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Belarus: Pulling the Plug

**Policy paper on digital challenges to
freedom of expression in Belarus**

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Policy paper on digital challenges to freedom of expression in Belarus

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2 Executive summary

3 Introduction

5 Digital access challenges to free speech

Internet access in Belarus

The internet's challenge to the closed media environment

Access: Recommendation

9 Laws used to restrict free speech

The application of existing laws to chill online free speech

Persecution and arrests of online activists

The developing legal framework

Legal Framework: Recommendations

15 Technological challenges to free speech

State use of technologies to curtail free speech

Cyber attacks against online media and activists

Technology: Recommendations

20 Pulling the Plug: Conclusions

21 Recommendations

1. Internet access

2. Legal framework

3. Use of technology

23 Annex

Executive summary

Belarus has one of the most hostile media environments in the world and one of the worst records on freedom of expression. New digital technologies, in particular the internet, have provided new opportunities for freedom of expression but have also given the authoritarian regime new tools to silence free voices and track down dissent. As the internet has become an increasingly important source of information, the Belarus authorities have used a variety of different means to control it. Keeping a tight rein on information remains at the core of their policy of self-preservation.

This report explores the main challenges to digital free speech in Belarus, concentrating in particular on the ways the state authorities restrict freedom of expression online.

Firstly, it is done by applying a repressive legal framework, including draconian laws such as criminal libel, legal prosecution and the misapplication of the administrative code. Secondly, free speech is restricted by the use of new techniques, such as online surveillance, website blocking and filtering, and cyber-attacks against independent websites and content manipulation.

Our research indicates that the authorities now plan even tighter controls over citizens' access to the digital world.

New legislation gives the authorities wide powers to censor online content, in particular on the catch-all grounds of "distribution of illegal information", and to implement mass surveillance of citizens' activities online. The government is spending heavily on the development of software that will allow the tracking of nearly all the activities of every internet user in the country. Western firms have been instrumental in providing equipment that has facilitated state surveillance. Since the growth in use of social networks, there have been several waves of arrests of moderators of popular online opposition groups and communities. Journalists and activists who express their opinions online have found themselves subject to criminal prosecutions for libel. Denial of service attacks have been used frequently against independent online media and opposition websites, especially on the occasion of elections and other major political events.

Index on Censorship calls on the government of Belarus to stop all disproportionate and unnecessary legal and extrajudicial practices, online and offline, that compromise freedom of expression. We call for immediate reforms to be launched to ensure free speech, as outlined in the conclusions and recommendations chapter of the report.

The European Union (EU), its member states and other European bodies, such as the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE), should further push the Belarus government to respect human rights in general and freedom of expression in particular and call for immediate reforms to facilitate the development of Belarus as a democratic state.

Introduction

Censorship of the media and restrictions on freedom of expression in Belarus – “the last remaining true dictatorship in the heart of Europe”¹ – pre-dates the online age. Belarus has one of the worst records for freedom of expression globally. The country is ranked 168th out of 179 countries in the 2011/2012 *Press Freedom Index*² by Reporters without Borders and 193rd out of 197 countries in the Freedom House’s *Freedom of the Press 2012* report.³ Opposition leaders and journalists disappeared or were allegedly murdered before the internet became a mass phenomenon⁴: intimidation and legal persecution of civic activists and independent reporters have been the norm for years, as has the use of economic discrimination against non-state media to prevent its growth.

The rapid growth of the internet in Belarus has focussed state attention on its role as a new “Plaza Pública”⁵ (to use the phrase of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue), an online “public square” where citizens can meet, relate, socialise, exchange views and communicate.

“Plaza Pública” offers Belarusian citizens space to publicly challenge the rule of authoritarian President Alexander Lukashenko. In the Plaza, new social movements have grown including the significant “Revolution via Social Networks” and the “Movement of the Future”, one of the largest Belarusian community groups on the Russian social network site, VKontakte.

The Belarusian government tightly controls civic disobedience in Minsk’s Independence Square; it is therefore unimaginable that it would not also want to control the online “Plaza Pública”. If the internet provides an important platform for challenging the rule of Lukashenko, in return, the regime’s attempts to control the internet is now the number one challenge to freedom of expression in Belarus.

This paper explores this challenge and the rapid expansion of the internet in Belarus that poses a threat to the tight government control of free speech. In response to this threat, the regime has used long-established methods for chilling free expression in the traditional media, including the restrictive media law of 2008, the country’s tough libel laws and the use of unrelated laws such as “petty hooliganism” to silence opinion with impunity. The paper outlines the circumstances in which these methods are used in practice.

Following this, the paper covers the digital methods the government uses to silence free speech made possible by new technologies (some of which are provided by Western firms), including web filters, surveillance techniques, the removal of secure access to particular websites, DDoS (distributed denial of service) attacks, the hacking of independent websites and DNS re-routing.

The paper raises questions as to the involvement of western companies and technologies in

1 Rice: Russia’s future linked to democracy, CNN <http://edition.cnn.com/2005/WORLD/europe/04/20/rice.dougherty/index.html>

2 Press Freedom Index 2011/2012, Reporters Without Borders <http://en.rsf.org/press-freedom-index-2011-2012,1043.html>

3 Freedom of the Press 2012, Freedom House <http://www.freedomhouse.org/report/freedom-press/freedom-press-2012>

4 Disappeared persons in Belarus, Council of Europe Parliamentary Assembly <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta04/eres1371.htm>

5 See <http://www.comminit.com/en/content/global-information-society-watch-2011-internet-rights-and-democratisation-focus-free-dom->

4 Belarus: Pulling the Plug

facilitating online censorship in Belarus, and outlines what steps need to be taken to ensure that the growth of the “Plaza Pública” can be supported from abroad without opening new technological opportunities for the regime to chill or otherwise limit free speech.

We conclude with concrete recommendations for the government of Belarus that would enable it to meet its international obligations. We also make recommendations to international bodies including the European Commission and Parliament, OSCE, the Council of Europe and European national governments.

1 Digital access challenges to free speech

The digital sphere's rapid growth in Belarus presents a major challenge to Lukashenko's regime, creating a new space for opposition media outlets. This section of the report outlines the growth of internet access in Belarus and the challenge this represents to the closed media space the government of Belarus works so hard to enforce.

1.1 Internet access in Belarus

The Belarusian government has promoted the development of the internet as part of its economic strategy. As a result, the number of internet users in Belarus has been growing at a phenomenal rate – increasing by 500,000 more people annually in recent years. Belarus is one of the top 20 countries in the world for the rate of increase in internet take-up.⁶

According to gemiusAudience figures, in September 2012 there were 4.4 million internet users in Belarus, up 14 per cent from the previous year. Four out of five internet users in Belarus go online every day. Some 55 per cent of its population aged 15 and over is now online.⁷ This remains a smaller proportion than in most European countries (in Lithuania the figure is nearly 70 per cent, and in the UK 84 per cent), but is nevertheless remarkable in an authoritarian state.

Broadband is also becoming increasingly common. In 2010, Belarus had the lowest level of broadband internet penetration in Europe, with only 10 per cent of its inhabitants able to access high-speed internet connections. But by September 2012, almost 70 per cent of all internet users in Belarus (30 per cent of the population) were using broadband.⁸

The level of mobile internet usage is also on the rise: 2.1 million people now have internet access from their mobile devices. More than four per cent of all the online page views from Belarus come from smartphones and tablets, which corresponds to the level of mobile internet usage in other countries of central and eastern Europe.⁹

All of the main mobile phone operators have introduced 3G networks and are engaged in fierce price competition and the government has made a priority of developing a telecoms infrastructure, which it is keen to control.

Beltelecom, the state-owned national telecommunications company, plans to further increase the throughput capacity of Belarus's internet gateway from 250 Gbps up to 360 Gbps by the end of the first quarter of 2013,¹⁰ which will account for a significant 44 per cent increase in the volume of internet traffic. Belarus gets most of its external internet access via Russia, which will account for almost 80 per cent of the Belarus gateway's throughput capacity. Beltelecom has a monopoly control of the country's internet gateway; previous plans to open up international connections to other operators were put on hold. It is likely the state views it as a means of its control over the infrastructure of the internet.

Five years ago, internet access in Belarus was concentrated in the capital, Minsk, where 45 per cent of users lived. Today Minsk has only 28 per cent of Belarusian internet users – a sign that the net has become a wider national phenomenon. Internet users in Belarus are also very young. According to the Gemius survey, about 30 per cent of the total internet audience of the country is 15-24 (a group that comprises 15 per cent of the population) and another 30 per cent are 25-34 (also 15 per cent

6 The Information Economy Report 2011, United Nations Conference on Trade and Development (UNCTAD) <http://archive.unctad.org/templates/webflyer.asp?intltemID=6092>

7 Gemius, gemiusAudience survey 10/2012, <http://www.audience.by>

8 Gemius, gemiusAudience survey 09/2012, <http://www.audience.by>

9 Байнет в контексте Центральной и Восточной Европы [BY.net in the context of Central and Eastern Europe], Deutsche Welle. <http://www.dw.de/dw/article/0,,16189845,00.html>

10 Belarus plans to raise internet gateway capacity nearly by half, Belarusian Telegraph Agency <http://news.belta.by/en/news/society/?id=697993>

of the population)¹¹ – though older people are increasingly online.¹² Nearly 40 per cent of Belarus's internet users have higher education or postgraduate degrees.

One of the peculiarities of the online media market in Belarus is the powerful position of Russian media companies. Most people in Belarus speak Russian and the internet in Russia is well developed, with an online advertising market that is estimated at around £1bn a year.¹³ Below is the latest survey of website real visitors in Belarus.

	Name	Type	No. of real users
1	mail.ru	Horizontal portal (Russia)	2 748 651
2	yandex.by	BY localization of a portal (Russia)	2 463 826
3	vk.com	Social network (Russia)	2 385 720
4	tut.by	Horizontal portal (Belarus)	2 093 341
5	google.by	BY localization of a search engine	2 004 221
6	google.com	Search engine	1 804 422
7	youtube.com	Video service	1 796 283
8	odnoklassniki.ru	Social network (Russia)	1 520 170
9	ru.wikipedia.org	Russian section of Wikipedia	1 343 036
10	onliner.by	Technology portal (Belarus)	1 280 998

Top 10 websites visited by Belarusian internet users with the number of individuals in Belarus who visited them in October 2012. Source: Gemius, gemiusAudience 10/2012

No dedicated online news media make it into the top ten, although all of these sites include news content. Users appear to favour reading news on portals, where they can get other services, and on news aggregators.

1.2 The internet's challenge to the closed media environment

Belarus has a highly regulated mainstream media with no independent terrestrial TV station (the struggling BelSat channel is only available via satellite)¹⁴ and independent newspapers subject to economic sanctions that severely limit their circulation.¹⁵

The expansion of internet access has provided a new platform for online independent news media. Independent online publications enjoy significantly greater popularity among internet users than the highly pro-regime websites of state-run media:¹⁶

11 See http://belstat.gov.by/homep/ru/perepic/2009/publications/bul_republic.rar

12 Gemius Audience Survey 09/2012, Gemius, <http://www.audience.by>

13 Do You CEE? The Internet Market in Central and Eastern Europe, Gemius and IAB Europe

14 Belsat TV Struggles To Survive, Belarus Digest, <http://belarusdigest.com/story/belsat-tv-struggles-survive-12282>

15 For Free and Fair Media in Belarus, (Index on Censorship is a report partner), http://www.ifex.org/belarus/2009/10/16/belarus_report.pdf

16 Coverage of the 2012 Parliamentary Elections in the Belarus Media, final report, BAJ http://baj.by/sites/default/files/monitoring_pdf/TheCoverageOfThe2012ParliamentaryElectionsInTheBelarusianMedia-FinalReport.pdf

Place in overall rating	Name of site	Type	No. of real users
31	interfax.by	Russia-owned news agency	458 986
41	naviny.by	Independent news site	315 564
44	charter97.org	Independent news site	287 378
45	kp.by	Russia-owned newspaper	274 166
48	ctv.by	Site of a state TV channel	194 039
53	utro.ru	Russian news site	159 616
55	telegraph.by	Independent news site	151 001
56	euroradio.fm	Site of independent radio	146 135
57	21.by	Independent news site	144 833
59	lenta.ru	Russian news site	134 892

Top 10 news websites visited by Belarusian internet users with the number of individuals in Belarus who visited them in October 2012. Source: Gemius, GemiusAudience 10/2012

Social networks are also providing a significant challenge to the closed media environment in Belarus. Russian social networks VKontakte and Odnoklassniki dominate the market (both are in the top 10 most popular sites) with 2.4 million and 1.5 million users respectively. The number of Belarusians who access Facebook reached 1 million in September 2012; more than 450,000 people used Twitter. Belarus is 13th in the number of blogs per nation on LiveJournal, the most popular blogging platform in former Soviet countries.¹⁷

The online audience may have expanded, but the internet advertising market in Belarus in 2012 is still relatively small at an estimated \$7.9 million. Though online advertising is growing and is forecast to continue to do so, this is the smallest per capita market in central and eastern Europe. Lithuania, with a population of 3 million has an online advertising market estimated at \$15 million annually, and the Russian market is expected to reach almost \$2 billion this year.¹⁸

Internet access in Belarus has expanded rapidly in response to demand for new online resources, independent news and social networks. The take up of broadband, which facilitates the movement of large amounts of data, is now well established. The growth of the internet, and in particular social networks and online independent news, presents a challenge to the Belarusian government.

1.3 Access Recommendation

Opening up the market to end the Beltelecom monopoly on the country's internet gateway will help facilitate a more open infrastructure for the Belarusian internet; this in turn will help prevent state restrictions on internet access.

¹⁷ LiveJournal Statistics <http://www.livejournal.com/stats.bml>

¹⁸ See http://di.by/upload/iblock/e80/Rodina_Rynok_per_cent20medijnoj_per_cent20reklamy_per_cent20v_per_cent20Belarusi.pdf



2 Laws used to restrict free speech

This section explores the use of existing laws such as criminal defamation to chill online freedom of expression and outlines the most important new law initiated by the regime to curtail internet freedom: Presidential Decree no. 60 (“On the Measures to Improve the Use of the National Segment of the Internet Network”).

2.1 The application of existing laws to chill online free speech

High-ranking Belarusian officials, including the president himself, have demanded tougher control over the internet on numerous occasions. Lukashenko said social networks were potentially a “very dangerous weapon ... in criminal hands” and ordered that “internet access in educational institutions must be under control to rule out internet use for non-educational or destructive purposes”¹⁹ and “to protect our stability, security and country.”²⁰

Belarus’s former prosecutor-general Ryhor Vasilevich in September 2011 called for the internet to be regulated internationally, suggesting that a treaty should be adopted by the United Nations.²¹ The government began working closely on the regulation of online media in 2008, when a new media law was adopted.²² It contains provisions that entitle the government to regulate registration and distribution of “mass media that are distributed via the internet global computer network”. The government organised an ad-hoc working group supposed to draft such regulations, but no by-laws or governmental edicts were produced.

Even before this the regime used laws aimed at the offline media to attempt to curtail online media in Belarus – in particular defamation law. In Belarus it is a crime to insult a state official – and the most serious offence, punishable with up to five years in prison, is defaming or insulting the president. In 2007, the writer and opposition activist Andrei Klimau was sentenced to two years in prison for publishing articles on the internet critical of the president in light of the alleged murder of leading opposition figures. Klimau was released in 2008.

The journalist Andrzej Poczobut was convicted of libeling the president in July 2011 and given a three-year suspended jail sentence. He faces similar charges again after prosecutors claimed that more than 20 articles Poczobut wrote for Belarusian websites Charter97.org and Belaruspartisan.org were defamatory.²³

Libel is not the only hazard. Anton Suryapin, a young freelance photographer, was arrested on 13 July 2012 and charged with assisting the illegal crossing of the state border. He had posted photos on his blog of teddy bears dropped by parachute over Belarus by a Swedish PR firm to protest over the lack of media freedom in the country.²⁴ He was arrested and detained by the KGB until 17 August. He still faces criminal charges.

2.2 Persecution and arrests of online activists

The Belarus authorities have long used petty and vexatious charges to persecute civic activists and independent reporters. The technique is now being applied against online activists as existing powers are extended. Charges used include that of “petty hooliganism” (Article 17.1. of the Administrative Code), applied against moderators of social media communities critical of the regime, particularly during and after peaceful protest rallies organised by the “Revolution through Social Networks” movement in 2011.

¹⁹ Belarus President orders controlled internet access in educational institutions, BelTA <http://news.belta.by/en/news/president/?id=652714>

²⁰ Lukashenka says that he is OK with the internet, BelaPAN http://naviny.by/rubrics/english/2011/06/18/ic_news_259_370352/

²¹ Василевич требует упорядочить пользование интернетом на уровне ООН [Vasilevich calls for regulation of internet usage on UN level]. Naviny.by http://naviny.by/rubrics/computer/2011/09/14/ic_media_video_128_5974/

²² Law of the Republic of Belarus On Mass Media <http://law.by/main.aspx?guid=3871&p0=H10800427e>

²³ Guilty of calling Europe’s last dictator a dictator, Index on Censorship <http://uncut.indexoncensorship.org/2012/10/guilty-of-calling-europes-last-dictator-a-dictator/>

²⁴ Belarus declares war on teddy bears, Index on Censorship <http://www.indexoncensorship.org/2012/07/belarus-declares-war-on-teddy-bears/>

Viachaslau Dzijanau, one of the leaders of “Revolution through Social Networks” had to flee the country following the clampdown after the 19 December 2010 presidential elections. Dzijanau was a member of the election team of an opposition candidate, Jaraslau Ramanchuk, and managed the “Movement of the Future” group on the Russian social network VKontakte. “Movement of the Future” is the largest Belarusian online community with more than 100,000 users at that time.

On 18 April 2012, Marharyta Lavyschyk, Dzijanau’s girlfriend, alleges she was arrested and interrogated for eight hours by the KGB. She was forced to read a text to camera to implicate Dzijanau and herself in criminal activity. Lavyschyk and her roommate Chryscina Kumiejka were eventually charged with petty hooliganism and fined \$200. Lavyschyk left Belarus on 19 April 2012. Her notebook was confiscated before she crossed the border.²⁵

On 2 June 2011, Siarhei Pauliukievich, a moderator of the “We are for a Great Belarus” online community, Zmicer Niafiodau, a moderator of the “Revolution through Social Networks community”, and Ivan Stasiuk, an activist of the Malady Front community, were detained, intimidated and later released, while their computers were confiscated.²⁶

Several moderators of popular opposition pages and groups on VKontakte were arrested in Minsk and Vitsebsk on 30 August 2012, and one of its pages, “We are fed up with Lukashenko”²⁷, which has 40,000 users, was hacked and left inaccessible for two days before its activities were restored. Group administrators, Pavel Yeutsikheiev and Andrei Tkachou, were charged with minor hooliganism offences and sentenced to five and seven days detention respectively, their homes searched and computer equipment confiscated.²⁸

Another online activist, Raman Pratasevich, was also detained. He reported later that law enforcement officers beat him in order to get hold of passwords for a group on VKontakte, dedicated to a page on a free concert by Liapis Trubetskoy, a popular rock band, known for its criticism of Lukashenko.²⁹

The persecution of digital activists on administrative charges such as petty hooliganism is a form of direct repression against people who exercise their right for free speech online. Such practices should stop.

2.3 The developing legal framework

The most significant legal challenge to online free speech in Belarus came in February 2010 with Presidential Decree no. 60 (“On the Measures to Improve the Use of the National Segment of the Internet Network”).

With this, Lukashenko signed into law tough new rules for Belarus’s internet publishers. They state that any Belarusian website that provides services to Belarusian citizens must be registered under the .by national domain zone and be hosted physically in the territory of the country. In early 2012 fines were introduced as punishment for anyone that violates this requirement.³⁰

25 The police threatened to take me to the woods and shoot, udf.by <http://udf.by/english/main-story/59240-the-police-threatened-to-take-me-to-the-woods-and-shoot-photo.html>

26 A Click Away from the KGB: Internet Revolution In Belarus? Belarus Digest <http://belarusdigest.com/2011/06/07/click-away-kgb-internet-revolution-belarus>

27 See <http://vk.com/stopluka>

28 Clampdown on Online Social Nets: Searches, Questionings, Arrests, BAJ <http://baj.by/en/node/13843>

29 Belarusians battle for artistic freedom, Index on Censorship <http://uncut.indexoncensorship.org/2012/10/belarus-art-freedom-2/>

30 In Belarus, the freedom of the internet is at stake, The Guardian <http://www.guardian.co.uk/commentisfree/2012/jan/06/belarus->

The decree most directly affects internet service providers (ISPs), but it was also aimed at facilitating the tracking of internet users and controlling their access to online material. It introduced a technical system for search and surveillance in the internet, System for Operative Investigative Activities (SORM) similar to one used in Russia.³¹ It obliges ISPs to store data on their users (an IP address, a device's physical MAC address, the length of session, visited URLs and search queries) for one year.

The decree also gives powers to a security service that reports directly to Lukashenko, the Operations and Analytical Centre (OAC). The OAC and the KGB have constant direct access to the tracking systems, which are installed at the ISPs' cost. All customers of internet cafes are obliged to register and show their passports before they can go online. Owners of internet cafes have to store data about the sites each customer visits for a year and provide the information to law enforcement agencies on demand.

Finally, the decree introduced "lists of limited access" of websites that are banned from public and educational institutions, internet cafes and other public internet access points. These lists impact on freedom of expression by including opposition political parties, civil society groups, NGOs and online independent media websites.

There are two of these lists. One is public at the website of State Inspection of Electrical Communications (BelGIE)³², but it is empty – as of November 2012 there wasn't a single entry in the list. The second list³³ is not openly available: it can be accessed only by authorised representatives of ISPs, who have to register with BelGIE.

This second list was leaked to the independent media and, as of July 2012, there were about 80 websites mentioned there.³⁴ Most of them are websites that contain porn or terrorism-related materials. But two popular independent online publications, charter97.org and belaruspartisan.org, are officially included in the blacklist as well as the website of Human Rights Centre Viasna (spring96.org) and others.³⁵ They can only be accessed from private computers in Belarus.

Instances of internet censorship are not restricted to the implementation of the official "lists of limited access". Several educational institutions and private companies have limited access to oppositional or social networking websites. For instance, customers of the Europa Hotel in Minsk report it filters the internet "even more thoroughly than in other state establishments".³⁶ One of the country's mobile operators was also reported to be blocking access to several independent websites and blogs in 2012.³⁷

To ascertain the scope of filters in Belarus, Index commissioned field research conducted in Belarus in December 2012. The research showed several independent online resources were not accessible in some public and local networks. Five websites were included in the research:

freedom-internet

31 Soldatov, A., Borogan, I. The Kremlin's new internet surveillance plan goes live today. A joint investigation by Agentura.Ru, Citizen-Lab and Privacy International <https://www.privacyinternational.org/blog/the-kremlins-new-internet-surveillance-plan-goes-live-today>

32 See http://belgie.by/files/Spisok_obzhii.xls

33 See <http://belgie.by/node/216>

34 Belarus has about 80 websites on "black list", most are "extremist", Euroradio <http://euroradio.fm/en/report/belarus-has-about-80-websites-black-list-most-are-extremist-112329>

35 Список запрещенных в Беларуси сайтов вырос до 60 [The list of prohibited sites in Belarus grew to 60] <http://electroname.com/story/9851>

36 Social Nets Banned In Five-Star Hotel 'Europe', BAJ <http://baj.by/en/node/9146>

37 Mobile Operator "Belcel" Blocks Access to Independent Websites and Blogs, BAJ <http://www.baj.by/ru/node/13064>

popular online independent news publications charter97.org and belaruspartisan.org, as well as the website of Nasha Niva newspaper (nn.by), Human Rights Centre Viasna (spring96.org) and Belarusian Association of Journalists (baj.by). All of these sites, which are often highly critical of the government, were accessible in internet cafes in the centre of Minsk, as well as through the country's three major mobile operators.

However, where the government had authority over the connection such as the Wi-Fi connection in the Europe Hotel, at the National Library and at a regional university in Navapolatsk, some of these sites were filtered. Of particular interest was the high level of filtering on the local Wi-Fi network at the Institute of Journalism, Belarus State University in Minsk which filtered all five of the independent sites.

The table below represents the results of the field research, with “+” indicating a website was accessible in a network of that particular institution and “-” showing a website was filtered out.

	Europe Hotel, Minsk	Institute of Journalism of Belarus State University, Minsk	Polatsk State University, Navapolatsk	National Library of Belarus, Minsk
charter97.org	-	-	-	-
belaruspartisan.org	-	-	-	-
nn.by	-	-	-	+
spring96.org	+	-	+	+
baj.by	+	-	+	+

The extension of the existing tight controls over the media and communications to online communications, and the introduction of a legal framework for digital surveillance has seriously curtailed online freedom of expression.

Given the important role the internet has in Belarus as the primary “Plaza Pública” in the authoritarian regime for citizens to express their opinions, efforts must be made to keep the internet as open and free as possible.

2.5 Legal Framework: Recommendations

- Speech should not be criminalised. Existing laws should be amended in line with the recommendations of the UN representative on freedom of expression and the OSCE representative on freedom of the media. In particular, six articles of the Criminal Code providing for criminal liability for defamation should be abolished:
 - Article 188 “Libel”
 - Article 189 “Insult”
 - Article 367 “Libel in relation to the President of the Republic of Belarus”
 - Article 368 “Insulting the President of the Republic of Belarus”
 - Article 369 “Insulting the representative of the authorities”
 - Article 369–1 “Discrediting the Republic of Belarus”
- The use of “petty hooliganism” (Article 17.1. of the Administrative Code) to arrest and detain online activists with impunity should be discontinued.
- Mass monitoring and surveillance of citizens’ use of digital communications is a dangerous and unacceptable breach of fundamental human rights. Several provisions of the Presidential Decree No 60 of 1 February 2010 on regulating the internet should be dropped, along with various other edicts related to the implementation of the decree. In particular, the requirements for mandatory identification of users of internet services, including data on internet users, collected by ISPs, and personal data, gathered by owners of internet cafes, as stated in Paragraph 6 of Decree No. 60, and Decrees of the Council of Ministers No. 646 and 647 of 29 April 2010 should be annulled.
- Private companies should not be involved in censoring online content or invading the privacy of Belarusian citizens by handing over sensitive information to the government.
- Restrictions on access to online content or takedown requests should be highly limited, made in accordance with transparent procedures and based on the decisions of independent courts.

3 Technological challenges to free speech

This section covers the methods the government uses to silence and censor free speech enabled by improvements in technology. These include measures to filter the internet, more sophisticated surveillance techniques and the blocking of secure access to websites.

3.1 State use of technologies to curtail free speech

Surveillance is increasingly used globally as a method to track and trace critics of the state in authoritarian countries. Belarus is no different with the government starting to implement a programme to expand its use of online surveillance technologies. In 2010 the government issued a Strategy for the Development of an Information Society in the Republic of Belarus until 2015.³⁸ The document outlines further plans to control the online activities of Belarusian citizens, in particular, plans to invest Br 3bn (around \$350,000) into the “development of a hardware-software complex for inspection and monitoring of the information resources of the national segment of the global computer network internet” – in other words, a nationwide system of content monitoring.

Beyond this technology and its implementation of the SORM system, the regime announced plans to invest around \$1 million in a “complex [set of equipment] for the analysis of high-speed network flows, for operational and investigative activities”. The state’s intention is to make it possible to trace the online activities of everyone in Belarus.³⁹

Beyond the state’s expansion of its internal surveillance capabilities, western firms have been reported to have installed equipment that has the capacity to help Belarus extend its surveillance over its citizens. The export of these technologies is now a matter of debate in the European Parliament. On 23 October 2012, the European Parliament endorsed a motion tabled by Marietje Schaake MEP, calling for tougher guidelines for the export of surveillance technologies. This is brought into clear focus in Belarus, where western firms have exported technology to help build telecoms networks.

A television documentary produced in 2012 by the Swedish news show Uppdrag Granskning⁴⁰ alleged that telecoms giant TeliaSonera sold equipment that could be used for surveillance to post-Soviet regimes, including Belarus, and also to Uzbekistan, Azerbaijan, Tajikistan, and Kazakhstan.⁴¹ When approached by Index on Censorship, TeliaSonera replied the company “has no operations in Belarus. We own 38 per cent of the Turkish operator Turkcell which in turn owns 80 per cent of Best (Belarusian Telecom), a mobile operator in Belarus. Any questions related to these operations should be directed to either Best or Turkcell.” Turkcell declined to comment on whether it had installed surveillance technologies in Belarus.

Index questioned Swedish telecoms giant Ericsson on their sale of these technologies to Belarus. Ericsson told Index they “have not sold any radio technology (GSM or 3G) to Beltelecom”, but did say their “customers for mobile telephony in Belarus are two operators owned by Turkcell and Austria Telekom.” According to an investigation by the independent news agency BelaPAN, Ericsson sold communications equipment to Belarusian mobile phone operators which BelaPAN claims could have been used to track down mobile phone communications of opposition leaders and independent journalists in Minsk before and during the events of 19 December 2010.⁴²

The relationship between western governments and Belarus also continues to cause concern.

38 See <http://www.zakon.by/main.aspx?guid=3871&p0=C21001174&p2={NRPA}>

39 Дзяржава выдаткуе мільярды на распрацоўку метадаў кантролю за Інтэрнэтам [State to invest billions in development of methods of internet control], Generation.by <http://generation.by/news5615.html>

40 How Teliasonera Sells to Dictatorships. Uppdrag Granskning: The Black Boxes. Mission Investigation <http://vimeo.com/41248885>

41 Communications Data Bill: Big Brother will be watching you, The Independent <http://blogs.independent.co.uk/2012/08/07/communications-data-bill-technology-is-making-dystopia-not-just-possible-but-cheap/>

42 Ericsson помог Лукашенко прослушивать телефоны Халип? [Ericsson Helped Lukashenko to Tap Khalip’s Phones?] http://naviny.by/rubrics/mobile/2011/03/25/ic_articles_127_172971/

In September 2012, the German newspaper Die Zeit reported that German police had trained their Belarus colleagues to use Analyst's Notebook software, designed to confront activities of terrorist groups; it was confirmed later that the Belarus police have used this software in their actions against protest demonstrations and to track down communications in social networks.⁴³

3.2 Cyber attacks against online media and activists

The Belarusian government has used new technologies against online media and activists. This section outlines the use of filters, fake websites, DNS re-routing and DDoS attacks to prevent access to online resources and censor leaks of sensitive information that the state wishes to keep secret.

For over a decade the government has blocked websites extra-judicially. The first instance occurred on 9 September 2001, the day of presidential elections, when Beltelecom, the national telecommunications company, blocked access to a range of popular opposition websites.⁴⁴

This has since become a routine practice, with access to independent online media and opposition websites blocked on the days of major political events, particularly elections, but also days of opposition rallies and street action.

The events of 19 December 2010, the day of the last presidential elections, saw a significant level of filtering and blocking of internet sites. By 2pm local time, access to <https://gmail.com> and <https://facebook.com> were blocked. Users could still log in through open, less secure connections (<http://facebook.com>), but doing so also made their logins and passwords easier to intercept.

Charter97.org had been blocked as early as 10am on election day. By 4pm most independent websites were inaccessible – though some websites may just have been hit by the huge number of visitors. The independent newspaper Nasha Niva, reported 120,000 unique visitors that day, up from approximately 5,000 before. A large surge in attempts to access sites hosted outside Belarus could simply have overwhelmed the limited external gateway capacity.

The same day saw the use for the first time of duplicate but fake copies of opposition and media websites. Anyone attempting to access major independent news and political websites such as zapraudu.info (the website of the Tell the Truth opposition group), nn.by (the site of Nasha Niva newspaper), belaruspartisan.org, charter97.org and svaboda.org was redirected to copies of those websites located at the .in domain (zapraudu.in, nn.com.in, belaruspartisan.in, charter97.in, svaboda.in).

These sites appeared identical to the original ones but contained out-of-date or fake information, for instance about times and locations for protest meetings in Minsk after the polls closed. While many internet users were tricked, the real websites remained accessible through anonymisers such as TOR (a technical tool that allows the user's activities online to be untraceable) – but some of the best known anonymisers (including anonymouse.org) were blocked.

DDoS attacks have also been used frequently against independent online media and oppositional

43 BKA gab Weißrussland Nachhilfe in Rasterfahndung <http://www.zeit.de/digital/datenschutz/2012-09/bka-weissrussland-software-rasterfahndung>

44 Pavlyuchenko F. Belarus in the Context of European Cyber Security http://www.ccdcoe.org/publications/virtualbattlefield/11_PAVLYUCHENKO_Belorussia.pdf

websites. It is unusual for authoritarian states to use DDoS attacks due to the resources required (often borrowed, or hired) to mount an attack. A DDoS attack involves using a botnet (an intentionally infected network of computers with spyware or malware) that then sends so many requests to a target server or network that the server overloads and ceases to work. It is thought the authorities hire these botnets on demand.

The first massive DDoS attack happened in January 2004, and was aimed at the charter97.org website, which has been the most frequent target of such cyber attacks. That attack lasted for more than three weeks following a journalistic investigation, made by the website, of the possible involvement of high-ranking officials from Belarus' Interior Ministry in the distribution of child pornography.⁴⁵ Since then charter97.org alone has been the target of more than 30 DDoS attacks.

In summer 2011 another website, prokopovi.ch, was subjected to three DDoS attacks. The website is a platform for private exchange of foreign currency, created after the financial crisis of that year, when foreign currency disappeared from Belarus.⁴⁶ The DDoS attacks on the website ended after its team improved their server system.

At the end of 2011, hackers destroyed the whole archive of charter97.org website, which had to be restored from a backup. An investigation published by the independent website Electroname.com revealed that the Belarusian secret services were directly accessing the emails, Skype and social network activities of several Belarusian independent journalists, oppositional politicians and civic activists after stealing passwords from personal computers.⁴⁷

Systematic filtering of the VKontakte social network started in summer 2011 after it was used to organise "silent demonstrations" to protest against the sharp devaluation of the national currency.

There have also been several instances of foreign websites being blocked. Shortly after an aircraft piloted by the Swedish Art agency Studio Total illegally crossed the border of Belarus and dropped teddy bears over the territory of the country on 4 July 2012,⁴⁸ the website flightradar24.com, which tracks flights over Europe live, was blocked.

Change.org, an online petitions platform, was blocked in Belarus on 10 August 2012 after it published a petition to free Anton Suryapin, the photographer jailed for publishing photos of the teddy bears.⁴⁹

45 Ibid

46 Final solution to foreign currency problem: DDoS attack on prokopovi.ch, Charter97 <http://charter97.org/en/news/2011/8/30/42085/>

47 Кибероружие белорусского КГБ [Cyberweapon of the Belarusian KGB], Electroname.com, January 9, 2012, <http://electroname.com/story/9865>

48 The curious case of Belarus's bears that weren't there, Index on Censorship <http://www.indexoncensorship.org/2012/07/belarus-teddy-bears-free-speech-anton-suryapin/>

49 Сайт международной платформы Change.org, где собираются подписи в поддержку Сурияпина и Башаримова, недоступен для белорусов [Change.org website that collects signatures in Suryapin and Basharimov's support is not available for Belarusians], BelaPAN <http://belapan.com/archive/2012/08/12/567625/>

3.3 Technology: Recommendations

- Surveillance equipment should not be used to track down journalists and civic activists and control the digital activities of Belarusian citizens; this undermines their rights to freedom of movement, privacy and free expression.
- Foreign companies should restrict the export of surveillance equipment and technology to Belarus as such equipment can be used against the political opposition, civic activists and journalists to monitor their legitimate activities.
- The European Commission should support the motion tabled by Marietje Schaake and passed by the European Parliament calling for tougher export guidelines for the export of surveillance technologies.⁵⁰
- Independent online media, civic society organisations and activists should receive the necessary support and training to implement measures to protect their websites from cyber attacks (including the building of necessary technical infrastructure, maintaining mirror sites and using DDoS-resistant hosts).

⁵⁰ Talking to Europe's most wired politician, Index on Censorship <http://www.indexoncensorship.org/2012/11/marietje-schaake-internet-freedom/>



Pulling the Plug: Conclusions

There are various ways that freedom of expression is restricted in Belarus – traditional techniques applied to opposition activists and the media since Lukashenko came to power in 1994 and new techniques that are facilitated by the technologies that underpin the internet.

Traditional techniques include draconian laws such as criminal libel, legal persecution and the misapplication of the administrative code. Modern techniques include mass online surveillance, website blocking and filtering, cyber-attacks against independent websites and content manipulation. Our research indicates that the authorities plan even tighter controls over citizens' access to the digital world, which will further deteriorate the situation with freedom of expression and human rights in Belarus.

Recommendations

Index on Censorship calls on the Belarus government to stop all disproportionate and unnecessary legal and extrajudicial practices, online and offline, that compromise freedom of expression. We call for immediate reforms to be launched to ensure free speech, with particular attention to the following areas:

1. Internet access

- Opening up the market to end the Beltelecom monopoly on the country's internet gateway will help facilitate a more open infrastructure for the Belarusian internet; this in turn will help prevent state restrictions of internet access.

2. Legal framework

- Speech should not be criminalised. Existing laws should be amended in line with the recommendations of the UN representative on freedom of expression and the OSCE representative on freedom of the media. In particular, six articles of the Criminal Code providing for criminal liability for defamation should be abolished:
 - Article 188 "Libel"
 - Article 189 "Insult"
 - Article 367 "Libel in relation to the President of the Republic of Belarus"
 - Article 368 "Insulting the President of the Republic of Belarus"
 - Article 369 "Insulting the representative of the authorities"
 - Article 369–1 "Discrediting the Republic of Belarus"
- The use of "petty hooliganism" (Article 17.1. of the Administrative Code) to arrest and detain online activists with impunity should be discontinued.
- Mass monitoring and surveillance of citizens use of digital communications is a dangerous and unacceptable breach of fundamental human rights. Several provisions of the Presidential Decree No 60 of 1 February 2010 on regulating the internet should be dropped, along with various other edicts related to the implementation of the decree. In particular, the requirements for mandatory identification of users of internet services, including data on internet users, collected by ISPs, and personal data, gathered by owners of internet cafes, as stated in Paragraph 6 of Decree No. 60, and Decrees of the Council of Ministers No. 646 and 647 of 29 April 2010 should be annulled.
- Private companies should not be involved in censoring online content or invading the privacy of Belarusian citizens by handing over sensitive information to the government.
- Restrictions on access to online content or takedown requests should be highly limited, made in accordance with transparent procedures and based on the decisions of independent courts.

3. Use of technology

- Surveillance equipment should not be used to track down journalists and civic activists and control the digital activities of Belarusian citizens as it threatens their rights to freedom of movement, privacy and free expression.
- Foreign companies should restrict the export of surveillance equipment and technology to Belarus as such equipment can be used against the political opposition, civic activists and journalists to monitor their legitimate activities.
- The European Commission should support the motion tabled by Marietje Schaake and passed by the European Parliament calling for tougher export guidelines for the export of surveillance technologies.
- Independent online media, civic society organisations and activists should receive necessary support and training to implement measures to protect their websites from cyber attacks (including the building of necessary technical infrastructure, maintaining mirror sites and using DDoS-resistant hosts).

The government of Belarus should re-start a dialogue with civil society organisations inside Belarus, international NGOs and governmental bodies with the aim of reforming the media field and introducing legislation to guarantee freedom of expression in the country and facilitating the development of Belarus as a democratic state.

The EU, its member states and other European bodies, such as the Council of Europe and the OSCE, should put greater pressure on the Belarus government to respect human rights and to end its attacks on civil society and the independent press. It is essential that the international community take into account the recommendations in this report as well as other information gathered by freedom of expression and human rights organisations, when forming and implementing a strategy for their relationship with Belarus.

The EU and its member states should also continue their support to civil society and the independent media in Belarus.

Annex 1



Belarus: Background information

Belarus is a country of 9.5 million inhabitants in eastern Europe. A former Soviet republic, it became independent in the early 1990s and at first started a process of democratic reform. Since 1994, however, it has been under the rule of the authoritarian ruler Alexander Lukashenko.

Belarus is an undemocratic state in which basic human rights and civic freedoms are violated. According to the human rights monitoring organisation Freedom House, Belarus is a “not free” country with one of the worst records on political rights and civil liberties in the world.⁵¹

Not one of the elections and national referenda held in Belarus since 1994 has been recognised by observers from the OSCE as free and fair. The opposition is unrepresented not only in the national parliament but also in local government – though it is very well represented in prisons. At least 12 political and civic activists are considered to be political prisoners by Belarus human rights organisations.⁵²

Index on Censorship has been campaigning for their release since 19 December 2010, when the presidential election was followed by a mass round-up of opposition figures, among them Andrei Sannikov, Dzmitry Bandarenka and Ales Bialiatski.⁵³

Media freedom

According to all international surveys of media freedom, Belarus has one of the worst records in the world. Belarus is ranked 168th out of 179 countries in the 2011/2012 *Press Freedom Index*⁵⁴ by Reporters without Borders and 193rd out of 197 countries in the Freedom House Freedom of the Press 2012 report.⁵⁵

Independent media in Belarus are under constant threat of hostile state action, including police searches of editorial offices and journalists' homes as well as arrests of journalists during demonstrations. There have been several cases of the imprisonment of journalists on trumped-up charges, and several cases of journalists being prosecuted for defamation after criticising high-ranked state officials, including the president of the country. The state routinely refuses accreditation to independent journalists and harasses those who work with foreign media. It is not unusual for the police to destroy journalists' equipment.

51 Freedom in the World. Belarus country report, Freedom House. <http://www.freedomhouse.org/report/freedom-world/2012/belarus-0>

52 List of political prisoners, Human Rights Center Viasna. <http://spring96.org/en/news/49539>

53 Sannikov and Bandarenka released, but Belarus is still not free, Index on Censorship <http://www.indexoncensorship.org/2012/04/belarus-sannikov-bandarenka-free/>

54 Freedom of the Press 2012, Freedom House <http://www.freedomhouse.org/report/freedom-press/freedom-press-2012>

55 Guilty of calling Europe's last dictator a dictator, Index on Censorship <http://uncut.indexoncensorship.org/2012/10/guilty-of-calling-europes-last-dictator-a-dictator/>

The economy

The economy of Belarus is dominated by the state, with 70 per cent of its GDP the output of state-owned companies. The share of small and medium private businesses is less than 23 per cent. It is a command economy that has changed little since the communist era, reliant on support from Russia in the form of loans and artificially low prices for natural gas and oil. The credit ratings agency Moody's considers it a high-risk destination for capital and loans.⁵⁶

Population and education

Belarus is an urban and ageing country, with 75 per cent of the population living in cities and towns and more than 20 per cent of inhabitants over 60. It has one of the highest adult literacy rates in the world (99.7 per cent) and nearly 90 per cent of its teenagers stay at school past 16.

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⁵⁶ Business in Belarus 2012, IPM Research Center. <http://eng.research.by/webroot/delivery/files/english/sme/business2012e.pdf>

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