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Belarus: Detention of journalists, harassment of independent media and new unduly restrictive legislation mark a low point for freedom of expression

The right to freedom of expression in Belarus has been dealt a series of severe blows in recent weeks, as the authorities' crusade against journalists and independent media outlets continues. The latest moves by the Belarusian authorities demonstrate their resolve to eliminate all critical voices in the country and deprive people in Belarus of the opportunity to freely access, share and disseminate information and ideas.

Early this year, the government blocked access to a leading opposition website, the Charter'97. Since then, its editor-in-chief, Natal'lya Radzina who lives in exile in Poland, has received death threats from sources which, she believes, come from within Belarus. In June, legislative amendments introduced harsher restrictions to online media in a move which was widely criticized by the international community. Most recently, between 7 and 10 August 2018, at least 18 journalists were arrested on accusations of illegally accessing information belonging to the state news agency BelTA.

The environment in Belarus for independent media remains one of the most repressive in the world, according to Reporters Without Borders.¹ The state routinely harasses independent journalists and bloggers critical of the authorities, and makes full use of its increasingly repressive legislation to unduly restrict activities of independent media outlets, in contravention to the International Covenant on Civil and Political Rights that protects the rights to freedom of expression and access to information and to which Belarus is a party.

Belarusian authorities must overturn all existing undue limitations on online and offline media. The authorities must also stop arbitrarily targeting journalists via politically motivated prosecutions and must restore access to the Charter'97 website with no restrictions. Furthermore, the authorities must ensure readers and commentators of online media outlets can seek and share information freely without any fear of repercussions for accessing and discussing information and ideas.

Large-scale searches and arrests targeting journalists working for independent media outlets

On the morning of 7 August, members of the Investigative Committee of Belarus (*Sledstvennyi Komitet – SK*, a stand-alone government agency responsible for

¹ For more information, see <https://rsf.org/en/belarus> (accessed 27 July 2018).

investigating serious crime) searched the editorial offices of Tut.by, one of the leading independent news websites in the country. As part of the same investigation, between 7 and 10 August, they also searched the premises of several other independent media outlets, including the Belarus Private News Agency (BelaPAN), realty.by, Belaruskaya Navuka, and Kultura. Criminal proceedings were started under Article 349(2) of the Belarusian Criminal Code (“Unauthorized access to computer information”) against at least 7 journalists and other media workers.

The authorities justified the searches by citing unauthorized access by staff of media outlets to web-based information provided by the state news agency BelTA only to its paying subscribers who have an existing account. Maryna Zolatava, editor-in-chief of Tut.by, is also facing charges under Article 425, part 2, of the Belarusian Criminal Code (“Inaction of a person in an official position”) for allegedly being aware of the unauthorized access by members of her staff and failing to address it.

As part of the criminal investigation, the authorities arrested and detained at least 18 journalists, all of whom were released by 10 August, although criminal proceedings against them continue. If found guilty, they face a fine, a ban on professional activities or imprisonment of up to two years. Maryna Zolatava faces up to five years in prison. On 27 August, the authorities summoned those previously arrested for questioning and informed seven of them that they are prohibited from international travel for the duration of the investigation.

Civil society organizations have expressed their concern over the unprecedented scale of the searches and arrests that the authorities chose to respond by means of a criminal investigation involving the Investigative Committee, and the fact that all those facing criminal proceedings are journalists working for independent media outlets. As a result of the criminal proceedings, the authorities have been able to seize and get access to materials and IT equipment owned by media workers that likely contain their working materials, such as contacts of sources and working notes. The use of the criminal justice system in this case appears to be intended as a way to intimidate and harass them.

Information about the case has been widely covered in the mainstream state-owned media, which has attributed “criminal activities” to specific individuals in violation of their right to a fair trial, including their right to be presumed innocent. Hanna Kaltyhina, a journalist from Tut.by, has pointed out in an open letter addressed to the Press Service of the Investigative Committee that the Press Service had publicly named her as a suspect in the criminal case hours before she was officially informed of the charges against her.²

Death threats against the editor-in-chief of the Charter’97 after the website was blocked

On 23 July 2018, an anonymous individual sent e-mails containing death threats to the personal inbox of Natal’lya Radzina and the official mailbox of the Charter’97 website. In

² Available at <https://news.tut.by/society/604136.html>;

the emails, Radzina is warned that she is being followed and that she only “has a few days left”.³

The Charter’97 website is one of the oldest and most popular independent online news outlets in Belarus. The website provides wide news coverage and commentaries on issues that are often overlooked by the mainstream, state-owned media. In 2011, Natal’lya Radzina was arrested in Belarus in connection to her work on false accusations of organizing mass disturbances. She had to flee the country after being released from pre-trial detention. She has been living in exile since, and has continued working for the Charter’97 website from abroad.

Without prior warning, the authorities in Belarus blocked access to the Charter’97 on 24 January 2018. The decision was confirmed in an interview by the Deputy Minister of Information Ihar Lutski who did not give any specific details as to why the website was blocked and whether there were any measures that could be taken to overturn the decision.

In February, Pavel Levinau, a human rights defender from Vitsebsk, tried to challenge the blocking before the courts and filed a lawsuit against the Ministry of Information. In his complaint, Levinau demanded that the authorities reinstate access because it violates his rights to freedom of expression and free access to information. On 8 February, the Central District Court in Minsk refused to hear his case stating that it fell outside of its jurisdiction. Levinau appealed this decision at the higher instance court, but on 29 March the Minsk City Court issued a similar decision and refused to hear the case. There appears to be no other effective recourse to challenge the website’s blocking.

According to Natal’lya Radzina, in the months following the blocking, the number of visitors from within Belarus to the Charter’97 website decreased by 70 per cent.

Undue restrictions on the right to association and violations to the right to privacy of journalists and website commentators

The latest amendments to the Law on Mass Media, adopted in June 2018, underline the increasingly repressive environment that independent journalists and other media workers are forced to operate in. The changes will enter into force on 1 December 2018.

The amendments severely impede foreign or partly foreign-owned media outlets from operating in Belarus while the Ministry of Information is now able to exercise strict control over all online resources with no judicial oversight. The changes establish further bureaucratic hurdles for websites that want to register as official online media outlets. For example, such websites are required to have an officially registered company, an office, and its editor-in-chief must be a citizen of Belarus with over five years of work experience in media. Websites that choose not to register as official online media outlets, or which

³ Letter with death threats to Natal’lya Radzina is available here <https://charter97.org/ru/news/2018/7/23/298701/> (accessed 31 July 2018);

do not meet the new criteria, cannot file requests for accreditation with government institutions, effectively banning them from reporting on the work of the authorities.

Both registered and unregistered online media outlets are also obliged to register the names of people who submit comments, including in printed media and online forums, denying them the ability to remain anonymous. This information must then be disclosed to the authorities, putting independent journalists and those critical of the government at increased risk of reprisals. The owners of registered online media outlets may also be liable for the content of comments that anyone posts to their sites, including through criminal prosecution. Such measures are likely to have a chilling effect and inspire further a culture of self-censorship further curtailing open debate and the right to freedom of expression in Belarus.

The Belarusian authorities must immediately repeal the repressive amendments to the Law on Media and bring its legislation in line with international human rights law and standards. Full and unhindered access to the website of the Charter'97 must be reinstated without delay. The authorities must stop targeting dissenting voices and ensure that any charges brought up against journalists and other media workers simply for doing their job are dropped. Rather than stifle pluralism and open debate, the authorities must foster an environment in which the right to freedom of expression is respected, journalists are able to work without fear of reprisals and people in Belarus are able to seek, receive and impart information and ideas in line with Belarus' obligations under international human rights law.

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