New Legislative Regulation in the Republic of Belarus as the Authorities' Response to the Events of 2020 and How It Correlates with International Standards in the Field of Human Rights

Legal Transformation Center
Belarusian Helsinki Committee

Contents:

1. The Code of the Republic of Belarus on Administrative Offenses

Came into force on March 1, 2021.

Main changes /innovations[1]:

Article 24.23 (previously, Article 23.34) of the Code on Administrative Offenses ("Violation of the Procedure for Organizing or Holding Mass Events")

The amount of the fine for the violation of the established procedure for holding a mass event (responsibility for participants) has been increased from up to 30 basic values (BV)[2] to 100 BV.

[1]For more detail on all changes to the CoAO please see analysis by The Legal Transformation Center (Lawtrend) «Administrative Legislation: New Norms for Activists and Civic Society Organizations

[2] Directive #783 of the Cabinet of Ministers of Dec. 30, 2020 set the basic value at 29 rubles (a little less than 10 euros) from Jan. 1, 2021.

For repeated violations by a participant of a mass event (within a year after the imposition of a penalty for the same violation), the maximum fine is increased to 200 BV, and the term of administrative arrest is now 15 to 30 days (previously, 1 to 15 days).
For violation of *the procedure for organizing or holding* an assembly (responsibility for the organizer), the maximum fine is increased from 20-40 BV for individuals and 20-100 BV for legal entities to 20-150 BV for individuals and 20-200 BV for legal entities).
For repeated violations by the organizer of a mass event, the maximum amount of the fine for individuals is increased from 50 BV to 200 BV and the term of administrative arrest, from 1-15 days to 15-30 days.
The amount of the fine for participation for remuneration in an unauthorized mass event is increased from 50 to 200 BV.
There is now a responsibility for involving a minor in participation in an assembly, rally, street march, demonstration, picketing, or other mass event held in violation of the established order. Such actions under the new Code on Administrative Offenses are punishable by a fine in the amount of 5 to 30 BV.
There are new elements of administrative offenses that can be regarded as the authorities' response to the events of 2020:

1) insult in a public speech, or in a printed or publicly displayed work, or in the mass media, or in information distributed on the global computer network Internet, other public telecommunications network, or a dedicated telecommunications network. The responsibility for such actions is set at 10 to 200 BV. A similar corpus delicti was introduced for the same actions against an official of a state body (organization) performing his or her official duty by a person who is not subordinate to them in the service;
2) deliberate blocking of transport communications by the driver of a vehicle at the venue of a mass event or resulting in the creation of an emergency situation. The fine for such actions is set at 6 to 50 BV;
3) violation by the driver of a vehicle of the rules for the use of sound signals at the venue of a mass event. For such actions, a fine of up to 10 BV is provided; and
4) the imposition of a fine in the amount of up to ten basic units with or without deprivation of the right to engage in certain activities for a period of up to one year.

2. Draft Law On Amending the Codes on Criminal Liability

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus in the second reading on May 7, 2021;
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on May 7, 2021.
Comes into force: one month after its official publication (but must be signed by the president before that).

Main changes/innovations:

The draft law provides for the introduction of a large number of changes and additions to the Criminal and Criminal Procedure Codes of the Republic of Belarus, in relation to procedural norms and criminal liability alike. Despite some experts' forecasts, the draft Criminal Code retains the possibility of using death penalty as a punishment (until its abolition). The most significant with regard to human rights are the norms that complement and strengthen the responsibility for extremist activities, the dissemination of information and the holding of mass events.

In part, it is planned to supplement the Criminal Code with a number of articles concerning responsibility for committing actions that are defined by Belarusian legislation as extremist. This addition to the Criminal Code is associated with a significant expansion of the concept of extremist activity in the legislation on extremism[3]. These are articles providing for liability for:

- financing of extremist activities (Article 361^2, maximum penalty is imprisonment for up to 8 years and a fine);
- promotion of extremist activities, which means recruitment or other involvement of a person in extremist activities, training, as well as other promotion of extremist activities (Article 361^4, maximum penalty is imprisonment up to 7 years);
- receiving training or other preparation for participation in extremist activities aiming at his or her subsequent participation in them (Article 361^5, the maximum penalty is imprisonment for up to three years).

The draft law also provides for increased liability for other extremist actions. It is envisaged to introduce criminal liability not only for the creation of an extremist group, but also for participation in it. It is also envisaged to introduce liability for:

- discrediting the Republic of Belarus: dissemination of deliberately false and discrediting information about the political, economic, social, military or international situation of the Republic of Belarus, the legal status of citizens in the Republic of Belarus, and/or the activities of state bodies, committed in a public speech, or in a printed or publicly displayed work, or in the media, or in information posted on the Internet, aimed at causing significant harm to state or public interests (Article 369^1, the maximum liability is imprisonment for up to 4 years with or without a fine);
- insulting not only a representative of the government, but also his/her relatives, in connection with the performance of his/her official duties, committed in a public speech, or in a printed or publicly displayed work, or in the media, or in information posted on the Internet (Article 369, the maximum liability is imprisonment for up to three years and a fine).

It is also envisaged to introduce criminal liability for repeated violations of the procedure for organizing and holding mass events, as well as public calls for organizing or holding illegal assemblies, rallies, street marches, demonstrations or picketing, or involving persons in participating in such mass events (Articles 342^2 and 369^3, the maximum liability being imprisonment for up to three and five years, respectively).

[3]Please see commentary to draft law on the subject.

The responsibility for blocking transport communications is being strengthened. According to the current legislation, the condition for criminal liability is causing damage on a large scale. The draft law changes "damage on a large scale" to "damage in a significant amount" (for an amount 25 times less). Resistance to employees of the internal affairs bodies and persons protecting public order, and the use of violence against them, including by a group of persons, will be classified as serious crimes punishable by imprisonment of up to seven years.
It is also expected to introduce liability for the distribution by the owner of an Internet resource that is not registered as an online publication, of information, the distribution of which is prohibited on Internet resources in accordance with legislative acts, committed within a year after the imposition of an administrative penalty for the same offense (Article 198[1], the maximum liability is imprisonment for up to two years).
Resistance to employees of the internal affairs bodies or persons protecting public order, the use of violence against them, including by a group of persons is referred to the category of serious crimes punishable by imprisonment of up to seven years.

Compliance with international human rights standards

The new norms of criminal legislation do not correspond to prevailing approaches to punishment – the proportionality of committed acts and subsequent responsibility.
The inaccuracy and the possibility of a broad interpretation of the definitions in the legislation on extremist activities and mass events make it possible to bring to justice an extremely wide range of persons. The problem is aggravated by the lack of an independent judiciary in the Republic of Belarus, where the courts are completely dependent on the president and the executive authorities. The problem is further compounded by the difficulty of implementing the right of access to legal aid in Belarus. On the one hand, the practice of depriving a lawyer of the right to a profession is becoming increasingly more widespread: lawyers representing parties to "political" processes are stripped of their licenses. Furthermore, in accordance with the draft law on lawyering, individual law firms are being liquidated[4]. On the other hand, an important condition for the exercise of the right to access legal aid – the confidentiality of the lawyer's conversation with the client – is often violated in practice.
Neither violation of the procedure for organizing and holding peaceful mass events nor calls for organizing and holding peaceful assemblies for which no permission has been obtained can be the subject of criminal liability. The Guidelines on Freedom of Peaceful Assembly, developed by the OSCE/ODIHR and the Venice Commission, state that "no liability arises and no sanctions are imposed if there are reasonable grounds for non-compliance with the notification requirement." However, according to the same principles, prior notice (rather than permission to hold an assembly – *Comment*) should only be required when its purpose is to enable the authorities to make the necessary preparations in order to promote freedom of assembly and to ensure the protection of public order, public safety and the rights and freedoms of others.
The introduction of liability for the dissemination of knowingly false information about the political, economic, social, military or international situation of the Republic of Belarus, the legal status of citizens in the Republic of Belarus, and other information does not comply with international standards of freedom of expression. In addition, the absence of criteria for the

[4] See commentary on Section 9.

definition of “knowingly false information” makes it possible to hold a wide range of persons accountable on the basis of subjective criteria.

3. Law On Preventing the Rehabilitation of Nazism

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision P-1262/2021.
Signed by the President on May 14 2021, # 103-3
Will come in effect: on June 16 2021.

Main changes/innovations
This is a new specialized law in the Belarusian legal regulation. The law offers the definitions of the terms “Nazi criminals” and “accomplices of Nazi criminals,” defines the subjects of efforts to counter the rehabilitation of Nazism, and establishes their competence in this area. It is proposed to assign the function of coordinating the activities of these entities to internal affairs bodies.
The law establishes the main avenues for the prevention of the rehabilitation of Nazism. In particular, mandatory monitoring of compliance with applicable legislation in terms of preventing the rehabilitation of Nazism is being introduced. The law establishes the obligation of the Ministry of Justice, its relevant departments, the head office of the national authority for religious and ethnic Affairs, and local executive and administrative bodies to monitor, within their competence, the compliance of the activities and charters of political parties, trade unions, other public associations, and religious organizations with applicable legislation on countering the rehabilitation of Nazism. It also provides for measures to counteract the rehabilitation of Nazism, including issuing official warnings and orders, suspending and banning activities, and eliminating extremist organizations. The procedure for applying such measures will be determined in accordance with the legislation on countering extremism.

Compliance with international human rights standards
The legal meaning of the adoption of a separate law regulating the prevention of the rehabilitation of Nazism and at the same time containing references to the law on countering extremism is not clear. According to the Law of the Republic of Belarus of July 17, 2018, when preparing regulatory legal acts, it is necessary to rule out the duplication of regulatory legal prescriptions and the multiplicity of regulatory legal acts on the same issue. The definition of the terms “Nazism,” “rehabilitation of Nazism,” and “Nazi symbols and paraphernalia” are to be found in the current Law of the Republic of Belarus On Countering Extremism of January 4, 2007. Both the current legislation and the draft law On Countering Extremism refer actions aimed at rehabilitating Nazism, propaganda or public display, production, distribution of Nazi symbols and

paraphernalia, as well as storage or acquisition of such symbols or paraphernalia for the purpose of distribution to extremist activities. Given that criminal legislation provides for criminal liability for extremist activities, the multiplicity of regulations containing definitions can lead the public to confusion and incorrect perception.

At the same time, this law, just like the legislation on countering extremism, contains vague and inaccurate definitions regarding the rehabilitation of Nazism. Also, just like the legislation on countering extremism, the law includes definition of terms "Nazi symbols and paraphernalia". At the same time, the definition of the term "Nazi symbols and paraphernalia" has been substantially expanded. It will include symbols and paraphernalia of organizations which had collaborated with the organizations recognized as "Nazi." At the same time, the draft law does not specify which body (and in what manner and by what criteria) will identify signs of collaboration by organizations and structures recognized as criminal or guilty. Such criteria lacking, the attribution of a particular symbol to the category of Nazi symbols does not ensure the principle of legal certainty. The Ministry of Internal Affairs with the consent from the Ministry of Justice, State Security Service (KGB) and the National Academy will define lists of Nazi organizations, Nazi symbols and paraphernalia.

4. Draft Law On Amendments to Laws on Countering Extremism

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision № P-1263/2021.
Signed by the President on Nay 14 2021 № 104-3.
Will entre info force on June 16 2021.
Comes into force: one month after its official publication (but must be signed by the president before that).

Main changes/innovations
The law amends the Code of Civil Procedure of the Republic of Belarus and sets out the Law On Countering Extremism in a new version.
Part 2 of Article 158 of the Code of Civil Procedure of the Republic of Belarus establishes a special period of fast-track proceedings in respect of the organizations and individual entrepreneurs [omission in the original – *Tr.*] with signs of extremism, its liquidation, the prohibition of the use of its symbols and paraphernalia, as well as recognition of such symbols, attributes and information products as extremist materials.

The concept of extremism (extremist activity), which includes the activities of a wide range of individuals, has been significantly broadened to include:

- citizens of the Republic of Belarus, foreign citizens or stateless persons;
- political parties, trade unions, other public associations, religious and other organizations;
- foreign or international organizations or their representative offices;
- groups; and
- individual entrepreneurs.

Responsibility arises not only for the organization, preparation and commission of encroachments on independence, territorial integrity, sovereignty, the foundations of the constitutional system, public security, but also for the planning of such activities. At the same time, such activities can be carried out, inter alia, by:

- facilitating the implementation of extremist activities, receiving training or other preparation to participate in such activities;
- dissemination of deliberately false and discrediting information about the political, economic, social, military or international situation of the Republic of Belarus, the legal status of citizens in the Republic of Belarus;
- insulting a representative of the government in connection with the performance of his/her official duties, discrediting state authorities and management bodies; and
- inciting racial, national, religious or other social enmity or discord, political or ideological enmity, enmity or discord against any social group, including committing illegal acts against public order and public morals, the order of government, life and health, personal freedom, honor and dignity of the individual, and property, obstructing the legitimate activities of government bodies, etc.

The law also contains a broad and vague definition of an extremist organization. It defines as extremist not only organizations that conduct or finance extremist activity which a court has recognized as extremist (and its ruling has come into effect), but also those which provide other assistance to extremist activity, or recognize the possibility of implementing it as part of their activities.

The law gives the prosecutors of the oblasts and the city of Minsk, alongside the Prosecutor General, the right to suspend the activities of an organization (representative office of a foreign, international organization) or an individual entrepreneur when identifying facts that indicate that the founders (participants, property owners), heads (governing bodies) of the organization or the individual entrepreneur are preparing to commit or commit extremist actions or fail to comply/ fail to comply in a timely manner with the requirements of the order to eliminate violations when such an order is issued or re-issued.

The list of government bodies that are subjects of countering extremism is expanding, including executive bodies in the field of culture, education, religious and ethnic affairs, justice bodies, financial investigation agencies, the National Academy of Sciences of Belarus, and local executive and administrative bodies.

Compliance with international human rights standards

The greatest problem from the point of view of human rights is the presence in the law of inaccurate, non-specific language of subjective nature, in particular, the definitions of “extremist activity,” “extremist organization” and “extremist materials” and the possibility, in the future, of criminal prosecution for extremist activities. These terms may refer to a very broad range of actions, which can have a markedly negative impact on the exercise of human rights such as freedom of thought, conscience, religion or belief, freedom of expression, freedom of association and peaceful assembly, freedom to participate in political life and freedom of self-determination. The exercise of these rights can only be restricted on the legal grounds provided for by international documents which the Republic of Belarus has pledged to implement. The exercise of the right to freedom of expression presents a special concern. According to Article 19 of the International Covenant on Civil and Political Rights, everyone has the right to hold opinions freely, as well as the right to freedom of expression. This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in writing or through the press, or through artistic forms of expression, or by other means of their choice. As noted in the OSCE/ODIHR Guidelines on Preventing Terrorism and Combating Violent Extremism and Radicalization that Lead to Terrorism, this [broad interpretation of the term “extremism”] can lead to the suppression of views that, while controversial and sometimes perceived as radical, are not illegal under international human rights standards. National laws should not simply criminalize the deliberate incitement or incitement to commit a terrorist act, but should provide for a causal link between the incitement and the likelihood of a terrorist act. The expression of radical or extremist views that are not related to incitement to crime should not be criminalized.

5. Draft Law " On Amendments to the Law of the Republic of Belarus "On Mass Events in the Republic of Belarus".

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision No. R-1264/2021.

Comes into force: one month after the official publication (prior to that it must be signed by the president).

Main changes/innovations.
The notification procedure for organizing and holding mass events, which was introduced by the Law of July 17, 2018 and entered into force on January 26, 2019, is being abolished. Although the notification procedure was not a serious measure to liberalize the legislation on mass events, it

was nevertheless a step forward. Thus, the notification procedure for holding mass events lasted a little more than two years.

A ban is imposed on the collection, receipt and use of funds, other property, including property rights, as well as exclusive rights to the results of intellectual activity, as well as the performance of works, the provision of services for the purpose of reimbursing expenses caused by bringing a person to responsibility for violating the procedure for organizing or holding mass events.

Journalists present at a mass event are subject to the same public order requirements that apply to its organizers and participants.

The Law also prohibits the coverage in the mass media, the global computer network Internet or other information networks in real time (live) of mass events held in violation of the established procedure for their organization or conduct, for the purpose of their popularization or propaganda.

It is also provided that if the head or other member of the governing body of a political party or other public association (the organizational structure of a political party or other public association) publicly calls for organizing and holding a mass event before obtaining permission to hold it, the governing body of this organization is obliged to declare its disagreement with these actions in the mass media within five days from the date of such actions. The absence of such a statement is the basis for the emergence of liability provided for by legislative acts, for instance, liquidation of an organization.

Compliance with international human rights standards.
All the above-mentioned provisions of this draft law violate international standards in the field of freedom of assembly, as well as freedom of speech, freedom of expression and freedom of association. First of all, the abolition of the notification principle of holding peaceful assemblies fails to meet international standards for the exercise of freedom of assembly. The UN Human Rights Committee has ruled that, while the prior notification requirement is a de facto restriction on freedom of assembly, it is consistent with the permissible restrictions provided for in article 21 of the ICCPR. With regard to obtaining a permit, according to the Guidelines on Freedom of Peaceful Assembly developed by the OSCE / ODIHR and the Venice Commission, the legislative provisions on prior notification should provide for the submission of a notice of intent to hold an assembly, rather than the submission of an application for permission to hold an assembly. Requiring permission is more conducive to abuse than notification. This requirement does not sufficiently take into account the importance of the fundamental right to freedom of assembly and the related principle that any actions that are not subject to legislative regulation should be considered lawful.

In 2018, the Human Rights Committee, in its Concluding Observations on the fifth periodic report of Belarus on the implementation of its obligations under the International Covenant on Civil and Political Rights, expressing concern that the State regulates peaceful assembly in a way that impedes the exercise of this right, recommended that the Republic of Belarus review its laws,

regulations and practices, including the Law "On Mass Events", in order to guarantee the full enjoyment of the right to freedom of assembly, in practice, and to ensure that any restrictions on the freedom of assembly, including through the application of administrative and criminal penalties to persons exercising this right, comply with the strict requirements of article 21 of the Covenant.[5]

The Guidelines also note that journalists have an important role to play in providing independent coverage of public gatherings. The OSCE Representative on Freedom of the Media noted that "freely disseminated information about demonstrations is as much a part of the right to free assembly as the demonstrations themselves exercise the right to freedom of speech." The authorities should give the media full access to all types of public gatherings. The OSCE special report "Attitude to the Media during Political Demonstrations" (June 2007) notes that journalists who choose to cover "unauthorized demonstrations" should be treated with the same respect and protection by the police as when conducting other public events.

The introduction of a ban on the collection of funds, the performance of works or the provision of services in order to repay fines for persons found guilty of violating the law on peaceful assemblies is a violation of the principles of charitable activity.

The introduction of a ban on the collection of funds, the performance of works or the provision of services in order to repay fines for persons found guilty of violating the law on peaceful assemblies is a violation of the principles of charitable activity.

The guidelines of the OSCE / ODIHR and the Venice Commission on Freedom of Association state that it is necessary to develop and implement legislation in such a way as to prevent automatic attribution of responsibility to the association as a whole for the actions of individual members and to prevent such actions from negatively affecting the existence of the association or the legality of its founding document, goals or activities.

6. Draft Law " On Amendments to the Laws on Labor Relations»

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision No. R-1267/2021.
Comes into force: one month after the official publication (prior to that it must be signed by the president).

[5] CCPR/C/BLR/CO/5, para 42

Main changes/innovations.

The Labor Code is supplemented with new grounds for dismissal on the initiative of the employer:

1) coercing employees to participate in a strike, creating obstacles for other employees to perform their work duties, calling on employees to stop performing their work duties without valid reasons for performing their work duties, as well as for calling for the termination of performing their work duties without valid reasons;
2) participation of an employee in an illegal strike, as well as in other forms of refusal of the employee to perform his / her work duties (in whole or in part) for no good reason;
3) absence from work in connection with the serving of an administrative penalty in the form of an administrative arrest that prevents the performance of labor duties.

The law provides that it is prohibited to make political demands during a strike.

The law proposes to establish a ban on strikes at enterprises with hazardous production conditions. The corresponding norm is introduced in the Law of the Republic of Belarus "On Industrial Safety".

Compliance with international human rights standards.

The right to strike is guaranteed in the International Covenant on Economic, Social and Cultural Rights of 1966.Article 8, paragraph 1 (d), of the Covenant obliges participating States to ensure the right to strike, provided that it is exercised in accordance with the laws of each country. Paragraph 3 of the article provides that States subject to the International Labor Organization Convention No. 87 on Freedom of Association and Protection of the Right to Organize of 1948 must apply the Covenant in such a way as not to diminish the guarantees provided for in the Convention. Freedom of association and effective recognition of the right to collective bargaining are recognized in the ILO Declaration on Fundamental Principles and Rights at Work (1998) as one of the four fundamental principles and human rights at work.

In addition, the introduction of norms in the Labor Code on the possibility of dismissing an employee for serving an administrative penalty in the form of administrative arrest contradicts the existing regulatory regulation. According to Article 197 of the Labor Code, disciplinary liability can be established for illegal, culpable non-performance or improper performance by an employee of their labor duties (disciplinary offense). Thus, when talking about the failure of an employee to perform their duties, the Labor Code speaks exclusively about punishable actions. At the same time, the employer cannot punish the employee for actions committed by him outside of working hours, regardless of his moral assessment of such actions. If an administrative arrest was imposed on an individual by a court order as a type of administrative penalty, this person has a direct obligation to comply with the legal requirements of the judge and to execute the decision on the imposition of an administrative penalty. Thus, in this case, we cannot talk about the culpable failure of the employee to perform their work duties.

7. Draft Law "On Amendments to Laws on Mass Media issues»

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision No. R-1268/2021.

Comes into force: one month after the official publication (prior to that it must be signed by the president).

Main changes/innovations[6]:
The amendments, in general, are aimed at additional and often illegitimate restrictions on the freedom of expression and the right to disseminate information, guaranteed by Articles 33 and 34 of the Constitution of the Republic of Belarus.

New reasons for refusing to register as a media outlet:

* expanded responsibilities of legal entities that are editorial offices of mass media, owners of Internet resources and online publications;
• the editor-in-chief of the media outlet does not have to be a citizen of Belarus;
• the name of the online publication must match the domain name of the Internet resource;
• among the grounds for refusal of state registration or re-registration may be the following: the name of the media coincides or is confusingly similar to the name of the publication in respect of which the decision to terminate the publication was made, if the name of the online publication does not coincide with the domain name of the Internet resource, or in the event when the editor-in-chief does not have the right to hold this position under the same law;
* expanded list of reasons for suspending the publication of mass media. Among them, the issuance of two or more written warnings within a year, as well as the adoption of a decision by the Interdepartmental Commission on Security in the Information Sphere on the presence of messages or materials in the media products, the dissemination of which can lead to threats to national security.

Apparently, there exist more reasons to restrict access to Internet resources.

[6] For more information about the changes in the Law on Mass Media, see the analysis prepared by the experts of the Belarusian Association of Journalists: https://baj.by/be/analytics/kommentariy-bazh-k-proektu-zakona-ob-izmenenii-zakonov-po-voprosam-smi

There are new reasons why the relevant government agencies will be able to restrict access to Internet resources and online publications. According to the decision of the Ministry of Information, access to an Internet resource or online publication may be restricted in the following cases:
* publication of prohibited information;
* issuing two or more notifications to the owner of the Internet resource within a year, and written warnings to the owner of the online publication;
• failure by the owner of the Internet resource to comply with the requirements of the republican state administration body in the field of mass media to eliminate (prevent) violations of the law on mass media, or failure to report to this body about their elimination and failure to submit supporting documents;
* making a decision by the Interdepartmental Commission on Security in the Information Sphere on the presence of messages or materials on an Internet resource or online publication, the dissemination of which can lead to threats to national security.

The decision to restrict access to an Internet resource, an online publication for the dissemination of information aimed at promoting extremist activities or containing calls for such activities, as well as other information, the dissemination of which is likely to harm the national interests of Belarus, will be made on the basis of decisions of the Prosecutor General, regional prosecutors and the city of Minsk.

Restricting access to an Internet resource or online publication is also possible if an Internet resource is identified that is confusingly similar to the one to which access is restricted. Such a "duplicate" will be included in the list of Internet resources to which access is restricted.

A decision to restrict access to an Internet resource or online publication may be made within 6 months after the grounds arise. For online publications, the deadline was previously set at 3 months.

A ban on the publication of the results of opinion polls is being introduced.

The bill prohibits mass media and Internet resources from publishing the results of public opinion polls concerning the socio-political situation in the country, republican referenda and elections in the event when they are held without obtaining an appropriate accreditation. One will not be able to specify hyperlinks to materials and information, the distribution of which in the media and on Internet resources is prohibited.

The document stipulates the requirement to use a hyperlink when distributing information on the Internet that was previously published on another resource (unless otherwise specified by the copyright holder). Reprinting materials in violation of the distribution conditions established by the original source may entail a written warning.

There are new requirements for journalists. A journalist will now have to:

* inform the editor-in-chief of the media outlet about possible lawsuits and other legal requirements in connection with the distribution of the material prepared by him/her;
* observe the restrictions established by the electoral legislation when conducting election campaigning, referendum campaigning, recall of a deputy or a member of the Council of the Republic of the National Assembly;
* obtain the consent of the editor-in-chief to prepare materials for other media and Internet resources;
* prevent violations of the norms of professional ethics of journalists and generally accepted norms of morality.

A media journalist will be prohibited from using his/her rights and position for the purpose of concealing or falsifying information, spreading false information under the guise of reliable reports, collecting information in favor of a third party or organization that is not a media outlet, as well as spreading information in order to defame someone on the grounds of gender, age, race or nationality, language, religion, profession, place of residence or work, in connection with political beliefs, or discredit government agencies and other organizations.

A failure to comply with these requirements is equivalent to gross violations of labor duties.

A media journalist can be deprived of accreditation if he/she or the editorial office of the media outlet violated the accreditation procedure or disseminated information that "does not correspond to reality and discredits the business reputation of the organization that accredited the journalist, or committed a deliberate illegal act in the course of carrying out professional activities."

8. Draft Law "On Amendments to Laws on ensuring national security of the Republic of Belarus"

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus on April 16, 2021.
Approved by the Council of the Republic of the National Assembly of the Republic of Belarus on April 21, 2021.
On April 30, 2021, the Constitutional Court of the Republic of Belarus, in its mandatory preliminary review of the law, recognized it as conforming to the Constitution by Decision. R-1265/2021.
Signed by the President on May 17, 2021 № 106.

Comes into force: one month after the official publication (prior to that it must be signed by the president).

Main changes/innovations:[7]
The law amends several existing laws: "On the Internal Troops of the Ministry of Internal Affairs of the Republic of Belarus", "On the State Border of the Republic of Belarus", "On the agencies of Internal Affairs bodies of the Republic of Belarus" and others.

In particular, amendments have been made that regulate the use of physical force, special equipment, military and special equipment, as well as weapons for employees of the agencies of the Ministry of Internal Affairs and the troops of the Ministry of Internal Affairs, as well as for military personnel, customs officials, the law enforcement officers in the performance of their official duties, for the protection of the state border; for border guards, military personnel on active service as border guards, and employees of state security bodies.

The law allows the use of weapons, special equipment, combat and special technologies by representatives of these law enforcement agencies *"taking into account the prevailing situation, the nature of the crime, the administrative offense and the identity of the offender, proceeding from the requirements of the Law."* Previously, weapons and special equipment were allowed to be used *"in the event when it is not possible to perform the tasks assigned to them by other means".*

In addition, previously, the use of weapons against a person caught, for example, when committing an attack on a law enforcement officer or a citizen, or taking a hostage, or committing an attack as part of an organized group, was allowed in the event when said person:
1) tries to escape;
2) in order to avoid detention, or if this person uses (threatens to use) a weapon, explosive substance, explosive device or other objects that pose a danger to the life or health of a law enforcement officer.

Now (in accordance with the new Law) for the use of weapons by an employee of the internal Affairs, it is enough that the person committing the aforementioned actions (attacks, hostage-taking, etc.) tries to escape, i.e. the condition of the use of weapons by such a person is no longer required.

It is provided that a law enforcement officer is not liable for damage caused as a result of the use of physical force, special means, military or special equipment, the use of weapons, in the event when the use of physical force, special means, military or special equipment or the use of weapons was carried out in accordance with the requirements of the Law. Previously, an exemption from liability was possible in the event when:

[7] For more information about the changes in the Law on Mass Media, see the analysis prepared by the experts of the Belarusian Association of Journalists: https://baj.by/be/analytics/kommentariy-bazh-k-proektu-zakona-ob-izmenenii-zakonov-po-voprosam-smi

1) they do not exceed the limits of the necessary defense or measures necessary to prevent crimes and administrative offenses, detain the persons who committed them, overcome the opposition to the legitimate demands of employees of the internal affairs bodies in cases where it is impossible to do this by non-violent means;
2) he acted in compliance with an order or order binding on him, given in accordance with the established procedure, except for cases when he committed a premeditated crime under a deliberately criminal order or command;
3) he acted under conditions of reasonable professional risk or extreme necessity.

Thus, law enforcement officers are given more grounds to use weapons at their own discretion.

The law also grants the law enforcement the following new rights:
* request and receive free of charge, without the consent of individuals, data from information resources, including those containing personal data, and have access, including remote access, to information resources, including those containing personal data, upon written request or on the basis of an agreement concluded with the owner of the information resource;
* prohibit citizens from making video recordings, photos and films.

9. Draft Law "On Amendments to the Laws on Legal Defense Activities»

Adoption timeline:
Adopted by the House of Representatives of the National Assembly of the Republic of Belarus in the first reading on April 16, 2021;
To be considered by the Council of the Republic of the National Assembly of the Republic of Belarus on May 7, 2021.

Comes into force: one month after the official publication (before that, it must be considered by the Constitutional Court following the procedure of mandatory preliminary constitutional control, after which it is to be signed by the President)

Main changes/innovations:
The requirement that a person intending to become a defense attorney must have 3 years of professional experience in a legal field is excluded.

The duration of the internship will be different for specialists with different work experience (service) in their respective field.

A simplified procedure is being introduced for applicants from among former judges, prosecutors and other law enforcement officials, whose candidacies are submitted by the heads of the relevant departments, to pass an internship and pass a qualification exam.
There's also a requirement that defense attorneys have the right to start practicing law only after taking the oath.

The issues pertaining to certification of a defense attorney are being clarified. To determine whether a defense attorney can perform his/her professional duties, it is proposed to conduct regular and extraordinary attestations.
Legal consultancy will be the only organizational form of exercising legal defense practice. Accordingly, such new forms of legal defense as defenders' offices and individual practices focusing on legal defense are being eliminated. The defense attorneys who practiced individually or in an independent law office specializing in legal defense, will have to switch to providing legal consultancy in order to continue their legal activities.

At the same time, the list of cases in which legal assistance is provided free of charge to vulnerable segments of the population has been expanded. Thus, after the entry into force of the law, legal assistance should be provided free of charge to:
• a low-income parent in a single-parent family raising a child under the age of eighteen, parents (adoptive parents) in large families - when giving an oral consultation that does not require familiarization with the documents;
* parents (adoptive parents, guardians) of minors – in the interests of their minor children;
* retirees and disabled persons staying (living) in social service institutions that provide inpatient social services, as well as legal representatives of citizens recognized by the court as lacking legal capacity - when giving advice on issues related to ensuring and protecting the rights and legitimate interests of these citizens;
* pregnant women – when giving oral advice on issues related to the birth of a child.

In essence, the Ministry of Justice becomes a "regulator" of the legal defense, interacting with the bodies of the defense attorneys' self-governance. It is established that the regulator will have the right not only to carry out any verification measures, but also, if necessary, to influence the formation of bodies of the defense attorneys' self-governance, as well as to participate in their work. Thus, officials of the Ministry of Justice will have the right to participate in the activities of the self-governing bodies of defense attorneys, to request and receive from the defense attorneys' bar associations, law offices and individual defense attorneys information and documents necessary for the exercise of the powers provided for by this Law, on the condition of observance of the attorney-client privilege.

Compliance with international human rights standards.
There are many international documents that provide a recommended basis for the development of national legislation on the legal profession: Basic Principles on the Role of Lawyers, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Set of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

The legislation should create favorable conditions for the development of the institution of legal aid. It should include appropriate measures to respect, protect and promote the freedom to carry out legal aid activities without discrimination and undue interference by the authorities or the public. Decisions regarding permission to practice law or to become a member of a professional legal group should be made by an independent body. Control over whether such decisions are made by an independent body should be carried out by an independent, impartial judicial

authority. Defense attorneys should have access to their clients, including, in particular, persons deprived of their liberty. Legal assistance can be provided by both defense attorneys and other persons, for example, representatives of human rights and other non-governmental organizations. National legislation should guarantee everyone (citizens, foreigners, and stateless persons) the right to receive qualified legal assistance. At the same time, the person must be given the right to freedom of choice of a defender. The right to receive legal aid should also include the right to freely communicate with the chosen (or in certain cases appointed) defender, both personally and indirectly. At the same time, the state must guarantee non-interference in the secrecy of correspondence and negotiations with a lawyer.

In 2018, the Human Rights Committee, in its Concluding observations on the fifth periodic report of Belarus on the implementation of its obligations under the International Covenant on Civil and Political Rights, recommended that the Republic of Belarus, taking into account the provisions of the Covenant and the Basic Principles on the Role of Lawyers of 1990, review its regulatory documents governing the licensing and monitoring of lawyers and relevant practices, in order to ensure the full independence of lawyers and bar associations and their effective protection from any unjustified interference in their work or harassment in connection with their professional activities[8] .

[8] CCPR/C/BLR/CO/5, para 42