

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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BELARUS: A CRIMINAL CASE INVOLVES A GROWING NUMBER OF THE REGIME'S CRITICS

As the presidential election on 9 August approaches in Belarus, the authorities are stepping up their crackdown on all dissent without pause. On 30 July, they announced a new criminal investigation against prominent video blogger and opposition politician Syarhei Tsikhanouski. He is accused of “incitement of racial, ethnic, religious or other social hatred, committed by a group or causing death or other severe consequences” under Article 130(3) of the Criminal Code of the Republic of Belarus. If found guilty, he faces between five and twelve years of imprisonment. Details of the accusations are secret, but information available to Amnesty International indicates that these charges are fabricated with the sole purpose of stopping Tsikhanouski's and his wife Svyatlana's legitimate political activities. This case is a part of a larger campaign targeting the activist, his supporters, bloggers, and government critics.

The first case in this campaign was opened under Article 342(1) of the Criminal Code: “organization of group actions that gravely breached public order and involved obvious disobedience to lawful demands of authorities or disrupted work of transportation, businesses, institutions or organizations, or active participation in these”. It is increasingly apparent that Tsikhanouski's case has been fabricated by the authorities to ensure that their most prominent critics and opponents are locked up, together with their supporters. On the other hand, the nature of the overly broad and vague charges used in these cases allows the authorities potentially to press charges against any political opponent, and the list of alleged suspects who have been remanded is growing.

When Amnesty International first commented on the case in its statement “Belarus: Growing Crackdown on Human Rights Ahead of Presidential Election”, ten individuals had been named as criminal suspects, and placed under arrest. Currently, the list includes at least 15 prisoners of conscience—that is, persons who have been deprived of their liberty solely for attempting to peacefully exercise their human rights. They are: Alyksandr Aranovich, Dzmitry Furmanau, Aliaksandr Kabanau, Dzmitry Kazlou, Uladzimir Kniha, Ihar Losik, Andrey Novikov, Uladzimir Nyaronski, Syarhei Pyatrukhin, Yauhen Raznichenka, Artsyom Sakau, Syarhei Sparysh, Mikalai Statkevich, Syarhei Tsikhanouski, and Uladzimir Tsyganovich. Three more activists, Vasil Babrouski, Uladzimir Navumik, and Vyarhili Ushak, have been released, but charges against them have not been dropped.

Any other individual who may be arrested as another suspect in the case, and similarly without having committed any internationally recognizable criminal offence, will be regarded by Amnesty International a prisoner of conscience.

Below is a brief history of the case, together with background information.

ALYKSAKDR LUKASHENKA'S CONSPICUOUS PUBLIC STATEMENT

In the morning of 29 May, President Alyksandr Lukashenka was visiting the Minsk Tractor Works. When speaking to the factory employees in front of TV cameras, he accused an unnamed “internet opponent” of using violence against a police officer. Conspicuously, no such incident had been reported on that day, or apparently anytime shortly before this pronouncement:

I was told by the press secretary: [this opponent had] insulted a police officer, ran over [assaulted] the police officer after he had made a remark... They [the opponent and his associates] are driving, you know, in this cool fashion, in Jeeps, driving 10–12 cars. They came to another city, they lined up and went on marching in the squares and streets... They pushed over this boy—the policeman. He had probably only started working this year, someone's child. Why are you surging over him?¹

¹ <https://youtu.be/8NsylC8E4ug?t=464>

The forthcoming 2020 presidential election in Belarus has caused an unprecedented level of interest in politics, and hundreds of thousands of people have turned up in the streets to leave their signatures in support of aspiring opposition candidates – typically in miles-long, well organized queues, observing social distancing in the face of the COVID-19 epidemic, and always peacefully. Until the above statement was made, no violence against police officers had been reported during any such event. Everything changed several hours later.

INCIDENT IN HRODNA ON 29 MAY

In the evening of the same day, at 5 pm on 29 May, a well-known Belarussian blogger, Syarhei Tsikhanouski, arrived in Hrodna, a city 250 km to the west of the capital Minsk. Together with his supporters, he set up a stall in central Savetskaya Square to collect signatures in support of his wife, presidential candidate Svyatlana Tsikhanouskaya (national law requires all presidential candidates to collect at least 100,000 supporting signatures to be included in the ballot paper). The event was attended by several hundred people and was entirely peaceful.

After about three hours, a woman came up to Tsikhanouski and started asking provocative questions about his wife. What followed has been well documented, including widely available footage.² In response, Tsikhanouski walked away to avoid engaging into any discussion. The woman started chasing him, behaving increasingly aggressively, repeatedly grabbing the blogger by the sleeve, and demanding answers to her questions. Tsikhanouski responded by saying he believed this was a provocation, and he asked her to leave him alone and not to touch him. This did not help.

Eight minutes later, two uniformed police officers appeared on the scene and approached the woman. In the footage they are seen talking to her while she is waving her hand in the direction where Tsikhanouski and his supporters were standing, some 10 meters away. She can be heard saying: “I asked the man a question. He’s running from me, but I want to get a reply”. Even before she could finish her sentence the two police officers turned and walked in the direction of Tsikhanouski, as if it was their business to ensure that the question was answered, followed by the woman. While at that moment Tsikhanouski was surrounded by numerous supporters, and did not stand out among other men, it was obvious that the police officers knew exactly who he was. They approached him without making any demands or orders, and when he merely tried to walk away, one of the officers grabbed him by his hand demanding: “Stop, stop!” The scene increasingly looked like a provocation, and several people tried to place themselves between Tsikhanouski and the police officers, none of them using any violence. While some details of the confusion that followed are difficult to make out in the video footage, it is clear that no deliberate violence was used against any of the officers that would explain why one of them fell, or lay down, on the ground. Sometime later, that same officer is captured in the video sitting on a bench, and then escorted to an ambulance van. The second officer did not appear to have been injured.

Meanwhile, the other police officer continued to chase Tsikhanouski who in turn was trying to keep his distance and can be heard saying that the incident was a provocation. Conspicuously, less than a minute after the incident, about eight AMAP (riot police) vans arrived at the square and their crews immediately ran directly towards Tsikhanouski and arrested him without providing explanation. Several other people were detained alongside including his YouTube channel’s cameraman.

Tsikhanouski was escorted into a white van, which departed immediately. Some other participants were dragged into a red bus. Uniformed officers and men in plainclothes were seen forcefully pushing and pulling people to make way and dragging participants to police vehicles. At no point did the police issue any orders or demands to the public, warn them of any violations of law or of the intent to use force. Several people tried to block the remaining vans standing in their way, but they eventually left the scene after several plainclothes men, likely undercover police officers, pushed them away. None of the multiple video footages carefully reviewed by Amnesty International reveal any violence on the part of the rally participants.

About one hour later, an unidentified police officer met with Tsikhanouski’s supporters and journalists who had gathered in front of the city’s police station, and told them that “there was a conflict during the event, a police officer was injured... All participants of the conflict, from both sides, have been arrested”. In fact, the woman who had been

² https://www.youtube.com/watch?v=QAYGa_tKN6g

chasing Tsikhanouski was seen at the square for a while after the arrests were made and the police left, making provocative gestures in the direction of Tsikhanouski's supporters and the cameras.

ENSUING ADMINISTRATIVE AND CRIMINAL PROCEEDINGS

According to official information, two police officers received “injuries of varying degrees” and were briefly hospitalized. According to other information, one of the officers was diagnosed with an anterior abdominal wall hematoma. At the time of writing, no further official information was available about the injuries allegedly sustained by the officers.

On 30 May, the authorities opened a criminal investigation under Article 364 of the Criminal Code, “violence or a threat of violence against a police officer”, punishable by up to six years' imprisonment. On 11 June, another criminal investigation was opened in connection with this incident, under Article 342(1), “organization of group actions that gravely breached public order and involved obvious disobedience to lawful demands of authorities or disrupted work of transportation, businesses, institutions or organizations, or active participation in these”. In the official pronouncements on the 29 May incident in Hrodna, it was described as an “illegal mass event” held “under disguise of collection of signatures”.³

Those initially arrested at the site of the incident alongside Syarhei Tsikhanouski included Alyaksandr Aranovich, Vasil Babrouski, Dzmitry Furmanau, Uladzimir Navumik, Yauhen Raznichenka, Artsyom Sakau, and Vyarhili Ushak. Of these, Babrouski and Navumik were released from pre-trial detention on 9 July and Ushak on 29 July, but they still face charges at the time of writing. More of Tsikhanouski's supporters were arrested on 4 and 6 June including Uladzimir Kniha and Andrey Novikov.

From 25 June on, authorities charged several bloggers under this case: Aliaksandr Kabanau, Dzmitry Kazlou, Ihar Losik, Syarhei Pyatrukhin, and Uladzimir Tsyganovich. The information relating to these arrests and the ensuing administrative and criminal proceedings is sparse, and much of the detail appears deliberately confusing. It is clear however that by arresting these individuals, the authorities were squarely targeting their most vocal public critics and the most active opposition supporters. By charging them all under Article 342, the authorities have tried to create a narrative of a significant conspiracy intended to undermine public order. It is notable in this regard that the charges against the bloggers were pressed after the Minister of Interior, Yury Karayeu, stated on 25 June that the protests in Belarus were coordinated via Telegram channels.

Veteran opposition activist and the leader of the unregistered political party Narodnaya Hramada, Mikalai Statkevich, was arrested near his home in Minsk on 31 May; on 30 June he was also charged under article 342(1). On 25 June, Syarhei Sparysh, spokesperson of that party, was dragged by unidentified plainclothes men from his home while he was in his underwear, and on 9 July became the most recent suspect in this criminal investigation.

It must be noted that some of those held in this case did not even participate in the 29 May event. For instance, Uladzimir Nyaronski, blogger and associate of Syarhei Tsikhanouski, had been arrested on 6 May and remained in detention since then, but was nevertheless charged with the “crime”. Likewise, Mikalai Statkevich says that he had not visited Hrodna for months. The prosecution of these individuals reveals the true goal of this criminal investigation, which appears to have nothing to do with protecting law and order.

VIOLATION OF BELARUS' OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Belarus undertook to respect, protect and fulfil human rights to freedom of expression (ICCPR Article 19), freedom of peaceful assembly (ICCPR Article 21), freedom of association (ICCPR Article 22), liberty of person (ICCPR Article 9) and other rights, notably the right to take part in the conduct of public affairs (ICCPR Article 25).

³ <http://spring96.org/ru/news/97971>

In their General Comment 37 on the right to peaceful assembly the Human Rights Committee reiterate that states have a duty to facilitate peaceful assemblies, emphasising that article 21 of the ICCPR “requires States to allow... assemblies to take place without unwarranted interference and to facilitate the exercise of the right and to protect the participants.”⁴ They go on to require that “law enforcement officials should seek to de-escalate situations that might result in violence. They are obliged to exhaust non-violent means and to give a warning if it is absolutely necessary to use force, unless doing either would be manifestly ineffective. Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination... and those using force must be accountable for each use of force.”⁵

Belarus is also a member state of the Organization for Security and Cooperation in Europe (OSCE). According to the OSCE Guidelines on Freedom of Peaceful Assembly⁶, which provides that those wishing to assemble should not be required to obtain permission to do so. Any restrictions imposed on peaceful assemblies must have a formal basis in law and be in conformity with the European Convention on Human Rights and other international human rights instruments.⁷ The state has a positive duty to take reasonable and appropriate measures to enable peaceful assemblies to take place without participants fearing physical violence. Law-enforcement officials must also protect participants of a peaceful assembly from any person or group (including agents provocateurs and counter-demonstrators) that attempts to disrupt or inhibit the assembly in any way.⁸

Belarussian national law also stipulates the reasons and manner of use of force by police officers (including riot police, AMAP). It is only possible when “fulfilling tasks of protecting life, health, honour, dignity, rights, freedoms or legal interests of citizens, interests of the society and the state against criminal or other illegal assault” and only “if it is impossible to fulfil these tasks by other means”. This is not in conformity with international law and standards. Nonetheless, the Belarussian law does require that “use of physical force... must be preceded by a clear and apparent to the person targeted by [physical force] warning of the intent to use [it], except in cases where delay in the use [of force] will create an immediate threat for life of citizens or will cause other severe consequences” (Law on Police, article 26).

It is clear that the arrest and criminal prosecution of political activists and prominent government critics in Belarus, following the 29 May incident in Hrodna and other events that followed ahead of the forthcoming presidential election, are unfounded, politically motivated, and intended to crackdown on dissenting voices and intimidate and silence others. All those arrested are prisoners of conscience, and must be immediately and unconditionally released, and their own and others’ politically motivated prosecution must stop.

The authorities of Belarus must fully commit to respecting fundamental human rights, including the rights to freedom of expression and peaceful assembly, and as part of this commitment they must conduct an effective investigation into the incident of 29 May and all subsequent violent incidents during street rallies that followed and were consistently provoked by police who sought to disperse and arrest peaceful protesters. Any police officer responsible for use of unlawful or excessive force should be identified and held accountable. Belarus should also conduct a thorough review of its policing practices, in particular those related to street assemblies, to ensure that they fully conform with the country’s international obligations.

⁴ UN Human Rights Committee, General Comment 37 on Article 21: right of peaceful assembly (CCPR/C/GC/37), paragraph 8

⁵ Ibid., paragraph 78. This is reinforced by the United Nations Guidelines on Less-Lethal Weapons in Law Enforcement which say that police should only use force, when “it is strictly necessary in order to achieve a lawful and legitimate law enforcement objective” (paragraph 2.8)

⁶ Guidelines on Freedom of Peaceful Assembly, 2nd edition, OSCE ODIHR, 2010, paragraph 2.1

⁷ Ibid., paragraph 2.3

⁸ Ibid., paragraph 5.3