

Violations of Human Rights in Belarus in 2006

Analytical Review

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The Review presents the analysis of the situation of human rights in Belarus in 2006. It contains the most eloquent and typical facts of violations of Belarusian citizens' rights and liberties during this period.

The Review was prepared on the basis of personal applications of victims of human rights violations, the facts that were registered by human rights activists and the information that was taken from open sources (mass media, web-sites spring96.org, baj.ru, charter97.org, etc.).

The book is illustrated with photos by Yury Dziadzinkin, Siarhei Serabro, photo.bymedia.net, svaboda.org, etc.

INTRODUCTION

The previous Chronicle Review of Human Rights Violations in 2005 was about 500 pages. In conjunction with the volume of facts and events which had to be processed, its publishing was delayed. The book came out only in the second half of 2006. We realized that the number of facts, concrete stories and incidents of human rights violation in Belarus in 2006 is so high, that it may become an impossible mission to publish the book. That is why, with the goal to keep the efficiency and relevance of the Review, we made a decision to change its format, and to refuse from scrupulous factual account of human rights violations and make it more analytical.

In this edition of the Review we set a goal to track down the tendencies and changes in the human rights situation in 2006, giving only the most obvious and typical examples. We leave a detailed fact account for the future researchers of this period of history. Moreover, the overwhelming majority of cases of human rights violations is described on informational web-sites. Its most complete package lies in court archives, KGB folders, and president's office files. We hope that they will not disappear forever, and will see the light of day some time in the future.

The year of 2006 became a breaking point in maturing of our people. Working on the Review, we pointed out a great rise in the civic activity connected with the presidential election in Spring. We encountered so many facts of civic courage, youth activity, and unwillingness to bear injustice, which mostly comes from the authorities in present Belarus. These facts could really make a real chronicle of Belarusian people fighting for independence, democracy, and human rights. That is why the authorities increased the level of repression used against their political opponents.

The system created by Aliaksandr Lukashenka and his mates is absolutely totalitarian. Aggressiveness to political and ideological opponents, suspicion and self-distrust, penetrating in all state structures, attempts to control any displays of civic activity, and inability to transform are the typical feature of the regime. More and more weight in the

state management is given to repressive structures – the police and its special departments, prosecution offices, tax inspectorate, and, especially, KGB.

Courts, as an independent branch of power, are less and less significant. Spring of 2006 showed the absolute inability of Belarusian courts to have an unbiased opinion and demonstrated total dependence of judges on the executive authorities. Courts were used as a repressive tool, aimed against political opponents of the regime.

The Lukashenka-created network of ideological workers – a huge number of full-time ideologists at higher educational institutions, executive committees, and state-owned companies — had more and more of an influence on the life of the society. The ideologists closely observed the “appropriateness” of opinions of Belarusian citizens; they “organized” the needed election results, and participated in expulsion of students from colleges and firing of employees for political reasons, becoming an element of the repressive machinery.

State-owned mass media became even more ideologized. While what remains of the independent press are under the strong economic, administrative, and political pressure, and make wonders to survive in unfavorable conditions, state-owned mass media deal with open propaganda, organize campaigns of slander against opponents of the regime, and demonstrate complete absence of human morals and journalists’ ethics. Once ordinary journalistic editions, they have become a real ideological weapon serving the totalitarian state system.

The official trade union of Belarus has in fact turned into another state ministry and does not defend the workers’ rights at all. The working contract system for all workers has become a repressive tool in the hands of executive authorities, which is used against citizens who do not agree with this or that element of organization of our public system.

Such entities of political and public system as political parties and non-governmental organizations have less and less significance in the life of our society. They are subject to endless repression and restrictions from the created system of state management.

The problem of keeping power by any means is the main and fundamental one in all actions of the incumbent president and his circle. Only that can explain the anti-constitutional amendments to the Constitution in 2004, which gave Lukashenka an opportunity to run for presidential post for an unlimited number of times. This is also the basis of the changes in the legislation, which allow the authorities to persecute their political and civic opponents “legally”, on the ground of laws. Often

they violate in these laws and act out of accordance with the human rights standards and current Belarusian legislation.

That is why the extremely high level of repression encountered by the Belarusian society in 2006 was not accidental. The authorities perceived any civic activity as a threat. They used all possible means to prevent the displays of real moods and opinions in the Belarusian society from going to the surface of public life. The regime did everything possible to disorganize and intimidate the Belarusian citizens, to keep them in a passive zombie state.

The repression affected the wide layers of the Belarusian society. We have never seen so many criminal charges against the opponents of the regime, and administrative trials for participation in rallies, pickets and demonstrations and distribution of printed materials. KGB has never been so zealous in putting its efforts to neutralize the activity of Belarusian citizens. Never have so many students and workers been expelled and fired for their civic and political convictions. Civic and political activists were groundlessly accused of such serious crimes as preparation of terrorist acts, rapes, illegal possession of fire arms, and drug transportation. Top state officials spoke on TV calling all possible participants of post-election protests potential terrorists.

At the same time, a huge billow of repression created by the authorities reflects the real level of resistance to unlawfulness and injustice in the Belarusian society. The year of 2006 proved that a significant part of Belarusian citizens want to live in a democratic lawful state, which would respect their rights. That is why quite an abstract slogan "For Freedom", initiated by the non-governmental organizations and picked up by the United Democratic Forces, has become so important in the Belarusian society. This short phrase accumulates all hopes and desires of the oppressed and non-free society.

New countdown of time began in 2006 in Belarus. People are less and less intimidated by pressure and restrictions. They demonstrate more and more open and hidden resistance to implementation of the political orders and participation in various campaigns organized by the authorities.

Potential repression has less influence on the political and civic activists who are ready to sacrifice their freedom in the fight for democratic ideals and principles. The repressed activists have serious support and sympathy in the society. Psychologically they do not believe themselves to be renegades and dissidents, because many people in Belarus are on their side. Gradually the Belarusian society is coming out of the moral and political crisis where they were placed by the regime.

We hope that when changes come this research will help to quickly and efficiently get rid of the post-Soviet totalitarian system created by the current Belarusian authorities which literally entangles our public and social life.

For our society to have good chances for moral recovery, for irrevocability of democratic processes, when changes come, we have to know the names of all people who organized and implemented repression against the citizens of Belarus, so that in the future they would not have anything to do with state management and power. People should know their “heroes”, and the “heroes” should also know that the time will come and they will be accountable for the crimes against their people.

We are convinced that awareness of the Belarusian society, moral guidelines based on European values, understanding of importance of the human rights, and personal dignity of our people will give totalitarian authorities in Belarus no chance to exist.

Ales Bialiatski.

1. Human rights related amendments to the legislation of the Republic of Belarus

In the Constitution the Republic of Belarus is declared a unitary democratic social constitutional state. The Constitution declares the principle of the law supremacy and restricts the powers of all state organs by the limits of the Constitution and constitutional legal acts. Protection of civil rights and liberties is declared the supreme goal of the state. Therewith the Republic of Belarus acknowledges the priority of the generally accepted principles of international legislation and guarantees the conformity of its internal legislation to these principles. According to the fundamental law the state government of the Republic of Belarus must be divided into legislative, executive and judicial power, the state organs must be independent within the limits of their competence, interact, constrain and counterbalance one another.

Contrary to the formal provisions of the Constitution, the real execution of the state government in Belarus, one cannot call the Republic of Belarus a constitutional state. When the Constitution was adopted its norms were perceived as a declared aim of the state and provided a direction for building an independent Belarusian state, whereas now this document only emphasizes the absence or purely declarative nature of the fundamental institutions without which a constitutional state is impossible to build.

The present hierarchy of the law sources in Belarus doesn't correspond to the principles of the supremacy of the law and the Constitution. We can observe a complete subjection of the law to the acts that are issued individually by the head of the state. The basic model of the classical hierarchy of the national law sources has three levels: the Constitution, laws and sub-legislative acts. In Belarus the hierarchy of the national law sources has four levels – the Constitution, presidential acts (regular and temporary decrees), laws and sub-legislative acts. Thus, the principle of legality loses its ground: the laws that are adopted by the representative organ of the legislative power become

an inconsiderable element of the hierarchy and yield to the acts of the supreme official. The absence of the legal ground devaluates the legal order and inevitably ensues in groundless restrictions and violations of human rights.

In 2006, a number of amendments concerning human rights were introduced into the Belarusian legislation. The most considerable changes in the normative regulation of realization of civil rights and liberties are connected with the new Criminal Code of the Republic of Belarus which was amended with a number of political articles in the end of 2005 and came into force on 1 January 2006.

The Criminal Code was amended with article 193-1 (illegal organization of the activity of a public association, religious organization or fund or participation in their activity). According to this article, organization or participation in the activity of liquidated or suspended associations and funds are punished with a fine, up to six months of arrest or up to two years of imprisonment. In the conditions when the overwhelming majority of the Belarus' NGOs work without the state registration (which is almost impossible to obtain) these norms declare thousands of citizens to be criminals. A person who chooses to cease participation in such organization and states it to the appropriate state organs is exempt from criminal responsibility in the case of absence of other corpus delicti in his/her actions.

Article 193 (organization or direction of a public association or religious organization acting on the personality, rights and obligations of citizens) was amended with a norm that increases the punishment for such crime in the case the organization is unregistered (up to six months of arrest or two years of jail).

Articles 193 and 193-1 considerably limit the freedom of associations in the Republic of Belarus. Such restrictions are groundless and contradict the international undertakings of Belarus under the ratified international acts on human rights.

Article 293 (mass riot) was amended with part 3, according to which financing, material support, training or other preparation of persons to participation in mass riot are punished with up to six months of arrest or three years of jail. Taking into consideration that this article had already covered the organization of mass riot before part 3 was introduced, this novelty means criminalization of the actions that can't be considered as mass riot and don't break the public order. Punishment is spread not only on the attempts of mass riot, but even on the intention of such.

8 The haziness of the article's notions (financing, material support, training or other preparation of persons to participation in mass riot) allows

for arbitrary use of this norm and punishment in absence of a criminal action as an obligatory objective part of *corpus delicti*. This norm can be used for groundless restriction of the freedom of association and any educational activity which the state officials consider dangerous for the stability of the authoritarian regime of Belarus.

Article 342 of the Criminal Code was amended with a norm that provides up to six months of arrest or two months of imprisonment for training or other preparation of persons to the group actions that grossly violate public order, interfere with the road traffic, work of enterprises, institutions and organizations, financing or other material support of such activity in the case of absence of traits of a harder crime. This novelty is parallel to that of article 293 and gives a possibility to punish the persons who deal with education of public activists. This norm can also cover the means of public or political activity that don't have evident relation to the organization of mass riot – non-violent protest actions, strikes, overlapping of roads, flash-mobs, hunger-strikes, etc. This article creates preconditions for violation of a number of civil and social rights that are guaranteed by the international norms.

The new edition of the Criminal Code also increases punishment for public calls to seizure of the state power or violent change of the constitutional order (article 361). The defense object of the article is extended together with the specter of the possible means of dissemination the appeals: 'Public appeals to seizure of the state power or violent change of the constitutional order or state treachery, terrorist act, diversion or other actions harmful to the outer security of the Republic of Belarus, its sovereignty, territorial unity, national defense, or distribution of materials that contain such appeals'. Part 2 of this article provides a harsher punishment for such appeals if addressed to a foreign state or international organization. Such actions are punished with up to six months of arrest or three years of imprisonment (in the case the appeals are distributed through mass media, the punishment increases – two to five years of jail). It is evident that such indistinct definition of the possible criminal actions without concretization of the possible means for the crime commitment lets turning this article into a powerful means of struggle against the freedom of speech and the political opponents of the present authorities. Actually, any manifestations of dissent with the present regime or calls to change the situation can be considered as criminal.

The Criminal Code has been also amended with article 369-1 (discrediting the Republic of Belarus). Here discredit is defined as 'presentation of knowingly false information about the political, economic,

social, military or international situation of the Republic of Belarus, the legal situation of the citizens of the Republic of Belarus or its power organs to a foreign state, foreign or international organization'. Such actions are punished with up to six months of arrest or two years of imprisonment. The Criminal Code has a general article concerning defamation, which is why the new norm is set against political opponents, human rights activists and independent journalists. This article is a classical example of a political crime which creates the danger of violent and groundless violations of freedom of speech in the Republic of Belarus.

On 9 January 2006, on the eve of the presidential election the Criminal Code was amended with article 290-1, 'Financing of terrorist activity', which provides punishment for giving or raising of financial means, valuable papers or other property including the property rights or exclusive rights on the results of intellectual activity with the aim of their use for terrorist activity. Such crime is punished with 8-12 years of imprisonment with property confiscation or 8-15 years of jail in the case of group actions.

Besides, the new criminal process legislation, which was amended together with the Criminal Code and enforced in 2006, gives to the organs of criminal prosecution the right to detain suspects in terrorism or especially malignant hooliganism for up to 10 days without giving any charges.

In December 2006 the Chamber of Representatives adopted and the Soviet of the Republic approved the law *On Counteraction to Extremism* which comes into force in 2007 and can result with the aggravation of political repressions and the growth of violations of civil rights.

The law defines as extremism not only actions, but also public calls to extremist activity, its financing or other facilitation, including provision of real estate, educational, typographic or other technical means, electronic communications and informational services. It is prohibited to publish extremist materials and distribute them through mass media. An organization that publishes extremist materials twice a year is to be closed and citizens are to be punished in conformity with the legislation. Bear in mind that before the amendment the Criminal Code of the Republic of Belarus there already were some articles that provide criminal responsibility for fomenting of the national racial, religious and other enmity (article 130), the activity of organizations who act on the legal rights of persons and citizens (article 193), the establishment of illegal armed units (article 287) and calls for coup d'état (article 361). Prohibition of the activity that is oriented on propaganda of racial, national and social enmity, non-constitutional seizure of power and other actions of such a

kind is stated in the laws *On Public Associations, On Political Parties, On Mass Actions*, etc. These laws provide liquidation or suspension of the activities of parties and public associations by court for said activities. During the last three years more than 100 NGOs have been liquidated by court without accusations in extremist activity. According to the law the prophylaxis of extremism is to be conducted by prosecutors' offices, the Ministry of Justice, KGB and other state organs who are competent to 'officially warn organizations and citizens about inadmissibility of 'extremist activity'.

Thus, such amendments were made with the aim to establish a legal basis for political repressions on the eve of the presidential election and were used in Belarus in 2006.

At the same time, it is worth mentioning that in 2006 the earlier discriminative practice of liberation of the persons guilty of economic crimes from criminal responsibility was legalized. In January 2006, an appropriate amendment of the Criminal Code was enforced that provides liberation from punishment of the persons, who inflicted economic harm to the state in the case that they return the loss and repent. The discriminative nature of such amendment is determined by the fact that mercy can be granted only by the president and will most probably cover corrupt, but loyal state officials. Thus, the head of the state actually overtakes the judicial functions concerning the determination of punishment and liberation from it.

On October 6th, 2006 the amendments to the Election Code and other legal acts that were initiated by the Central commission on elections and holding the republican referenda came into force. Instead of approximating the election legislation to the European standards (extension of the observers' rights, admission of representatives of political parties to election commissions, presentation of more possibilities for election agitation, establishment of a more transparent procedure of vote calculation) the Belarusian legislators introduced some cosmetic changes with simultaneous legalization of the repressive practices that had been used with normative regulations or caused disputes about ambiguousness of the legal norms. A number of these amendments have directly concern realization of the civil right to participation in the state government.

A considerable limitation of the freedom of assembly was introduced by the amendment of articles 5 and 6 of the law *On Mass Actions in the Republic of Belarus* and repeated in part 8 of article 45 of the Election Code. According to these changes, mass actions with the aim to agitate for election of candidates or president are regulated by the

legislation on mass actions and require authorization by local organs of power. Thus, electoral meetings and assemblies fall under the general permissive order for mass actions that doesn't meet the international standards of freedom of peaceful assemblies and limits the civil right to participate in the state government. The only concession in the conditions of organization and holding such measures is that an application for authorization can be passed to the state organs as late as five days before the action and an answer is to be given within three days after registration of the application. At the same time, the new norm lets local authorities to groundlessly prohibit electoral meetings and change the place and time. Besides, according to article 6 of the law *On Mass Actions in the Republic of Belarus* holding such measures the organizers must pay for the services of the police, ambulance and sweepers. The sources from which these payments are to be made are not specified in the law.

A great concern is caused by presidential decree # 18 *On Additional Measures for Regulation of the State Defense of Children in Socially Troubled Families* that was enforced January 1st, 2007. Some of its provisions contradict to the Constitution of the Republic of Belarus, legal norms and international agreements in the field of human rights and can lead to human rights violations in the country. Let us consider the most problematic provisions of the Decree.

In conformity with paragraph 1 of the Decree, children are liable to state defense and upbringing by the state if their parents (father or mother) lead an immoral way of life which negatively influences the children, are chronic dipsomaniacs or drug addicts or fail to implement their duties to the education and maintenance of their children in a way that puts the latter ones in a socially dangerous situation.

But for all that, the Decree offers no definition of immoral behavior and socially dangerous situation. It is quite disturbing that provisions of this Decree can be used for politically motivated harassment.

The most alarming is that the Decree provides the possibility of alienation of children without trial. According to paragraph 1 of the Decree a Commission on cases of under-aged persons of a local executive committee (further referred to as Commission on cases of under-aged persons) in the place of a child's residence can, within a three-day term, decide on confessing a child as liable to state defense, alienation from the parents (mother or father), conferment of the status of child without parental care and its transfer to state maintenance. While deciding on alienation of a child the commission on cases of under-aged persons implements functions of a tutelary organ. The decision about alienation

of a child is obligatory for execution by state organs, other organizations, their officials and citizens.

These provisions of the Decree contradict article 32 of the Constitution of the Republic of Belarus, according to which children can be separated from their families against the will of their parents or other persons who substitute them only by court verdict in the case when parents or the persons that stand for them do not execute their parental duties. Such provisions also contradict a number of international norms in the field of human rights. For instance, in conformity to article 9 of the Convention on the Rights of the Child (adopted by the UN General Assembly on November 20th, 1989) the member countries guarantee that children will not be separated from their parents at their will with the exception of the cases when competent organs on court decision in conformity with legislation define that such separation is necessary for the good of the child. Such definition can be necessary in such cases as neglect or violent treatment of children by the parents or in the case the parents live separately and it is necessary to decide on the place of the child's residence.

The Decree provision about forced job placement to the parents who must pay for the state maintenance of their children deserves criticism as well. According to paragraph 9, in the case the scope of wage of an obliged person doesn't allow complete payment for the state maintenance of children during six months, in conformity with paragraphs 13 and 14 of the Decree the person is to be placed to a new job. The control of daily presence of the obliged persons at work is to be exercised by the employers together with the police and state employment services.

In the event of the absence of the obliged person at work for ten and more days a month during three, concealment or underestimation of the wage and other income or other action or inaction that results in non-implementation or incomplete implementation of monthly obligations on compensation of the state expenses for maintenance of the children is a reason for drawing the obliged persons to criminal responsibility under article 174 of the Criminal Code (evasion of parents from maintenance of children or from compensation of the expenses for the state maintenance of the children) which provides up to two years of corrective labor or up to three years of personal restraint as punishment. Besides, according to Decree #18 the persons who are punished for violating this article cannot be released early. Thus, Decree #18 introduces the institution of forced job placement.

In this case provisions of the Decree contradict the Constitution and

the international norms in the field of human rights. For instance, article 41 of the Constitution of the Republic of Belarus guarantees to citizens the right to work as the most dignified means of self-assertion of a person – the right to choose the profession, the sphere of activities and work in accordance with one's calling, abilities, education, professional skills and public needs. Healthy and safe conditions of work are guaranteed as well. Forced work is prohibited with the exception of work or service that is determined by a court ruling or the martial law. According to the Constitution work is a right, not a duty of a citizen. A person can be obliged to work only by court verdict as a punishment for a crime. Nevertheless, by provisions of Decree #18 forced labor is introduced for non-execution of civil duties which are not criminally punishable.

The norms of Decree #18 related to forced placement of citizens to job contradict the Convention (#29) concerning Forced Labor, adopted at 14 by the General conference of ILO on June 28th, 1930. According to article 1 of paragraph 1 of the Convention any member-country of ILO that ratifies the Convention undertakes the use of forced and compulsory labor in all its manifestations in the shortest terms possible. According to article 2 of the Convention the term 'forced or compulsory work' denotes any kind of work or service which the person did not agree to do on his/her free will and execution of which is demanded from a person under threat of punishment. This article includes some admissible exceptions. For instance, the term 'forced work' does not include: work that is conducted in conformity with the law on army service; any work that is a part of usual civil duties of citizens; any work that is demanded from a person on the basis of a court verdict provided such work is implemented under supervision and control of state organs; work during emergency situations (earthquake, flood, fire, etc.).

The provisions of Decree #18 that provide eviction of persons from occupied accommodations limit and violate the property rights and contradict to provisions of the Civil Code and the Housing Code of the Republic of Belarus.

For instance, according to paragraph 15 of the Decree on suits of local executive organs or organizations empowered by them the obliged persons can be evicted by court from private or state accommodations which they occupy with provision to them other accommodations that have smaller in space or worse living conditions, including premises outside the borders of the settlement for the term, specified by the court decision. It means that persons can be evicted from flats and houses they own. After this the free spaces are liable for renting to other persons even without a letter of attorney signed by the owner.

The Housing Code provides eviction of citizens from state accommodations, rented accommodations or private accommodations which they do not own. According to paragraph 17 of the Ruling of the Plenum of the Supreme Court of the Republic of Belarus on some questions of appliance of housing legislation by courts of April 30th, 2000, renters, members of their families and other persons who live, or cohabit together with them in houses of private or state fund, can be evicted due to reasons provided by article 39 of the Housing Code (impossibility of communal dwelling). For the same reasons members of families of the owners of the accommodations (including privatized accommodations) could be evicted, in the case that they are not co-owners. Thus, the acting housing laws do not provide eviction of owners or co-owners from accommodations. Besides, athwart the Civil Code (articles 210, 219, 236 and 271 of the Civil Code) Decree #18 lets duty officials dispose of the owners' property athwart their will. Only the owner has the right to independently decide to sell or rent the owned accommodation.

Another matter of concern is that the practical implementation of the Decree can give ground to different abuses from the side of the appropriate state officials who are given the right to evict obliged persons from their accommodations.

Ruling #1729 of the Soviet of Ministers of Republic of Belarus of December 27th, 2006, established the rules for documental registration of the obliged persons that confirm their personality and the obligation to compensate the expenditures of the state for the upbringing of their children. According to these Rules, an appropriate seal must be placed in passports of citizens of the Republic of Belarus and residence permissions for persons without citizenship. It is an analogy to the practice of the USSR times, when the appropriate seals in passports marked convictions for crimes. The enforcement of these rules can lead to different manifestations of discrimination of this category of citizens and can result in appearance of a new category of social outcasts rather than social adaptation and rehabilitation of the obliged persons.

On June 12th, 2006, the law *On Education* was amended for the legalization of the obligatory work assignment of high school and technical secondary college graduates. This practice existed in Belarus earlier, but received a fundamental legislative basis only in 2006. High school graduates are obliged to work on the assignment for two years and technical college graduates – for one year. In the case of refusal from assignment a graduate must return to the state the cost of his education. The methods for determination of the sum of the compensation are

described in the ruling of the Soviet of Ministers of September 23rd, 2006. Such norms legalize forced labor and violate the right to education, the right to free movement and choice of the place of residence.

On December 20th, 2006, a new edition of the Executive Process Code of Administrative Violations was adopted. On December 31st, 2006, a decision about its enforcement since March 1st, 2007, together with the new Code of Administrative Violations was made. The need to radically reform the legislation on administrative violations has been perceived for a long time. The earlier Code of Administrative Violations was adopted in 1984 and was the oldest code in the Belarusian legislation. It did not correspond to the norms of the contemporary life and had many blank spots in the field of process regulation of administrative punishment.

The new administrative legislation approximated to the criminal legislation: fines for some violations increased several times and in some cases exceed the fines that can be imposed within the frames of a criminal process. A positive aspect of the reform is a more detailed regulation of the procedure of administrative punishment and determination of the legal status of the participants of administrative trial. For instance, the right to legal aid since the time of detention is guaranteed.

Physical bodies received the right to cassation of court decisions, which was absent in the prior edition of the code. However, the court verdicts for arrest are to be executed before coming into legal force, despite the possibility of cassation. That is why the introduction of cassation appeal of the hardest kinds of administrative punishment (which are often used as a means of political repressions) is a mere formality.

The new CAV provides a new kind of administrative punishment of foreign citizens and persons without citizenship for a number of administrative violations – deportation. Earlier this procedure was regulated by the law *On Immigration*.

The maximal term of administrative arrest is still 15 days, but in the cases that two or more violation reports have been composed on a detainee the court can increase it to 25 days. We do not rule out the fact that this norm will be applied to participants of unauthorized assemblies who are often accused of disobedience to legal claims of the police besides violation of the order of holding mass actions. The new administrative code provides punishment for defilement of property and foul language since 14 years. Such charges are often given to youth activists for graffiti and other manifestations of public and political activity.

2. Death Penalty – Violation of the Right to Life

Belarus is the only country in Europe where death sentences are issued and executed.

Article 24 of the Constitution of the Republic of Belarus guarantees each person the right to life. According to this article, until its abolishment capital punishment can be executed as an exceptional measure for especially harsh crimes on court decision conforming to the legislation. Article 59 of the Criminal Code provides capital punishment for some military crimes and especially harsh crimes against peace and security. Until recently the temporary nature of the capital punishment had not been specified in the Code. It happened only July 20th, 2006.

A convict sentenced to death has the right to appeal the verdict to the Supreme Court. His/her last hope is the presidential commission on parole. Each of its decisions is signed personally by the president.

All in all, nine persons were sentenced to capital punishment (five – in the first half of the year) in 2006. It is considerably more than during the previous years (four people in 2002, four in 2003, two in 2004 and two in 2005), but less than in 1990-ies, when about 10 people were sentenced to death every year. The chair of the Supreme Court of Belarus, Valiantsin Sukala, stated that the recent growth of the number of death sentences was caused by the increase of the number of serial murders. 'Of course, in this situation the society and the court get in a very hard situation, as life sentence would not be commensurable to the crime'. In 2006 information about execution of death sentences was not published. However, according to Radio *Polonia*, the Belarusian authorities informed the Organization on Security and Cooperation in Europe that in the second half of 2005 and the first half of 2006 five people were executed.

At the same time the society is inundated with the dangerous opinion that it is necessary to expand the list of crimes punishable by death. For instance, at the parliamentary sitting of December 11th, 2006, a deputy of the Chamber of Representatives of the National Assembly Viktor Kuchynski voiced the opinion about the possibility of death punishment on foreign citizens who sell drugs on the territory of Belarus.

Some other tendencies concerning the use of the capital punishment in Belarus cause concern as well. For instance, the trial of Marozau's gang as a result of which on December 1st three persons were sentenced to death, was closed and took place not in the location where the crimes had been committed (Hemel), but in an investigative isolator in

Minsk, where death sentences are executed. Though the prosecutor's office explained holding the trial in the isolator with a great number of the accused persons and the decision to declare it closed for security reasons, this practice is condemned by human rights activists.

Especially alarming is the possibility of the use of death punishment as a means of intimidation and blackmail of public and political activists. The most eloquent example is the situation on the eve of the presidential election 2006 in Belarus. At the press-conference of March 16th, the KGB chief Stsiapan Sukharenka stated that all those who would choose to protest against the results of the presidential election and come out to the streets and try to destabilize the situation would be tried as terrorists. He also stated that KGB reopened criminal cases under the article 'threat of terrorist act' and all who had relation to such crimes would be detained and punished irrespective of their positions. Among other punishments for such crime article 359 of the Criminal Code provides capital punishment.

Another eloquent example of politically motivated pressurization including the use of capital punishment is a criminal case against the youth activist from Zhodzina, Pavel Krasouski. Mr. Krasouski was detained on suspicion in organization of the explosions that took place in Vitebsk in September, 2005. Then this suspicion was supplemented with suspicion in murders and rapes of two persons, for which the activist could be sentenced to death. Later these suspicions were abolished. However, this case demonstrates that in the case the institute of death punishment exists there are no guarantees that it will not be used for intimidation of political opponents of the regime.

International organizations regularly voice their concern with the existence of death penalty in Belarus. On September 27th, the UN Council on Human Rights approved the report of the Special Rapporteur of the UN on Belarus Adrian Severin, where it is stated: 'In 2004, the Working Group on Arbitrary Detention visited Belarus. In its report (E/CN.4/2005/6/Add.3), it noted the evident imbalance between the powers of the prosecution and the rights of the defense, in breach of international standards. This situation is of extreme concern since Belarus is the last country in Europe to apply the death penalty. A system which deprives accused persons of their right to defense can lead more easily to judicial errors. Such imbalance is embodied further by the abusive nature of the detention system. Physical conditions of pretrial detention are harsh. Detainees are often put under strong psychological pressure. The presumption of innocence is seriously undermined.'

the existence of death penalty in the Republic of Belarus, but also the procedure of its implementation: secret and closed procedure of execution and burial of the body. International human rights organizations equal the implementation of death penalty in Belarus to torture. They criticize the inhuman conditions of incarceration of death convicts (for instance, deprivation of outdoor walks and regular electric light in the cells) and the system of execution altogether.

On May 23rd, a yearly report of the international human rights organization *Amnesty International* was released. Concern with the use of capital punishment in Belarus is voiced there as well.

3. Protection of the right to true information about the missing

No moves in the cases on kidnaps of the well-known political activists Viktor Hanchar, Yury Zakharenka, businessman Anatol Krasouski and journalist Dzmitry Zavadski took place in 2006. Bear in mind that the former minister of interior Yury Zakharenka disappeared on May 7th, 1999, the deputy speaker of the Supreme Soviet of the 13th Convocation Viktor Hanchar and his friend Anatol Krasouski disappeared on September 16, 1999, and the cameraman of the TV channel ORT Dzmitry Zavadski was kidnapped on July 7th, 2000.

The official investigation of the cases of the kidnappings of Viktor Hanchar, Anatol Krasouski and Yury Zakharenka continues. The investigative group on these cases is headed by the investigator of Minsk city prosecutor's office, Siarhei Kukharonak. However, neither relatives nor public circles are given any information about the pace and the results of the investigation. The only thing the relatives know is that the investigation is going on. Every quarter the prosecutor's office informs them about it by mail.

The investigation of Dzmitry Zavadski's kidnapping is suspended. On May 3rd, his mother Volha Zavadskaya received a letter from the junior justice adviser Ivan Branchel, deputy chair of the department of investigation of corruption cases of the prosecutor's office of the Republic of Belarus. He informed her that 'the criminal case brought on the fact of Dzmitry Zavadski's disappearance was suspended on March 31st, 2006, under paragraph 6 of part 1 of article 246 of the Criminal-Process Code of the Republic of Belarus due to the impossibility to find the person who

had disappeared without trace'. However, on May 30th, at his press-conference in Minsk the prosecutor general Piatro Miklashevich stated that the prosecutor's office continued looking for Dzmitry Zavadski. 'The location of Dzmitry Zavadski has not yet been found, but the prosecutor's office of Belarus continues its search. We have conducted check-ups of a number of episodes in this case and conduct them now. We have not succeeded in finding his location yet.' At the same time, the prosecutor silences the questions about the possible murder of the journalist and punishment of the guilty. Bear in mind that on March 14th, 2002, Minsk regional court found a gang of a former worker of *Almaz* police squad Valery Ilnatovich guilty of having kidnapped Zavadski. V.Ilnatovich and M.Malik received life sentence and others were sentenced to different terms of imprisonment. On November 27th, 2003, Minsk Frunzenski court pronounced the journalist dead. The case of the kidnapping of Dzmitry Zavadski was suspended for the first time in March 2004, reopened in 2005 and suspended again.

The authorities seem to continue the investigation only formally, whereas the Belarusian and the international community have not lost interest on this issue. Despite a nervous reaction of the law machinery, dispersals and detentions of participants the actions of solidarity with prisoners of conscience and the families of the missing take place all over the country on the Solidarity Day, the 16th day of each month (V.Hanchar and V.Krasouski were kidnapped on September 16th). Commemorative actions took place all over Belarus on the anniversaries of the kidnappings of Yury Zakharenka and Dzmitry Zavadski. Concerned people also held such actions abroad.

On September 16th, 2006, one of the largest actions of solidarity took place in Minsk. Several thousand people took part. Minsk authorities authorized the action, but transferred it to Banhalor square. On the eve of the action the police tried to decrease the number of participants. In Minsk, Vitebsk, Zhodzina, Maladechna, Salihorsk and other cities police and prosecutors' offices summoned youth activists and warned them against participation in Solidarity Day. In Minsk the police detained several people, though the action was authorized.

The Belarusian authorities were especially eager to control the distribution of independent information about the political kidnappings in Belarus and the associated public actions. The distributors were detained and punished. On August 22nd, 2006, the official representative of Yury Zakharenka's family Aleh Volchak was returning to Belarus. The border guards searched his luggage and confiscated several books, some of which were related to the circumstances of the kidnapping of

the former minister of interior. A report for violation under article 193-5 of the Administrative Code (violation of the measures of the economical policy and other restrictions for import of goods) was composed and in October the human rights activist was fined en absentia.

The disappearance of political opponents is concealed by the state Belarusian media, whereas non-state ones have been put in very hard conditions. A positive step became the establishment of an official website of the civil initiative *We Remember* – www.cjwr.org. This resource was established in February with the aim to inform the public about the progress in the investigation of the cases.

The authorities ignored the demands of the international and Belarusian community to objectively fully investigate the disappearance cases. One of the demands is the investigation-long deposition of the high Belarusian officials who are suspected in relation to the organization and execution of the kidnappings. The special reporter of the Parliamentary Assembly of the Council of Europe on legal issues and human rights Christos Pourgourides is of the opinion that the present state secretary of the Defense Soviet Viktor Sheiman, the minister of interior Uladzimir Navumau, the former minister of interior Yury Sivakou and the commandant of a special quick reaction brigade (SOBR), colonel Dzmitry Paulichenka can have relation to the kidnaps. The position of the PACE was reflected in its Resolution of January 27th, reminding that this demand had been placed in the previous Resolution but had not been executed by the Belarusian authorities.

On September 27th, the UN Special rapporteur on the situation of human rights in Belarus, Adrian Severin, also emphasized this aspect in his report: 'The personalization and selectivity of the justice administration in Belarus is evidenced further by the fact that to date, the Government failed to elucidate the involvement of senior government officials in the disappearances of Yury Zakhranka, Viktor Hanchar, Anatol Krasouski and Dzmitry Zavadzki, and the murders of journalists Veranika Charkasava and Vasil Hrodnikau'. Adrian Severin called the UN Council on Human Rights to apply to the Office of the High Commissioner for Human Rights with the request for an immediate establishment of a group of expert lawyers for investigation of the relation of high Belarusian officials to disappearances and possible murders of the politicians and the journalist and preparation of concrete proposals concerning the possibility of their prosecution.

The resolution of the UN General Assembly on Belarus of December 19th, 2006, contains an insistent appeal to the Belarusian government to 'suspend from their duties officials implicated in any case of enforced

disappearance, summary execution and torture and other cruel, inhuman or degrading treatment or punishment, pending investigation of those cases, and to ensure that all necessary measures are taken to investigate fully and impartially such cases and to bring the alleged perpetrators to justice before an independent tribunal, and, if found guilty, to ensure that they are punished in accordance with the international human rights obligations of Belarus.'

The address of the European Union to the people of Belarus of October 22nd, also touches the problem of improper investigation of the kidnappings of political opponents from the side of the Belarusian authorities: 'To build the deeper relationship which we wish to have between the EU and the Belarusian people, to end the self-imposed isolation which the Belarusian government has brought upon its country citizens, we ask that the Belarusian authorities should (...) properly and independently investigate or review the cases of missing persons...'

On May 9th, at its 114th Assembly the Inter-parliamentary union also expressed its intention to 'strive for an exhaustive investigation of Viktor Hanchar's disappearance and insist on the necessity of the situation's monitoring by the Belarusian Parliament'. We should remind that at the previous assembly in Geneva a representative of the Belarusian delegation Anatol Salaiou assured the MPs that the Belarusian deputies controlled V.Hanchar's case. This statement was disproved by the wife of the missing politician Zinaida Hanchar. She directed a special letter to the chair of the Inter-parliamentary union, as a result of which the Belarusian MPs had to confess their inaction concerning the control of their colleague's disappearance.

On December 20th, the UN General Assembly unanimously voted in the Convention against Forced Disappearances, which became an important step in the development of the international legislation. The Convention obliges the state to take effective legislative, administrative, court and other measures for the prevention and cessation of forced disappearances. It prohibits the functioning of secret prisons and obliges the authorities to inform families about their detained members. The document provides the establishment of a special Committee on forced disappearances to consider reports from participant countries and complaints of private individuals. The states that ratify the Convention are to report to the Committee on its execution. The document emphasizes that in certain circumstances forced disappearances can be recognized as crimes against humanity and thus fall under the international criminal

In the present situation when the Belarusian authorities are suspect in organization and performance of political kidnaps one can hardly expect the signing and ratification of the Convention by our country. Nevertheless, the Belarusian human rights activists and relatives of the missing are ready to struggle for the use of this international instrument for disclosure of these crimes.

4. Politically motivated criminal harassment

For Belarus, the year 2006 was defined by a rapid increase of the number of prisoners of conscience, politically motivated criminal cases and suspects in them.

In 2005 the politician Mikalai Statkevich and the youth leader Pavel Seviarynets were sentenced to two years of personal restraint under article 342 of the Criminal Code (organization or participation in the group actions that violate the public order) for organization of protest actions against falsification of the results of the parliamentary election and the national referendum of 2004. On August 25th, 2006, P. Seviarynets was denied conditional early release because he 'did not start reforming himself'. On September 26, the same happened to Mikalai Statkevich.

At the same time, in 2006 four political prisoners were released. On April 14th, 2006, after two years of jail, the court granted parole to a former minister of foreign economic relations, extraordinary and plenipotentiary Ambassador of the Republic of Belarus Mikhail Marynich. On December 30th, 2004, Mr. Marynich was sentenced to five years of jail with property confiscation under part 4 of article 210 of the Criminal Code, for alleged theft of the computers that belonged to the US Embassy. Later the term was reduced to three and a half years.

On May 15th, 2006 a resident of Hrodna, leader of the entrepreneurs' movement Valery Levaneuski was released from *Vouchyia Nory* penal colony. On September 7th, 2004, he was sentenced to two years of jail under part 2 of article 368 of the Criminal Code (defamation of the president of the Republic of Belarus). Valery Levaneuski spent his entire term in jail.

On November 15th, the former deputy of the National Assembly of the Republic of Belarus Siarhei Skrabets was released from *Vitsba* penal colony after 18 months of imprisonment. He was in custody since May, 2005. On February 14th, 2006, Skrabets was sentenced to two and a half

years of jail under part 1 of article 13 (preparation to a crime) and part 2 of article 431 (giving a bribe) of the Criminal Code of the Republic of Belarus and on accusation in defrauding of credits from the state and illegal business activity. In October an amnesty cut his prison term by a year.

On December 22nd, the political prisoner Andrei Klimau was released from the corrective labor facility of Barshchouka village (Rechytsa district) after 18 months of jail. He completed his whole term of imprisonment. On June 10th, 2005, he was imprisoned under article 342 of the Criminal Code for the organization of a peaceful demonstration in Minsk on March 25th, 2005.

Politically motivated criminal cases were brought against 41 public and political activists. 21 of them were punished with fines, personal restraint or imprisonment. Cases against 12 persons were stopped on the stage of preliminary investigation because of the absence of corpus delicti. The investigation and trials on cases against nine activists of the democratic movement continued until the end of 2006.

A peculiar record of politically motivated harassment was, to a great extent, connected to the campaign for the election of president of Belarus and the ensuing growth of public and political activity of the population.

The Chamber of Representatives of the National Assembly of the Republic of Belarus announced December 16th, 2006, the first day of the election campaign. The day before, on December 15th, the Chamber of Representatives almost unanimously adopted the law *On amending certain legal acts of the Republic of Belarus to increase responsibility for actions against humanity and public security*. The amendments that were introduced in the Criminal Code became a legal ground for a large-scale campaign of political repressions against the opponents of the present regime. These amendments were enforced on January 1st, 2006. The following month the first criminal case under one of the new articles was brought.

The authorities also actively used other articles of the Criminal Code for political purposes, especially in the struggle against youth movements activists. Often political graffiti on buildings were qualified as hooliganism or malignant hooliganism. Such actions were purposefully qualified under harder articles of the Criminal Code which gave the possibility to keep the activists in custody before trials. Secondly, the authorities tried to present the accused as petty criminals that had nothing to do with political activity.

The use of articles of the Criminal Code that provide punishment for defamation and libel against the president of the Republic of Belarus and

other state officials continued. In a number of cases even charges and satirical cartoons about the head of the state and other officials were qualified as insult.

The authorities staged numerous provocations with the aim of further criminal persecution. Cases for selling drugs and production of counterfeit money were brought against public activists. The authorities tried to accuse them in relation to terrorist acts, explosions, serial murders and rapes. An eloquent example is a criminal case that was brought against the activists of the unregistered public initiative *Partnership*, who were publicly accused in preparation of terrorist acts and other acts aimed at destabilization of the country on the eve of the presidential election. These accusations were distributed by state mass media, but were not even considered during the preliminary investigation and the trial.

1. Criminal case against Aliaksandr Kazakou and Zmitser Zubro

The activists of *Zubr* movement Aliaksandr Kazakou and Zmitser Zubro were detained in the night of December 28th, 2005, for political graffiti (they wrote number 16 to call people to participation in the Day of Solidarity with political prisoners which takes place on the 16th day of each month). The youngsters spent over two days in a temporary isolator and were released under written undertakings not to leave Minsk. They were given charges under part 2 of article 363 of the Criminal Code (resistance to the police). On April 7th, the judge of Minsk Tsentralny borough court Valery Ilesman sentenced Kazakou and Zubro to two years of personal restraint. The youth activists left Belarus.

2. Criminal cases against Pavel Krasouski

In the beginning of 2006 in Zhodzina a criminal case under article 369 of the Criminal Code (public insult of state officials) was brought against the activist of the youth democratic movement Pavel Krasouski for publication of satiric cartoons of the city administration in *Naziralnik* bulletin. These cartoons were found in December, 2005 during a search of his apartment. The case was stopped, but new criminal charges were brought against the activist.

On October 4th, Krasouski's flat was searched again. The police confiscated the system block of his computer, CDs and printed editions. Then they took him to Vitebsk and interrogated him concerning the two explosions that took place in Vitebsk on September 14th and 22nd, 2005. The investigators stated that the youth activist resembled

a photo model of the criminal. As a result Krasouski was declared a suspect in preparation of the crime that was aimed at murder in an especially dangerous way (part 2 of article 139 of the Criminal Code). The same day Krasouski was put in a temporary isolator in Vitebsk. On October 11th, the main investigator of the national prosecutor's office on especially important cases Aliaksandr Rasolka also declared Krasouski a suspect in a number of rapes and murders of under-aged girls in different cities of Belarus in 1999. On October 15th, the legal term of Krasouski's detention without charges ended. The investigation did not find any evidence of his relation to the abovementioned crimes. That is why Mr. Krasouski was released from the isolator. Later the suspicion in rapes and murders was dropped. Pavel Krasouski is still a suspect in the case on Vitebsk explosions, but no investigative measures are conducted towards him.

3. Criminal case **Zmitser Kaspiarovich**

On the night of January 17th-18th, the police detained the activist of the Belarusian People's Front Party Zmitser Kaspiarovich on suspicion in the outrage upon the state symbols. Mr. Kaspiarovich tried to remove the official red-green flag from the roof of Minsk city executive committee as he considered it Stalinist. Article 370 of the Criminal Code (outrage upon state symbols) does not provide imprisonment and pre-trial detention, the maximal punishment is one year of personal restraint. However, Z. Kaspiarovich was given charges under part 1 of article 339 of the Criminal Code (hooliganism). The maximal punishment under this article is three years of jail. The prosecutor's office chose detention as the restraint. That is why before trial Zmitser Kaspiarovich was kept in the investigative isolator of Minsk.

Pavel Batuyeu and Zmitser Haurusik, who were also detained on this case, were released after the investigative actions (interrogations and searches) without receiving any charges. The case against them was suspended.

On February 27th, 2006 Minsk Maskouski borough court sentenced Zmitser Kaspiarovich to five months of arrest. The activist did not take the blame and said he was ready to bear responsibility for outrage upon state symbols, but not for hooliganism, as he did not consider himself a hooligan. The verdict was appealed to the College Board on criminal cases of Minsk city court, but, the sentence was left unchanged. Mr. Kaspiarovich was kept in the prison of Zhodzina and was conditionally

4. Criminal case against Artur Finkevich

In the night of January 30th, in Minsk the police detained the activist of *Young Front* Artur Finkevich for political graffiti. A criminal case under part 2 of article 339 of the Criminal Code (malignant hooliganism) was brought against him and the charges were given under this very article. The investigation purposefully qualified the political graffiti as malignant hooliganism, as article 339 allows pre-trial detention and provides six years of jail as maximal punishment.

Later the expertise of the harm that Artur Finkevich had allegedly done to the buildings suddenly appeared in the case. According to this expertise the total sum was 35,196,970 rubles. As a result A. Finkevich was also charged under part 3 of article 218 of the Criminal Code (purposeful damage of property in an especially large scale), for which he could be sentenced to 7-12 years of jail. However, at the trial these charges were dropped, as the sum of the loss decreased to 2,207,000 rubles.

On May 10th, Minsk Pershamaiski borough court sentenced Artur Finkevich to 18 months of jail for malignant hooliganism. Since June 29, the youth leader has been kept in Mahiliou correctional labor facility #43.

5. Criminal case against Uladzimir Khomich and Maksim Kokarau

On 2 March in Niasvizh the local police department brought a criminal case against the activists of *Young Front* Uladzimir Khomich and Maksim Kokarau under article 341 of the criminal code (pollution of buildings and voluntary waste). During the preliminary investigation the activists had to give written undertakings not to leave the city. Later the case against them was stopped.

6. Criminal case against Siarhei Liashkevich

On March 2nd, in Shchuchyn the police searched the apartments of the local activists Vasil Biazmen and Siarhei Liashkevich. As a result they confiscated computer information carriers, printed editions and documents from personal archives. Siarhei Liashkevich was detained in the investigative isolator of Shchuchyn for several days. A criminal case under part 3 of article 293 of the Criminal Code (mass riot) was brought against him.

At the trial an unknown person who was kept in custody for a theft 27

testified against Liashkevich. The 'witness' said that the accused had shown films to him in which protesters fought the police at mass actions. The man stated that in this way the activist had prepared him to participation in the protest actions against the falsification of the presidential election 2006. Finding ground on this doubtful evidence Shchuchyn court found Siarhei Liashkevich guilty and on May 29th, sentenced the activist to five months of jail. On July 27th, Mr. Liashkevich's prison term ended and he was released.

7. Criminal cases against Aliaksandr Kazulin, candidate to the presidential position of the Republic of Belarus

On March 1st, a criminal case under part 2 of article 339 of the Criminal Code of the Republic of Belarus (malignant hooliganism) was brought against a candidate to the presidential position, chair of Belarusian Social Democratic Party (*Hramada*) Aliaksandr Kazulin in connection with the incident of February 17th, when he and his adherents were not allowed into the National press-center where the candidate was to have given a press conference. When Kazulin and his adherents tried to enter the building to find out the reasons for the prohibition, the guards beat him. Then the candidate was accused in 'insult and use of physical force against the guards of the concert hall *Minsk* and a policeman'.

The second case was brought in connection with Aliaksandr Kazulin's behavior on March 2nd, when he together with a group of adherents tried to get registered as a delegate to the official All-Belarusian people's assembly. He was detained and violently beaten by the police and the head of a special quick reaction brigade (SOBR) Paulichenka. Then Aliaksandr Kazulin was taken to Minsk Kastychnitski borough police department and there, smashed a portrait of Aliaksandr Lukashenka. A criminal case under part 1 of article 339 of the Criminal Code (hooliganism) was brought on this episode.

On March 25th, Aliaksandr Kazulin was detained during celebration of the Freedom Day when he with a group of adherents headed for the jail in Akrestsina Street to support the imprisoned participants of the protest action against the rigged election. Before trial A. Kazulin was kept in the investigative isolator of Zhodzina.

On March 30th, the former candidate to presidential position Aliaksandr Kazulin was charged on three episodes. Minsk events of February 17th and March 2nd were qualified under part 2 of article 339 of the Criminal Code (malignant hooliganism) and the events of March

25th – under article 342 of the Criminal Code (organization of group actions that violate the public order, are connected to disobedience to legal demands of the power organs and result in interference with the road traffic, the work of enterprises, institutions and organizations, or active participation in such actions in the case of absence of traits of a harder crime).

On July 13th, the judge of Minsk Maskouski borough court Aliaksei Rybakou found Aliaksandr Kazulin guilty and sentenced him to five and a half years of jail. On September 19th, the College Board on criminal cases of Minsk city court considered the cassation complaint filed by the politician and left the sentence unchanged. Now Aliaksandr Kazulin is kept in the penal colony *Vitsba-3* in Vitebsk region.

**8. Criminal case against
Mikalai Astreika, Enira Branitskaia,
Tsimafei Dranchuk and Aliaksandr Shalaika**

On February 22nd, the activists of the civil initiative *Partnership* that dealt with monitoring of the presidential election Mikalai Astreika, Enira Branitskaia, Tsimafei Dranchuk and Aliaksandr Shalaika were detained. KGB agents searched the offices of the organization and the apartments of its activists in Minsk and in other regions. They confiscated all information carriers. The formal reason for the searches and detentions was possible relation of the activists to distribution of satirical cartoons on political topics (a criminal case on these cartoons had been brought some time before the searches).

On March 1st, at his press-conference the KGB chair Stsiapan Sukharenka stated that the opposition had planned a number of provocations for the Election Day and the arrested members of *Partnership* were the coordinators. According to Sukharenka, during the oppositional meeting several explosions were to have taken place with the aim to provoke the seizure of administrative buildings and railroads for blocking the country's functioning. Besides, *Partnership* allegedly prepared false minutes of exit-polls according to which the victory in the presidential election belonged to the oppositional candidate Aliaksandr Milinkevich.

On March 2nd, Mikalai Astreika, Enira Branitskaia, Tsimafei Dranchuk and Aliaksandr Shalaika were charged under part 2 of article 193 of the Criminal Code of the Republic of Belarus (organization or management of a public association or religious organization that attempts on the personality, rights and obligations of citizens). During the investigation all of them were kept in the investigative isolator of KGB in Minsk and then

were transferred to the investigative isolator of the Ministry of Internal Affairs.

During the court sitting of August 4th, the judge of Minsk Centralny borough court Leanid Yasinovich dropped the charges under part 2 of article 193 and issued a verdict under part 1 of article 193.1 of the Criminal Code (illegal organization or participation in the activity of a public association, religious organization or fund). Mikalai Astreika was sentenced to two years of jail, Tsimafei Dranchuk – to one year, Enira Branitskaia and Aliaksandr Shalaika – to six months. The trial was closed. Relatives, journalists and human rights activists were not admitted.

On August 21st, the term of arrest of Enira Branitskaia and Aliaksandr Shalaika ended and they were released. Mikalai Astreika was released in November due to the replacement of imprisonment with corrective labor. Tsimafei Dranchuk was conditionally released on December 26th, after nine months of imprisonment.

9. Criminal case against Yauhen Suvorau

On February 14th, the police detained Yauhen Suvorau in Mahiliou for hanging out a banner with an invitation to take part in the Day of Solidarity. At first he was accused in violation of article 156 of the Criminal Code (petty hooliganism). However, the report of administrative violation was not even considered at the trial.

Later a criminal case under part 1 of article 435 of the Criminal Code (evasion from military service) was brought against the activist to keep him in custody. It is confirmed by the fact that the military commission declared him unfit for military service in peaceful time because of bad eyesight. The guy has never hid from the authorities and had always come to the military committee when summoned.

During the preliminary investigation Yauhen Suvorau was kept in the investigative isolator of Mahiliou. The court sentenced him to a fine of about \$300 U.S. dollars.

10. Criminal case against Anastasia Azarka

On March 5th, the police department of Minsk city executive committee brought a criminal case against Anastasia Azarka under article 193.1 of the Criminal Code (illegal organization or participation in the activity of a public association, religious organization or fund). The girl was suspected in activity on behalf of the unregistered organization *Young Front*. The criminal case was stopped.

11. Criminal case against Siarhei Marchyk

On April 10th, a criminal case under article 193.1 of the Criminal Code was brought against the activist from Baranavichy, Siarhei Marchyk, for activity on behalf of the unregistered organization *Young Front*. On April 13th, the investigative organs searched the apartments of Siarhei Marchyk and his friends Andrei Yuruts and Viktar Kisliuk. They confiscated some productions of *Young Front* printed editions of democratic movement and private computer supplies. The criminal case was brought only against Siarhei Marchyk, his friends were witnesses in it. Siarhei Marchyk left Belarus.

12. Criminal case against Yury Radzivil

On March 2nd, persons in mufti detained Yury Radzivil, driver of the candidate to the presidential position Aliaksandr Kazulin. A policeman from the special unit on combating terrorism *Almaz* (headed by police colonel Mikalai Karpiankou) made several shots into Radzivil's car, from which video-shooting of the mass detention and beating of journalists and activists near Minsk Kastychnitski borough police department was conducted. Yury Radzivil applied to Minsk city prosecutor M. Kulik asking to bring a criminal case against the unidentified person who used firearms against him, but instead the prosecutors sanctioned initiation of a criminal case against the applicant.

Yury Radzivil was charged under part 2 of article 363 of the Criminal Code (resistance to a policeman or other guard of public order). During the investigation Mr. Radzivil was kept in the investigative isolator of Minsk.

On May 18th, Minsk Maskouski borough court sentenced him to 3 months of arrest. On July 2nd, the arrest term ended and Yury Radzivil was released from jail.

13. Criminal case against Ivan Kruk

The activist of the United Civil Party Ivan Kruk was the head of Astravets district election headquarters of the candidate to the presidential position Aliaksandr Milinkevich. On February 3rd, an investigator of Astravets district prosecutor's office brought a criminal case against him under part 2 of article 363 of the Criminal Code (resistance to a policeman or other guard of public order), for alleged use of physical force towards policemen. The reason for the criminal case was that during an illegal

search Ivan Kruk purposefully smashed the system block of his computer against the floor.

On May 15th, Astravets district court sentenced Ivan Kruk to six months of arrest. The activist was kept in the penal colony in the town of Hlybokaie (Vitebsk region) till the end of the arrest term.

**14. Criminal case
against the chair of the public association
Belarusian Helsinki Committee Tatsiana Protska**

On March 1st, the department of financial investigations of the State Control Committee reopened the criminal case under part 2 of article 243 of the Criminal Code (evasion from payment of dues and taxes) concerning the national public association *Belarusian Helsinki Committee*. The tax inspection accused the BHC chairperson Tatsiana Protska of tax evasion, worth about 70,000 U.S. dollars.

The case concerns taxes for the financial aid that was received under the TACIS program of the EU. This aid was given to Belarus under the condition of its exemption from taxes. At first the Supreme Economic Court took the side of the human rights activists, but in the beginning of 2006 reversed its decision.

On March 28th, the criminal case was stopped because of absence of publicly dangerous actions in T. Protska's activity.

**15. Criminal case
against Andrei Panasik**

On March 11th, a criminal case under article 193.1 of the Criminal Code (illegal organization or participation in activity of public association, religious organization or fund) was brought against the public activist from the town of Masty (Hrodna region) Andrei Panasik. He was suspected in relation to the activity of the unregistered public initiative *Partnership*. The case was suspended.

**16. Criminal case
against Mikita Sasim**

In the evening of March 14th, the police groundlessly detained the coordinator of the youth movement *Zubr* Mikita Sasim, Nika Lazouskaia and Mikita Shutsiankou near the tube station *Pushkinskaia* and took them to Minsk Frunzenski borough police department.

From the police department Mikita Sasim ended up in clinical hospital #9 with exacerbation of appendicitis and was operated on there. On March 16th, the police came to his ward. They showed a ruling of Baranavichy city

police department and took him there and then to Baranavichy city hospital. There he was interrogated in the case that was brought against him under part 1 of article 435 of the Criminal Code (evasion from military service). It was already the second attempt to bring such criminal case against him. The first time, on December 5th, 2005, Baranavichy police department refused to bring such case because of absence of evidence of evasion.

Before the trial Mikita Sasim was kept in the investigative isolator of Baranavichy. On May 12th, Baranavichy city court sentenced him to three months of arrest. On June 16th, the arrest term ended and Mikita Sasim was released.

17. Criminal case against Eduard Zeliankou

On March 13th, the police detained the youth activist from Zhlobin Eduard Zeliankou for political graffiti. A criminal cause was brought against him under article 193.1 (activity on behalf of unregistered organization) and article 339 (hooliganism). The investigation was conducted by Homel Centralny borough police department. In the beginning of June the charges in hooliganism were dropped and Zeliankou was accused only in activity on behalf of the unregistered organization *Young Front*. Zhlobin district court sentenced the activist to a fine.

18. Criminal case against Mikalai Razumau

On March 14th, Orsha city prosecutor's office brought a criminal case under article 367 of the Criminal Code (defamation of the president of the Republic of Belarus) against the former leader of the workers' movement Mikalai Razumau. The case concerned Razumau's statements of February 24th, during a meeting of Aliaksandr Milinkevich with the electorate. M. Razumau spoke about A. Lukashenka's relation to the murders of Viktor Hanchar and Yury Zakharanka. Before the trial M. Razumau was kept in an investigative isolator and psychiatric testing was conducted.

On June 16th, the judge of Orsha city court Tatsiana Rybakova found Mikalai Razumau guilty and sentenced him to three years of personal restraint. The punishment was replaced with a milder one as Razumau is disabled.

19. Criminal case against Yulia Kasper

On February 20th, Hrodna Leninski borough prosecutor's office 33

brought a criminal case against Yulia Kasper under article 192 of the Criminal Code (violation of the election laws) for alleged forging of the signatures in support of Aliaksandr Kazulin. On July 1st, the criminal case was dropped.

20. Criminal case against Zmitser Dashkevich

On September 15th, Zmitser Dashkevich was arrested on suspicion in activity on behalf of the unregistered organization *Young Front*. Before the arrest on errand of KGB the Committee on combating terrorism brought a criminal case on the *Young Front* activity (article 193.1, activity on behalf of unregistered organization). Before trial Mr. Dashkevich was kept in an investigative isolator. The arrest was sanctioned by the prosecutor general Piatro Miklashevich.

Dozens of persons were interrogated as witnesses in the case. At first Barys Haretski, Aleh Korban and Siarhei Lisichonak were declared suspects as well, but then were excluded from the case.

On November 1st, Minsk Kastychnitski borough court Ala Bulash found Zmitser Dashkevich guilty and sentenced him to 18 months of imprisonment. The trial was closed. Minsk city court did not satisfy his cassation complaint. The activist was transferred to ShkloU prison before the verdict came into legal force.

21. Criminal case against Aliaksei Kryvintsou and Vadzim Lohinau

The criminal case against Hrodna residents Aliaksei Kryvintsou and Vadzim Lohinau was brought about by lieutenant-colonel A. Zinovik, head of Hrodna Leninski borough police department, under article 341 of the Criminal Code (pollution of buildings and voluntary waste) for graffiti against the 'pro-governmental NGO' Belarusian Republican Youth Union (BRSM).

According to the calculations of senior police lieutenant D. Shkulepa the material harm done was worth 51,420 and 300,000 rubles. The youngsters paid this money. Hrodna Leninski borough court sentenced them to fines.

22. Criminal case against Dzianis Dzianisau and Tatsiana Yelavaya

The criminal case against Tatsiana Yelavaya from Minsk and Dzianis Dzianisau from Vitebsk was brought under part 1 of article 342 of the Criminal Code (organization or participation in the group actions that violate the public order) for the events of June 18th, when a new initiative

Bunt made many graffiti in Vitebsk and a white-red-white flag was raised over the summer amphitheater.

According to the official police report they 'prepared, planned and organized on the territory of Kastrychnitski borough of Vitebsk an unauthorized group action aimed at gross violation of the public order and disruption of cultural mass measures'. The suspects and more than 80 witnesses were interrogated. Searches were conducted in the apartment of Tatsiana Yelavaya and some other activists.

Tatsiana Yelavaya managed to leave Belarus. The investigative actions against Dzianis Dzianisau are still going on.

23. Criminal case against Mikalai Autukhovich

On July 7th, Hrodna Kastrychnitski borough court sentenced the entrepreneur from Vaukavysk Mikalai Autukhovich, a leader of the entrepreneurs' movement in Hrodna region, to three and a half years of jail with property confiscation. He was found guilty in violation of part 2 of article 243 of the Criminal Code – evasion from paying taxes that resulted in a large-scale loss to the state. He spends his prison term in Minsk jail.

24. Criminal case against Andrei Abozau, Aleh Minich and Pavel Marozau

The activists of the public initiative *Third Way* Andrei Abozau, Aleh Minich and Pavel Marozau are suspected in insult of Aliaksandr Lukashenka. Since August 16th, 2005, Minsk city prosecutor's office and KGB have been leading a criminal case under article 368 of the Criminal Code, brought on the political cartoons that were found on the web-site of the organization. On November 20th, Pavel Marozau was declared a suspect in this case. The activists of the *Third Way* left Belarus.

25. Criminal case against Katsiaryna Sadouskaya

On July 25th, the police detained the member of the Belarusian department of Pskov regional public association *Veche* Katsiaryna Sadouskaya within the frames of a criminal case brought under article 368 of the Criminal Code (insult of the president of the Republic of Belarus). At first she was kept in a soul asylum and then was transferred to an investigative isolator.

The reason for the criminal case was a non-mailed letter which

was found during the search at Sadouskaya's apartment. In this letter K.Sadouskaya accused the head of the state in a number of crimes and called him a monster. The linguistic expertise stated that this word was comparison to an animal and was insulting.

On October 24th, the judge of Minsk Leninski borough court Tatsiana Zhulkouskaya sentenced Katsiaryna Sadouskaya to two years of jail. Katsiaryna Sadouskaya was taken to Homel women's colony. On December 22nd, Minsk city court considered her cassation complaint and left the verdict in force.

26. Criminal case against Mechyslau Yaskevich

The activist of the Union of Poles in Belarus Mechyslau Yaskevich is accused in violation of article 339 of the Criminal Code (hooliganism) for alleged fight at a bus stop. On November 5th, the police detained him and took to the detention center of Hrodna Kastrychnitski police department. On November 7th, Yaskevich was released. The criminal case was passed to Hrodna Kastrychnitski borough court.

This is not the first case of provocations against and criminal persecution of activists of the Union of Poles in Belarus. On October 29th, the UPB chair Anzhalika Borys and several other activists were detained on the Lithuanian border after the customs officers found a small plastic bag with amphetamine in their car. Hrodna regional customs office brought a criminal case for drug smuggling.

27. Criminal case against Kanstantsin Lukashou

On December 19th, the police detained Kanstantsin Lukashou at his working place in the Institute of Geochemistry and Geophysics. On December 20th, he was put in custody as a suspect in a criminal case that was brought under article 364 of the Criminal Code (violence or threat of violence towards the police) on the events of March 28th, when Lukashou drove his brother, well-known politician Viachaslau Siuchyuk out of a hospital, to which the latter was taken from jail because of health deterioration. The investigation accused Kanstantsin Lukashou of having purposefully knocked down a policeman who was executing his official duties. The formal reason for his detention in the investigative isolator was that he allegedly hid from the investigation and was wanted, whereas in reality he went to work and maintained active correspondence with the prosecutor's office and other state organs. K. Lukashou was kept in the investigative isolator of Minsk until the end of 2006.

5. Persecution of Independent Mass Media and Journalists. Violation of Freedom of Speech and of the Civil Right to Receive True Information

Articles 33 and 34 of the Constitution of the Republic of Belarus guarantee the freedom of opinions, convictions and their expression, the right to receive, save and distribute full, precise and timely information. The right of every person to express his/her opinion is also stated in the fundamental documents of the United Nations Organization – the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (article 19).

In Belarus the control of the informational space has become a means for political survival of the authorities. First of all it is manifested in the total control of information inside the country: thanks to the state monopoly on electronic mass media, support to state press and liquidation of independent informational outlets citizens receive propagandist stereotypes instead of objective information.

On January 26th, 2006, A. Lukashenka expressed the essence of the state policy in the field of information: 'The state gives all-sided support to the state mass media. Only in this way can the power implement its most important functions: provide political stability and counteract to internal and external threats.'

The law *On Press and Other Mass Media* (adopted in 1995) is the main legal act that regulates the organization and activity of mass media in Belarus. The discussions on its improvement started in the end of 1990-ies. For instance, in 2001 in Strasburg the former head of the Belarusian State committee of press Mikhail Padhainy promised to present for the expertise of the European structures a draft law on mass media, but did not do it. The law has not yet been read by the Belarusian parliament.

The officials often stated that the main changes will concern the establishment of some legal frames for internet editions, thus imposing control on one of the few sources of alternative information. The experts of the Belarusian Association of Journalists analyzed the draft law of 2003 (the last variant they managed to obtain) and stated that the notion of 'net mass media' allows to consider as such the web versions of registered editions, personal web-sites and pages of the juridical bodies who regularly upload news about organizations. According to the law all net media that collect, process, save and distribute information must undergo registration, which will create groundless obstacles for placement of information to internet.

The situation of civil and political rights in the country stably dete-

riorates. 2006, the year of presidential election, was defined with mass violations of freedom of speech and opinion, purposeful and systematic harassment of independent mass media and journalists and restrictions of their activity.

During this year the following means were used for struggle against freedom of speech: liquidation of mass media and suspension of their activity, arrests of journalists and initiation of criminal cases for publications in mass media, official warnings related to professional activity, refusals to give information, obstacles in production and distribution of mass media, groundless suits, restrictive use of accreditation, non-admission of foreign journalists to the country, etc.

There were no positive moves in the investigation of the disappearance of the cameraman of ORT Dzmitry Zavadski. On the contrary, on March 31st, the case was stopped 'due to the impossibility to find the missing person'. The prosecutor's office refused to bring a criminal case on possible murder of journalist as a result of which the guilty could be put to trial. In Spring Zavadski's widow Sviatlana Zavadskaya founded the Dzmitry Zavadski Fund with the aim to find the truth about his disappearance and 'give support to the Belarusian journalists who suffer from repressions from the side of the authoritarian Belarusian authorities'. In October the Fund opened its web-site www.zavadsky.org.

In 2006, the Belarusian law machine did not find the murderers of the journalist Veranika Charkasava, who died of numerous knife wounds on October 20th, 2004 in her own flat. Bear in mind that for some time Veranika's son Anton Filimonau and step father Uladzimir Mialeshka were considered suspects, but then the suspicion was dropped. On December 27th, Anton Filimonau was detained by the police on suspicion in production of counterfeit money. Several counterfeit banknotes were found in his apartment and in the apartments of four his acquaintances. A criminal case under article 221 of the Criminal Code was brought against them. The detainees spent several days in the investigative isolator. On December 30th, all of them were released except for Anton. It was found that during his detention in the isolator the investigators 'checked his possible relation to the murder of Veranika Charkasava', though the official investigation rejected it. On April 11th, Minsk Peshamaiski court sentenced Anton Filimonau to two and a half years of conditional imprisonment with two years of probation. On April 14th, the investigation of the murder of Veranika Charkasava was suspended because the murderers were not found (for this reason the case was suspended in December 2005 and then reopened for several weeks in the end of

On October 18th, 2005, the journalist of *Narodnaya Volia* Vasil Hrodnikau died in unknown circumstances from a cranial trauma. On February 17th, at the sitting of the college board of the national prosecutor's office the deputy prosecutor general Viktor Prus stated that an investigator of Minsk inter-district prosecutor's office came to the conclusion that the old man could die after falling from a distance equal to his own height. In December, 2005 the case materials were checked by the national prosecutor's office, which 'did not find any facts that could confirm the version that the journalist was killed'. Nevertheless, it is really doubtful that Vasil Hrodnikau died a natural death. That is why his brother demands full investigation of this case.

Restriction of the rights to freedom of opinion and expression was manifested in the use of articles of the Criminal Code against those who criticized the present regime. In 2006, a criminal case under article 369 (public insult of state official) was brought against the youth activist from Zhodzina Pavel Krasouski who had published satirical cartoons of Zhodzina authorities in *Naziralnik* bulletin. After several months of investigation the case was stopped. On August 16th, 2005, the authorities brought a criminal case for insult of the president of the Republic of Belarus (article 369 of the Criminal Code) on the fact of appearance of political cartoons on the web-site mult.3dway.org. The accused persons left the territory of Belarus.

Belarus became the only country in the world where a criminal case was brought for the reprinting of scandalous cartoons of the Prophet Mohammed. The cartoons illustrated the article *Political Creative* that was published in the number of *Zhoda* newspaper which was not distributed. On February 23rd, as a result of a check-up of the Committee on Religious Affairs and KGB (on alleged appeal of Moslem communities) a criminal case under part 1 of article 130 of the Criminal Code (fomentation of racial, national or religious enmity) was brought about. Some days before this the Ministry of Foreign Affairs distributed an official statement in which it 'decisively condemned any purposeful actions that could result in fomentation of religious enmity... and mistrust between the national and religious communities that dwell in Belarus'. The chief editor of *Zhoda* Aliaksei Karol stated that the article did not contain anything that was mentioned by the MFA and that his edition respected all religious convictions. On March 6th, the Ministry of Information applied to the Supreme Economic Court with the suit for suspension of the newspaper's activity. On March 7th, the court accepted the suit and on the request of the ministry suspended the newspaper until the trial 'so that it would not be able to grossly violate the law on press'. According to the Ministry of

Information, the reason for suspension of the newspaper was repeated violation of article 5 of the law *On Press and Other Mass Media*. The first warning under this article was issued to *Zhoda* on November 9th, 2005. It concerned the humoristic collages with faces of state officials; the second was given on February 23rd, for reprinting a cartoon of the prophet Mohammed. On March 17th, the judge of the Supreme Economic Court Aksana Mikhniuk satisfied the suit of the ministry and ruled to suspend the issue of the newspaper.

In 2006 non-state mass media worked in very difficult conditions. The most perceivable blows on the state press were delivered by the exclusion of the majority of non-state newspapers from the subscription catalogue of the state monopolist *Belposhta* (Belarusian post) and the refusal of the state enterprise *Belsaiuzdruk* (Belarusian union press) to sell them in its kiosk. By this step *Belposhta* openly violated the law *On Mail Communications*. Before this, in 2004 there was introduced the licensing of mail delivery of printed editions to readers. Only state enterprises received the licenses. At the same time *Belsaiuzdruk* stopped selling non-state newspapers. This practice continued the following year – in the first half of 2007 the leading non-state public-political editions were not included in the subscription catalog of *Belposhta*, which refused to cooperate with *Narodnaya Volia*, *Nasha Niva*, *Tovarishch* and *SNplus* (*Svobodnye Novosti Plus*). Such regional editions as *Brestskiy Kuryer*, *Vitebskiy Kuryer*, *Borisovskiye Novosti*, *Gazeta Slonimskaya*, *Intexpress*, *Liakhavitski Chas*, *Volnaie Hlybokaie*, *Hantsavitski Chas* and *Miastsovy Chas* were not included into the catalog either. As a result they lost the possibility to be distributed on subscription and the readers could not receive them this way. To the requests of the editorial offices and the readers to include the newspapers into the catalog *Belposhta* invariably answered that ‘as long as the law contains no obligation to include all printed editions into the subscription catalog, the choice of the newspapers and magazines for the catalog is the right of the enterprise, which is realized in conformity with the legislation’.

Belposhta also cancelled distribution agreements with some editions to which subscription was still conducted in 2006. For instance, on February 10th, the editorial office of the non-state regional newspaper *Khimik* received an official note about it from the chair of Navapolatsk city office of mail communications, Alena Klimava. A similar note was submitted by Polatsk district post office: its chair Paramonau informed the newspaper that the agreement for its transportation and delivery on subscription in 2006 was invalid.

editions. On January 30th, the police took 694 copies of *Tovarishch* and 282 copies of *Narodnaya Volia* from the car of the public activist Uladzimir Katsora.

On February 21st, in Rahachou the police took away from the public distributor Valery Rybchanka 3,985 copies of *Tovarishch* and 600 copies of *Narodnaya Volia*. In the evening they detained in Mahiliou Uladzimir Shantsau, who transported to the region 26,000 official election leaflets of Aliaksandr Milinkevich and 4,000 copies of *Tovarishch*. The same day in the town of Vetka the police detained the residents of Mahiliou Maria Bahdanovich and Liudmila Sudzilouskaya for handing out *Narodnaya Volia* and *Tovarishch* to passers-by.

On April 21st, the chief editor of *Hazeta Slonimaskaia* Viktor Valadashchuk was informed that the chair of the department of trade and domestic services of Slonim town executive committee Ihar Trafimovich threatened to liquidate the working places of the private entrepreneurs who dared to sell the newspaper.

On June 26th, Vitebsk Chyhunachny borough court fined the public activists Ales Mudrychenka and Barys Khamaida about \$15 U.S. dollars for distribution of the non-state newspapers *Vitebskiy Kuryer M*, *Nasha Niva* and the magazine *Arche*, which was qualified as violation of part 1 of article 148 of the Administrative Code (trade in a wrong place).

On August 10th, in Pinsk the police detained the public activist Aliaksandr Ramanovich for distribution of *Narodnaya Volia*. They confiscated 261 copies of the newspaper, took him to Pinsk city police department and composed a violation report.

On October 5th, three people who introduced themselves as KGB agents confiscated 20 copies of *Nasha Niva* from a Minsk shop and said that it was allegedly prohibited to sell this newspaper in Minsk. By the way, *Nasha Niva* has the official state registration and can be distributed on the entire territory of Belarus. Besides, the shop where the confiscation took place had concluded an official distribution agreement with the editorial office of *Nasha Niva*.

On October 10th, the chair of Luninets district executive committee V. Harun prohibited selling the non-state newspaper *Inform-progulka* in the kiosk of *Belsaiuzdruk* that was located in the building of the executive committee, though the editorial office of the newspaper had an official distribution agreement with *Brestabsaiuzdruk* to which the kiosk belonged.

At the same time there were registered facts of forced subscription to non-state newspapers. For instance, in January publicity was given to a restricted document in which the acting head of production of *Minsk*

Post V. Puhach ordered all post departments to continue subscription to the newspaper of the presidential administration *Sovetskaya Belorussiya* until January 10th, because it was necessary to increase the number of subscribers. V. Puhach also obliged the post offices to provide subscription to about 50 copies of *Sovetskaya Belorussiya*. 'In the case of non-implementation of this order the newspaper *Sovetskaya Belorussiya* will be directed to the post offices for retail', runs the document.

As happened in previous years, non-state editions often faced groundless refusals from the side of printing houses. Some of them, such as *Narodnaya Volia*, *BDG. Delovaya Gazeta* and *Tovarishch* had to be printed abroad, which created additional obstacles to their activity. Often their circulations were detained on the border without any legal reasons. This practice was most widespread during the election campaign.

On January 3rd, on the Russian border the workers of a contraband department of the customs office detained the entire circulation of the first number of *Narodnaya Volia* because one of the documents was allegedly filled in the wrong way. The newspaper was returned to the carriers and transported to Minsk only after representatives of Smolensk printing house confirmed the legality of its printing. The next detention of *Narodnaya Volia* took place on January 10th. The circulation was again returned to the editorial board when the legality of its printing was confirmed. On March 3rd, border guards again stopped two trucks with 250,000 copies of *Narodnaya Volia*. The whole number was devoted to the events of March 2nd, in Minsk: the beating of presidential candidate A. Kazulin and A. Milinkevich's meeting with the electorate. On March 14th and 17th, circulations of *Narodnaya Volia* were detained and taken to the police department of the Vitebsk city executive committee. Despite applications of the editorial board to the prosecutor general, the minister of interior, the chair of Vitebsk regional police department and the prosecutor of Vitebsk region the newspapers were not returned until Election Day.

On March 13th, Smolensk printing house cancelled the agreements for printing of *Narodnaya Volia* and *Tovarishch* and did not print a number of *BDG. Delovaya Gazeta*. This could have happened because of pressurization from the side of Belarusian and Russian secret services.

Other editions faced groundless detentions and confiscations as well. Here are some examples: on January 5th, the police confiscated 297 copies of Svetlahorsk newspaper *Rehiyanal'ny Naviny* from its editor Telman Masliukou; on January 16th, they arrested a circulation of the independent regional newspaper *Volny Horad* on the Russian border

that was transported to Krychau from Smolensk printing house; on January 17th, near Skidzel (Hrodna region) the police detained a car with the circulation of *Magazyn Polski u Wyhnanni* (*Polish Magazine in Exile*).

Due to such difficult conditions some editions stopped their activity. On March 23rd, the founder and chief editor of the popular non-state newspaper *BDG. Delovaya Gazeta* Piatro Martsau declared suspension of the edition 'in connection with unclear situation' with its printing, import to Belarus and distribution. We should remind that the newspaper was printed in Russia since 2003, was deprived of subscription and retail by *Belsaiuzdruk* kiosks and private distributors. As a result the editorial board switched to the web-version. In July the issue of the non-state newspaper *Khimik* was suspended because of a hard economic situation.

On September 19th, the Ministry of Information suspended the issue of *Arche* magazine for three months under article 16 of the law *On Press and Other Mass Media*. The order was signed by the minister Uladzimir Rusakevich. The same day the magazine received the second warning. In both documents it was stated that by printing articles of public-political nature the magazine changed its specialization without having timely informed the Ministry of Information for amendment of the registration certificate. On April 21st, the founder of the magazine received a warning about violation of article 11 of the law *On Press and Other Mass Media* (re-registration of mass media). 'The founder still has not introduced this change in the registration certificate, but public and political materials continue to be published in *Analytics* and *History* columns (#9 for 2006)', stated U. Rusakevich's order for suspension of the magazine (the edition was registered as literature-fiction, scientific and scientific-popular). The lawyer of the Belarusian Association of Journalists Andrei Bastunets commented that according to article 10 of the law *On Press* mass media must mention approximate (not precise) specialization. The lawyer considers all sanctions towards mass media concerning their topics as a manifestation of censorship which is prohibited by article 33 of the Constitution of the Republic of Belarus and article 4 of the law *On Press*. The editorial office of *Arche* appealed the decision of the Ministry of Information, but gave no results.

During the year the Ministry of Information used warnings as a means of pressurization of independent mass media. On May 12th, an official warning was issued to the editorial board of the non-state newspaper *Khimik* (Navapolatsk). On May 31st, a warning was issued to the editorial board and the founder of the historical-literary magazine *Lidski Letapisets*, on December 6th – to the non-state regional public-political newspaper

Vitebskiy Kuryer M, etc. The warning that received the greatest resonance was issued on November 16th to the only Belarusian-language non-state newspaper *Nasha Niva* on the eve of its 100-year jubilee. 'The data-line of the newspaper for November doesn't specify the real address of the editorial office, which is a violation of article 26 of the law of the Republic of Belarus *On Press and Other Mass Media*', was stated in the warning that was signed by the deputy minister of information Lilia Ananich. The editorial office of *Nasha Niva* had to change office four times in 2006 and accordingly change the legal address. Each time when the editorial board presented a new address to the Ministry of Information and the justice department of Minsk city executive committee the owners of the rented offices suddenly cancelled the rent agreements without explaining the reasons. In April, *Nasha Niva* received a denial in registration on the territory of Minsk signed by the deputy chair of Minsk city executive committee M. Tsitsiankou. The official explained it with 'inexpedience'. Minsk CEC motivated its decision by the fact that the chief editor of the newspaper Andrei Dynko underwent administrative arrest (he was detained on April 21st, at the protest action against the rigged presidential election and then accused of cursing (article 156 of the Administrative Code, petty hooliganism). The newspaper directed a complaint to the CEC and drew the attention of the officials to the fact that the Belarusian legislation does not contain the notion of 'expedience' and the law *On Press and Other Mass Media* does not oblige the editions to have the agreement of local authorities to registration of their legal addresses. It is worth mentioning that after exclusion from the subscription catalog and denial in selling through the state distribution net on April 10th, the Ministry of Communications did not issue *Nasha Niva* a license for organization of independent subscription.

State officials also sued independent newspapers and demanded from them huge sums of money for insult of their honor and dignity. It was used as a means of economic pressurization. For instance, on June 22nd, Minsk Savetski borough court partially satisfied the suit of the chair of the State customs committee Aliaksandr Shpileuski to the editor of *Komsomolskaya Pravda v Belarusi*, closed company *BelKP-PRESS* and ruled to exact from it 60 million rubles (about 27,000 U.S. dollars) for compensation of moral harm. The reason for the suit was that the newspaper's column *Quotation of the day* by a mistake illustrated a saying by Mikalai Shpileuski (agent of the Belarusian football player Aliaksandr Hleb) by a photo of A. Shpileuski. Upon discovery, the editorial office contacted the press-service of A. Shpileuski, offered its apologies and sent a letter with a request for personal meeting. In the next number the

explanations of this situation were published in the way the 'offended side' wanted to see them. The conflict seemed to be over and the journalists were very surprised to hear about the suit on protection of honor dignity that was filed by A. Shpileuski several weeks later. He asked the court to exact from the newspaper 80 million rubles.

Arbitrariness and inobjectivity of the court decisions on such cases are confirmed by the fact that the suits on protection of honor and dignity against state media are never satisfied. An eloquent example is the suit of Anatol Liabedzka on the fact of distribution of insulting and libeling information in the film *Theory of Conspiracy. Directed Chaos* that was shown on the 1st national TV channel on February 20th. Against the background of a videotape of Liabedzka's meeting with political leaders of Georgia it was said that 'Liabedzka wants to lead out in the streets insane crowds' and that he said that thousands of victims would not stop him. Anatol Liabedzka asked the court to find this information false and exact one billion rubles as compensation. On April 10th, Minsk Peshamaiski borough court ruled to reject the suit as the information allegedly was not insulting for the plaintiff.

Informational web resources faced difficulties as well. During important events for the country, especially on the eve of and during the presidential election the most popular web-sites were blocked. On March 2nd, the uploading of information about the beating of A. Kazulin the web-site of *Charter-97* was blocked by a DOS-attack from more than 2,500 unique IP-addresses; simultaneously unknown persons tried to crack the site. On Election Day, March 19th, the web-site of the candidate Aliaksandr Milinkevich www.milinkevich.org did not work. The web-site of *Charter-97* was inaccessible on its usual address www.charter97.org almost constantly and even the proposed mirrors stopped opening in the afternoon; the web-site of the Belarusian service of *Radio Liberty* www.svaboda.org experienced three or four DOS attacks. On March 18th-19th, the web-sites of *Nasha Niva* (www.nn.by) and the site www.zubr-belarus.org did not work, the informational resources of *BelaPAN* www.belapan.com and www.naviny.by were inaccessible. Among other inaccessible web pages there was also the site of the United Civil Party ucpb.org, livejournal.com (popular service of web journals) and leader.ru – site with the list of proxy-servers that was specified by all Belarusian public and political sites as the proxy list. The main reasons for it were not only IP and DOS attacks, but also filtration of web traffic, which allowed for slowing the work of Belarusian users and stealing logins.

2006 was defined by unprecedented restriction of activity, pressurization and repressions against journalists. Prosecutors warned them for

publications, journalists of non-state mass media were denied information and almost every action was accompanied with detentions, arrests or even beatings of journalists.

On May 17th, Minsk city prosecutor's office issued an official warning to the well-known Belarusian journalist Iryna Khalip for her articles in the Russian newspaper *Novaya Gazeta* that were dedicated to the presidential election in Belarus and the protest actions after it. The prosecutor's office found in these publications violation of such articles of the Criminal Code of Belarus as 'discredit of the Republic of Belarus' and 'defamation of the president of the Republic of Belarus' and warned the journalist that she would be punished 'in conformity with the legislation' for repeated violation of the law.

None of the photographers of Belarusian and foreign mass media received accreditation to registration of candidates to the presidential election that took place on February 17th in the Palace of the Republic in Minsk. Photos were shot only by photographers of the state informational agency *BelTA*.

On February 3rd, the journalist of the non-state edition *Hazeta Slonimskaya* (Hrodna region) Yanina Maslava was not let in the local Culture palace where the nomination of delegates to the third All-Belarusian assembly was taking place.

Journalists of the non-state newspaper *Miastsovy Chas* were not allowed to attend the reception of citizens that was held on August 23rd in Pinsk city executive committee by the presidential aide, main inspector on Brest region Uladzimir Puzyreuski. The worker of the committee who organized the meeting stated that he did not like how the newspaper presented the received information and elucidated the work of the committee.

The non-state newspaper *Bobruyskiy Kuryer* was denied accreditation to the *Dazhynki-2006* festival that was held in Babruisk at the end of September. The official reason was 'non-cooperation with the authorities'. The chief editor of the newspaper was informed about it by the worker of the ideological department of Mahiliou regional executive committee Mikhail Khamau.

Another step in pressurization of journalists and mass media with the aim to influence their informational policy was the warning of the Ministry of Justice of March 13th about punishment for 'destabilization of the situation in the country and attempts to compromise and disorganize normal work of state organs and the legal order in the country'. 'During the election campaign that is going on in the Republic of Belarus on the initiative of certain persons there is distributed libeling information, insults

of the present head of the state whose role in the strengthening of the Belarusian state, the social and economical achievements of the Republic and building of the Union state with Russia is distorted. The legality of A. Lukashenka's participation in the election campaign as a candidate is put to doubt. The libeling and insulting information that is distributed has nothing in common with the freedom of opinion and convictions and the constitutional right of citizens to receive true information ... the persons who attempt to foment anti-state hysteria and try to destabilize the situation in the country will be drawn to responsibility in conformity with the law,' runs the statement of the Ministry of Justice.

The hardest repressions towards journalists were used during the elucidation of the election campaign. On March 2nd, during the incident with the candidate to the presidential position A. Kazulin a number of Belarusian and foreign journalists were beaten and detained. The journalists of *Reuters* (Moscow), Russian citizen Dmitry Maslovskiy had to apply for medical treatment, the journalist of *BelaPAN* agency Siarhei Pulsha was injured as well. The photo journalists Siarhei Hryts from *Associated Press*, Vasil Fiadosenka from *Reuters*, Yulia Darashkevich from *Nasha Niva*, the journalist of *Komsomolskaya Pravda v Belarusi* Aleh Ulevich, the journalist of *Belgazeta* Zmitser Brushko and the worker of the press-service of Aliaksandr Kazulin, Andrei Maksimau, were detained near Minsk Kastrychnitski borough police department and soon released.

The prosecutor's office refused to bring about a criminal case for the violation of the journalists' rights by police 'because of absence of corpus delicti in the actions of *Almaz* workers'. The prosecutor's office did not deny that the police interfered with the work of the journalists, but justified it by saying that 'in order to prevent mass riot and appearance of aggressive persons in the building of the police department' the police had to act according to the *Baffle* plan' and 'according to part 1 paragraph 19 of article 16 of the law *On Police* they have the right to temporary limit the movement of pedestrians and cars and access of citizens to certain places and objects and oblige them to leave these places and objects to guarantee personal and public security'. Article 39 of the law *On Press and Other Mass Media*, that gives journalists the right to be present and deliver information from the places of natural disasters, accidents, catastrophes, military actions, locations in the state of emergency, meetings, manifestations and other events of public importance.

On March 2nd, the police violently beat the journalist of *Komsomolskaya Pravda v Belarusi* Aleh Ulevich during detention. He was taken

to clinical hospital #9 of Minsk with the diagnosis 'cranial trauma and fracture of nose bones'. According to the journalist the policemen started beating him right after he showed his journalist certificate. In the end of March Minsk Maskouski borough police department brought a criminal case against an 'unknown person who inflicted bodily injuries' to Aleh Ulevich. It was suspended and reopened several times in 2006. On August 11th, the journalist received a letter signed by the worker of the preliminary investigation department of the main police department of Minsk city executive committee A. Bortnikau. There it was written that the preliminary investigation of the case was suspended 'because the guilty person was not found'. Thus, despite the fact that about 30 policemen (three of whom even shot everything with video cameras) and about 20 ordinary citizens witnessed the events, the state investigation refused to punish the guilty policeman.

At the same time the state media widely elucidated the incident when participants of the Freedom Day action on March 25th threw snowballs at the Belarusian TV crew. A criminal case was brought up on this fact. Its results still remain unknown, possibly because the forensic expertise failed to register the 'numerous injuries' which the journalists received according to the official propaganda.

The law machinery stated it could not guarantee the security of journalists during the street protests in the center of Minsk on March 19th. Minister of Internal Affairs, Uladzimir Navumau, said that all policemen had been instructed not to use force towards journalists, but he could not guarantee 100% security to them anyway.

According to the information of *Belarusian Association of Journalists* from March 14-27th, 41 journalists of national and foreign media were detained for elucidation of the events connected to the presidential election. Many of them were sentenced to imprisonment:

1. Vadzim Aleksandrovich (*Belorusy i rynek*, Minsk) – sentenced to 10 days in jail on March 22nd;

2. Ihar Bantsar (*Glos z-nad Niemna na uchodzstwie*, Hrodna) – sentenced 10 days in jail on March 21st;

3. Iryna Charniauka (www.euramost.org, Hrodna) – detained by the police in the evening of March 24th on the way to the railway station. Released the same day;

4. Yury Chavusau (journalist of the internet resource of the Assembly of Democratic NGOs, wrote for the magazines *Palitychnaia Sfera* and *Arche*) – sentenced to 10 days of arrest on March 21st;

5. Andrei Dynko (*Nasha Niva*, Minsk) – sentenced to 10 days in jail on March 22nd;

6. Volha Dzemchanka (*Odnako* newspaper, Minsk) – fined about \$270 U.S. dollars on March 21st;
7. Mikalai Herdzii (*Volny Horad*, Krychau) – sentenced to 2 days in jail on March 18th;
8. Viktor Yarashuk (*Miastsovy Chas*, Pinsk) – sentenced to 6 days in jail on March 23rd; was also imprisoned for 5 days on March 15th;
9. Daria Kastenka (Free journalist, worked for *Asveta i adukacyia* magazine, author of *March diaries* in LiveJournal (<http://bullochka.livejournal.com/186406.html>)) – sentenced to 10 days in jail on March 27th;
10. Vadzim Kaznacheyeu (free journalist) – detained during the night of March 23rd-24th in Kastrychnitskaia Square and sentenced to 10 days in jail on March 27th;
11. Iryna Laurouskaya (*Brestskiy Kuryer*) – fined about \$27 U.S. dollars on March 23rd;
12. Artsiom Liava (member of *Nasha Niva* staff, photo editor) – sentenced to 15 days in jail on March 24th;
13. Alena Lukashevich (free journalist) – fined about \$27 U.S. dollars on March 23rd;
14. Pavel Mazheika (press-secretary for Aliaksandr Milinkevich) – detained in Minsk on March 25th and released the same day;
15. Siarhei Niarouny (*Volny Horad*, Krychau) – sentenced to 3 days in jail on March 18th;
16. Andrei Pachobut (*Magazyn Polski na uchodzstwie*, Hrodna) – sentenced to 10 days in jail on March 14th. Was released on March 24th. The same day there was another attempt to detain him;
17. Andzhei Pisalnik (*Magazyn Polski na uchodzstwie*, Hrodna) – sentenced to 12 days in jail on March 21st. Was detained right after the end of the 5 days of the previous administrative arrest (March 15-20th);
18. Aliaksei Rads (web-resource forum.grodno.net, Hrodna) – sentenced to 10 days in jail on March 21st;
19. Ivan Roman (extern journalist for *Salidarnasts*, Hrodna) – sentenced to 13 days in jail on March 23rd for ‘hooliganism’. On March 20th was fined about \$27 U.S. dollars in Lida;
20. Siarhei Salash (journalist for Barysau newspaper *Offside*, activist of A. Milinkevich’s headquarters) – sentenced to 13 days in jail on March 23rd;
21. Aliaksei Salei (web-site *Pahonia*, Hrodna) – sentenced to 6 days in jail on March 27th;
22. Andrei Shantarovich (*Mestnaya Gazeta*, Vaukavysk) – sentenced to 3 days in jail on March 18th;

23. Valery Shchukin (*Narodnaya Volia*, Vitebsk) – detained the evening of March 24th and was released until his trial on March 27th. On March 23rd, was released after 7-days' arrest;

24. Aliaksei Shein (A. Milinkevich's press-service, Minsk) – sentenced to 5 days in jail on March 20th;

25. Tatsiana Snitko (extern journalist for *Nasha Niva*, journalist for the Russian human rights information agency *Prima-News*) – detained during the night of March 23-24th in Kastychnitskaya Square and fined about \$405 U.S. dollars;

26. Anton Taras (free journalist) – sentenced to 11 days in jail on March 23rd;

27. Tatsiana Vanina (member of BAJ) detained during the night of March 23-24th in Kastychnitskaya Square and sentenced to 10 days in jail on March 27th;

28. Vital Vasilkou (*Deutsche Welle*, Mahiliou) – sentenced to 7 days in jail on March 23rd.

Foreign journalists:

29. Nino Gorgobiani (public TV of Georgia) – sentenced to 5 days in jail on March 27th;

30. Eduard Glezin (*Pravoe delo*, Russian) – sentenced to 15 days of arrest on March 27th;

31. Dmitriy Gurnevich (extern journalist for Radio *Polonia*, Poland);

32. Alan Cullison (*Wall Street Journal*, USA) – injured during the protest action of March 25th in Minsk;

33. Oleg Kozlovsky (*Pravoe delo*, Russia) – sentenced to 15 days in jail on March 27th;

34. Georgi Lagidze (public TV of Georgia) – sentenced to 15 days in jail on March 27th;

35. Frederick Lavoie (Canadian journalist, worked without accreditation) – sentenced to 15 days in jail on March 24th;

36. Andriy Lyubko (*Karpatskyi holos*, Ukraine) – sentenced to 15 days in jail on March 22nd;

37. Lorraine Millot (*Liberacion*, France) – was detained in Kastychnitskaia square during the evening of March 24th and then released;

38. Aleksandr Podrabinek (chief editor of the Russian information agency *Prima-News*) – sentenced to 15 days in jail on March 27th;

39. Weronika Somalinska (*Gazeta Wyborcza*, Poland) – sentenced to 10 days of arrest on March 27th;

50 40. Pavel Sheremet (*Pervy Kanal*, Russia) – detained on March 25th

in Minsk and kept in jail on Akrestsina Street until March 27th. Was then released on the condition he would leave Belarus within 24 hours.

Justified: Siarhei Serabro (*Vitebskiy Kuryer*, Vitebsk) – the court confessed that he was implementing his duties and justified him.

As it can be seen from their answers to Belarusian Association of Journalists, Minsk city prosecutor's office and the main police department of Minsk city executive committee think that the rights of the imprisoned journalists were not violated.

The protest action in March was not the only case when the police detained journalists. On May 4th, Natallia Valakida (press service of the United Civil Party) and Tatsiana Snitko (*Nasha niva*, *Prima-news*) were detained near Minsk Pershamaiski borough court during the hearings on the criminal case against the youth leader Artur Finkevich. The journalists were kept in Minsk Pershamaiski police department for 1.5 hours and then released.

On August 31st in Babruisk the police detained the journalists who watched the protest action that was conducted by the deputy of Babruisk city deputy soviet, public activist Aliaksandr Chyhir and took them to a police station. They were kept in Babruisk city police department for about three hours. The police checked their documents and the deputy chair of Babruisk city police department Siarhei Hlushko held private 'prophylactic talks' with each of them.

On October 26th, the journalist of Radio *Liberty* Halina Abakunchyk and the correspondent of the newspaper *Belorusy i Rynok* Ksenia Avimava were detained for elucidation of the attempt of picketing of the presidential administration that was taken by the activist from Barysau Ales Abramovich. The detention was conducted by the presidential security guards who behaved boldly and tried to confiscate equipment from journalist. The detained journalists and the picket organizer were taken to the nearest police station. Then the journalists were released.

On November 16th, the police detained four photo correspondents (Yulia Darashkevich from *Nasha Niva*, Vasil Fiadosenka from *Reuters*, Siarhei Hryts from *Associated Press* and Aliaksei Matsiushkou from *Obozrevatel* weekly) at the railway station of Minsk during the dispersal of an action in honor of the Solidarity Day. The policemen took the detainees to the police point of the railway station, checked their documents and released them, but explained that it was prohibited to take photos on the territory of the railway station without special permission.

Representatives of foreign mass media faced restrictions of their personal activity, prohibitions to enter Belarus, detentions and arrests.

On January 27th, the customs officers confiscated video cassettes from the shooting crew of the Ukrainian TV channel *Inter* on the Ukrainian border, on the suspicion that the cassettes included 'anti-state materials' (the journalists elucidated preparation to the presidential election in Belarus).

On February 19th, the correspondent of *Gazeta Wyborcza*, Polish citizen Waclaw Radziwinowicz was not let into Belarus, although he had a visa and a valid accreditation from the Ministry of Foreign Affairs of Belarus. The border guards informed him that his name stood in the list of the persons who had no right to enter the country.

On March 12th, in Minsk, during a live broadcast from a meeting of Aliaksandr Milinkevich with the electorate the police detained the journalist of the 5th Ukrainian TV channel, who had an accreditation from the Ministry of Foreign Affairs. She was released only after the Ukrainian Consul interfered. During the detention the police damaged a video camera and a microphone.

On November 10th, the Ministry of Foreign Affairs of Belarus refused to issue an entrance visa to the head of the Belarusian office of *Deutsche Welle* Cornelia Rabitz and the German journalist Ing Petz without explanation.

On November 28th, the Russian journalists Natalya Golimova (*from Moskovskiy komsomolets*), Dmitry Azarov (photo correspondent for *Kommersant* magazine) and Aleksandr Astafyev (photo correspondent for *Moskovskiy komsomolets*) were not allowed into the National library where the press-center of a jubilee CIS summit was located. Several hours before the summit they were informed that their surnames had been crossed off the list of accredited journalists. The press-secretary of the president Pavel Liohki stated that the main reason was that these journalists 'insulted the president of Belarus and systematically insulted Belarus'. Several dozens of Russian journalists left the press-center to demonstrate their solidarity with their colleagues.

Throughout the year international journalistic organizations have often expressed their concern with the absence of freedom of expression in Belarus, restrictions of the right to independent information and harassment of journalists. In its report of May 3rd, the Committee to Protect Journalists (New York) stated: 'Most broadcast and print outlets are owned by the government, and they are effusive in their praise of Lukashenko. Nominally independent radio and television stations avoid politically sensitive subjects. The state has shuttered dozens of independent newspapers in recent years, and the few that remain have

In its Resolution on Belarus of December 19th, the General Assembly of the UNO expressed deep concern 'about the continuing harassment and detention of Belarusian journalists covering local opposition demonstrations; (...) about persistent reports of harassment and closure of (...) independent media outlets'. The General assembly insistently urged the government of Belarus 'to cease politically motivated prosecution, harassment and intimidation of (...) independent media (...); to respect the right to freedom of speech (...); to investigate and hold accountable those responsible for the mistreatment and detention of domestic and foreign journalists in connection with the election of March 19th, 2006 and post-election demonstrations.'

In its address to the people of Belarus, the European Union among other things demanded from the Belarusian authorities to 'respect the right of the people of Belarus to independent information, and to express themselves freely e.g. by allowing journalists to work without harassment or prosecution, not shutting down newspapers or preventing their distribution'. 'The EU will continue to work to give the people of Belarus access to independent information in order to allow them to hear all sides of the arguments before drawing their own conclusions. The EU will continue to support the written press and the broadcasting of independent TV and radio programs to Belarus,' the address runs.

6. Harassment of Political Opponents and Dissenters; Obtrusion of State Ideology

The present political system of the country leaves no possibility for real pluralism of opinions. On one hand, some political parties and NGOs still have the state registration. On the other, during the last years the freedom of public and political thoughts and actions has been gradually restricted. Violations of the right to pluralism of opinion increased in spring 2006, during the presidential election campaign.

Activists and leaders of political parties still suffered from repression. During the year hundreds of members of political parties were detained, arrested, fired or otherwise repressed by authorities. Some of them were imprisoned for long terms. The most eloquent case is the imprisonment of the candidate to the presidential position, chair of Belarusian Social Democratic Party Aliaksandr Kazulin for 5.5 years. On April 27th, all largest political leaders of the country were imprisoned. The candidate to the presidential position Aliaksandr Milinkevich, the chair of the BPF Party

Vincuk Viacorka and the chair of the liquidated Belarusian Labor Party Aliaksandr Bukvostau were sentenced to 15 days in jail and the chair of the Party of Communists of Belarus Siarhei Kaliakin – to 14 days. On April 26th, unknown persons detained and beat the chair of the United Civil Party Anatol Liabedzka.

The Belarusian authorities increasingly apply militant and provocative actions towards political opponents. For instance, in 2006 the chair of the Union of Poles in Belarus, representative of the Polish national minority Anzhalika Borys was suspected in smuggling drugs from Lithuania, the youth activist from Zhodzina, member of the BPF Party Pavel Krasouski – in organization of explosions, rapes and murders, the public activist from Baranavichy, member of Belarusian Social Democratic Party (*Hramada*) Viktar Syrytsa – in illegal storing of firearms, the public activist from Zhodzina Aliaksandr Kamarouski – in currency counterfeit. All these charges had political motivation and were aimed at suppression of the activity of public and political activists.

With the aid of a number of repressive laws and practical lawless actions the role of political parties in the presidential election campaign in spring 2006 and the local election in autumn-winter 2006 was minimized. Moreover, members of parties were not included in the election commissions of all levels. Thus, parties ceased to be subjects of the election process. According to official information, during the local election the election commissions included 70,877 persons. Only 113 of them were nominated by political parties. Only one representative of oppositional political party (UCP) was included in an election commission.

The Belarusian authorities evidently continue forming a public and political system in which political parties play only a declarative role. The activity of political parties is severely restricted. The parties have been pushed out of the real political system and have no real possibilities to influence the public and political situation in the country.

Belarusian NGOs act in similar conditions. Their situation is another indicator of absence of pluralism in the Belarusian society. The authorities continued liquidating NGOs in order to be rid of social diversity. First of all they tried to close down the NGOs that could rival to the state organs and so-called 'state NGOs'.

In this way the authorities tried to solve the problem of the Union of Belarusian Writers. In the beginning of 2006 the union was expelled from the offices it rented in the House of Literary Workers. In March 2006, the Ministry of Justice sued for the liquidation of the organization. The ministry accused the union in absence of the original version of its charter, the use

Naturally, the implied reason was the public condemnation of the anti-national Russification policy of the Belarusian authorities by members of the Union of Belarusian Writers. A certain negative role in this story was played by the Union of Writers of Belarus that had been established by the authorities and took an exaggeratedly loyal stance to them.

The present regime consciously uses various lawless techniques and measures to maintain an intimidating atmosphere in the country, which hinders the development of pluralism of opinions in Belarus. One of the authorities' weapons in this respect is KGB, the activity of which is aimed at intimidation of youth and recruitment of informants among members of youth organizations.

One of the widespread forms of relations with political parties and NGOs is administrative persecution of their members and suppression of their activity. In 2006, the administrative arrests on fabricated charges became large-scale.

According to the policeman A. Sholakhau, on September 18th, the youth activist Aleh Boryn 'was summoned for a talk to the police for 5 p.m., [in Salihorsk] but didn't come there in the specified time'. Sholakhau and his colleague Ketsko allegedly met Boryn at 5.10 p.m. at the entrance of a shop. He cursed and did not react to their remarks; they had to take him to Salihorsk city police department. It is no surprise that according to the policeman V. Pryzba at the same time another public activist from Salihorsk, Boryn's friend Aliaksei Valabuyeu, spoke on the telephone and cursed. V. Pryzba and his colleague Dz. Yushkevich 'approached Valabuyeu, showed their certificates and asked to come with them, but he refused and continued talking on the phone.' Then they put him in hand-cuffs and took to Salihorsk city police department as well. As a result both activists were fined.

On August 17th, Kiryla Parazhynski was sentenced to 5 days in jail. The matter was that 'at 8 p.m. in the village of Batsevichy in Leninskaya Street (Klichau district of Mahiliou region) he gathered a group of four people, put on the carriage way a white flag with the inscription '16', two small white-red-white flags and 10 small candles to hold an unauthorized picket in honor of the Solidarity Day.'

The detentions of public activists reached an apogee during and after the presidential election of March 19th. These days more than a thousand people were arrested, about half of them during the liquidation of the tent camp in Kastychnitskaya Square in Minsk that was organized as a sign of protest against the falsification of the election results. The total number of the administrative detentions and punishments that were registered by human rights activists in 2006 exceeded 1,000. The overwhelming

majority of the people were punished as a result of false testimonies that were given by 'police witnesses'.

Physical violence and torture is another means of intimidation actively used by the Belarusian authorities. On March 2nd, the candidate to presidential position Aliaksandr Kazulin, several journalists and activists of his election headquarters were beaten by riot police in mufti with Dzmitry Paulichenka at the head. During Kazulin's attempt to register as a delegate to the All-Belarusian national assembly that was organized by the authorities, they knocked him off his feet and started kicking. They broke the ribs of the activist of Kazulin's headquarters Ivan Labachou, hurt Uladzimir Seviaryn's head, beat the cameraman of *Reuters* agency Dzmitry Madorski and broke the nose of the photo correspondent of *Komsomolskaya Pravda v Belarusi* Aleh Ulevich. Of course, such actions of violence towards political opponents are planned by the Belarusian authorities in advance.

Dozens of students were expelled from high schools for their political views. Siarhei Marchyk was expelled from Baranavichy State University, more than 10 activists – from Minsk State Pedagogic University, the activist of the international student movement Tatsiana Khoma – from Minsk State Economic University, the youth activist Liubou Kuchynskaya – from Vitebsk Veterinarian Academy, Yauhen Skrabutan – from Hrodna State University, Dzianis Sarokin and Aliaksandr Strachuk – from Horki Agricultural Academy. It is worth mentioning that a great role in this 'clear-up' was played by representatives of the ideological vertical and deputy rectors of the universities on ideology, one of whose duties is surveillance of the students' loyalty.

The administration of a number of state institutions and enterprises fired people for political convictions. On March 23rd, the docent Yury Bachyshcha was fired from the department of Slavonic history and methodology of historical science of Belarusian State Pedagogic University for 'demonstrating to students the materials in which the honor and dignity of the president of Belarus are insulted'. 'Fired for immoral deed', was written in the order for his firing. Moreover, the rector of the university Piatro Kukharchyk asked Minsk Maskouski borough prosecutor's office to bring on a criminal case against the lecturer.

On December 28th, the actor of the highest category Pavel Kharlanchuk-Yuzhakou was fired from Maksim Gorky National Academic Drama Theater according to the attestation characteristics that were signed by the artistic director of the theater Barys Lutsenka. In this document it was said that 'in March 2006, P. Kharlanchuk-Yuzhakou took part in an action against the state authorities of the Republic of Belarus

and received administrative punishment for his actions. P. Kharlanchuk-Yuzhakou violated the moral and spiritual fundamentals of the theater and rather than confessing his mistake, behaved obnoxiously at the assembly of the theatric troupe despite the numerous talks of the theater administration with him, thus opposing his personal convictions to the generally accepted norms of law and order.'

After the end of the presidential election campaign dozens of activists of the election headquarters of the democratic candidates were fired, including the public activist Andrei Yurkou, who worked for 8 years as the main specialist on marketing at *Vuchhas* enterprise of Horki Agricultural Academy; Aleh Dziachkou, who lectured on Mahiliou studies at one of the secondary schools of Mahiliou; Viktoryia Salei, who worked as a defectologist in a kindergarten in Masty; the teacher of Physics, Informatics and Astronomy of Minsk secondary school #161 Aliaksei Bildziuk; the lecturer of Brest State University Valiantsin Lazarenkau, etc. The firing of the chair of the Union of Belarusian Writers Ales Pashkevich from Belarusian State University in spring 2006 deserves special attention. The domination of the contract system of employment at state enterprises which constitute the overwhelming majority of the labor market creates very favorable conditions for politically motivated pressurization at work.

In the beginning of November the member of the BPF Party, teacher of the English and the Belarusian language Ina Kebikava was fired from the secondary school of Hrytsevichy because of her intention to run at the local election. Later the court rehabilitated the teacher at work due to the evident violations that were committed during the procedure of firing. Nevertheless, nowadays courts most often take the side of the authorities and tend to justify every kind of harassment of public activists.

About 20 public activists were discharged because of pressurization from the side of administration. For instance, in Luninets the member of the BPF Soim Vital Karatysh was forced to retire from the position of the director of the local culture house because of his participation in the election campaign of Aliaksandr Milinkevich. According to Karatysh, he was told that being the chair of one of Milinkevich's headquarters and working for the state were incompatible. Under the employer's pressure the activist of Milinkevich's headquarters Viktor Vaitsiuk had to be discharged as well. He worked as electro mechanic of cash registers at the private firm *Mix*. In June, the chair of Svetlahorsk office of Belarusian Language Society Andrei Muzychenka was forced to be discharged as well. He worked at Svetlahorsk district electric communications office. In December 2005, the police detained him for participation in an action

of solidarity with the missing and the political prisoners of Belarus. On March 24th, 2006, he was arrested for 15 days in Minsk for participation in the protest action. Muzychenka was told that because of his activity other workers of the enterprise could have problems as well.

2006 was defined by severe harassment of youth activists. The authorities have an evident fear to lose influence on youth. That is why they did everything possible to prevent public and political pluralism in youth circles. Besides the abovementioned expulsions, they brought a criminal case against the unregistered youth organization *Young Front*. More than 50 people were interrogated as witnesses on it. More than 80 persons were interrogated on the criminal case that was brought against the unregistered organization *Bunt*.

The position of state mass media who deal with open propaganda of the present authorities and denigration of the political opposition does not make for development of pluralism in the country. Numerous suits of opposition representatives concerning defense of their honor and dignity were fruitless. It happened to the suit of the candidate to presidential position Aliaksandr Kazulin, who complained against the illegal actions of the National TV and radio company who edited his electoral speech (to which the Central Election Commission did not react), and to the suit of the chair of the United Civil Party Anatol Liabedzka against the National TV and radio company that distributed libelous information about him in the film *Theory of Conspiracy. Directed Chaos*.

Often the police and secret services purposefully seized the information carriers that belonged to the public activists who issued regional bulletins or worked as journalists for national and foreign outlets. For different reasons they took away computers from the public activists from Baranavichy Siarhei Marchyk and Viktor Syrytsa, Zhodzina activist Pavel Krasouski, Hrodna activist Viktor Khilmanovich, Zmitser Salauyou from Navapolatsk, Vatslau Areshka from Minsk, etc. The hard drive from the computer of Rechytsa activist Valery Putsitski mysteriously disappeared.

Political and public activists, journalists and students are often searched while crossing the border. The authorities compose the special lists of persons who are to be obligatory searched. During the election campaign information carriers (laptops, CDs, books and magazines) and money were taken away from dozens of such activists.

The authorities also used visa restrictions to prevent the spread of information about public and political events of Belarus and hinder the contacts between foreigners and public and political activists of Belarus. Many foreigners were either denied visas or sent back on the border. For

58 instance, in March the shooting crew of the Ukrainian 5th TV channel was

not allowed into Belarus and in April the visas of two shooting crews of the Polish public TV were annulled on the border with no explanations. Among those who were denied visas there is the general secretary of Swedish Helsinki Committee Robert Hard, several deputies of the German Bundestag and EU representatives on relations with Belarus.

In Belarus there exists censorship of media outlets. However, there were few cases of open censorship in 2006. It is connected to the division of mass media into the pro-governmental which are financed by the state and function as an ideological mouthpiece, commercial ones, which give no information about political events, and independent democratic editions.

There is no use speaking about alternative views in the state mass media. They are defined by strict ideologization, propagandist orientation and intolerance, distortion of facts, knowingly false publications and irresponsibility ensuing from the impunity that is guaranteed by the authorities. State organs give good financing to such media, provide material and financial facilitations, preferences in receiving of information at state structures, support their distribution and organize forced subscription. The material expenses for maintenance of these media are included into the country's budget. In response the authorities demand from these media complete loyalty and doubtless support of all changes of the official policy.

In fact, pro-governmental media are used as an instrument of the official state ideology and implement the corresponding tasks. The officials of different levels openly spoke about it many times. For instance, while giving state awards to the workers of Belarusian TV channels on January 26th, A. Lukashenka said that 'many people support my position that ideology must not be privatized and mass media are to be supported by the state'. It is quite interesting that the words 'mass media' and 'ideology' are used as synonyms here, which corresponds to Lukashenka's understanding of the destination of the country's mass media.

Such understanding of the role of mass media is inherent to all state vertical. In January Mahiliou regional executive committee (REC) declared the establishment of yearly regional competition among the state regional, district and city newspapers and the journalists who work for these editions, with the aim to 'increase the level of ideal content of the state periodicals'. The content commission was headed by the deputy chair of Mahiliou REC on ideology Anatol Hlaz and the awards were financed from the regional budget. We should stress that the competition was announced in the beginning of the presidential

election campaign and its results were summed up in April, after the end of the election.

In November the college board of ideological work of Homel REC discussed the business plans of the state district newspapers that had been elaborated on Aliaksandr Lukashenka's errand with the aim to make them self-supporting. The College Board checked every plan.

The newspaper *Chyrvony Kastrychnik* (#58 of July 26th, 2006) contained an article by the chair of the ideological department of Homel district executive committee Volha Chumakova *Being Guided by Life's Demands* concerning the ways in which state ideology could be delivered and explained to the population. In her article, Chumakova stated that an important role in this process must belong to *Chyrvony Kastrychnik* which is to take an active part in 'forming of the population's understanding and support of the aims, tasks and course of the state policy'.

The delivery of ideological cud is often provided with administrative pressurization. For instance, on September 22nd, the pace of subscription to the state newspaper *Slonimski Vesnik* was discussed at a session of Slonim district deputy soviet. The deputies ruled to oblige the heads of Slonim enterprises, organizations and other economic subjects to hold the subscription campaign among their workers. It means that workers were forced to subscribe to *Slonimski Vesnik*.

In such system of state control censorship of state mass media is needless. Nevertheless, in 2006 there were cases of open censorship of the candidates' speeches on TV and radio. According to Belarusian laws, all candidates have the possibility to use the state mass media for delivery of their position to the electorate. The Belarusian authorities could not openly violate the law and refuse the democratic candidates their legal right to speak. However on March 2nd, Belarusian national TV and Radio Company cut out nine minutes from Kazulin's speech without informing the candidate about it.

The situation repeated on March 6th, when the radio speeches of Aliaksandr Kazulin and Aliaksandr Milinkevich were edited. Seven minutes were deleted from Kazulin's speech and Milinkevich's speech was issued without certain phrases concerning Lukashenka.

In 2006, Belarus also saw the censoring of foreign and entertaining media. For instance, the broadcasting of the international Russian TV channel RTVi was stopped. In February, the TV channel started a weekly program *Window to Europe* that was dedicated to Belarus. The cable operator in Belarus *Cosmos-TV* referred to technical reasons because of which the channel was inaccessible to Belarusian spectator during the presidential election. As the RTVi director Mikhail Borshchevsky

found from negotiations with the cable operator, the authorities ordered *Cosmos-TV* to disconnect the channel for the election period. As a result, the RTVi administration stated that the broadcasting in Belarus was turned off because of political reasons.

On March 10th, in an entertaining program of *Alpha-radio* a citizen of Minsk said: 'I want to congratulate Aliaksandr Milinkevich, because soon he will acquire a new status. You know what I am speaking of.' 20 minutes later the radio broadcast stopped. Later the informational service of the radio station said that for about 20 minutes there was no electricity in the building where the radio station was situated.

There were also cases when radio speeches of democratic candidates were not broadcasted and printing houses refused to print agitation materials for local elections.

The bands and musicians who played at the opposition's action in Banhalor square in July, 2004 (*Palats, Zet, NRM, Drum Ecstasy, Neuro Dubel, Aliaksandr Pamidorau, Zmitser Vaitsiushkevich* and *Kryvi*) still were not broadcasted on radio and TV. Almost all entertaining FM radio stations fear broadcasting their music. It is also a problem to organize concerts for such bands in Belarus.

Independent mass media are punished with suspensions of issue, refusals in printing and other repressive administrative and economic measures. It makes the editorial offices quite cautious in elucidation of public and political events and results in self-censorship.

In 2006, top-level Belarusian officials spoke several times about the necessity to restrict the use of the Internet. For instance, on May 16th, the information minister stated that it is necessary to include the appropriate regulations in the next edition of the law on mass media. In the conditions of totalitarian state it will doubtlessly lead to censorship of public and political information on the web. In July, a representative of Berlin bureau of the international organization *Reporters without Borders* Karen Evers stated she had information about the negotiations between Belarus and China concerning the establishment of a system of strict censorship of the Internet. *Reporters without Borders* expressed concern that 'Lukashenka will try controlling the Internet the same way he controls other media'.

The phenomenon of *state ideology* is determined by the establishment of a totalitarian state which demands the ideological grounding of the 'peculiarity' and 'righteousness' of the development of the state system, public and economic relations on which the power of the present governing elite with A. Lukashenka at the head is based.

The idea of elaboration of a state ideology was first voiced by A. 61

Lukashenka. He often stated that 'a state without ideology is like a man without thoughts. It cannot live and develop and meet internal and external threats and challenges. Ideology for a state is the same as immune system for a living organism. If the immunity gets weak even a slightest infection becomes deadly. The same with the state: in the case the ideological fundament of the society is destroyed, its peril becomes a question of time, no matter how strong and stern it may seem' (speech at a seminar for workers of national and regional state organs, 2003).

The main problem with which the Belarusian theoreticians of state ideology faced is that its existence and practical application openly contradicts the Belarusian Constitution, article 33 of which declares the principle of pluralism of opinions, thoughts and views.

The task became even more difficult as the inventors of the state ideology had to take into consideration the public and political views of A. Lukashenka and even give pseudo-scientific grounding of the president's statements. Here is an excerpt from a training aid for high school's *Fundamentals of Ideology of the Belarusian State* (Minsk, 2004): 'The speeches of the national leader are always program ones, as the concepts and ideals of the Belarusian society are formed and the goals of the state government are determined in them'. In reality the president's views are defined by strong eclecticism which is built on superficial apprehension of the historical development of early Slavs and the 'all-Russian unity', distaste for everything national-Belarusian and European and search of historical analogies in Stalin's and Hitler's regimes for justification of the regime he created.

In 2003-2004, all these contradictions, militancy and obscurantism were feverishly packed into training aids on the basis of which obligatory special courses for pupils and students and 'informational days' for workers are held.

In 2006, the process of the ideologization of the public life in Belarus became more noticeable and acquired distinct totalitarian and anti-democratic features. In spring 2006, in a TV interview the main ideologist of Lukashenka's administration A. Praliaskouski stated: 'The plan of construction of a corporative state in Belarus has been already approved'. Probably, Praliaskouski does not know that the classical ideology of a corporative state is fascism, as it was in Italy under Benito Mussolini's rule.

The main task of the army of practical ideologists who use such theoretical tales is to convince the people that the present course of public, political and economical development of Belarus is the only right

one. In 2006, 139 territorial informational propagandist groups operated on the territory of Brest region (one national group, six groups of Brest regional executive committee and 132 groups of city and town executive committees). The total number of their workers was 1,257 people. During nine months of 2006 they held 1,902 meetings in working collectives and places of residence. 107,982 persons were present at these 'propaganda lessons'. To receive the number of ideologists who cover the territory of Belarus one can multiply the number for Brest region by six (the number of Belarusian regions) or even seven (Minsk is considered as a separate region).

The ideological vertical is responsible for 'correct' results of election campaigns. It is they who organize the 'elegant victories' of the regime's candidates.

As a rule, the ideological work departments of executive committees prepare informational materials for reporters at 'informational days'. They also determine the ideological direction of regional, district and local mass media and the general informational policy. For instance, in February Rechytsa district executive committee explained to the independent journalist Iryna Makavetskaya that according to the 'new rules for journalists' a correspondent must inform the committee before meeting with representatives of the district authorities. In private, in case Makavetskaya wants to speak with the chair of a village soviet, she will need call the chair of the ideological department of Rechytsa district executive committee Yury Tumilovich and ask his permission.

The ideological departments also organize other propagandist actions. For instance, in January the deputy chair of Smarhon district executive committee Shmyha sent the schedule for their watching the video film *Flag and emblem of my country* from the *Newest history* film series to the heads of 37 city's enterprises (both state and non-state ones).

A special attention is paid to the ideological upbringing of youth. Education headmasters of all schools of Minsk had to pass several tests on the ideology of the Belarusian state, the results of which were registered by a special department that controls the ideological preparation of teachers.

In April, the administration of some Hrodna schools distributed among their pupils the questionnaires in which they, their parents and teachers were to put marks of the 'level of political conscience', and acceptance of the ideology of the Belarusian state'. Then an average mark was to be put on the basis of these three. That is how the schools evaluate the loyalty of their pupils.

The sphere of public sciences is put in line with the state ideology as 63

well. For instance, on January 17th, when a new director was appointed for the Institute of Literature of the Academy of Sciences, Piatro Nikitsenka (curator of the section of public sciences of the Academy of Sciences) addressed the present people as 'literary and other ideological workers'. During his acquaintance with the working collective of the institute the new director V. Maksimovich stated that the institute was a state structure and therefore must also be an ideological organ in some respect.

The totalitarian tendencies in Belarus are getting stronger. In 2006, the propaganda started exalting Stalin's role in the victory over fascism. The defensive 'Stalin's line' (which was not used during World War II) was restored and now is used for various propagandist measures.

7. Violations of the Civil Right to Association

The freedom of associations is guaranteed by article 36 of the Constitution of Belarus. Only workers of prosecutors' offices, judges, policemen, KGB workers and military servants cannot join any NGOs or political parties.

The activity of NGOs and political parties is regulated by the laws of the Republic of Belarus *On Non-Governmental Associations* and *On Political Parties*. In 2005, new editions of the both laws were enforced.

The edition of the law *Non-Governmental Associations* of July 19th, 2005, restricts the establishment and activity of NGOs. According to article 7 of the law, the establishment and the activity of the NGOs which aim at forcible change of the state order or propagate war, social, national, racial or religious enmity are prohibited, as well as the activity of unregistered NGOs and alliances. Article 7 of the law *On Political Parties* contains the same restrictions. Thus, according to the present legislation, unregistered NGOs and political parties are illegal irrespective of the aims and methods of their activity.

According to article 5 of the Constitution the activity of political parties and NGOs is prohibited only in the case they aim at forcible change of the state order, propagate war, social, national, racial or religious enmity. This principle fully corresponds to the principles of freedom of associations that is presented in the International Covenant on Civil and Political Rights. That is why the prohibition of the activity of unregistered NGOs and parties that do not violate these principles is unconstitutional and violates the civil right to association.

considerably deteriorated, first of all because on January 1st, the Criminal Code was amended with a number of new articles which provide criminal responsibility for activity on behalf of unregistered organizations. The very existence of such articles strongly contradicts the Constitution of the Republic of Belarus and international documents on human rights. These articles were criticized by the leading Belarusian and foreign human rights organizations including the International Federation for Human Rights (FIDH), the International League of Human Rights, Amnesty International, etc.

In 2006, people were imprisoned in Belarus for membership in unregistered organizations. An eloquent example is the case of the civic initiative *Partnership* within the frames of which Mikalai Astreika, Enira Branitskaya, Tsimafei Dranchuk and Aliaksandr Shalaika were sentenced to different terms of imprisonment. During the year the authorities continued persecuting members of the unregistered organization *Young Front* and its chairman Zmitser Dashkevich was sentenced to 18 months in jail.

Prosecutors' offices also warned people for acting on behalf of unregistered organizations. For instance, Homel regional prosecutor's office warned the activist Yulia Sivets for activity on behalf of the Youth center *Hart* that had been liquidated in 2003.

During the year the UN Committee on Human Rights issued rulings on several individual applications of citizens of Belarus concerning violations of their right to association by the state. The committee finished the consideration of the cases concerning the liquidation of Homel NGO *Civil Initiatives* in 2003 and the non-registration of the human rights organization *Helsinki-XXI* by the Ministry of Justice. In its decisions the UN Committee stated that the authorities of Belarus had violated the right of the applicants to association and therefore demanded from the Belarusian state to restore the violated rights. At present the Committee considers some more individual applicants of the Belarusian citizens concerning violations of their right to association, including the application of the chair of the council of Human Rights Center *Viasna A. Bialiatiski* and 10 members of the organization concerning its liquidation by the Supreme Court in October 2003. In 2006, the Ministry of Justice did not register any NGOs that did not express complete loyalty to the state and were not supported by the authorities.

According to the president's ruling #605 of October 6th, 2006, the National commission on registration and re-registration of public associations was liquidated. However, it seems to be only a propagandist action as the practice of realization of the right to association stays

the same. For instance, after the liquidation of the abovementioned commission the Ministry of Justice groundlessly refused to register the public association of pensioners *Stareishyny*. The official note about the refusal was received from the officials only in 3.5 months, whereas the legal term for answering is one month. The formal reason for non-registration was that the organization did not present to the ministry several documents that were not enlisted among the necessary ones in the law and other acts concerning registration of public associations. The organization founders appealed the non-registration to the Supreme Court, but it gave no results.

The authorities continued liquidating the organizations which they could not control, including human rights, youth and regional associations which actively participated in the public life of the country: monitored elections, participated in mobilization campaigns, dealt with youth policy, student self-government, etc. Most often such organizations were liquidated because of insignificant mistakes in documentation and office work.

NGOs were often liquidated not for violations of the law *On Non-Governmental Associations*, but under article 57 of the Civil Code of the Republic of Belarus, according to which juridical bodies can be liquidated for 'repeated or gross violation of the present legislation'. The article does not contain any definition of 'gross violation', that is why in each case the court defined it on its own. This article also permits liquidation of a juridical body for a single violation.

On June 20th, the judge of Mahiliou regional court Liudmila Khaladtsova ruled to liquidate the public association *Kola Siabrou* (headed by Ales Asiptsou). The verdict was issued on the basis of the suit against the association that had been filed by the regional justice department and supported by the prosecutor's office. Both instances accused the NGO in violating its charter and some legal regulations. At the trial the regional justice department was represented by the head of the department of registration of public associations Alina Khmialnitskaya.

On May 4th, the Supreme Court of Belarus brought on a civil case for liquidation of the public association *International Academy for Study of National Minorities* to the Ministry of Justice. In the suit the ministry referred to presidential decree #247 of May 31st, 2005, *On Additional Measures for Regulation of the Usage of the Words 'National' and 'Belarusian'*. According to this decree, NGOs do not have the right to use the word 'nationality' and its derivatives in their names. Despite the fact that 'national minority' is a term and cannot be referred to in any other



*Minsk
in spring 2006,
on the eve
of the
presidential
election...*



Minsk, 19 March 2006



The first tents on the square...

We will stay until the end...





*Minsk,
20-23 March,
Kalinowski Square:
'We believe,
we can,
we will win!'*





Caught on the way to the square



Kalinouski square: day and night.





*Police trucks
for electorate...*

Arrested camp defenders



For several days parents knew nothing about their children...



*Minsk,
25 March
2006*





*Minsk,
25 March
2006*





A peaceful way out could be found...



Dozens of people arrested and beaten on 25 March rally



Aliaksandr Kazulin comes to register for Lukashenka's 'All-Belarusian' assembly

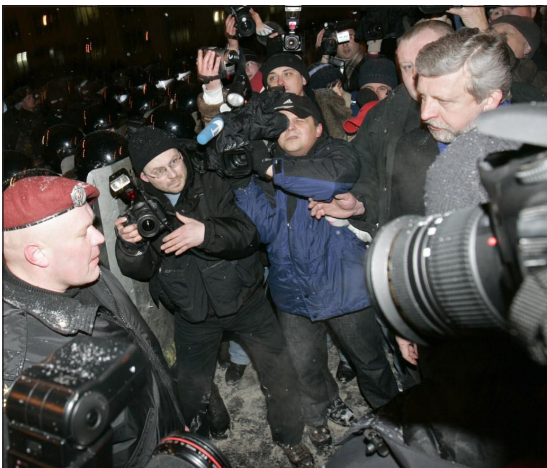
Registration



Dzmitry Paulichenka is one of the organizers of Lukashenka's 'elegant victory'



Unknown persons in mufti shoot in the car of Kazulin's driver



Riot police doesn't let Milinkevich to meet with the electorate



*Enira Branitskaia
and Aliaksandr Shalaika
after release from jail*

Zmitser Dashkevich behind bars...



76 *Zmitser Dashkevich visits Pavel Seviarynets at corrective labor facility*



Andrei Klimau has been released from jail, whereas the BPF leader Vintsuk Viachorka is just getting ready to imprisonment



The oppositional leader Aliaksandr Milinkevich under arrest...



Mikola Statkevich at corrective labor facility in Baranavichy



Political prisoner Sjarhei Skrabets lost more than 20 kilos in jail



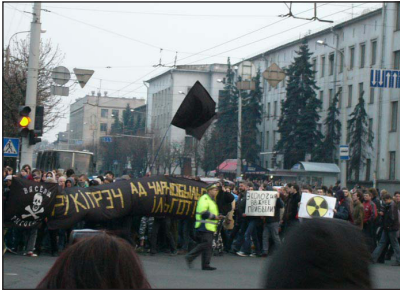
Flash-mobs are getting popular with youth in 2006





Arrests and arrests again...





Dziady-2006

Chernobyl Way-2006

At solidarity actions





The editorial staff of Narodnaia volia has to distribute the newspaper on their own



Eviction of the editorial board of Vitebskiy Kurier from the rented office



Action of solidarity with Nasha niva



Actions of solidarity with the repressed were held on the 16th day of each month





The authorities evict writers from their house. No space is left even to portraits of classics of the Belarusian literature

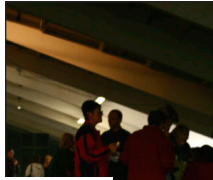




*Parishioners
of New Life
Church
on hunger-strike*



*The church pastor
Viachaslau Hancharenka
is awarded prize
For personal courage*

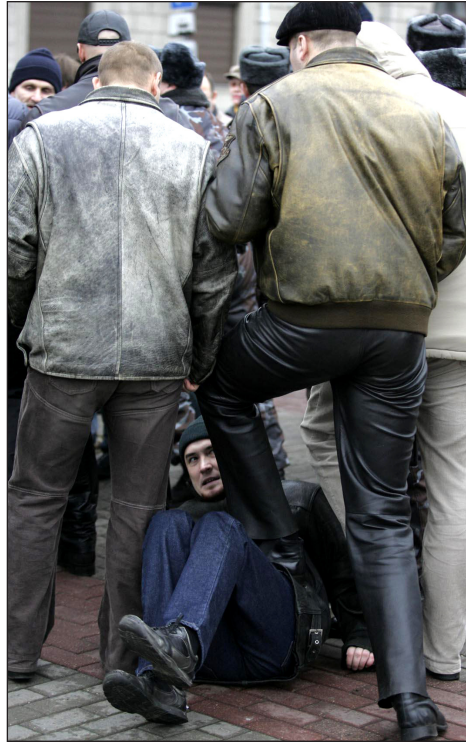




*Human rights activists
at action of solidarity
with political prisoners*



*Human rights activist
Ales Bialiatki*



*People in mufti beat
the human rights activist
Valiantsin Stefanovich*

*Human rights activist
from Brest Uladzimir Vialichkin*





*Moments
of 2006...*



On April 18th, on the suit of the justice department of Vitebsk regional executive committee Vitebsk regional court stopped the activity of the *Private Initiatives* NGO because of absence of a legal address. The matter is that in summer 2005 the housing economy of Pershamaiski borough of Vitebsk refused to prolong the office rental agreement with the organization and as a result the organization lost the legal address which all registered organizations must have. The chair of *Private Initiatives* Siarhei Shelehau looked for a compromise with the housing economy and the city's authorities. He applied twice to Vitebsk city executive committee, but the authorities did not meet *Private Initiatives* to continue renting the office. They sent a written note about it only at the end of December. Short after this the justice department of Vitebsk regional executive committee issued a warning to the organization and obliged it to improve the situation by January 17th, 2006. *Private Initiatives* did not manage to find a new office. As a result one of the oldest democratic organizations of Vitebsk lost its legal status.

A great public resonance was caused by the liquidation of the oldest writers' organization of Belarus, the Union of Belarusian Writers, by the Supreme Court. The Ministry of Justice sued to the court for the organization's liquidation for absence of the original of the charter, incorrect seal, *Pahonia* emblem on the sign board of the House of Literary Workers and organization of an assembly of Belarusian Social Democratic Party *Hramada* in the House that did not belong to the UBW. The court hearings began in April. However, after several sittings the Supreme Court suspended the case on petition of the Ministry of Justice that revoked its own suit. The organization implemented the majority of the ministry's demands and managed to prove the groundlessness of charges in non-statute activity (organization of BSDP Assembly). In August the UBW was deprived of the rented offices in the House of Literary Workers.

The authorities often suspended the activity of public associations. For instance, on the eve of the election to local deputy soviets, on December 11th, the Supreme Court of Belarus considered the suit of the Ministry of Justice for suspension of the activity of the national NGO *Belarusian National Electors' Club* that dealt with independent election monitoring. During the year the ministry issued two warnings to the public association and then demanded its activity be suspended for six months. Despite the fact that one of the reasons for the suspension of the organization's activity was not proven by any evidence, the Supreme Court considered the second reason, absence of office at the registered legal office, important enough and satisfied the ministry's suit. In the case

that the organization does not correct the situation within the term that was determined by the court it can be liquidated.

In Slonim (Hrodna region) the activity of the youth organization *Vetraz* and the NGO *Will for Development* was suspended because the organizations had no legal addresses. The Supreme Court also suspended for six months the activity of the *Belarusian Women's League* NGO because of mistakes in the documentation.

In June, the Ministry of Justice ruled to suspend the activity of the national *Belarusian Helsinki Committee* NGO as the organization did not pay 160 million rubles of taxes and fines from the foreign aid received on TACIS program. The consideration of the case concerning alleged tax evasion was suspended till consideration of the human rights activists' complaints in which they referred to the agreement Between the Belarusian government and TACIS according to which such programs were exempt from taxes. In October, the last complaint of Belarusian Helsinki Committee was declined. On November 1st, Minsk city economic court ruled to confiscate property of the organization and the Supreme Court continued the hearings on the suit of the Ministry of Justice for suspension of its activity.

Bear in mind that in summer 2005 the Economic court of Minsk quashed the charge in tax evasion on the TACIS program. However, deputy chair of the Supreme Court Yauhen Smirnou appealed this decision. In December 2005 the presidium of the Supreme Economic Court satisfied his appeal and obliged BHC to pay about 75,000 U.S. dollars of taxes and fines. This ruling contradicts to the decision of the department of financial investigations of the State control committee to stop the criminal case against the chair of BHC Tatsiana Protska, where it is stated that BHC does not need to pay any taxes on the program. On November 28th, the Supreme Court postponed the consideration of the suit of the Ministry of Justice to unknown time. One of the reasons for it was the international reaction to such actions of the Belarusian authorities. The International Helsinki Federation expressed its concern that 'in absence of human rights groups the authorities can strengthen their power to the absolute extent, without public control and responsibility'. The European Union also urged the Belarusian regime to stop haunting BHC.

Simultaneously with suppression and liquidation of the NGOs that the authorities could not control they tried to enhance the role of pro-governmental public associations.

On July 19th, the law of the Republic of Belarus *On National Governmental Associations* was adopted. According to it, state-public non-commercial associations are established on the principle of

membership for execution of tasks of state importance. The conditions for establishment of such associations are determined by the president or by the Soviet of Ministers on his errand.

By this law the authorities of Belarus revived the practice and principles of the establishment of pseudo-NGOs typical for the USSR. First of all it concerns Belarusian National Youth Union (BRSM) – the largest pro-governmental youth organization that has regular financing from the state budget and implements the tasks that are determined by the authorities. At present BRSM holds the state monopoly on work with youth, starting from schools and ending with higher academies and state enterprises. BRSM, just as Komsomol in the USSR, hires full-time secretaries of local organizations who, in fact, are the paid propagandists of the state political ideology. Old Soviet organizations, such as DTSAAF (Voluntary Society of Assisting the Military, Aviation, and Fleet), and ASVOD (Rescue on Water Society), are also functioning in Belarus. They are created by the decision of the state bodies and solve objectives set by the state: patriotic upbringing of youth, preparation of young men to military service, etc. The authorities are systematically narrowing down the field for NGO activity and creating the state monopoly on work with different social strata.

From January 1st to September 1st, the Belarusian authorities registered only 41 new public associations, including two international, six national, 33 local organizations and two alliances. The majority of these organizations are sportive, charitable or educational. On October 1st, the number of the officially registered organizations was 2,233: 231 having international status, 722 – national and 1,280 – local.

The situation of the political parties deteriorated as well. In 2005, a new edition of the law *On Political Parties* was adopted. The role of political parties in the present political system of Belarus remains insignificant. It especially concerns democratic parties, which are deprived of the possibility to implement their main task: struggle for power in the country. According to the present election system democratic parties are deprived of the possibility to have their representatives in the Parliament, local deputy soviets, etc. Representatives of democratic political parties aren't even included into election commissions of any level.

The parties and their members experience regular pressurization or even open haunting from the side of the authorities. By October 18th, all political parties had to reregister their charters at the Ministry of Justice. Most of the problems were connected to re-registration of primary organization structures. The main pretension of the registering organs was that such organizations had their legal addresses at private apartments,

which allegedly contradicted the Housing Code of the Republic of Belarus. It is worth mentioning that according to the present legislation Unitarian enterprises have the right to be registered in the place of residence of their owners, whereas such non-commercial juridical bodies as NGOs and political parties are forced to register their legal addresses only in non-residential premises. Many political parties did not manage to find such offices for their organizations in the terms that were determined by the authorities, which led to non-registration of the structures that were left without legal addresses. It is worth mentioning that registered primary structures play an important role during elections to local deputy soviets and the parliament, as a party can nominate candidates, members of election commissions and observers only in the case it has registered territorial structures in the appropriate locations.

On August 9th, the justice department of Minsk city executive committee informed the central committee of the Party of Communists of Belarus (PCB) that the college board of the department ruled to exclude from the state register 13 organizational structures of PCB because of law violations. Minsk city PCB organization and several district organizations were excluded from the register. The justice department stated that as a result of a check-up there were found some violations in the order of the establishment of the organizational structures and their functioning. PCB members appealed this decision first to the Ministry of Justice and then to Minsk city court, but it was left in force. According to the law *On Political Parties* the absence of Minsk city organization and regional organization structures can result in liquidation of a political party by court.

On November 2nd, the leaders of United Civil Party tried to appeal at the Supreme Court the ruling of the justice department of Minsk regional executive committee on liquidation of the primary party organization in Kletsk district. Minsk regional court refused to consider the suit as the consideration of appeals against orders of justice departments was allegedly beyond its competence. The same stance was taken by the college board of civil cases of the Supreme Court.

During the year the Belarusian authorities made attempts to suspend the activity of the oppositional parties by courts. In August, the Ministry of Justice issued a written warning to the Party of Communists of Belarus for its refusal to present to the ministry a list of members. The leaders of the party refused because it contradicted to the law *On Political Parties*. In September, the ministry sued to the Supreme Court level for liquidation of the PCB. The communists appealed the warning to the Supreme Court, but it left the warning in force. The same day the

90 PCB passed to the ministry the list that included 1,500 members. In

November, the Supreme Court ruled to suspend the case against the party till publication of the official results of the election to local deputy soviets of the 25th convocation. This decision was taken in conformity with the law *On Political Parties* that prohibits suspension of the activity of the parties and their liquidation during elections.

Sometimes the pretensions of the Ministry of Justice to democratic political parties were simply absurd. For instance, the ministry gave written warnings to Belarusian People's Front and the Party of Communists of Belarus because their leaders Vincuk Viacorka and Siarhei Kaliakin had applied to district state organs with the request to explain the order of forming of election commissions and the appeal to execute the demands of the Election Code that guarantees inclusion of representatives of political parties into election commissions. The Ministry of Justice considered these letters as interference with the activity of state organs and officials. The parties appealed these warnings and the Supreme Court abolished them in April.

Instances of harassment of citizens at their places of work and study, and for membership in oppositional parties were registered as well. On November 28th, the leaders of the Party of Communists of Belarus applied to the Constitutional Court, the Ministry of Justice and the Ministry of Internal Affairs with the demands to stop lawless actions towards party members. The case concerned a check-up of the submitted information about the party members by the Ministry of Justice, police and workers of executive committees. During the check-up they psychologically pressurized members of the party and proposed that they give written explanations and show party membership cards with marks about the membership fees paid. The officials visited the people at work or invited them for 'talks' to executive committees. According to the information the party managed to obtain, such order of the check-up was proposed in the letters that were sent to district and city executive committees with lists of PCB members attached. The PCB stated that such actions violated the Constitution of the Republic of Belarus and the laws *On Political Parties* and *On Police*.

8. Violation of Citizens' Right to Freedom of Peaceful Assemblies

Article 35 of the Belarusian Constitution ensures the freedom of holding rallies, street marches, assemblies, demonstrations and pickets, 91

which do not violate public order and the rights of other citizens. Article 188 of the Code *On Marriage and Family* ensures the rights of children to participate in peaceful mass events. This right is considered a guarantee of an individual's freedom.

The order of organizing and holding mass events is regulated by legislation: primarily, by the Law *On Mass Events in the Republic of Belarus* (new version of 2003), and by decisions of local executive bodies. Local executive bodies make decisions about places for holding events and the places where events are prohibited. Local executive and administrative bodies determine payment for the expenses to protect public order, to the organization of medical service, and for territory cleaning after a mass event (Article 6 part 4 of the Law *On Mass Events*). Freedom of peaceful assembly may be limited under Article 23 and Article 63 of the Constitution of the Republic of Belarus (with a view to protect national security, public order, and interests of citizens, during state of emergency or state of martial law); or under Article 10 of the Law *On Mass Events* (restriction on the holding mass events and participation in them may be determined by legislative acts of the Republic of Belarus).

The Law *On Mass Events* and its practice seriously restrict the freedom of peaceful assemblies and freedom of expression of one's own views and convictions, guaranteed by the Constitution of the country and the international acts in the sphere of human rights (primarily, the Pact on Civic and Political Rights). This was repeatedly confirmed by the decisions of the UN Committee on individual applications of Belarusian citizens, and pointed out in numerous resolutions of international organizations dedicated to the human rights situation in Belarus, including the recent Resolution of the UN General Assembly.

In the first place, we criticize the provisions of the Law *On Mass Events*. Thus, some definitions of types of mass events are described in the law in a way that allows courts and law-enforcing bodies to interpret them very loosely. For instance, according to the Law, an "assembly" is joint presence of citizens in a pre-determined place outside or inside, at a pre-determined time, for collective discussion and solution of issues that concern them and their interests. Such interpretation of an "assembly" covers any joint presence of people in any place: presence of a group of citizens in a private apartment, quick meeting in a certain place without a pre-determined goal (for example, gathering of football fans after a game), flash-mobs, etc.

92 We have registered numerous cases of administrative prosecution under Article 167.1 of the Code of Administrative Infringements (violation

of the order of organizing and holding mass events) for holding an “unauthorized assembly” in a private apartment.

Thus, on February 14th, members of the initiative group of presidential candidate Aliaksandr Milinkevich gathered in an apartment of one of the group members to discuss their actions. The police interrupted the meeting as an “unauthorized assembly”. All the people present at the meeting were charged with participation in an “unauthorized assembly”. On March 16th Baranavichy court fined six activists of Milinkevich’s team 20 basic units (about \$300 U.S. dollars) each. Uladzimir Housha, Karnei Piatrovich, Mikalai Severtsau, Viktor Aliakhnovich, Mikhail Minich and Aliaksandr Halkevich were found guilty of holding an unauthorized assembly – this is how they interpreted the meeting of the political activists in a private apartment.

On December 22nd, a Christmas party for students was held in a private apartment of BPF deputy chairman Ales Mikhalevich. When the party was over and the young people were ready to leave, several riot policemen and policemen in civil clothes walked in. Some of them had video and photo cameras. In 30 minutes police buses arrived, and all 29 detained participants of the student party were taken to Savetski district police department. The police checked the personal data of the detained. The young people also had to write explanation letters and talk to KGB representatives. Two of the detained, Vasil Lepesh and Ales Mikhalevich, were sentenced to five days of arrest by Savetski court of Minsk.

The Law *On Mass Events* regulates the order of holding assemblies, marches, rallies, demonstrations and pickets, as well as other mass events (sports, cultural events, etc), despite the fact that they are of a different nature. The former concern citizens implementing their fundamental civic rights – to peaceful assemblies, expression of their opinions and convictions, and the latter often have a commercial nature and concern implementing consumer needs.

Criticism of the Law *On Mass Events* refers to the clauses that contain restrictions as to the place of holding mass events. Article 9 provides local executive bodies the right to determine the permanent places for holding mass events and the places where mass events are prohibited. In practice it often happens that local executive bodies determine outer locations in deserted parks or stadiums for such purposes. Mass events in town centers are prohibited by the decisions of local administration. Very often they do not give the reasoning for such a decision and do not consider special cases when such prohibition is really needed. Freedom of peaceful assemblies is mainly the right to freedom of expression of personal convictions, freedom of protest aimed at attracting attention of

citizens and state bodies to certain public, political, or social problems. Meanwhile, holding a picket with few participants in a deserted place makes such events senseless.

Local administrations are empowered to consider and make decisions on applications of citizens for holding mass events. According to the law, they have the right to prohibit an event. Very often local administrations abuse this right and either make unmotivated changes of a place, time and type of event, or prohibit an event altogether. Besides that, the practice of citizens paying the expenses to hold a mass event (protection of public order, medical services, and cleaning of the territory) does not meet international standards in the sphere of human rights. The right to peaceful assemblies is a right of citizens guaranteed by the state. Thus, the state is to provide the possibility to realize this right.

However, even if one meets all the requirements of the Law, it is often almost impossible to exercise the right to freedom to peaceful assemblies in Belarus. The local authorities give different reasons for refusal; in some cases the reasons are absurd. For example, on August 24th, Baranavichy residents Viktor Syrytsa, Siarhei Housha, and Viktor Meziak applied for permission to hold a peaceful assembly "For Free, Independent and Prosperous Belarus" on September 10th. The organizers made contracts with the city police department, the emergency station, Baranavichy Bus Company and Baranavichy city department for emergency situations, as it is required by the Law *On Mass Events*. However, five days before the planned event the organizers received a letter signed by deputy chairman of the city executive committee V. Aliakseyeu. The letter read: "the city executive committee can not give permission for holding an assembly "for Free, Independent, and Prosperous Belarus" in the city park named after 30th anniversary of Komsomol or in any other place. The assembly with the same goal was already held in the conference hall of the city executive committee on March 15th, 2006..." (referring to the meeting held by the local authorities on the run up to the presidential election). The organizers appealed against the refusal to Baranavichy court. However, Baranavichy court, and, later, Brest regional court did not satisfy the appeal.

On July 25th, Brest authorities prohibited a rally "For Freedom! For Independence!", dedicated to the 16th anniversary of the declaration about state sovereignty of Belarus. At the beginning Brest city executive committee gave the permission. However, one day before the event the organizers were invited to the Brest executive committee Department of Internal Affairs and explained: the rally was prohibited. The official reason

the event had been signed by the “United Democratic Forces of Brest”, and such organization is not registered in the region.

Minsk authorities prohibited the rally in honor of the declaration of sovereignty in July on Banhalor Square on the ground that at the same time and place there were pickets in support of political prisoner Kazulin to be held.

The ungrounded prohibition forced the citizens to organize peaceful assemblies without permission of the local authorities. As a result, such actions were interrupted as a rule by the law-enforcing bodies. The participants of the unauthorized actions were arrested and prosecuted under administrative, and, in some cases, criminal legislation. Any street protest of citizens was qualified by the local administration as an unauthorized mass event. The police stopped even actions that are not dangerous for public order, such as chains of people with lit candles or portraits of political prisoners and disappeared politicians. Representatives of law-enforcing bodies used violence when detaining the participants of such actions.

Violation of the order for organization and holding of mass events may be prosecuted both under administrative and criminal legislation. Part 1 of Article 167.1 of the Code of Administrative Infringements provides for the following penalty: a warning, or a fine from 20 to 150 basic units, or an arrest from three to 15 days; part 2 of the Article provides for penalty of a fine from 150 to 300 basic units, or an arrest from 10 to 15 days for individuals who infringed the law again during 12 months, or individuals who organized an event. Administrative arrests and huge fines for participation in peaceful assemblies are the measures to suppress civic and political activity in the country.

Article 167.2 of the Code of Administrative Infringements provides for responsibility for using flags, pennons, emblems, symbols, or posters, which are not registered according to the established procedure and the contents of which are directed at harming the constitutional system, the rights and the legal interests of citizens, during mass events. The mentioned actions are penalized with a warning or a fine from 10 to 100 basic units, or an arrest from three to 15 days. This Article is often used against pro-democratic activists for using national white-red-white flags – the state symbols of Belarus from 1991-1995.

Article 342 of the Criminal Code provides for responsibility for organizing group actions, which seriously violate the public order and are combined with evident disobedience to representatives of powers' legal demands; or for active participation in such actions. At different times Belarusian politicians Mikola Statkevich, Paval Seviarynets, Andrei

Klimau, and Aliksandr Kazulin were convicted of violation of that article and sentenced to different jail terms. The protest actions which they organized were absolutely peaceful and did not propose any threat to public order.

In 2006 the Criminal Code was amended. The changes also were made in Article 293 – mass disorders. According to the amendments, preparation, financial and other material support of such activities is criminally prosecuted. Shchuchyn resident Siarhei Liashkevich, team member of presidential candidate Aliksandr Milinkevich, was found guilty of violating of that article. The court decided that watching a documentary Ordinary President, which shows dispersal of a street action by police, is “preparation” for mass disorders.

A peculiar feature of this year is mass charges against citizens for realizing the right to peaceful assemblies. This is connected primarily with the presidential election. Citizens were detained and arrested at meetings with candidates for the post of the president of the Republic of Belarus, and during peaceful protests against the rigged election results.

At that time Article 45 of the Election Code required permission from local administration to hold a meeting with voters to discuss referendum questions. However, the Central Election Commission ruled that all meetings with voters were to be held only under the Law *On Mass Events*. That means all such meetings were to be permitted by local administration. (Only in October, 2006 Article 45 of the Election Code was amended such in a way that legalized the practice of the Central Election Commission). As a result, all pre-election meetings with voters of presidential candidates Milinkevich and Kazulin ended with the arrests of meeting participants and organizers. The detained were charged with participation in unauthorized assemblies or disorderly conduct.

For instance, on March 12th, police detained 16 participants of the meeting of Aliksandr Milinkevich with voters. 15 of the detained were sentenced to different terms of administrative arrest and fined:

1. Mikhail Volchak – 12 days of administrative arrest under Article 156 of the Code of Administrative Infringements (disorderly conduct). Seriously beaten during detention, fractured finger; Mikhail was sent to an emergency station from court; however, he was refused hospitalization.

2. Pavel Kirushchanka — 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Natallia

3. Uladzimir Vysotski — three days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Natallia Pratasavitskaya;

4. Ivan Shcharbakou — three days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Natallia Pratasavitskaya;

5. Siarhei Laurenkin — 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Natallia Pratasavitskaya;

6. Illa Petravets – eight days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Yulia Shumskaya;

7. Aliaksandr Hoishyk — 15 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Viktar Hanchar;

8. Uladzimir Valodzin – fined 30 basic units under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Tatsiana Zhukouskaya;

9. Natalia Kasarchuk (Ukrainian citizen) – 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Yulia Lukomskaya;

10. Mikola Karpinski (Ukrainian citizen) — 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Viktoria Stsiapanava;

11. Anatol Yatsenka (Ukrainian citizen) — 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Yulia Lukomskaya;

12. Matsvei Tsystsik — 10 days of administrative arrest under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Yulia Lukomskaya;

13. Siarhei Matskoits — fined 20 basic units under Article 167.1 97

of the Code of Administrative Infringements (violation of the order of holding mass events); the sentence was made by judge Viktoria Stsiapanava;

14. Aleh Larychau — fined 20 basic units under Article 167.1 of the Code of Administrative Infringements (violation of the order of holding mass events);

15. Aleh Labaty – three days of arrest under Article 156 of the Code of Administrative Infringements (disorderly conduct);

16. Maksim Viniarski – the police report was sent back for revision. Judge Viktoria Stsiapanava.

The Belarusian government, with the assistance of KGB and police, took a number of measures to prevent possible mass street protests after Election Day. Various methods were used to serve that purpose: from preventive detentions of opposition activists to the intimidation of Belarusian citizens through mass media.

Several days before the beginning of the election the authorities used KGB and police to hold an operation of internment of opposition activists. Practically all activists of the regional headquarters of presidential candidates Aliaksandr Milinkevich and Aliaksandr Kazulin were arrested for different terms. People were detained on streets, in private apartments and houses according to pre-determined lists. The activists detained before the election were charged with disorderly conduct (Article 156 of the Code of Administrative Infringements); in the majority of cases they were accused of foul language in a public place and sentenced to arrests by courts.

Some activists served two, or even three, terms of administrative arrest in a row, without even leaving the jail. For instance, youth activist from Bialynichy Aleh Miatselitsa was detained on February 16th. Leninski court of Minsk sentenced him to 15 days of arrest under Article 156 (disorderly conduct). When he served the term, KGB activists took him to his home town of Bialynichy, where they accused him of another action of disorderly conduct. Bialynichy court sentenced him to another term of 15 days. When he served his second term, he was sentenced to another five days under Article 156, without even leaving the jail (allegedly he used foul language when talking to prison guards).

According to the Human Rights Center “Viasna”, 236 activists were arrested during the election campaign, prior to Election Day on March 19th. The goal of the authorities was to prevent peaceful protests on Election Day. Persecution of activists during the election campaign again vividly demonstrated the dependence of the Belarusian judicial

system on executive authorities. The courts were an element of the repressive machinery and executed the order to isolate civic and political activists.

On the eve of the election the authorities used state-owned mass media in order to intimidate citizens. Belarusian TV channels, radio and printed editions extensively covered several press conferences that were held by heads of the law-enforcing bodies. At a news conference on March 1st KGB chief Stsiapan Sukharenka claimed the opposition forces were preparing a number of explosions in schools where polling stations were located. He also claimed the opposition forces planned to call people to come to the square after the end of the presidential election and make “bloody provocations” there. On March 16th Stsiapan Sukharenka, together with head of the Ministry of Internal Affairs Uladzimir Navumau and Prosecutor General Piotr Miklashevich, used threats, including the death penalty, against those who would come to the square on the Election Day. KGB chief claimed: “On March 15th the KGB instigated prosecution under Article 290 of the Criminal Code “attempted terrorist act”. We know the suspects. Those suspected individuals who are foreign nationals will be brought to responsibility under our laws if they show up on the territory of the Republic of Belarus. This is not an attempt to intimidate the people on the eve of the election, this is their shadow side. The law-enforcing bodies possess enough information, power and means to prevent the things planned by the opposition activists: explosions, arsons, and other actions to destabilize the situation. Actions of the people who will come to the square on March 19th would be considered terrorism. That provides for penalty under different articles from 8 years of imprisonment to capital punishment. The Minister of Internal Affairs added that since March 10th the internal military forces went on a special regime. He also reminded the audience that the personnel of Internal Affairs is 50, 000 people.

Despite this intimidation, several thousand of Belarusian citizens went out to October Square in the evening of March 19th. Mass detentions began on the next day when participants of peaceful protests put tents on the square. Police officers detained everyone who brought warm clothes, or food, or simply came to demonstrate support to the protesters. The detained were charged with disorderly conduct. The tent camp was liquidated during the night of March 23rd-24th. Hundreds of people were detained.

On March 25th a march and a rally dedicated to the Day of Freedom was held in Minsk. The peaceful action was brutally dispersed by riot police headed by commander Dzmitry Paulichenka, when the action

participants marched to the detention center where hundreds of activists arrested for participation in protests on October Square were kept. The column of protesters walking on sidewalks was attacked by riot police. The policemen used special means against peaceful people: rubber batons, and explosive appliances. As a result, several people were injured and hospitalized. This day former presidential candidate Aliaksandr Kazulin was detained and taken to Zhodzina pre-trial detention center. Later he was charged with organizing group actions which seriously violated the public order (Article 342 of the Criminal Code).

In the period of March 20th – 25th, according to the Human Rights Center “Viasna”, 686 people were prosecuted for participation in peaceful actions of protest in the city of Minsk. Another 50 people were prosecuted in the regions. Among the penalties there were only five fines, the rest were arrests from four to 15 days. Belarus has never before seen mass detentions of such a scale.

The number of places in the detention center of Minsk city police department is limited. That is why the detained were also kept in other places – Minsk district detention center, and Zhodzina detention center. The police failed to inform the families of the arrested about the place where they were kept. The families spent several days trying to find out anything about the fate of the detained. Among the arrested there were both Belarusian and foreign citizens, as well as reporters.

14 and 15 days arrests of almost all opposition leaders had a demonstrative nature. Former presidential candidate Aliaksandr Milinkevich, chairman of BPF Party Vincuk Viacorka, chairman of the shut down Belarusian Labor Party Aliaksandr Bukhvostau, chairman of the Party of Communists of Belarus Siarhei Kaliakin, deputy chairman of BPF Viktor Ivashkevich, and youth leader Zmitser Dashkevich were found guilty of organizing a rally and a protest march of the Chernobyl march on April 26th in Minsk (Article 167.1 – violation of the order of organizing and holding mass events), although the action was permitted by the authorities and was absolutely peaceful.

In a situation when it is extremely difficult to receive permission for holding a mass event, and organizers and participants are as a rule detained and brought to administrative responsibility, flash mobs became very popular. A large group of people gathers in a determined place, holds a short action and quickly breaks up. However, even such short and absolutely not dangerous actions were dispersed by police; participants of flash mobs were detained.

100 On April 28th about 300 people, mainly students of Minsk universities, held a flash mob in support of *Nasha Niva* newspaper. The action

participants marched on sidewalks from October Square to Victory Square holding newspaper copies in their hands. Over a dozen of the action participants were detained and taken to Centralny police department.

Five university students and one high-school student were detained on September 21st in Minsk after the flash mob in support of political prisoners. The action participants blew bubbles on October square demonstrating that the charges against politicians and civic activists are ungrounded.

The freedom of assemblies which is one of the values of a democratic society is unfortunately only declared in Belarus. When it comes to practice, a large number of citizens of the country is not only unable to use the right, but also face administrative or criminal charges. Courts make exclusively “guilty” verdicts on such cases. Trials in such situations are a mere formality.

9. Discrimination of the Rights of Citizens on the Basis of Language and Nationality. Violation of the Rights of Citizen to Freedom of Religion

Consistent policy of Russification and denationalization of the Belarusian people continues in Belarus. In essence, it is a continuation of the national policy of the authorities of the Russian Empire, and, later, the Soviet Union. The main goal of the Soviet policy in this field was to build a relatively homogeneous society in the national sense and to reduce the danger of national conflicts in the future. Continuation of such policy in Belarus is a clear message to the pro-Soviet Belarusians about the ideological succession of the Soviet dictatorship and the current Belarusian regime. The Russian language, as well as the political toponymy, which mainly remained from the Soviet times, and the state symbols, which are extremely close to the Soviet ones, are the symbol of “Sovietness” of the Belarusian regime. Russian language as a tool of management of multinational society is the legacy the Belarusian regime received from the former Soviet colonial system.

Despite the fact that during the last census about 80 per cent of Belarusians claimed their mother tongue is Belarusian, the number of schools with Belarusian language of instruction and the number of

students who study in Belarusian is steadily decreasing. Unfortunately, the state institutions and education bodies only contribute to the process. Parents who insist their children should study in Belarusian often encounter resistance of the local authorities.

The Ministry of Education of the Republic of Belarus continues its policy of excluding the Belarusian language from the teaching process. Thus, in 2006 the Ministry of Education made a decision to limit usage of the Belarusian language in teaching the history of Belarus. September 1st activists of Belarusian youth organizations protested against that decision with a flash-mob action.

Despite numerous appeals of the Belarusian public and collection of signatures, there are no higher educational establishments in Belarus with Belarusian as the language of instruction.

Real equality of the Belarusian and Russian languages guaranteed by the Constitution of the Republic of Belarus does not exist in many spheres. In the sphere of legislation (laws are passed and published only in Russian language), justice, work of state and administrative bodies of different level (absolute majority of state officials starting from ministers do not use Belarusian language in their work even in relations with Belarusian-language citizens), in banking and financial systems (all computerized systems of bills payment and other financial operations work only with Russian language), in the military, border and customs services, medicine, sports, labeling Belarusian products and other spheres of public life only Russian language is used.

Belarusian language has practically disappeared from the main TV and radio channels. Lukashenka and other “stars” of the Belarusian TV in the majority of cases use Belarusian language only in a humiliating and disdainful way.

Belarusian writers and other figures of culture, who openly stand up in defense of the Belarusian language and culture and against the regime’s policy of Russification and denationalization, experience censorship and encounter problems with publications in the state-run publishing houses and mass media, and are persecuted in other ways (ban on public speeches and meetings, public criticism and insults).

This way, in Belarus there is a unique situation of language discrimination of the title nation, which makes up 81.2 per cent of the whole population of the country (according to the 1999 Census).

The policy of oppressing everything national also spreads on the national minorities in Belarus. Primarily this is true about the Polish national minority which is a compact and quite large group in Belarus.

102 According to the Census of 1999, there are about 400,000 Poles in

Belarus. During the recent years they have been having problems with the development of Polish-language education in Belarus. The Polish minority experiences the decline of activities and encounters governmental resistance.

The Belarusian authorities continue to persecute Polish minority leaders, in particular, Anzhalika Borys, head of the Union of Poles in Belarus, unrecognized by the Belarusian authorities. In 2006, she was summoned to the prosecutor's office many times, each time for different reasons. Different kinds of provocation were used against the activists of the Union of Poles. On October 29th Anzhalika Borys and several activists of the Union were detained at the border with Lithuania. As a result of a car search, the customs officers "found" a package with drugs in it and instigated criminal proceedings. The Union leadership considers the actions of the authorities "a mere provocation of the Belarusian law-enforcing bodies". On November 5th head of Hrodna branch of the organization Mechyslau Yaskevich was charged with "hooliganism" on the accusation of starting a fight.

During the year we have registered repeated anti-Semitic incidents. However, the Belarusian authorities refused to recognize them as anti-Semitic. For example, in November strangers made graffiti of swastikas and slogans "Beat the Jews" on the front of the building of Israeli information and culture center. However, the police refused to investigate the case. According to Aliaksandr Kaltsou, head of the section for protection of order of Partyzanski district department of Minsk, "there are no purposeful actions aimed at fomentation of national enmity, and insulting the national honor and dignity found" in the fact. The Israel Embassy addressed the law-enforcing bodies of the country with the appeal to revise the decision not to instigate criminal proceedings. "It seems extremely surprising to us", — Israeli ambassador stated, —"that there are officials in Belarus, moreover, representatives of the law-enforcing bodies, who think that the slogans "Beat the Jews" and swastikas mean just dirty walls". (Article 30 of the Criminal Code provides for criminal responsibility for fomentation of the national, racial, religious, and other types of enmity).

The police also suspended the proceedings concerning the desecration of the Yama memorial to the victims of the Holocaust. On November 15th a swastika was drawn on the memorial's obelisk, and the figures of the bronze sculpture composition "the last road" were stained with white paint. There were leaflets nearby that called to fight with "Judaism and freemasonry – the enemies and traitors of the Fatherland" on behalf of the Front of Aryan Resistance "White Russia".

The investigation was suspended for the reason that “the individual to be charged with the offence was not found”.

The situation with the freedom of consciousness in Belarus remained alarming. The majority of cases of violation of believers’ rights of were connected with discrimination and the consequences of the Law about religion adopted in 2002 that set the unequal status for different denominations.

Assemblies of believers for joint prayer were not allowed in Belarus. Pastors were charged and arrested for holding meetings and services in private apartments. Property of undesirable denominations was seized. The authorities created obstacles for missionary activity and deported pastors who were not Belarusian citizens. Religious communities encountered obstacles in registration. International experts repeatedly expressed their concern about the fact that the current Law *On the Freedom of Conscience* restricts the activities of many religious communities. Simultaneously, the Orthodox Church receives more and more advantages over other denominations, in particular, through the government agreements about cooperation and creation of preferences in the education sphere.

For example, On March 3rd Heorhi Viazouski, presbyter of the Church of Evangelical Baptist Christians “Christ’s Testament” in Minsk, was tried for having a prayer meeting. Partyzanski court of Minsk found him guilty under Article 167.1 of the Code of Administrative Infringements (violation of the order of organizing and holding mass events). Viazouski was sentenced to 10 days in jail. Similar case took place in Povits village, Brest region. Pastor Illia Radkevich was fined for holding a prayer meeting. In Minsk district pastor Siarhei Svor was also charged with holding an unauthorized assembly. During investigation of the case the police confiscated several Bibles which were never returned to the pastor.

On March 24th lawyer of the registered NGO “Christian Business Initiative” Siarhei Shautsou was found guilty of holding a seminar on the issues of Christian view on history. The court sentenced Shautsou to 10 days in jail.

On July 2nd Siarhei Pazniakovich, pastor of the Pentacostal Church in Baranavichy was fined 2,000,000 BYR for holding a ceremony of mass baptism. Baranavichy court made the decision on the ground that the pastor had not received permission from the local authorities. The officials did not give permission, referring to the fact that the water did not meet the sanitary standard. Earlier the pastor had been fined 100,000 BYR

On August 6th Maskouski court of Minsk fined Viachaslau Hancharenka, pastor of the “New Life” Church, 30 basic units for organizing a service on June 4th. The trial was held in absence of Viachaslau Hancharenka.

In March, Minsk community of the Hasidim was twice rejected permission to have a religious meeting to celebrate the Passover. The community planned to hold a meeting in a conference room and was in agreement with conference room owners.

On August 9th local authorities used the assistance of the frontier troops to evacuate participants of the Christian family camp to Minsk. Christian families with many children organized vacations for their kids in Tsizhyshki village, Smarhon district, Hrodna region. The camp was located on a private territory and in private houses. The authorities forced 60 people, including 45 children, to leave the camp. The parents sent a complaint to Minsk city executive Committee. Deputy Head of the city executive committee M. S. Tsitsiankou replied in the letter: “the decision to stop collective vacations on the farm was caused by the need to liquidate for reasons that endangered the life and health of children”. Participation of representatives of the Committee for religious and national affairs in the evacuation was explained by “the fact that some of the children and parents belonged to religious communities of the Full Gospel Christians and the need to clarify the circumstances of collective presence on the farm”. The letter pointed out that “the officials did not go beyond their commission”.

On April 18th Leninski prosecutor’s office in Mahiliou made a warning to L. Izaksan-Bautouskaya, caretaker at Jewish daycare, for celebrating the “religious holiday” of Purim and using “religious symbols” of Menorah and the Star of David.

In September, seven priests and five nuns from Poland who worked in Hrodna region, were denied new visas. All attempts to cancel that decision were in vain, and the Catholic priests and nuns had to leave the country by the end of December. The authorities explained their actions by the need to find places for young priests and nuns, who are Belarusian citizens, on the vacant places. Meanwhile, the Catholic Church has its own law, and only bishops, not secular authorities, decide what priests should be appointed to various positions.

Catholic priest Antony Koczka, 78, is a Polish national. Police drew up two reports on him. According to the documents, Koczka violated the rules of presence of foreign citizens on the territory of Belarus, because he “failed to get a state registration when entering the country”. Secondly, the priest held a mass in a church without permission. According to the

Belarusian legislation, foreign priests should receive permission of the Council of Ministers Committee for Religious and National Affairs to be able to hold religious activities in a certain area. Antony Koczka did not have permission to serve in Minsk. He was born in the Brest region where he still has many relatives. During the last 15 years he served in village Zamostse, Slutsk district, Minsk region. On the way through Minsk, he served a mass at Red Church on September 22nd. After the Mass he was detained by representatives of the law-enforcing bodies and fined 2 basic units.

On September 30th, Mikalai Barycheuski, pastor of Evangelical Christians community in Krupki, Minsk region, was invited to the local police department. The policemen charged the pastor with living in Krupki without registration. Barycheuski is registered in Minsk but for the last ten years he has been living and working in Krupki. On November 23rd, the pastor was invited to the district executive committee. The officials demanded from him to present his attitude to the authorities in a written form. During the conversations they showed him a KGB folder with information about him.

In Brest Belarusian officials acted in cooperation with the local priests of the Moscow Patriarchy of the Russian Orthodox Church. They applied pressure on the believers of the Russian Orthodox Church Abroad forcing them to recall their signatures from the application to register their parish. They knocked on the doors of the people who signed the application for registration of the parish and forced them to recall the signatures. The registration procedure requires at least 20 citizens of Belarus sign a petition to create a religious community. The signatories are to give their full name, date of birth, address and to put their signature.

In the night of November 10th, an act of vandalism was committed in "Salvation" Church of Evangelical Christians in Baranavichy. Strangers wrote "Don't believe the sects" with black paint and threw stones and empty beer bottles into the billboard on the intersection of Telman and Pershukevich streets (the 5x2.5m. billboard contained the address and the phone number of the congregation).

On December 25th, strangers set fire to the wooden building of St. George the Victorious Church in Mazyr. The building burned down. The malefactors spilled diesel fuel on the inside corners of the church. The incendiaries engraved Satanist phrases on the walls. Police instigated criminal proceedings about the arson.

On September 15th, eparchial council of the Belarusian Orthodox Church "recommended" to priest Aliaksandr Shramko that he stop his activities in the Internet and focus his activity on working with his parish.

Father Aliaksandr wrote journalistic articles about burning issues of the church life in Belarus and published them on “Carkva” web-site and in his personal blog at livejournal.com. Archimandrite Aliaksei (Shynkevich), adviser on relations with media of the Belarusian exarchate of the Russian Orthodox Church, pointed out that often priest Aliaksandr Shramko expressed opinions that “do not conform to the high rank of an Orthodox priest” and that received negative reaction among Orthodox Internet-users.

The year 2006 is marked by high activity of Protestant and Roman Catholic believers, who organized protest actions, signed petitions and even went on mass hunger strikes in order to defend their right to freedom of religion.

At the beginning of the year over 1,000 residents of Barysau, Maladechna, Vileika, and Zhodzina signed up a petition demanding to return Catholic priest Robert Krzywicki to Belarus. The dean of Barysau church was denied a new visa. The believers were “indignant over the fact that Belarusian citizens are deprived of the possibility to exercise their right to freedom of religion for made-up reasons”.

In October, the long-term confrontation of Minsk Protestant Church “New Life” and authorities turned into a mass hunger-strike. The believers protested against the seizure of their church building. The hunger-strike lasted for 23 days. The large-scale conflict had a resonance in the society. Ivan Pashkevich, adviser of the Chairman of the Union of Evangelical Baptist Christians, called the pressure on the “New Life” Church and arrests of the Protestant pastors “a war against the Protestants”.

In Hrodna Catholic believers and priest Aliaksandr Shemet went on a hunger-strike from the 1st to the 6th of December. For nine years the parish could not receive permission of the local authorities to build a church. As a result, the regional authorities agreed to comply with their request.

In late December a group of Catholic believers from Lazduny and Yuratsishki villages, luye district, held a hunger-strike protesting against suspension of a visa for their priest M. Iliaszewicz, who worked in Belarus for several years.

10. Special Services’ Pressure on Political and Civic Activists

The year of 2006 is distinguished by active involvement of the KGB in the struggle with the opponents of the regime. Earlier KGB bodies tried 107

to maximally abstract away from direct persecution of pro-democratic activists, directing its activity mainly to recruiting, and direct and wiretap surveillance. Now the KGB has become the main segment of the repressive machinery. Now it resembles the Soviet KGB by the style of its work and the scale of repression.

During the presidential election special services organized searches in the private homes of activists and candidates' headquarters practically every day. Even if formally a search was organized by police investigation bodies, the prosecutor's office always sanctioned the presence of KGB representatives there. KGB officers controlled the procedure and showed interest to any found information-bearer.

On February 21st, officers of Mahiliou region KGB held a search in the apartment of Aksana Zakreuskaya. They seized all computer equipment. At the beginning of the search they claimed it was done within the frames of a criminal case on insult of the president. However, they failed to explain who was a suspected in the case and what Aksana Zakreuskaya had to do with it. The same day KGB searched the apartment of Aliaksei Kupreyeu's parents in Bykhau. Later it turned out that the searches had been carried out in the framework of the criminal case against activists of the unregistered organization "Partnership".

KGB applied strong pressure on many people who were related in any way to the election process. Ihar Kuchynski from Brest collected signatures to become an election observer at one of the polling stations. After three days of early voting he was summoned to the regional KGB department. Intimidated by the special services, he refused to further observe the election.

Persecution of civic activists was not the only "working method" of the special services during the presidential election. KGB joined the state-owned mass media in fomentation of hysteria and fear in the Belarusian society. At one of the news conferences KGB chief S. Sukharenka claimed the political parties in opposition were preparing terrorist acts at polling stations and explosions during mass protest actions. As "proof" of this information they demonstrated a video of an unknown person who claimed he had been trained in special camps in Georgia and had planned to plant explosives in Minsk schools. Prosecutor General P. Miklashevich commented that individuals who would take part in post-election actions would be charged with "an attempt to violently overthrow the constitutional system" (among the sanctions of this article there is a capital punishment).

108 Such statements of the high-ranked officials of the law-enforcing bodies did not have anything in common with legal assessment of

possible actions of citizens. On the contrary, they demonstrated very clearly that the present KGB and Prosecutor's General office do not implement the functions they are supposed to implement according to the current legislation. According to the *Law On Bodies of State Security of the Republic of Belarus*, in its activities KGB should be governed by principles of lawfulness, respect of the rights and freedoms of an individual, and humanism. According to the *Law On Prosecutor's Offices in the Republic of Belarus*, these bodies should exercise general control over the activity of state bodies.

Meanwhile, extremely serious accusations made by the KGB chief did not end with any criminal charges. Prosecutor's bodies failed to give any assessment of the KGB statements. That shows that the statements of the high-ranked officials of the KGB and Prosecutor's office were not grounded on facts and testimony found as a result of their investigation, but were an element of the general campaign to intimidate the Belarusian society.

KGB continued one of its main activities of recruiting and persecuting activists at their jobs and educational institutions. Such illegal activity especially gained momentum in the second part of 2006. Primarily it was directed against students – members of various youth groups and initiatives, and active young people without any affiliation. Often KGB contacted young people with the assistance of administration of the educational establishments: students were invited to dean's offices, where they saw a KGB agent who insisted on a "conversation". This way, administrations of higher educational establishments were directly engaged in the general system of pressure and intimidation. In their desire to prevent political activity of young people, the majority of university officials did not even raise an issue of lawfulness of such actions of KGB officers.

On April 21st, students of the Belarusian National Technical University, who were detained during the actions of 19th – 25th of March, were invited to the rector's office, where they had a conversation with senior KGB officer Dzmitry M. Svistun. The KGB officer had to introduce himself when the 2nd-year student Andrei Shumarou refused to talk with a stranger. Andrei was offered cooperation with KGB, or he would have problems with his exams. The KGB officer did not try to recruit the 3rd-year student Mikhail Litvinau, but threatened him with expulsion from the university, because of his participation in the protests.

Siarhei Karpovich, student of the Belarusian State University, experience pressure from KGB after his detention during the Solidarity action on the 16th of April. The KGB representatives demanded from

the university administration to “take measures” to influence him. The administration allowed the KGB to take the student from classes to “talk about the opposition forces”.

In September, Siarhei Paluyan, student of Homel State University, was invited to the university military office to correct some inaccuracies in the documents. When he came to the office he was sent to the room with a plate “Special department” on the door. There a person who introduced himself as a representative of the KGB waited for him. The KGB officer asked questions about his parents and the places of their work, and then started to ask the student about his participation in solidarity actions that are held every month. Having received no information from Paluyan, the KGB officer invited the student of the same university Volha Burankova.

On October 6th director of Mahiliou lyceum # 5 gave his office to KGB representatives who tried to recruit student Ales Anisimau. The young man was offered help in entering the Police Academy if he keeps the KGB informed about actions of civic activists Krystsina Shatsikava and Yauhen Suvorau. Besides Anisimau, Uladzimir Shchytysin and Yauhen Adzinets received similar offers. All young men refused to cooperate.

KGB also tried to recruit students Paval Krauchanka, Yana Karpovich, Andrus Ihnatovich, Volha Semchanka, Anastasia Aleksandrovich and others. The students released the information to the press.

Ales Burakou was at work when he received summons to come to KGB office. Director of the central department store, where Burakou worked as an accountant, invited him to his office and gave him the summons. The document did not have the name or the position of the person who signed it. On April 26th, KGB officer Ihar Hrybaila had a conversation with him about the “struggle with external and internal enemies”. Human rights defender Valadar Tsurpanau, who was present during the conversation, was put into the latter category.

On June 15th, in Veraneika village of Mahiliou region a district police officer and a KGB representative had a “conversation” with journalists of the unregistered newspaper Volny Horad Siarhei Niarouny and Mikalai Herdziy. The journalists considered the meeting was part of the plan to intimidate them.

Babruisk human rights defender Ihar Khotska was summoned to the local KGB office in December – when he submitted documents for registration as a candidate in a local election. He had a “conversation” with deputy chief of Babruisk KGB, who did not explain the reasons for

summoning him but offered cooperation in exchange of a local councilor's mandate.

According to part 1 of Article 12 of the Law *On Bodies of State Security of the Republic of Belarus*, it is allowed to carry out investigation and search operations in relation to individuals and groups which activities are directed at violent overthrow or change of the constitutional system, and fomentation of racial, religious, or national enmity. However, in majority of cases of pressure on civic and political activists in Belarus, KGB activity was not about defending the constitutional system, but about preventing the civic activity.

According to Article 14 of the above-mentioned law, representatives of the state security bodies have the right to establish cooperation on a secret basis with citizens, who agreed to such cooperation. That means that cooperation with KGB is absolutely voluntary. At the same time, KGB representatives practically do not use their legal right to "summon officials and other natural persons, receive explanations from them about the cases and materials which are officially investigated by the state security bodies". In reality, most often the activities of special services are not directed at establishing voluntary cooperation. Vice versa, they try to force people to cooperate through threats of possible problems at work or place of study in case they refuse.

The law of the Republic of Belarus *On Investigation and Search Operations* regulates the activity of state bodies. It says that it is impossible to make people cooperate if it is done not on a voluntary basis. However, special services carry out such illegal activities with the tacit consent of the prosecution bodies and courts.

11. Torture, Cruel or Inhuman Treatment of Individuals Who Are Detained, Arrested, or Under Investigation

Article 11 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by the UN General Assembly on December 10th, 1984 and ratified by the Republic of Belarus on January 21st, 1987), contains the following definition: "Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act

he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. According to Article 2 of the Convention, “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

According to the Law of the Republic of Belarus *On International Agreements of the Republic of Belarus* (Article 13), universal principles of the international law and norms of the acting international agreements, that took legal effect, are the part of the legislation which is in force on the territory of Belarus.

According to Article 25 of the Constitution of the Republic of Belarus, no one can be subject to torture, cruel, inhuman or degrading treatment or punishment, and no one can be subject to medical and other examination without his or her agreement. This remains valid in all extraordinary circumstances (state of martial law, or threat of war, inner political instability, etc.)

Other laws and normative acts of the Republic of Belarus also provide for inadmissibility of torture and accountability for its usage.

Paragraph 3 of Article 11 of the Code of Criminal Procedure (CCP) guarantees inadmissibility of violence, and other cruel and degrading treatment of all participants of a criminal process. Article 12 of the CCP prohibits decisions and actions which disparage dignity or endanger life and health of participants of a criminal process. Consequences and material compensation of moral damage inflicted during a crime or by illegal actions of official figures conducting criminal proceedings are to be liquidated and paid according to the procedure described in the CCP.

A number of articles of the Criminal Code provide for responsibility for torture and other kinds of cruel treatment by official persons. For example, Article 128 (crimes against safety of an individual) provides for responsibility for deportation, illegal detention, mass or systematic punishment without trial, abduction which results in disappearance, and torture and acts of cruelty towards civic population on the ground of racial, national, ethnic reasons, political convictions or religion. Criminal responsibility for usage of torture is also provided by part 3 of Article 394 (giving evidence under compulsion) and part 3 of Article 426 (excess or abuse of power) of the Criminal Code.

112 At the same time the Criminal Code does not define the term “torture”, although it is mentioned in Articles 128 and 394 twice. Part 2 of Article

394 provides for criminal responsibility for forcing a suspect, an accused, or a witness to testify or an expert to give an opinion, using violence or humiliation. Part 3 of the same article provides for responsibility for the same actions, but with the usage of torture. Thus, in this case it is not clear what the legislature meant by the term “torture”, if it does not include such terms as “violence” and “humiliation”.

As for part 3 of Article 426 of the Criminal Code, although it does not contain the very term “torture”, but the list of criminal actions given in this part of the article, absolutely complies with the term in the international practice. In this case the “abuse of power” means actions of an official person, which obviously go beyond the rights and powers given to an official, combined with violence, suffering or humiliation of a victim or using weapons or special means.

The issue of admissibility and conditions for using physical force, special means and weapon are primarily regulated by Laws *On Police* and *On the Interior Troops of the Ministry of Internal Affairs of the Republic of Belarus*.

According to Article 18 of the Law *On Police*, police use physical force, special means and fire-arms if it is impossible to fulfill their duties with other means; under the circumstances on the decision of a policeman in cases envisaged by the law. If it is possible, before using force, special means and fire-arms police are to warn about the intention to use them. Special means and fire-arms are not used against women who are visibly pregnant, against underage people, and against the disabled with evident disabilities, excluding cases when they commit an armed assault or other actions that endanger life and health of the people. In all cases when it is impossible to avoid usage of physical force, special means and arms, policemen are to aim at inflicting minimum damage to health, honor and dignity, and property of citizens, and to provide medical and other kinds of assistance to victims. A policeman is obliged to inform his or her direct superior for further notifying a prosecutor about injury or death of a person as a result of using physical force, special means, or arms. Grounds for usage of physical force and special means are described in Articles 19 and 20 of the Law.

Police use physical force, including martial arts, to stop an offence, self-defense, overcoming resistance to legal demands of police, when non-violent measures did not ensure discharge of their duty. Police use handcuffs, batons, rubber batons, binding means, special chemical substances, sound-and-light devices distracting attention, water-jets, armored cars, and other special and transportation means, as well as police animals for: 1) protecting citizens and policemen from

an attack; 2) liberating hostages; 3) protecting buildings, premises, constructions, and transport means despite of the ownership, or for liberating captured objects; 4) stopping insubordination or resistance to legal demands of police officers and other persons who serve to protect public order and stop offences; 5) detaining and bringing to a police station or other official premises individuals who committed an offence or refuse to name themselves, as well as for conveying and confinement of the detained or arrested if they demonstrate insubordination or resistance, or if there are grounds to assume they may escape or injure themselves and others; 6) stopping disorder and group actions that violate public order.

The type of special means and intensiveness of their usage is determined by police officers on their own, on the ground of the circumstances, type of offense, and personality of an offender.

Although the legislation of the Republic of Belarus provides for responsibility of official persons for using torture, the number of individuals convicted for that is very insignificant. The problem is latent in Belarus. Information about usage of torture and other cruel treatment of the detained and arrested is rarely open for the society. The same is true about the situation in Belarusian prisons and detention centers.

At the same time, human rights defenders learn about cases of torture of political and civic activists and mass actions participants. They learn about the facts from the victims of torture by law-enforcing bodies and from mass media. These facts receive coverage while victims take measures to defend their rights.

The biggest number of facts of torture and other inhuman or degrading kinds of treatment was registered during the presidential election and the post-election protest actions.

On March 17th, strangers in civil clothes, who later turned out to be police officers, detained human rights defender and civic activist Uladzimir Vialichkin (Brest). He was violently pushed into a car and hit with fists. Then they put a black sack on his head and drove him all over town for two hours, humiliating and intimidating him. Then they took Uladzimir Vialichkin to court, which sentenced him to 5 days in jail under Article 156 of the Code of Administrative Infringements (disorderly conduct). The human rights defender was found guilty of using foul language.

When on March 22nd riot police detained Kanstantsin Usianok for participation in a protest in October Square in Minsk, they took him inside a MAZ police truck and began to beat him. Then one of the

inflicting bodily injury of rupture of the frenulum of tongue. These actions were accompanied by beating, foul language and insults. During examination of personal belongings a policeman found scissors and other hairdresser's tools in Usianok's bag. Kanstantsin Usianiok explained that he worked as a stylist in one of the beauty salons in Minsk. In response the policeman took the scissors and cut off a lock of hair on his head. Having served a 10-day jail sentence, Kanstantsin Usianok appealed to Centralny prosecutor's office in Minsk, asking to instigate proceedings against the policeman who had humiliated him. In his appeal he gave the name of the witness who had been put in the same police truck and could confirm the fact of torture. Usianok also asked to send him to forensic medical examination. He attached a picture of the policeman who beat him to his appeal. However, the prosecutor's office sent Usianok's appeal to Yury Padabed, commander of the riot police department of Minsk city police and head of the body which actions were appealed against. That contradicts Article 9 of the *Law On Appeals of Citizens* which directly prohibits sending the appeals to state bodies and official persons of other organizations, which actions are appealed. Yury Padabed replied to Usianok that they had checked the facts mentioned in the appeal and had not found any confirmation of them; actions of the officers of riot police department of Minsk city police had been recognized lawful. Kanstantsin Usianok submitted another appeal to Centralny district prosecutor's office with a request to start proceedings against the policeman, in conjunction with the fact that the prosecutor's office had not carried out a proper examination of the facts mentioned in the first appeal. However, Centralny prosecutor's office investigator A. Bachyla refused to instigate criminal proceedings. He wrote back to Usianok, that in the course of the examination the prosecutor's office had not found any facts that would indicate unlawful actions of the riot police towards K. Usianok.

During detention on March 11th policemen broke Mikhas Volchak's right thumb. He tells his story: "I came out of the building at Miasnikova Street, 78 and went to a bus stop. A trolley-bus arrived, the doors opened, I came closer... All of a sudden two big men jumped out in front of me and grasped me by the hands. I felt that there was someone behind my back.... With both hands I gripped the rail and started to cry for help. These musclemen began to beat me on the hands and dragged me into a van... They did not introduce themselves and were dressed in tracksuits. I didn't know who they were and where they were from. Only later it turned out that they were from police. It all happened very fast. They hit me on the hands so strongly that my right thumb got broken.

The pain was terrible. They continued to beat me in their van. They beat me in a brutal way and for quite a long time. There, in the vans, they do everything upon command. Their master sergeant say: "Beat!", and they beat. He says: "Don't beat!", and they stop. I remembered the license number of that van: 62-01 AA. I remember the names of the policemen who detained me: master Sergeant A.N. Kruhlikau and police officer A. N. Shaiko. Later they were witnesses in court. There were 4 people in the van – the driver, those two, and one more – a sadist with the last name Korzhyk. He didn't testify at the trial. Then they took me to Maskouski district police department. They sat me on a chair in the middle of the room and continued to humiliate me. They also used threats... They beat me in such a way that does not leave any bruises – on the back and sides. Not to kill, but to intimidate me." As a result of beating Mikhas Volchak was taken to hospital by an ambulance. But the beating continued in the hospital: "At all times I was followed by three men, who "guarded" me... In the therapeutic office I began to ask the doctors to call my family and gave them my phone number. The policemen heard that and started to panic. The doctor sent me to make an X-ray. When we walked down the corridor the policemen hit me on the back and knees... I fainted. I fell on a concrete floor. The bruises from the blow remained until the day I was released. When I came to consciousness they took me to an X-ray room. There I quietly asked the doctors to call my family... I gave my phone number to a nurse and she quickly noted it down. I also managed to tell my phone number to three doctors. Two people called my family and told them that I had been detained. They put my hand in a cast and police took me to Akrestsina detention center. The detention center administration asked for a medical paper that I was okay. I had high pressure and a heart ache. They said they wouldn't take me to the detention center with such a high pressure: "what if he dies in an hour...." The policemen took me to hospital # 4 for a cardiogram. But at first I received several injections and the cardiogram was okay. The policemen took a paper from hospital that it was okay to put me to a detention center. It was Saturday. I was in shock until Tuesday. I even didn't feel pain. On Monday my friends came to my trial. That brought me back to reality. I understood that they knew about what happened to me. I was sentenced to 12 days in jail. In the end, it turned out that nowhere – neither in the hospital, nor at the police department, was it registered that I was there, that I had a fracture, and that they put my hand in a cast. The X-ray image of my thumb was also missing." Because of low-quality medical assistance Mikhas Volchak's bones knitted in a wrong way. He

We have also registered facts of representatives of law-enforcing bodies beating reporters who were performing their professional duties. On March 2nd police brutally beat reporter of *Komsomolskaya Pravda v Belorussii*. Aleh Ulevich. Ulevich was beaten near Kastychnitski district police department where presidential candidate Aliaksandr Kazulin had been detained. As a result of the blow in the face, the reporter was taken to hospital with “closed craniocerebral injury and fracture of the nose bones”. Aleh Ulevich reported the incident to prosecutor’s office. The prosecutor’s office instigated criminal proceedings under part 1 Article 149 of the Criminal Code: “voluntary infliction of severe bodily injury”. In the course of the year the criminal case was stopped and renewed several times. As a result no one was charged “in conjunction with failure to determine the person who is to be charged”. We should point out that the incident was witnessed by about 30 policemen, three of whom were video-taping the events, and about 20 citizens.

Participants of the celebration of the Freedom Day in Minsk on March 25th suffered the most. Police used rubber batons and other special means against peaceful demonstrators. Soldiers and riot policemen dressed in flak jackets, helmets, and cover sheets beat everyone who they saw on their way. They threw people on the asphalt and kicked them and beat them with batons. Several people got into hospital with various injuries. Uladzimir Shadenka, 65, from Drazhna, Vitebsk district, was taken to clinical hospital #4 in Minsk. An X-ray image showed: the elderly person has an intensified vascular pattern in the sinciput area. He was also diagnosed with craniocerebral injury and concussion of brain. Shadenka lost much blood and received many stitches. However, he was forced to leave the hospital in three hours on the alleged ground that he was in the state of alcoholic intoxication. At the same time, many Minsk hospitals, including hospital #4 where Shadenka was taken, refused to admit that they received people who had been injured by police.

On July 22nd in Salihorsk, police detained Ivan Shyla, leader of local Young Front, during an action in support of political prisoner Aliaksandr Kazulin. The policemen beat him and then threw a cigarette under his sweater leaving a burn on his skin. His brother Illia was taking pictures of the detention. The police severely beat him and took him to a police station in handcuffs. The brothers appealed to prosecutor’s office against illegal actions of police officers. However, the appeal had no positive result.

Political prisoners are one of the very few sources of information about conditions of Belarusian prisons, and what kind of treatment the convicts and people held in custody receive.

Young Front leader Zmitser Dashkevich was charged with activity on behalf of an unregistered organization under Article 193.1 of the Criminal Code. He wrote about the conditions of the pre-trial isolation and detention center in Minsk: “It’s bad that I got here during the weekend, that’s why I have to spend three days in a “settler”. These are the cells that serve as a terminal before the Valadarka center. I was in a room of 12 square meters with 25 people inside. We slept in a sitting position for three days. The cigarette smoke is so heavy that I can’t see the opposite wall – out of 25 people I am the only non-smoker”. That’s how Zmitser describes the conditions in the cell where he was waiting for the trial: “The conditions here are the following: 16 beds (eight two-level plank beds). Usually there are 23 of us. The biggest problem is the lack of air, because of “eyelashes” on the bars – fixed iron blinds which make it possible only look up through a narrow slit. Some time ago, before the OSCE visit, they were removed. But then, in half a year, the administration put them back. So, in a cell of 26 square meters (I counted very accurately) we have 23 people, and the window is one meter high and one meter long, and is all covered with iron”.

At the same time, according to Article 2 of the Law *On the Order and Conditions of Keeping in Custody*, keeping of individuals in custody should be done on the principles of lawfulness, humanism, equality of all citizens before the law, respect to human dignity, in accordance with the Constitution of the Republic of Belarus, the universal principles and norms of the international law, and the international agreements of the Republic of Belarus. It should not be accompanied by cruel, inhuman treatment, which may damage the physical and psychic health of an individual who is kept in custody.

Youth activist Artur Finkevich is serving a term of restriction of freedom in one of the special open-type jails in Mahiliou. After surgery on his legs he was forced to leave the hospital and go back to the jail dormitory. Despite a leg that was freshly operated on, Artur had to do hard physical work at a brick plant.

Former parliament member Siarhei Skrabets told us about the conditions of Belarusian prisons after his release: “The prisoners are to have two hours for a walk outside, but the maximum we had was 40 minutes outdoors. During the “transfers” I had cellmates who were ill with tuberculosis and AIDS. Now they are not kept separately. There are many ill people both in the “zone” and in the “quarantine” ward. When Kazulin and I were kept in the medical ward, there was a TB patient before us. It seems we had no TB patients in our cell. However, people don’t want to speak about that. No one wants to admit that he

is ill. Nevertheless, I happened to talk to such people and even drink tea with them. Walks are organized in a yard of 2x3 meters size. In Brest the yards are quite dirty and dusty. But they are relatively good in comparison with Minsk pre-trial detention center. At Valadarka detention center in Minsk shit simply lies in the yards. I wrote to administration asking to clean the yards, because all that was getting to the cells and could become the reason for illnesses. However, there was no response to my letters. The shower was just a mockery – once a week, for 10 minutes, only cold water, and one shower for 5 people – no one cares about how one can wash himself. Although we are talking about pre-trial detention and no one is yet proven guilty. One needs a week to get from a prison in Brest to a prison in Minsk. I spent this time in Baranavichy transit prison. This is where they really have inhuman conditions: 100 people in one cell. Two-level planks are instead of beds. All 100 people smoke. I don't smoke. There is only one toilet for all 100 people. I spent four days there, and that was a very hard time. All possible rights are violated there, they don't allow walks, they allow nothing... There are people who spend several months there. Then I came to Minsk. At Valadarka prison they almost drove me crazy. For three days I lay on planks with rats, mice, and lice. I was in the cell with the homeless... The treatment was really bad. These are conditions after the "transit", before one gets "up", to a cell. All the time they bring somebody new and take some people away. There are no plank beds there. There is a "stage" – a deck of planks where everyone sleeps."

On the ground of the collected information we can come to conclusion that conditions of custody in Belarusian prisons are dangerous to people's health, they humiliate their human dignity and do not correspond to minimal standards of confinement. Information about the human rights situation in institutions of confinement is still closed for public.

Meanwhile, on September 15th, 2006 the Council of Ministers issued Ruling # 1220 describing the procedure for national and local non-governmental organizations to exercise control over activity of penitentiary institutions. The Ruling provides for creation of public monitoring commissions which can observe if the rights of the people in penitentiary institutions are implemented and if the situation meets the standards of the Constitution and the international norms. The Ruling provides for commissions of two levels: the National Commission at the Ministry of Justice, and regional and Minsk city commissions at justice departments of regional and Minsk city executive committees. However, there are practically no human rights organizations left in the country, which could nominate their representatives to the above-mentioned

commissions and propose real assistance to the authorities in reforming the penitentiary system in the country, including humanitarian assistance aimed at improving the conditions in Belarusian prisons.

12. Human Rights Activity. Pressure on Human Rights Defenders and Human Rights Organizations

According to Article 1 of the Declaration on Human Rights Defenders (adopted by the UN General Assembly on December 8th, 1999), everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Article 6 of the Declaration states that everyone has the right to “freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; to study, discuss, form and hold opinions on the observance, both in law and in practice, of all

human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.”

In 2006, the Belarusian continued to ignore international mechanisms of defending human rights. The government failed to respond positively to the requests of Adrian Severin, UN special rapporteur on human right situation in Belarus, to visit Belarus. He expresses his concern about this fact in the report, passed by the Human Rights Council on September 27th, and in the UN Resolution on Belarus adopted on December 19th. The resolution reads: The General Assembly... insists that the government of Belarus cooperate fully with all the mechanisms of the Human Rights Council, in particular with Commission on Human Rights resolution 2004/14 establishing the mandate of the Special Rapporteur appointed in Commission resolution 2005/13”.

During the entire year Belarusian authorities demonstrated neglect of the decisions of the UN Committee on Human Rights on individual appeals of citizens. By signing and ratifying the International Pact on Civic and Political Rights, and the facultative protocol as its supplement, Belarus took a voluntary obligation to recognize the competence of the Committee and to voluntary implement its decisions. However, the state continued its earlier practice of avoiding its international obligations. For example, at the end of January, Brest human rights defender Uladzimir

Vialichkin appealed to the Supreme Court of the Republic of Belarus asking to cancel the court decision of 2000, under which he had been fined 20 basic units for handing out the Universal Declaration of Human Rights. In his appeal he referred to the conclusions of the UN Committee on Human Rights. The Committee decided that the authorities violated Article 19 paragraph 2, and Article 2 paragraph 3 (a) of the International Pact of the Civic and Political Rights and recommended for the Republic of Belarus to compensate for the damage and take other measures to restore the rights that had been violated. However, the Supreme Court of Belarus rejected Vialichkin's appeal. Deputy chairman of the Supreme Court V. L. Kalinkovich pointed out in his letter: The appeal is left without satisfaction, because the charges against you (Vialichkin) under Article 167-1 part 1 and Article 166 of the Code of Administrative Infringements were well-grounded. They were in conformity with the national legislation which was valid during the infringement you committed". Such a response of a representative of the judicial power also contradicts Article 8 of the Constitution of the Republic of Belarus, which recognizes the priority of the universally-acknowledged principles of the international law and the necessity to bring the national legislation to conformity with them.

Despite the fact that the Constitution of the Republic of Belarus guarantees to each individual freedom of opinions, convictions and free expression of them (Article 33), as well as the rights to freedom of associations (Article 36), the conditions for human rights activity of both individuals and human rights organization are very unfavorable. The general tendency to suppress civic society also spread to human rights activities in Belarus. The government used different forms of repression and pressure against human rights defenders and human rights organizations.

Criminal persecution was one of the most brutal means used by the authorities. On the run up to the presidential election Ivan Kruk, activist of the Belarusian Helsinki Committee from Astravets, was charged with violation of Article 364 of the Criminal Code (violence or a threat of violence against a policeman) for breaking his own computer during a search in his apartment. In May, Lida district court of Hrodna region sentenced Ivan Kruk to six months of imprisonment.

On March 1st, the Department for Financial Investigation of the Committee of State Control re-opened the criminal case under Article 243 part 2 of the Criminal Code (tax evasion) against Tatsiana Protzka, chairperson of Belarusian Helsinki Committee. She was suspected of allegedly failing to pay about \$70,000 U.S. dollars worth of taxes for

grant assistance received within TACIS program of the European Union. (TACIS program provided financial assistance to Belarus under the condition that it would be non-taxable. At first the Supreme Economic Court took the side of the human rights defenders. However, later its Presidium cancelled that decision. On March 28th, the criminal charges were dropped “in connection with the fact that the actions of Tatsiana Protzka are not socially dangerous”.

Despite the fact that the charges against BHC chairperson were dropped, the failure to pay the above-mentioned tax became one of the reasons for the Ministry of Justice to submit a suit to suspend the activity of the organization in May, 2006. The suit read: “The non-governmental organization Belarusian Helsinki Committee committed serious violations of tax legislation. During a complex examination the tax bodies charged extra payments to the budget and applied economic sanctions on the amount of over 155,000,000 BYR. During several months Belarusian Helsinki Committee had failed to clear its liabilities and does not take any measures to do that. It also ignores the warning made by the Ministry of Justice for the above-mentioned violations”. The court proceedings on the suit to suspend BHC activities began on June 23rd, but it was postponed until the hearing of the supervisory complaint against the ruling of the Presidium of the Supreme Economic Court. In September the human rights organization received a response to the supervisory complaint, which said that the court had failed to find any grounds to protest against the decision of the Presidium of the Supreme Economic Court. The hearings on the suit of the Ministry of Justice to suspend BHC activities were appointed on November 28th. However, the Supreme Court again postponed it for an unknown term. Thus, the created juridical collision was not solved until the end of the year. However, it did not prevent officers of the court from confiscate part of BHC property on December 6th.

In 2006, the authorities continued the practice, typical for Belarus in recent years, of limiting the activity of human rights organizations and their closure.

On June 16th, Mahiliou Human Rights Center (MHRC) received a letter from Mahiliou regional department of justice. The officials recommended the MHRC to remove the following clause from its Statute: “the human rights center provides defense of the rights and legal interests of individuals, according to the legislation...- in courts, bodies of state power, and non-governmental organizations”. MHRC chairman U. Krauchanka pointed out that this was not the first attempt of the authorities to force human rights defenders to get rid of their

122 main goal, narrowing it to the right to only defend themselves - the

organization members. Mahiliou human rights defenders refused to make amendments to their statute.

On April 27th, Minsk Economic Court did not satisfy the complaint of the Innovation Foundation of Law Technologies against the ungrounded refusal of the Ministry of Justice to register amendments to its Statute in conjunction with the new requirements of the Law *On Non-Governmental Organizations*. The formal reason for refusal was the fact that the name of the organization did not indicate the nature of the Foundation's activity, and the Statute did not determine concrete goals, objectives, and methods of the NGO. On August 17th, the Supreme Court of the Republic of Belarus did not satisfy the cassation complaint of the Innovation Foundation of Law Technologies. Thus, the decision for its closure came into effect. The Foundation was founded by human rights activists who worked in the Independent Society of Legal Research before it was shut down in 2004.

Thus, as a result of the government's actions to liquidate non-governmental organizations, the majority of human rights organizations have lost their official registration in the Republic of Belarus. Some organizations received registration in Lithuania, the Czech Republic, Ukraine, and other countries. However, this registration is not recognized by the authorities of the Republic of Belarus. The situation became especially dangerous when the Criminal Code was amended in 2006. The amendments provide criminal responsibility for organizing activity or participation in activity of organizations and foundations, which have been officially suspended or shut down by court. Simultaneously, it is practically impossible for a human rights organization or foundation to receive official registration in Belarus.

The majority of representatives of human rights organizations, which were shut down by court decisions in the past years or were refused registration, sent individual complaints to the UN Committee on Human Rights for consideration. In 2006, the Committee made a decision about the refusal to register a human rights organization "Helsinki XXI" (the complaint was filed by human rights defender Barys Zvoskau and a group of citizens). Earlier we reported that in August, 2001 the Supreme Court of Belarus supported the decision of the Ministry of Justice not to register Helsinki XXI. This occurred because the human rights activists did not want to remove the clause from the Statute about the possibility to defend not only the organization's members but also other citizens who ask for support. The Committee's decision reads: "Taking into account the consequences of the refusal of registration – illegality of activity of unregistered organization on 123

the territory of the participating country, the Committee comes to conclusion that the refusal of registration does not meet the requirements of Article 22 (2) of the International Pact on Civic and Political Rights". The Committee also recommended that the state should provide corresponding compensation to the authors of the complaint and revise their application for registration of the NGO.

During 2006, the government used different forms of pressure and persecution against the human rights defenders. Among them there were threats, prosecutors' warnings, administrative fines and arrests, illegal searches, etc.

Threats were also used against lawyers who participated in trials as defenders of public and political activists, although the activity of defense lawyers is guaranteed by the Constitution of the Republic of Belarus. The brightest example is threats to lawyer Pavel Sapelka, who defended youth activist Pavel Krasouski. During one of the interrogations senior investigator for especially important cases of the Prosecutor's General office Aliaksandr Rasolka threatened Sapelka that he would be disbarred, and with the fact that Sapelka might become a suspect himself in the near future.

On April 17th, Savetski district prosecutor's office of Minsk warned human rights defender Ales Bialiatski under Article 400 of the Criminal Code ("deliberately false denunciation"). He was warned in conjunction with his commentary of the events of violent dispersal of the peaceful rally on March 25th to www.charter97.org web-site. Similar warnings were made to human rights defenders Uladzimir Labkovich and Liudmila Hraznova.

During the presidential election the human rights activists in all regions of Belarus were arrested en masse and fined for fictitious reasons. Most often they were charged under Article 156 of the Code of Administrative Infringements – "disorderly conduct", Article 166 – "disobedience to demands of police officers", and Article 167.1 – "participation in an unauthorized mass event". Among the convicted human rights defenders were:

1. Valery Shchukin; on March 17th, Peshamaiski court of Vitebsk sentenced him to seven days of arrest under Article 156 of the Code of Administrative Infringements;

2. Viktor Sazonau; on March 15th, he was sentenced to seven days of arrest under Article 156 of the Code of Administrative Infringements, Hrodna;

3. Uladzimir Vialichkin; on March 17th, he was sentenced to five days of arrest under Article 156 of the Code of Administrative

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Infringements, on March 22nd he was sentenced to another seven days of jail on the charge of disorderly conduct, Article 156, Brest;

4. Ales Dzerhachou; on March 17th, he was sentenced to five days of jail under Article 166 of the Code of Administrative Infringements, Smarhon;

5. Uladzimir Tseliapun; on March 17th, he was sentenced to seven days of arrest under Article 166 of the Code of Administrative Infringements, Mazyr;

6. Vasil Berasneu; On March 14th, he was sentenced to seven days of arrest under Article 167.1 of the Code of Administrative Infringements, Orsha;

7. Viktar Yarashuk,; on March 14th, he was sentenced to five days of arrest under Article 156 of the Code of Administrative Infringements; on March 19th, he was sentenced to five days of arrest under Article 156 of the Code of Administrative Infringements, Pinsk

8. Ihar Maslouski; on March 19th, he was sentenced to seven days of jail under Article 156 of the Code of Administrative Infringements, Brest

9. Vasil Lieuchanka; on March 15th, he was sentenced to seven days of arrest under Article 156 of the Code of Administrative Infringements, Orsha

10. Ihar Lednik; on March 15th, Centralny district court of Minsk sentenced him to 10 days of arrest under Article 156 of the Code of Administrative Infringements,

11. Valery Putsitski; on March 16th, he was jailed for seven days under Article 156, Rechytza;

12. Siarhei Housha; on March 24th, he was charged with violation of Article 156 and fined two basic units, Baranavichy;

13. Karnei Piatrovich; on March 16th, he was charged with violation of Article 167.1 of the Code of Administrative Infringements and fined 20 basic units, Baranavichy;

14. Aleh Zhlutka; on March 22nd, he was arrested for 15 days on the charge of violation of Article 167.1 of the Code of Administrative Infringements, Minsk;

15. Yury Chavusau; on March 22nd arrested for 10 days on the charge of violation of Article 167.1 of the Code of Administrative Infringements, Minsk;

16. Viachaslau Bolbat; on March 14th, he was sentenced to eight days of jail on the charge of disorderly conduct – Article 156 of the Code of Administrative Infringements, Baranavichy

The action of solidarity with political prisoner Aliaksandr Kazulin held on December 10th, the Day of Universal Declaration of Human Rights, ended with dispersal of its participants and arrests. Riot policemen beat people with batons and trampled them. The police detained human rights defenders Ales Bialiatski, Valianstin Stefanovic (who was severely beaten), and Ales Kalita.

Representatives of law-enforcing bodies repeatedly used beating and torture against human rights defenders. For instance, in March the police detained human rights activist Uladzimir Vialichkin. After detention the police officers drove him all over the town for several hours with a black sack over his head. Riot policemen detained Yury Chavusau, threw him on the floor, beat him and kicked him in the head, face, kidneys, back and choked him with a scarf.

We have registered attacks against human rights activists by “strangers in civil clothing”, which were left uninvestigated. In the evening of April 3rd, strangers beat activist of the Roma movement Mikola Kalinin. Six unknown men and a girl came up to him. The girl claimed he had insulted her. The strangers made several strong blows, Kalinin fell down and lost consciousness. He considers this attack as a planned action of intimidation.

On May 11th, officers of Hrodna KGB searched the private apartment and the office of Hrodna human rights activist and journalist Uladzimir Khilmanovich. The searches were sanctioned by Minsk city prosecutor’s office in conjunction with the criminal case against unregistered organization “Partnership”. The searches ended with seizure of all office equipment.

The Belarusian authorities paid special attention to the control over distribution of independent information about human rights situation in Belarus. On December 10th youth activists Franak Viacorka, Siarhei Karpovich, and Maksim Vialmovich were charged under Article 172.3 of the Code of Administrative Infringements – distribution of printed materials which damage the state order, or the rights and legal interests of citizens. The policemen decided that the fact that young people had copies of Andrian Severin’s report about human rights situation in Belarus with them was an infringement of the Belarusian legislation.

Homel human rights activist Anatol Paplauny was fined 5 basic units in December. He was found guilty of violation of Article 172 part 3 of the Code of Administrative Infringements (distribution of printed materials which damage the state order, or the rights and legal interests of citizens).

Paplauny works as a specialist at Homel Plant of Starting Engines. The company deputy director for ideology found two copies of Svaboda

newspaper at the working place of one of the workers. Although they failed to prove that it was Paplauny who distributed the newspaper, they set the maximum penalty for the infringement.

During the year the international community repeatedly expressed concern about the pressure on the Belarusian human right organizations and human rights activists. December UN Resolution on Belarus reads: “The General Assembly... urges the government of Belarus ...to cease politically-motivated prosecution, harassment and intimidation of political opponents and pro-democracy activists and human rights defenders”.

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Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/61/443/Add.3)*]

61/175. Situation of human rights in Belarus

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their international obligations, *Mindful* that Belarus is a party to the International Covenant on Civil and

Political Rights and the Optional Protocols thereto, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, and the Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography,

Recalling Commission on Human Rights resolutions 2003/14 of 17 April 2003, 2004/14 of 15 April 2004 and 2005/13 of 14 April 2005, and Human Rights Council decision 1/102 of 30 June 2006,

Concerned that the presidential election of 19 March 2006 was severely flawed and fell significantly short of the commitments of Belarus

to the Organization for Security and Cooperation in Europe to hold a free and fair election,

and that the situation of human rights in Belarus in 2005 was steadily deteriorating, as documented in the final report of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and in the report of the Special Rapporteur on the situation of human rights in Belarus, *Noting* that the Belarusian authorities have decided to hold local elections on 14 January 2007, and expressing its hope that those will be free and fair, in full respect of international electoral standards,

1. *Expresses deep concern:*

(a) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Human Rights Council, in particular with the special rapporteurs on the situation of human rights in Belarus, while noting the serious

concern relating to the deterioration of the human rights situation in Belarus expressed by seven independent human rights experts of the United Nations in a statement issued on 29 March 2006;

(b) That in spite of detailed recommendations by the Organization for Security and Cooperation in Europe and dialogue between the Government and the Organization for Security and Cooperation in Europe following previous elections,

Belarus again failed to meet its commitments to hold free and fair elections, including through the arbitrary use of State power against opposition candidates, routine harassment, the detention and arrest of political and civil society activists,

the obstruction of the access of opposition candidates to State media, the negative portrayal in the State media of opposition candidates and activists, including human rights defenders, and the serious shortcomings of the vote count, which lacked minimum transparency;

(c) About continuing reports of harassment, arbitrary arrest and detention of up to one thousand persons, including opposition candidates, before and after the election of 19 March 2006;

(d) About the continuing and expanding criminal prosecutions, lack of due process and closed political trials of leading opposition figures and human rights defenders;

(e) About the continuing harassment and detention of Belarusian journalists covering local opposition demonstrations, and that senior officials of the Government of Belarus were implicated in the enforced disappearance and/or

summary execution of three political opponents of the incumbent authorities in 1999 and of a journalist in 2000 and in the continuing investigatory cover-up, as documented in the report adopted in resolution 1371 (2004) of 28 April 2004 by the Parliamentary Assembly of the Council of Europe;

(f) About the decision of the Belarusian authorities to revoke the teaching licence of the European Humanities University in Minsk and to terminate the lease of its buildings, forcing the University in Belarus to close down;

(g) About persistent reports of harassment and closure of non-governmental organizations, national minority organizations, independent media outlets, religious groups, opposition political parties, independent trade unions and independent youth and student organizations, and the harassment and prosecution of individuals,

including students engaged in the promotion and protection of human rights, the rule of law and democracy;

2. Urges the Government of Belarus:

(a) To bring the electoral process and legislative framework into line with international standards, especially those of the Organization for Security and Cooperation in Europe, demonstrate such commitment through the upcoming local

elections in January 2007 and rectify the shortcomings of the electoral process, identified by the Office for Democratic Institutions and Human Rights in its report of 7 June 2006, including, inter alia, election laws and practices that restrict

campaigning opportunities for de facto opposition candidates, arbitrary application of electoral laws, including on registration of candidates, obstruction of the right of access to the media, biased presentation of the issues by the State media and falsification of vote counts;

(b) To cease politically motivated prosecution, harassment and intimidation of political opponents, pro-democracy activists and human rights defenders, students, independent media, religious organizations, educational institutions and

civil society actors; and to cease the harassment of students and to create the conditions whereby they can continue their studies in Belarus;

(c) To respect the rights to freedom of speech, assembly and association and to release immediately all political prisoners and other individuals detained for exercising those rights;

(d) To suspend from their duties officials implicated in any case of

enforced disappearance, summary execution and torture and other cruel, inhuman or degrading treatment or punishment, pending investigation of those cases, and to

ensure that all necessary measures are taken to investigate fully and impartially such cases and to bring the alleged perpetrators to justice before an independent tribunal, and, if found guilty, to ensure that they are punished in accordance with the international human rights obligations of Belarus;

(e) To investigate and hold accountable those responsible for the mistreatment and detention of domestic and foreign journalists in connection with the election of 19 March 2006 and post-election demonstrations;

(f) To uphold the right to freedom of religion or belief, including the ability to maintain communications with individuals and communities in matters of religion and belief at the national and international levels;

(g) To investigate and hold accountable those responsible for the mistreatment, arbitrary arrest and incarceration of civic and political activists leading up to and following the presidential election of March 2006 and to release

immediately and unconditionally all political prisoners;

(h) To carry out all other steps called for by the Commission on Human Rights in its resolution 2005/13;

3. *Insists* that the Government of Belarus cooperate fully with all the mechanisms of the Human Rights Council, in particular with the Special Rapporteur appointed pursuant to Commission on Human Rights resolution 2004/14 and

whose mandate was extended in Commission resolution 2005/13, as well as with the Representative of the Organization for Security and Cooperation in Europe on freedom of the media.

81st plenary meeting

19 December 2006

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