



Freedom of Expression in Belarus

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Legal Framework

Other panellists already spoke about the overall restrictive regime in Belarus and about the authoritarian control over the media, so I would like to focus specifically on the legal framework of the restrictions that are imposed on the society. As we all know serious problems in the sphere of freedom of expression exist in most post-Soviet countries. However, most of those countries have reasonable, in some cases even very liberal freedom of expression and media legislation. Main violations of the right to freedom of expression occur when it comes to the implementation of those laws. Belarus on the other hand has openly restrictive and disproportionately harsh regulatory regime which it actively uses to oppress not only the opposition, but any views that differ from the official position of state authorities and of the president. The cynicism of that situation is particularly demoralising for the Belarusian society.

Some examples:

In December 2007 the Chamber of Representatives adopted in the first reading the draft law “On Information, Informatisation and Defence of Information”. The draft creates a system of state bodies that would control all information activities, including search and dissemination of information, as well as defence of information sources. It is not clear whether or not the draft aims at establishing state control over internet. On the one hand it states that the provisions of the draft law do not spread over internet, on the other hand it mentions ‘information networks’ (presumably meaning internet). The government has been seeking ways to exercise control over internet for some time now. Following statement by Mr Lukashenka that “Anarchy on internet should be stop” a state committee has been created to research ways for establishing such a control.

In February 2007 the Council of Ministry issued an order which demands from the owners and managers (authorised persons) of internet cafés and clubs to keep a record of all customers and all the internet addresses that they were visiting. These records should be kept for at least 12 months and should be made available to state security services, law enforcement and other state bodies.

In June 2007 an amendment to the Law on State Service established control over the communication between all public officials of Belarus and media. According to the amendment no public official is allowed to communicate with media, or publish any materials in the media without prior authorisation from the head of that state institution. The content of the communication should be presented to the supervisor for assessment.

Adoption of a new Law on Mass Media in July 2008 came as yet another blow to the freedom of media in Belarus. ARTICLE 19 joint efforts with other 8 international human rights and freedom of expression organisations to campaign against the new law, but despite our letters to the Belarusian parliament and the president, the draft has been voted for and signed into law by Mr Lukashenka in July 2008. This law further restricts freedom of expression in the country. Some of the points:

- The scope of the new law seems to be covering not only information produced by mass media, but also by non-media bodies, like NGOs.
- Internet is also included.
- The law fails to provide any basic guarantees, like editorial independence, or media diversity.
- The new law also established strict restrictions on the content that might be carried by mass media outlets, for example prohibition to publish information on behalf of non-government organisations, or to publish “unquotable” words or expressions.
- The law ignores international standards on the independence of the regulatory body. It gives the role of the regulator of the media sphere to the Council of Ministers, a political body which is part of the government.
- Registration of the print media, which is not justifiable and provides opportunities for abuse.
- Harsh sanction, including suspension, banning or revocation of the permission to print. Warnings and fines, along with the applicable criminal laws for crimes by individuals are sufficient to achieve any legitimate regulatory goal.

Articles of criminal legislation are also actively used by the government to persecute journalists and any critics of the regime. The harassments include arrests and attacks on journalists covering opposition’s demonstrations, use of defamation legislation, persecution of journalists working for foreign media outlets (including journalists of Deutsche Welle, German radio station, Radio Rasiya, Radio Free Europe/RL). For the print media, the situation is worsened by the state monopoly over distribution and subscription of print media (Belsayuzdruk and Belposhta). Exclusion from the subscription catalogue is a powerful leverage used by the government. In 2007 three more papers were excluded. Several Russian papers were excluded from the subscription catalogue in 2008.

Political Context

It is clearly a very gloomy picture with little opportunities for development and circulation of any alternative ideas and therefore for democratic development. In order to understand what can be done, we have to look also at the political context in which this situation exists. A couple of words on that context:

Despite the proclamations of friendship and loyalty, there is a clear change in the relations between Lukashenka's regime and the Kremlin. This became especially noticeable during the negotiations over the prices of gas this summer, in the run up to parliamentary elections. The situation became even tenser when a war erupted in the Caucasus between Georgia and Russia. The war had a chilling effect across the post-soviet region, and Belarus wasn't an exception. Despite the unconcealed pressure from the Kremlin, Lukashenka refused to follow Russia's example in recognising the independence of Abkhazia and South Ossetia, something that clearly irritates his political ally, sponsor and energy supplier.

Meanwhile the regime made attempts to open up a dialogue with EU. The flirt with the West in the attempt to ease the isolation of the country and strengthen its positions during the negotiations with Russia started back in spring 2008, well before the war in Georgia. But it seems the efforts increased after the events in the Caucasus. In one of his interviews Lukashenka openly stated that western influence is the main reason why former Soviet states refused to give in to Russian pressure and recognise Abkhazia and South Ossetia.

There were two main prerequisites for the possible rapprochement with the West; one was the release of political prisoners, on which the regime delivered. Three undisputed political prisoners, including the number-one enemy and former presidential candidate Alexander Kozulin, have been freed from the prison in August.

The second one – the test of the elections, proved to be more difficult for the regime. In the parliamentary elections of September this year supporters of Mr Lukashenka won every single seat in the 110 seat parliament. The election observation mission of the Organisation of Security and Cooperation of Europe declared that the “despite some minor improvements, the parliamentary elections in Belarus fell short of OSCE commitments to democratic elections”. Both EU and US expressed their disappointment and viewed this as a lost opportunity to improve the relations with Belarus.

What should be done?

The ultimate question is what should or can be done to improve the situation. First of all, both EU governments and the international civil society should capitalise on the regimes attempts to improve the relations with the West and use this momentum. This, however, should not come as a compromise on the situation of freedom of expression, human rights and democratic values. While the prospect of normalisation of relations should be real, including the breakthrough of the political isolation, the agenda for the normalisation should include real reforms to improve human rights, including freedom of

expression, and democratic standards in the country, including the situation of the media. The starting point should be reformation of a number of legal acts that represent a clear obstacle for the democratic development of the country. The genuine implementation of the improved legislation should be the next step. This message to the regime should be well coordinated, specific, consistent and most importantly uncompromising.

Nevertheless, the manner in which the parliamentary elections were conducted shows that the pro-European rhetoric used by Mr Lukashenka and the pro-governmental media may be exactly that, just rhetoric. Unfortunately, it may not be realistic to count on regimes cooperation or good will in the near future. Therefore, support to what remains of the Belarusian civil society and independent media is the main and most important measure that can be adopted against the authoritarian regime of Lukashenka. That support should clearly increase and can never be enough. Independent media and civil society organisations operate in extremely harsh circumstances, under permanent threats and often in exile, so it is very important for them to feel our continuous support and encouragement.

FURTHER INFORMATION:

- For more information: please contact Anoush Begoyan, Europe Programme Officer, anoushb@article19.org, Tel: + 44 20 7278 92 92
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.