authorities and only 194 on the list of those being closed down by their own founders.<sup>98</sup> Therefore, in 2022 the civil society sector in Belarus lost 599 organisations - **more than in the previous year and a half.**

In July 2022, the Supreme Court of Belarus liquidated the last five independent trade unions.<sup>99</sup> Criminal cases were filed against their leaders, who were taken into custody in April, for 'participation in an extremist organisation' 'creation of an extremist formation,' 'calling for actions intended to harm the national security of Belarus' and 'inciting social hatred.'<sup>100</sup>

According to the Viasna human rights defenders, the repressive measures in the years 2020-22 have destroyed the legal profession of trial lawyers, depriving participants in politically motivated trials (amongst others) of the right to a defence. For example, in the Stolbtsy district of Minsk region, which has a population of 40,000 people, by the end of 2022 there were no trial lawyers left - none of the three remaining passed state certification.<sup>101</sup> At the end of November 2022 there were six trial lawyers in detention. 70 trial lawyers who acted for the defence in politically motivated prosecutions had their licences revoked. Another 250 decided to leave the bar after the events of 2020.<sup>102</sup>

The prosecution of human rights defenders also continued. The harshest sentence meted out to human rights defenders in recent years has been the 15-year sentence handed down in September in the case of Marfa Rabkova, coordinator of the volunteer service of the Viasna Human Rights Centre.<sup>103</sup> In October, Nasta Loika, one of the few human rights defenders with the courage to work openly in Belarus, was detained. She was sentenced to four consecutive terms in jail for administrative

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97. <https://www.lawtrend.org/freedom-of-association/situatsiya-so-svobodoj-assotsiatsij-i-organizatsiyami-grazhdanskogo-obshhestva-respubliki-belarus-obzor-za-noyabr-2022-g>

98. <https://www.lawtrend.org/freedom-of-association/situatsiya-so-svobodoj-assotsiatsij-i-organizatsiyami-grazhdanskogo-obshhestva-respubliki-belarus-obzor-za-dekabr-2021-g>

99. <https://news.zerkalo.io/life/18164.html>

100. <https://euroradio.fm/ru/liderov-nezavisimyykh-profsoyuzov-budut-sudit-po-chetyrem-statyam>

101. <https://t.me/viasna96/15697>

102. <https://spring96.org/ru/news/109954>

103. <https://spring96.org/ru/news/109294>



offences, as a result of which she continued to remain in detention at the end of December.<sup>104</sup>

The authorities continued to methodically harass independent media outlets, both those few remaining in the country and those operating from abroad. The director of the newspaper *Belarusy i Rynok*, arrested in May, was accused of ‘inciting hatred,’ which carries a penalty of up to 10 years in prison.<sup>105</sup> In July, the authorities blocked the newspaper’s website. In June, security and law enforcement personnel detained the directors of the information technology portal *dev.by*<sup>106</sup> and the editors of the portal *Avtobiznes (ABW.by)*.<sup>107</sup> Criminal cases were brought against them as well. On 13 July, Belsat TV channel journalist Kateryna Andreeva was sentenced to eight years in prison for ‘treason against the state.’<sup>108</sup> In October, Siarhei Satsuk, Editor-in-Chief of the *Ezhednevnik* portal, was sentenced to eight years’ imprisonment.<sup>109</sup>

Since 2020, more than 400 journalists have been forced to leave Belarus for fear of criminal prosecution.<sup>110</sup> According to the Belarusian Association of Journalists, as of the end of December 2022, 32 media workers were imprisoned.<sup>111</sup> The repressions peaked in May-August 2021. During this period, the authorities closed down almost all independent social and political media. Among those closed down were the very popular internet portal *TUT.BY*, the Minsk studio of Belsat TV channel, the editorial office of the *Nasha Niva* newspaper and branches of *Radio Svaboda* and *Euradiye*, as well as the *BelaPAN* news agency. After the media started broadcasting from abroad, their websites were declared ‘extremist materials’ by the Belarusian Interior Ministry and the KGB, and the media themselves were declared ‘extremist formations.’ Reposting their publications or simply subscribing to their accounts in Belarus can result in a jail term under administrative law.<sup>112</sup>

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104. <https://www.svaboda.org/a/32174111.html>

105. <https://euroradio.fm/ru/direktoru-gazety-belorusy-i-rynok-predyavili-obvinenie>

106. <https://baj.by/ru/content/protiv-direktora-devby-vozbudili-ugolovnoe-delo>

107. <https://euroradio.fm/ru/na-zaderzhannyh-sotrudnikov-sayta-abwby-vozbudili-ugolovnye-dela>

108. <https://spring96.org/ru/news/108606>

109. <https://spring96.org/ru/news/109645>

110. <https://belsat.eu/ru/news/18-07-2022-skolko-zhurnalistov-vyehalo-iz-belarusi-razgovarivaem-s-zamestitelem-predsedatelya-bazh-borisom-goretskim>

111. <https://baj.by/be/analytics/represii-suprac-zhurnalistau-u-2022-godze-tablica-spis-znyavolenyh>

112. [https://cet.eurobelarus.info/files/userfiles/22/DOC/2022\\_Berufsverbot-Belarus.pdf](https://cet.eurobelarus.info/files/userfiles/22/DOC/2022_Berufsverbot-Belarus.pdf)

The repression has disproportionately affected the cultural sector and independent research centres. In 2020-2021, almost all of the already scarce independent researchers, who studied political, economic and social processes in Belarus, were forced to leave the country. Some, like the political scientists Valeria Kostiugova and Tatsiana Kuzina, and the philosopher Uladzimir Matskevich, joined the lists of political prisoners.

According to the Belarusian PEN Centre, at the end of September 2022, 101 of the 1,324 political prisoners, i.e. one in 13, were cultural figures.<sup>113</sup> From the beginning of the year until the end of September, at least 49 civil society organisations, registered as cultural, were forcibly closed down. At least 55 people were dismissed from scientific, cultural and educational institutions for political reasons.

Polish and Lithuanian ethnic minorities have been deprived of the right to study in their native languages as a result of amendments to the Education Code that entered into force on 1 September.<sup>114</sup> Since then, only a state language (Russian or Belarusian) can be the language of instruction. As a result, from the beginning of the new school year, Lithuanian and Polish ethnic minorities have been taught in Russian and their native languages have been taught for only two hours per week. As part of the effort to get rid of non-Soviet historical memory, the Belarusian authorities destroyed 12 cemeteries of Polish partisans from World War II.

Since 2020, there has been a reduction in the already limited use of the Belarusian language in the public space, something which the authorities consider a symbol of the regime's opponents. In the spring of 2022, the Ministry of Information closed down four independent publishing houses that published books in the Belarusian language: Medysont, Galiyafy, Limaryuus and Knigazbor. The authorities are tightening their control over the cultural sphere. In 2022, the Ministry of Information set up a Commission for the Control and Quality of Books. To prevent dissident artists from appearing on stage, the Ministry of Culture has

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113. <https://penbelarus.org/2022/10/27/bel-manitoryng-parushennyau-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-belarus-studzen-verasen-2022-goda.html>

114. <https://adu.by/images/2022/01/zakon-ob-izmen-kodeksa-ob-obrazovanii.pdf>

introduced a Register of Organisers of Cultural and Entertainment Events. Since then, only verified organisations (from theatres to restaurants and events agencies) listed on the register are entitled to organise concerts. Similarly, the Ministry of Culture has also created a national Register of Tour Guides and Interpreters.<sup>115</sup> Persons convicted of political offences are not allowed on the register.<sup>116</sup>

## 4. The aims of repression and its effectiveness

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According to the authors of the studies *‘Belarusian Change Tracker’*<sup>117</sup> and *The Practice of ‘Banning Professions’ in Belarus in 2020-2022*,<sup>118</sup> the purpose of the largest-scale repression since the time of Stalin is more than just the intimidation of society. The regime is trying to leave no economic or cultural niches for its enemies. The authorities are seeking, as far as possible, to nationalise the economy and restore the old familiar authoritarian fabric of Soviet society, which for them is familiar and understandable. The Soviet structure of the economy and the people brought up in that era allowed Lukashenka to win and hold on to power.

Have the intensified ideological indoctrination and repression succeeded in achieving their goal? Already by the beginning of October 2022, sociologists were observing that the popularity of state media had equaled that of independent media, for subscriptions to which people were being prosecuted.<sup>119</sup> Not only has the use of state media as a source of information increased, but also the level of trust in them.<sup>120</sup>

The authors of the *‘Belarusian Change Tracker’* state that the split between

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115. <https://penbelarus.org/2022/10/27/bel-manitoryng-parushennyau-kulturnyh-pravou-i-pravou-chalaveka-u-dachynenni-da-dzeyachau-kultury-belarus-studzen-verasen-2022-goda.html>

116. <https://belsat.eu/ru/news/09-12-2022-zhertvam-politicheskikh-repressij-zapretili-byt-ekskursovodami-v-belarusi>

117. <https://library.fes.de/pdf-files/bueros/belarus/19852.pdf>

118. [https://cet.eurobelarus.info/files/userfiles/22/DOC/2022\\_Berufsverbot-Belarus.pdf](https://cet.eurobelarus.info/files/userfiles/22/DOC/2022_Berufsverbot-Belarus.pdf)

119. <https://baj.by/be/content/sociolog-s-takim-vyzovom-nezavisimye-smi-nikogda-ne-stalkivalis>

120. <https://library.fes.de/pdf-files/bueros/belarus/19770-20221206.pdf>

those inclined to trust and those inclined to distrust the authorities has remained almost unchanged in Belarusian society for more than two years. The opponents of the regime and those who agree to play by its rules were almost equal in number.<sup>121</sup> However, in November 2022 the number of those inclined to trust state institutions reached 62%. Sociologists explain the shift in public attitudes by sampling errors and the fear factor as compared to previous surveys.<sup>122</sup> Nevertheless, they believe there has been a slight shift in public sentiment in favour of acceptance of the regime. They explain this by a collapse in citizens' faith in a quick change of power, a degree of stabilisation of the economic situation and, most importantly, 'the fact that the Belarusian army did not go to war against the background of the mobilisation which started in Russia.'<sup>123</sup>

There is no certainty that the impact of these factors will be enduring. If the regime succeeded in suppressing civil society activity, it did not succeed in changing the structure of Belarusian society. By making it impossible for opponents of the regime to work in the public sector, the authorities are behaving as if they were employing 75 percent of the active population, as they did 30 years ago. However, at the end of 2021, only half of the population of Belarus were employed in the public sector, mostly in health care, education, public administration and security and law enforcement agencies.<sup>124</sup>

There are still niches in the private sector for those dismissed for political reasons, although many, such as artists, journalists and researchers, have had to change careers or emigrate. More than a half of participants in the survey conducted by the authors of the study, *The practice of 'Ban on Profession' in Belarus in 2020-2022*, said their dismissal gave them an opportunity for personal development. 'If a university threatens you with prison, dismissal, etc. - quit! You can earn five times as much "on the street"', one of the respondents declared.<sup>125</sup>

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121. <https://library.fes.de/pdf-files/bueros/belarus/19564.pdf>

122. <https://library.fes.de/pdf-files/bueros/belarus/19852.pdf>

123. <https://zerkalo-fastly.com/news/economics/28507.html>

124. [https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public\\_compilation/index\\_50202/](https://www.belstat.gov.by/ofitsialnaya-statistika/publications/izdania/public_compilation/index_50202/)

125. [https://cet.eurobelarus.info/files/userfiles/22/DOC/2022\\_Berufsverbot-Belarus.pdf](https://cet.eurobelarus.info/files/userfiles/22/DOC/2022_Berufsverbot-Belarus.pdf)

After 2020, employment in state-owned enterprises continued to decline. Mandatory character references and intensified ideological control have made it difficult to recruit active and competent people into the public sector. The competitiveness and economic performance of state-owned companies that have lost their specialists will inevitably decline. Deterioration in the quality of services provided by public institutions in the areas of health care, transport, education, law enforcement, public utilities, road construction, etc., is also highly likely.<sup>126</sup>

The degradation of state educational and medical institutions is likely to increase demand for tutoring, education abroad, and private clinics. Market and civil society structures will try to fill the gaps left by inefficient state institutions. However, the development of these structures will not be easy. Undoubtedly, the authorities will see them as an economic and political threat. At the same time, the public sector lacks the resources to meet the needs of an increasingly un-Soviet society in terms of structure, behaviour and values. Lukashenka's economic and political model is incapable of providing citizens with a vision for the future.

Mass emigration has weakened the protest potential of Belarusian society and dealt a huge blow to the country's human capital. Nevertheless, the departure of tens of thousands of enterprising Belarusians to countries such as Poland and Lithuania has dramatically increased interpersonal contacts between EU countries and Belarus. NGOs and mass media quickly learned to work from abroad. This is also true for entrepreneurs. From the start of 2020 until June 2022, some 4,000 Belarusian companies were registered in EU countries, or one percent of those once operating in Belarus.<sup>127</sup>

The social links established during the civil uprising of 2020 have not been lost, sociologist Gennady Korshunov believes. In his opinion, communication among like-minded people has only lost its political component. As one of his respondents explained, 'Chatrooms only discuss topics of everyday life. No one wants to go to prison.'<sup>128</sup> Nevertheless, according to the sociologist, these links will intensify if the opportunity arises.

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126. [https://studium.uw.edu.pl/wp-content/uploads/2022/04/Raport\\_Bialorus\\_5PL.pdf](https://studium.uw.edu.pl/wp-content/uploads/2022/04/Raport_Bialorus_5PL.pdf)

127. <https://nashaniva.com/ru/299437>

128. <https://newbelarus.vision/praktiki-samoorganizacii/>

## IV. CHANGES IN LEGISLATION - FEATURES OF THE REPRESSIVE ACTIVITIES OF THE BELARUSIAN REGIME IN 2022

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In 2022, the Belarusian regime continued its repressive policies towards Belarusian citizens, in particular, with regard to political and civil society activists, human rights defenders and cultural figures. The number of political prisoners is constantly growing - as of the end of December 2022, this figure stands at more than 1,400 people.

The repression takes various forms, aimed both at prosecuting individuals and at destroying civil society institutions, including:

- criminal prosecution;
- the imposition of maximum custodial sentences, including on persons of retirement age and those with serious illnesses (including cancer);
- violation of the criminal procedure law in relation to political prisoners (failure to respect the right of a person to know the charges against them, the right to communicate with defence lawyer, the right to visits and correspondence, and the right to medical assistance, etc.);
- harassment in places of imprisonment, including placement in a punishment cell,
- arbitrary increase in the term of imprisonment and/or change in the regime of imprisonment (with a worsening of conditions for serving the sentence, a change of regime from 'ordinary' to 'strict' or 'enhanced,' or a transfer from a penal colony to a cell-type prison) on trumped-up charges of violating the regime of imprisonment or failure to obey the instructions of the management of the detention facility;
- refusal to hold public and open court proceedings, forcing defence lawyers and doctors providing medical care to prisoners to sign non-disclosure pledges;

- prosecution under administrative law, repeated imposition of jail terms for administrative law offences on human rights defenders, civil society activists, etc.;
- the prosecution and detention of participants in the 2020 protests continued in 2022;
- cruel and inhumane treatment of political prisoners on remand, in prison and jailed for offences under administrative law;
- dismissal from work/non-renewal of employment contract for political reasons (in 2021, the Labour Code was amended to allow the employer to terminate an employment contract if the employee was serving a term in jail for an administrative law offence);
- violation of the right to peaceful assembly, freedom of expression (including anti-war views, sympathy for the Ukrainian people etc., and prosecution for using national symbols);
- expulsion of pupils and students from educational institutions for absence from classes because of serving a jail term for an administrative law offence (since 2020, this has been one of the most 'popular' types of punishment for participation in protests against election fraud and against the use of violence against peaceful protesters, etc.)
- arbitrary searches with confiscation of electronic equipment (laptops, phones, etc.)
- prosecution of the staff of media outlets for carrying out their professional activities;
- blacklisting of cultural and educational figures, which means they will no longer be able to organise cultural events or find employment if they are dismissed for political reasons;
- prosecution for taking part in strikes;
- liquidation of civil society organisations, including those without political aims;
- liquidation of independent trade unions and the prosecution of their leaders and members;

- other forms;

- prosecution of opponents of Russia's war against Ukraine, including criminal prosecution of the so-called 'Railway Partisans,' as well as anyone who in one form or another spoke out against the war and/or in support of the Ukrainian people (including comments in social networks, participation in anti-war rallies in the spring of 2022, forwarding photographs on social networks recording the movement of Russian military equipment on the territory of Belarus, using the Ukrainian national flag, singing Ukrainian songs, etc.), who should be singled out as a special category.

At the same time, the Belarusian authorities use the already existing legislation as a legal basis for politically motivated prosecutions, as well as toughening the legislation by introducing amendments and additions to the legal acts that establish criminal or administrative liability for activities the authorities regard as protests harming the Republic of Belarus (but in practice, the current government), and which in one way or another restrict the civil and political rights of citizens. The relevant amendments allow the harshest possible measures to be applied against opponents of the regime and those who express anti-war views and commit acts capable of hindering the military aggression of the Russian Federation against Ukraine. This is the context in which to consider the amendments introduced to criminal, criminal procedural and administrative laws, as well as the legislation concerning employment, education and other regulations, that clearly restrict freedom of assembly and expression, and the right to strike, etc., as well as creating a regulatory framework for the repressive system of government to interfere in private life through the surveillance of citizens, etc..

The main changes and additions to current legislation in 2022 in the area under study include the following:

- amendments to the current Constitution, modifying the system of supreme bodies of state power;

- Belarus denounced the Optional Protocol to the International Covenant on Civil and Political Rights. The Belarusian state does not recognise the jurisdiction of the Human Rights Committee; consequently, Belarusian



citizens have been deprived of the only possibility of appealing to international bodies for the protection of their rights as enshrined in the Covenant (including the right to equality before the law, the right to a legal defence, the right to freedom from arbitrary detention, etc.) when these rights are violated by state authorities;

- criminal law was amended and supplemented, introducing the criminalisation of the so-called denial of genocide of the Belarusian people, and by the addition of grounds for imposing capital punishment - under articles of the Criminal Code with which members of the democratic movement and opponents of the Belarusian authorities are charged, as well as military officers and government officials found guilty of high treason;

- amendments and additions have been made to criminal procedural law, introducing a new institution of special (in absentia) proceedings making it possible in practice to hold a criminal hearing in the absence of the accused;

- parliament adopted, in two readings, a bill that would make it possible to deprive citizens, who have their citizenship from birth, of their citizenship if they engage in extremist activities or cause serious harm to the interests of the Republic of Belarus;

- the Code of Administrative Offences has been amended to effectively prohibit the provision of assistance in paying the fines imposed on protesters or other persons prosecuted by the authorities, and also to deprive those convicted of the ability to accept such assistance;

- amendments were made to the legislation on the holding of cultural and sports events, in particular, a register of organisers of cultural and entertainment events was created, with those not on the register deprived of the right to organise and hold such events;

- a new version of the Education Code came into force on 1 September 2022, allowing pupils and students of educational institutions to be expelled in case of absence from classes while they were serving a term in jail for an administrative law offence (the most used punishment

imposed on protesters);

- a presidential decree was issued obliging telecommunications operators, service providers and owners of internet resources to cooperate with bodies carrying out operational and investigative activities (KGB, Ministry of Internal Affairs), including providing information on users, their personal data, services provided to them, etc. without a prosecutor's authorisation to do so.

## 1. Denunciation of the Optional Protocol to the International Covenant on Civil and Political Rights

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On 27 October 2022, the Law on Denunciation of the Optional Protocol to the International Covenant on Civil and Political Rights of 16 December 1961 was passed. As a result, Belarus no longer falls under the jurisdiction of the Human Rights Committee, one of the few international bodies to which Belarusian citizens might complain about violations by Belarusian state bodies of their rights and legitimate interests as enshrined in the said International Covenant. In accordance with Article 12(1) of the Optional Protocol, the denunciation shall enter into force three months after the date of its receipt by the Secretary-General of the United Nations (in this case, the relevant note was registered on 8 November 2022).<sup>129</sup> Accordingly, the last day on which Belarusians may file complaints with the Human Rights Committee is 8 February 2023.

Withdrawal from the Optional Protocol will undoubtedly have a negative impact on the already unenviable position of Belarusian citizens prosecuted by the state for political reasons. Since the ratification of this Protocol, around 200 complaints against Belarus have been examined by the Human Rights Committee (hereinafter 'HRC'). Moreover, several HRC decisions have included recommendations to make positive changes to legislation with the aim of improving the human rights situation. The

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<sup>129</sup>. The last day on which Belarusians may submit complaints to the HRC is 8 February 2023 (defenders.by)

state has not implemented a single HRC decision, pointing to their advisory nature. Nevertheless, this tool has served as a way for Belarusians to draw attention to human rights issues in their country. Following the events of 2020, and in reaction to the repression, complaints made to the HRC against the Belarusian authorities increased in number.

Non-recognition of HRC jurisdiction does not fundamentally change the situation, for Belarusian citizens or for the Belarusian authorities, since HRC decisions were not actually being implemented. Moreover, there is still time (albeit not a great deal) to file new complaints, which will in any case be considered by the HRC, and any corresponding decision made by the regime would do no good for the image of a state that continues to strengthen repressive measures against its citizens. Besides, such actions by the regime may well serve as another reason for the international community to apply some pressure.

## 2. Amendments to the constitution of the Republic of Belarus: the ‘constitutional referendum’

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A Belarusian constitutional referendum was held on 27 February 2022. Voting took place from 22 to 27 February (including early voting), but Belarusians overseas were not given the option to vote. The referendum was the first mass political campaign since the 2020 presidential ‘elections.’ The Central Election Commission of Belarus recognised the referendum as valid and published the official results: nearly 83% voted for the constitutional amendments and over 12% of participants voted against.<sup>130</sup> The campaign ran during a tense situation amid Russia’s armed aggression against Ukraine. The main voting day gave part of Belarusian society an opportunity to go out and protest, but there were no mass demonstrations; the protests were mainly about the war. According to human rights defenders, on 27 February, over 800 people were detained.<sup>131</sup>

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130. Data of the press service of the Central Election Commission of Belarus: <https://t.me/cikbelarus/304>

131. <https://spring96.org/en/news/106932>

The changes to the Constitution should ‘lessen the burden on the President’ and lead to a new ‘redistribution of power’ in the Belarusian political system. The debate on constitutional amendments was supposed to be public and open; theoretically, any citizen could comment on them, and- again theoretically- the legislature would consider the amendments ahead of the referendum. As early as 4 October 2021, during the opening session of the House of Representatives, the speaker urged deputies to ‘open a public debate on the constitutional changes and organise a nationwide referendum that will enable us to arrive at a national consensus.’<sup>132</sup> Subsequently, however, the subject of the amendments and the involvement of all citizens in the debate surrounding them was co-opted by official Belarusian propaganda.

The authorities had been drafting amendments to the Belarusian Constitution for almost a year, but only published them two months ahead of the planned referendum. The content of the proposed amendments was only made public in late December 2021.<sup>133</sup> In the debate on the draft amendments (even before they were made public), three issues emerged as major themes:

- A change in the nature of the presidency: limiting the powers of the president and making provision for their removal from office;
- Formal establishment of a new body in the Belarusian political system: the All-Belarusian People’s Assembly (APA), and determination of its legal status;
- Modification of the division of power and the redistribution of power, along with a hypothetical mechanism for the transition of power.

However, following publication of the draft amendments, it became clear that there were far more changes and that they were not only limited to strictly political matters. In fact, the biggest changes concerned the office of the president and the All-Belarusian People’s Assembly, although the amendments touched upon almost all chapters of the Constitution (and a whole new chapter was introduced). The proposed amendments are

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132. [https://www.ng.ru/cis/2021-10-04/5\\_8268\\_belorussia.html](https://www.ng.ru/cis/2021-10-04/5_8268_belorussia.html)

133. Draft changes as of 27/11/2021: <https://pravo.by/pravovaya-informatsiya/vsenarodnoe-obsuzhdenie-proekta-konstitutsii-respubliki-belarus/>

numerous and, on analysing them, it is possible to identify four main areas of socio-political and constitutional change that the new constitution is intended to introduce:

1. the systemic dimension (including the party system);
2. the presidency of Belarus;
3. the All-Belarusian People's Assembly; and
4. the ideological dimensions.

The above changes do not cover all the amendments proposed in the published draft. There are more of them, and they are interconnected (for example, the very introduction of a new chapter on the All-Belarusian People's Assembly is linked to additions to the articles of other chapters). There was also the matter of whether the results of the so-called 'public consultation' would in any way be taken into account by those in power and whether new, supplemented or updated draft amendments<sup>134</sup> would appear before the referendum took place. As independent journalists and activists would later show, the views of citizens were not taken into account.

At the systemic level, the amendments introduce potentially major changes to the Belarusian party and parliamentary systems. The new additions mean that the ban on the foreign funding of political parties and election campaigns is now legally enshrined in the Fundamental Law. In the context of constitutional amendments, the authorities' narrative has often focused as well on the 'need for a healthy politicisation' of public life in the country. Looking closely at the draft amendments, one can see an attempt to introduce the illusory façade of a multi-party system and political competition, only according to rules of the game dictated by the power elite. It is important to remember that party political activity in Belarus- and this applies to all parties, opposition and pro-government- is in fact a sham, for even the Belarusian parliament, while consisting of representatives of pro-government bodies, is overwhelmingly composed of non-party deputies.

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134. In accordance with the order of 20/1/2022: <https://pravo.by/document/?guid=12551&p0=P32200014&p1=1&p5=0>,

The construction of an illusory multi-party system is thus intended to be a tool with which to legitimise the future Belarusian legislature (for external purposes) and create a potential ‘safety valve’ for society inside the country.

The top-down implementation of plans to promote a ‘multi-party system’ will pose a serious threat to the Belarusian opposition bloc, on a formal and legal level. Once the amendments are adopted in 2023, it will most likely be announced that all Belarusian political parties will be required to re-register. The democratic opposition, which has been weakened and marginalised for many years, is already in a tragic state. **Therefore, it may not survive these changes at all.** At the same time, it is clear that the Belarusian authorities are trying to eliminate the genuine counter-elite not only through direct repression, but also by creating new ‘political opponents’ in the form of the so-called ‘pocket opposition.’ This is clearly seen, for example, in the flurry of activity from the Round Table of Democratic Forces in the months leading up to the referendum. This organisation may become the prototype for new quasi-opposition parties and groups in the future.<sup>136</sup>

New voting restrictions have been introduced: only a person over the age of 40 who has lived in Belarus continuously and permanently for twenty years prior to an election can become president. A very important provision, which can also be seen as a response to the 2020 crisis, is that Belarusian nationals cannot stand as a candidate if they have held citizenship of another country or even a residence permit there (Article 80). This is primarily targeting the new Belarusian opposition leaders who had to leave the country after August 2020 and are mostly located in Poland and Lithuania (amongst other places). What this article actually means is that tens of thousands of Belarusians who have, say, studied or worked abroad - even if they held a short-term residence permit in another country - **will not be able to stand as a candidate.**

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135. In the first instance, this refers to the oldest opposition parties, such as the Belarusian Popular Front and the United Civic Party, etc.

136. <https://ksds.by/>.

Besides the two most discussed dimensions of the constitutional changes, namely, the purely political matters of the presidency and the All-Belarusian People's Assembly, the ideological dimensions warrant particular attention. Significantly, ideological issues, historical policy, and the official view of nation-state identity and patriotism feature in many parts of the proposed amendments.

An analysis of the events of 2022 and a reading of the draft amendments to the Constitution raise a legitimate question: who were these changes mainly targeting? It is important to note how and under what conditions these changes are now being introduced in Belarus. The massive propaganda campaign in the media is noteworthy; the regime presents the changes as something necessary, explaining that the state must change in order to adapt to geopolitical conditions. At the same time, there is a 'tightening of the screws', which is intended to lock in the power of the state and to reassert its sovereignty and monopoly, but also to be a response to the elements in society that demanded change in 2020.

The referendum is largely in the interests of the current power elite, and Aleksandr Lukashenka personally. This is evidenced by three types of activity in the political space.

The first is the far-reaching propaganda campaign for the referendum, conducted in a relatively short period of time. The publication of the draft amendments just two months ahead of the referendum tells us that the government took this first nationwide election campaign since 2020 extremely seriously.

The second is the conservative consolidation of the regime, evident in Belarus after August 2020 and especially so in recent months. This was primarily geared towards strengthening the security and law enforcement wing of the Belarusian elite and having them occupy important posts in government. It should be seen both as an attempt to stabilise the system and as indirect preparation for a referendum.

The third is the growing wave of repression in the run-up to the referendum (including long prison terms for opponents of the regime), which may be regarded as a further cleansing of the political and media

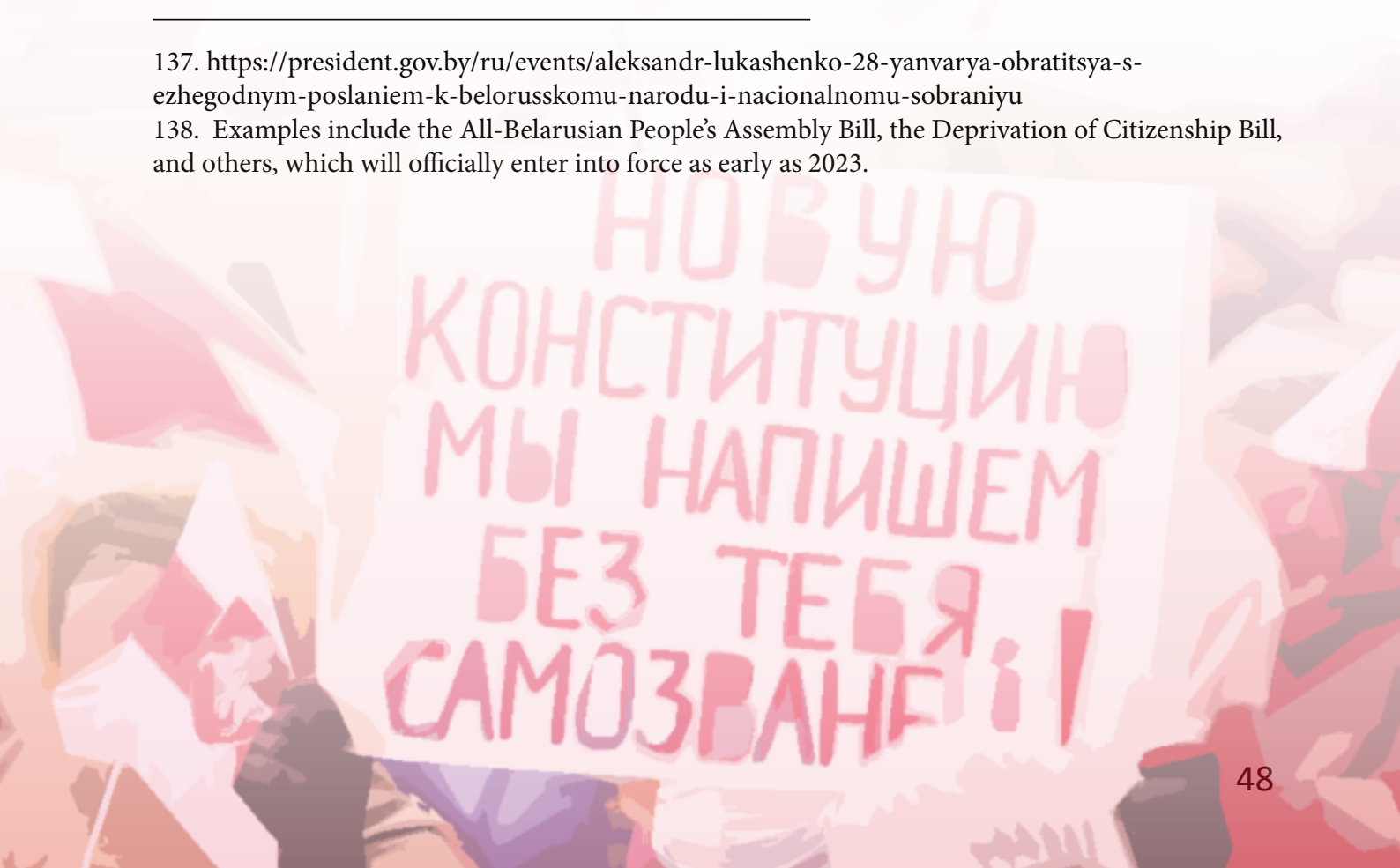
field ahead of the referendum. It signalled that the authorities very much wanted the referendum campaign to go their way. This was confirmed by Lukashenka, who in recent weeks repeatedly emphasised that the priority is to ‘preserve Belarus and its statehood’<sup>137</sup>, thus justifying the repression and the need for change from the point of view of the authorities.

In the current context, especially given events in Kazakhstan in January as well as Russia’s aggression against Ukraine, and considering human rights developments and the dynamics of repression throughout 2022, the referendum should not be seen as a process laying the groundwork for a possible transfer of power. Rather, what the mass arrests on referendum day and the tense situation following the Russian invasion of Ukraine demonstrate is that the Belarusian ruling elite’s bargaining opportunities with the West have stalled. Primarily, the referendum is about diluting political accountability by removing the burden from the president. It is both a formal mechanism for ‘resetting’ Lukashenka’s previous terms to zero and an attempt to end discussions in the Belarusian power elite about the 2020 elections. How quickly and to what extent all newly introduced elements will be embedded in the Belarusian political system remains a crucial factor in the current geopolitical situation.<sup>138</sup>

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137. <https://president.gov.by/ru/events/aleksandr-lukashenko-28-yanvarya-obratitsya-s-ezhegodnym-poslaniem-k-beloruskomu-narodu-i-nacionalnomu-sobraniyu>

138. Examples include the All-Belarusian People’s Assembly Bill, the Deprivation of Citizenship Bill, and others, which will officially enter into force as early as 2023.





# V. CHANGES TO CRIMINAL LAW

## 1. Criminal liability for calls for sanctions

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1 January 2022 saw the entry into force of **Law No. 133-Z** 'On Amendments to the Criminal Code of the Republic of Belarus' dated 14 December 2021<sup>139</sup>, which introduced changes to **Article 361** of the Criminal Code of the Republic of Belarus.<sup>140</sup> This article establishes criminal liability for calls for action aimed at harming the national security of the Republic of Belarus. Since the changes, its heading reads as follows: 'Calls for restrictive measures (sanctions) and other actions that seek to harm the national security of the Republic of Belarus.' Criminal liability for the specified actions has been tightened.

Specifically, 'public calls for the seizure of state power or violent change of the constitutional order of the Republic of Belarus or high treason or acts of terrorism or sabotage or actions aimed at undermining the territorial integrity of the Republic of Belarus or other actions that seek to harm the national security of the Republic of Belarus, including the application of restrictive measures (sanctions) against the Republic of Belarus, individuals and legal entities of the Republic of Belarus or the distribution of materials containing such calls, in the absence of evidence of a more serious crime' shall be punishable by restriction of liberty for up to five years or imprisonment for up to six years. **Article 261(2) 361** of the Criminal Code provides for punishment in the form of imprisonment from three to ten years for 'calls made to a foreign state or a foreign or international organisation for actions aimed at harming the national security of the Republic of Belarus, including the application of restrictive measures (sanctions) against the Republic of Belarus, individuals and legal entities of the Republic of Belarus, or the distribution of materials containing such calls, in the absence of evidence of a more serious crime.'

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139. <https://pravo.by/document/?guid=12551&p0=H12100133&p1=1&p5=0>

140. <https://etalonline.by/document/?regnum=hk9900275>

**Article 361(3)** of the Criminal Code establishes the punishment of imprisonment from four to twelve years for the above-mentioned actions, ‘carried out using mass media or the Internet, or by an official using their official powers, or where [the actions] have serious consequences.’<sup>141</sup>

These changes are evidently directed in large part against the international work of democratic forces in Belarus, who since 2020 have been informing the international community about the actions and victims of the regime as well as the grave political and social situation that has arisen in the country, and calling for economic sanctions against the regime. They urge against cooperation with the regime or the financing of its repressive system through cooperation, economic or otherwise. The sanctions imposed by this article are intended to intimidate opponents of the Belarusian authorities and to create further grounds for prosecuting members of the democratic community to discredit it in the eyes of Belarusian citizens. They also seek to prevent the dissemination of relevant information about the international activities of the authorities’ opponents via social media and independent media outlets.

On 20 December 2022, news emerged that two prosecutions on the charge of calling for sanctions were underway against Aliaksandr Opeikin and Aliaksandra Herasimenia, respectively, the executive director of the Belarusian Sport Solidarity Foundation and a famous Belarusian sportswoman who created the Foundation.<sup>142</sup> The trial is being conducted **in absentia - yet another Belarusian legislative addition in 2022**. Others accused of calling for sanctions include Pavel Latushko, Sviatlana Tsikhanouskaya, Olga Kovalkova, Sergei Dylevsky, and Maria Moroz, the regime’s most prominent opponents. Since they are abroad, the case is to be tried in absentia.<sup>143</sup> Furthermore, on 19 December, criminal proceedings in absentia were also initiated against Valery Tsepkalo, including on charges under **Article 361(3)**.<sup>144</sup>

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141. <https://pravo.by/document/?guid=12551&p0=H12100133&p1=1&p5=0>

142. Trial in absentia of Aliaksandra Herasimenia and Aliaksandr Opeikin begins in Minsk (nashaniva.com)

143. The Prosecutor General’s Office of Belarus sent the criminal case against Sviatlana Tsikhanouskaya to court - KP.RU

144. Investigative Committee commences special proceedings against Valery Tsepkalo (belta.by)

## 2. Criminal liability for involvement in the activities of public associations, public organisations, and political parties and foundations.

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On 4 January 2022, the Law on Amendments to Codes was passed, which added a new **article 193**<sup>1</sup> ‘Illegal organisation of or participation in the activities of a public association, religious organisation, or foundation’ to the Criminal Code. The article establishes criminal liability and punishment in the form of a fine, detention or imprisonment for up to two years, for the organisation of ‘activities or participation in the activities of a political party, other public association, religious organisation or foundation, in respect of which a decision of the authorised public authority regarding its liquidation or the suspension of its activities has entered into legal force, as well as the organisation and participation in the activities of political parties, other public association, religious organisation or foundation that has not been registered with the state in accordance with the established procedure, in the absence of evidence of a crime as provided by **Article 423**<sup>1 145</sup> of the Criminal Code.

The addition of this article to the Criminal Code is a logical continuation of the regime’s policy of targeting civil society, which basically consists in the destruction of all non-governmental bodies and organisations. This it does by using spurious grounds to liquidate civil society associations and organisations and prosecute them for allegedly extremist activities, the distribution of extremist materials, illegal financing, and so on. According to Lawtrend, during the summer and autumn of 2021 alone, around 500 civil society organisations in Belarus voluntarily or were forcibly dissolved in connection with the current socio-political situation.<sup>146</sup> The criminalisation of participation in civil society associations, political parties, and foundations, etc. represents a clear violation of the right of association.

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145. This article of the Criminal Code makes it a criminal offence to ‘fail to comply with a decision to declare an organisation or the activities of an individual entrepreneur as extremist or to terminate the activities of the representative office of a foreign or international organisation and/or suspend their activities.’

146. Criminal liability for organising and participating in unregistered organisations | Lawtrend — Action Education Research

It should also be noted that this article had previously featured in the Criminal Code. In 2011, the Venice Commission of the Council of Europe adopted a special opinion on this article of the Criminal Code<sup>147</sup>, which stated that ‘The rights to freedom of association and freedom of expression are of paramount importance in any democratic society and any restriction of these must meet a strict test of justification.’ Yet the criminal liability established by the article in question fails to meet the criteria provided for by **Article 22(2) and 19(2)** of the International Covenant on Civil and Political Rights.<sup>148</sup>

The restitution of this article makes it virtually impossible for associations that are not registered or have been liquidated by the authorities to function. It undoubtedly restricts the right of citizens to freedom of association, since the current registration process for civil society associations, organisations, and political parties makes it virtually impossible to officially register any association - including those that have nothing whatsoever to do with politics. We note, for example, that in November 2021, the Skaryna Belarusian Language Society, a cultural and educational organisation founded in 1989 that sought to revive Belarusian national culture, was shut down. 2022 saw the closure of civil society associations, including Education for Sustainable Development, the Association for Life-long Learning and Enlightenment, the Rodnoi (‘Home’) International Ecological Union of Entrepreneurs with Pure Intentions, Volya k Razvitiyu (‘Desire for Development’), Otkrytoe Serdtse (‘Open Heart’), and many more, including educational, cultural, sports, youth, charity, automotive, and other types of organisations.<sup>149</sup> Ethnic minority organisations continue to face persecution; between January and September 2022 alone, the oldest Polish organisations in Belarus were liquidated, including The Club of Polish Folk Traditions (registered in 1994), Society of Polish Culture in Lidčina (1994), Polish Scientific

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147. Opinion of the Venice Commission on the compatibility with universal human rights standards of Article 193(1) of the Criminal Code of the Republic of Belarus regarding the rights of non-registered associations | Lawtrend — Research Education Activities

148. Opinion of Venice Commission on the compatibility with universal human rights standards of Article 193(1) of the Criminal Code of the Republic of Belarus - Euro-Belarus (eurobelarus.info)

149. (RUS) Monitoring Violations of Cultural Rights and Human Rights of Cultural Figures. Belarus, January-September 2022, PEN Belarus (penbelarus.org)

Society (1994), Polska Macierz Szkolna (1995), and Wspólnota Polaków (2019).<sup>150</sup>

### 3. Criminal liability for denying the genocide of the Belarusian people

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5 January 2022 saw the adoption<sup>151</sup> of **Law No. 146-3** ‘On the Genocide of the Belarusian People’, which introduced changes to the Criminal Code. **Article 1 of this law** defines the genocide of the Belarusian people as follows: ‘Atrocities by Nazi criminals, their accomplices and nationalist groups during the Great Patriotic War and post-war period, aimed at the systematic physical destruction of the Belarusian people through murder and other actions recognised as genocide in accordance with the legislative acts and norms of international law.’

Article 2 of the said law supplemented the Criminal Code with **Article 130**<sup>2</sup>, which reads as follows: ‘Denial of the genocide of the Belarusian people.

1. Denial of the genocide of the Belarusian people, whether expressed in a public statement or in a printed or publicly displayed work or in the mass media or in information posted on the Internet or another public telecommunications network or dedicated telecommunications network shall be punished with restriction of liberty for up to five years or imprisonment for the same term.

2. The action provided for in **paragraph 1 of this Article**, committed by a person previously convicted of denying the genocide of the Belarusian people or by an official using their official powers shall be punished by imprisonment for three to ten years.’<sup>152</sup>

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150. Monitoring of NGOs in Belarus in the process of forced liquidation and those that have decided on self-liquidation | Lawtrend — Research Education Activities

151. <https://pravo.by/document/?guid=12551&p0=H12200146&p1=1&p5=0>

152. <https://etalonline.by/document/?regnum=hk9900275>

Thus, the very definition of the genocide of the Belarusian people provides scope for the regime to **manipulate history** by maintaining that nationalist groups, being accomplices of Nazi criminals, committed crimes against the Belarusian people under the white-red-white flag. This has, in turn, provided an additional basis for prosecutions relating to the use of national symbols, as well as the prosecution of historians who may refute such manipulation of historical facts and indeed anyone who does not recognise such manipulation or falsification. The criminalisation of these actions serves as evidence of a growing policy of repression in Belarus. Moreover, the article in question can also be applied with respect to the Polish minority. Notably, there are a growing number of references in Belarusian media to the alleged targeted killing of Belarusians by Polish Home Army ('Armia Krajowa') partisans during World War II, while memorial sites for Polish soldiers in Belarus have started being deliberately destroyed.<sup>153</sup>

It is worth noting that a criminal case regarding the genocide of the Belarusian people was opened by the Prosecutor General's Office as early as April 2021. This marked another step forward in the policy of the regime, which claims that the West is waging an information war against Belarus. We know this to be the case given that the results of the investigation are to be included in the framework of 'ideological, educational, and information work.'<sup>154</sup>

## 4. Introduction of new grounds for the death penalty

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The next change to the Criminal Code was driven, inter alia, by Russia's military aggression against Ukraine and the involvement of the Belarusian regime in that aggression by offering its territory to Russian troops and military equipment for the purpose of attacking and deploying troops into Ukraine. (This, despite the fact that Article 18 of the Belarusian Constitution- even as amended after the 2022 referendum- states that

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153. (RUS) Monitoring Violations of Cultural Rights and Human Rights of Cultural Figures. Belarus, January-September 2022, PEN Belarus ([penbelarus.org](http://penbelarus.org))

154. A case on the genocide of the Belarusian people was opened in Belarus ([svoboda.org](http://svoboda.org))

‘the Republic of Belarus precludes military aggression from its territory against other states.’<sup>155</sup>)

The regime responded by amending the Criminal Code, adding yet another ground for the death penalty. Thus, **Law No. 165** - Z ‘On Amendments to the Criminal Code of the Republic of Belarus’ of 13 May 2022<sup>156</sup> made changes to **Article 59(1)** of the Criminal Code allowing the death penalty by firing squad for the following crimes:

- **Article 124(2) of the Criminal Code** (murder of a representative of a foreign state or an international organisation for the purpose of provoking international tension or war, or destabilising public order in a foreign state);
- **Article 126(3) of the Criminal Code** (acts of international terrorism by an organised group or with the use of nuclear facilities or with the use of radioactive substances or nuclear materials or potent or toxic chemical or biological substances or associated with the murder of a person as well as the murder of a state official or public figure of a foreign state with the aim of provoking international tension or war or destabilising public order in a foreign state);
- **Article 289(3) of the Criminal Code** (acts of terrorism by an organised group or with the use of nuclear facilities or using radioactive substances or nuclear materials, or potent or toxic chemicals or biological substances or associated with the murder of a person); and
- **Article 359(2) of the Criminal Code** (murder of a state official or public figure in connection with their government or public activities for the purpose of influencing decision-making by state bodies or obstructing political or other public activities or intimidating the population or destabilising public order).

The official justification, however, for the tightening of criminal legislation and the introduction of additional grounds for the death penalty is the

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154. A case on the genocide of the Belarusian people was opened in Belarus (svoboda.org)

155. [https://etalonline.by/document/?regnum=V19402875&q\\_id=&date=2022-03-15&rnList=P02200001&history=0](https://etalonline.by/document/?regnum=V19402875&q_id=&date=2022-03-15&rnList=P02200001&history=0)

assertion that terrorist threats against Belarus are on the rise. According to Sergei Sivets, Chair of the Standing Commission on Legislation and State Building of the Council of the Republic of Belarus, ‘this is being actively encouraged by foreign aggressive actors who are politically hostile to our country and who seek to weaken social and political conditions in Belarus, destabilise the socio-economic situation, and stoke tension and fear in society. To achieve the said aims, foreign actors are actively recruiting disruptive forces who, for a fee, are prepared to commit criminally punishable acts highly likely to result in significant loss of life.’ At the same time, Sergei Sivets states that ‘overall, the proposed additions are commensurate with the threat posed to public safety and adequately respond to the developing crime situation.’<sup>157</sup>

In this way, the authorities continue to use the narrative of an external threat that warrants the strengthening of security measures, which in practice means tightening criminal legislation to combat dissidents and creating legal grounds for capital punishment, thereby justifying their own repressive policies.

It is important to note that while the punishment in question has not yet been imposed, there is a very high likelihood that death sentences will be handed down by the courts as early as 2022. For instance, the so-called ‘Railway Partisans’, who carried out sabotage on the railway in order to block the advance of Russian military equipment and weaponry through Belarusian territory, were detained by law enforcement agencies using disproportionate force, and later charged with committing acts of terrorism. In October 2022, the Mogilev Regional Court heard the case of the so-called Railway Partisans. Political prisoner Aleksei Shishkovets, who was arrested in March, was sentenced to 11 years’ imprisonment in a maximum security prison, having been found guilty of terrorism (**Article 289 of the Criminal Code**) and of joining an extremist group (**Article 361(3)<sup>1</sup> of the Criminal Code**).<sup>158</sup> Also in October 2022, another Railway Partisan, Sergei Glebko, was sentenced for committing an act

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157. <https://www.belta.by/society/view/senatory-odobrili-zakonoproekt-ob-izmenenii-ugolovnogo-kodeksa-499586-2022/>

158. The human rights situation in Belarus. October 2022 (spring96.org)



of terrorism (**Article 289(1) of the Criminal Code**) and for deliberately rendering rail links unusable for the purpose of committing an act of terrorism (**Article 309(4) of the Criminal Code**). Sergei was found guilty and sentenced to 11 years in a maximum security prison and a fine of 300 basic units (9,600 roubles).<sup>159</sup>

Furthermore, in December 2022, members of the lower house of the Belarusian parliament voted in the first reading to toughen sentencing for high treason and terrorism.<sup>160</sup> The death penalty is to be imposed on officials, including military and state functionaries, who have committed high treason. Of course, these changes are also aimed at combating political opponents within the government and the army. We also view them as a tool to prevent Belarusian servicemen from going over to the Ukrainian army in the event that, hypothetically, the Belarusian army is drawn into Russia's military aggression against Ukraine.

## 5. Deprivation of citizenship for extremist activities

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Another innovation is the legalisation of the deprivation of citizenship (including for Belarus citizens by birth) in connection with participation in extremist activities. This bill was passed in two readings by deputies of the lower house of parliament, but the text of the draft law has not been and will not be published until it is signed by Lukashenka. It is worth noting that these changes inherently conflict with the Constitution of the Republic of Belarus, which stipulates in Article 10 that 'no one may be deprived of citizenship of the Republic of Belarus or of the right to change citizenship.'<sup>161</sup> We note that in accordance with **Article 8(1) of the Convention** on the Reduction of Statelessness of 30 August 1961, 'no State shall deprive a person of their nationality if such deprivation

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159. The human rights situation in Belarus. October 2022 (spring96.org)

160. Officials can be shot, and extremists deprived of their citizenship. News highlights from Belarus this week - BBC News Russian Service. – Accessed on 16/12/2022.

161. Constitution of the Republic of Belarus No. 2875-XII (Constitution of the Republic of Belarus of 15 March 1994 No. 2875-XII 'Constitution of the Republic of Belarus' (etalonline.by)

would render that person stateless.’<sup>162</sup> While the Convention does allow states the right to deprive persons of their citizenship, this is subject to certain restrictions (**Articles 8(2) and 8(3) of the said Convention**) and the need to take into account that a person must be provided with the right to a fair hearing by a court or other independent body (**Article 8(4) of the said Convention**), which in the current situation in Belarus is practically impossible.

This amendment puts at risk Belarusian citizens who continue to resist the authorities from abroad or who are forced to leave the territory of Belarus on account of prosecution, as well as those living in another state for any other reason (work or studies) and those who comment on the actions of government officials (for example, on social media). It is quite possible that this draft law is not limited to deprivation of citizenship alone. However, for now and until it is published, there is no scope for a more detailed analysis of the punitive measures it envisages and their possible consequences.

## 6. CHANGES TO CRIMINAL PROCEDURE LEGISLATION

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On 21 July 2022, Lukashenka signed **Law No. 199-Z** ‘On Amendments to the Criminal Procedure Code of the Republic of Belarus’ dated 20 July 2022.<sup>163</sup> The Criminal Procedure Code<sup>164</sup> was amended to include the concept of special (**in absentia**) proceedings in criminal cases against defendants located outside Belarus who decline to appear before the body conducting the criminal proceedings. A list of offences was established for which in absentia proceedings may be initiated against the defendant. These include, inter alia, acts of terrorism, genocide, mercenary activities, high treason, sabotage, creation or participation

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162. UN Convention on the Reduction of Statelessness, adopted on 30 August 1961. UN Conventions and Treaties. Accessed via Convention on the Reduction of Statelessness - Conventions and treaties - Declarations, conventions, treaties and other legal resources (un.org). – Accessed on 16/12/2022.

163. Criminal Procedure Code <https://etalonline.by/document/?regnum=HK9900295>

164. Criminal Procedure Code of Belarus No. 295-Z (Code of the Republic of Belarus dated 16 July 1999 No. 295-Z ‘Criminal Procedure Code of the Republic of Belarus’) (etalonline.by)

in an extremist group, rioting, and calls for sanctions.<sup>165</sup> **Chapter 49<sup>3</sup> of the Criminal Procedure Code** regulates the general provisions of special proceedings, procedural arrangements for special proceedings, the notification procedure for court proceedings in absentia, and the procedure for conducting them.

For instance, in accordance with the newly introduced **Article 468<sup>25</sup>**, the grounds for conducting in absentia proceedings in a case may consist of an investigator's decision, made with the consent of the prosecutor, or a prosecutor's decision in a criminal case pending against an adult citizen of the Republic of Belarus accused of committing an offence under **Articles 122-137** (offences against the peace and security of mankind; war crimes, including acts of international terrorism; the rehabilitation of Nazism; denial of genocide of the Belarusian people; and mercenary activities, etc.), **289** (acts of terrorism), **290(2)** (organising the activities of a terrorist organisation and participation in its activities), **290<sup>1</sup>-293** (hostage taking, seizure of buildings and structures, and rioting), **294(4)** (theft of firearms, ammunition, and explosives), **295(4)** (illegal actions relating to firearms, ammunition, and explosives), **309(4)** (intentional disablement of a vehicle or communications channel), **311(3)** (hijacking or seizure with the intent to hijack railway rolling stock, aircraft or vessels), **322(3)** (illegal acquisition, storage, use, sale, or destruction of radioactive materials), **323(3)** (theft of radioactive materials), **324(3)** (threat of the dangerous use of radioactive materials) **333(2)** (illegal movement across the customs border of the Eurasian Economic Union or the state border of the Republic of Belarus of potent, toxic, or poisonous substances, radioactive materials, firearms, ammunition, explosives, explosive devices, weapons of mass destruction or their means of delivery, as well as other types of weapons and military equipment), **Articles 356 - 361 of the Criminal Code** (including high treason, conspiracy or other actions carried out for the purpose of seizing state power, espionage, undercover activities, calls for restrictive measures (sanctions), and other actions aimed at harming the national security of the Republic of Belarus), as well as other, associated offences, provided that 'the foreign state has refused to extradite the defendant for criminal prosecution or

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165. <https://pravo.by/document/?guid=12551&p0=H12200199&p1=1>

no consent from the foreign state to extradite the defendant is obtained.’

Yet, the Criminal Procedure Code mandates the participation of a defence lawyer, which seems absurd, since in the case of proceedings in absentia the defence lawyer is unable to communicate with the defendant and to fully discharge other duties as part of their defence (not to mention that lawyers defending political prisoners and victims of politically motivated prosecution are themselves subject to repression, notably, the revocation of their licence to practise as a lawyer). In addition, the defendant is notified of in absentia proceedings in the case through the posting of a relevant decision on the official website of the criminal prosecution authority. Trials in absentia involve the mandatory participation of a prosecutor and a defence lawyer. In practice, however, the defendant is undoubtedly denied the opportunity to choose their own defence lawyer, and any defence provided under the Criminal Procedure Code surely cannot and will not be properly performed. Judicial proceedings conducted in absentia effectively deprive the defendant of all their legal rights, including to represent themselves, freely communicate with their defence counsel, present evidence, give testimony, and submit challenges and petitions, etc. The administration of criminal proceedings in absentia on any grounds is essentially a violation of **Articles 7 and 10 of the Universal Declaration of Human Rights** (equality of all before the law and entitlement to equal protection of the law; and entitlement in full equality to a fair and public hearing by an independent and impartial tribunal)<sup>166</sup>, and **Articles 2(3) and 14 of the International Covenant on Civil and Political Rights**.<sup>167</sup>

It should be noted that in absentia proceedings are not entirely new. They were introduced in Ukraine in 2014 as a tool for prosecuting fleeing officials.<sup>168</sup> However, here we are talking about a purely **politically motivated decision of the current government** aimed at dealing with those of its opponents who have left the country. There is no doubt that in Belarus this tool will be used primarily against members of the democratic opposition, who are being charged under precisely those

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166. [https://www.un.org/ru/documents/decl\\_conv/declarations/declhr.shtml](https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml)

167. [https://www.un.org/ru/documents/decl\\_conv/conventions/pactpol.shtml](https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml)

168. [https://rus.lb.ua/blog/andrii\\_sydorenko/323734\\_zaochnoe\\_ugolovnoe.html](https://rus.lb.ua/blog/andrii_sydorenko/323734_zaochnoe_ugolovnoe.html)

articles of the Criminal Code that allow for proceedings in absentia. Furthermore, the introduction of this procedure effectively legitimises all possible abuses by the bodies conducting the criminal proceedings, in a situation where the accused is unable to defend themselves or to benefit from the full protection of a lawyer. Let us also not forget the repression of the lawyers defending those being prosecuted for political reasons. Where you have proceedings in absentia, the participation of the defence lawyer in the case becomes a totally pointless formality.

For instance, as mentioned above, in December 2022, in absentia proceedings began in the case against Aliaksandr Opeikin, Aliaksandra Herasimenia, Pavel Latushko, Sviatlana Tsikhanouskaya, Olga Kovalkova, Sergei Dylevsky, and Maria Moroz. In addition, on 12 December 2022, a trial in absentia began in the case of the administrators of the so-called 'Black Book of Belarus': Yanina Sazanovich, Dzmitry Navosha, Danil Bahdanovich, Valeryya Zanyamonskaya, and Volha Vysotskaya, on charges of inciting social hatred (**Article 130(3) of the Criminal Code**) and committing illegal actions relating to personal data (**Article 203(3) of the Criminal Code**)<sup>169</sup>. The defence lawyers in this case were appointed by the investigators. All the defendants in the case are overseas, and V. Vysotskaya was refused permission to participate in the trial via Skype. In addition, V. Zanyamonskaya requested that the court recuse itself, but her request was rejected. Consequently, even the first trial in absentia shows that defendants are effectively denied the right to a fair trial, the right to choose their own defence lawyer and to present evidence in court (since one defendant was not allowed to participate in the trial online, and in-person participation in this case would be impossible out of concern for the defendants' safety).

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169. First trial in absentia gets underway in the case of the Black Book of Belarus administrators (belsat.eu)



## VII. CHANGES IN THE LEGISLATION ON ADMINISTRATIVE OFFENCES

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**The Law ‘On Amendments to the Codes’** dated 4 January 2022 also introduced changes to the **‘Code of Administrative Offences of the Republic of Belarus’ No. 91-Z dated 6 January 2021**.<sup>170</sup> Although the updated Code of Administrative Offences was passed as recently as 2021, changes were introduced in 2022 that clearly related to protest activity. For instance, **Article 24.23** ‘Violation of the procedure for organising or holding public events’ was supplemented by Clause 7 and the following explanatory note: ‘The collection, receipt or use of money and other property, including property rights and also exclusive rights to the results of intellectual activity as well as the performance of works and provision of services for the purposes of recovering costs associated with the prosecution of a person for a violation of the procedure for organising or holding public events, shall entail the imposition of a fine of five to thirty basic units with or without confiscation of the object of the administrative offence, and in the case of a legal entity this shall be up to one hundred per cent of the total amount (value) of the object of the administrative offence, with or without its confiscation.’

In accordance with the explanatory note to **Article 24.23(7)**, ‘the performance of works or provision of services by a person for the purposes of recovering costs associated with prosecution for a violation of the procedure for organising or holding public events’ do not constitute an administrative offence under **Clause 7 of this Article**.<sup>171</sup>

To recall, fines are among the administrative penalties and criminal punishments most frequently imposed by courts in politically motivated cases. For example, in January 2022, Aliaksandr Gavrilenko was sentenced to two years’ imprisonment and fined 100 basic units (3,200 Belarusian

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170. <https://etalonline.by/document/?regnum=hk2100091>

171. <https://pravo.by/document/?guid=12551&p0=H12200144&p1=1&p5=0>

roubles) under **Article 369 of the Criminal Code** (insulting a government official) in the so-called 'Zeltzer case'<sup>172</sup>. In July 2022, Vitaly Loiko was convicted of insulting a government official and inciting racial, national, religious, or other social hatred or discord. Loiko was sentenced to two years' imprisonment along with a fine of 100 basic units for sharing a post featuring the words 'time to take out the rubbish' and an image of Andrei Zeltzer holding a weapon in his hands. According to Viasna, in January 2022, at least three fines totalling 132 basic units were imposed, and at least 41 jail terms imposed, for the mere distribution of extremist materials. Then, in February, at least 952 people were detained, a minimum of 13 fines amounting to over 500 basic units were imposed, and 135 terms in jail under administrative law with a combined duration of 1,917 days were made.

It is difficult to give exact figures, as cases are generally heard in closed session, in violation of the procedural and constitutional rights of the individuals being prosecuted by the authorities. In March 2022, at least 445 people were detained and a minimum 36 fines totalling 2,500 basic units were imposed. In April 2022, there were 55 fines and a minimum of 95 administrative law jail terms imposed, while in May there were at least 42 fines, a minimum of 43 administrative law jail terms, and at least 263 people were detained. In June, over 100 people were detained, at least 10 fines were imposed, and a minimum of 11 jail terms under administrative law were imposed for protest activity. In July, at least 26 administrative fines and 61 administrative law jail terms were imposed (most often, for the distribution of so-called extremist materials, via shares or subscriptions on social media or Telegram channels). In August, at least 387 people were detained and administrative penalties were imposed by the courts in the form of fines (at least 33) and terms in jail (at least 43). In October, there were 53 politically motivated prosecutions. Finally, in November, 31 people were fined and 95 were sentenced to terms in jail under administrative law.

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172. Andrei Zeltzer was shot dead in an exchange of fire with members of the security forces who broke into his flat, and over 100 people were detained for making comments on the case online.



Since the amounts of the fines are exorbitant for many people, Belarusians in the country and overseas have raised funds to assist those facing prosecution and their families. By making appropriate changes to legislation, the regime has officially made it an offence to both give and receive help with paying fines under articles governing protests (both the Criminal Code and the Code of Administrative Offences). This addition effectively denies those being prosecuted the opportunity to pay the fine, puts their financial situation at risk, and acts as a deterrent to those wishing to help. Moreover, in addition it provides another source of income for the authorities.





## VIII. CHANGES TO THE LEGISLATION ON EDUCATION

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On 14 January 2022, **Law No. 154-Z** ‘On Amendments to the Education Code of the Republic of Belarus’, was adopted, which revised and amended the Education Code of 13 January 2011.<sup>173</sup> Thus, according to **Article 68(5)(18)(1)**, it is possible to terminate an educational relationship with a student or pupil (i.e. expel them) in the event of ‘absence on account of serving a punishment under administrative law in the form of a term in jail.’ This actually represents a threat to all pupils and students penalised with administrative sanctions for taking part in protests, picketing, and the like. The law has therefore made it possible for the management of educational institutions to ‘get rid’ of undesirable pupils and students. In addition, the measure is another means of intimidating the youth and a tool to prevent young people from taking part in protests and public organisations and expressing their opinions, etc.

Another innovation is the recognition of just Russian and Belarusian as the main languages of instruction and training in educational establishments (**Article 82 of the Education Code**). The law only entitles citizens to select one state language for education and training, thereby denying ethnic minorities the opportunity to educate their children in their native tongue (notably, in Polish). In Polish schools in Grodno and Vawkavysk, instruction in the language has been reduced to a single hour per week. The members of the Belarusian PEN Centre are undoubtedly correct that, amongst other things, such changes amount to an anti-Polish policy. This is evident from the fact that government officials characterise Poland (and Lithuania alike) in their official statements as an enemy of the Belarusian people, while Polish memorial sites, ethnic, cultural, and educational organisations, etc. in the country are being targeted for destruction.<sup>174</sup> In addition, Lukashenka often speaks negatively in public about holders of the Pole’s Card.

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173. <https://pravo.by/document/?guid=12551&p0=H12200154&p1=1>

174. (RUS) Monitoring Violations of Cultural Rights and Human Rights of Cultural Figures. Belarus, January-September 2022, PEN Belarus ([penbelarus.org](http://penbelarus.org))

## IX. CHANGES TO LEGISLATION GOVERNING PUBLIC EVENTS

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In 2022, Belarusian state authorities maintained their policy of restricting freedom of assembly and expression. Changes have continued to be made to legislation that place restrictions on public events, the use of national symbols, and so on.

Resolution of the Council of Ministers **No. 401 of 22/06/2022** provides for the creation of a register of organisers of cultural and entertainment events in Belarus<sup>175</sup>. In accordance with the said Resolution, organisers of cultural and entertainment events (excluding organisers from state bodies, public institutions and organisations in the authorised capital of which at least 50 percent of the shares (stakes) are owned by the Republic of Belarus and/or its administrative and territorial units) shall be included in the relevant register. At the same time, the organisation and running of cultural and entertainment events by those subject to inclusion in the register but not so included is prohibited. The said prohibition does not extend to organisers who were certified to hold such events prior to 1 August 2022.

The register will be developed by the Ministry of Culture or an authorised legal entity, and will include details of the organisers of cultural and entertainment events (individual entrepreneurs and legal entities registered in Belarus, as well as foreign or international organisations, including those not having the status of a legal entity). Tellingly, the documents to be submitted by the organisers must include an extract from the Unified State Database of Offences about any violations relating to the organiser (for an individual entrepreneur), the founder(s), or the director of the organiser (for a legal entity or foreign organisation).

A specially created National Expert Commission on the formation and maintenance of the register is expected to evaluate each candidate before any decision to include the organiser in the register is made. It

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175. <https://pravo.by/document/?guid=12551&p0=C22200401&p1=1>

will take into account details of whether or not the individual entrepreneur or the director of the legal entity/organiser has been convicted (including under articles criminalising the incitement of social hatred, rioting, calling for sanctions, insulting government officials, and a number of other articles of the Criminal Code - basically, the articles largely used to charge individuals in politically motivated prosecutions). The Commission will also take into account whether these individuals have been held administratively liable for certain violations of public order and morals (say, for distributing pornography or promoting a culture of violence), or against an administrative order (**under Articles 24.22 and 24.23 of the Code of Administrative Offences**); whether the organiser is in the process of liquidation or termination of activities; and whether a bankruptcy case is pending against them.<sup>176</sup>

It is important to note that individuals in the cultural sphere were subjected to various forms of repression over the course of 2022. For example, as of 5 December 2022, 120 cultural figures have been deprived of their liberty; new criminal cases have been opened against filmmakers, local historians, and musicians, etc.; the practice of banning people from practising their profession (including as a tour guide) continues; lists of individuals inclined to extremist activities are growing all the time; and a policy of de-Belarusianisation is ongoing (there are plans to transliterate geographical names into Russian, and not Belarusian).<sup>177</sup>

By making the necessary changes to legislation, the authorities are making it impossible for individuals and organisations that have been prosecuted and subject to repression on political grounds to organise any kind of events, including concerts, exhibitions, and so on. Furthermore, the authorities are establishing a complete monopoly on decision-making when it comes to the staging of any cultural public events. That, too, is a sign of its increasing policy of repression.

Furthermore, July 2022 saw the adoption of **Law No. 200-Z** of the Republic of Belarus 'On Amendments to the Law on Physical Culture and Sports', which established a procedure for the use of symbols at public

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176. <https://pravo.by/document/?guid=12551&p0=C22200401&p1=1&p5=0>

177. Chronicle of human rights violations in the cultural sphere (1–15 September 2022), Belarusian PEN ([penbelarus.org](http://penbelarus.org))

sporting events and made corresponding additions to **Article 36 of Law No. 125-Z ‘On Physical Culture and Sports’** dated 4 January 2014. A new clause added to Article 36 stipulated that when running public sporting events, steps must be taken to ‘promote the use of state symbols of the Republic of Belarus in accordance with the legislation on state symbols and the state symbols of other states.’ Other proposed measures will seek to ‘promote:

- 1) the use of state symbols of the Republic of Belarus and the state symbols of other states; and
- 2) to prevent the use of flags and improperly registered pennants as well as emblems, symbols, posters, placards, and other such items whose content is intended to undermine public order and the rights, freedoms, and legitimate interests of citizens’, including for public sports events abroad.<sup>178</sup>

This amendment appears to be another move to prosecute people for the use not only of national symbols of Belarus recognised as extremist by the regime, but also in the context of Russia’s war against Ukraine, i.e. opposing the use of Ukrainian state symbols in solidarity with the Ukrainian people and to show anti-war sentiment. Of course, no one in Belarus has yet been held liable for using the Russian flag as part of a public event run by pro-government organisations.

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178. <https://pravo.by/document/?guid=12551&p0=H12200200&p1=1&p5=0>

## X. OTHER LEGISLATIVE CHANGES

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The repressive system of government continues to interfere in the private lives of citizens, violating their privacy and secrecy of correspondence under the guise of combating crime. For instance, on 18 October 2022, **Presidential Decree No. 368** ‘On interaction between telecommunications operators, telecommunications service providers, and owners of internet resources, and agencies conducting operational and investigative activities’ was issued.<sup>179</sup> In accordance with this Decree, telecommunications service providers and owners of internet resources are obliged to cooperate with agencies that carry out operational and investigative activities using the so-called information system of electronic cooperation. The developer of this system is RUE Centre for Digital Development, while the owner and operator is RUE BelGIE (a state telecommunications supervisory enterprise responsible for ensuring round the clock free access to systems belonging to the security services, telecommunications service providers, and owners of internet resources). For owners of internet resources, however, this is a completely new obligation.

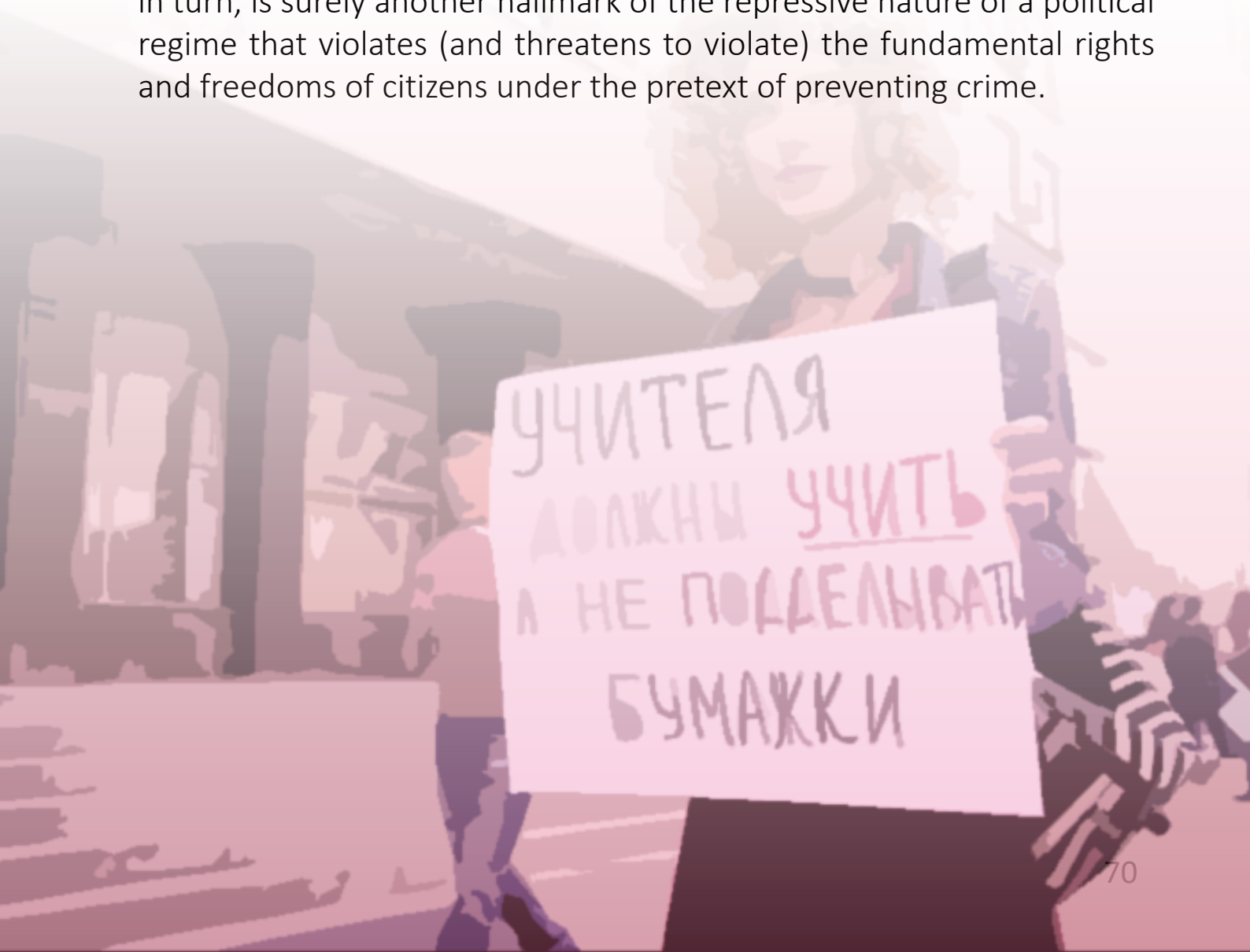
The Decree specifies that the KGB and Presidential Operations and Analysis Centre (OAC) shall determine the owners of internet resources with whom they see fit to ‘cooperate’ in this way. Consequently, it is the agencies themselves that determine precisely which entity will ‘cooperate’ with them. BelGIE is obliged, within three days, to notify the owner of a website of the need to connect to the information system. The owner of the internet resource is then obliged, within one month, to register in the system and, within three months and at their own expense, they must supply user databases, automated systems, equipment and software to technical specifications approved by the OAC and KGB in agreement with the Ministry of Communications. They must also avail the OAC and KGB of round the clock access to the said databases and automated systems containing user details, the internet services provided to them, and so on.

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179. <https://pravo.by/document/?guid=12551&p0=P32200368&p1=1>

Not only that, but the security services are entitled to demand and, on request, the owner of an internet resource is obliged to hand over, user databases in digital format. At the same time, owners of internet resources/websites are required to store, for at least a year, information about all the services they provide to their users. The Ministry of Internal Affairs is further authorised to notify telecommunications operators in writing of the need to deploy and connect its own equipment and hardware at their telecommunications facilities for the purposes of its operational and investigative activities.

There can be no doubt that the obligation on owners of internet resources to provide relevant information at the request of the KGB or to allow access on demand to the Ministry of Internal Affairs for its operational and investigative activities represents another move by the authorities to hold users of internet resources to account and violate the secrecy of correspondence, telephone conversations, and privacy. It also speaks to the authorities' quest for total surveillance of Belarusian citizens. This, in turn, is surely another hallmark of the repressive nature of a political regime that violates (and threatens to violate) the fundamental rights and freedoms of citizens under the pretext of preventing crime.





# Conclusions and recommendations

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In 2022, the Belarusian authorities continued to develop a legal framework for their policy of prosecuting political opponents, civil society, and all citizens who disagree with the current government. As such, changes and additions have been made both to laws that regulate criminal and administrative liability and to other parts of legislation, including laws on education, public events (both cultural and sporting), and operational and investigative activities. In addition, laws have been passed that avoid liability for human rights violations at the international level.

Having studied these changes and additions, the wording used in regulatory legal acts and their practical application by public authorities, plus comments by government officials, we can state the following:

1. Belarusian society is experiencing the kind of repression not seen since the time of Stalin. As mentioned earlier, in 2022, the courts handed down politically motivated punishments (administrative law jail terms and fines) to an average of 11 people per working day. A further three were sentenced to terms of imprisonment, and one to restriction of freedom. Over 100,000 people may have been dismissed from their employment for political reasons. A character reference of political reliability has become a prerequisite for employment in state-owned enterprises and state institutions. Almost all private socio-political media outlets have been shut down, as have a third of civil society organisations.

2. In 2022, the numbers of those detained and convictions for criminal offences were slightly lower than in 2021. At the same time, there was a marked increase in the number of NGOs liquidated by the authorities. It is fair to assume that the Lukashenka regime has found a 'comfortable' level of repression at which to operate, one that avoids overloading the penitentiary system yet intimidates the population effectively. The annual tally of 1,300-1,500 political prisoners and approximately 3,000 detainees will most likely be maintained for the coming year. It cannot be excluded that the only reason why many of the civil activists and known protesters who remain in Belarus are not being arrested is that the repressive system does not have enough 'capacity' (investigators,

front-line officers, and places in detention facilities) with which to prosecute them without becoming overstretched. It is quite possible that a significant number of the regime's opponents have been 'put on the back burner' by the security services.

3. The regime has moved on from reprisals against participants of past protests to constant monitoring and routine repression. Whereas in 2021 the authorities prosecuted entities hostile to the regime as well as those directly involved in the 2020 demonstrations, in 2022, they increasingly punished individual acts of protest in response to current events, like posts and comments on social media and the sharing of articles by independent media outlets.

4. By cracking down on NGOs, private companies, and cultural figures that have emerged over the past 30 years, and by intensifying indoctrination in the media and the education systems, the Lukashenka regime hopes to restore the old familiar fabric of Soviet society. The authorities are using repression in a battle against the supply of modern goods, services, and ideas. Yet there is no evidence that public demand for modern goods, ideas, and services in Belarus is falling. Society will seek to meet that demand by means acceptable to the authorities or otherwise.

5. Large-scale politically motivated dismissals from employment have prompted tens of thousands of qualified specialists to leave the public sector. Finding work at state enterprises has become much more difficult, while employee surveillance has increased. A decline in skilled labour will inevitably lead to reduced economic efficiency at state enterprises and reduce the ability of state institutions to meet the needs of citizens.

6. Mass repression has forced hundreds of thousands of citizens to keep their political views to themselves. Then again, sociological research tells us that it has not severed the social ties forged in 2020. Equally, there is no evidence so far that Lukashenka has been able to shore up his legitimacy in the long term.

7. The fear of reprisals, the direct entry of Belarus into the war, and the economic crisis, have resulted in unprecedented emigration. Sociologists estimate that some 250,000 people have left the country



since 2020. Paradoxically, such heavy migration to the West strengthens interpersonal contacts between Belarusians and EU citizens and reduces the impact of propaganda from Lukashenka and the Kremlin on Belarusian society.

8. The political transformation of Belarus depends on both economic and social transformation: shrinking the public sector and state-owned enterprises, and doing away with social and political norms inherited from the USSR. The 2020 democratic uprising in Belarus would not have been possible without a dynamic private sector and extensive interpersonal contacts between Belarusians and Western countries. It is imperative to support small and medium-sized businesses that are independent of the government. They provide a safe haven to tens of thousands of victims of political repression. It is important to invest in retraining and relocation programmes that enable those impacted by political purges to find new jobs. It is vital to expand contacts between Belarusians and their Western neighbours in order to find employment in the EU for medical workers, IT specialists, and entrepreneurs from Belarus. We need to help young Belarusians to obtain a quality education in Poland, Lithuania, Estonia, and other EU countries. We have to support Belarusian private companies in the EU that are independent of the government, particularly where they establish links with customers and partners back in Belarus.

9. To bring about a democratic transformation of Belarus in the midst of severe repression, assistance should be provided to those groups that have suffered the very worst repression: journalists, human rights defenders, cultural figures, and independent researchers. It is absolutely essential to develop projects that study public opinion. Since the media crackdown, independent sociology remains the only tool for tracking broad public sentiment. Independent research centre staff working in exile can not only explain economic, social, and political processes, but make recommendations to civil society and foreign governments. They train future reformers, university lecturers, and managers. Support should be given to cultural projects that strengthen national identity and raise the profile of the national tongue. These include projects that promote both history and literature, particularly pop music. It is also vital to develop digital modes of communication to strengthen social ties,

enabling people to exchange information with the media and amongst themselves, away from the prying eyes of the repressive regime.

10. The legislative changes are a response to the democratic movement and to resistance from political opponents and civil society (any form of protest or resistance is enshrined in punitive provisions as socially dangerous, or may be brought under such provisions in an artificial and arbitrary fashion by law enforcement agencies and the courts).

11. The activities of democratic forces are being criminalised by statute, with virtually any of their activities relating to the legislative amendments now constituting a criminal offence (for example, whereas 'calling for sanctions' is fairly specific wording, 'causing significant harm to the national interests of the Republic of Belarus' is quite nebulous and can be interpreted as covering any activity whatsoever).

12. The sanctions provided by articles of the Criminal Code that penalise acts the authorities characterise as anti-government and harmful to Belarus are being toughened. What they do, however, is harm the current regime. For one, new grounds for capital punishment are being introduced, leading the Belarusian regime further away from common European values;

13. The tightening of criminal liability along with the imposition of the death penalty for high treason seems to be the next stage for the regime in 'purging' its own system as well as a preventive measure that is supposed to prevent the collapse of the system and stop wavering officials and military personnel from leaving it;

14. The introduction of trials in absentia is meant to be a deterrent. It creates the illusion that the government has total control over the situation in the country, while at the same time completely denying defendants the right to a fair trial and virtually all the rights that they should enjoy by law;

15. The state is trying to establish total control over all public events and cultural institutions, thereby suppressing any expression of dissent and violating the right of citizens to freedom of assembly and expression - among the core freedoms in a democratic society.

Our analysis of the dynamics of the human rights situation and the repressive legal changes introduced in 2022 leads to the conclusion that the policy of repression is set to intensify in 2023, in all four of the dimensions presented in this report. Back in 2020, it was obvious that the legislation in force in Belarus was merely a tool used by the authorities to suppress dissidents, while the essence of the law was distorted, a fact aptly demonstrated by all the so-called ‘trials’ of protesters and political opponents of the regime. Over the course of 2021 and 2022, legislation was successively amended to bring it in line with current regime policies. As such, it represents yet another instrument in the hands of the authorities allowing the regime to manipulate legal concepts to its own advantage. In our view, democratic change in Belarus will necessarily involve a complete overhaul of legislation (which is primarily used nowadays for the purpose of repression) in order to create the necessary framework to ensure the protection of human rights and maintain the rule of law. This will require the establishment of a competent body capable of developing the appropriate reforms.

