

Belarus: State of Affairs report

1. Country Snapshot

1.1 Internet Freedom State of Affairs

Belarus has one of the harshest environments in the post-Soviet region for Internet freedom. It is regularly ranked “not free” under the Freedom on the Net Index by Freedom House. Despite having an advanced infrastructure of connectivity that leads the region, and some of the highest rates of mobile and fixed broadband penetration, Belarus has built a highly controlled and heavily monitored Internet environment.

The legal basis for state-sanctioned mass surveillance, blocking and taking legal action against online content is continually updated and refined by the Belarusian government, resulting in an atmosphere of fear and self-censorship. Under the pretext of war on drugs, the government created the legal ground for taking action against even the anonymizers and circumvention tools that have become more popular in light of the government interference with Internet. Digital activism in Belarus can have dire consequences for organizers, from detention and beatings to fines and imprisonment.

The market environment is not truly competitive, as the country maintains a state monopoly on connections to global Internet and state monopolists have been growing their market share at the expense of private ISPs.

1.2 Brief Country Data

Belarus is a presidential republic in Eastern Europe, with an area of over 207.5 thousand square kilometers. The country is flat, with significant area under wetlands. 40% of the land area is forested. As of 2016, its population was slightly over 9.5 million.¹ Belarus is highly urbanized, with 77.6% of the population living in cities. According to the last census in 2009, 83.7% of the population was ethnic Belarusian, and 8.3% ethnic Russian, and Russian is the main language for 70% of the total population.²

Belarusian economy is highly dependent on Russia, especially on industrial exports to Russian markets. As opposed to other post-Soviet countries, where privatization and transition to market economy is mostly complete, the economy of Belarus remains largely concentrated in state-owned enterprises. The composition of GDP reflects the importance of industrial production, which contributes over 41% of GDP, with services and agriculture contributing 49% and 9%, respectively.³ GDP of Belarus was \$54.6 billion in 2015, sharply declining from the peak of \$76 billion in 2014.⁴ The country’s income level is upper middle income, according to World Bank’s classification, with GNI per capita at \$6340 in 2015.⁵ In 2015, the GDP of Belarus saw its first recession in two decades, contracting by 3.9%, amidst the

¹ National Statistical Committee of the Republic of Belarus, “Demographic Yearbook 2016” (Minsk, 2016).

² National Statistical Committee of the Republic of Belarus, Перепись населения 2009. Национальный состав Республики Беларусь. Том 3 (Minsk 2011)

³ CIA World Factbook, “Belarus”, <https://www.cia.gov/library/publications/the-world-factbook/geos/bo.html>

⁴ Country data for Belarus, World Bank, available at: <http://data.worldbank.org/country/belarus> accessed on September 30, 2016.

⁵ Ibid.

economic crisis in its main trading partner Russia.⁶ The Belarusian ruble depreciated 36% against the US dollar in 2015.

2. Access to Internet & Internet Services

2.1 Penetration

Given its predominantly urbanized population, Belarus has relatively high Internet penetration indicators in the post-Soviet space. As of 2015, International Telecommunications Union (ITU) lists the percentage of individuals aged 6+, using Internet in Belarus to be just over 62%, up from 54% in 2013.⁷ According to the country's National Statistical Committee, by end of 2015, there were 10.3 million subscribers with access to Internet, including the mobile Internet connections.⁸ Fixed broadband providers had 2.9 million subscribers in 2015. By estimates of the Operative Analytical Center under the President of the Republic of Belarus, if both mobile and fixed broadband accounts by individuals are taken into account – approximately 8.6 million, the 2015 end of year penetration of broadband equals 82% of the total population.⁹

These figures translate into globally significant position in rankings of fixed and mobile broadband. In the 2016 State of Broadband report by ITU, Belarus ranks 23rd among 187 nations in the fixed broadband category, with 31.35 subscriptions per 100 inhabitants.¹⁰ The same report ranked Belarus 59th in the mobile broadband category, with 61.83 such subscriptions per 100 inhabitants.

The urban-rural digital divide is less apparent in Belarus compared to other Eurasian countries, especially to countries in Central Asia and Caucasus, but still the penetration rate is lower in rural areas, where the percentage of individuals using Internet stands at 47.4%.¹¹

2.2 Demographics of the Internet audience and its uses of Internet

As of March 2016, according to market research firm Gemius, the Belarusian Internet audience aged 15-74 exceeds 5 million people.¹² Given the high penetration rate, the audience closely reflects the general population makeup. Accordingly, the Internet audience is largely urban, with 29% concentrated in the capital Minsk, 9% in the second largest city of Gomel and 6.5-5.5% in each of the regional centers of Vitebsk, Grodno, Mogilev and Brest.

⁶ World Bank, Belarus Economic Update, Spring 2016 (April 2016) <http://pubdocs.worldbank.org/pubdocs/publicdoc/2016/4/402681461815772695/Belarus-economic-update-spring-2016-en.pdf>

⁷ International Telecommunications Union, "Percentage of individuals using Internet", <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx> accessed on September 30, 2016.

⁸ National Statistical Committee of the Republic of Belarus, "Transport and Communications in the Republic of Belarus, 2016" (Minsk, 2016).

⁹ Operative Analytical Center under the President of the Republic of Belarus, "Analysis of the Internet Market". <http://oac.gov.by/print/ikt/regulator/analysis.html>

¹⁰ ITU, "The State of Broadband 2016: Broadband Catalyzing Sustainable Development", <http://www.itu.int/pub/S-POL-BROADBAND.17-2016>

¹¹ National Statistical Committee of the Republic of Belarus, 2016.

¹² Gemius business consulting company, March 2016, <http://www.infopolicy.biz/?p=8295>

The Gemius report further suggests that 85% of the Belarusian audience are daily users of Internet. Some general groups are likely overrepresented among the Internet audience – for instance, 35% of users are white collar workers and 32% have higher education. There are no significant gender differences, as 48.83% of users are men and 51.17% are women. In terms of age groups, the distribution is not too far from the general population - the 15-24 cohort represents 22.8% of the total audience, and the 25-34 cohort 28%. The 35-44 cohort is another 21.9% and the 45-54 represent 14.23% of users.

Another survey, Connected Consumer Survey 2016 by Google, revealed a higher rate of daily use, at 91% of all the Belarusian Internet audience.¹³ The age group below 35 years old has an even higher rate, at 98%. In line with global trends, 59% of Internet users have smartphones and among the age group under 35 this figure reaches 89%.

Uses of Internet are diverse in Belarus, as per the 2014 National Statistical Committee survey of households.¹⁴ Most commonly (92% of all respondents) the connected Belarusians use the web to search for information. 75.5% indicated entertainment use, such as for movies and music. 74.5% use the web to connect to social media, and 49% to access email accounts. Much smaller share of users turns to Internet to spend or manage money - 24.3% indicated online purchases, and 17.7% do online financial transactions. There are discernible differences of trends in the capital city – residents of Minks lead in use of Internet for online purchases, financial transactions, email and education, while lagging behind all regions in online computer games. Predictably enough, there are age group differences too, as younger audiences report higher social media, entertainment and education related use.

2.3 Barriers to access

Considering the rapid expansion of the Internet user population of Belarus, increasing quality and speed of connection, as well as continuously falling cost of connectivity, no major barriers to access are of concern in the country.

Taking into account the relatively high GNI per capita in the post-Soviet region and the minimum living wage monthly, affordability is not an issue for most Internet users in Belarus. In 2015, according to the Ministry of Communication and Informatization, the cost of monthly broadband stood at 5.4% of the minimum living wage, almost meeting the global affordability target of 5%.¹⁵ As of January 2016, BT's basic data plans made available 1 mbit/s connectivity at monthly prices that are equivalent to 0.6% of the average monthly salary in Belarus.¹⁶

Moreover, Belarus is actively expanding its network of Wi-Fi hotspots, and as of April 2016 there were 423 000 hotspots across the country, including several thousand hotspots in public areas, accessible under subscription plans.¹⁷

Lack of digital skills, potentially coupled with affordability is a barrier for older age groups 55+, where penetration remains at 33%. In very few remote rural areas, lack of infrastructure may be a significant

¹³ <http://42.tut.by/512804>

¹⁴ National Statistical Committee of the Republic of Belarus, “Information Society in the Republic of Belarus, 2014”

¹⁵ Dmitry Shedko, first deputy minister of the Ministry of Communication and Informatization of the Republic of Belarus, presentation at the Internet Governance Forum Belarus on May 17, 2016. [http://igf.by/files/Dmitry-Shedko\(Internet-in-Belarus-Today-Its-Operation-and-Development\).pdf](http://igf.by/files/Dmitry-Shedko(Internet-in-Belarus-Today-Its-Operation-and-Development).pdf)

¹⁶ <http://www.belta.by/interview/view/k-2020-godu-gpon-pojavitsja-v-kazhdoj-gorodskoj-mnogoetazhke-4594/>

¹⁷ Ibid. This figure takes into account private Wi-Fi hotspots as well, which are typically not in shared use.

barrier for fixed broadband access, even though the existing fiber optic network has reached 90% of rural locations.¹⁸

3. ICT Actors & Infrastructure

3.1 Fixed Communication

BelTelecom (BT) is the dominant provider of fixed communication services, owing to its monopoly status of the national operator. BT's ISP brand Byfly had 2.2 million subscribers in 2015. Almost all of the subscribers have broadband connection, as dial-up access has effectively died out in Belarus, with about 7 thousand subscribers remaining in 2015. BT invests heavily in continual development and upgrading of the fixed broadband network. In the past few years, BT has significantly expanded the capacity of lines connecting regional centers with district centers, deploying 10 gbit/s networks. BT is also investing in deployment of superior passive optical network technology, targeting by end of 2016 to serve 650 thousand subscribers over such lines.

In 2014, when BT's market share was 67%, the Association of telecommunications providers Belinfocom accused BT of waging price wars intended to drive private ISPs out of the market.¹⁹ Since then the share of BT has grown, reaching 75% in 2015.

In 2010, the Operative Analytical Center under the President created the National Traffic Exchange Center (NTEC), with the goal of modernizing the data exchange and traffic infrastructure. Since 2012, NTEC overtook the national IXP infrastructure, previously controlled by BT, and since 2014 is able to offer access to international traffic to second-tier ISPs. NTEC has a 40% share in the ISP Delovye Seti, specializing in high speed access and 51% in Belarus Cloud Technologies (brand BeCloud), a company developing the republican unified data traffic infrastructure, as well as the unified LTE network. BeCloud also provides of Internet channels to ISPs and businesses.

Belinfonet (brand ADSL.BY), Atlant Telecom (brand Alternativnaya Tsifrovaya Set) and Kosmos TV are the larger operators, notable among over 60 fixed line second-tier ISPs of Belarus. All of the ISPs are dependent on BT and NTEC for international connections. Two of the leading mobile operators MTS and Velkom also offer fixed broadband plans.

3.2 Mobile Connection

Belarus has only three mobile operators, Mobilnye Telesistemy (brand MTS), Velkom (brand velcom) and Belarusskaya Set Telekommunikatsiy (brand "life!). The three operators jointly serve 11.4 million mobile subscriptions, resulting in a 120.5% penetration rate.²⁰ MTS leads the market, with 45% share by end of 2015 and 5.3 million subscribers. 51% of MTS belongs to BelTelecom, and in the last two years the government tried unsuccessfully to sell its stake.²¹ Velkom is the second largest operator, with estimated 42% share and 4.9 million subscribers as of mid-2016.²² Life:) has the remaining share of 13%.

¹⁸ Dmitry Shedko, first deputy minister of the Ministry of Communication and Informatization of the Republic of Belarus, presentation at the Internet Governance Forum Belarus on May 17, 2016

¹⁹ Digital.report, Belarus on the Brink of Dumping War <https://digital.report/belarus-brink-dumping-war/>

²⁰ Ministry of Communications and Informatization of the Republic of Belarus, "Сеть сотовой подвижной электросвязи" <http://www.mpt.gov.by/ru/set-sotovoy-podvizhnoy-elektrosvyazi>

²¹ <https://www.budde.com.au/Research/Belarus-Telecoms-Mobile-Broadband-and-Digital-Media-Statistics-and-Analyses>

²² <http://www.velcom.by/ru/about>

By end of 2015, the existing operators provided mobile broadband access to 5.7 million subscribers.²³ 3G mobile broadband coverage peaked by 2014, with 54% of the country's territory, encompassing 87% of the population.

In recent years, the mobile operators prioritized developing broadband and data services as a source of revenue growth.²⁴ In December 2015, velcom launched DC-HSDPA technology throughout the existing 3G-covered area, allowing mobile connections at speeds up to 42 mbit/s.²⁵ In February 2016, velcom launched UMTS-900 technology, allowing much larger coverage and quality of data transmission. UMTS-900 will practically extend broadband mobile to the entire territory of Belarus. In late 2015, BeCloud launched a unified 4G LTE network that the existing operators can use jointly – by end of 2016 all of the large cities in Belarus are expected to gain access to LTE, while smaller towns will get access by 2018.²⁶ The mobile operator Life:) launched its LTE 4G service in August 2016 covering Minks and its outskirts.²⁷

Wimax connectivity technology was a limited part of BT's infrastructure in Minsk in 2010-2011, deployed to serve subscribers located far from fixed line networks, but the company suspended further development.²⁸

Satellite Internet is not widely used in Belarus, given the availability and affordability of other alternatives. Until 2012, a local provider Solo offered satellite internet packages for asymmetric connections.²⁹ Symmetric satellite Internet is unlawful in Belarus.³⁰

3.3 International Communication

Belarus has seen significant expansion of its international Internet gateways, with total capacity reaching 870 gbit/s by mid-2016.³¹ In 2015, the existing international bandwidth translated to 142.5 kbit/s per Internet user, at par with some Western European countries and far above Russia (29.8 kbit/s) and Kazakhstan (51.5 kbit/s).³² Access to international segments of Internet is particularly important for Belarus, where local content constitutes only 6% of total traffic.³³

Belarus has international connection ports with every one of its neighboring countries (Latvia, Lithuania, Poland, Ukraine and Russia), and is one of the transit countries for Russia. In August 2016, BT launched

²³ Operative Analytical Center under the President of the Republic of Belarus, “Analysis of the Internet Market”.

²⁴ <https://www.budde.com.au/Research/Belarus-Telecoms-Mobile-Broadband-and-Digital-Media-Statistics-and-Analyses>

²⁵ <http://www.velcom.by/ru/about>

²⁶ Ministry of Communications and Informatization of the Republic of Belarus, “Сеть сотовой подвижной электросвязи”

²⁷ <http://providers.by/2016/08/mobile/life/life-nameren-stat-operatorom-1-v-belarusi/>

²⁸ https://ru.wikipedia.org/wiki/Интернет_в_Белоруссии#cite_note-220

²⁹ Ibid

³⁰ http://habls.by/catalog/satsystems/internet/data/ic_189/1325/

³¹ <http://beltelecom.by/news/company/opublikovany-dannye-o-razvitii-ikt-za-2016-god>

³² Operative Analytical Center under the President of the Republic of Belarus, “Analysis of the Internet Market”.

³³ <http://www.belta.by/interview/view/k-2020-godu-gpon-pojavitsja-v-kazhdoj-gorodskoj-mnogoetazhke-4594/>

the transit route connecting Moscow to Frankfurt, which will be the shortest route between Russia and Germany.³⁴

Given the popularity of Russian-language content among Belarusian users, 50% of the international traffic comes from Russia, while another 50% is channeled from the Western segment of Internet.³⁵ Youtube, Vkontakte and Mail.ru take up 40% of the total traffic volume.

Only BT and NTEC are authorized to control the trans-border gateways, with NTEC's share of capacity at 120 gbit/s. The academic network BASNET that belongs to the National Academy of Sciences is the only institution in the country, which has its own international point of access, with capacity of 2.5 gbit/s.³⁶

4. Regulatory ICT Policy

4.1 Regulatory/governing bodies and standards (National & International)

The Ministry of Communications and Informatization is the main government body responsible for coordination, policy development and implementation, regulation and oversight of the telecommunications sector. The ministry has regulatory units supporting the licensing and technical regulation activities, including the Republican Enterprise Belarusian State Inspection for Electric Communications, responsible for state oversight regarding radio frequency spectrum, enforcement of standards for radio and communications equipments, and maintenance of the "black list" of websites.

The Ministry of Information is another key player for online freedom, as after the recent changes to media legislation, the online media are regulated in the same way as traditional media. The Ministry maintains a list of registered online resources, and can de-list resources and restrict access to online resources on the basis of harmful content.

The Operative Analytical Center under the President is the state body with a status of the independent regulator.³⁷ With roots in the Ministry of Defense, the center was created under the President in 2008 to regulate activities protecting information on state secrets and preventing unsanctioned access. The Center controls the NTEC, oversees the work of ISPs and manages the national domain by. The Center has a board, called the Council of the Independent Regulator in the area of ICT.

5. Information Security, Data Protection and Privacy

5.1 Internet Infrastructure (susceptibility to cybercrime, terrorism, and attacks)

In the context of Belarus as an authoritarian country with tightly controlled cyber space, strong focus on information security and well-developed technical infrastructure, its overall Internet infrastructure is resilient against external threats.

³⁴ Naviny.by news website, **Россияне и белорусы организовали кратчайший маршрут транзита интернет-трафика** <http://naviny.by/new/20160822/1471894435-rossiyane-i-belorusy-organizovali-kratchayshiy-marshrut-tranzita-internet>

³⁵ <http://www.belta.by/interview/view/k-2020-godu-gpon-pojavitsja-v-kazhdoj-gorodskoj-mnogoetazhke-4594/>

³⁶ <http://www.basnet.by/about/index.php?sp=1>

³⁷ <http://oac.gov.by/ikt/regulator/>

The Operative Analytical Center under the President is the main body responsible for security of the Belarusian segment of Internet. OAC's structure includes the Scientific Research Institute for Protection of Information, which develops software and hardware solutions for information security, audits and certifies information security and conducts general research on information security issues. In addition, OAC also has the officially recognized national CIRT, known as National Computer Emergency Response Center.

The law enforcement agencies have dedicated divisions specializing in cybercrime. Both the Ministry of Interior of Belarus and the Investigation Committee of Belarus have cybercrime units, the latter announcing in February 2016 its decision to set up cybercrime investigation divisions in every region of Belarus.³⁸

Belarus ranked 23rd (out of 29 ranks available) in the first Global Cybersecurity Index, behind its CIS neighbors Russia and Ukraine.³⁹ According to the index, Belarus lacks any "officially approved national or sector specific cybersecurity framework for implementing internationally recognized cybersecurity standards".

Companies are also investing in information security of their own networks and customers. In January 2016, one of the major ISPs announced a program installing for free premium versions of the Russian antivirus program Dr.Web for all of its client base, exceeding 100 thousand subscriptions.⁴⁰

In terms of international connectivity, considering its diversified network of international access points and its developing network for national data exchange, Belarus is sufficiently secure against disruptions of physical infrastructure. Yet, the critical infrastructure is highly controllable by the authorities, who have the full means to completely shut off access to all of the citizens in Belarus.

5.2 Types of attacks, actors, and those targeted

Belarus is seeing an increase in cybercrimes detected by the law enforcement agencies. In 2015, the number of cybercrimes reached 2440, increasing by 6.6% compared to 2014.⁴¹ The number of cases involving development and deployment of malware grew from 32 to 101. Most types of crimes fall into two categories tracked by the Belarusian Interior Ministry – theft with use of computers and breach of information security, the former constituting majority of cases. Individuals using pirated software were reported to be particularly vulnerable to attacks. In early 2016, Belarusian law enforcers arrested a local criminal group responsible for a scareware scam, which defrauded over 380 Belarus citizens for a total of 583 million Belarusian rubles.⁴²

Companies and state organizations are also targeted, especially those processing sensitive data, financial information and personal data. According to a study done by the local information security company Informzashita, in 2015 the financial sector accounted for 67% of the vulnerabilities, while the state

³⁸ BelTA news agency, <http://eng.belta.by/society/view/plans-for-cybercrime-divisions-in-every-oblast-of-belarus-88916-2016/>

³⁹ ITU, Global CyberSecurity Index 2014 (April 2015), http://www.itu.int/dms_pub/itu-d/opb/str/D-STR-SECU-2015-PDF-E.pdf accessed October 4, 2016

⁴⁰ <http://aercom.by/masshtabnaya-programma-povysheniya-antivirusnoj-zashhity-polzovatelej-seti-internet-realizuetsya-v-belarusi/>

⁴¹ <http://mvd.gov.by/ru/main.aspx?guid=3311>

⁴² <http://aercom.by/380-poterpevshix-600-mln-ushherba-belorusy-perechislyali-shtrafy-yakoby-mvd-yakoby-za-prosmotr-porno/>

companies accounted for 8% of such vulnerabilities.⁴³ In February 2016, the National Computer Emergency Response Center investigated a particular type of ransomware, which at peak moments was being downloaded by Belarusian users at an hourly rate of more than 25 thousand times.⁴⁴ In October 2015, the Committee for State Security reported arrest of a criminal group, which targeted over 2000 citizens of Belarus for more than 3 years, gaining unauthorized access to their email and social media accounts, intercepting Skype, Viber and Whatsapp data and wiretapping conversations.⁴⁵

Popular news agencies remain susceptible to attacks, most typically involving DDOS attacks. The last reported case in Belarus was in October 2015, when BelaPAN and Naviny.by news websites were attacked, after critical coverage of a state-sponsored religious event.⁴⁶ A wider group of independent websites with critical voices experienced difficulties with access in December 2014, after coverage of the Belarusian currency devaluation and state restrictions on currency exchange, with authorities claiming the difficulties were due to DDOS attacks.⁴⁷ Earlier, in late 2014 several news and analytical websites experienced significant DDOS attacks emanating from servers outside Belarus.⁴⁸

The information about existing threats and attacks on state entities is not publicized. However, the state actors may themselves be perpetrators of attacks, deploying viruses and spyware and launching against civil society and opposition activists.⁴⁹ They also have the technical resources and competencies to selectively restrict access to individuals, organizations and entire regions of Belarus.

5.3 Government surveillance

The government of Belarus has a long, well-documented history of surveillance over civil society activists and opposition figures. The core platform enabling mass surveillance is the System for Operational Investigative Activities (SORM), which allows real-time, 24-hour, remote access to all networks, including ISP and mobile operator networks. No judicial warrants are required and interception can be initiated with authorization of the prosecutor or deputy, with provisions for bypassing such authorization in the interests of national security. According to the March 2010 presidential decree on SORM, ISPs are required to maintain databases with personal identification of each subscriber.⁵⁰

SORM's effectiveness is facilitated by the monopoly of state on international traffic and local interoperator data exchange, through the two state-controlled entities – BelTelecom and NTEC. The academic provider BASNET that has its own international connection is also subject to the same rules of information control.

Access to Internet at public locations, such as internet cafes and public wi-fi spots is regulated as well. Since 2007, Internet cafes are required to identify users and keep their activity records for one year. Since 2012, users must be photographed or filmed for additional identification. Anonymous access to

⁴³ <http://aercom.by/informzashhita-nazvala-top-populyarnyx-uyazvimostej-2015-goda/>

⁴⁴ <https://cert.by/?p=294>

⁴⁵ <http://www.kgb.by/ru/news-ru/view/o-presechenii-protivopravnoj-deyatelnosti-112/>

⁴⁶ <http://news.tut.by/society/467308.html>

⁴⁷ <http://news.tut.by/society/428886.html>

⁴⁸ <http://aercom.by/besprecedentnye-xakerskie-ataki-na-krupnejshie-portaly-belarusi-kto-i-zachem/>

⁴⁹ <https://www.digitaldefenders.org/belarus/>

⁵⁰ [http://www.pravo.by/pdf/2010-57/2010-57\(004-017\).pdf](http://www.pravo.by/pdf/2010-57/2010-57(004-017).pdf)

wi-fi is illegal - since 2010, users of public wi-fi spots must be identified and registered as well. Since January 2015, ISPs are required to keep the online browsing history of their subscribers for 1 year.⁵¹

In addition, the international traffic of Belarus that originates from Russian servers is most likely subject to similar inspection by the Russian authorities, based on their own priorities.

Civil society activists have been targets of other surveillance methods as well, involving hacking of email and social media accounts and physically accessing personal data drives during confiscations.

6: Legal Overview

6.1 Current Laws

The Strategy of Development of Informatization in Belarus for the period 2016-2022 provides the overall strategic priorities for ICT development, including the targets for infrastructure of connectivity, electronic governance and local online economy. In particular the Strategy sets a target for 36.5% penetration rate for fixed broadband.⁵² Based on the Strategy, a State Program on Digital Economy and Information Society for the period 2016-2020 was adopted in March 2016. The Program outlines specific activities focused on the themes of the Strategy.

The Law on Communications passed in 2005 determines the general legal basis for provision of telecommunications services in Belarus. The Law on Information, Informatization and Protection of Information adopted in 2008 provides a comprehensive overview of state regulation of the information sphere, ranging from types of information and rules of dissemination to management and security of information. The Law on Media adopted in 2008 and revised multiple times in recent years, recognizes online media as media outlets, subject to same types of regulation and control.

Two recent presidential decrees are notable in terms of regulation of the cyber space. In 2010, the Presidential Decree #60 specified the rules regarding retention of user and user device data by ISPs and providers of public Internet access, responsibilities for blocking of online resources and obligatory hosting of all commercial legal entities in Belarus. The Presidential Decree #515, passed in the same year approved the creation of a national data transmission network, as well as the National Traffic Exchange Center with access to international traffic and authority over local IXP. Another Presidential Decree, also numbered #515, determined the status of the OAC as the national independent regulator, passed a statute of the Council under the President on development of the information society, and clarified the powers of the National Center for Electronic Governance.⁵³

6.2 Litigation

Amidst the atmosphere of strong presidential rule and effectively without an independent judiciary, Belarus has not seen any recent cases of public interest litigation against the state restrictions of Internet freedom. At the same time, the Belarusian authorities routinely enforce the repressive legal framework against independent voices, including in the online space. Most of such actions do not reach

⁵¹ <http://oac.gov.by/news/407.html>

⁵² <http://e-gov.by/zakony-i-dokumenty/strategiya-razvitiya-informatizacii-v-respublike-belarus-na-2016-2022-gody>

⁵³ <http://e-gov.by/zakony-ob-obrashheniyax-grazhdan/o-nekotoryx-voprosax-razvitiya-informacionnogo-obshhestva-v-respublike-belarus>

the courts, given the effective removal of the authorities' decisions from the due judicial process, be it authorization or appeal.

For instance, the decisions on restrictions typically bypass judicial authorization, even though in the Ministry of Communication and Informatization continues to rely on court rulings to block extremist content online.⁵⁴ Regarding judicial appeal, according to the Provisions on limitation of access to Internet resources, adopted jointly by the OAC and the Ministry of Communication and Informatization in February 2015, the decisions restricting access to websites and anonymizers cannot be appealed in court.⁵⁵ Thus, the practice of blocking of online resources is not only extrajudicial, but also cannot be challenged in courts. In June 2015, a general interest publication Kyky.org saw its website blocked in Belarus for several days, for publishing content that "harms the national interests" (in that case, a report with an alternative view on World War II celebrations).⁵⁶ The website was de-blocked after removing the report.

Still, so far the authorities have applied their restrictive powers sparingly. As of October 2016, 65 websites are blocked in Belarus, with majority under legitimate legal grounds (information on drugs, violations of norms on advertisement, sale of alcoholic drinks). 4 websites were blocked under court decisions establishing extremist content.

For profit entities have also felt the blocking power of the authorities – in December 2014, after the Ministry of Trade found violations of the online commerce regulations at a popular e-commerce portal Onliner.by, OAC deregistered that resource from the national domain name register.⁵⁷ The portal was reregistered and resumed its work only after taking steps to meet the official specifications.

However, the authorities continue prosecuting individuals representing critical or independent views online on a variety of charges. In January 2015, the Kastychnitski district court in Minsk fined blogger Aliena Stohava for insulting a police officer, after posting on Livejournal a picture of a policeman with negative statements.⁵⁸ In November 2015, a group of journalists and media activists in Vitebsk were fined on charges of "unauthorized mass demonstration", after taking group photos symbolizing the status of independent journalists in Belarus. Their Facebook posts were used as evidence.⁵⁹ This case practically repeated an earlier case in Hrodno in 2013, where human rights defenders were fined under the same charges, after posting a photo holding a portrait of an imprisoned human rights defender. That case is being reviewed by the UN Human Rights Committee through a complaint by the involved human rights defenders.

In October 2015, blogger Viktor Nikitsenka was detained and severely beaten by police in Minsk for taking a picture in public with a handwritten note "Lukashenka on trial".⁶⁰ He was fined in court for illegal picketing. Similarly, in January 2016, online media reporter Pavel Dabravolski was detained and

⁵⁴ In August 2015, the Ministry of Communication and Informatization reported that two online resources were blocked for content with "signs extremism in terms of incitement to racial, social and religious hatred", and this decision was based on a ruling by the Tsentralny district court in Minsk. <https://baj.by/be/node/2310>

⁵⁵ <https://baj.by/sites/default/files/analytics/files/mediamonitoring2015en.pdf>

⁵⁶ <http://news.tut.by/society/453369.html>

⁵⁷ <http://42.tut.by/430253>

⁵⁸ Freedom House, Freedom On the Net 2015

⁵⁹ Ibid.

⁶⁰ http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Documents/A_HRC_32_48_E.docx

beaten when covering a trial of youth activists involved in a graffiti protest.⁶¹ Dabravolski was also fined in court.

In 2015-2014, there was a wave of legal cases against journalists in Belarus working for foreign media without accreditation. In several of them journalists were charged for their online material, under Article 22.9 of the Administrative Code - "illegal production and distribution of information".⁶²

Belarusian authorities frequently bring criminal charges for online and social media activity that can be classified as dissemination of pornographic material. In recent cases, citizens were charged for «liking», reposting and storing such material on their social media accounts. In one case, a woman had dissemination charges brought against her for a negative comment in social media regarding a pornographic video.⁶³ Such charges have also been politically motivated, as in the case of Eduard Palchis, founder of a website 1863x.com that has published reports critical of the Russian political influence on Belarus. He was arrested in Russia in January 2016 and extradited to Belarus, where in addition to charges of inciting racial, national or religious hatred, the charges of dissemination of pornographic material were brought forward.⁶⁴

6.3 Recent legislative initiatives

In the run-up to the presidential elections of October 2015, Belarus systematically introduced a variety of legislative changes allowing for greater control of the online space.

In December 2014, Belarus passed amendments to the Law on Media, which took effect in January 2015. Under the amendments the Ministry of Information gained a right to restrict access to online resources without judicial authorization. The amendments also extended the duties and responsibilities of mass media under the existing law to owners of online media, creating grounds for restricting access to foreign online media in clear ignorance of the transboundary nature of Internet, such as on the basis of not securing a media authorization to distribute information in Belarus.⁶⁵ One particular addition to the list of content prohibited for dissemination by mass media was the information that can "harm the national interests" of Belarus.

A related set of amendments to the Criminal Code came into effect in January 2015. The Code now specifies that information distributed online may be criminalized under charges of defamation, defamation of the President, and threats to national security.

The existing legal frameworks regarding online space were further tightened by changes, where the rationale formally comes from the state anti-drug initiatives. Thus, in January 2015, another set of changes came into effect, related to the Presidential Decree #6 on combatting drug trafficking. The changes touch on the activities of online "information resources", specifying the duty of owners to track

⁶¹ Ibid.

⁶² Freedom House, Freedom On the Net 2015

⁶³ <http://news.tut.by/society/461130.html>

⁶⁴ <http://news.tut.by/society/515989.html>

⁶⁵ <http://hrwatch-by.org/analiz-osnovnykh-izmenenii-v-zakon-respubliki-belarus-o-sredstvakh-massovoi-informatsii>

content, monitor visitors of online resources and their administrative liability for failure to comply with the Ministry of Information requests on removal of messages or information related to drug trafficking.

Based on that Decree, in February 2015, the Provisions on limitation of access to Internet resources were adopted jointly by the OAC and the Ministry of Communication and Informatization. Under this document, the authorities can restrict access to online resources, which anonymize users (e.g. proxy servers, Tor), and such decisions cannot be appealed in court. Such decisions can be petitioned for by any concerned citizen. Moreover, the document now requires blocking of restricted content for all users in Belarus, whereas under the 2010 Decree #60 that provided the initial legal ground for restrictions, blocking was mandatory only for government agencies, educational and cultural institutions, leaving aside private access at home.

6.4 Limitations and opportunities for advancing Internet freedom through legal means

Belarus does not have a conducive environment for Internet freedom advocacy through legal means. No successful cases of public interest litigation have taken place in the recent period and domestic recourse is not a practicable avenue to advance freedom. The judicial and law enforcement system is completely subjected under the executive control, as the President appoints and dismissed judges. Lawyers may face sanctions from the Ministry of Justice if they cooperate with local and international human rights groups. The National Assembly has no independent influence on legislation and rubberstamps the laws prepared by the Presidential Administration.

Media and human rights activists face high risk of prosecution, with numerous instances of arrest, imprisonment, fines and physical intimidation. Receiving money from abroad for human rights work is illegal, unless the funds are registered with the Presidential Administration.⁶⁶ All public opinion surveys that touch on the socio-political situation in the country and electoral processes have to be accredited with the National Academy of Sciences, which endorses the questionnaires. In July 2016, the Independent Institute for Socio-Economic and Political Studies, which was the only independent polling institution on political issues, announced discontinuation of public survey activities.⁶⁷ The decision was made after a smear campaign against the institute on the national television.

Opportunities for advancing Internet freedom are limited. Civil society and media groups are able to monitor the ongoing developments and publicize their findings, generating considerable local attention and international response, but there have been few positive legal changes as a result. Some technical matters related to improvement of regulation, infrastructure and even the governance framework of the national segment of Internet may be discussed with the authorities, as long as there no perceived political risks. Still, most stakeholders are in a vulnerable position, potentially facing significant negative consequences for raising issues that may appear to be critical of government policies.

7. Information Campaigns and Internet Activism

7.1 Advocacy work on IF

- Topics of activism, activist networks and campaign

⁶⁶ <https://www.civilrightsdefenders.org/country-reports/human-rights-in-belarus/>

⁶⁷ <http://naviny.by/article/20160809/1470747600-nisepi-prekrashchaet-oprosy-v-belarusi>

- Mediums: social media, journalism, blogs, etc

Despite the government measures taken to significantly curtail freedom of Internet, the online space remains the last refuge for independent media, civil society and political opposition, as well as the most vibrant, open and participatory platform for citizens of Belarus. Both local and externally hosted online resources specializing in news and analysis, along with global and regional social media and blogging platforms provide opportunities for public deliberation, exchange and information. In some cases, Belarusians have actively supported online petitions, such as through the Change.org platform (ultimately the authorities took notice and temporarily blocked the website), and have joined the Belarusian online communities with independent analysis and opposition views, numbering up to 100 000 members on such platforms as V Kontakte.⁶⁸

Considering the repressive environment in Belarus for domestic litigation and legal advocacy, Belarusians have been resorting to international avenues for recourse. Human rights defenders and opposition activists of Belarus have filed dozens of complaints to the UN Human Rights Committee. The Homel-based Center for Strategic Litigation is a leader in facilitating such complaints by citizens. As of now the Committee established human rights violations in 96 cases of individual complaints.⁶⁹ None of the decisions have been implemented by Belarus.

Civil society groups continue to advocate for Internet freedom by interacting with domestic institutions through available opportunities. For instance, the Belarus Association of Journalists is one organization that actively monitors, provides legal commentary and advocates for freedom of speech. It routinely sends clarification letters, information requests and complaints to the Supreme Court, even if that only results in formal and meaningless responses. In terms of technical and business regulatory frameworks, the Association of ICT enterprises Belinfocom continues to provide a unified channel for engaging decision-making state institutions and expressing the interests of the smaller actors of the telecommunications industry. Specialized events, such as the Internet Governance Forum, held in May 2016 in Minsk, also provide an important, even if too technically-focused platform for relatively open interaction with policy makers.

7.2 Government Response

In general, the Belarusian authorities are open to dialogue as long as such dialogue is authorized at the highest level and deemed to be politically safe for involved representatives. The OAC and the Ministry of Communication and Informatization seek to position themselves as open and collaborative partners on matters pertaining to development of the Internet infrastructure, e-governance and digital economy. The High Technology Park of Belarus launched in 2005 represents an example, where the authorities have genuinely followed the needs of the business community and have provided favorable conditions for growth of the domestic IT-cluster.

At the same time, the authorities take a very strict, oppressive position against the perceived threats to political and national interests, emanating from the online space and technologies, as well as their creative use by citizens. There is an established pattern of detaining and prosecuting citizens even for minor acts of online activism and advocacy, such as posting commentaries and photos, all under politically motivated charges.

⁶⁸ Index on Censorship, “Belarus: Pulling the Plug”, 2013.

⁶⁹ <http://www.ohchr.org/Documents/HRBodies/CCPR/StatisticalSurvey.xls>

7.3 Opportunities for additional/alternative advocacy

The current advocacy agenda in Belarus can amount to a very long list of concerns, but feasibility of implementation remains low.

In terms of the institutional framework, the OAC's role as an independent regulator is highly questionable as it is not free from political influence and directly controlled by the Presidential Administration. The Council for ICT development is not sufficiently representative of all stakeholders. The role of the Ministry of Information as a repressive institution with a powerful censorship mandate should be reviewed.

In terms of the general infrastructure of Internet access, despite adding the NCOT as a second player with international access, the state monopoly on international connectivity effectively remains and represents significant barrier for competitive ISP market in Belarus. There are concerns that have to be addressed about fair access to cached content on servers set up by Google in Belarus.

From the standpoint of individual rights and freedoms, major issues are on the agenda regarding censorship, filtering of content and blocking, mass surveillance, violations of privacy and the general policy of using the repressive law enforcement apparatus against citizens for their online activities. Lack of checks and balances against repressive use of technologies, such as provided through judicial authorization for surveillance is a significant issue. Multiple legislative initiatives which took effect in the past several years have to be thoroughly reviewed, challenged in court and brought in line with the positive global practice. The responsibility of corporate actors present in Belarus, such as the telecommunications companies to challenge government regulations that clearly violate human rights standards has been highlighted as an area of major concern,⁷⁰ but remains a relatively underexplored topic for international advocacy.

⁷⁰ Amnesty International, "Civil Society, Secrecy and Surveillance in Belarus", 2016