

# Repressive practices against lawyers in the aftermath of the 2020 protests in Belarus

Ales Michalevic

Warsaw, 2023

# Anti-government protests in Belarus

The largest protests in Belarusian post-Soviet history erupted following the 2020 presidential election. The announcement of a landslide victory for Lukashenko contrasted with ample evidence of electoral fraud, that mobilised Belarusians to take their demands for free and fair elections to the streets. The continued violent crackdown on peaceful protesters, manifest in the first days of protests and still ongoing, transformed the agenda of the demonstrators, now demanding not only a new election but also an end to killings, torture, and political persecution of peaceful protesters.

The demands of protesters have not been met so far. The human rights situation in Belarus continues to deteriorate, as demonstrated by data from local human rights defenders, as well as international bodies.



# Belarusian Political Crisis in Numbers (as of April 2023)

<a href="#"><u>People killed as a result of alleged state-sponsored violence</u></a>	<b>20</b>
<a href="#"><u>People arrested since 9 August 2020</u></a>	<b>37870</b>
<a href="#"><u>Political prisoners</u></a>	<b>1494</b>
<a href="#"><u>Of whom are lawyers</u></a>	<b>7</b>
<a href="#"><u>People reporting torture</u></a>	<b>2000</b>

# The activities of lawyers during protests and afterwards

The protests in Belarus involved a wide variety of people, including people with low incomes who could not afford to pay for a lawyer if they were detained and/or if criminal proceedings were initiated against them.

However, the law of the Republic of Belarus on advocacy prohibits the provision of pro bono services. Therefore, lawyers themselves have created a large number of initiatives and funds to find lawyers and finance their work in cases of political persecution.

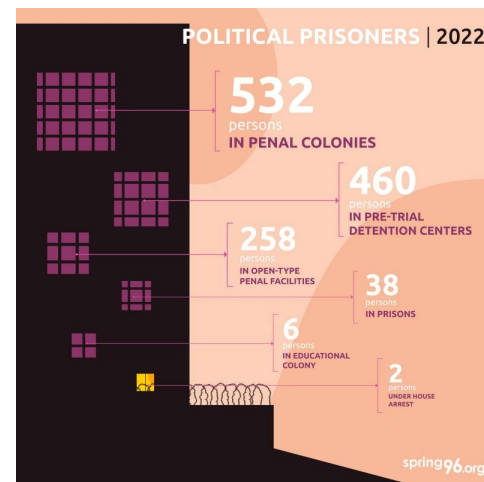
The logo for AvocadoHelp features the word "Avocado" in a green, rounded font and "Help" in a brown, rounded font. A small green avocado icon is positioned to the left of the text.

# Main requests for lawyers

Torture (Initiation of a criminal case against the police)

Administrative proceedings against protesters

Criminal proceedings against protesters



Dozens of Belarusian lawyers were at risk during that period, especially representing clients who:

- were brought to criminal/administrative liability for participating in peaceful assemblies (only in the first week after the elections on August 9, 2020, about 13,500 people were detained);
- acted as politically active citizens or were candidates in the 2020 presidential election campaign;
- were intended to or appealed against the decisions of the election commissions at the stage of the pre-election campaign.



# A feature of the Belarus protests has been the large number of female protesters



This has led to an increase in female political prisoners



# Active assistance from lawyers to protesters led to a government crackdown on lawyers

- Between 2020-2023, more than 90 lawyers were deprived of their status and were forced to stop practicing law in Belarus.
- As of July 1, 2020, 2,072 lawyers worked in Belarus. By July 2022, the number of lawyers in Belarus had reached 1,780, which is approximately 1 lawyer per 5,000 people.
- Discriminatory conditions for admission to the bar have reduced the legal profession by at least 12% in 2020-2022.
- 10 lawyers are criminally prosecuted. **Seven of them are in prison.**

# Legislation on the legal profession in Belarus has been amended to legalise the repression of lawyers

## Before 30.11.2021

1. In most cases, the lawyer's fee was not to be less than 1 basic unit. Which made it possible to assist low-income clients.
2. The applicant must have at least 3 years' experience in the profession before taking the qualification exam.

## After 30.11.2021

1. The new legislation regulates "the consistency of legal aid fees with its scope, complexity and quality".
2. From 30.11.2021, applicants with no professional experience (in simple terms, university graduates) may also become lawyers. They must undergo 6-12 month internship before taking the exam.  
\*\*\*An exception to this rule: applicants who have worked in courts, prosecution offices, the system of the Ministry of Justice, law enforcement bodies, as well as in structural subdivisions of such bodies shall undergo up to three months internship and pass the qualification exam only orally (in accordance with Article 9 par 1).



3. Previously, the Qualification Commission took the qualification exam, as well as determining whether applicants met the requirements for admission to the bar and making a reasoned decision on their admission or refusal of admission to the exam.



3. From 30.11.2021, it is mandatory for lawyers to be certified. Attestation may be either regular or extraordinary. Assessments shall be carried out by the Qualification Commission or (on its behalf) by the relevant territorial collegium of advocates. The Qualification Commission shall consist of the President of the Belarusian Republican Collegium of Advocates; **one representative of the relevant territorial collegia of advocates; one representative of the Supreme Court of the Republic of Belarus, the Prosecutor General's Office and other state bodies; five representatives of the Ministry of Justice; two representatives of academic institutions. The Deputy Minister of Justice shall act as President of the Qualification Commission. In other words, the decision to grant a lawyer's licence is fully controlled by the state structures.**

4. Previously, it was possible to practise as an individual lawyer through law offices.

4. According to Article 29(3) of the Law of 30.11.2021, all law firms must be dissolved. They have six months between the publication of the Law and its entry into force. The exercise of individual advocacy is prohibited. Lawyers have also been barred from representing their own firms in court.

4. It is now only with the approval of the Ministry of Justice that the Council of the Territorial Bar Association can be elected. The collegium has the right to submit its list of four persons for approval on two occasions.

If the Ministry rejects all of the nominees on both occasions, the Ministry of Justice itself shall make proposals for candidates to the Council of the territorial collegium of advocates. Where the candidates proposed by the Ministry of Justice have been rejected twice by the general meeting of members of the relevant territorial collegium of advocates, those candidates shall be deemed elected to the council of the relevant territorial collegium of advocates.

**Thus, territorial collegia lose a significant part of their independence in the selection of their own governing body.**

# An Example of political persecution of Lawyers



- On 23 May 2022, KGB officers detained Vitaly Braginets, who was actively defending people in politically motivated cases.
- Braginets was due to serve his sentence and be released on the morning of 7 June 2022, but was again held administratively liable and sentenced to administrative detention.
- In July 2022, V. Braginets was declared a political prisoner.
- 02 February 2023 Vitaly Braginets was sentenced to eight years in a maximum security prison. His trial was made private.

Vitaly Braginets (left). Acted as a lawyer for Ales Bialiatski, Nobel Peace Prize laureate 2022. They are now both imprisoned

- ★ Mr. Braginets was brought to administrative responsibility on the eve of a court hearing in which he was to defend Andrei Mochalov, stripped of his lawyer status in 2021 and accused of using forged documents. As a result, on 6 June 2022, when the trial started, the court refused to postpone the hearing until the expiry of V. Braginets' arrest. Braginets and forcibly appointed a defence lawyer to A. Mochalau through the bar association.