

Violations of Human Rights in Belarus in 2007

Analytical Review

Minsk, 2007

VIOLATIONS OF HUMAN RIGHTS IN BELARUS IN 2007

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The Review analyzes the human rights situation in Belarus in 2007. The book describes the most evident and typical facts of violations of rights and freedoms of the Belarusian citizens that year.

The review is prepared on the basis of personal evidence of the victims of human rights violations, facts registered by human rights defenders, and information from open sources (mass media, web-sites spring96.org, svaboda.org, baj.ru, charter97.org, nn.by, etc.)

Photos by spring96.org, photo.bymedia.net, and nn.by are used in the book.

INTRODUCTION

In 2007 the human rights situation in Belarus strongly depended on the general political situation. On one hand, the desire of the Belarusian authorities to control the political situation in the country by any means continued the policy of oppression of civic and political rights; on the other hand, deterioration of the relations with Russia led to necessity to improve the relations with the European Union, determining the graduated nature of repression and even periods of temporary thaws.

The beginning of 2007 was marked by dramatic deterioration of the relations with Russia, linked to sharp price rise for gas. The geopolitical policy carried out by Lukashenka and certain pro-Eastern political and economic circles collapsed. Naturally, we observed immediate geopolitical realignment: the Belarusian authorities bent every effort to improve the economic and diplomatic relations with the European countries. However, in its “12 conditions” formulated in 2006, the European Union clearly linked the progress in economic cooperation with Belarus with democratization of the Belarusian regime. That policy was confirmed in 2007 numerous times. For example, during the Brussels conference “European Union and Belarus: new challenges” in February, the President of the European Parliament Hans-Gert Pöttering stated: “if Belarus finally demonstrates readiness to cooperation with the EU, the dialogue should be held on the basis of the conditions which were earlier formulated by Brussels. The first thing the Belarusian authorities are to do is to release political prisoners”. Separate countries of Europe stuck to the same hard line.

In their turn, the Belarusian authorities refused to admit that the country had problems with observance of human rights. In this sense the April speech of Lukashenka addressed to journalists is a bright example: “Belarus has never opposed Europe... but see, they don’t like our internal problems, the problems of opposition, they don’t like our election legislation”. According to Lukashenka, the West “is obsessed with some human rights... The main human rights are the right to life, to work, and to salary. Are we worse in solving these issues?” Aliaksandar Lukashenka did not admit the presence of political prisoners in the country: “We receive unacceptable claims. As mules, they run their heads against that wall, and demand to release political prisoners, for example... we do not have political articles. We explained them what the people were jailed for. The European Union guys paid them to push them on the barricades, and now they

want to get them out”. Moreover, Lukashenka considered the issue of political prisoners a subject for political trade-off: “okay, you come, say you are guilty, ask the Belarusian people to forgive you, and say: “let’s solve the issues”. Lukashenka confirmed his strong position as for the death penalty: “We had a referendum on that issue, and it’s not in my power to cancel it”. He confirmed further steps to restrict the activity of independent media: “They talk about freedom of mass media. Okay, no problem: let the opposition newspapers write what they write. But they are impudent enough to propose the state to distribute these opposition newspapers... It doesn’t happen anywhere, and we are not going to do that”.

Lukashenka’s opinion directly forms the algorithm of the actions of the authorities. During the whole year they based their behavior in the sphere of human rights on his statements about the issue.

The United States government was very active in trying to get the issue of human rights in Belarus moving. In April Deputy Assistant Secretary of State David Kramer visited Minsk. He met with the high-ranking officials of Belarus, including deputy head of the President’s Office Natalia Piatkevich. David Kramer formulated the main issues of the conversation with the Belarusian authorities in the following way: «My message [to the Belarusian authorities] has been very clear, which is that the government here can take one of two paths. They can lead to an improvement in relations between Belarus and the United States by taking specific concrete steps. Specifically, releasing all political prisoners, and I mean all political prisoners, and dropping charges against others, including from Young Front; and allow events tomorrow (Chernobyl march — ed.) to take place peacefully, and allow regional and national Congresses [of democratic forces] to be held in Belarus without any problems. In absence of those steps I fear that relations could deteriorate. But the ball is in the court of the government of Belarus.”

As a result of negotiations, the Belarusian authorities had to weaken the pressure on the activists of the Belarusian opposition forces. Soon three political prisoners were released before term: Mikola Statkevich, Paval Seviarynets, and human rights activist Katsiaryna Sadouskaya. The criminal proceedings against five Young Front activists resulted with unexpectedly soft verdicts: fines and a warning. In May the authorities dropped criminal charges against pro-democratic activists Tatsiana Yelavaya, Dzianis Dzianisau, Vechaslau Siuchyuk, Mikita Krasnou, Aliksandar Uryuski, Aliksandra Yasiuk, and Natalia Starastsina. The mass action “Chernobyl March” was carried out without any big incidents.

However, the authorities lacked the political will to release other political prisoners: former presidential candidate Aliksandar Kazulin, and youth

activists Zmitser Dashkevich and Artur Finkevich. Moreover, on April 3rd politician and publicist Andrei Klimau was arrested for political reasons.

Some experts believed, early release of Pavel Seviarynets and Mikola Statkevich was an attempt of the Belarusian authorities to keep preferences in the trade with the European Union. However, according to British ambassador Brian Bennett, “their release only a little earlier than the end of the terms can hardly be called an important step of Belarus towards democracy”. In June the European Union cancelled all the preferences in trade with Belarus, and the period of “liberalization” came to an end. In September Young Front members were prosecuted again; new criminal proceedings were started against Dashkevich and Finkevich.

The attack on the social rights carried out by the Belarusian authorities in 2007 by passing a law about benefit cuts, led to resistance in some social groups. Students (who lost the 50% discount on public transport) were the most active in their protests. They held numerous street performances, pickets and spread information with the call to defend their rights. We have registered actions of blood donors and school students: on December 16th, when the law came into force, 23 secondary school students from Mazyr came to the central town square, protesting against cuts of the public transport discounts.

The authorities responded to protest actions with persecution. In Minsk on May 21st, during dispersal of the students’ action in the Park of Peoples’ Friendship the police brutally beat the action participants. Two students — Yan Mikhailau and Mikalai Korshunau — were fined for participation in a protest action on May 23rd. On June 4th, six student activists, detained during a street performance, were sentenced to different short terms of arrest. Again, the riot police used truncheons and beat the participants when dispersing the performance.

However, in general the actions in defense of social rights which were held all over the country failed to grow into mass protests. They were scarce and uncoordinated.

The Belarusian authorities tried to neutralize activity of civic and political activists before the big actions by widely using such a tool as “preventive detentions”: they groundlessly charged activists with “disorderly conduct”. On January 14th local elections were held in Belarus. They did not play a significant role in the public life of the country. However, the authorities repressed 25 people for political reasons. A criminal case was started against journalist and human rights defender Valer Shchukin, the

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police arrested BPF Youth chairman Ales Kalita, Vitebsk human rights defender Pavel Levinau, Hrodna journalist Andrei Pachobut, and Hrodna election observer Mikola Lemianouski.

Preparation of the Freedom Day on March 25th was accompanied by mass detentions. On March 24th the police detained Brest human rights defender Uladzimir Vialichkin, Barysau human rights defender Ihar Lednik, Mahiliou youth activists Yauhen Suvorau and Anton Ustsimchuk, Rechytsa activist Valer Putsitski and Homel activist Yury Hlushakou. During the 15 days before the Freedom Day on March 25th 55 people were repressed in this or that form, and 39 more – on March 25th.

The situation repeated with holding of the European March on October 14th. 32 people were repressed before the action, and 8 more – on the day of the action. Hrodna authorities demonstrated especial zeal, arresting head of the regional organization of the United Civic Party Yury Istomin, human rights defender Viktor Sazonau, and chief editor of *Magazyn Polski na uchodźstwie* Ihar Bantsar. Anzhalika Borys, leader of the Polish minority in Hrodna region, was detained and fined. On October 14th head of the regional BPF party Siarhei Malchyk and trade union leader Siarhei Antusevich were stopped on their way from Hrodna. The police took him to Hrodna district police department on suspicion of theft of a car radio and kept them in detention until the end of the mass action in Minsk.

Young people were the most unprotected group. The authorities were especially cautious about any displays of youth activity. Young Front activists were prosecuted; members of the Belarusian Students Association received warnings about possible criminal charges for activity on behalf of unregistered organization. One of the most used tools of pressure was expulsion of students from educational establishments for their active civic or political position.

There was a lot of attention to the case of Zmitser Zhalezniczenka, straight-A student of mathematics at Homel University, member of BPF Party, and activist of “Talaka” local history group. On September 7th he was expelled from university for his active civic position, allegedly, for “systematic violations of the inner regulations”. The formal ground for expulsion of the student was the verdict of Homel regional economic court which found Zmitser guilty of “illegal entrepreneurial activity”, which was manifested in organizing a concert of Belarusian singer-song-writers in Homel that summer. In September Zmitser Zhalezniczenka was detained on sus-

picion of alleged rape, but was charged with “disorderly conduct” and “disobedience to police officers” and sentenced to 8 days of jail. The pressure did not stop there. In November the drafting medical commission of the military registration and enlistment office sent him for psychiatric expert examination because he demanded that the enlistment documents in Belarusian language. The psychiatrist of the drafting commission diagnosed Zhalezniczenka with “reaction of opposition”.

In some cases we can characterize the relations of the authorities with activists of the youth independent organizations as a real wild hunt. Siarhei Kliuyeu, activist of BPF Youth, was detained six times during the year, and spent the total of 23 days in jail. There were five administrative and one criminal cases against Young Front activist Zmitser Fedaruk. Five administrative cases were started against youth activist Liudmila Atakulava, and five – against Alaiksei Shydouski. Paval Seviarynets was arrested 3 times after his release from the penitentiary institution where he had served his “restriction of freedom term”. He was sentenced to the total of 47 days of arrest on the administrative charges. Head of BPF Youth Aleskalita was detained five times and spent the total of 29 days behind bars.

Punitive psychiatry which had been widely used in the Soviet Union, became the new form of persecution of dissidents. We registered several cases of usage of punitive psychiatry in 2007.

Two criminal cases were instigated against Vitebsk human rights defender Valer Misnikau. In the beginning he was accused of insulting staff of the regional prosecutor’s office, and, a little later, of stealing (?) volumes of his criminal case from the investigator’s office.

In June Misnikau was sent him for psychiatric expert examination which diagnosed him with “paranoid change of personality”. In early September the trial closed for public took place. The court ruled to place Misnikau to a psychiatric hospital for treatment.

The criminal case against Aliaksandar Kruty was instigated in May 2003 for public insult of president Lukashenka. The activist distributed flyers in his home town of Niasvizh which were based on a pun, but did not directly say anything bad about Lukashenka. For several years the police did not investigate into the case. However, in the fall Aliaksandar Kruty was detained and spent several months in Zhodzina pre-trial detention center. Within the framework of the criminal case Aliaksandar Kruty had to undergo psychiatric expert examination. As a result, Kruty was diagnosed with “paranoid schizoprenia”.

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On March 22nd, before the Freedom Day, civic activist Krystsina Shatsikava was detained in Minsk. The police took her to Mahiliou, where she was interrogated by KGB. When she was leaving the KGB building, she was detained by strangers in civil clothes (later it turned out that they were patrol policemen) who took her to a psychiatric hospital. For three days they kept her tied to the bed, and violently gave her medical treatment. Shatsikava's attempts to prosecute policemen and doctors for illegal actions did not succeed. In April the International Society for Mental Health expressed concern about that case, pointing out the real threat of the situation when mentally healthy political opponents of the authorities and other citizens of Belarus might be subject to compulsory hospitalization and placement to closed psychiatric establishments.

The authorities paid close attention to various meetings and conferences of civic activists. We have registered many cases when participants of such events were brought to administrative responsibility.

On August 17-19, the police dispersed a summer camp of BPF Youth in Ivatsevichy district. 16 participants of the camp were brought to Ivatsevichy district police department and drew up reports about administrative violations allegedly committed by the young people. Then they sent the young people to Minsk by trains. Minsk courts found all the young people guilty of "disorderly conduct".

On August 19th in Brest the police interrupted presentation of the book by former political prisoner Pavel Seviarynets, which was held in the local BPF office. The police charged 14 people, who were present at the meeting of Pavel Seviarynets with the readers, with "violation of the order of organizing or holding mass events". The participants of the presentation were punished with administrative arrests and fines.

On August 14th Mahiliou police broke into a private house where a meeting of youth activists was taking place. About 30 young people, including visitors from Germany and Poland, were present at the meeting.

On August 26th, Homel police interrupted a meeting with Pastor Ernest Sabila, former prisoner of Stalinist camps, which was held in the local office of UCP. Without any sanctions of the prosecutor, the policemen broke into the room, recorded all the meeting participants on video, and detained seven people.

All over the country the authorities created obstacles for holding civic actions. The desire to control all civic initiatives sometimes exceeded the common sense.

On October 29th Vitebsk police detained 27 participants of the requiem meeting, commemorating the victims of Stalinist repressions and timed to the 70th anniversary of repressions. Five of the participants were later charged with administrative offences.

On September 8-9 the authorities interrupted the traditional fest of singer song-writers near Vorsha. The police detained 47 people; famous artist Ales Pushkin and youth activist Aliaksei Yanusheuski received 7 days of administrative arrest.

On October 26th Polatsak authorities prohibited the traditional festival of Belarusian music "Rock-Kola". The council for activity coordination of law-enforcement bodies at Polatsak city executive committee decided: "to consider events like Rock-Kola festival inappropriate for holding in the city, because they are alien to historical and spiritual heritage of the city of Polatsak and Orthodox Christianity"... the reasons for the ban are very surprising, since the festival was held in Polatsak during the last 17 years.

Protests of the society against ruining the historical parts of Hrodna deserve special attention. The decision of the local authorities to "bring order" to the old part of the town, which would result in disappearance of the 18th century buildings aroused protests among the intellectuals and ordinary residents. Every day Hrodna residents kept vigil near the buildings of the Old Town, planned for demolition. Many times the police detained the protesters. On May 24th the police detained 13 youth activists who protested against demolition of the building of the old mill. All of them were convicted. The authorities also used other methods of pressure on the defenders of the Old Town in Hrodna. On June 20th investigator of Leninski police department told Stsiapan Svidzerski, activist of the "Rescue Hrodna!" campaign, the case about distribution of information materials of the campaign was investigated by KGB.

The Committee of State Security (KGB) increased pressure on the youth activists. During 2007 we learned about dozens of facts of KGB applying pressure or attempting to recruit informers among activists. Almost everywhere the scheme of the "work with youth" was the same: students were invited to a dean's office, where, with the agreement (!) of a dean or deputy dean KGB agents talked with young people about their civic activity, tried to recruit them promising help with their studies, or threatened them if young people refused to cooperate. Similar stories happened with Andrus Ihnatovich, student of the historical faculty of BSU and member of

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BPF Youth, Ihar Sluchak, student of law faculty of Homel University, Tatsiana Usinovich, student of Minsk Teachers' University, Stanislau Yesipouski, student Belarusian-Russian University in Mahiliou, Vital Tsikhanovich, arts student of Minsk Institute of Modern Knowledge, and many others.

KGB especially collected information about the studies of Belarusian students abroad, as well as about seminars, training sessions and other educational programs where Belarusian young people took part. They often used intimidation and provocation in such cases. In January Yulia Harachankova was summoned to Mahiliou KGB department, where she was told that the conversation would be about drugs which had been found in a train from Warsaw. The girl was asked questions about her trip to Poland: when, by what train she was travelling and other details of the trip.

After the trip of the Belarusian youth to Bialystok (Poland) KGB summoned Tatsiana Usinovich, who had helped the group to receive visas. They threatened the student with responsibility for helping members of unregistered organizations since members of Young Front and Belarusian Students Association had taken part in the trip. During the conversation the KGB agents insisted Tatsiana should give them information about activity of those organizations. They also promised to help her get her first choice compulsory job assignment after graduation.

KGB representatives interrogated many students who study in Poland under Kalinouski program financed by the Polish government. The students and teachers of the European Humanities University based in Vilnius were in a similar situation. On June 5th Zhlobin KGB department summoned EHU student Eduard Zeliankou, where KGB agent Andrei Kolasau asked him about his studies and asked Zeliankou to regularly provide him with information about the university in exile.

KGB agents invited for "conversations" some teachers who took part in the Summer Human Rights School in Vilnius. We have registered cases when teachers and students who participated in educational programs abroad, were punished by the authorities.

The government continued pressure on pro-democratic political parties and non-governmental organizations. Two parties were shut down by court: The Ecological Green Party, and the Women's Party "Nadzeya". The activity of one of the most active oppositional parties – PCB – was suspended. In May, the court shut down NGO "Belarusian Literary Fund" that united several hundred of Belarusian writers. The Ministry of Justice de-

nied registration to Young Front several times. Simultaneously, young people were prosecuted for activity on behalf of unregistered organization. In August the authorities denied registration to human rights association «Viasna», which succeeded to the Human Rights Center “Viasna”. Political motivation of the decision to shut down or deny registration to political parties and non-governmental organizations is evident in the majority of cases. The idea behind such decisions is not to allow activization of the civic and political life in the country.

Pressure on independent mass media remained high. According to the Freedom House freedom of press rating, Belarus is on one of the last places in the world. The authorities did not allow distribution of the majority of socio-political national and regional editions through subscription and Belsayuzdruk kiosks, and refused to print the newspapers in state-run printing presses. The authorities started a scandalous campaign for taking down satellite dishes with the goal to limit the citizens' access to objective information. The executive authorities all over the country tried to force citizens to demolish satellite dishes claiming the dishes spoiled the appearance of buildings. However, the real reason for the campaign was the attempt to limit the access of Belarusian citizens to the new independent TV channel – Belsat.

In November the police arrested journalist Aliaksandar Zdzvzhkou. Zdzvzhkou, deputy editor of Zhoda newspaper, reprinted Prophet Mohammed's cartoons in February 2006. The newspaper was closed down, and a criminal case was started after the publication. For some time Aliaksandar Zdzvzhkou was abroad, and was arrested when he came home, right near the grave of his father. In the beginning of 2008 Minsk city court held a closed trial over the former deputy editor. Aliaksandar Zdzvzhkou was found guilty of “fomenting religious enmity” and sentenced to three years of imprisonment in a medium-security prison.

Despite the obvious contempt the Belarusian authorities demonstrated to rights and freedoms of citizens, they insistently tried to strengthen their positive image on the international level. In spring Belarus nominated itself to the UN Human Rights Council. However, the idea incurred strong criticism from the Belarusian and international communities, and the families of political prisoners and disappeared politicians. They urged the states to abstain from supporting the repressive regime. The UN General Assembly voted against the candidacy of the Republic of Belarus.

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The consistent position of the UN General Assembly of condemning human rights violations in Belarus was reflected in the Resolution adopted in December. The document expresses “deep concern about the continued use of the criminal justice system to silence political opposition and human rights defenders, including through arbitrary detention, lack of due process and closed political trials of leading opposition figures and human rights defenders”.

Nevertheless, the Belarusian authorities managed to achieve liquidation of position of Special Rapporteur for human rights in Belarus. From 2004, the time when the mandate was created, Adrian Severin served as the Special Rapporteur presenting regular reports on the state of human rights in Belarus. During the whole time of existence of such a position, the Belarusian authorities did not permit Severin to visit the country. In his last report which he presented on June 2nd at the 5th session of the Human Rights Council, he pointed out: “the government of Belarus did not consider any of recommendations made by the special rapporteur... In practice the political system of Belarus is incompatible with the human rights concept under the Statute and international agreements on human rights, where Belarus is one of the signatories. Thus, it is necessary for the Human Rights Council to make a call for democratization of the political regime and change of political conduct of the government, or to accept that the situation in human rights sphere in Belarus couldn't be improved, as human rights violations correspond the political nature of the regime”.

Despite the fact that the mandate of Special Rapporteur on Belarus was cancelled, UN Secretary General Ban Ki-moon stated that Belarus was not released from the obligation to respect the Declaration of Human Rights.

During the Human Dimension Conference organized by OSCE ODIHR in Warsaw, the official delegation from Belarus made contra-productive statements that access of NGOs to the meetings organized by OSCE and ODIHR should be limited.

While Belarusian diplomats were putting a lot of effort into establishing relations on the international level, a number of foreign politicians and public figures were denied entry to Belarus.

In May the authorities did not give visa to Emanuelis Zingeris, a Lithuanian MP and member of the Parliamentary assembly of the Council of Europe, who was going to visit the Congress of Democratic Forces.

On August 15th the Belarusian border officers did not allow Krzysztof Putra, vice-speaker of the Polish Senate, Donald Tusk, head of the Civic Platform Party (soon he became Polish prime-minister), and Robert Tyszkewicz, Polish MP to enter Belarus.

On October 14th, Janusz Anyszkevicz, vice-president of the European Parliament, was stopped at the Belarusian border. He planned to observe the European March in Minsk, but was not let through the border and received no explanations of the reasons.

On November 23rd Homel police annulled the visas to three Polish participants of the seminar held within the framework of the German-Polish-Belarusian project "Dialogs with neighbors".

The authorities demonstrated their lack of desire to participate in a dialog on human rights during the visit of the President of the International Federation of Human Rights (FIDH) Souhayr Belhassen on October 29th – November 1st, 2007. Ms. Belhassen who had to go through some difficulties in receiving her visa, planned not only meetings with representatives of the civic community, but also with officials of the Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Justice, and Ministry of Information. However, the ministries simply ignored the official inquiries made by FIDH. Souhayr Belhassen stated: "That means, they have something to hide. I wanted to talk about concrete cases of violations with them, but not everyone likes the bitter truth". Souhayr Belhassen characterized the human rights situation in Belarus as one of the worst in the region.

Thus, the human rights situation in Belarus continued to remain on the unsatisfactory level. At the same time, the attack on the socio-political and social rights of citizens is accompanied by strong dependence of these processes on the international and domestic political conjuncture.

1. CHANGES IN THE LEGISLATION OF THE REPUBLIC OF BELARUS AFFECTING HUMAN RIGHTS

During 2007 a number of legislative acts that affect human rights were passed in the Republic of Belarus. First of all, we are referring to the president's edict 413 "concerning the improvement of the registration system of citizens' place of residence and location" and edict 643 "concerning the simplification of the exit procedure from the Republic of Belarus", which directly touch upon the right to Belarusian citizens' freedom of movement, and the right to choose the place of work and residence.

The president's edict # 413 of September 7, that came into force on January 1, 2008, cancelled the institution of residence permits (*"prapiska"*) in Belarus. It should be pointed out that the institution of residence permits was regularly criticized by international and Belarusian human rights organizations. In 1998 the UN Committee, following the periodical report about the observance of the International Pact of Civic and Political Rights, made by the Republic of Belarus, urged the Belarusian government to cancel the institution of residence permits in its recommendations. On June 1, 1999 the Constitutional Court of the Republic of Belarus recognized the fact that the institution of residence permits was unconstitutional and violating the rights of citizens, guaranteed by Article 30 of the Constitution, which says, "Citizens of the Republic of Belarus have the right to freely move and choose a place of residence within the borders of the Republic of Belarus, to leave it and come back without hindrance".

According to the edict, the residence permits were replaced by obligatory registration at the place of residence (location) of citizens. Simultaneously, the edict contains a number of limitations for registration in Minsk. The legislators justify this by a special status of the capital. To register at a location in Minsk, one needs to have 20 meters per person at the place where one wants to register, whereas only 15 meters per person are needed in all other cities and regions of the country. Unlike in other communities, in Minsk grandchildren cannot register their grandparents, and grandparents cannot register their grandchildren in their houses and apartments, if the required 20 meters per person are missing. In Minsk, siblings can get registered at their siblings' places of residence (without the required 20 meters per person) only if they are under age and do not have parents, or,

if they are disabled adults and do not have families of their own. Meanwhile, such limitations do not exist for all other cities and towns in Belarus. Citizens who come to Minsk for work are obliged to register. For Minsk, the procedure is regulated by the chapter of the edict that talks about registration at the place of residence (and not registration at the place of temporary location). Thus, the edict confirms the practice of regulating the migration processes in the country by the administrative norms, and not the job market.

It should be pointed out that earlier employment of Belarusian citizens who were non-Minsk residents was limited by decision of Minsk city executive committee of March 5, 1992 #100 "Concerning the procedure of inviting specialists and workers from other towns to work in Minsk". The decision required from all companies, despite the form of ownership, to have a previous agreement of Minsk city executive committee to employ citizens who were non-Minsk residents. Besides that, companies were to pay fees for each of such employees. On November 15, 2007 Minsk city executive committee cancelled this discriminatory decision by regulation # 2631. Certainly, this is a positive fact, directed at providing equal rights to Belarusian citizens, despite their place of residence.

Despite the positive aspects of Edict #413, in general, it failed to meet the expectations of society when the institution of residence permits was cancelled. Commenting on the introduction of the institution of registration, minister of internal affairs Uladzimir Navumau admitted: "I cannot say it will be very different from the institution of residence permits. A law-abiding citizen will follow both the requirements of the institution of residence permits and the institution of registration".

The president's edict "Concerning the simplification of the exit procedure from the Republic of Belarus" (# 643, of December 17, 2007). It came into force on January 1, 2008 and confirmed the conclusions of the Constitutional Court, made on September 27, 2002. The Constitutional Court concluded that putting stamps into passports of citizens that permit exit from the Republic of Belarus and the payment of fees for the procedure was unconstitutional.

In general, it's worth pointing out the positive meaning of the edict. Earlier practice of receiving a permitting stamp for exit, and payment of fee for this did significantly limit the constitutional rights of citizens; often it was accompanied by excessive bureaucracy.

The edict determines six groups of citizens, whose right to leave the country may be restricted temporarily: 1. people who know state secrets, until the expiry of the term stated in the state secrets' access permit; 2. suspects or the accused in a criminal case, until termination of prosecu-

tion; 3. those convicted of crimes, except those sentenced to restriction in taking certain positions or banned from some professions, until the execution of punishment or remission of penalty; 4. those evading obligations imposed by the court until the end of the term defined by the court; 5. those facing a civil suit, for the term defined by the court, but not longer than the end of the judicial proceedings; 5. draft evaders, or those who failed to take part in inactive duty, until they turn up at military draft events.

It should be pointed out, restrictions for these groups of people earlier were described in the law "Concerning the order of entry and exit of the citizens of Republic of Belarus to the Republic of Belarus" # 2335 of June 2, 1993.

The edict determines four state bodies that have the right to enter information in the database about citizens whose exit is temporarily restricted: the Committee of State Security (KGB), the Ministry of Internal Affairs, the Ministry of Justice, and the Ministry of Defense. At the same time, earlier the law envisaged a procedure of appealing against rejection of the stamp permitting exit from the country (in a higher body or court). However, the edict does not describe any appealing procedure. This circumstance is quite a significant drawback of the edict, especially in view of past cases of illegal rejection of such stamps.

According to Law of the Republic of Belarus # 208-3 of December 31, 2006, from March 1, 2007 the new Code of Administrative Infringements and Code of Administrative Procedures came into force. The new codes replaced the Administrative Code of 1984, which acted with additions and amendments until that time, and was quite out of date, having a number of drawbacks and unregulated details.

The new administrative legislation introduces administrative responsibility of legal entities, the institution of complicity, responsibility for attempted administrative offense, and other notions.

The Code of Administrative Procedures provides for the participation of a lawyer on the stage of administrative detention and beginning of case processing. No doubt this is a positive change, because it gives citizens the right to defense, guaranteed by Article 62 of the Constitution. The previous Administrative Code allowed for the participation of a lawyer only in the trial stage by court or another competent body. However, the new Code of Administrative Procedures does not provide for the institution of representatives who might take part in the trial, except for legal representatives of the under age, or legally incapable citizens, and representatives of individual entrepreneurs and legal entities. At the same time, the corre-

sponding norms of the Code of Civic Procedures allow participation of family members of civil process participants as their representatives.

Article 8.4 of the Code of Administrative procedures changes the terms of detention of individuals who were charged with an administrative offense. Earlier, only persons suspected of disorderly conduct, participation in unsanctioned mass events and trade in unauthorized places could be detained until the trial. Now, persons who are charged with administrative offenses which can be penalized by administrative arrest or deportation, may be detained for over 3 but no more than 72 hours. Introduction of a clear limitation of the detention terms (no more than 72 hours) could be evaluated positively, as the earlier wording "until consideration of the case by court" was often interpreted very ambiguously.

The new Code of Administrative Infringements reduced the size of administrative fines, which could be imposed on a physical person: earlier the maximum possible fine was 300 basic units, and now it does not exceed 50 basic units.

New kind of administrative penalty – deportation – was introduced for foreign nationals. There are significant changes in imposing administrative penalties if several administrative infringements have been committed: under Article 7.4 part 1 of the Code of Administrative Infringements, the main and additional administrative penalties are imposed separately, if several administrative charges are considered by the same court or another competent body. At the same time, the final penalty for several offences determined by adding up the separate penalties should not exceed:

1. a fine imposed on a physical person – 100 basic units;
2. deprivation of a special right – 5 years;
3. deprivation of the right to practice a profession – 2 years;
4. administrative arrest – 25 days.

It should be pointed out that the previous Administrative Code provided for the procedure under which the smaller penalty merged into the bigger one; the term of administrative arrest even for several separate offenses reviewed at the same time, could not exceed 15 days.

However, the most disputable issue in the new Code of Administrative Procedures is the procedure of appealing the court rulings. The legislators provided for cassation appeals of the rulings that did not come into force. Let us remind the readers that the previous Administrative Code provided for appealing against court rulings only under the supervisory procedure, and such an appeal did not suspend the penalty. Now, under Article 12.2 of the code of Administrative Procedures, court rulings on the cases of ad-

ministrative offenses which did not come into force, may be appealed on cassation to a higher court. Under Article 12.4 of the code, an appeal against the court ruling may be submitted during 10 days from the moment the ruling was announced; rulings that impose administrative arrest or deportation may be appealed during 5 days. At the same time, according to Article 11.2 of the Code of Administrative Procedures, the ruling of imposing an administrative penalty comes into force after the end of the appealing term. However, the rulings of an administrative arrest or deportation are to be executed immediately.

Thus, on one hand, the rulings about administrative arrests do not come into force during 5 days from the time of announcement; on the other hand, they are to be executed immediately after announcement. That leads to a situation that an individual serves the administrative arrest while the ruling still has not come into force. Besides that, the question should be raised, how can people kept in the offenders' detention center use their right to appeal the ruling? Especially if they did not hire a lawyer and defended themselves on their own?

The practice shows, for these reasons, the individuals sentenced to administrative arrests often miss the terms for appealing the rulings set by the Code. According to Article 12.4 part 2 of the Code of Administrative procedures, an appeal submitted after the deadline is not considered. This way, missing of the deadline for cassation appeal leads to impossibility to appeal the ruling in the supervisory procedure. Payment of a state fee of 1 basic unit is an obligatory condition for submitting an appeal to a higher court. Again, it is not clear how people kept in the detention center can pay such a fee.

Imperfection of the legislation deprives citizens of the possibility to truly exercise their right to appeal court rulings, guaranteed not only by the Code of Administrative Procedures, but also by Article 115 of the Constitution of the Republic of Belarus. Besides that, it violates one of the fundamental constitutional principles (Article 26 of the Constitution) – presumption of innocence. According to Article 2.7 of the Code of Administrative Procedures, a person cannot be brought to account until his or her guilt of committing an offense is proved under the procedures established by this Code.

In conjunction with this legislative flaws human rights defenders Ales Bialiatski, Uladzimir Labkovich, Valiantsin Stefanovich, Tatsiana Reviaka, and Iryna Toustsik addressed the Constitutional Court with the request to evaluate the compliance of articles of the Code of Administrative Procedures

that regulate the order of appealing court rulings that impose administrative penalties (in the form of arrests) with the Constitution of the Republic of Belarus. In its response of April 20, 2007, signed by first deputy of the head of the secretariat H.M. Zmachynskaya, the Constitutional Court pointed out: "In our opinion, part 1 and 2 of Article 12.4 (terms of appealing and protesting against rulings of administrative offences) need harmonization. As regards compliance of the above-mentioned articles with the Constitution, the Constitutional Court may hear the issue only if it is raised by the above-mentioned initiators" (*the President, the Chamber of Representatives, Council of the Republic, Supreme Court, Supreme Economic Court, and the Council of Ministers – author*).

With the introduction of the new Code of Administrative Procedures, the conditions of confinement of arrested persons became much worse. According to Article 18.7 part 5 of the Code of Administrative Procedures, the arrested are not allowed to receive parcels and packages of any size, with the exclusion of the articles of prime necessity, and seasonal shoes and clothing. Food packages are not allowed. An individual might spend 25 days in confinement.

The usage of the new codes in 2007 demonstrated that despite the numerous positive changes in the administrative legislation, the situation exercising legal rights of citizens during administrative trial continued to be very poor. The authorities continued to use administrative detentions and arrests as a tool of pressure on civic and political activists.

Law "Concerning the bodies of internal affairs of the Republic of Belarus" # 263-3 of July 17, 2007 replaced the Law "Concerning the militia", that acted until that time. The Law determines the legal and organizational fundamentals of the bodies of internal affairs, establishes obligations and rights of the bodies of internal affairs and their staff, and social and other guarantees of their work. In general, the new law does not differ much from the previous one. However, a number of articles raise deep concern.

Article 28 regulates the order and grounds for usage of special means by police; Article 29 regulates the usage of fire arms, and Article 30 – of military and special equipment. The old law formulated six reasons for usage of special means and five reasons for usage of firearms by police (on an individual). In the new law Articles 29 and 30 are supplemented with the wording "and other cases determined by the president of the Republic of Belarus".

Human rights defenders believe such wording is inadmissible. The law should contain clearly formulated and determined cases and grounds for the usage of special means, firearms and military equipment, because it

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directly affects the rights of citizens, including their right to life. The list of such grounds should be closed and should not be subject of wider interpretation. Meanwhile, the present edition of the law gives the president the right to determine other, not mentioned in the law, grounds to use special means, firearms, and military equipment against citizens. We are deeply concerned about this fact. Let us remind you that in 2006 similar changes were made to the law “concerning in-country military troops of the ministry of internal affairs of the Republic of Belarus”.

On January 4, 2007 Law #203-3 “Concerning the counteraction of extremism” came into force. The law was adopted by the Chamber of Representatives and approved by the Council of the Republic in December 2006. According to the law, extremism is described not only as actions, but also as public calls to extremist activity, financing and other kinds of facilitation of such activities. That included providing immovable property; a learning, publishing, or other kinds of material and technical base, means of electronic communication, other material and technical means and informational services. The law prohibits publishing and spreading extremist materials through media. Any organization that published extremist materials twice during a year is to be closed down, and citizens are to be prosecuted according to legislation.

Certainly, extremism in any forms and kinds is a serious threat to democracy, sustainable development of the civic society, stability in the country and functioning of the state bodies. Often extremism leads to crimes committed on the ground of racial, religious or national enmity. It is the task of the bodies of state power to prevent such manifestations of extremism in time. As for Belarus, manifestations of extremism are not obvious in Belarus, although, no doubt, they do take place: for example, in the activity of some neo-Nazi youth groups (NBP, Russian National Unity, skinheads).

We are concerned about the fact that some provisions of the law may be used not for prevention of extremism, but for fighting with the political opponents of the regime who stand for political changes and democracy in the country. Many times KGB representatives called activities of political parties and unregistered groups the “political extremism”. In such circumstances, peaceful protest actions may be interpreted as “organizing rampageous actions for political and ideological reasons”.

Besides that, the Belarusian laws have enough legal bases for prevention of extremist acts anyway: Article 130 of the Criminal Code provides for

responsibility for fomenting national, racial, religious and other kinds of enmity; Article 193 – for activity of organizations that infringe the legal rights of an individual and of citizens of the country; Article 287 – for creation of an illegal armed group, Article 361 – for calls to overthrow the existing constitutional system, and others. The laws “concerning public associations”, “concerning political parties”, and “concerning mass events” prohibit activities aimed at promoting racial, national, and social enmity, seizure of power in a non-constitutional way, and other similar actions. These laws provide for liquidation or suspension of parties and NGOs for such activities. Meanwhile, during the last years the majority of pro-democratic NGOs were shut down without any accusations of extremist activity.

Law # 287-3 “concerning amnesty of some categories of individuals convicted for committing crimes” was passed on November 22, 2007. In comparison with the previous similar laws it significantly narrowed down the circle of people who were subject to amnesty. According to the estimates of the ministry of internal affairs, 3512 people out of 30,000 convicts serving prison terms were subject to the law (in condition they compensated material damage made by their offense). The law in 2007 spread only on the individuals, who had already been convicted. This way it differed from the Law concerning Amnesty in 2005, which spread on individuals, who were convicted after the law had come into force. None of the political prisoners who were serving sentences in the penitentiary institutions of the country were subject to amnesty. The majority of them had disciplinary penalties for alleged violations of the prison regime.

2. THE DEATH PENALTY

The year 2007 became a historical milestone in fighting for the abolishment of the death penalty all over the world. On November 15, 2007 the UN Third Committee (Social, Humanitarian and Cultural Issues) adopted a non-binding resolution supporting a moratorium on capital punishment. Never before the Third Committee (where all member countries can vote) had a discussion on the issue leading to such a resolution, because of differing opinions of states and different legal systems. The resolution states that the usage of the death penalty undermines human dignity. It says that the moratorium on the usage of death penalty facilitates better and more progressive development of human rights. There is no conclusive proof that the death penalty is a deterring factor, and any mistakes or drawback in the justice system in the sphere of the death penalty are irreversible and irreparable. The resolution called on all states still allowing capital punishment to “progressively restrict the use of the death penalty and reduce the number of offenses for which it may be imposed”, as well as “to establish a moratorium on executing death sentences with the purpose of abolishing the death penalty”.

The resolution was initiated by the European Union and co-sponsored by 74 Member States. After intense debates the document was by a recorded vote of 99 in favor to 52 against, with 33 abstentions. China, Iraq, Iran, and the United States (the overwhelming majority of death penalties is carried out in these countries). Belarus abstained during the voting.

Another important event on the international level was the announcement by the Council of Europe of the European Day against the Death Penalty. The Council of Europe named this decision the European contribution to the World Day against Death Penalty, marked annually on October 10.

According to the UN data, as of 2007, 146 states abandoned death penalty, and 51 still keep it. Belarus remains the only country in Europe, which still uses this measure. International organization Hands off Cain said in its 2007 report on death penalty world wide: “In Europe, the only blemish on the image of an otherwise death penalty free zone was Belarus”. Belarus remained the last of the post-Soviet countries (Uzbekistan abolishes the capital punishment from January 1, 2008), which passes and carries into effect death sentences.

Article 24 of the Constitution of Belarus guarantees everyone the right to life, and states the temporary nature of death penalty: “until abolishment

of the death penalty it may be used under the law as an exclusive measure of punishment for especially grave crimes and only by a court verdict". The Criminal Code provides for usage of death penalty for 12 offenses during peacetime and 2 offenses during wartime. A person sentenced to the death penalty has the right to appeal the sentence to the Supreme Court, and then forward a petition to the Presidential Commission for pardon; any decision of the commission is signed personally by the president. At the present moment we know of only one decision of the president to grant pardon to a person sentenced to death penalty. However, due to non-transparency and secrecy of actions connected to usage of death penalty and the absence of information available to the public, it is impossible to find exact results of the work of the commission for pardon.

During the year mass media reported about cases where defendants were sentenced to the capital punishment. On January 10, Polatsk district court (Vitebsk region) sentenced Yury Kurylski, 28, to the death penalty. In May the Supreme Court left the sentence without changes. On May 22 the Supreme Court passed a death sentence to Aliaksandr Siarheichyk, former company commander of Hrodna district security department of the Ministry of Internal Affairs; in November it leaked out that the sentence had been carried into effect. This information coincides with the data mentioned by chairman of the Supreme Court Valiantsin Sukala, who said in his interview to *Savetskaya Belarusiya* that 2 death sentences were passed in the first six months of 2007.

We also know that on October 9 the Supreme Court's judicial assembly for criminal cases passed death sentences to Siarhei Marozau and Ihar Danchanka after consideration of the second case against members of "Marozau's" gang (similar sentences to these individuals were passed on December 1, 2006, when the first criminal case against them was considered). According to state prosecutor Eldar Safarau, investigation of the "Marozau's" gang's offenses continues; and "it is likely that the death sentence to Marozau will not be carried into effect yet". The convicts addressed the president asking for pardon, but because they have received death sentences twice, their chances for pardon are quite minimal.

This way, in 2007 death sentences were passed to at least 4 people. This is less than in 2006 (9 people were sentenced to capital punishment), but more than in previous years: 2005- 2 persons, 2004 – 2 persons.

The situation with death penalty in Belarus was described by chairman of the Supreme Court Valiantsin Sukala as "the milestone before the

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moratorium on the death penalty” (interview to *Sovetskaya Belorussiya* in December 2007). V. Sukala also claimed that “the judges are being psychologically prepared to abolish the death penalty”. According to him, an alternative to death penalty – life imprisonment – exists for 7 years in Belarus; this is why the death penalty is used quite rarely. The chairman of the Supreme Court also pointed out that it was not easy to find an adequate punishment in case of serial killers or big gangs.

The opinion of the chairman of the Supreme Court is not shared by all administrative agents in Belarus. Uladzimir Navumau, minister of internal affairs commented on the UN Third Committee resolution to BelaPAN: “Today the death penalty is a measure we cannot do without”. In his opinion, the resolution was passed “to please politics, and not common sense. The common sense is: let’s ask people in the countries that abolished capital punishment. I don’t think Russia’s treatment of that Bitsevo maniac (*Alexander Pichuzhkin, sentenced to life imprisonment by Moscow city court – ed.*) was ideal. The people who suffered from his crimes have the same opinion”. Uladzimir Navumau also believes in the dependence of crime rate on the presence of capital punishment in the punitive system of a country: “During the last five years the number of registered murders decreases consistently. And there, in any country which has no capital punishment, it is the opposite”.

However, the last statement of the minister of internal affairs contradicts results of the international experts’ research which came to conclusion that usage of capital punishment makes society more savage and leads to the growth of murder and crime rate. The most recent survey of research findings on the relationship between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 1996 and 2002, concluded: “...it is not prudent to accept the hypothesis that capital punishment deters murder to a marginally greater extent than does the threat and application of the supposedly lesser punishment of life imprisonment.”

The need to abolish death sentence in Belarus was regularly raised at international forums where representatives of the Belarusian government participated. During the Rome conference on the role of parliament in defining public informational development policy in March chairman of the Council of the Republic (the upper chamber of the parliament) Henadz Navitski said in his conversation with Andrea Rigoni, PACE’s special rapporteur on Belarus, about the possibilities of death penalty abolishment:

“Belarus is a European country, directed towards universal and European values, which is moving on the path of democracy. But one should be aware of the issues of historical peculiarities, mentality, and difficulties of the transitional period. This is why it is impossible to build a society that would meet the high European standards in a short term period”. Henadz Navitski’s statement, despite rhetoric about European path of development for Belarus, reflects the general orientation of the Belarusian authorities on deviation from European values. The “transitional period” of Belarus, on the background of death penalty abolishment not only by the European neighbors but also by the post-Soviet countries, looks too protracted. At the same time, Navitski, when saying that Belarus decreases the application of the death penalty, gave wrong information: he said that only 2 persons were sentenced to capital punishment in 2006. In reality, there were 9 of such cases.

Unwillingness of Belarus to turn away from “legalized murder” continued to draw censure and criticism, especially from the European structures and human rights organizations. In November Rene van der Linden, President of the Parliamentary Assembly of the Council of Europe, addressed the president of the Republic of Belarus on the issue of death sentences to Marozau’s gang members, urging “to set a moratorium for death penalty in Belarus, which would be a clear and resolute step in rapprochement of the country with the Council of Europe... “Death can have no place in penal systems of modern civilized states. Readiness to introduce a moratorium institute on the execution of death sentences immediately and abolish the death penalty is a necessary prerequisite for joining the organization,” Rene van der Linden said.”

UN Special Rapporteur on Human Rights situation in Belarus Adrian Severin, in his report of June 12, 2007 pointed out: “...remains concerned that Belarus is the last country in Europe to apply the death penalty. The situation in the country is still characterized by harsh conditions of pretrial detention, the practice of torture and other inhuman treatment, and excessive use of force by the police”.

The influential international organization Amnesty International continued to address the Belarusian authorities with the appeal to abolish the death penalty, criticizing both the presence of the death penalty in its judicial system, and the very procedure of executing the sentences: secrecy and closure of the execution of sentences, and further actions connected with the burial of the executed. Amnesty Information demanded

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that full and complete information about the date and place of the execution and the place of burial should be provided to the families of the executed, as well as that the body and personal belonging be returned to the families.

Considering two cases about usage of the death penalty in Belarus which were submitted as individual complaints, the UN Human Rights Committee has stated that “the complete secrecy surrounding the date of execution, the place of burial, and the refusal to hand over the body for burial have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress... Relatives are not informed in advance of the date of execution. The body is not returned, and the place of burial is not disclosed. The UN Human Rights Committee has found the treatment of the relatives of individuals sentenced to death in Belarus to amount to inhuman treatment in violation of Article 7 of the ICCPR (which prohibits torture, inhuman and degrading treatment or punishment)”. However, Belarus has failed to follow the committee’s recommendations about the persons mentioned in the complaints, and failed to adjust Belarusian legislation to disclose and improve the procedure of execution and burial of the executed.

It should be pointed out, that failure to provide complete information about death sentences to public and families is a violation of international obligations, as well as international legal standards. In its Resolution 1989/64, adopted on May 24, 1989, the UN Economic and Social Council urged Member States “to publish, for each category of offense for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted...”

Resolution 2005/59, adopted by the UN Human Rights Committee on April 20, 2005 urged all states that had not abolished capital punishment “to make information about passing death sentences available for the public”.

The Resolution of the UN Third Committee passed on November 15, 2007 “calls on nations that do impose the death penalty to ensure they meet internationally agreed minimum standards on the safeguards for those facing execution, and to provide the United Nations Secretary-General with information about their use of capital punishment and observation of the safeguards.”

During recent years Belarus has made several steps that could lead to abolishment of the capital punishment if there was political will to do that.

In June 2002, as the outcome of parliamentary hearings “Political and legal Problems of Abolishment of Death Penalty in Belarus”, the Chamber of Representatives worked out Recommendations to the interested state bodies, with the goal to implement activities that would help solve the death penalty issue. Unfortunately, the majority of the recommended activities were not carried out.

On March 11, 2004 the Constitutional Court of the Republic of Belarus published its Conclusion “Concerning compliance to the clauses of the Criminal Code that envisages death penalty as a measure of punishment with the Constitution and the international agreements of the Republic of Belarus”. It decided, “Article 24 part 3 of the Constitution of the Republic of Belarus, which establishes the possibility to use death penalty as a capital punishment only until its abolishment, allows to make a decision about declaration of a moratorium on death penalty or its complete abolishment”.

The Constitutional Court believes, in present conditions, the issue about abolishment of that kind of punishment or declaration of a moratorium on it may be solved by the state leader and the parliament. At the same time, the conclusion points out, that the decision of the referendum 1996, when 80.44% of Belarusian citizens voted in favor of death penalty, which is always referred to by death penalty supporters in Belarus, was only of advisory nature.

However, both the state leader and the parliament failed to make resolute actions on the path of approaching the democratic standards in human rights and failed to demonstrate inclination for the civilized European world, free from state murder. Now, with the adoption of the UN Resolution concerning a moratorium on the death penalty, the Belarusian authorities face a serious choice again.

3. THE PROBLEM OF THE DISAPPEARED REMAINS TOPICAL

According to the Declaration on the Protection of All Persons from Enforced Disappearance, passed by the UN General Assembly in December 1992, enforced disappearances occur, when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law”.

One can find a similar definition in the International Convention on Protection of All persons from Enforced Disappearance, adopted unanimously by the UN General Assembly on December 20th, 2006 and presented for signing by member states on a special ceremony on February 6th, 2007. The Convention obliges the UN member states to take effective legislative, administrative, judicial and other measures for prevention and avert acts of enforced disappearances; and creates a special Committee on Enforced Disappearances, which will consider reports by member states and complaints of individuals. In some cases enforced disappearance may be further defined as a crime against humanity and fall under jurisdiction of the international criminal law. The Convention was signed by 57 countries (it will come into force when ratified by 20 countries). Belarus abstained from signing the Convention.

On March 1st Andrei Papou, press-secretary of the Ministry of Foreign Affairs, commented on this decision to *Beloruskiye Novosti*: “The Republic of Belarus has joined the consensus on the relevant Resolution of the General Assembly without any problems. I stress, that means that we had no problems with adoption of the Resolution which officially declares the existence of this Convention. Belarus has an opportunity to join this document at the time when it thinks it’s necessary”. He also stressed that signing of the document by this or that country is voluntary – every country joins this or that convention in compliance with its own inner rules and interests.

Deputy Head of the President’s Office Natallia Piatkevich was more explicit about the prospects for Belarus to sign the Convention. At the

international conference on human trafficking that took place on March 4-7, 2007 in UN headquarters in New York, she stated: “the Convention is not topical for Belarus. It plays the same role for us as ozone layer protection or famine liquidation. We don’t have such a problem.” Natallia Piatkevich added that the Belarusian Ministry of Foreign Affairs will not give priority to this UN Convention.

According to the Ministry of Internal Affairs, every year about one thousand people get on the search file. The total number of criminal cases on unsolved murders during the last 45 years is 1 265; 74 of which are instigated on the facts of disappearance of citizens. This is really quite a low indicator of intractability of crimes connected with disappearance of people and one could agree with the opinion of N. Piatkevich that the problem is not topical for the country, if not for the established practice of political disappearances and possible extrajudicial death executions.

Until the present we don’t know about the fates of political and public figures Yury Zakharanka (abducted on May 7th, 1999), Viktor Hanchar (disappeared on September 16th, 1999), journalist Dzmitry Zavadski (disappeared on July 7th, 2000) and businessman Anatoly Krasouski, who was abducted together with Hanchar. According to Article 35 of the Convention about protection of all persons from enforced disappearances, “If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-a-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.” “That is why we consider work for implementation of the Convention as protection of the future generations from that terrible crime”, — Sviatlana Zavadskaya, former wife of the disappeared journalist, said.

Representatives of both the Belarusian community and the international structures stated the possible complicity of high-ranking officials in Belarus to abductions of Yury Zakharanka, Viktor Hanchar, Dzmitry Zavadzki, and Anatol Krasouski. The results of the investigation by special rapporteur of the PACE Committee for legal issues and human rights Christos Pourgourides name Uladzimir Navumau, minister of internal affairs, Yury Sivakou, former minister of internal affairs, Viktor Sheiman, State secretary of the Security Council, and Dzmitry Paulichenka, commander of the special riot police department possible organizers of these crimes. During many years the investigation bodies do not show any reaction to this information: they neither refute it, nor take steps to determine the truthfulness of the accusations.

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The official investigation on the cases about disappearances of Yury Zakharka, Viktor Hanchar, Dzmitry Zavadzki, and Anatol Krasouski continues. Investigator for most important cases Siarhei Kukharonak sends information notes to the families of the disappeared every three months (Hanchar's family received the last information letter on December 12th, 2007, and representative of Zakharka's family Aleh Volchak received a similar letter on December 24th, 2007). The letter does not contain any information besides the phrase that the investigation is continues "in order to carry out additional investigative activities".

Investigation of the case about abduction of Dzmitry Zavadski was suspended on March 31st, 2006 "in conjunction with failure to find the disappeared person". It was never renewed. Zavadski's mother Volha received a letter about suspension of the case from Ivan Branchel, deputy head of the department for investigation of corruption cases of the Prosecutor's General office. The complaint addressed to the Prosecutor General and submitted right after the letter about suspension of the investigation, was not satisfied. Let us remind the readers that members of the "Ihnatovich's gang" were found guilty of abducting Zavadski and a number of other crimes in 2002. Ihnatovich (former officer of Almaz riot forces department) and Malik received life sentences. However, the location of the journalist or his body was never found out. In November the case had an abrupt turn. Valery Ihnatovich who is serving his sentence in Zhodzina prison, addressed Aliaksandar Lukashenka through mass media. He claimed his non-participation in the crimes he had been found guilty of: "I, convicted Valery Ihnatovich, am waiting for complete acquittal, and claim non-participation in the crimes I have been groundlessly accused of, illegally convicted, and unlawfully imprisoned. I am absolutely not guilty. I did not commit any crimes". Dzmitry Zavadski's mother who was present during the trial (which was closed for public) also claims Ihnatovich's guilt in abduction of her son was not proved. She says the "complicity" of "Ihnatovich's gang" in this crime looked very inconclusive.

We cannot exclude the possibility of a certain agreement: Ihnatovich could have been pushed to plead guilty of abducting Zavadski in exchange of the promise to get a life sentence instead of death penalty. It is quite possible that Zavadski was abducted by the same persons who participated in abducting other well-known people.

As the official investigation of disappearances of well-known figures was absolutely formal and had no results for many years, the families of the disappeared Zinaida Hanchar, Iryna Krasouskaya, Sviatlana Zavadskaya,

Volha Zavadskaya, and their representatives Harry Pahaniayla and Aleh Volchak passed an “Accusative Act” to Prosecutor General on October 30th. The “Accusative Act” was based on the results of public investigation of those cases. The “Accusative Act” (preliminary conclusion about complicity of high-ranking officials of Belarus to the facts of disappearances and (or) arbitrary punishment of Yury Zakharanka, Viktor Hanchar, Dzmitry Zavadski, and Anatol Krasouski), names the following people as the main suspects: 1) A. Lukashenka, president of the Republic of Belarus, head of the Security Council of the Republic of Belarus; 2) V. Sheiman, state secretary of the Security Council; 3) Yury Sivakou, former minister of internal affairs; 4) U. Navumau, minister of internal affairs; 5) Dz. Paulichenka, commander of unit 3214; 6) M. Vasilchanka, former head of the Security service of the president.

The 20 pages of the “Accusative Act” contain information received during investigation activities, and the materials of the public investigation of the facts of abduction. The author expressed an opinion that “according to the law, these crimes are solved, the suspects are determined... however, further investigation of the cases is not completed because the professional activity of investigators, prosecutors and judges is blocked by the high-ranking officials in Belarus, who are suspected of committing the crimes.” The authors claim that “knowing that the competent bodies of Belarus deliberately ignore information about complicity of the suspects to enforced abductions of the victims and do not take any steps on the national level to fully and completely investigate the cases” they plan to use the possibility of the so called universal jurisdiction. The jurisdiction “provides for an opportunity to prosecute individuals who committed a crime against humanity, according to the international law (similar rules of the universal jurisdiction are described in Parts 3 and 4 of the Criminal Code of the Republic of Belarus)”.

Only Zavadski’s mother Volha received a response to that appeal. The letter dated November 16th, 2007 and signed by prosecutor of the department for supervising investigation A. Sytsko describes the details of the investigation and results of the trial on the case about Zavadski’s abduction, and reports: “the work to establish location of Dzmitry Zavadski or his body, and the persons who committed the crime (?) continues. In case of receipt of positive information, we will renew investigation of the criminal case immediately”.

While the official authorities only imitate investigation of the abductions, the Belarusian and international public did not leave the problem without

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attention. Commemoration actions were organized on the 8th anniversary of disappearance of Yury Zakharka, Viktor Hanchar, and Anatol Krasouski, and the 7th anniversary of disappearance of Dzmitry Zavadski. Every 16th day of the month (*Hanchar and Krasouski were abducted on September 16th – ed.*) memory candles were lit all over the country. This day received the name of the Solidarity Day and is now perceived as an action of solidarity not only with the families of the disappeared but also with all political prisoners and their families. Such solidarity actions are almost always dispersed by police, and their participants get detained and prosecuted.

In May an International Coalition against Enforced Disappearances was created in Paris. The coalition was founded by Amnesty International, Human Rights Watch, FEDEFAM (Latin American Association of the Families of the Disappeared People), Red Cross International Committee, the International Association of Lawyers, and “We Remember” civic initiative in Belarus.

International organizations continued to make statements about the necessity to find out the fate of the disappeared Belarusian politicians and public figures. This problem was raised in the United Nations on different levels. The UN General Assembly Resolution on the Situation of human rights in Belarus demands “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”. (Similar demands were stated in the Resolutions made in 2003, 2004, 2005, and 2006, but the Belarusian authorities failed to take any effective measures in that direction).

The cases about disappearances of Yury Zakharka, Viktor Hanchar, and Anatol Krasouski were considered during the November session of the Working Group for Enforced or Involuntary Disappearances (this ad-hoc mechanism was created in 1980 on the initiative of the UN General Assembly for hearing the cases of human rights violations which are especially serious in their nature). Before the beginning of the session the Working Group informed the families of the disappeared that the Belarusian Ministry of Internal Affairs again presented an explanation about the

results of the official investigation: “the investigation continues, but so far it failed to find the abductors”. Commenting on the response from the Ministry of Internal Affairs the families of the disappeared replied that the investigation was conducted formally, and that high-ranking officials who could have participated in the crimes, were still not interrogated.

The families of the disappeared again claimed that Belarus failed to perform its duties and solve the cases of enforced abductions when the Belarusian government expressed the intention to become member of the UN Human Rights Council. Zinaida Hanchar, Ulyana Zakharka and Volha Zavadskaya stated: “During many years we do not know about the fate of our dear ones, in fact, there is no official investigation of the cases. We link the absence of any results of the investigation to disinterest of the Belarusian authorities in investigation of these crimes, which strengthens our conjectures about complicity of high-ranking officials of Belarus to these crimes. The UN General Assembly demanded full and unbiased investigation of the cases about enforced abductions in its many resolutions. However, the government of the Republic of Belarus continues to ignore these demands. We evaluate these actions of the Belarusian authorities not only as the desire to hide the real organizers and actual doers of the crimes, but also as non-recognition of the authority of the United Nations.” The women called to vote against membership of Belarus in the UN Human Rights Council until the state performs its duties not only before its citizens, but also the international community.

Admitting the consistent position of the United Nations in the demands to the Belarusian authorities to investigate the disappearances of the well-known people in the country, the public was disappointed to hear about permission to Uladzimir Navumau, minister of internal affairs, to participate in the UN conference on human trafficking in New York in early March. (Navumau was included in the visa ban list to the countries of the European Union, the United States and Canada because of suspicion of his complicity in the political abductions in Belarus). The event was initiated by delegations of Belarus and Philippines, as well as the UN Office on Drugs and American NGO “Vital Voices”. The families of the disappeared addressed the UN Secretary General Ban Ki-moon asking not to allow participation of U. Navumau in the international forum: “We consider Navumau’s participation in an international conference under auspices of the United Nations a violation of the letter and the spirit of the UN Resolutions and Conventions.” The UN press service replied that the UN Secretary General did not have authority to allow or prohibit someone from participating

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in a conference, because it was the prerogative of the President of the UN General Assembly. Uladzimir Navumau took part in the forum provoking negative reaction of not only the democratic community of Belarus but also of some European countries. The delegation of the Netherlands boycotted the forum. “The government of the Netherlands made a decision not to send diplomatic representatives to this conference because minister Navumau, suspected of complicity in disappearances of Belarusian politicians in 1999-2000, was one of the organizers of the conference. The decision of the government was supported by the majority of members of parliament”, — member of the press service of the Dutch Ministry of Foreign affairs commented.

On August 30th the International Day of Victims of Enforced Disappearances was marked all over the world. The red Cross International Committee urged the international community to think about solution of the problem of the disappeared and care about their families. The Committee also published a report “Disappeared without Trace – Hidden Tragedy”, which points out that “not enough” was done to solve the problem of the disappeared, that absence of information made the families of the disappeared suffer every day, and did not give them an opportunity to bid farewell to their dear ones. Often it is the political will which is missing in order to solve the problem.

4. POLITICALLY MOTIVATED CRIMINAL PERSECUTION

In 2007 the Belarusian authorities actively used criminal persecution as a tool of reprisal against political opponents and an instrument of pressure on civic activists and opposition-minded citizens.

The demand to release all political prisoners and stop politically-motivated criminal cases became an obligatory condition in the dialogue of the European structures and the United States with the Belarusian government. At the same time, the Belarusian authorities denied the presence of political prisoners in the country and political articles in the Criminal Code, claiming the demands of the international community were a mere informational campaign to discredit the foreign and domestic policy of Belarus. However, in 2007 the issue of political prisoners became the subject of political bargaining of the Belarusian authorities with the international institutions. In Spring the release of political prisoners was the main issue on the agenda of unofficial negotiations between Natallia Piatkevich, deputy head of the President's Office and David Kramer, US Deputy Assistant Secretary of State. As a result of the negotiation, the Belarusian authorities had to weaken the pressure on civic activists and even allowed for early release of three political prisoners: Pavel Seviarynets, Mikalai Statkevich, and Katsiaryna Sadouskaya. The timeserving nature of such a decision is proved by the fact that just before the release all three prisoners were denied grant of parole because they failed to "step on the path of correction". This is a telling illustration that the release of political prisoners is a political, not a legal issue. Some people were of the opinion that the authorities released Pavel Seviarynets, Mikalai Statkevich, and Katsiaryna Sadouskaya in an attempt to keep economic preferences in trade with the EU. When the preferences were cancelled, the authorities stopped the process of releasing political prisoners, and the short period of political thaw came to an end. The hopes for fast release of the remaining political prisoners did not come true. The authorities continued to keep former candidate for presidency Aliaksandr Kazulin, youth activists Zmitser Dashkevich and Artur Finkevich, entrepreneur Mikalai Autukhovich behind bars. In April politician and publicist Andrei Klimau was taken into custody on political charges.

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The democratic community hoped that the political prisoners could be released in conjunction with the new law “On Amnesty”. However, the hopes did not come true as the law was worded in such a way that none of the people convicted on political charges were subject to amnesty.

The number of people who were prosecuted because of their political activity remained quite high.

Article 193.1 of the Criminal Code (organizing activity of an association, fund, or religious organization that does not have a state registration or participation in such a group) was used in charges against eight people, all of them members of the youth organization “Young Front”. Another four Young Front members are still under investigation on similar charges.

In 2007, for the first time in the modern history of Belarus, the authorities used Article 32 of the Criminal Code – offense against the state. Politician Andrei Klimau was charged under Article 361 part 3 of the Criminal Code (calls to actions aimed at damaging external security of the Republic of Belarus, its sovereignty, territorial immunity, national security and defense), and Article 368 of the Criminal Code (insult of the president of the Republic of Belarus). Klimau was found guilty and sentenced to 2 years of imprisonment in a medium-security prison. The court considered the article published by Klimau as “public calls to capture state power or violently change the constitutional system of the Republic of Belarus, committed with the usage of mass media”. The trial was closed for public.

In fact, the trial over Zmitser Dashkevich, carried out in the prison where the youth leader was serving his sentence, was also closed for public. Dashkevich, sentenced to 1.5 years of imprisonment for participation in an unregistered organization Young Front, refused to testify against Ivan Shyla who was facing the same charges. Dashkevich referred to Article 27 of the Constitution which guarantees the right not to give testimony against oneself. Despite the obvious absence of crime in the act of Dashkevich, the court found him guilty and sentenced him to a fine.

It should be pointed out that politically motivated criminal sentences were not as severe as in 2006. The majority of the tried activists were sentenced to penalties which did not include custodial coercion, receiving fines or judicial warnings. However, two people received prison sentences: Andrei Klimau and Artur Finkevich.

The tendency to certain easing of political persecution is foremost explained by the new economic and foreign-policy situation in 2006, and is not a sign of liberalization of the Belarusian regime.

1. Criminal case against Siarhei Huminski

On January 22 youth activist Siarhei Huminski from Orsha was handed a ruling that he was suspected of making political graffiti (Article 341 of the Criminal Code “Defilement of buildings and anientisement”). Earlier Huminski had been interrogated about the case and his apartment was searched several times.

On January 25 Orsha police dropped the charges. The youth activist was summoned to a local police department and informed that the criminal case had been stopped due to lack of evidence.

2. Criminal Case against Mechyslau Yaskevich

Head of Hrodna Union of Poles Mechyslau Yaskevich was detained on November 5, 2006. He was accused of allegedly starting a fight on a trolley-bus stop. The charges were brought under Article 339 part 1 of the Criminal Code “Hooliganism”.

The trial was carried out on February 9, 2007 by Kastrychnitski court of Hrodna. Mechyslau Yaskevich pleaded not guilty, but judge Zhana Verkhas found him guilty and fined him 40 basic units (about USD 600), also obliging him to pay about USD 250 US in damages to the victim. The Union of Poles in Belarus stated that was provocation and politically- motivated persecution of the member of their union.

3. Criminal Case against Dzianis Dzianisau and Tatsiana Yelavaya.

Youth activists Dzianis Dzianisau and Tatsiana Yelavaya were charged under Article 14 part 1 and Article 342 part 1 of the Criminal Code – “organizing and preparation to actions which grossly violate the public order or active participation in such actions”.

According to V. A. Zabauski, head of department for overseeing investigation in the bodies of internal affairs of the prosecutor’s office of Vitebsk region, “Dz. V. Dzianisau, together with another at least 25 persons who had more than 1000 flyers on them, were detained in the evening of June 17, 2006 during an attempt to hold an illegal action of BUNT organization in Vitebsk”. On June 19, 2006 the criminal case was instigated, and in October Dzianis Dzianisau and Tatsiana Yelavaya were indicted.

Tatsiana Yelavaya left Belarus. The police chose custody as a restraint measure against Dzianis Dzianisau. He landed on a wanted list because he was hiding from the investigation. On October 19, 2006 the investigation of the case was stopped because the police failed to find Dzianisau. However, on February 16, 2007 the case was renewed because the youth

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activist was detained on a train going to Homel. Dzianisau was first kept in Homel investigation ward, and later taken to Vitebsk investigation center #2, where he spent two months.

On April 11 Dzianisau was released on bail of 500 basic units (more than USD 7, 500), collected by the Belarusian public.

On May 30 the criminal charges against Dzianis Dzianisau and Tatsiana Yelavaya were dropped because of absence of crime in the act.

4. Criminal case against Kanstantsin Lukashou.

Kanstantsin Lukashou, brother of politician Viachaslau Siuchyuk, was charged under Article 364 of the Criminal Code, (violence or threat of violence towards policemen). Lukashou was accused of overriding a policeman on March 29, 2006, when picking up his brother Viachaslau Siuchyuk from the hospital, who unknown people in civil clothes tried to detain.

Kanstantsin Lukashou, member of the Academy of Sciences of Belarus, was detained on December 19 at his office. According to the investigator, the ground for keeping him in custody was the fact that he allegedly failed to attend interrogation sessions and was put on a wanted list. However, Lukashou did not hide; he came to work every day and did not leave the county.

On February 20 Leninski court of Minsk found him guilty and Judge Zinaida Krasouskaya gave him 2 years of conditional sentence. He is also to pay 1 000 000 BYR (about USD 450) in compensation to the 'injured' policeman, and all court expenses. Kanstantsin Lukashou was released from custody in the court hall.

The sentence was appealed. On April 3 the college board of Minsk city court abolished the verdict of Leninski court of Minsk and returned it to another judge for re-consideration. On July 9 deputy dead of Leninski court Tatsiana Zhulkouskaya considered the case again and made a similar verdict: two years of conditional imprisonment with probation term of 2 years. On August 28 Minsk city court upheld the verdict.

5. Criminal Case against Valery Shchukin

On March 6 Pershamaiski police department of Vitebsk indicted human rights defender and journalist Valery Shchukin under Article 189 part 2 of the Criminal Code "insult in printed material". Investigators revealed insult of head and members of the election commission in flyers produced and distributed by Valery Shchukin after the local elections in January. It is

worth pointing out that Article 189 of the Criminal Code is an article of “personal nature”. This means that cases under such articles are instigated only on the application of the victim. However, in this case the proceedings were launched by Chyhunachny and Pershamaiski prosecutor’s offices of Vitebsk. During the court hearing by Pershamaiski court of Vitebsk, three out of four members of election commissions refused from compensation for the alleged insult, and only Liudmila Butevich demanded 500, 000 BYR (about USD 250) of compensation. Judge Natalia Huryan pronounced Valery Shchukin guilty and fined him 40 basic units (USD 600) and obliged him to pay 250 000 BYR to member of election commission Buyevich and pay the legal fee. The human rights activist appealed the sentence but had no success: On July 24 the board of Vitebsk regional court upheld the decision of the lower court.

6. Criminal case against Natalia Starastsina, Viachaslau Siuchyuk, Aleksandra Yasiuk, Aliaksandr Uryuski, and Mikita Krasnou.

Natalia Starastsina, Aleksandra Yasiuk, Aliaksandr Uryuski, and Mikita Krasnou were detained on March 22, and Viachaslau Siuchyuk – on March 24 as suspects in the criminal case under Article 342 of the Criminal Code (“Organization and preparation to actions that grossly violate public order or active participation in such actions”). It was the first time when distribution of flyers about a mass event was qualified under that article. All five of them were put into pre-trial custody center in Minsk, and were kept there for three days.

On May 25 after two months of investigation, Viachaslau Siuchyuk, Natalia Starastsina, Aleksandra Yasiuk, Aliaksandr Uryuski, and Mikita Krasnou received information letters from Minsk city investigation department, «in conjunction with absence of crime in the act», the investigation of the criminal case was stopped.

7. Criminal Case against Andrei Klimau

Politician and publicist Andrei Klimau was detained by police in the morning of April 3 and taken to Minsk city prosecutor’s office. He was indicted of «appeal for subversion or change of the constitutional system of the Republic of Belarus, or for accomplishment of crimes against the state, public appeals for violent seizure of power or change of the constitutional system of the Republic of Belarus, or betrayal to state, or accomplishment of terror act or sabotage, or distribution of materials, which contain such appeals realized with mass media usage” (Article 361 part

3). This is the first time in the modern history of Belarus that a person is indicted of crime against the state, and the reason for it is a publication on a web-site. During investigation on the criminal case against Andrei Klimau the police failed to organize expert examination of the web-site, which featured Klimau's article: who it belongs to, who uploads information on it, etc. Literary expert examination was carried out not by the Institute of Literature of the National academy of Sciences, but by the Institute of Criminology and Criminalistics of the Ministry of Internal Affairs.

On August 1 Centralny court of Minsk found Andrei Klimau guilty of the crime under Article 361 part 3 and Article 368 ("Insult of the President") of the Criminal Code and sentenced him to 2 years in the medium-security prison. The trial was closed for public, family members, representatives of the society and mass media were not allowed in the courtroom. On October 2, the college board for criminal cases of Minsk city court rejected the cassation appeal and upheld the judgment. Andrei Klimau was sent to serve his sentence to Mazyr medium security prison.

8. Criminal Case against Nasta Palazhanka, Zmitser Fedaruk, Aliaksei Yanusheuski, Aleh Korban, and Barys Haretski.

The criminal case was instigated on February 4 by Minsk city KGB department under Article 193.1 of the Criminal Code – "organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization". That day the police detained members of the Central Council of Young Front, during its meeting at a private apartment. Several dozen of the detained youth activists were released later, and Zmitser Fedaruk and Aleh Korban were placed into the KGB detention center, where they spent three days as suspects in the criminal case. Later Barys Haretski, Aliaksei Yanusheuski, and underage Nasta Palazhanka were also suspected in the case.

The charges were based on the printed materials found during searches in the apartments of Young Front members, and print outs of telephone conversations and audio-recordings of meetings held on September 29, 2006, January 25 and 29, February 1 and 4 of 2007. Zmitser Fedaruk was charged with heading Pershamaiski branch of Young Front, Aleh Korban – with heading Partyzanski branch, Aliaksei Yanusheuski – heading Zavodski branch, Barys Haretski – being press-secretary of the organization, and Nasta Palazhanka – in heading the organizational department of Young Front. According to the prosecutor, the goal of Young Front was seizure of power through mass street actions.

The court hearings of the case were held on May 28-29 in Savetski court of Minsk. State prosecutor Mikhonskaya suggested punishing Zmitser Fedaruk, Aliaksei Yanusheuski, Aleh Korban, and Barys Haretski with fines of 500 basic units, and Nasta Palazhanka –with correctional labor. Judge Ruslan Aniskevich found the youth activists guilty of committing the crime and gave the following sentences: Zmister Fedaruk – fined 40 basic values (about USD 600), Aleh Korban, Aliaksei Yanusheuski, and Barys Haretski — fined 30 basic units (about USD 450). Nasta Palazhanka received a judicial warning.

9. Criminal Case against Nasta Azarka

Youth activist from Niasvizh Nasta Azarka was charged under Article 193.1 of the Criminal Code – “organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”. The criminal case was instigated on March 5 by D. N. Mekhau, senior investigator of the department for investigation of the organized crime and corruption of Minsk regional board of internal affairs.

Nasta Azarka was suspected of “active participation, from October 1998 up to now, in illegal activity of public association “Young Front” that did not go through state registration in the established order. During her activity she distributed printed materials calling to struggle with the current public system and current state power in the Republic of Belarus, participated in organizing and holding of unauthorized rallies, campaigning and other activities aiming to reach the goals of the above- mentioned association”.

On September 4 Judge Maria Dynayeva of Niasvizh court found Nasta Azarka guilty and fined her 40 basic units.

10. Criminal Case against Ivan Shyla

The criminal case against under age youth activist Ivan Shyla from Salihorsk was instigated on May 10 by the prosecutor’s office of Minsk region. Ivan Shyla was charged under Article 193.1 of the Criminal Code with “organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”. Ivan Shyla was accused of “being completely aware of the fact that the Ministry of Justice rejected state registration to Young Front; from November 26, 2006 he carried out illegal activity of that association and participated in its activities with the following circumstances. Being head and activist of the local structure of Young Front in Salihorsk, in order to

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achieve the goals established in the Statute of the organization, he took active part in the organization events, some of which were organized with his direct participation:

No later than May 11, 2007, with the goal of recruiting new members of the organization, with the help of computer equipment he produced business cards and flyers on behalf of Young Front and put his phone number on them;

Before May 11, 2007 at the place of his residence he kept other attributes of Young Front (pins) with the goal of their distribution and involving new people in the organization;

No later than May 11, 2007, with the help of computer equipment he composed and produced brochures titled "Freedom to Political Prisoners" and his phone number, with the goal to involve new members, and distributed the brochures among residents of Salihorsk;

At the place of his residence, with the help of computer equipment, on behalf of Young Front, he produced newspaper "Svabodny Salihorsk", in which he spread information about activities of Young Front, and events organized by it. He also indicated his phone number, aiming at recruiting new members of the organization, and distributed the newspaper among Salihorsk residents;

In the period of January 18-20, 2007 he rented an apartment in the city of Salihorsk, where he kept printed materials, posters and bands of Young Front, in order to make its activities possible;

At the place of his residence, on May 30, 2007 he created "Plan of Activities of Salihorsk Young Front for June-December 2007";

On January 4, 2007, about 11.30 a.m. he distributed flyers on behalf of Young Front at Staravakzalny market place;

At the place of his residence, from 3.10 to 3.49 p.m. he gave a phone interview to a journalist of the European radio for Belarus and other journalists about organizing Young Front pickets on January 20, 2007;

On January 20, 2007 about 4 p.m. he organized a picket on behalf of Young Front, holding a poster "Freedom to Dashkevich";

On February 26, 2007 he applied to Salihorsk district executive committee with a petition about the work of public transportation system and other issues, publicly linking the results of the appeal with the activity of Young Front;

On September 4 Salihorsk district court tried Ivan Shyla. A. I. Charnyshevich was the state prosecutor. Judge V.N. Lapina found the youth activist guilty of the crime he was charged with (Article 193.1 of the Criminal Code of the Republic of Belarus) and gave a judicial warning to Ivan Shyla. The verdict was appealed to Minsk regional court (judicial college for

criminal cases). However, the complaint was rejected, and the judgment upheld.

11. Criminal Case against Zmitser Dashkevich

Zmitser Dashkevich, leader of youth organization Young Front, was sentenced to 1.5 years of imprisonment for violation of Article 193.1 of the Criminal Code of the Republic of Belarus (“organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”). on November 1, 2006. He was sent to Shklou prison #17 (Mahiliou region) to serve the sentence.

One more criminal case was instigated against Zmitser Dashkevich while he was in jail. Investigator of Shklou police department captain S. N. Lokh charged the youth activist of refusing to testify during investigation of the criminal case against Ivan Shyla, accused of activity on behalf of unregistered organization. It’s worth pointing out that Zmitser Dashkevich refused to testify in writing, referring to Article 27 of the Constitution, which guarantees the right of citizens not to testify against themselves, as he was found guilty under the same charges. However, the investigator decided that by that act Dashkevich had committed a crime under Article 402 of the Criminal Code – “refusal or evasion of a witness from testifying”. The trial over the youth activist began on November 6 on the territory of Shklou prison. The prison administration allowed only direct participants of the proceedings to enter the prison: the judge, defense lawyer, and state prosecutor. On November 9 Judge Kashkina found Dashkevich guilty and fined him 60 basic values (about USD 900).

12. Criminal Case against Yaraslau Hryshchenia

Yaraslau Hryshchenia, youth activist from Baranaviochy, was charged under Article 193.1 of the Criminal Code – “organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”.

The decision to start criminal proceedings, made by prosecutor, senior adviser of justice A. P. Smal, says: “on April 20, 2007 underaged Yaraslau Hryshchenia made the statement to Baranavichy city police department that he is voluntarily ceasing his activity in youth association “Young Front”, which had failed to go through the procedure of state registration. However, in fact he continued his participation in the activity of the unregistered association during the “Chernobyl March” rally on April 26, 2007, which is proven by video materials”.

The trial over Yaraslau Hryshchenia began on September 10 in Baranavichy district court. The prosecutor asked to punish Yaraslau with 1 year of conditional imprisonment. However, the judge Vasil Petrykau ruled to fine the activist 930 000 Belarusian rubles (about USD 450).

13. Criminal Case against Andrei Tsianiuta, Arseny Yahorchanka, and Kiryl Atamanchyk

On September 18 Homel regional department of KGB instigated proceedings on the fact of activity on behalf of unregistered organization Young Front under Article 193.1 of the Criminal Code (“organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”). The suspects in the case were Andrei Tsianiuta from Homel, Kiryl Atamanchyk from Zhlobin, and Arseny Yahorchanka from Svetlahorsk.

In the statement about recognizing Kiryl Atamanchyk a suspect in the case, interrogator senior lieutenant Andrei Kolasau said the activist, together with other unknown persons, carries out destructive activity on behalf of unregistered organization Young Front. In particular, they draw symbols of the organizations and slogans in a destructive manner on the walls of the buildings. In the opinion of the investigator, this is done “with the goal to popularize the ideology of Young Front and create an illusion in the society about the presence of mass resistance to the current authorities”. Arseny Yahorchanka and Andrei Tsianiuta received similar charges.

On November 16 Dzmitry Sedliarou, investigator of Homel department of KGB informed the suspects that the criminal proceedings had been suspended because of “impossibility to make investigatory actions which are necessary for finishing the preliminary investigation”. On December 14 the proceedings were renewed. By the end of 2007 the case materials were on the stage of preliminary investigation.

14. Criminal Case against Katsiaryna Salauyova

On December 28 Katsiaryna Salauyova, youth activist from Lepel, 2nd year student of faculty of history and philology, was charged under Article 193.1 of the Criminal Code — (“organizing activity of an association, fund, or religious organization, which did not receive state registration or participation in such an organization”.)

According to the statement about beginning of the investigation, Katsiaryna Salauyova is suspected of activity on behalf of unregistered organization Young Front. At the end of 2007 the criminal case was still under investigation.

15. Criminal Case against Artur Finkevich

Youth activist Artur Finkevich was sentenced on May 10, 2006 to two years of restriction of freedom (in an open-type institution) for making political graffiti before the presidential election. He was sent to serve the sentence to a punitive institution #43 of Mahiliou.

In October 2007 he was charged under Article 415 of the Criminal Code (“evasion from punishment of restriction of freedom”). Artur Finkevich was placed in Mahiliou pre-trial detention center, where he was kept until trial. The youth activist was accused of systematic violations of the regime in the punitive institution, in conjunction with which the administration inflicted him five disciplinary penalties on him. Meanwhile, Artur Finkevich regularly complained about threats and pressure on him by the administration of the punitive institution.

On December 21 Kastychnitski court of Mahiliou found Artur Finkevich guilty. Judge Natalia Krashkina sentenced him to 1.5 years of imprisonment.

16. Criminal Case against Darya Ilyinich and her mother Natalia Ilyinich

In March Darya Ilyinich, student of the historical faculty of Belarusian State University, took part in the education program that was held in Poland. Before the trip Darya fell ill, and her mother asked the doctor in Maryina Horka hospital to give her a certificate confirming her illness. Darya received a certificate, but felt better and went to the seminar.

After the trip to Poland KGB agents visited Darya at the university. They insisted the girl should give them information about the organizers and participants of the educational program. KGB agents threatened her that if she refused, she, her mother and the doctor who had given her the certificate would be charged under the Criminal Code.

When Daria Ilyinich refused to cooperate, her mother Natalia Ilyinich was charged for receiving the medical certificate under Article 16 part 5 and Article 427 part 1 of the Criminal Code – “solicitation for official forgery”. On November 9 Pukhavichy court of Minsk district found Natalia Ilyinich guilty and punished her with correctional work (at her normal place of work) for 1.6 years, with 20% charges from her salary. The verdict was appealed to the college board for criminal cases of Minsk regional court, which on December 21 upheld the judgment.

In December Darya Ilyinich was charged with “forgery, production, usage or selling of forged documents, stamps, seals and letterheads”. As of the end of 2007, the case was still under preliminary investigation.

17. Criminal Case against Siarhei Panamarou

On September 29, 2006 Siarhei Panamarou, editor of underground newsletter Boyki Kletsak was charged under Article 188 part 2 of the Criminal Code “libel in printed media”. The reason for instigating proceedings was an article in the newsletter about the head of Kletsak legal counseling office Natalia Semashkevich.

During this time the investigation on the case was suspended and renewed 5 times, although linguistic expert examination which was conducted twice, did not find libel in the publications by S. Panamarou. Last time the investigation was renewed on September 17 by assistant prosecutor of Kletsk Valiantsina Liabedzka. It was again suspended in two months – at the end of November.

18. Criminal Case against Aliksandar Zdzvzhkou

On February 22, 2006 the criminal case was launched under Article 130 part 1 of the Criminal Code “(fomenting racial, national or religious animosity)”. Zhoda newspaper published an article reprinting the notorious cartoons featuring Muhammad from the Danish newspaper Jullands-Posten. The case was initiated on the basis of the Prosecutor’s office inspection after a complaint of Ismail Varanovich, mufti of the Muslim religious association. He considered reprinting of the cartoons insulting for Muslims.

Despite the fact that the newspaper was not distributed, and on March 17, 2006 the Supreme Court ruled to close it down, the criminal charges were not dropped. Deputy editor-in-chief Aliksandar Zdzvzhkou was suspected in the case. In the summer of 2006 the journalist left the country, the investigation was suspended and Zdzvzhkou was put on a wanted list. On November 18, 2007 the journalist was arrested when he came to visit the grave of his father in Barysau. He was kept in the KGB investigation center. The trial was appointed for January 11, 2008 in Minsk city court.

19. Criminal Case against Valer Misnikau

In the end of 2006 Vitebsk human rights defender and lawyer Valer Misnikau was charged with “insult of a representative of authorities” (Article 369 of the Criminal Code), and, a little later, with “stealing or damaging documents, seal of special significance” (Article 377 part 2). Vitebsk regional prosecutor’s office accused Valer Misnikau that in his complaints addressed to Vitebsk region prosecutor he had deliberately, with the goal of disparaging the honor and professional qualities of head of prosecutor’s

office department of Vitebsk region A. Baleyeva and senior investigator for major affairs of the prosecutor's office of Vitebsk region A. Tautyn. Also Misnikau was accused of stealing volumes of the criminal case from the investigator's office during working hours.

In June the prosecutor's office investigator sent him for psychiatric expert examination in Minsk psychiatric hospital "Navinki". The experts diagnosed him with "paranoid change of personality". In early September the trial closed for public took place. The court ruled to use measures of compulsion and place Misnikau to a psychiatric hospital for treatment. In November Vitebsk regional court heard the cassation complaint filed by the lawyer, and upheld the judgment of the lower court. From October 19, Misnikau is kept in "Slabodka" psychiatric hospital in Braslau.

According to the order of the Ministry of Health Care of November 11, 1999 # 337, and the Ruling "Concerning hospitalization of the ill to psychiatric institutions", approved by the order, hospitalization of a citizen is carried out if he or she present direct threat to him or herself and (or) people around them. Direct threat can be determined by some illnesses and psychic pathologies, but the illness, which, according to psychiatrists Misnikau suffers from, is not on that list. That means Misnikau was not subject to hospitalization to a psychiatric institution.

20. Criminal Case against Aliaksandar Kruty

The criminal case under Article 368 of the Criminal Code "Insult of the president of the Republic of Belarus" was started in May 2003 when Aliaksandar Kruty distributed flyers in his home town of Niasvizh which allegedly insulted the president of Belarus. The flyers were based on a pun, but did not directly say anything bad about Lukashenka whatsoever.

Aliaksandar Kruty was detained by police in October 2007 in Minsk. In the beginning he was brought to Niasvizh, and then placed to pre-trial detention center in Zhodzina. Within the framework of the criminal case Aliaksandar Kruty had to undergo psychiatric expert examination. According to its conclusions, medical measures of compulsion were to be used towards Aliaksandar Kruty, with placing him to a hospital under Article 101 of the Criminal Code – "compulsory measures of safety and treatment used towards mentally ill people".

5. RESTRICTION OF FREEDOM OF EXPRESSING OPINIONS. VIOLATION OF THE RIGHTS OF CITIZENS TO FREEDOM OF SPEECH AND RECEIVING TRUTHFUL INFORMATION

The Constitution of the Republic of Belarus contains two articles that are directly dedicated to freedom of expressing opinions and freedom of information. According to Article 33, the state undertakes the obligation to provide the possibility for everyone to freely express their opinions, i.e. to recognize and reckon with the views and judgments of citizens, including critical ones. A ban on monopolizing mass media, established by the Constitution, envisages existence of pluralistic mass media, which present different opinions about different events in the life of the country. A ban on censorship is also highly important for providing freedom of expression, including mass media sphere. Article 34 declares the so-called freedom of information and confirms the right of everyone to “receiving, keeping, and distributing full, exact, and timely information about activity of state bodies, public associations, about political, economic, cultural and international life of the country, and the state of environment”. That means practically all information about state and public life is to be open for every citizen. This article also obliges state bodies to provide citizens with materials affecting their rights and legal interests, and describes conditions for the restriction of this freedom: “usage of information may be restricted by the legislation with the purpose to defend honor, dignity, private and family life of citizens and full exercise of their rights”.

However, despite the constitutional guarantees, the state has established total control over the informational sphere, and freedom of expression has been decreased to a minimum. Our country regularly finds itself on one of the last places in the freedom of speech ratings: according to Reporters without Borders report, in 2007 the country was on the 151st place out of possible 169.

Strict control in the sphere of information is a means of political survival for the authorities. A. Lukashenka stated openly in his January interview to the German paper “Welt am Sonntag” that: “mass media can act as firearms. Journalists can kill both democracy and the totalitarian system, and hurt society”. The fact that information and communication functions of mass

media are replaced by propaganda in Belarus can be explained only by the authorities' goal of self-preservation. Instead of unbiased and truthful information citizens receive stereotypes directed at the annihilation of ideological opponents and imposed by authorities. This is possible due to state monopolization of electronic media, overall support of state-owned editions, and annihilation of independent mass media.

The need to improve relations with European countries led the authorities to make rare attempts to justify their deviation from the standards of the civilized world. In the same interview to "Welt am Sonntag" Lukashenka pointed out: "Maybe we do have some drawbacks in the development of freedom of the mass media so very precious to you, but the European Union should recognize the fact that in our country people can feel safe". February comments of the country's leader to Reuters were nothing else but "export PR": "There are 1.5 thousand newspapers and magazines, two thirds of which are not state-owned, in the country. Hardcore opposition newspapers are sold freely" and to French Le Monde weekly in July: "Two thirds of the Belarusian editions are unofficial (non-state). An oppositional newspaper can even be bought in the building of the President's office". However, Lukashenka did not point out that the majority of editions that create an illusion of mathematical dominance of non-state press are of entertainment nature, and did not say a word about the conditions of papers that write about politics.

In April for the first time in five years representatives of independent mass media, Iosif Siaredzich, chief editor of Narodnaya Volia among them, were invited to Lukashenka's press conference. The fate of Narodnaya Volia is a bright illustration of the real state of the Belarusian independent press: in the run up to the presidential elections 2006 the newspaper lost the possibility to print in Belarus and be delivered to readers through post offices and newspaper kiosks. Iosif Siaredzich raised those problems at the press conference and asked the president to help address the issues. Aliaksandar Lukashenka stated: "Go and make agreements with them. If any letter of the law is violated, both you, and the printing press, and Rusakevich (*Minister of Information – ed.*) – so that he knows! – will be held responsible". However, all attempts of the chief editor to bring the newspaper back to Belarusian printing presses and distribution system were unsuccessful. Lukashenka ended the story in his April message to the Belarusian parliament: "Go, talk with the printing presses, let them print your papers. I am ready to support and give an order. But if you are going to consciously publish untruthful, biased and unfair information, you will not be published in the country. Can you say that these newspapers are

objective, honest and unbiased in evaluating our policies and the president? Are you ready to work in line with the law? You are not. So what do you want from me?" There are various kinds of punishments established and actively used for violation of the law on mass media. The claims of the state leader to independent mass media obviously fall not within the legal, but ideological sphere. They are about journalists criticizing social and political life of the country. Lukashenka's statements also demonstrate complete subordination of such economic entities as printing presses, Belarusian post, and "Belsayuzdruk" distribution network not to the laws, but decisions of the state leadership.

It was expected in 2007 that amendments would be made into the main document that regulates organization and activity of mass media in Belarus – the Law "Concerning the Press and Other Mass Media" (which was passed in 1995). Numerous times it was pointed out that the main changes would be in the sphere of regulating the Internet. On January 31st Minister of information Uladzimir Rusakevich claimed: "We consider it our duty to study the activity of appropriate institutions in other countries in this sphere and to make appropriate amendments into the law on press".

However, on February 7 it was announced that the parliament was not planning to vote on the new edition of the law in 2007. Aliaksandar Sviryd, member of the Commission for human rights, national affairs, and mass media of the Chamber of Representatives said: "The draft law was not submitted to the lower chamber, it is on the stage of development".

The activity for preparing changes to the law on press intensified after the speech by A. Lukashenka at the meeting with the staff of Sovetskaya Belorussia newspaper on August 2nd, where he demanded: "Anarchy on the Internet should be stopped. It's not worth allowing this technical achievement of the humankind to turn into an informational rubbish dump. We should pass a law and determine the status of electronic media". Immediately a special commission for studying the world experience in regulating the activity of Internet media was created. The commission consists of representatives of the Ministry of Information, Ministry of Communication, the Center for Defense of Information at the President's Office, and KGB. As of the end of 2007 the public has not been informed about the results of work of the commission.

In December the Chamber of Representatives adopted in the first reading the draft law "Concerning Information, Informatization, and Defense of Information". The draft law creates a system of state bodies, which would control all information activity, from the search for information to its spreading

and defense of information resources. The draft law, according to clause 3 of Article 2, does not cover the activity of mass media: "The law does not spread on the sphere of public relations linked to activity of mass media and protection of information as an object of intellectual property". According to the draft law, it does not spread on the Internet. However, it uses the phrase "information network", and it is quite possible that the notion would be spread on the Internet sphere. It is expected that the parliament will adopt the draft law in the second reading during its spring session in 2008.

The rules and regulations for computer clubs and Internet cafes, which provide public access to the World Wide Web have become more restricted in 2007. On February 10, 2007 the Council of Ministers issued Ruling # 175 about the order of work of such institutions. Several clauses of the Ruling are especially interesting. Clause 6: when rendering services to users in an Internet caf , its manager or another authorized person, should keep an electronic journal of domain names of web- sites accessed by the users. The term of keeping the data in the electronic journal should not be less than 12 months. Clause 7: in cases described in the legislation, manager of an Internet caf  or another authorized person are obliged to provide access to electronic journals of domain names and web- sites to the state security, law- enforcement, and state control bodies.

The year of 2007 was marked by the campaign of the authorities for dismantling satellite dishes from the fronts of apartment buildings. State officials explained, the matter was only in the esthetic look of the city streets and referred to the fact that satellite dishes had been mounted without prior agreement with city administration architects. An administrative penalty is envisaged for failure to fulfill the demand to dismantle the dish (Article 21.13 of the Administrative Code – "illegal design of building fronts"). However, the administrative penalty may be enforced only on those who mounted satellite dishes after March 1, 2007 – when the new Administrative Code took effect: the law is not retroactive and can't worsen the legal status of entities. Despite that, In April and may the authorities started a mass campaign for dismantling satellite dishes all over the country. It is obvious that the campaign was directed against Belsat, a project of independent Belarusian TV broadcasting from Poland, called by president Lukashenka "foolish, unreasonable, and unfriendly".

On June 27, the Chamber of Representatives adopted in the first reading the amendments to the Law "Concerning state service in the Republic of Belarus". The amendments regulate the procedure and order of publications

and speeches of state officials connected with their work. According to the amendments, the reasonability of publications and speeches is to be determined by the head of state body or another authorized person. A state official has to get permission to be able to publish an article or a commentary in mass media. Valery Mitskevich, director of the National Center for Law Drafting explained, the reason for amendments were “situations, when a state official represents a certain state body and expresses his versions on this or that issue, that do not coincide with the vision of the state body”. These norms of the law do not apply to members of the Chamber of Representatives, the Council of the Republic (the upper chamber), and to local councilors. In reality, such restrictions create conditions for even bigger non-transparency of activity of state bodies and state officials, and violate Article 48 of the Law “Concerning the Press and Other Mass Media”. According to the law, establishing restrictions on contacts with journalists and communication of information (with the exclusion of state, commercial, or other especially guarded by law secrets) is an attempt on freedom of mass information.

It should be pointed out that on February all national state governance bodies, regional executive committees and Minsk city executive committee received letter # 11/810-234-DSK (DSK is an abbreviation for “restricted”) with “recommendations” concerning the work with mass media, signed by vice-prime-minister Andrei Kabiakou. The government recommended “establishing control over statements (interviews, articles) by employees of state governance bodies in mass media, including non-state printed editions”. “If facts of biased (inappropriate) coverage of economic processes are revealed” officials are to “take measures to bring the appropriate people to disciplinary responsibility (up to removing them from office)”. The letter also contained a requirement to ensure regular monitoring of materials published in mass media. “if facts of biased coverage of issues in the sphere supervised by a Ministry, committee, concern, or executive committee, submit appropriate proposals to the Ministry of Information; take measures to deliver objective information to the public, such as publishing official statements, explanations, etc.” That document was primarily meant to control economic information and was a reaction on the new economic situation of Belarus. The authorities did everything possible to facilitate positive coverage of economic problems, and for allowing only the official point of view to be reflected in mass media.

A number of changes important for the work of journalists and mass media appeared in the new Administrative Code, which has been in force

since March 1, 2007. According to Article 22.9 part 1, the penalty for “abusing freedom of mass media” is significantly increased (from 20 to 50 basic units). In particular, that deals with violation of Article 5 of the law in press, which lists 9 cases of such abuse (among them one can find spreading information on behalf of unregistered organizations, spreading information which insults the honor and dignity of the president of the Republic of Belarus and a number of heads of state bodies, revealing state secrets, propaganda of war and aggression, calls to seize power, etc.) The new Administrative Code determines the new size of fines for violation of the order of distribution of periodical printed editions without publisher’s data (Article 22.9 part 2): earlier the fine was up to 10 basic units, now it is from 20 to 50 basic units; if the violation is repeated, the size of the fine grows further: from 20 to 100 basic units for individual entrepreneurs, and up to 500 basic units for legal entities. The Criminal Code also deals with similar violation. It is up to “competent bodies” to decide, which Code – Criminal or Administrative – to use in each concrete case.

Besides the general unfavorable situation in the sphere of realization of constitutional rights to expression of opinion, freedom of speech and information, in 2007 we observed systematic and purposeful persecution and restriction of activity of independent mass media and journalists. The following methods of struggle with the freedom of speech were used: criminal and administrative prosecution of journalists, prosecutor’s warnings in conjunction with the professional activity, denial of information, obstacles in publishing and distribution of printed editions, ungrounded civic suits, etc.

Articles of the Criminal Code were the most severe tools used against journalists and critics of the political system in order to punish them for professional activity and expression of opinions. Four journalists were criminally prosecuted in 2007; two of them received prison sentences, and one fined; the prosecution of the fourth journalist was suspended.

On November 18 the police arrested Aliaksandar Zdzvzhkou, deputy editor-in-chief of Zhoda newspaper. Zdzvzhkou was placed into a KGB investigation isolation center. The deputy editor-in-chief was charged under Article 130 part 1 of the Criminal Code “fomenting racial, ethnic, or religious enmity”. The criminal case was instigated in February 2006, when Zhoda reprinted prophet Mohamed’s cartoons from the Danish Jullands-Posten newspaper. On March 17, 2006 the Supreme Court ruled to stop the activity of Zhoda newspaper, but the criminal case was not closed. In the summer

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of 2006 Aliaksandar Zdzvzhkou left Belarus. He was detained later to visit his family, and was arrested by police. On January 18, 2008 Minsk city court judge Ruslan Aniskevich found the journalist guilty and sentenced him to 3 years of imprisonment in a medium-security prison. The trial was closed to the public.

On August 1 Centralny court of Minsk found politician and publicist Andrei Klimau guilty of violating two articles of the Criminal Code: Article 361 part 3 “appeal for subversion or change of the constitutional system of the Republic of Belarus, or for accomplishment of crimes against the state, public appeals for violent seizure of power or change of the constitutional system of the Republic of Belarus, or betrayal to state, or accomplishment of terror act or sabotage, or distribution of materials, which contain such appeals realized with mass media usage”, and Article 368 of the Criminal Code (insult of the president of the Republic of Belarus). Klimau was sentenced to 2 years of imprisonment in a medium-security prison. The trial was closed for public. The ground for the criminal case was Klimau’s article published at www.ucpb.org web-site. On October 2 the judicial board of Minsk city court rejected Klimau’s cassation complaint and left the sentence unchanged.

On June 8 Pershamaiski court of Vitebsk found human rights defender and journalist Valer Shchukin guilty under Article 189 part 2 of the Criminal Code (“insult made in a public speech, or printed or publicly demonstrated piece, or in mass media”). Shchukin printed and spread leaflets that contained information about violations of the legislation made by members of election commissions during local elections. The court came to conclusion that such leaflets insulted the members of election commissions. Judge Natalia Huryan fined the journalist 40 basic units, and obliged him to pay 250, 000 BYR in moral damages to a member of Vitebsk regional election commission. On July 24 the college of Vitebsk regional court upheld the judgment.

On September 29, 2006 Siarhei Panamarou, editor of underground newsletter Boyki Kletsak was charged under Article 188 part 2 of the Criminal Code “libel in printed media”. The reason for instigating proceedings was an article in the newsletter about the head of Kletsak legal counseling office Natalia Semashkevich. During this time the investigation on the case was suspended and renewed 5 times, although the linguistic expert examination which was conducted twice, did not find libel in the publications by S. Panamarou.

Demonstrating high activity in the criminal prosecution of journalists, law-enforcement bodies failed to find the murderer of Veranika Charkasava, Salidarnasts newspaper during three years. Charkasava died from numerous knife wounds in October 2004. The case was suspended and renewed several times. In February deputy prosecutor general Viktor Prus said the police were checking a number of people for complicity of the crime. However, later during the month it was found out that the case had been suspended again "in conjunction with failure to find the person to be charged with the crime". The police did not renew investigation of Charkasava's murder after that.

Investigation of abduction of journalist Dzmitry Zavadski, suspended in March 2006 "in conjunction with failure to find the person who disappeared without trace", was not renewed. At the same time, on November 16 the mother of the missing journalist Volha Zavadskaya received a response from the prosecutor's general office on the "Accusation", composed as an outcome of the public investigation of the cases of disappearance of well-known people in Belarus. The letter, signed by prosecutor of the department for supervision of investigation in the prosecution bodies A.V. Sytsko, among other things, contains the following information: "we continue the work to establish the location of Dzmitry Zavadski or his body; and *the persons who committed the crime*. Upon receipt of positive information, the criminal case will be immediately renewed". This statement is quite surprising, since in 2002 the court found several persons from "Ihnatovich's gang" guilty of abducting Zavadski and sentenced them to different prison terms. Two of the group received life sentences. After the trial the investigation was aimed at the search for location of the journalist or his body.

During the year the journalists often were detained when performing their professional duties. In May, during an unauthorized students' action against benefit cuts the police detained Hanna Ilyina, editor of the small-circulation newspaper Mahiliouiski Chas, and publishers of the independent newspaper Nash Mahiliou Andrei Dzvihun and Ihar Barysau. In June Alena Yakzyk, reporter of Salidarnasts independent newspaper, was detained in ShkloU district for taking pictures of the house where the wife of president Lukashenka lived. Plainclothes stranger forced the reporter to delete the taken pictures from her camera, referring to the house as a "special security object". In July, during the auto race of solidarity with the persecuted Young Front, the police detained Liubou Luniova, reporter of RFE/RL, Henadz Barbarych, journalist of Belarusy I Rynok newspaper, Maryja Karol, reporter

of the Polish Radio, and Stanislau Kavaleuski, editor of small-circulation newspaper BUM, who covered the action. The police took the journalists to Dziarzhynsk police department, took down their passport data and let them go. On August 19, during presentation of Pavai Seviarynets' book "Letters from the Woods", the police detained journalists Liubou Pranevich and reporter of Brestski Kurier newspaper Nastasia Mialeshka. Both journalists were found guilty of participation in an unauthorized event (Article 23.34 part 1 of the Administrative Code) and were given official warnings. On September 10, in Baranavichy the police detained photographers Vasil Fiadosenka (Reuters), Viktor Drachou (France - Presse), and Nasha Niva reporter Arsen Pakhomau. The journalists were covering the trial over youth activist Yaraslau Hryshchenia. The police drew up reports about administrative violations – participation in an unauthorized rally and disorderly conduct. Later the charges were dropped.

We have registered cases of police violence towards journalists who performed their professional duties during mass actions. On Liberty Day (March 25) journalist Aliona Andreyeva, despite the press card of the Belarusian Association of Journalists she was wearing, received several blows from special policemen. During the same action the riot police beat journalist of the Polish Information Agency RAR Bozena Kuzawinska. She tried to show her journalist's credentials issued by the Belarusian Ministry of Foreign Affairs, but that did not stop the beating.

On the eve of significant mass actions journalists were among the people who were detained preventively. On March 23, two days before Liberty Day, Zhytkavichy police detained Mikhail Kozel, editor of Turau unregistered newspaper Volnya Naviny. The same very day he was sentenced to 5 days in jail on the charges which are very traditional for such cases – "disorderly conduct". On March 19 Hrodna journalist Ihar Bantsar, editor of Magazyn Polski Na Uchodzstwie magazine, received 10 days of jail on the same charges. Before the "European March" in October Ihar Bantsar was again accused of "foul language" at a bus stop, and received 10 days of arrest. Several days before that action Hrodna journalists Ivan Roman and Viktor Sazonau were sentenced to 5 days of arrest for "disorderly conduct".

Prosecutor's warnings, accusations of "abuse of the freedom of mass media", restricted usage of the institute of accreditation, denial of access to information remained the effective forms of pressure and limitation of professional activity of the journalists of independent mass media. On May 14 Svetlahorsk court fined Kiryl Ksiandzou, journalist of the local

unregistered newspaper Rehiyanal'nya Naviny 30 basic units. He was fined under Article 22.9 part 1 – “violation of the legislation about press and other mass media”. The accusation was grounded on two articles: in the article “They Know Their Roles” the author expressed his own opinion about the local elections; and in the article “Price of Indifference” the author wrote that the territory of the sanitary protection zone, where private gardens were located, failed to meet ecological norms. The judge agreed with the prosecutor that the articles insult honor and dignity of the head of the state and other state officials whose names were mentioned. On February 26 chief editor of the independent regional newspaper Hantsavitski Chas Aliaksei Bely received a warning from Hantsavichy prosecutor’s office for publishing an article about local elections (“Turnout Guaranteed, Councilors Elected”). The official letter said, “in case the requirements of the legislation are further violated, we may raise the issue about suspension of the newspaper’s activity”.

The journalists, who cooperated with the foreign mass media, were also persecuted. In February Homel regional prosecutor’s office gave a warning to Yunelia Salnikava for preparation of materials for the Deutsche Welle and Radio Racyja radios. In September Hrodna journalists Natalia Makushyna and Ivan Roman received official warnings from the prosecutor’s office for cooperation with the same radio stations. Similar warning was given by Homel regional prosecutor’s office to journalist Ales Karniyenka for cooperation with the Radio Racyja. In March reporter of BelaPAN for Homel region Anatol Hatouchyts was fined 2 basic units for placing his material on the official web-site of the RFE/RL. The journalist was accused of “illegal implementation of activity in the interests of foreign mass media”. KGB was often active in tracing the contacts of Belarusian journalists with foreign mass media. In late August officers of the Committee for State Security (KGB) for Mahiliou and Hrodna region interrogated young regional journalists about their cooperation with the Polish satellite TV Belsat, which was to start broadcasting on December 10th. In November Homel journalist Siarhei Padsasonny was openly interrogated about his work at Belsat.

Journalists of independent media regularly faced ungrounded denials of access to information. In Niasvizh state institutions and organizations refused to provide information to journalists of independent newspaper Niasvizhski Chas. They referred to instructions from deputy head of the district executive committee who supervises the ideology issues. On June 22 Belgazeta reporter Kiryl Zhyvalovich, photographer Dzmitry Brushko, and journalist of Yezhednevnik newspaper Andrei Aleksandrovich were not

allowed to observe the founding congress of Minsk city branch of Belaya Rus (pro-Lukashenka organization). The journalists were detained by plainclothes strangers at the entrance to the theater where the congress was held. When the journalists demanded to give them the reason why they could not be present at the event, the police arrived. The police officers claimed they had received an order not to let “outsiders” to the event. On July 30th in Homel Anatol Hatouchyts and Alena Hermanovich, reporters of BelaPAN agency, were not allowed to be present at the open trial over organizers of the Belarusian singer song-writers, who were charged with illegal entrepreneurship. On March 25 five journalists – reporters of Narodnaya Volia and European Radio for Belarus – were not allowed to go to Kastychnitskaya Square in Minsk. When the journalists showed their press cards and explained they were on a mission, police lieutenant colonel P. Lapatsik talked to his boss on a walkie-talkie who asked which media the journalists represented. When he heard the journalists were from independent mass media, he gave an order not to let them to the square.

During the local election Nina Shubina, head of election commission of polling station # 52 in Vitebsk, allowed Valery Shchukin, journalist of Narodnaya Volia, to be present at the polling station only for one hour. She gave him her decision in writing: “taking into account the fact that in the period from January 9 to January 12 you were always present at the polling station, and, in fact, you perform the functions of an observer, not a mass media representative, I limit the time of your presence at polling station # 52 to 1 (one) hour”. Meanwhile, according to the Belarusian legislation, mass media representatives, just as the observers, have the right to be present at any stage of the election process. Despite the fact that the actions of the head of the commission contradicted not only the Election Code, but also the Law on Press, Pershamaiski prosecutor’s office of Vitebsk failed “to see” the violations.

We should point out the cases of violation of the legal rights of candidates during the election campaign by state-run mass media. For example, state regional newspaper Pinski Vesnik refused to print the article of BPF candidate Aliaksandar Ramanovich on its pages, referring to “being overloaded with other more important materials”. The speech of BPF member Anatol Sakharusha, candidate to Biaroza district council, was not broadcasted by the local radio because of “technical problems”. In Homel the state radio failed to broadcast the speech of BPF member Uladzimir Shytsikau, again because of “technical problems”.

According to the Ministry of Information, by the end of 2007 1, 266 printed media, and 156 radio and tele- programs were registered in the country. More than two thirds of them are private. “Such diversity in the sphere of mass media is a guarantee of the constitutional right of citizens of our country to the freedom of speech, and to the receipt of full and accurate information about events happening in the country and abroad. It provides an opportunity for civic movements and citizens to deliver their view on any of the problems they are concerned about to all residents of Belarus”, — the Ministry of Information claims. However, it fails to explain that many of the printed editions on the list are published once or twice a year (in order to keep the registration certificate), and the overwhelming majority are exclusively commercial, entertainment or advertising projects. According to the estimates of the Belarusian Association of Journalists, there are only about 30 socio- political editions which are published regularly with the circulation of at least 1, 000 copies. Such a small number is explained by economic and legal discrimination of the non- state press. One of the most telling blows was the ban on distribution through subscription and Belsayuzdruk retail network for the majority of independent newspapers, both central and regional ones: in the beginning of 2007 13 out of 30 independent socio- political newspapers were crossed out from the subscription catalogues, and 16 were not sold by Belsayuzdruk kiosks.

During the year three more newspapers (Niasvizhski Kuryer, Babruiski Kuryer, and Brestski Kuryer) were added to the list of editions ignored by Belsayuzdruk and “Belposhta” networks. In October we found out that several Russia socio- political newspapers were excluded from subscription catalogues for the first half of 2008: Kommersant, Moskovski Komsomolets, Novaya Gazeta, and Nezavisimaya Gazeta. Aliaksandra Charniak, general director of Belposhta (state post) claimed that the legislation did not oblige the company to include this or that edition in subscription catalogue, and the company had the right to choose editions for distribution by subscription. All attempts to bring the editions back to the official distribution networks were unsuccessful in 2007.

Simultaneously, the state created obstacles for selling non- state editions through public and private distributors. In April chief editor of Miastsovy Chas Viktor Yarashu addressed Pinsk city executive committee with a request for permission to sell his newspaper in food stores. However, his request was rejected: the officials explained that “there is not enough room for all editions at bookstalls”. In the beginning of the year state food store network “Niasvizh city food stores” and “Novaye Mestsa” store refused to sell

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Niasvizhski Chas newspaper: the editorial office found out that private entrepreneurs who sell the newspaper in their stores had received individual invitations to economic department of the city administration which recommended them to stop cooperation with the newspaper.

Private distributors of the independent press were often persecuted and detained. On February 2 Baranavichy police detained engineer Viktor Tsiapin, member of the Party of Communists of Belarus, for distribution of newspaper Tavaryshch, officially published by his party. He was taken to Baranavichy city police department where the police found out that he was doing nothing illegal since the newspaper was officially registered, and released him. On June 7 the police detained Yaraslau Hryshchenia and Viktor Barnashou for distribution of Nasha Slova newspaper. They were detained at the entrance of Hrodna State University, where the round table with participation of the local officials and representatives of the community on the issue of reconstruction of historical part of Hrodna was held. In two hours the young people were released without a police report. On September 30 in Minsk, during distribution of the special issue of Tavaryshch newspaper the police detained PCB activists Valer Ukhaliou and Dzmitry Yanenka. In some time they were released without reports. On September 30 Hrodna police detained about a dozen civic activists who handed out newspapers Narodnaya Volia and Svabodu Belarusi. The distributors of the independent press were taken to Kastychnitski police department of Hrodna, where they had to give written explanations. In Vitebsk on October 30 the police seized 400 copies of Narodnaya Volia newspaper, brought from Minsk for distribution in Vitebsk region, from activists of Conservative Christian Party Ales Pazniak and Ales Yemelyanau. We have registered cases of seizure of print run of the officially registered independent editions. For example, on September 27, the police confiscated about 10, 000 copies of Tavaryshch newspaper from the editorial office. The confiscated issue was dedicated to the Social March, the protest action planned for September 30. In 45 days the newspapers were returned from Leninski police department of Minsk, accompanied by the written conclusion that during the examination no violations of the legislation had been revealed.

The law-enforcing bodies were especially diligent about tracing and oppression of distribution of small-circulation and unregistered editions. On March 25 in Mahiliou the police detained distributors of Mahiliouiski Chas small-circulation newspaper Hanna Ilyina, Maryna Nestserava, and Siarhei Straltsou. In Leninski police department all of the newspapers were

confiscated. On March 31 in Orsha distributor of Svaboda newspaper Siarhei Huminski was detained. The police drew up a report of violation of Article 22.9 part 2 of the Administrative Code – “distribution of printed editions without publisher’s data”. On June 6 Siarhei Kastylenka, Mikola Siarheyenka, Stsiapan Varyshkevich, and Anton Marozau were detained in Minsk for distribution of newsletters «The Right to Freedom” and “Six Square Meters”. Centralny department police seized all the copies of the printed editions from them. On July 8 Orsha police confiscated about 70 copies of small-circulation editions “The Right to Freedom”, Arshanski Vesnik, Volnaye Pavetra, and Missing People in Belarus brochure from youth activist Ihar Kazmerchak. On November 21 five Hrodna residents, distributors of Svabodu Belarusi newspaper, were summoned to the Ministry of Information for drawing up reports “for distribution of periodicals without publisher’s data”.

The independent press faced many obstacles in the distribution sphere. At the same time, the state-run press enjoyed an absolutely different situation. All over the country we registered cases of compulsory subscription to official state periodicals. On May 24 director of Polatsak-Shklovalakno Company gave an order to subscribe the company workers to 735 copies of state-run newspapers Sovetskaya Belorussia, Respublika, Zviazda, Narodnaya Hazeta, Znamia Yunosti, Narodnoye Slovo, Vitebski Rabochy, 7 Dnei, and Polotski Vesnik. “In conjunction with the subscription campaign for the second half of 2007, heads and senior managers of structural departments are to organize subscription to the basic controlled editions in the planned amount”, — the order read. A table with the list of the “controlled editions” and the number of copies which the workers of each workshop had to subscribe to was attached to the document.

On September 6 head of Baranavichy city executive committee Viktor dzichkouski gave an official order to heads of Baranavichy enterprises and institutions to organize subscription to the local state-run newspaper Nash Krai “in conjunction with the difficult economic situation of the newspaper”. Mr. Dzichkouski also grounded his order on the need to increase the total circulation of the newspaper by 20% and “widen the information space”.

In September at meetings of working bodies of state-run organizations and institutions in Karelichy (Hrodna region) the staff was forced to subscribe to a package of official newspapers for the last quarter of 2007 under threat of losing work bonuses. The package of the state press that

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people had to subscribe to included Sovetskaya Belorussia, local newspaper Polymia, and an “institutional” edition: medical workers had to subscribe to “Medicine News”, teachers – to “Teachers’ Newspaper”, etc.

On December 14 first deputy head of Hlybokaye district executive committee V. Piatkevich addressed local entrepreneurs with a special letter with the “request” to subscribe to state district newspaper Vesnik Hlybochchyny for the first 6 months of 2008, and to “report about the completion of the work” to department for ideology of the executive committee by December 20. The editorial team of Vesnik Hlybochchyny (founded by Hlybokaye district executive committee and the district Council) and the district post office. According to the message, each addressee is to subscribe to 10 copies of the newspaper.

The conditions of economic activity of state-owned and independent press were quite different. Non-state newspapers had to bear great financial losses because they could not be printed in the Belarusian printing presses. Just as earlier some of the editions, such as Narodnaya Volia, had to be printed abroad, which created not only higher expenses but also additional difficulties for the editorial teams.

One of the most widespread tools of pressure on the independent media were suits to defend honor and dignity filed by Belarusian officials, who asked for huge amounts of compensation for moral damage. On October 1 Leninski court of Minsk ruled to exact 25 million BYR from Narodnaya Volia and 2 million BYR from journalist Maryna KOKtysh as a compensation of moral damage to Aleh Praliaskouski, head of the main ideology department of the President’s Office. The ground for the suit for defense of honor and dignity and business reputation was the article “Uladzimir Kholad Still in Detention Center”, published by Narodnaya Volia on August 2. The article was published in the column “cause сйлюbre” and was about detention of one of the top officials in the president’s office for bribery. Praliaskouski was not happy about the paragraph that said that off-stage it was discussed that Uladzimir Kholad allegedly took money not for himself, and that he had “special relations” with his direct boss A. Praliaskouski. The plaintiff claimed that by saying that the journalists damaged his image and asked for compensation for moral damage. Judge Zhulkouskaya stood on the side of the plaintiff and satisfied his suit (except for the fact that Praliaskouski demanded 28 million BYR from Narodnaya Volia, and got only 25 million). On November 19 the board of Minsk city court rejected the cassation complaint of the newspaper and journalist Maryna Koktysh.

On December 20 Pershamaiski court of Minsk ruled to exact 50 million BYR from the publishers of Novy Chas newspaper and 1 million from journalist Aliaksandar Tamkovich for benefit of member of the Council of the Republic, head of the pro-Lukashenka Union of Writers of Belarus Mikalai Charhinets. The ground for the suit was the article “Senator General Charhinets”, published on September 24. The parliament member had claims to a number of statements in the article: from the remark about “hack writers” to his self-admiration and inclination to self-promotion. Charhinets was also indignant over the phrase about “poor quality of his work”. Judge Alena Ananich rejected the petition to hold an examination of the article by a literature expert and agreed that Tamkovich’s article contained information that insults the honor and dignity of the high-ranking official. In the beginning Charhinets demanded to extract 500 million BYR from the editorial team and 100 million BYR from Aliaksandar Tamkovich, and to freeze the publisher’s (“Vremia Novostei”) account. Later he decreased the amount of the claimed compensation to 50 and 5 million BYR. Newspaper editor Aliaksei Karol is convinced, the main reason for the court suit was not the resentment raised by the criticism in the article, but the desire of the official to bankrupt the newspaper.

Warnings given by the Ministry of Information remained an effective tool of pressure and influence on the editorial teams. According to the Ministry of Information, during the year 76 independent editions received 86 written warnings, and three editions were suspended for three months: Nedelia v Molodechno, Stolichnye Kvartiri, and Fitness and Life. Out of these independent editions only Nedelia v Molodechno writes on social and political topics. Before its suspension it faced obstacles in printing. When the term of suspension was over the newspaper was renewed. The editorial team of the regional newspaper Babruiski Kuryer received an official warning from the Ministry of Information for calling an official street event on the anniversary of October revolution a “rally”. The ground for the warning was a short note “The Holiday Lost in the Past”. The Ministry of Information claimed the newspaper had spread untrue information in the following sentences: “On the seventh of November a celebration dedicated to the 90th anniversary of October revolution took place on the central square of the city. The rally began at 10 a.m.”. “No rally was held within the framework of the mentioned event”, — the Ministry of Information said in the warning, signed on December 11 by the first deputy minister of information Lilia Ananich. The newspaper article also said that less than 100 people came to the square on the 7 of November and that Babruisk residents ignored the event, i.e. the ideological event failed.

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Internet resources of socio-political information (especially those that give on-line coverage of street rallies) also faced obstacles in their work in 2007. On March 25, Liberty Day, web-sites of RFE/RL svaboda.org, Charter'97 charter97.org, Belaruski Partyzan belaruspartisan.org, web-sites of newspapers [Salidarnasts gazetaby.com](http://Salidarnasts.gazetaby.com), [Nasha Niva nn.by](http://Nasha.Niva.nn.by), United Civic Party ucpb.org, and other web-sites were blocked. The situation repeated on October 14, the day of the European March. According to expert opinion, the web-sites were blocked with the help of a filter installed on Beltelecom server, which makes some resources inaccessible for the users in Belarus, by artificial narrowing of the access channel. Many Internet resources expected such problems and published instructions for users of how to find alternative ways to access the sites. Almost 2 days — from the 4 to the 6 of November — the web-site of Belaruski Partyzan was attacked by hackers. The schemes of the attack and its length gave ground for an opinion that it was not the work of a single hacker but a planned and well-prepared attack.

International journalists' organizations regularly expressed their concern about the situation surrounding freedom to express opinions in Belarus, significant restriction of the right to independent information, and persecution of independent mass media. "Reporters without Borders" came to the conclusion that "President Lukashenka threw the profession of a journalist back to the Soviet past. Free press has practically disappeared in Belarus or has been forced to go underground". The UN General Assembly passed a resolution where it expressed "deep concern about continuation of pressure and detentions of Belarusian journalists, temporary suspension and prohibition of activity of independent mass media covering opposition demonstrations".

6. DISCRIMINATION ON THE BASIS OF POLITICAL CONVICTIONS, INTRUSION OF STATE IDEOLOGY

The Constitution of Belarus guarantees pluralism of opinion and convictions. However, Belarusian authorities continued undisguised persecution of political opponents and intrusion of single state ideology to all citizens of the country.

Persecution has become systematic in its forms. In 2007 we registered 610 cases of detention and administrative prosecution of civic and political activists; 21 criminal cases against 36 individuals instigated or continued on politically-motivated charges.

Politically or publicly active students were expelled from higher educational and other educational institutions. The grounds for expulsion often were the artificially created “poor academic results” or “violation of inner regulations of the educational institution”. Administrations of the educational establishments used psychological pressure against a large part of their students, holding “preventive” conversations, threatening them with problems in their classes or expulsion in the case that they actively participate in the public life of the country. Administrations of higher educational institutions have become one of the repressive instruments of state power.

During the Christmas party organized by the Belarusian Students Association on December 22, 2006, all participants were detained by police. After that Belarusian State Teacher’s University expelled its 2nd-year student Nadzeya Mantsevich. Andrei Yuruts, 3rd-year student of the faculty of law, was expelled from Baranavichy State University. Earlier the administration threatened him with expulsion for his activities during the presidential election in 2006. But interference of the OSCE observers and human rights defenders postponed the final decision of the university administration. Ihar Lustsiankou, 1st-year student of the faculty of physics and mathematics of Mahiliou State University, was expelled for membership in the team of a pro-democratic candidate during the local elections. Hrodna State University administration expelled Zmitser Tseslianok, student of the faculty of philology, who ran for Masty district council and was active in Hrodna regional politics, and Katsiaryna Bychak, 2nd-year student of the faculty of law, who was detained in May for participation in the “Rescue Old Hrodna!”

campaign. Homel State University administration expelled Zmitser Zhalezniczenka, straight-A student of the 3rd year of faculty of mathematics, for organizing a concert of Belarusian singer-songwriters. Yuras Aleinik, straight-A 4th-year student of the faculty of economics, was expelled from the Academy of Management. Belarusian State Technical University expelled Zmitser Padreza. Vitebsk State University expelled student of Art and Graphics Ales Dzeravianka for participation in opposition actions. Polatsk state university expelled 2nd year student of the faculty of history and philology Katsiaryna Salauyova for membership in Young Front and participation in youth protest actions.

Firing from work remains one of the most widespread and employed methods used by the Belarusian authorities to keep control over the pro-democratic activists. Among the people who lost their jobs during 2007 are: Tatsiana Seviarynets, mother of youth leader Pavel Seviarynets, well-known Barysau activist Anatol Askerka, teacher of Baranavichy university Anatol Trafimchyk, well-known historian Yauhen Anishchanka, and lawyer of the former presidential candidate Kazulin – Ihar Rynkevich.

For ideological reasons, the authorities prohibited meetings with Belarusian writers, who did not enter the pro-governmental Union of Writers of Belarus, and remained members of the independent Union of Belarusian Writers. That was linked to the confidential instructions of the Ministry of Education, which prohibited meetings with Belarusian writers in educational establishments without permission of the Ministry and the pro-governmental writers' union. Head of the Union of Belarusian Writers Ales Pashkevich addressed minister of education Aliaksandar Radzkou with a proposal to cancel the ministry's instructions, but received no response. Ales Pashkevich also sent a statement to the Prosecutor's General office, and received an answer, that "The Prosecutor's General office considered your complaint and sent it to the minister of education with the request to correct his earlier instructions concerning the activity of the Union of Belarusian Writers, basing on the norms of the legislation".

Nevertheless, we registered cases of censorship and prohibition of meetings during the whole year. On December 20, Haradok executive committee banned a meeting with writer Uladzimir Arlou. On December 18, in Slutsk, members of the Union of Belarusian Writers had to move the event marking 100 years since the birth of Belarusian emigrant poet Ryhor Krushyna from the local library to a private apartment. A number of meetings with famous poets Nil Hilevich and Ryhor Baradulin were ham-

pered. Many times teachers who organized meetings of student with writers – members of the independent writers' union, whose works were included in the curriculum, received serious penalties.

Experts evaluated the attempts of the Ministry of Education to re-work the school textbooks as “large-scale ideological rewriting of school curricula on Belarusian literature”. As we learned from a special document, the ministry gave the following task to the authors of the textbook: “to minimize the usage of works of the oppositionally-minded writers: everywhere, where the works by Nil Hilevich, Ryhor Baradulin, Henadz Buraukin, and others, are not used because of high necessity to characterize their work as representatives of literature of the second half of the 20th century, to replace their works with works by other writers and poets. To maximally limit the contents of monographic topics dedicated to the works of Nil Hilevich, and Ryhor Baradulin (leaving 2-3 poems) and others; to avoid the works of nationalist or politicized nature in the school curriculum. To exclude from the list of literature for class and home reading the works of S. Aleksiyevich, S. Zakonnikau, V. Ipatava, U. Arlou, M. Skobla, V. Charopka, and other opposition-minded “average” writers. To exclude the works of artist A. Marachkin from the illustration materials”.

Ideological elements continued to grow in political science classes and similar subjects. In the Academy of Management the speeches of A. Lukashenka were included in the examination questions for the entrants. For example, question #32 from the “Reference book for the applicants for post-graduate studies” was worded in the following way: “Public associations and movements. Speech by the President of the Republic of Belarus on the 39th congress of the Belarusian National Union of Youth on September 23, 2005.”

There was an unofficial ban on the concerts of rock-bands who played at the concert marking the end of 10 years of Lukashenka's rule in 2004. In May, authorities cancelled the concerts of “Krama”, motivating their decision by “low musical level” of the band. The concert of the well-know singer song writer Ales Kamotski in Maladechna was prohibited for the same reasons. In May the concerts of non-conformist bands ZET and IQ-48 were banned, and the concert organizers were detained and convicted. On October 14 the authorities spoiled the presentation of Neuro Dubel's new album “Stasi”. Several hours before the concert, the director of Fartuna Club where the concert was to take place was visited by KGB representatives. Later during the day he was invited to administration of

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Partyzanski district of Minsk. As a result of the pressure, in the evening the club was closed “for technical reasons”.

The fact that the “black lists” of Belarusian rock-bands really existed was proved during the meeting of the leaders of Belarusian rock bands “Neuro Dubel”, “Krama”, “N.R.M.” and “Palac” with head of the chief ideology department of the president’s office, retired KGB colonel Aleh Praliaskouski, which took place on November 21. The musicians were promised that the unofficial ban on their concerts would be lifted if they refused to play at the events organized by the opposition forces.

Any “unplanned” initiatives during cultural actions were persecuted. For example, on July 28 a white-red-white flag was unfolded during the concert of the Ukrainian band “Okean Elzy”. The riot police beat several people, broke the arm of Aliaksandar Shumkevich, and charged the young men with hooliganism. The police denied medical help to A. Shumkevich for almost 24 hours.

The pro-governmental youth organization “Belarusian National Union of Youth” was actively used for spreading state ideology in the youth circles. Created in 2002 with the goal to bring up young people loyal to the regime, the Belarusian National Union of Youth received state financing from Lukashenka and the government. Besides the material base, buildings and offices, 780 people are employed by the organization. During the five years of its existence, membership of the Union grew five times and made up 430, 000 people in 2007. About 70 % of the organization members are school and college students. During the year the authorities used the members of that pro-governmental youth organization to contrast with the pro-democratic opposition forces. On March 25, during the celebration of Liberty Day in Minsk, the Belarusian National Union of Youth, together with the city department for youth affairs carried out a number of free concerts and street festival aiming to win over part of the youth from the opposition action. The activists of the organization picketed the Russian embassy during the gas conflict. The pickets were initiated by the ideologists of the president’s office. Similar pickets were held in front of the Estonian embassy when the monument to a Soviet soldier was moved from the center of Tallinn.

In 2007 the authorities registered public association “Belaya Rus”. The organization was created with the goal to increase loyalty to current regime and support of state policy by the Belarusian citizens. “Belaya Rus” was initiated by the top state officials: head of the Board of the National

Bank Piotr Prakapovich, head of Minsk city executive committee M. Paulau, Senator M. Charhinets, and others. On November 17 “Belaya Rus” held its founding meeting. Minister of education Aliaksandar Radzkou was elected chairman of the organization. He stated: “We will create a positive force aimed at supporting the state policy”. It is possible that the authorities might use the organization for creation of the pro-Lukashenka party. In December the ministry of education instructed the universities to create local organizations of Belaya Rus of at least 100 people in the Belarusian State University, Belarusian University of Informatics and Electronics, and Belarusian Polytechnic Academy, and of at least 50 people – in other higher educational establishments.

In this way, Belarusian authorities openly ignored the principles of pluralism of opinions and convictions, strengthening and spreading the ideological elements in the public and political life of the country, persecuting dissenters and ideological opponents of the regime.

7. FREEDOM OF ASSOCIATION

The year of 2007 was not marked by any essential changes in the field of legislative regulation of public associations and their activity. The amendments to the law *On Public Associations* of May 2007 were aimed at merely adjusting it in accordance with earlier statutory acts: it no longer requires that newly founded public associations ask for an approval from the Republican Commission on Public Associations Registration (the Commission itself was dissolved by a decree from the president in autumn of 2006); besides this they made some changes to the procedure of state due payment by newly formed public associations.

On the other hand, the year saw several new acts that affect the rights of NGOs and sometimes may indirectly limit their freedom of association or imply future circumscription.

The most important novelty that affects the interests of public associations is cancellation of the diminishing rate in the procedure of renting an office, which, together with ever-growing rent prices, is likely to hamper the activity of many public associations. Under the presidential decree #533 of October 23, 2007, the majority of nonprofit organizations will be deprived of the preferential rate in renting an office in state-owned buildings. This will result in a 10-fold rent boost and force many NGOs leave their offices. Late in 2007 the economic department of the presidential administration addressed those Belarusian public associations that have their offices in state-owned buildings with a request to resign their rent contracts with new tenfold price or to vacate the offices by April 2008. Preferences will be kept for the organizations that have a certificate of humanitarian activity (i.e. they will not be enjoyed by all charitable and humanitarian organizations, except the ones that have registered projects for receiving and distributing foreign gratis aid). In December 2007 several public associations of a different character addressed the authorities with a proposition to reconsider the decision and restore rent preferences; otherwise these organizations will lose any possibility for existence. The above-mentioned decree also provides for possible changes in rent preferences for organizations that have their offices in communal buildings. It should be observed that a lack of office is a grave violation of legislation for an NGO and may result in its liquidation.

The new law *On the Counteraction of Extremism* of January 4, 2007 with its provisions may endanger the activity of many NGOs and limit the freedom of association as well. The law is aimed at counteracting violent acts and appeals for national or other hostility; some experts, however, say

that its provisions may be abused against democratic parties and public activists. There have been some opinions warning that any call for activity in protection of someone's rights (e.g. a strike) may be viewed as extremism.

Another law to be amended is the law *On Trade Unions*. The government presents it as a practice implementation of the ILO recommendations that demanded the improvement of freedom of association guarantees for workers. However, the present version of the law will not improve the condition of trade unions but will make it impossible for independent trade unions (except the pro-government Federation of Trade Unions) to exist. Under ever-growing pressure by the authorities independent trade unions will not be able to meet the criteria of representation required by the new law. It will legitimate the FTU's monopoly and leave no chances for independent trade unions' development and existence. The passing of the law will directly affect the future of the trade preferences cancelled by the ILO in 2007.

Despite the legislative base for NGOs' activity being mainly stable (though, it has reached its maximum level of rigidity), the practice of state regulation in the sphere has, to a certain extent, been transformed. The negative political aftermath of the liquidation campaign now outweighs the practical advantages of bans to the sparse democratic NGOs that still work legally. This must be the reason for a considerable decrease of liquidation court decisions in 2007, as well as a certain increase of new organizations that were granted registration.

The actual number of associations that have received registration has grown in 2007 as compared to the previous two years, but is lower than that of 2005. The majority of these organizations have, in a varying degree, been able to prove their loyalty to the authorities; a part having been created at the initiative of the state (e.g. the Belaya Rus association). In several cases independent NGOs managed to obtain registration – these were mainly non-political associations (social, cultural, ecology etc.), though censorship in the sphere remains extremely harsh.

In total, the Ministry of Justice in 2007 registered 100 new public associations (including 5 international, 15 republican and 80 local), 2 unions of public associations and 9 foundations (including 1 international). In 2007 2,839 NGO offices were registered. According to Minister Halavanau, only 50 initiative groups were rejected.

The Ministry also divulged the information on the total amount of NGOs in the country – on January 1 there were 15 parties, 36 republican trade unions, 2,255 public associations (including 235 international, 722 repub-

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lican and 1,298 local ones), 19 unions, 64 foundations (including 4 international and 3 republican), 1,141 parties' organizational structures, 22,479 organizational structures of trade unions (most of them are those of the pro-state Federation of Trade Unions; only 2 local offices of independent trade unions were registered in 2007); and 14,513 NGO offices.

It should be noted that the number of registered NGOs in Belarus has remained approximately the same since 2000 – registration of new structures is compensated by liquidating older ones. According to some experts, 2,000 more initiatives and NGOs function illegally.

It is still a great problem that activity on behalf of an unregistered organization may result in criminal persecution. Ten persons (including eight members of the Young Front organization) were sentenced to fines and warnings under Article 193-1. Three more members are still to face criminal persecution. Dozens of Young Front members were summonsed to the police and interrogated. As compared to the previous year when the Article 193-1 had just come into action, the number of convicts under this article has grown: in 2006 there were 3 cases brought to court with 6 persons found guilty (4 members of Partnership organization and 2 members of Young Front), 5 of them were put in prison and one person was sentenced to a fine.

In 2007 the only person who was sentenced to imprisonment under Article 193-1 was head of a Nazi RNE organization's Homel office head. Meanwhile, human rights experts consider this fact intolerable – when peaceful youth initiatives are bracketed with pro-fascist organizations. They think that such organizations should be persecuted under Article 130 of the Criminal Code (stirring up national, racial or religious hatred).

It is mainly youth and political organizations that suffer from the Article, the rest being terrorized by it.

In April and May of 2007 the Ministry of Justice addressed 20 officially registered organizations (including BPF *Adradzhennie*, Belarusian Helsinki Committee, Belarusian Language Society etc.) with a demand to provide explanations concerning their membership in the unregistered Assembly of Pro-dem NGOs. During one of numerous illegal searches the police received papers stating foundation and preparation for registration of the Assembly. The Ministry of Justice accused its founders of violating the Law *Concerning Public Associations* by participating in an unregistered organization. Meanwhile, the officials noted that such activity may be a ground for criminal persecution under Article 193-1.

Taking into consideration the amounts of cases of violating the freedom of association, the year of 2007 was marked by a certain deviation

from the former policy of total extermination of independent associations. In 2003-2005 this policy was often referred to as clean-up; at present the situation resembles a cold war. Today there so few official pro-dem NGOs, that there is no use finishing the clean up of civil society.

The above-mentioned factors have conditioned the decrease of the level of persecution of independent NGOs. 51 organizations were closed down in 2003, 38 – in 2004, 68 – in 2005, with no official data of 2006, and 26 – in 2007. The most celebrated cases were those of the liquidation of the public association *Stary Horad* and Belarusian Literature Foundation. The trial of liquidation of the public association *Center Supolnasts* in August 2007 ended up in a peaceful agreement with the Ministry of Justice. It was one of the few cases when a pro-dem NGO managed to preserve its legal status. At the same time, many NGOs that faced liquidation ‘voluntary’ stopped their activity, having no illusions in protecting their right to function legally.

Political parties are still being persecuted. It is obvious that they are the main target of the liquidation campaign of the Ministry of Justice. This may become an end to legal political opposition in Belarus. In 2007 the Supreme Court banned two political parties: the Ecology Party of the Greens on July 29 and the Party of Women *Nadzeya* on October 11. On July 2 the Court suspended the activity of the opposition Belarusian Party of Communists, by the end of the year the party was facing liquidation. The Ministry of Justice accused the party of illegal activity in spite of the decision of the Court.

The majority of Belarusian pro-dem parties received written warnings from the Ministry of Justice in 2007 (BPF, the Greens, BSD *Hramada*, *Nadzeya*, BPC etc.). Several pro-state parties were also warned.

Judicial and political obstacles that had earlier hampered foundation and activity of public associations did not disappear in 2007. After liquidation of the Republican Commission on Public Associations Registration (which earlier had functioned as a body that would maintain political control over disloyal public associations) the functions of political control over newly founded organizations were taken over by the Ministry of Justice and its regional offices.

There were numerous cases when the Ministry of Justice denied registration to public associations, including new methods exercised by the Ministry and courts. The Young Front organization was twice denied official status in 2007. The Ministry’s accusations were supported by the court – it reaffirmed the unprecedented reason for negative decision (the founders had been previously legally persecuted), which bore a clear po-

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litical nature. It was a dangerous precedent, for the reasons for the refusal had nothing to do with the essence of the organization's by-laws or the procedures of its registration provided by the legislation. Thus, the anti-legal nature of the Belarusian judicial system has resulted in a shameful situation with a group of people having no legal possibility to participate in the formation of NGOs.

The same method was used by the authorities in the case of *Viasna*, but the Supreme Court did not accept this reason leaving formal shortcomings in registration papers. The case showed the state's reluctance to fulfill the UN Human Rights Committee's decision of 2003, according to which *Viasna's* liquidation was viewed as a violation of the International Covenant on Civil and Political Rights. The decision was made at the same time when the founders of the Human Rights Center *Viasna* were trying to apply for registration. However, on October 26 the Supreme Court reaffirmed the grounds for the refusal to register *Viasna*.

The Republican Human Rights Movement *For Freedom*, headed by ex-presidential candidate A. Milinkevich, was also denied registration. On September 20 the Supreme Court resolved to deny registration to the Movement because 'the founders had not paid the state dues to the necessary account' (which is false). The second refusal was explained by the fact that the founding meeting of the Movement had been held with no permission from local authorities, which is allegedly required by the law *Concerning Mass Actions*. On December 19 the Supreme Court reaffirmed the Ministry's decision.

Among the NGOs that did not receive registration were the Young Social Democrats, Chernobyl power plant victims' organization *Likvidatar*, aged people association *Stareishyny*, associations *For Free Development of Business*, *Belarusian Christian Democracy*.

On February 14 the Ministry of Justice denied registration to the Union of Leftist Parties, founded by the women's party *Nadzeya*, Belarusian Party of Communists and Belarusian Social Democratic Party (*Hramada*), saying that the agreement between the parties was signed outside Belarus, in Ukraine. All the three parties were warned. Later, the parties held a meeting in Belarus, but by that time *Nadzeya's* activity had been banned and the Communists' work had been suspended.

With no possibility to protect their right to freedom of association on the national level, in 2007 Belarusian citizens actively used the procedures of individual appeal to the UN Human Rights Committee. Several NGOs accused Belarusian government of violation the freedom of association.

Against all expectations, the campaign for the alteration of the NGOs' by-laws to comply with the new version of the law *Concerning Public Associations* has not caused great troubles. Despite hundreds of NGOs and some parties having altered their by-laws with considerable delay, the Ministry of Justice registered the new versions of the laws.

To summarize the recent trends in the relations of the state with civil society, one should mention a certain transition from harsh and illegal measures to finer control techniques. The focus of attention of the authorities is formation of pro-state associations and complication of independent NGOs' activity. Criminal persecution is still a threat for unregistered NGOs' activists – for the majority of public associations it has an intimidating effect.

Thus, the overall situation in the sphere of the freedom of associations is still on an unsatisfactory level. The authorities deny their political opponents' right to create independent associations, hamper their activity and ban them, and, at the same time, create unfavourable economic conditions forcing citizens to join pro-governmental associations. The problem of groundless registration refusals and bans is still very crucial for Belarus. But the most serious problem in the field of the freedom of association in Belarus is criminal persecution for activity on behalf of unregistered organizations. The cancellation of this Article may be viewed as a real achievement that could improve the situation in the sphere of freedom of association in Belarus.

8. VIOLATION OF CITIZENS' RIGHT TO THE FREEDOM OF PEACEFUL ASSEMBLY

The freedom of peaceful assembly is a fundamental right for civilized democracies; it is viewed as the main ground for the efficient implementation of freedom of association, an integral element of the right to free speech, freedom of conscience and religion.

The right to peaceful assembly is admitted by Article 21 of the International Covenant on Civil and Political Rights which says: 'The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others'.

According to Article 35 of the Belarusian Constitution, 'the freedom to hold assemblies, rallies, street marches, demonstrations and pickets that do not disturb law and order or violate the rights of other citizens of the Republic of Belarus, shall be guaranteed by the State. The procedure for conducting the above events shall be determined by the law.'

The Constitution lacks an essential element: there is no legal level of limitations to freedom of assembly, which is acknowledged as 'essential for a democratic society' by international law. This contradicts the constitutional provision on the supremacy of the universally acknowledged principles of international law, and in reality makes the law a restraint for the realization of freedom of assembly.

The procedure for conducting assemblies is determined by the law, mainly by the Law 'Concerning Mass Actions', and by the decisions of local executive authorities. The law sets the single procedure for conducting absolutely different actions: assemblies, meetings, marches, demonstrations and pickets and others (including sports and entertainment events). The former ones are aimed at realizing civil and political rights, the latter having commercial or consumer character. Yet, the application of the law is not extended to mass actions, conducted by the decision of state organs and therefore could not be restrained by the provisions of the law.

Article 10 provides a demand for the organizers of a mass action to pay the expenses connected with maintaining order, medical treatment and cleaning. This is where the state misunderstands its role in the imple-

mentation of the citizens' rights and freedoms: the right to freedom of assembly is guaranteed by the Constitution, and therefore the state must maintain its realization, including protection of the participants from violent offense by other people. Besides, since the application of the law is not extended to mass actions conducted by state organs, the organizers appear in unequal positions: state-conducted actions are funded by the budget, while other actions have to be paid for by organizers themselves.

Article 9 of the Law vests local authorities with the power to choose permanent locations for mass actions and places where such actions are prohibited. In practice, in the majority of towns, such locations are situated on the outskirts far away from city centers and local authorities. Conducting such actions in distant parks and abandoned stadiums is useless: they are not reaching their target – dragging the attention of society and authorities.

Local authorities authorized to consider applications from the citizens under the Law, are vested with the right to alter the date, time and place of the actions, and ban them. Throughout 2007, they actively used and abused this right, by making unmotivated or absurd decisions.

Kalinkavichy district executive committee banned a social-oriented picket saying that 'on September 2007 the café 'Sibirskaya Korona' will host a wedding party, and the picket will hamper conducting the activity, traffic and pedestrians, which is prohibited by the Law 'Concerning Mass Actions in the Republic of Belarus'. In total, none of the 50 applications for conducting anti-benefits repeal actions was authorized by Homel executive power officials.

An all-national action in support of the political prisoner A.Kazulin was to be held at the end of August. As a result, over 50 applications were turned down by local authorities. The decisions were politically motivated and contradicted both international standards in the field of human rights and the national legislation. A.S.Sholak, Zhlobin town executive committee, wrote: 'There are no grounds for conducting a picket on August 30 2007. The objective stated in the application contradicts the court decision for A.Kazulin's conviction is not tied to his political creed.'

P.I.Losicha, Vitsebsk town executive committee, said that A.Kazulin had not been convicted in Vitsebsk, so the picket would not be reasonable for the town dwellers.

I.M.Auseenka, Mahiliou town executive committee, explained the ban in the following way: 'conducting pickets of protest against the conviction of certain citizens, sentenced by the court, is a source of pressurizing the judicial power; the town executive power has no right of assisting such ac-

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tions and therefore turns down your application. We advise you to settle such problems in a civilized way – judicially.’

Meanwhile, international standards acknowledged by the Republic of Belarus provide for abstaining from unreasonable interference in freedom of assembly and guaranteeing the expression of opinions on the smallest issues. Bans of assemblies where people express views different from the official position are not tolerated.

Bans are often left unmotivated, when officials just state: ‘in connection with inexpediency’ or ‘we find it unreasonable’. This is a brutal violation of the existing law, which requires motivated reasoning for a ban. In spite of the right to appeal against the ban in court, in 2007 there wasn’t a single case when a negative decision was abolished by local authorities.

Due to the inability to conduct an authorized mass action, citizens often realized their rights illegally. The actions were viewed as disturbance of peace; nothing was said of the restraint of the citizens’ right to peaceful assembly from the point of view of their admissibility, necessity or acceptability in democratic countries. The actions were treated as violations of the law, in spite of the fact that they did not disturb peace or other citizens’ rights.

Article 23.34 of the Administrative Code (came into effect on March 1 2007) provides for punishment for violating the procedure of conducting mass actions. Unlike the previous version of the Code, the new one has a considerable decrease of the amount of fines: the maximum fine is 50 primary amounts (1,500,000 rubles), the previous version – 300 primary amounts. Yet, the procedure of administrative prosecution for committing more than one offense has become extremely severe: now the basic and the supplementary administrative penalty are imposed for each committed offence separately during a simultaneous hearing of the cases by one and the same court. The final penalty should not exceed: fine – 100 primary amounts, administrative arrest – 25 days. It should be observed that the previous version of the Code in such a case had a different procedure, when a bigger penalty would swallow the smaller one, and the final arrest should not exceed 15 days.

In 2007 the new procedure of imposing penalties was actively used against the detained during unauthorized mass actions – they were convicted under two articles of the Code simultaneously: 23.34 (participation in an unauthorized mass action) and 17.1 (hooliganism) or 23.4 (disobedience of an official).

In Vitsebsk three people – Krystsina Shatsikava, Ales Dzeravianka and Andrei Danileuski – were convicted under two articles of the Code for participating in an action of solidarity with the human rights activist Valery Shchukin, who faced criminal punishment.

In Baranavichy 10 people were convicted under two articles of the Code for an action of support of Yaraslau Hryshchenia who also faced criminal prosecution. Pavel Seviarynets was accused of disobedience to an official and received 17 days of prison and a fine of 20 primary amounts.

A picket of solidarity with the youth activist Ivan Shyla who had been accused of acting on behalf of an unregistered organization was also broken up. Many of its participants were detained and punished. On September 4 an action in front of Salihorsk court was brutally broken up by Minsk special police unit. As a result, 9 people were accused of participating in an unauthorized mass action, Ales Kalita and Ludviha Atakulava were put into prison; the rest were fined.

According to the Law ‘Concerning mass actions’, an assembly is a joint presence of citizens in a previously defined place and time for collective discussion and solving of issues relevant to their interests. Thus, an assembly is any joint presence of people in any place, and therefore requires permission from the authorities, and, lacking such permission, is treated as an unauthorized action. This must be the logic that Brest Maskouski Borough Court was guided by when imposing penalties on the participants of the presentation of Pavel Seviarynets’ book ‘Letters from the Wood’, that took place in BPF’s Brest regional office on August 19. In spite of the fact that the meeting was conducted within in the framework of the organization’s authorized activity, 12 participants were punished: 2 of them received warnings, 8 were fined, 2 people were sentenced to 15 days of prison, including Seviarynets himself.

The practice of preventive detention of politicians and civil activists on the eve of mass actions was continued in 2007. 55 people were detained on the eve of the Day of Freedom (March 25), 30 persons were put to prison, 7 people were fined; 5 cases were terminated. On March 25 39 people were detained: 6 persons were fined and 2 activists were sentenced to imprisonment.

Shortly before Liberty Day the authorities initiated a criminal case for ‘organizing and preparing actions that brutally disturb public order or active participating in them (Article 342 of the Criminal Code). It was the first time when leaflets were treated as a crime. 5 persons were named suspects in the case and had to spend three days in prison – Viachaslau

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Siuchy, Natallia Starastsina, Aliaksandr Uryuski, Alesia Yasiuk and Mikita Krasnou. The case was later dismissed in the absence of crime in the act.

On the eve of the authorized European March (October 14) 32 persons were put into prison for 'hooliganism', several dozens were fined.

Yauhen Afnahel was detained on October 8 as he was leaving the building of Minsk city executive committee after talks on the route of the upcoming action. He was charged with 'hooliganism' and sentenced to 10 days of prison by Judge Tatsiana Pauluchuk later that day.

On September 21 the police and KGB broke into Leanid Navitski's flat for an illegal search. They confiscated 96 EU flags. Navitski was detained and accused of 'hooliganism' and 'violating the procedure of organizing and conducting mass actions' and sentenced to prison for 10 days by Judge Alena Tsitsiankova.

On October 9 the police broke into Aliaksandr Atroshchankau's flat through the window. They claimed they had received an anonymous call saying there was a dead body in the flat. However, they confiscated a PC, printed materials, and EU and Belarusian national flags. The next day Atroshchankau was sentenced to 10 days of prison for 'hooliganism' by Judge Tatsiana Pauluchuk. Many people were persecuted for distributing stickers and leaflets advertising European March. According to Article 8 of the Law 'Concerning mass actions', it is prohibited to publically inform about the action through mass media, produce or distribute printed materials before the event is officially permitted. Moreover, the reply to the application should be given at least 5 days before the suggested date. Since, the opponents of the authorities have no access to radio, television or state-owned press, the only way of informing people of the action is distributing self-made printed materials. It is practically impossible to do this in five days time, so the materials were made and distributed beforehand, which in most cases was treated as violation of the procedure of organizing and conducting mass actions and resulted in responsibility under Article 23.34 of the Administrative Code.

Participants of peaceful assemblies were very often unreasonably beaten by the police. On August 16 in Minsk during detention of the participants of the traditional solidarity action the special unit policemen brutally beat Tatsiana Tsishkevich who tried to defend her friend Mikita Sasim. As a result the girl was taken to hospital with a brain, face, neck and numerous body injuries and nephritis. The policemen escaped responsibility.

On December 12 during Vladimir Putin's visit to Minsk the special unit policemen beat Zmitser Khvedaruk. As a result the young man lost

consciousness and was taken to hospital with a brain injury and numerous bruises. The claim against the actions of the police was turned down by Minsk Tsentralny Borough Court.

Participants of anti-benefits repeal actions were also detained. A performance action on June 1 in Minsk was brutally broken up by the police. Illia Shust was taken to hospital with brain and kidney injuries. 5 students were put into prison, one both fined and imprisoned.

22 students and school pupils were detained after an action of protest against the repeal of benefits on November 16 in Mazyr. All of them were taken to local police station. Their parents and some of their teachers were summonsed to the police. After several 'preventive conversations' they were released. All of them were warned that administrative penalties could have been imposed on them.

The year of 2007 was marked by a number of actions for the protection of historic and cultural heritage. The biggest event was connected with the reconstruction of the old town in Hrodna, which could lead to serious damage to the authentic architectural pattern of the city center. The police aggressively stopped all the forms of public activity, activists were usually detained, most of them were punished, including 6 people in Hrodna.

Minsk citizens tried to organize a mass protest against the reconstruction of the Bernardine abbey into a hotel. After a number of actions the reconstruction was stopped.

According to the Law 'Concerning freedom of conscience and religious organizations', any assembly outside buildings for public worship should be conducted under the requirements of the Law 'Concerning mass actions', i.e. by permission from the authorities. At times, representatives of some religious organizations could not receive the permission, which resulted in administrative penalties to the priests that held unauthorized masses. On May 27 in Minsk the police detained a Polish citizen Jaraslaw Lukasik and a Protestant priest Antoni Bokun who organized a mass in Bokun's private house. As a result, Lukasik was fined 1 primary amount and deported from Belarus for 5 years. Antoni Bokun was fined 20 primary amounts. For a similar offence Bokun was sentenced to 3 days of prison on June 3.

The permissive principle of the Law 'Concerning mass actions' reached an unprecedented high in connection with NGOs' constituent assemblies. On August 11 some 300 persons from 50 districts of Belarus held a

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constituent assembly of the public association 'Movement For Freedom'. The assembly was treated as an unauthorized action. One of the participants Ihar Liaukou was fined 30 primary amounts under Part 2 of Article 23.34 of the Administrative Code. Later, the application for registration was turned down due to the fact that 'the constituent assembly of the association had been held without the permission from local executive authorities, which is required by the Law 'On mass actions'. These illegal claims were supported by the Supreme Court.

Thus, Belarusian citizens are deprived of the constitutional right to peaceful assembly and the right to freedom of opinion and expression. Freedom of assembly, being one of the values of a pluralistic society and an essential element for the development of democracy, in modern Belarus has pure declaratory meaning.

9. DISCRIMINATION AGAINST CITIZENS BY LANGUAGE AND NATIONALITY. VIOLATIONS OF THE RIGHTS TO FREEDOM OF CONSCIENCE

Belarusian-speaking citizens are still deprived of their rights in Belarus. The process of Russification is supported by the state, which limits the spheres of usage of the Belarusian language.

The number of Belarusian-speaking schools keeps decreasing. In 2007 only 21.5 % of schoolchildren studied Belarusian as their first language. In 1993-1994 76% of first-form pupils went to Belarusian schools, in 2006-2007 – only 18.6%. According to Ales Lozka, head of the Association of Belarusian Schools, ‘every year we lose over 100 Belarusian schools throughout the country’, despite the fact that during the 1999 general census 85.6% of Belarusians and 57.6% of Poles named Belarusian their mother tongue.

In 2006-2007 the Ministry of Education allowed teaching Belarusian History in Russian at Russian-speaking schools.

Educational authorities do not contribute to the openings of Belarusian schools and kindergartens. As a result, some people willing to send their children to Belarusian schools were deprived of their right.

The Ministry of Education changes the curricula of such subjects as Belarusian literature, prohibiting several works by the writers whose convictions were different from the official policy of the state. The subject Belarusian Studies was deleted from the college syllabi; the university subject Professional Vocabulary in Belarusian was named optional; the Ministry introduced official ban of meetings with the members of the Union of Belarusian Writers at culture and education establishments.

On September 1 in protest against Russification a number of youth organizations and internet-projects held an information action ‘We want to study in Belarusian!’ It included several flash-mobs, meetings and other actions.

Officials kept treating the principle of bilingualism provided by the Constitution unilaterally: Belarusian claims and applications were very often answered in Russian, saying they can use any of the state languages. But, this surely limits the citizens’ right to choose a language. The essence of state bilingualism is in respect towards any language spoken by its citizens. Therefore, it would be natural to receive answers in Belarusian.

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During the trial at the Supreme Court when Viasna tried to appeal against the ban for registration, the human rights activists raised a protest saying that the decision was in Russian, while the registration application was in Belarusian. One of the Ministry's officials said he did not find it reasonable to present the documents in Belarusian. However, the judge obliged the official to translate the papers into Belarusian.

Siarhei Siamionau was fined 930,000 rubles for 'disobedience' after he asked to be given a Belarusian-language customs declaration form. Later, head of the Constitutional Court R.Vasilevich, during a seminar for judges mentioned the incident with Siamionau as intolerable.

Vasilevich touched upon some other issues, concerning the rights of Belarusian-speaking citizens. He said: 'We often receive complaints when courts do not want to take claims if they are written in Belarusian. I've seen such instructions myself: 'Rewrite the claim in a normal language.' The Constitution says that there are two state languages in Belarus – Russian and Belarusian, so such instructions are disrespect of the state language... One may be prosecuted for such disrespect.' His words were to show that there are serious problems with Belarusian in the country. Vasilevich called upon judges to use Belarusian if requested by participants of a trial. He noted that 'now we have a good legislative basis for realizing the principle of bilingualism, so that a civil servant could answer in the language he was addressed.'

On the initiative of the authorities two academic research institutes have been converted into one establishment – the Institute of Literature and the Institute of Linguistics – which limits the opportunities for fundamental research in the fields of Belarusian linguistics and literature. Vintsuk Viachorka, a politician and philologist, says: 'I view this measure as another sign of their policy of destroying Belarusian culture and language, disguised as a patriotism and pro-independence rhetoric'.

In 2007 there were several cases of anti-Semitism.

In March unknown persons stole a plate commemorating the Bremen Jews killed in Minsk during World War II. At the end of April 16 tombstones were defaced at the Jewish cemetery in Barysau. In May the Brest police initiated a criminal case after flowers on the Brest Jewish ghetto memorial were burnt by unknown persons. It is the sixth time the memorial has been defaced. According to the Union of the Jewish Public Associations and Communities of Belarus, over 30 Jewish memorials were damaged in 2007.

In August head of the Simon Wiesenthal Center Dr. Shimon Samuels addressed Lukashenka with a letter, expressing indignation by the facts that anti-Semitic literature was being distributed in Belarus. He visited Minsk and saw anti-Semitic books sold next to the Museum of Great Patriotic War. Dr. Samuels demanded to 'officially condemn anti-Semitism and guarantee withdrawal of books smearing the memory of Jews and Belarusians – victims of World War II'.

One of most shocking events of the year was Lukashenka's scandalous speech during his interview to Russian journalists. When asked to comment on the defacing of the Jewish cemetery in Babruisk, he said: 'When you were in Babruisk, did you see in what condition the town was? One was afraid to enter, it was a pigsty. It used to be mainly a Jewish town, you know how Jews treat the place they live in. Look at Israel, I was there myself ... I in no way want to offend them, but they don't take much care to keep the lawns cut, like in Moscow, like Russians do, like Belarusians do. That's what the town was like.'

The world was shocked by Lukashenka's words – they are a sign of ordinary everyday anti-Semitism. The Union of the Jewish Public Associations and Communities of Belarus expressed 'astonishment and concern' on the occasion of 'the statements that negatively characterize the way of life of the Jewish population of Belarusian and Israeli towns and cities'. The European Jewish Congress was also shocked by the statement that reminds of 'Belarusian state anti-Semitism'.

Israeli ambassador to Belarus Zeev Ben Arie expressed 'surprise and regret': 'the remarks are reminiscent of the anti-Semitic myth depicting Jews as untidy, dirty, smelling people.' The ambassador had to leave Belarus. Israeli Foreign Minister Tzipi Livni blasted the statement, saying, 'The role of leadership is to fight anti-Semitism, wherever it raises its ugly head all over the world, not to encourage it.'

Lukashenka had to justify himself, though he did not admit his fault and did not apologize. On October 26 he said: 'If someone says that anti-Semitism flourishes in Belarus or we oppress Muslims here, don't believe it.'

Pavel Yakubovich, editor-in-chief of the largest Belarusian newspaper Sovetskaya Belorussiya, was sent to Israel 'to clear the air following angry reactions to what was perceived as an anti-Semitic tirade'. 'I'm determined to explain Belarusian president's extremely positive attitude towards the Jews', — said Yakubovich. In Israel Yakubovich met with the Minister of Foreign Affairs Shimon Peres, members of Israeli government and Knesset, as well as with heads of public associations and religious leaders. During a meeting at the Israel Foreign Ministry Yakubovich said that Lukashenka's

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comments were 'a mistake that was said jokingly, and does not represent his positions regarding the Jewish people' and that he was 'anything but anti-Semitic,' and 'insulted by the mere accusation'. Thus, the conflict was settled, but it left an unforgettable stain in Belarusian history.

The Polish minority in Belarus that did not accept the formation of the new pro-state Polish union was also pressurized by authorities.

Mieczyslaw Jaskiewicz, head of the Polish Union in Belarus' Hrodna office, was tried on February 9 for hooliganism. He was found guilty and sentenced to a fine of 1,240,000 rubles. The unrecognized Polish Union said it was a provocation and the case was politically motivated.

In July the police restarted the criminal case against 4 members of the Union: Wieslaw Kiewliak, Jozef Porzecki, Andrzej Poczobutt and Andrzej Pisalnik.

On October 10 on the eve of European March, the police detained Andzelika Borys, head of the unrecognized Belarusian Union of Poles. The court found her guilty of using foul language and imposed a fine.

On the same day the police detained and charged with 'using foul language' the editor-in-chief of the Polish minority's magazine *Magazyn Polski na Uchodźstwie Ihar Bancar*. On October Hrodna Leninski Borough Court found him guilty of hooliganism.

Thus, systematic violations of the rights of Belarusian-speaking citizens, restraint of the right to receive education in one's mother tongue, the right to cultural development of national minorities constitute the basics of Belarusian state policy.

Throughout 2007 Belarus saw a tense atmosphere of relationships between the state and various religious communities. The government practically ignored the constitutional equality of rights for all believers. The essence of tenseness was provided by the Law 'Concerning freedom of conscience and religious organizations' adopted in 2003, which established inequality of various religions, by permitting legal discrimination of religious minorities. Discrimination between 'friends' and 'foes' typical in Belarusian politics was transferred to the sphere of the freedom of conscience.

The privileged position of the Orthodox Church, confirmed by the Law 'Concerning freedom of conscience and religious organizations' and 'The Agreement of Cooperation between the Republic of Belarus and the Orthodox Church' of June 12, 2003, was supported by the adoption of 'The Programme of Cooperation between the Ministry of Education and the

Orthodox Church for 2007-2010'. The programme stresses that 'the Orthodoxy made a decisive contribution to the historic development of spiritual, cultural and state traditions of the Belarusian people and nowadays is one of the most important basics of spiritual and moral education of the young generation.' Although it was declared that 'the cooperation is not aimed at restraining the rights of other religions or citizens', the existence of such a programme itself with no similar agreements for other denominations puts them in an unequal position.

The Orthodoxy holds its own as the basic religion in education and upbringing. It is especially sad to see the state agree with the Orthodox Church on such controversial issues of Belarusian history as the Protestant movement, the Church Union of the 16th-19th centuries, the history of Catholicism, Belarusian uprisings of the 18th-19th centuries, the problems of interaction of various religions in Belarus, etc. According to the programme, the government and the Orthodox Church are planning an inspection of school and university curricula and students' books, and working out recommendations on their improvement. Such issues should be managed by competent experts, who could give a complex evaluation of the problems, not by contemporary Orthodox officials concerned with Orthodox-oriented treatment of history and religion.

The programme also includes holding Orthodox educational activities at children's summer camps, which in reality will deprive children of their free choice of religion. This contradicts Part 2 of Article 4 of the Constitution saying that 'the ideology of political parties, religious or other public associations, social groups may not be made mandatory for citizens.'

The state's intention to prevent children from joining 'destructive organizations' will result in restraint of choice of other denominations, for ordinary Protestant, Krishnaitic and other communities are often labeled as 'destructive' by the Belarusian government.

One of the examples of misunderstanding of history events and persons was the conflict that aroused in Kobryn where local administration was going to build an Orthodox Church in memory of the Russian commander Suvorov. The idea was opposed by local offices of the Union of Belarusians of the World, the Union of Belarusian Writers and the Society of the Belarusian Language, who underlined the negative role of the military leader in the History of Belarus – at the end of the 18th century Suvorov was at the head of the Russian troops that brutally suppressed the 1794 liberation uprising in Poland and Belarus. The protest letters were sent to the head of the Orthodox Church of Belarus, head of Brest region executive committee and Kobryn district soviet of deputies. As a result of the campaign, the press-

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service of the Belarusian Exarchate had to admit that the idea had been promoted by certain Russian foundations and newspapers and that it was not officially supported by the Orthodox Church, for the opinions of separate church members could not reflect the official position of the Belarusian Orthodox Church.'

In May the Orthodox priest Aliaksandr Shramko was prohibited to serve masses by the Orthodox Court. One of the priest's faults was his participation in a press-conference in the Protestant church of New Life on April 25, where he made several statements that contradicted the official position of the Belarusian Orthodox Church. The priest stated: 'The Law presses religious communities into ghettos, makes churches isolated from the society. In my opinion, the Law has more disadvantages than advantages... The churches that want to develop, exercise missionary activities, expand their influence on the society are strictly restrained by the Law and are deprived of these possibilities.'

Shramko had a talk with head of the Department for Religions and Nationalities Aliaksandr Kalinau, where Kalinau said he it was the first time in his life that he had seen an Orthodox priest speaking against the existing Law on religions. Shramko says the decision of the Orthodox Court might have been initiated by the authorities.

There were several cases when the government's relations with the Orthodox Church were of an unreasonable nature. The state keeps forcing citizens and companies donate money to constructing Orthodox churches. In May Baranavichy town executive committee obliged state-owned enterprises to fund the construction of the Orthodox church of the Holy Wives. Some of the town's factories reduced their workers' wages by 5,000 each.

Protestant priests and communities were also under pressure from the authorities. One of the biggest events of 2006 was the 29-day hunger-strike of the members of the church New Life. As a result of the strike, the case was sent for reconsideration by the Supreme Economic Court, which after a number of delays suspended the case on March 22.

Members of the New Life church held a number of actions to draw attention to the problem. From February 26 till March 4 they held a week's fast in the building of the church.

Meanwhile, the relationships between the state and the religious communities remain extremely tense. On November 10-11 during a youth conference at the church New Life the police together with power inspectors cut off electricity supply of the building.

In November the church members resolved not to let officials into the church until the case was settled by the Supreme Economic Court.

On April 22 representatives of various Protestant denominations and public associations launched a campaign of protection of the right to the freedom of conscience. The campaign incorporated collecting over 50,000 signatures for introducing changes to the Law 'Concerning freedom of conscience and religious organizations' and so that it would meet the provisions of the Constitution. During a press-conference with the participation of a number of priests, including Viachaslau Hancharenka, Aliaksandr Shramko, Henadz Kernazhytski and Aliaksei Shein, it was stated that the action has a civil character aimed at protecting the rights and freedoms of all citizens irrespective of his or her religious convictions.

Activists kept collecting signatures throughout the year. However, authorities showed disrespect of the action. On July 27 the police detained Dzmitry Butenka and Andrei Litvinau for distributing printed materials with no output data.

Some 5,000 people took part in a mass dedicated to the oppression of the Evangelical Christian-Baptists' church 'John the Forerunner' on June 3.

From June 15 till June 17 Protestants of different denominations kept a three day fast and an all-national mass aimed at introducing changes to the Law on religions. 'For many times we have written, addressed the authorities, because there are discordant articles in the law. The law prohibits holding masses in private houses without special permission, while we have 197 such houses, where masses are served. These pastors can be arrested at any moment. We will pray for Lord to protect us, because we receive no replies to our written claims', - said Siarhei Tsvor, vice-bishop of the United Church of Evangelic Christians.

Pastors are in despair. On May 27 the police detained pastor of the church John the Forerunner Antoni Bokun. He was accused of holding an unauthorized mass in his own private house, found guilty and fined 620,000 rubles. On June he was detained one more time and sentenced to 3 days of prison.

On September 23 a mass in the church of the Holy Trinity in Zhodzina was interrupted by policemen – church members were accused of grabbing land and illegal construction. In July Valozhyn district authorities tried to close the traditional summer camp organized by the members of the Protestant community of the Church of Jesus Christ. The officials demanded to produce the list of participants as well as permission from the Committee on Religions. In the end, the organizers managed to settle the conflict and continue the project.

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Lutherans were also oppressed by the government. At the beginning of the year the Consistory of the Evangelical Lutheran Churches lodged a complaint to the Supreme Economic Court after an inspection by the Committee on Religions and Nationalities which resulted in an official warning. The Committee sent the association a list of communities and priests that, according to Kastus Mardzvintsau, assistance bishop of the Evangelical Lutheran Church, considerably differs from reality: there were several communities that had never belonged to the Church and crossed out communities that had always been the association's members.

The year of 2007 was marked by a conflict between the Belarusian Catholic Church and the authorities. The church members tried to regain the St. Joseph Church and the Bernardine Cloister of the 18th century in Minsk, while the authorities were planning to turn them into a trade center and a hotel. During a meeting with the church activists, Minsk mayor Paulau said: 'That's settled, we are the power, we have to feed the people.' The decision provoked a civil campaign in protection of the architectural monuments that included pickets and other actions. On March 19 over 100 believers took part in a prayer in front of the church. On May 6, 20 activists distributed over 500 leaflets explaining the goals of the campaign.

Soon the action became a civil human rights campaign. On May 16 over 100 people (both believers and civil activists) gathered in front of the church and the cloister to pray for the retrieval of the monuments and the release of Belarusian political prisoners. As a result the police detained 4 participants of the action.

On June 7 some 20 people that gathered near the church were broken up by the police. They were informed that a mass prayer should be authorized by the city administration.

On October 16 some 50 persons held an action of solidarity with the believers and the political prisoners in front of the church.

In 2007 there were 25 cases of deportation of foreign missionaries, which represented Catholic and Protestant Churches.

In February 10 US citizens were deported from Belarus. They were visiting Mahiliou on invitation from the public association Stefanus to conduct a number of charity English lessons at the church of the Belarusian Evangelical Baptists. The Americans were accused of illegal teaching and exercising missionary activities and fined. They will not be able to enter Belarus within the next two years.

In May Belarusian authorities deported American pastor Decker Travis Todd who had permission for temporary stay in Belarus. The permission

was terminated by the Department for Citizenship and Migration of the Ministry of Internal Affairs for 'being involved in activities aimed at undermining the national security of the Republic of Belarus.' The essence of offense was not commented upon.

On May 8 Miadzel police terminated permission for temporary stay in Belarus of a Polish citizen, pastor of the United Church of the Evangelical Christians Jaroslaw Lukasik for 'activities aimed at undermining the national security of the Republic of Belarus in the sphere of interdenominational relationships.' Lukasik's wife and his three children addressed the Department for Citizenship and Migration of the Ministry of Internal Affairs and the President's administration: 'The decision by Miadzel district police department was taken on some unintelligible data from the KGB. A decision taken in this way violates the rights of our family and our children. I and the children are citizens of the Republic of Belarus... We love Belarus and we cannot imagine our future without our country. My husband, though being a citizen of the Republic of Poland, has lived a considerable part of his life in Belarus. He graduated from the Faculty of Belarusian Philology of Warsaw University and is a specialist in the sphere. He does not want to leave Belarus either... The state should take care of the family, instead of splitting it. I protest against lawlessness. The unmotivated decision either splits our family or forces all of us to leave the country. Now, I have the impression that we all have found ourselves in the past. 70 years ago data from KGB decided if a man should live or die. Hasn't the situation changed since then? Are fateful Lynch law verdicts possible today?'

29 Protestant priests addressed the authorities with a letter saying: 'We find it intolerable to decide a person's fate and the fate of a large family on the basis of hollow accusations. We are especially concerned with the fact that such situations have become numerous lately.'

Several Catholic priests and nuns were also deported from Belarus in 2007, including 5 priests and 7 sisters (Polish citizens) from Hrodna diocese.

In November Grzegorz Hudek, Polish priest of the Rechytsa-based Holy Trinity Church, who had lived in Belarus for 14 years was denied residence permit. 700 believers from Rechytsa and Homel addressed Lukashenka with a request not to deport the priest from Belarus. The appeal was left unconsidered. Mikhail Zhukevich, head of the Committee on Religions of Homel Regional Executive Committee, commented on the decision in the following way: 'It isn't an opposition of the state and the church, it is Grzegorz Hudek's personal problem. Rechytsa Parish has a legal status in Belarus, so the priest must obey the laws of the country and communicate with the authorities. Priest Grzegorz Hudek did not communicate with the authorities, did not try to organize a dialogue like other priests did. Moreover, he

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spoke negatively of Rechytsa, the town where he had lived and served for 10 years, in the Polish press. In a Polish newspaper, he gave a biased judgment of the situation in the town, he stressed the negative things, which, unfortunately, are present in our society. It would be fine for Belarusian journalists, but such statements abroad create an unfavourable reputation of the country. The priest in his work should revive the people spiritually – this is his primary function.’

Thus, the majority of the cases of deportation was not legally motivated, but was aimed at restraining the rights of believers.

In November as a result of a conference ‘Freedom of Conscience and Religion in Belarus’, a number of demands were adopted. The participants of the conference demanded to ‘adjust a number of Belarusian laws, including the Law ‘Concerning freedom of Conscience and Religious organizations’, ‘Concerning Mass Actions’, ‘Concerning general secondary education’, the Administrative Code and the Criminal Code in accordance with the provisions of Article 31 of the Constitution and Articles 18 and 19 of the Universal Covenant on Civil and Political Rights, Paragraph 16.2 of the Concluding Document of the Vienna Meeting of Representatives of the Participating States of the OSCE of December 10, 1989, as well as the principles of the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.’ They also demanded not to restrain the activity of religious associations, which do not threaten the national security, order, health and morals, as well as the basic rights and freedoms of other persons; not to restrain the citizens’ right to hold religious assemblies; stop the practice of intervention in the internal affairs of religious organizations, including the election and appointment of priests; stop the practice of intervention in the education and information activity of religious organizations; stop the practice of unmotivated deportations of priests and other members of religious organizations; stop the practice of impeding religious organizations to implement their social functions, as well as in their charity activity.’

10. PRESSURE ON CIVIL ACTIVISTS BY THE SECRET SERVICE

KGB pressure on citizens because of their civil and political activity attained systematic character in 2007. In recent years, the KGB has become an instrument of persecuting dissidents in Belarus.

At the same time, one should observe that the present KGB think they are the successor of the Soviet KGB, revering the memory of one of the founders of Russian KGB, leader of 'the red terror' Felix Dzerzhinsky. This was proclaimed by the KGB ex-head Stsiapan Sukharenka, who said that 'he was not going to give up the ideals of Felix Dzerzhinsky'.

The continuity of the Soviet KGB policy could also be seen in the methods of the service's work. A considerable part of the KGB work is made up of shadowing, information gathering, pressuring and direct criminal persecution of civil activists and opposition politicians.

It was the KGB that initiated the politicization of Belarusian criminal legislation. As a result legal grounds for persecuting opponents of the regime have been created. The KGB was the author of the bill that provided for introducing changes into the Criminal Code, including such politically motivated articles as Article 193.1 (maintaining activity of the public association, foundation or religious organization that has not undergone state registration, or participating in it), Article 369,1 (discredit to the Republic of Belarus) and others. The articles contradict the provisions of the Constitution and the International Covenant on Civil and Political Rights; besides, they are analogous to the articles of the Criminal Code of the Belarusian Soviet Socialist Republic, which included responsibility for anti-Soviet propaganda and spreading gossip discrediting the Soviet regime etc.

According to Part 1 of Article 12 of the Law 'Concerning the bodies of national security of the Republic of Belarus', the KGB has a right to exercise investigative actions against persons and public associations whose activity is aimed at violent change of the state system, rousing racial, religious or national hatred. However, in the majority of cases dealing with persecutions of civil and political activists the KGB work was aimed at restraining their activity.

The practice of using Article 193.1 of the Criminal Code showed that most of the cases were initiated by the KGB. Hundreds of people (including

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dozens of Young Front members) were summoned and detained by the KGB on charges provided by the Article.

On February 4, the KGB and the police detained 25 youth activists in Minsk. Dzmitry Khvedaruk and Aleh Korban were taken to the KGB pre-trial prison on suspicion of violating Article 193.1 of the Criminal Code (maintaining activity of the public association, foundation or religious organization that has not undergone state registration or participating in it). The activists were interrogated by the KGB officers on the activity of the unregistered Young Front organization and had to spend there three days.

The KGB Homel regional office also initiated a case against the Young Front under the same article of the Criminal Code. 3 activists were named suspects in the case: Andrei Tsianuta, Kiryl Atamanchyk and Arseny lahorchanka.

The KGB also took active part in mass preventive detentions of civil and political activists on the eve of important marches.

On September 21, four days before European March, several KGB and police officers burst into the private flat of Leanid Navitski, searched it and confiscated 96 EU flags prepared for the action. Navitski was accused of 'hooliganism' and 'violating the order of conducting mass actions' and sentenced to 10 days of prison.

On the eve of European March Babruisk KGB office summonsed a number of activists and entrepreneurs 'for a talk' on the day of the action, in spite of the fact that it was Sunday. Among them were human rights activist Ihar Khodzka, entrepreneur Alena Miadzvedzeva whose business had been previously inspected by tax department twice within three days. On the eve of Social March the KGB warned Alena Miadzvedzeva that she would be in trouble if she took part in the action.

One of the basic means of intimidating people is pressuring them at work, schools or universities aimed at gathering information or recruiting. The main target of these activities is students – members of various youth organizations and initiatives, or other teenagers. Such contacts are often assisted by administrations of schools and universities: students are invited to school or university administrations for 'talks' with KGB officers. Thus, educational administrations are involved in the system of harassing opponents of the regime; meanwhile most of them are not concerned about the legality of such actions.

During these 'talks,' students are often intimidated by the KGB, who demand cooperation. According to Article 14 'Concerning the bodies of

national security of the Republic of Belarus', secret service workers can install voluntary relationships with persons, i.e. only on a voluntary basis. In reality their activity is aimed at compassing to cooperation, with no signs of the person's own will.

The KGB also keeps gathering information on educational activities abroad with the participation of Belarusian youngsters. Daria Ilinich, student of the history faculty of Belarusian State University, was invited to the dean's office for a 'talk' with a KGB officer to comment on the educational seminar in Poland she had taken part in. The girl was advised to give data on the participants, organizers and the curriculum of the seminar. The KGB officers said the girl had produced a false sick-leave certificate to go to Poland for the seminar and that she, her mother and the doctor who had given the certificate would be prosecuted in case she did not agree to cooperate with the KGB. After the girl refused to cooperate with the service, the KGB initiated a criminal case for 'incitement to forgery' (Part 5 Article 16 and Part 1 Article 427 of the Criminal Code). On October 9 Pukhavichy District Court found her guilty and sentenced to 18 months of correctional labour and withholding of 20% of monthly salary. Meanwhile, the doctor and several witnesses verified the girl's illness. In December the girl herself was accused of forgery (Article 380 of the Criminal Code).

In January 2007 KGB Mahiliou office summonsed Yulia Harachankova for a 'talk on drug smuggling'. In reality she was asked about her trip to Poland.

Tatsiana Usinovich was summonsed to the KGB after she assisted in obtaining Polish visas for a group of Belarusian students. She was told that among the students there had been some members of the unregistered organizations Young Front and the Association of Belarusian Students. During the talk Tatsiana was asked to provide information on the activity of the organizations and promised to receive favourable job after graduating from the university.

In general, there were dozens of cases of pressurizing or recruiting of people by the KGB in 2007. Among the intimidated students are: Andrus Ilnatovich (BPF Youth member, student of the faculty of History, Belarusian State University), Ihar Sluchak (faculty of Law, Homel State University), Tatsiana Usinovich (Minsk Pedagogical University), Stanislau Esipouski (Belarusian-Russian University in Mahiliou), Vital Tsikhanovich (faculty of Art, Institute of Contemporary Knowledge) and others.

Belarusians studying abroad also attract KGB attention, especially those involved in the Polish Kalinouski Educational Programme. The same problems are experienced by the students and teachers of the Vilnius-based European Humanities University: they are spied upon and interrogated

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during their stay in Belarus. The students are requested to provide information on their studies and very often forced to cooperate with the KGB.

A wide response was drawn by the confessions from a 20-year-old student of the Kalinouski Educational Programme Uladzislau Mikhailau. In his livejournal he admitted that he had been cooperating with the KGB, and later in an interview to Tygodnik Powszechny he stated that he had been recruited by the KGB as a third-year student of Homel University. The secret service and the university administration threatened him with expulsion and finally forced him to agree to inform the KGB on the activity of the Homel regional NGO. As a result, Mikhailau decided to take part in the Kalinouski Programme to break off cooperation with the KGB. However, he was demanded to provide information on the participants of the programme. Uladzislau says his confessions are an attempt to relieve the severe psychological shock he has experienced lately. Unfortunately, on returning to Belarus he was unable to counteract the power of the KGB and gave a number of provocation interviews to state-owned newspapers telling of 'the terrible conditions' the participants of the Kalinouski Programme live in and obligations to work off the scholarship by participating in opposition actions in Poland.

The KGB are also extremely concerned with distributing independent media. On November 21, Katsiaryna Tkachenka, the United Civic Party's press-secretary, was invited for 'an unofficial conversation' with the KGB. She was called by a stranger naming himself a KGB officer. Katsiaryna refused to come to the KGB, since the man did not give his name, nor did he explain the reason for the conversation. Tkachenka suggested sending a summons. As a result, the man said it was not the best way out for the girl. Katsiaryna has not received any invitations for 'an informal conversation' since.

On November 27 Mikola Kananovich, a journalist of the Slonim-based independent newspaper Hazeta Slonimskaia, was invited for 'an informal conversation' to the local KGB office. The journalist was asked about his visit to Drusekeninkai (Lithuania), in particular about the seminar he had taken part in and the subsistence money he had got for that. The nameless officer also wished the newspaper had more contacts with the KGB. The journalist said the newspaper could be interested in finding information on the sensational cases solved by the KGB, with no other ways of cooperation.

Special pressure is put on the independent journalists working for foreign radio and TV channels. Late in August the KGB Mahiliou and Hrodna regional offices carried out a number of interrogations of young regional journalists. The journalists were asked about their work for the Polish-based TV channel BelSat. The KGB threatened them with criminal prosecution for espionage and discredit to the Republic of Belarus.

On November 23, the Homel journalist Siarhei Padsasonny was taken to the local KGB office and interrogated about his work with the BelSat channel. The officers who refused to give their names and posts threatened the journalist with problems in case he did not agree to cooperate with the KGB. The next day Padsasonny lodged a complaint with the KGB Homel regional office against the officers that had interrogated him. The KGB, in their turn, found no violations of the law in the officers' actions. A nameless KGB official said that according to the Law 'Concerning investigation activities', KGB officers have a right to carry out similar 'investigation activities', including 'questioning citizens'. 'Questioning citizens' is 'an activity aimed at obtaining primary information relevant for the implementation of the tasks of investigation activities'. As it turned out, on December 10 acting head of Homel prosecutor's office Ivan Huzarevich sent Siarhei Padsasonny's claim to head of Homel KGB Ivan Korzh, thus violating their basic function of performing overall control over the state bodies.

According to the Law 'Concerning the bodies of national security of the Republic of Belarus', in their activity KGB officials should be guided by the principles of law, respect and safeguarding the rights and freedoms of the individual and humanism. However, in today's Belarus the illegitimate activity of the KGB is carried out under the aegis of the public prosecutor's office, which evades maintaining the functions charged by the law. This intensifies the activity of the KGB as one of the main segments of the state oppressive system, by providing opportunities for a large-scale campaign of intimidating and pressuring Belarusian citizens.

11. TORTURE OR INHUMAN OR DEGRADING TREATMENT OF DETAINEES, PERSONS UNDER INVESTIGATION OR PRISONERS

The right to freedom from torture is guaranteed by Article 25 of the Belarusian Constitution: 'The State shall safeguard personal liberty, inviolability and dignity. No one shall be subjected to torture or cruel, inhuman or undignified treatment or punishment, or be subjected to medical or other experiments without one's consent.'

The same rights are provided by Article 7 of the International Covenant on Civil and Political Rights: 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.' This ban has a fundamental character. According to Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by General Assembly resolution 39/46 of 10 December 1984 and ratified by the Republic of Belarus on January 21 1987, the term «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.' Article 2 of the Convention obliges the state parties to 'take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.' June 26 is observed each year as the UN International Day in Support of Victims of Torture – to commemorate the day of June 26, 1987 when the Convention entered into force.

Belarusian legislation provides punishment for torture and other cruel, inhuman or degrading treatment by state officials. Article 128 of the Criminal Code (Crimes against the security of humankind) provides punishment for deportation, illegal imprisonment, mass or systematic out-of-court punishment, kidnapping, which results in their disappearance, torture or cruel acts, which are made on the basis of racial, national, ethnic identity, political convictions or religious beliefs of citizens. Criminal punishment is

also provided for compulsion of evidence, combined with violence or humiliation, and torture – part 2 of Article 394 of the Criminal Code; misuse of authority, combined with violence, torture or insult or using weapons, truncheons, tear gas or other special means – part 3 of Article 426 of the Code.

The problem of using torture and other cruel treatment by state servants in Belarus has a latent character; such incidents are rarely made public.

According to Viktor Krasnichenka, head of Brest regional police department, in 2007 12 ex-policemen were found guilty in Brest region alone (one can estimate the total number of cases for the whole country judging by these data). The majority of crimes were connected with corruption. However it is known that at least 2 of them were punished for misuse of authority, combined with torture: Vital Vandzich, vice-head of Malaryta district police department, was sentenced to 39 months of prison; Vadzim Varanets, police detective from Pinsk district police department, was convicted to 3 years of prison.

The basic evidence in Belarusian investigative practice is a confession by the suspect, which is often achieved by various forms of torture: 'lastochka' (the victim's hands are cuffed behind his back and attached to an iron bar or pipe; thus he hangs without his legs touching the ground, while police beat him with nightsticks), 'slonik' (police officers handcuff their victim to a chair and force an old-fashioned mask or plastic bag over the head), 'apelsin' (the victim is beaten with an orange wrapped in a towel) etc. The aim of the police is to intimidate people, to suppress their will of resistance, for in such a condition it is much easier to obtain a confession from a suspect. E.g. the above mentioned detective Vadzim Varanets in order to obtain a confession from a suspect hung him up on an iron bar with his hands cuffed and legs tied. As a result, the suspect Minich confessed to 11 thefts. The doctor's diagnosis (he was sent for only six days after the torture) was neuritis.

However, the cases when police officers are punished for misuse of authority are an exception, for, in spite of numerous incidents of using illegal methods, the number of state servants that face responsibility remains insignificant. This could be seen from the great amounts of claims against officials using torture lodged with the prosecutor's office and the courts. As for sustained beatings, humiliation and cruel treatment of civil and political activists, the majority of such cases remain unsettled, and their rights unprotected.

E.g. several officers of Orsha town police department were not punished for beating the youth activist Siarhei Huminski, when during an interrogation

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on January 10 he was forced to confess to writing anti-Lukashenka graffiti. A plainclothes police officer together with detective Laryionau beat the hand-cuffed detainee. The beating was accompanied with swearing and threats. As a result, Huminski said he did not know who had inscribed the graffiti and on January 25 he was released lacking evidence. The doctors who examined Huminski after the incident found numerous bruises on his body. In spite of the results of the medicolegal investigation the local prosecutor's office refused to initiate a case against the policemen.

Another similar incident remained unpunished after Minsk Savetski borough prosecutor's office named legal using handcuffs against the youth activist Siarhei Klueu during his stay in hospital. On July 26, while serving a 10-day term for distributing printed materials, Klueu was taken to hospital with food poisoning. Despite Klueu's poor condition, he was hand-cuffed to the bed. Klueu named such kind of treatment inhuman and lodged a complaint against the police. According to an official answer from the prosecutor's office, the police did not violate the law, saying that Klueu, when convoyed, could have escaped from hospital if he had not been hand-cuffed. However, the essence of Klueu's claim was that he was hand-cuffed to the bed; and this incident was not commented upon by the prosecutor's office.

A great number of cases of torture and other inhuman treatment by the KGB and the police are registered during opposition mass actions. Dzmitry Khvedaruk was brutally beaten by the police during an action in support of Belarusian independence from Russia on December 12. The unconscious young man was taken to hospital with numerous bruises and brain injury. Dzmitry's mother lodged a complaint against the policemen that had beaten her son, but it was not even replied. Dzmitry himself lodged a complaint with Minsk Centralny borough prosecutor's office. The complaint was turned down and Khvedaruk was advised to address Minsk Centralny borough police department – the department whose officers had beaten the guy on December 12.

The impunity of the police and inability to punish them legally results in wide usage of violence towards citizens. During the above-mentioned action on December 12 the police beat some more people, including Anatol Liabedzka, head of United Civic Party. On July 19 Salihorsk police after breaking up an opposition action beat the detained Ivan Shyla. On June 6 during an action of solidarity with Valery Shchukin, the police beat the 9-year-old son of the activist Krystsina Shatsikava, who together with other

people came to the Building of Vitsebsk court to support the detained human rights defender.

On August 16 two plainclothes policemen Kuranok and Matlokh beat Tatsiana Tsishkevich. As a result she was taken to hospital with numerous bruises, brain injury and nephritis. Neither police officials nor the central prosecutor's office found the policemen guilty of misuse of authority 'due to the lack of corpus delicti'. On November 9 Tatsiana Tsishkevich was detained in Minsk Tsentralny police department as she was trying to find out the place of detention of her friends. She was later fined USD 400 for 'disobedience to authority'. The girl's claim was turned down by Minsk city court. Having used all the national ways of protecting her rights, Tatsiana Tsishkevich addressed the UN Human Rights Committee with a complaint against Belarusian authorities who had violated her rights, including the right to fair trial and the freedom from torture and cruel treatment.

It should be observed that in similar cases Belarusian courts generally justify the illegal actions of the law machinery. As for politically neutral citizens, there have been some cases when policemen who had used torture and violence were punished by court. At the same time incidents with civil and political activists still go unpunished.

Having no independent and fair trial, which would be able to protect the people's rights, gives policemen and the KGB the atmosphere of permissiveness and impunity.

No legal assessment was given to the incident with Krystsina Shatsikava, who was violently put into mental hospital. On March 23 Shatsikava was kidnapped by unknown people after she had been summoned as a witness to the KGB Mahiliou regional office. On March 24 Krystsina's mother was informed that the girl was in Mahiliou regional mental hospital. As it turned out later, Shatsikava had been detained by plainclothes policemen and taken to mental hospital as 'a dangerous person'. After the girl tried to resist the doctors' undressing, washing and shaving her, she was given an injection of the tranquilizer sibazon. On March 26 Shatsikava was released after the doctors had found her mentally sane.

The girl lodged a complaint with the local prosecutor's office demanding to initiate a case against the policemen that put her to hospital. In May she received a reply saying that both the policemen and the hospital officials had acted according to the laws 'Concerning the police' and 'Concerning psychiatric aid and the rights of citizens'. It also said that she had been taken to hospital after 'a collective complaint from the people living in the

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same house with Shatsikava'. At the same time the names of the informers remained unknown. However, it turned out that Shatsikava had been taken to hospital by policemen Badzeeu, Vauchkou and Karnienka.

Shatsikava tried to appeal against the decision of the prosecutor's office, but the claim was turned down by Siarhei Karaliou, judge of Mahiliou Leninski borough court. He stated that he had no right to make the prosecutor's office initiate a criminal case – this could be done only by a superior body.

Belarusian human rights activists named the incident with Krystsina Shatsikava a revival of punitive psychiatry of the Brezhnev era. The International Mental Health Council expressed its concern about the risk of adopting the methods of the former Soviet Union, when mentally sane dissidents and other citizens were put into closed mental hospitals.

According to the international standards, inappropriate conditions of imprisonment may be viewed as inhuman or humiliating the human dignity. The state should therefore guarantee that prisoners are kept in conditions that correspond to the human dignity, the methods of punishment do not result in suffering, the level of intensity of which exceeds the inevitable level of severity caused by imprisonment, and their health is protected. The closed penal system of Belarus does not allow inspect the imprisonment conditions in full, as well as examine the conditions of treatment of detainees and arrested persons, including political prisoners.

Article 19 of the UN Standard Minimum Rules for the Treatment of Prisoners requires that any prisoner 'in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness'.

At the same time, in Mahiliou pre-trial prison there are cells with 30 people and 18 beds. The prison conditions of administrative prisoners do not meet the Standards either. According to numerous civil and political activists that have served administrative terms in 2007, they had to sleep on a wooden boarding, with no mattresses, blankets or other bedding.

Similar faults of Belarusian penal system were observed by the human rights activist Raman Kisliak, who was detained and put to prison for 'hooliganism' on the eve of the European March. In his complaint he mentioned the intolerable conditions in Brest Leninski borough pre-trial prison: temperature of 10-14 degrees, no natural light, smoked up cells with water running down the walls, little amounts of drinking water. All this was named cruel and inhuman treatment. Brest Leninski borough police

department admitted the faults and obliged the administration of the prison 'to maintain normal conditions for persons that are kept in the pre-trial prison'. Kisliak's persistence resulted in a number of improvements in the prison conditions: now the detainees have a separate mattress and a pillow, toilet conditions were also improved. Thus, Raman Kisliak initiated a civil campaign – activists Andrei Sharenda and Inha Abramava, who had been in prison for their civil activity, also lodged complaints with pre-trial prisons. The activists keep demanding to guarantee the minimum conditions for prisoners.

According to hundreds of political prisoners, Minsk pre-trial prison conditions violate both the international standards and the requirements of the Belarusian legislation.

In his complaint lodged with Minsk prosecutor's office and police department, Mikalai Siarheenka, who served a 10-day term in December 2007, said: 'Throughout the term of imprisonment I was kept in a cell with repeated criminals. By doing that the administration of the prison violated Part 1 of Article 18.7 of the Administrative Code, demanding separate imprisonment of persons which had committed crimes and had served terms in penitentiaries. In spite of my numerous claims, the prison administration did not reply to any of them. Besides, the prison conditions were so intolerable that they can be considered cruel treatment of administrative prisoners. The temperature in cell was so low that I had to move constantly to warm myself and could not sleep during the night time. The window had a huge leak and it could have deteriorated my bronchitis. Besides, I do not smoke – still, I had to live in a smoked up room. I was also deprived of my right to a daily walk. A representative of the prison administration said that they did not have facilities for organizing walks for administrative prisoners. Meanwhile, this right is guaranteed by Part 7 of Article 18.7 of the Administrative Code. My demand was ignored by the prison administration, let alone the right to watching TV and listening to the radio. The prison does not have resources for TV and radio-sets. Nor do they provide the prisoners with separate beds and bedding. The food is also beneath criticism.'

The low quality of food in pre-trial prisons resulting in poisoning and intestinal diseases is witnesses by numerous incidents when prisoners are taken to hospital during their imprisonment. The entrepreneur Viktor Kryval, who served a 15-day imprisonment for participating in the action of protest on December 10, had to declare a hunger-strike, because the woman that

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was in charge of the kitchen had tuberculosis. According to Part 5 of Article 18.7 of the Administrative Code, administrative prisoners have no right to receive food parcels.

Judging by the data on the prison conditions in Belarus, one can say that they do not correspond to the minimum standards, are dangerous for health and degrade human dignity.

The few registered human rights organizations are deprived of opportunities to maintain public control over prison conditions and observance of human rights in the penal system. Human rights activists are not allowed to get seats in republican and regional commissions for control over the activity of the penal system (created on September 15, 2006). Tatsiana Krauchanka, head of the republican commission and member of the Soviet of Republic's commission on population security and social development, named the goal of the commission as 'realization of the internationally recognized rights, freedoms and the legal interests of prisoners'.

According to www.minjust.by, within the first 6 months of 2007 the members of the commission visited Penal Colony for Women #4 in Homel. They inspected the prison conditions and saw a theatre performance featuring the prisoners of the colony. The members of the commission also visited Juvenile Colony #2 in Mahiliou. As a result of the inspection the commission addressed the Ministry of Justice with a request to pay more attention to the fate of juvenile criminals after they are released from prison.

Thus, the commission does not attempt to carry out profound monitoring of prison conditions, to analyze its results and work out recommendations for the competent state organs in order to correct faults and guarantee that they are not repeated in future. Besides, the commission does not inform the society on the problems of the penal system, and are reluctant to cooperate with other expert structures of the civil sector.

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Journalist Dzmitry Zavadski disappeared seven years ago. July 7th, Minsk

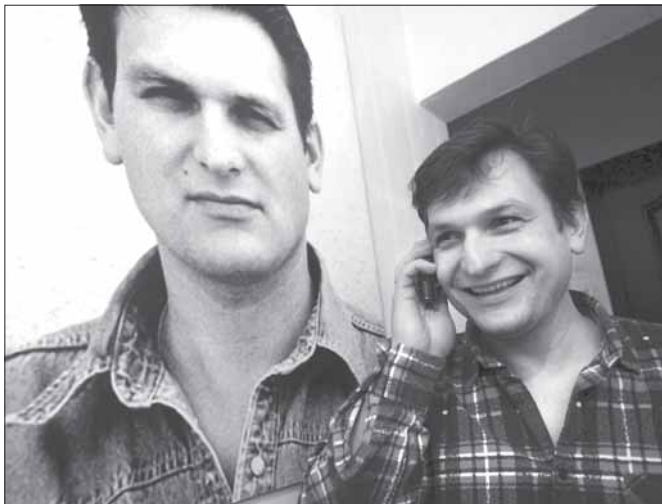


Volha, daughter of political prisoner Aliaksandar Kazulin, at a picket in defense of her father, Minsk

“Freedom to Dashkevich” – slogan for release of the youth leaders, Minsk



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Andrei Klimau, convicted for an article in the internet, Minsk

Politician Mikola Statkevich serves his sentence, Blon village, Minsk region



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Activists of "Young Front" protest against prosecution of their colleagues, Minsk

Acton of support to youth activist Artur Finkevich during his trial, Mahiliou



Banner in Minsk
"Freedom to Young Front Activist!!!"

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Young Front action on St. Valentine's Day, Minsk



Detentions of young people during the St. Valentine's Day, Minsk



Police officer grabs banner from youth activists who came to court building to support their colleague Yaraslau Hryshchenia, Baranavichy

Nasta Azarka
after the trial,
Niasvizh



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Leaving the territory near the National Library after celebration of the Freedom Day, March 25th

Detention of participant of celebration of the Independence Day, July 27th, Minsk





European March, October 14th, Minsk



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Student action against benefit cuts near the Ministry of Education, Minsk, May 10th



December 10th. Minsk. Entrepreneurs are protesting

National and EU flags on Kastyrychitskaya Square, November 4th, Minsk





Hrodna activists protest against ruining of historical buildings in the old part of Hrodna. Hrodna, May 24th



Action in defense of St. Joseph Church and Bernardine monastery, Minsk, April 16th

BPF Youth action against discrimination of the Belarusian language, Minsk, September 1st



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January 27th, Holocaust Victims Memorial Day, Jewish community house

March to Kurapaty, place of mass burial of victims of Stalinist repression, on the Ancestors' Day (Dziady), October 28th, Minsk





Human rights defenders pass crane-birds made by Amnesty International activists in solidarity with Belarusian political prisoners, to U. Navumau, Minister of internal affairs, Minsk



Human rights defender Valer Shchukin (left) and Harry Pahaniayla (right) in the office of Belarusian Helsinki Committee, January 22nd, Minsk

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National white-red-white flag over streams over Victory Square in Minsk, March 10th



Celebration of the official Independence Day, Minsk, July 3rd

12. HUMAN RIGHTS ACTIVITY. PRESSURE ON HUMAN RIGHTS ACTIVISTS AND HUMAN RIGHTS ORGANIZATIONS

In the year of 2007 activity in the field of human rights in Belarus was carried out in unfavourable conditions. Pressuring human rights activists and organizations became part of the state policy. Human rights organizations continued being banned and limited in their functions, activists continued being repressed.

During the hearing of the case when the Human Rights Center Viasna was denied registration it became clear that the state did not understand the essence of human rights activity. Thus, the Ministry of Justice explaining its decision claimed that ‘the main goal of the association according to paragraph 2.1 of the presented charter was maintaining *human rights and freedoms* that are provided by the Universal Declaration of Human Rights and the Constitution of the Republic of Belarus’. By doing that it showed total misunderstanding of the role of the state in maintaining human rights, while human rights organizations can only take measures aimed at implementation of these rights by the state. Further on the Ministry states: ‘bearing in mind the instruction of Part 1 of Article 20 of the law of the Republic of Belarus *Concerning Public Associations*, public associations have a right to protect the rights and legitimate interests, as well as represent in state bodies and other organizations the legitimate interests of their members. Thereupon, the activity objective stated in the charter does not comply with the above-mentioned requirement of the Law of the Republic of Belarus *Concerning Public Associations*.’ It means that human rights organizations cannot function in Belarus, since their aim is securing the implementation of the obligations in the sphere of human rights by the state and human rights protection.

Meanwhile, the right to maintain human rights protection in the country is guaranteed not only by the Constitution, but by international acts in the sphere of human rights, including the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, adopted by the UN General Assembly on December 9, 1998. Article 1 of the Declaration reads ‘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.’

Unlike the past years when human rights organizations used to be closed down by the decision of the court and most of them lost their registration, the year of 2007 saw a tendency for refusals in legalizing human rights initiatives. This situation is especially alarming in connection with the introduction of criminal responsibility for activity on behalf of an unregistered organization in 2006 (Article 193-1 of the Criminal Code).

Viasna's claim was one more time rejected (now it was called the Public Human Rights Association) on August 23, 2007. (See *Appendix 4*) While the registration procedures were under way *Viasna* tried to address the Ministry of Justice with a proposition to avoid misunderstandings so that all the shortcomings could be corrected. The Ministry refused to collaborate, saying that all the information will be represented in its final decision only. It is evidence of the body's position – the aim was not to inspect the papers, but to find grounds for refusal.

One of the reasons for the refusal showed that there is a ban for human rights activity for a limited group of people. The Ministry of Justice in its decision stated: 'Moreover, according to the Ministry of Internal Affairs, 20 out of 69 of the association's founders have been brought to administrative responsibility'. Such reasoning contradicts the existing legislation and the Constitution, and is a total incapacitation of the founders. Still, one cannot attribute this to the legal illiteracy of the Ministry's experts, since in the objection to the claim they specify their grounds by saying that the aim of this information is to characterize the founders of the association, not to find reasons for refusal. However, such 'characteristics' are perceived as a sign – the Ministry of Justice is charged with the duty of political control over the newly founded organizations and it will never allow human rights activists work in Belarus legally.

The founders of *Viasna* tried to protect their right to association in the Supreme Court, which could not oppose the Ministry of Justice, though rejecting some of its totally absurd claims. On October 26 Judge S.K.lakhnavets resolved to reject *Viasna's* claim (See *Appendix 5*) on two grounds: 1) 'the registration body has not received a bank letter of the payment of *the state dues*, which are required by Article 13 of the Law as in force on 17.05.2007' (*Viasna* placed the necessary sum of money to the Ministry's account marked *registration fee* as it was called before May 17, 2007); 2) 'the name of the association – Public Human Rights Association *Viasna* – contradicts Part 6 of Article 12 of the Law of the Republic of Belarus *Concerning Public Associations* of inadmissibility of naming a new public association with the name of a previously banned one' (before October 2003 it had the name of the Public Association Human Rights Center *Viasna*).

Yet, according to Article 12 of the Law, the name of a public association should point to its business form and character of activity. In other words, by supporting the Ministry of Justice, the Supreme Court banned to use the name *Viasna*.

The political nature of the ban is also proved by the Ministry and the Court's reluctance to take into account the opinion of the UN Human Rights Committee, which on July 24, 2007 declared the ban of *Viasna* illegal and pointed out that it violates the rights on freedom of association (See Appendix 3). The Committee stated that the co-authors of the complaint were 'entitled to an appropriate remedy, including the re-registration of *Viasna* and compensation.' In spite of the fact that the founders of the association declared that the only way of compensation could be its registration, the state bodies did not only correct their mistakes, but totally ignored the competent authority's opinion. Thus Belarus once again eluded compliance with the international obligations taken under the Optional Protocol to the Covenant on Civil and Political Rights, and showed rejection of the universally recognized standards in the sphere of freedom of associations.

In spite of the state policy aimed at restriction of *Viasna*'s activity, the association preserved recognition of international human rights organizations. In 2004 after the final decision by the Supreme Court *Viasna* was admitted to the International Federation for Human Rights (FIDH) – an authoritative organization that represents 155 human rights organizations throughout the world. In April 2007 *Viasna*'s chair Ales Bialiatski was elected deputy chairman of FIDH.

For Freedom human rights association was also denied registration. First, the Ministry of Justice refused to register the association since the founders had not paid the state due: as a result of a mistake the necessary sum was transferred to the local budget, instead of the republican one. The mistake had been corrected by the time the claim was considered by the Supreme Court; however on September 20 it resolved to reaffirm the Ministry's decision to deny registration. The second appeal was lodged on September 12, but it was rejected due to unprecedented requirements to the founding meeting of the organization. According to the Ministry, the founders had to hold the founding meeting according to the Law *Concerning Mass Actions*, and ask for permission from the local authorities. On December 19 the Supreme Court rejected the claim.

The only positive fact was the decision by the Ministry of Justice to withdraw the suspension claim in the case of Belarusian Helsinki Committee.

VIOLATIONS OF HUMAN RIGHTS IN BELARUS IN 2007

Criminal prosecution remained one of the harshest means of repressions against human rights activists.

On December 10, Ivan Kruk, a 62-year old member of Belarusian Helsinki Committee was released from Hlybokaie prison. The activist had to serve a 6-month imprisonment on the charge of resisting arrest during a search at his private apartment in Hlybokaie.

On June 8, the famous human rights activist Valery Shchukin was convicted of insult of the members of a local election commission and a member of a regional commission during the 2007 local councils election campaign. After the election the activist distributed leaflets claiming that members of election commissions took part in ballot-box stuffing – this fact was the base of the charge. Judge Natallia Huryan sentenced Shchukin to two fines: some 725 USD in total. The activist tried to appeal the decision but Vitsebsk Regional court reaffirmed the verdict.

Human rights activists who maintained observation during the 2007 local councils election campaign were often detained and fined. On December 12, during the early voting in Hrodna the police detained Mikola Lemiankouski. He was accused of disorderly conduct and put to prison for 3 days.

Pavel Levinau, member of Belarusian Helsinki Committee who acted as an observer in Vitsebsk, was detained near his house on December 13. Levinau was put in prison and released the next day after the election, when Pershamaiski Borough Court fined him 30 USD for disorderly conduct. In spite of the absurdity of the charges Vitsebsk Regional Court and later the Supreme Court upheld the previous decision.

Repressions against human rights activists included threats, provocations, arrests and fines, illegal searches and interrogations by the KGB throughout the country. They were especially intense on the eve of important civil and political actions.

The days before Liberty Day (March 25) several activists were preventively detained and accused of disorderly conduct: Ihar Lednik (Barysau) – 5 days of prison, Uladzimir Vialichkin (Brest) – 2 days of prison and a 150-dollar fine, Valery Putsitski (Rechytza) – 2 days of prison (on March 21 he was beaten by unknown persons near his house) etc.

On the eve of European March which took place on October 14 in Minsk a whole ‘hunting’ campaign was organized by the police throughout the country: Raman Kisliak (Brest) – 2 days in prison and USD 30 for disorderly conduct, Mikola Lemianouski (Hrodna) – 5 days of prison, Viktor Sazonau (Hrodna) – 5 days of prison, Vasil Paliakou – 7 days in prison etc.

On October 10 Smarhon police tried to detain local human rights activist Ales Dzerhachou for disorderly conduct. Ales locked himself in his private house which was ‘besieged’ by the police for 24 hours. Dzerhachou phoned

Smarhon regional prosecutor's office and said he would not leave the house unless a prosecutor's inspection was carried out. On October 11 'the siege' was raised. On the same day Ales received a summons to local police department, which he ignored. At the same time he appealed against the police saying he was forced into a house arrest. As a result, Dzerhachou received an official apology from head of Hrodna Regional Police Department Mr. Rybak. Meanwhile, Dzerhachou's request to 'stop violent arrests' was left without reply.

It should be observed that this was a rare occasion when state organs admit, though partially, their fault in violating the law against a civil activist. In most cases similar claims are rejected.

The KGB is another body involved in harassing human rights activists. On October 5 Homel KGB officers searched the Homel regional office of the *Legislative Initiative* association. They seized several PCs and copying machines. On the eve of European March Ihar Khodzka, human rights activist from Babruisk, was summonsed to the local KGB department for 'questioning' as a witness. Khodzka ignored the invitation saying there is no such form of the KGB's interrelation with citizens as 'questioning'.

Lawyers that represent civil and political activists in court were also pressurized by the authorities. Ihar Rynkevich, who defended ex-presidential candidate Aliaksandr Kazulin was forced to leave Minsk regional lawyer chamber due to 'violations of the rules of professional ethics'. The Lawyer viewed the statement as a provocation and decided to leave the chamber, saying he did not want his colleagues to suffer because of him.

International human rights experts were totally ignored by the authorities. Souhayr Belhassen, president of the International Federation of Human Rights (IFHR), visited Minsk from October 29 to November 1. The president had planned to arrive earlier, in order to attend the trial of *Viasna's* liquidation at the Supreme Court. However, she was denied an earlier visa by the Belarusian authorities. On the eve of the visit the Paris-based FIDH headquarters addressed Belarusian Ministries of Foreign Affairs, Justice, Internal Affairs and Information with a request to organize several meetings. All these official letters were left without reply. Nor did the Ministry of Internal Affairs react to FIDH's request to let Souhayr Belhassen visit Zmitser Dashkevich in Shklou prison. Meanwhile, the French embassy to Belarus stated they had done their best to organize this visit. The MIF press-secretary Andrei Papou confirmed that he knew about the request from FIDH: 'We know about this visit. We did receive a request to organize a meeting. This request is being considered at present. If this visit will take place or not depends on the working schedules of certain clerks and heads

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of the Ministry.’ None of the officials managed to find time to consider issues of human rights with head of the leading international human rights organization.

Belarusian government continued neglecting its obligations in the sphere of implementation of recommendations from the UN Human Rights Committee concerning individual appeals by Belarusian citizens on violations of their civil and political rights. There was no reaction to the Committee’s decision on *Viasna’s* case and the registration case of the human rights organization *Helsinki XXI*, decisions on individual appeals by human rights activists Leanid Svetsik (Vitsebsk), Uladzimir Vialichkin (Brest) etc. None of the 16 decisions by the Committee on violations of human rights in Belarus was fulfilled.

The evasive stand taken by Belarusian government was mentioned by the Third Committee and later by the UN General Assembly. Its resolution expresses deep concern about ‘the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Commission on Human Rights, in particular with the Special Rapporteur on the situation of human rights in Belarus.’ General Assembly resolutions are non-binding, but could be a serious sign for the international community. Belarusian authorities once again refused to receive the sign and declared that the document ‘has neither legal, nor political grounds’.

Neglecting the authority of the existing UN mechanisms, Belarus at the same time tried to get a seat on the Human Rights Council. The absurdity of this bid was noted by Belarusian human rights activists, together with 40 international human rights organizations, the Bundestag Commission on Human Rights and Humanitarian Aid, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, Czech Republic’s ex-president Vaclav Havel and many others. On May 17 the UN General Assembly rejected Belarus’ request which was followed by a predictable reaction from the government: ‘The recent voting has vividly shown that the United Nations is progressively used by certain countries to settle political accounts and put pressure on other states’.

At the same time, the human rights community was disappointed by the UN Council’s decision to abolish the mandate of the organization’s Special Rapporteur on the situation regarding human rights in Belarus, established in 2004. The Rapporteur’s reports were an important source of obtaining objective information by the international community. Within this time Belarus did not allow the Rapporteur to visit the country. According to Belarusian human rights activists, the abolition of the mandate was a step towards the government, in the hope of progress in carrying out obligations to its own citizens and the international community.

United Nations A/C.3/62/L.51

GENERAL ASSEMBLY

Distr.: Limited

2 November 2007

Original: English

07-58056 (E) 071107

0758056

Sixty-second session

Third Committee

Agenda item 70 (c)

Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

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,¹ the International Covenants on Human Rights² 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 Rights² and the first Optional Protocol thereto,³ the International Covenant on Economic, Social and Cultural Rights,² the International Convention on the Elimination of All Forms of Racial Discrimination,⁴ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁵ the Convention on the Elimination of All Forms of Discrimination against Women⁶ and the Optional

¹ Resolution 217 A (III).

² Resolution 2200 A (XXI), annex.

³ See resolution 2200 A (XXI), annex, and resolution 44/128, annex.

⁴ United Nations, *Treaty Series*, vol. 660, No. 9464.

⁵ *Ibid.*, vol. 1465, No. 24841.

⁶ *Ibid.*, vol. 1249, No. 20378.

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Protocol thereto,⁷ and the Convention on the Rights of the Child⁸ and the Optional Protocols thereto,⁹ *Recalling* Commission on Human Rights resolutions 2003/14 of 17 April 2003,¹⁰ 2004/14 of 15 April 2004¹¹ and 2005/13 of 14 April 2005,¹² Human Rights Council decision 1/102 of 30 June 2006,¹³ and its resolution 61/175 of 19 December 2006, *Concerned* that the presidential election of 19 March 2006 was severely flawed due to arbitrary use of state power and fell significantly short of Belarus' commitments at the Organization for Security and Cooperation in Europe to hold a free and fair election, that the Government did not take measures to ensure that the local elections of 14 January 2007 met international standards and that the situation of human rights in Belarus in 2007 continued to significantly deteriorate, as documented in the reports of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and the report of the Special Rapporteur on the situation of human rights in Belarus,¹⁴ dated 12 June 2007, which found that systematic violations of human rights continue to take place in Belarus,

Disappointed that the Belarusian authorities again failed to create conditions for the Belarusian people to freely express their will during local elections on 14 January 2007 by denying the basic rights of freedom of assembly and association, as well as with the lack of progress made by the Government of Belarus in addressing noted shortfalls,

1. *Expresses deep concern:*

- (a) About the continued use of the criminal justice system to silence political opposition and human rights defenders, including through arbitrary detention, lack of due process and closed political trials of leading opposition figures and human rights defenders;
- (b) 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

⁷ *Ibid.*, vol. 2131, No. 20378.

⁸ *Ibid.*, vol. 1577, No. 27531.

⁹ *Ibid.*, vol. 2171, No. 27531.

¹⁰ See *Official Records of the Economic and Social Council, 2003, Supplement No. 3 (E/2003/23)*, chap. II, sect. A.

¹¹ *Ibid.*, 2004, *Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

¹² *Ibid.*, 2005, *Supplement No. 3* and corrigendum (E/2005/23 and Corr.1), chap. II, sect. A.

¹³ See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53)*, part one, chap. II, sect. B.

¹⁴ A/HRC/4/16.

- noting the serious concern relating to the continued and systematic violations of human rights in Belarus and the further erosion of the democratic process expressed by seven independent human rights experts of the United Nations in a statement issued on 29 March 2006;
- (c) 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, and despite calls from the General Assembly to adopt the recommendations of the Organization for Security and Cooperation in Europe following the flawed presidential elections in 2006, Belarus again failed to meet its commitments to hold free and fair elections during municipal elections in January 2007, including by using intimidation and the arbitrary application of registration standards to exclude opposition candidates, severely restricting the access of registered candidates to voters and the mass media, through routine harassment, the detention and arrest of political and civil society activists, the negative portrayal in the State media of opposition candidates and activists, including human rights defenders, and preventing access by independent local observers to polling stations;
 - (d) About the continued use of the arbitrary application of registration standards to prevent non-governmental organizations from operating, including the use of the arbitrary denial of leases and evictions to prevent organizations from acquiring valid addressees;
 - (e) About the continued harassment and detention of Belarusian journalists and the suspension and banning of independent media 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 of 28 April 2004 by the Parliamentary Assembly of the Council of Europe,¹⁵ and that the Government of Belarus has ignored calls of that body to account for their disappearance;
 - (f) About the failure of the Belarusian authorities to heed calls to reinstate the teaching licence of the European Humanities University in Minsk and about the increasing harassment of its students while the university operates in exile;
 - (g) About continued persistent reports of harassment and closure of non-governmental organizations, national minority organizations,

¹⁵ See Council of Europe, Parliamentary Assembly, document 10062.

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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 and their relatives, engaged in the promotion and protection of human rights, the rule of law and democracy, especially those students returning to Belarus;

2. *Urges* the Government of Belarus:

- (a) To release immediately and unconditionally all individuals detained for politically motivated reasons and other individuals detained for exercising or promoting human rights;
- (b) To cease politically motivated prosecution, harassment and intimidation of political opponents, pro-democracy activists and human rights defenders, independent media, national minority activists, religious organizations, educational institutions and civil society actors, and to cease the harassment of students and create the conditions whereby they can continue their studies in Belarus;
- (c) To bring the electoral process and legislative framework into line with international standards, especially those of the Organization for Security and Cooperation in Europe, to demonstrate such commitment through the parliamentary elections due in 2008 and to 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 election laws and practices that restrict campaigning opportunities for de facto opposition candidates, the arbitrary application of electoral laws, including with regard to the registration of candidates, obstruction of the right of access to the media, biased presentation of the issues by the State media and the falsification of vote counts;
- (d) To respect the rights to freedom of speech, assembly and association;
- (e) 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;
- (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;

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- (g) To investigate and hold accountable those responsible for the mistreatment, arbitrary arrest and incarceration of human rights defenders and members of the political opposition;
- (h) To carry out the recommendations of the International Labour Organization Commission with regard to respecting core labour rights of freedom of association for workers;
- (i) To carry out all other steps called for by the Commission on Human Rights in its resolution 2005/13,12 as well as General Assembly resolution 61/175;

3. *Insists* that the Government of Belarus cooperate fully with the Human Rights Council and its mechanisms, as well as with all mechanisms of the Organization for Security and Cooperation in Europe.

**United Nations A/C.3/62/L.29
General Assembly**

Distr.: Limited
1 November 2007
Original: English
07-57706 (E) 021107
0757706
Sixty-second session
Third Committee
Agenda item 70 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Moldova, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu and Venezuela (Bolivarian Republic of): draft resolution

Moratorium on the use of the death penalty

The General Assembly,

Guided by the purposes and principles contained in the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights² and the Convention on the Rights of the Child,³

Recalling also the resolutions on the question of the death penalty adopted over the past decade by the Commission on Human Rights in all

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1577, No. 27531.

consecutive sessions, the last being its resolution 2005/59,⁴ in which the Commission called upon States that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions,

Recalling further the important results accomplished by the former Commission on Human Rights on the question of the death penalty, and envisaging that the Human Rights Council could continue to work on this issue,

Considering that the use of the death penalty undermines human dignity, and convinced that a moratorium on the use of the death penalty contributes to the enhancement and progressive development of human rights, that there is no conclusive evidence of the death penalty's deterrent value and that any miscarriage or failure of justice in the death penalty's implementation is irreversible and irreparable,

Welcoming the decisions taken by an increasing number of States to apply a moratorium on executions, followed in many cases by the abolition of the death penalty,

1. *Expresses its deep concern* about the continued application of the death penalty;

2. *Calls upon* all States that still maintain the death penalty to:

- (a) Respect international standards that provide safeguards guaranteeing the protection of the rights of those facing the death penalty, in particular the minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;
- (b) Provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty;
- (c) Progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed;
- (d) Establish a moratorium on executions with a view to abolishing the death penalty;

3. *Calls upon* States which have abolished the death penalty not to reintroduce it;

4. *Requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution;

5. *Decides* to continue consideration of the matter at its sixty-third session under the same agenda item.

⁴ See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

International covenant on civil and political rights

Distr.
RESTRICTED*
CCPR/C/90/D/1296/2004
7 August 2007
Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Ninetieth session
9 – 27 July 2007
VIEWS

Communication No. 1296/2004

Submitted by: Aleksander Belyatsky et al. (not represented by counsel)

Alleged victims: The authors

State party: Belarus

Date of communication: 8 April 2004 (initial submission)

Document references: Special Rapporteur's rule 97 decision, transmitted to the State party on 2 July 2004 (not issued in document form)

Date of adoption of Views: 24 July 2007

GE.07-43487

Subject matter: Dissolution of human rights association by a court order of the State party's authorities.

Substantive issues: Equality before the law; prohibited discrimination; right to freedom of association; permissible restrictions; right to have one's rights and obligations in suit at law determined by a competent, independent and impartial tribunal.

Procedural issue: Lack of substantiation of claims.

Articles of the Covenant: articles 14, paragraph 1; 22, paragraphs 1 and 2; 26

Article of the Optional Protocol: article 2

On 24 July 2004, the Human Rights Committee adopted the annexed text as the Committee's Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1296/2004.

ANNEX

Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights

Ninetieth session

concerning

Communication 1296/2004**

Submitted by: Aleksander Belyatsky et al. (not represented by counsel)

Alleged victims: The authors

State party: Belarus

Date of communication: 8 April 2004 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 24 July 2007,

Having concluded its consideration of communication No. 1296/2004, submitted to the Human Rights Committee by Aleksander Belyatsky in his own name and on behalf of 10 other individuals under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the authors of the communication, and the State party,

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1. The author of the communication is Aleksander Belyatsky, a Belarusian citizen born in 1962, residing in Minsk, Belarus. The communication is presented in his own name and on behalf of 10 other Belarusian citizens, all members of the non-governmental public association “Human Rights Centre “Viasna» (hereinafter, “Viasna”), residing in Belarus. He submits the signed authorization of all 10 co-authors. He author alleges that all are victims of violations by Belarus[1] of article 14, paragraph 1; article 22, paragraphs 1 and 2; and article 26 of the International Covenant on Civil and Political Rights. He is not represented.

Factual background

2.1 The author is Chairperson of “Viasna”’s Council, a non-governmental association registered by the Ministry of Justice on 15 June 1999. By October 2003, it had more than 150 members in Belarus, 4 regional and 2 city registered branches. Its activities included monitoring the human rights situation in Belarus, and preparing alternative human rights reports on Belarus, which have been used and referred to by UN treaty bodies. “Viasna” monitored the Presidential elections of 2001, arranging for some 2000 people to observe the voting process, as well as the 2003 municipal council elections. It also organized protests and pickets in relation to various human rights issues. “Viasna” was frequently subjected to the persecution by the

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authorities, including administrative detention of its members and thorough scheduled and spontaneous inspections of its premises and activities by the Ministry of Justice and tax authorities.

2.2 In 2003, the Ministry of Justice undertook an inspection of the statutory activities of “Viasna”’s branches and, on 2 September 2003, filed a suit in the Supreme Court of Belarus, requesting the dissolution of “Viasna”, because of several alleged offences committed by it. The suit was based on article 29, of the Law “On Public Associations” and article 57, paragraph 2, sub-paragraph 2, of the Civil Procedure Code.[2] “Viasna” was accused of the following: having submitted documents with forged founding member signatures in support of its application for registration in 1999; the Mogilev branch of “Viasna” having only 8, rather than the required 10 founding members at the time of registration; non-payment of membership fees envisaged by “Viasna”’s statutes and non-establishment of a Minsk branch; acting in the capacity of a public defender of the rights and freedoms of citizens who are not members of “Viasna” in the Supreme Court, contrary to article 72 of the Civil Procedure Code,[3] article 22 of the Law “On Public Association”[4] and its own statutes; and offences against electoral laws allegedly carried out during its monitoring of the 2001 Presidential elections.[5]

2.3 On 10 September 2003, the Supreme Court opened a civil case against “Viasna” on the basis of the Ministry of Justice’s suit. On 28 October 2003, in a public hearing, a Supreme Court judge upheld the charges of breaching electoral laws but dismissed the other charges and ordered the dissolution of “Viasna”. With regard to the breaches of electoral law, the Supreme Court established that ‘Viasna’ did not comply with the established procedure of sending its observers to the meetings of the electoral commission and to the polling stations. The relevant paragraphs of the Supreme Court decision of 28 October 2003 read:

‘Namely, the association was sending empty forms of excerpts from the minutes of Rada’s meetings of 18 June, 1 and 22 July, 5 August 2001, to the Mogilev and Brest regions. Subsequently, these forms were arbitrarily filled-in with the names of citizens with regard to whom no decisions on sending them as observers had been taken; and who were not the members of this association.

In Postav district, one of the association’s members offered pay to the citizens, who were neither “Viasna”’s nor the other public associations’ members, to be observers at the polling stations, and have been filling-in in their presence the excerpts from the minutes of Rada’s meetings.

Similar breaches of the law in sending the public association's observers occurred at the polling stations Nos. 30 and 46 of the Novogrudok district.'

The court found that the breach of the electoral laws was 'gross' enough to trigger the application of article 57, paragraph 2, of the Civil Procedure Code.[6] The court's conclusion was corroborated by the written warning issued to "Viasna"'s governing body by the Ministry of Justice on 28 August 2001 and on the ruling of the Central Electoral Commission on Elections and Conduct of Republican Referendums (hereinafter, CEC) of 8 September 2001. The latter ruling was based on the inspections conducted by the Ministry of Justice and the Belarus Prosecutor's Office.

2.4 The Supreme Court's decision became executory immediately after its adoption. Under Belarus law, the Supreme Court's decision is final and cannot be appealed on cassation. The Supreme Court decision can be appealed only through a supervisory review procedure and can be repealed by the Chairperson of the Supreme Court or the General Prosecutor of Belarus. The appeal of "Viasna"'s representatives to the Chairperson of the Supreme Court for a supervisory review of the Supreme Court's decision of 28 October 2003 was rejected on 24 December 2003. There are no other available domestic remedies to challenge the decision to dissolve "Viasna"; domestic law outlaws the operation of unregistered associations in Belarus.

The complaint

3.1 The author submits that the decision to dissolve "Viasna" amounts to a violation of his and the co-authors' right under article 22, paragraph 1, of the Covenant. He contends that contrary to article 22, paragraph 2, the restrictions placed on the exercise of this right by the State party do not meet the criteria of necessity to protect the interests of national security or public safety, order, health, or morals, nor the rights and freedoms of others.

3.2 The author claims that he and the other co-authors were denied the right to equality before the courts and to the determination of their rights and obligations in a suit at law (article 14, paragraph 1, of the Covenant).

3.3 The author alleges that the State party's authorities violated his and his co-authors' right to equal protection of the law against discrimination (article 26), on the ground of their political opinion.

3.4 The author further challenges the applicability of article 57, paragraph 2, of the Civil Procedure Code (paragraph 2.3 above) to the dissolution of "Viasna". Under article 117, paragraph 3, of the Civil Procedure Code, the legal regime applicable to public associations in their capacity as participants in civil relations, is subject to a *lex specialis*. Therefore, the scope of the

'repeated commission of gross breaches of the law' for which an association can be dissolved by court order under article 57 of the Civil Procedure Code, should be defined on the basis of this *lex specialis*. Under the Law "On Public Associations", an association can be dissolved by court order if it undertakes again, within a year, activities for which it had already received a written warning. Under this Law and other relevant *lex specialis*, the list of the 'repeated commission of gross breaches of the law' is defined as follows: (1) activities aimed at overthrowing or forceful change of the constitutional order; violation of the state's integrity or security; propaganda of war, violence; incitation of national, religious and racial hatred, as well as activities that can negatively affect the citizens' health and morals; (2) a single violation of the law on public actions in cases explicitly defined by the Belarus law; (3) violation of the requirements of paragraph 4, parts 1-3, of Presidential Decree "On the Receipt and Use of Free Aid" of 28 November 2003. For the author, "Viasna"'s activities do not fall under any of the above categories. Moreover, by relying on the written warning of 28 August 2001 and on the CEC ruling of 8 September 2001 in its decision of 28 October 2003 to dissolve "Viasna", the Supreme Court effectively penalized it twice for identical actions: the first time by the Ministry of Justice's warning and the second time by the Supreme Court's decision on the dissolution. The author concludes that the decision to dissolve "Viasna" was illegal and politically motivated.

State party's observations on admissibility and merits

4.1 On 5 January 2005, the State party recalls the chronology of the case. It specifies that the decision to dissolve "Viasna" is based on article 57, paragraph 2, of the Civil Procedure Code. It further challenges the author's claim that "Viasna" was penalized twice for identical actions and submits that the Ministry of Justice's written warning of 28 August 2001 was issued in response to "Viasna"'s violation of record keeping and not because of the violation of electoral laws. For the State party, the forgery of member signatures and the violation of "Viasna"'s statutes were discovered during the association's re-registration.

4.2 The State party further adds that the author's claim under article 14, paragraph 1, of the Covenant is unsupported by the casefile of "Viasna"'s civil case. The case was examined in public hearing, at the request of "Viasna"'s representative it was conducted in the Belarusian language and the hearing was audio and video recorded. The hearing complied with the 'equality of arms' principle guaranteed by article 19 of the Civil Procedure Code, which is illustrated by the fact that the Supreme Court did not uphold all charges identified in the Ministry of Justice's suit. For the State party,

the decision to dissolve “Viasna” was adopted on the basis of a thorough and full analysis of the evidence presented by both parties, and the decision complied with the legal procedure of Belarus then in place.

Author’s comments on the State party’s observations

5.1 On 19 January 2005, the author submits that the Supreme Court and the State party’s reference to article 57, paragraph 2, of the Civil Procedure Code is contrary to the provisions of article 117, paragraph 3, of the same Code (see paragraph 3.4 above). In the absence of what is referred to by the ‘repeated commission of gross breaches of the law’ in article 57 of the Civil Procedure Code, the court has wide discretion to determine this matter in the circumstances of each case. In “Viasna”’s case, the Supreme Court decided that the violation of the electoral laws allegedly carried out during its monitoring of the 2001 Presidential elections, was sufficiently ‘gross’ to warrant “Viasna”’s dissolution two years later. The author reiterates that this decision was politically motivated and is directly linked to “Viasna”’s public and human rights related activities. [7]

5.2 The author rejects the State party’s argument that the Ministry of Justice’s written warning of 28 August 2001 was issued purely in response to “Viasna”’s violation of record keeping and not because of the violation of electoral laws. He refers to the CEC ruling of 8 September 2001, which explicitly stated that the officers of the Ministry of Justice and of the Prosecutor’s Office of Belarus inspected “Viasna”’s compliance with the law on sending the observers. The Ministry of Justice’s written warning of 28 August 2001 was subsequently used as a basis for the CEC ruling of 8 September 2001. In turn, the Supreme Court’s decision of 28 October 2003 to dissolve “Viasna” was based on the same facts as the Ministry of Justice’s written warning of 28 August 2001.

5.3 The author refutes the State party’s claim that the forgery of member signatures was discovered during the association’s re-registration. As a public association registered on 15 June 1999, “Viasna” did not have to undergo a re-registration procedure. In its decision of 28 October 2003, the Supreme Court explicitly stated that it did not receive any evidence in support of the Ministry of Justice’s claims that there had been any forged member signatures in “Viasna”’s 1999 application for registration. The author adds that the Supreme Court did not uphold any of the other charges presented in the Ministry of Justice’s suit, except for those related to the violation of article 57, paragraph 2, of the Civil Procedure Code.

5.4 On 5 October 2006, the author adds that since “Viasna”’s dissolution, the State party has introduced new legal provisions detrimental to the exercise of the rights to freedom of expression, peaceful assembly and

association and representing a very serious risk for the existence of an independent civil society in Belarus. Among them are amendments to the Criminal Code of Belarus signed by the President on 13 December 2005 and in force since 20 December 2005, which introduced criminal sanctions for activities carried out by a suspended or dissolved association or foundation. The new article 193-1 of the Criminal Code stipulates that anyone who organizes activities in the framework of a suspended, dissolved or unregistered association may face a fine, arrest for up to six months or be subjected to a sentence “restricting his freedom” of up to two years. In 2006, four members of the non-governmental association “Partnership” were sentenced to different terms of imprisonment under article 193-1. He requests the Committee to examine his claim under article 22, paragraph 1, of the Covenant in the light of this new legislation which criminalises the operation of unregistered associations in Belarus.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the case is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as required under article 5, paragraph 2, of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement and notes that the State party did not contest that domestic remedies in the present communication have been exhausted.

6.3 In relation to the alleged violation of article 14, paragraph 1, and article 26 of the Covenant, in that the author was denied the right to equality before the courts, to the determination of his rights by a competent, independent and impartial tribunal, and to equal protection of the law against discrimination, the Committee considers that these claims have been insufficiently substantiated, for purposes of admissibility. They are thus inadmissible under article 2 of the Optional Protocol.

6.4 The Committee considers the author’s remaining claim under article 22 to be sufficiently substantiated and accordingly declares it admissible.

Consideration of the merits

7.1 The Human Rights Committee has considered the communication in the light of all the information made available to it by the parties, as provided under article 5, paragraph 1, of the Optional Protocol.

7.2 The issue before the Committee is whether the dissolution of “Viasna” amounts to a violation of the author and his co-authors’ right to freedom of association. The Committee notes that according to the author’s uncontested information, “Viasna” was registered by the Ministry of Justice on 15 June 1999 and dissolved by order of the Supreme Court of Belarus on 28 October 2003. It recalls that domestic law outlaws the operation of unregistered associations in Belarus and criminalizes the activity of individual members of such associations. In this regard, the Committee observes that the right to freedom of association relates not only to the right to form an association but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 extends to all activities of an association, and dissolution of an association must satisfy the requirements of paragraph 2 of that provision.[8] Given the serious consequences which arise for the author, the co-authors and their association in the present case, the Committee concludes that the dissolution of “Viasna” amounts to an interference with the author’s and his co-authors’ freedom of association.

7.3 The Committee observes that, in accordance with article 22, paragraph 2, in order for the interference with freedom of association to be justified, any restriction on this right must cumulatively meet the following conditions: (a) it must be provided by law; (b) may only be imposed for one of the purposes set out in paragraph 2; and (c) must be «necessary in a democratic society» for achieving one of these purposes. The reference to the notion of «democratic society» indicates, in the Committee’s opinion, that the existence and operation of associations, including those which peacefully promote ideas not necessarily favorably received by the government or the majority of the population, is a cornerstone of a democratic society.[9] The mere existence of reasonable and objective justifications for limiting the right to freedom of association is not sufficient. The State party must further demonstrate that the prohibition of an association is necessary to avert a real and not only hypothetical danger to national security or democratic order, and that less intrusive measures would be insufficient to achieve the same purpose.[10]

7.4 In the present case, the court order which dissolved “Viasna” is based on perceived violations of the State party’s electoral laws carried out during the association’s monitoring of the 2001 Presidential elections. This de facto restriction on the freedom of association must be assessed in the light of the consequences which arise for the author, the co-authors and the association.

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7.5 The Committee notes that the author and the State party disagree over the interpretation of article 57, paragraph 2, of the Civil Procedure Code, and its compatibility with the *lex specialis* governing the legal regime applicable to public associations in Belarus. It considers that even if “Viasna”’s perceived violations of electoral laws were to fall in the category of the ‘repeated commission of gross breaches of the law’, the State party has not advanced a plausible argument as to whether the grounds on which “Viasna” was dissolved were compatible with any of the criteria listed in article 22, paragraph 2, of the Covenant. As stated by the Supreme Court, the violations of electoral laws consisted of “Viasna”’s non-compliance with the established procedure of sending its observers to the meetings of the electoral commission and to the polling stations; and offering to pay third persons, not being members of “Viasna”, for their services as observers (see, paragraph 2.3 above). Taking into account the severe consequences of the dissolution of “Viasna” for the exercise of the author’s and his co-authors’ right to freedom of association, as well as the unlawfulness of the operation of unregistered associations in Belarus, the Committee concludes that the dissolution of the association is disproportionate and does not meet the requirements of article 22, paragraph 2. The authors’ rights under article 22, paragraph 1, have thus been violated.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the information before it discloses a violation by the State party of article 22, paragraph 1, of the Covenant.

9. Pursuant to article 2, paragraph 3(a), of the Covenant, the Committee considers that the author and the co-authors are entitled to an appropriate remedy, including the re-registration “Viasna” and compensation. It is also under an obligation to take steps to prevent similar violations occurring in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to

the Committee's Views. In addition, it requests the State party to publish the Committee's Views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

* Made public by decision of the Human Rights Committee.

** The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Yuji Iwasawa, Mr. Edwin Johnson, Mr. Walter Kędlin, Mr. Ahmed Tawfik Khalil, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Ms. Elisabeth Palm, Mr. Josй Luis Pйrez Sanchez-Cerro, Mr. Rafael Rivas Posada, Sir Nigel Rodley and Mr. Ivan Shearer.

[1] The Covenant and the Optional Protocol thereto entered into force for Belarus on 23 March 1976 and 30 December 1992 respectively.

[2] Article 29 of the Law "On Public Associations" stipulates that an association can be dissolved by court order when: (1) it undertakes activities enumerated in article 3 [activities aimed at overthrowing or forceful change of the constitutional order; violation of the state's integrity or security; propaganda of war, violence; incitation of national, religious and racial hatred, as well as activities that can negatively affect the citizens' health and morals]; (2) it again undertakes, within a year, activities for which it had already received a written warning; and (3) the founding members committed offences of the present and other laws while at during the registration of the public association. Public association can be dissolved by court order for a single violation of the law on public actions in cases explicitly defined by the Belarus law. Article 57, paragraph 2, of the Civil Procedure Code envisages a procedure for dissolution of legal entity by court order when this entity is engaged in unlicensed activities or the activities prohibited by law or when it has repeatedly committed gross breaches of the law.

[3] Article 72 of the Civil Procedure Code reads:

'A legally capable person that has duly legalized authority to conduct a case in court, except for those persons listed in article 73 of the same Code, can be a representative in court.

The following [persons] can be representatives in court:

- 1) attorneys at law;
- 2) staff members of legal entities – in cases involving these entities;

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3) authorized representatives of public associations (organizations) who are entitled by law to represent and defend in court the rights and legitimate interests of the members of these public associations (organizations) and of other persons;

4) authorized representatives of organizations who are entitled by law to represent and defend in court the rights and legitimate interests of the members of other persons;

5) legal representatives;

6) close relatives, spouses;

7) representatives appointed by court;

8) one of the procedural co-participants mandated by the latter.'

[4] Article 22, paragraph 2, of the Law "On Public Associations" reads: 'Public associations shall have a right to represent and defend the rights and legitimate interests of its members (participants) in the government, commercial and public bodies and agencies.'

[5] Reference is made to the ruling of the Central Electoral Commission on Elections and Conduct of Republican Referendums of 8 September 2001.

[6] *Supra* n.2.

[7] The author refers to the report of the FIDH/OMCT International Judicial Observation Mission "Belarus: The "liquidation" of the independent civil society", April 2004, pp. 12-16, in support of his claims.

[8] *Korneenko et al v. Belarus*, Communication No. 1274/2004, Views adopted on 31 October 2006, para.7.2.

[9] *Ibid*, para.7.3.

[10] *Jeong-Eun Lee v. Republic of Korea*, Communication No. 1119/2002, Views adopted on 20 July 2005, para.7.2.

**To the Founders
of the Public Human Rights Association “Viasna”**

Nezalezhnastsi Ave., 784-48
220012, Minsk

About refusal of state registration to the public association

The Ministry of Justice of the Republic of Belarus considered the application materials for state registration of the Public human rights association «Viasna».

When examining the accuracy of information about the founders of the public association we have revealed that certain data indicated in the list of founders are untrue.

Moreover, according to the Ministry of Internal Affairs, 20 out of 69 founders of the public association were found guilty of such administrative infringements as:

Distribution of printed materials, which were produced in violation of the established procedure and had no publisher’s data, and the contents of which was directed at damaging the state and public order, and the rights and legal interests of citizens;

Violation of the established procedure of organizing and holding gatherings, rallies, street marches, demonstrations or other mass event or picketing;

Violation of the established order of usage of flags and pennants at religious, sports, mass cultural and other entertainment events, as well as usage of flags and pennant which are not registered under the established procedure at gatherings, rallies, street marches, demonstrations and pickets, as well as the usage of emblems, symbols, and posters the contents of which is directed at damaging the constitutional system, the public order, or the rights and legal interests of citizens;

Hanging on balconies and loggias at day time linen and other objects that spoil external appearance of buildings located at city streets that are determined by executive committees of city councils, as well as hanging

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advertisements at poles, fences, buildings and other places which are not especially designated for that;

Disorderly conduct.

For instance, during the period of three years U. Sazonau was prosecuted under the administrative law five times. Among other violations, he was found guilty under the article of the Administrative Code that provides for responsibility for violation of the terms of registration (re-registration) of fire arms or violation of the registration procedure. Dz. Salauyou was found guilty of administrative infringements three times.

Part 3 of Article 9 of the Law of the Republic of Belarus about Public Associations, which determines requirements to a statute of a public association, says that among other things, a statute must include goals, objectives, subject, and methods of activity of a public association.

However, clause 2.1 of the presented statute describes only the main goal of the Public human rights association «Viasna». That assumes the possibility that the public association might have other goals which are not determined in the statute, especially in the light of administrative infringements committed by its founders.

Besides that, according to clause 2.1 of the Statute, the main goal of the Public human rights association «Viasna» is to defend the human rights and freedoms that follow from the Universal Declaration of Human Rights and the Constitution of the Republic of Belarus.

However, according to the norms of part 1 of Article 20 of the Law “On Public Associations”, public associations have the right to defend the rights and legal interests, as well as represent in state bodies and other organizations the legal interests of their members only.

In conjunction with this, the goal of the public association described in the statute does not comply with the above mentioned requirement of the Law of the Republic of Belarus “On Public Associations”.

In its turn, discrepancy of the goals of a public association with the requirements of the legislation is the ground to deny state registration for such a public association.

A number of other statements in the statute of the public association do not comply with the requirements of the legislation of the Republic of Belarus.

For instance, in October 2003, the Supreme Court of the Republic of Belarus ruled to liquidate the Public association "Human Rights Center Viasna".

The name of the newly created public association "Public human rights association Viasna", in essence, is equal to the name of the liquidated one, which is inadmissible under the Law of the Republic of Belarus "On Public Associations".

Part 6 of Article 12 of the Law says, the name of the public association is to be different from the names of other public associations, registered in the Republic of Belarus, or liquidated by courts, and must not contradict this law, other legislative acts, statutory documents of a public association, and must not violate the right to intellectual property.

Thus, the name of the newly created public association collides with the Law of the Republic of Belarus "On Public Associations".

Discrepancy of the name of a public association with the requirements of the legislation of the Republic of Belarus is, in its turn, the ground for the registration body to deny state registration to a public association.

According to part 6 of Article 13 of the Law of the Republic of Belarus "On Public Associations", among other documents needed for registration of a public association the founders are to submit to the Ministry of Justice, a bank document that confirms payment of the state fee.

Clause 11 of the "Instruction about the Procedure of administration and consideration of documents connected with state registration of political parties, other public associations, their unions (associations), as well as state registration and closure, putting on and taking off books of organizational structures", approved by the Ministry of Justice Ruling # 38 of August 30th, 2005, states that payment of the state fee for state registration of a public association is confirmed by an original bank document. In the document one should indicate the name of a public association, for the state registration of which the state fee is paid.

Among the documents submitted by the Public human rights association «Viasna» there is a receipt about payment of the "registration fee" (and not

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the “state fee” as required by the legislation of the Republic of Belarus). Besides that, it is not indicated what the payment was made for.

The receipt cannot be considered a bank document that confirms payment of the state fee.

Thus, the Public human rights association «Viasna» failed to submit all the documents required by the Law of the Republic of Belarus “On Public Associations” needed for application to the Ministry of Justice for state registration. According to part 3 of Article 15 of the Law, this is a ground for denial of state registration to a public association.

On the basis of the above-mentioned grounds, the Ministry of Justice denies state registration to Public human rights association «Viasna» by its decision of August 23rd, 2007.

According to Article 15 of the Law of the Republic of Belarus “On Public Associations” the decision of the Ministry of Justice can be appealed to the Supreme Court of the Republic of Belarus during one month from the day of its receipt.

Head of the department
For Public Associations

A. L. Slizheuski

Case # 03-17p/2007

Decision
In the name of the Republic of Belarus

On October 26th, 2007 the Supreme Court of the Republic of Belarus, composed of chairperson S. K. Yakhnavets, and secretary I. A. Budkina, with participation of prosecutor of the department of Prosecutor's office of the Republic of Belarus L. F. Zanouski, applicants V. K. Stefanovich, A. V. Bialiatski, U. M. Labkovich, representative of the Ministry of Justice of the Republic of Belarus A.V. Pechkurou, having considered the civic case on the complaint of Valiantsin K. Stefanovich, Uladzimir M. Labkovich, and Alexander V. Bialiatski against the decision of the Ministry of Justice about denial of state registration to Public human rights association "Viasna",

ascertained:

V. K. Stefanovich, A. V. Bialiatski, U. M. Labkovich made a complaint, which stated that on July 23rd, 2007 they submitted documents for state registration of the newly created Public human rights association "Viasna" to the Ministry of Justice of the Republic of Belarus.

On August 24th, 2007 the Ministry of Justice made a decision to deny registration to that public association.

The applicants think the decision is ungrounded, does not comply with the requirements of the Law of the Republic of Belarus "On Public Associations", and violates the legal rights guaranteed by the Constitution of the Republic of Belarus. They ask to cancel the decision and oblige the Ministry of Justice of the Republic of Belarus to register Public human rights association "Viasna".

Applicants V. K. Stefanovich, A. V. Bialiatski, and U. M. Labkovich supported their complaint during the hearing.

Representative of the Ministry of Justice of the Republic of Belarus A.V. Pechkurou did not agree with the complaint.

Having listened to the explanations of the applicants and the representative of the Ministry of Justice, studied written evidence and listened to the opinion of prosecutor L. F. Zanouski, who thinks the complaint is not to be satisfied, the court comes to the following.

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According to Article 15 of the Law of the Republic of Belarus “On Public Associations”, the decision about denial of state registration of a public association is made in the case of:

- Violation of the established order of creation of a public association, if the violation is irreparable;
- Incompatibility of statutory documents of a public association (goals, objectives, methods and territory of activity of a public association) with the requirements of the legislation;
- Failure of a public association to submit all documents for state registration required by the legislation;
- Incompatibility of the name of public association, including the short name, its symbols, and conditions of membership with the requirements of the legislation and (or) its statutory documents;
- Failure to meet the requirements indicated in the decision to postpone state registration of a public association within one month;
- Refusal to comply with the legal proposal of the corresponding registration body to change the name of a public association.

It is revealed that On July 23rd, 2007 the Ministry of Justice received application documents for state registration of Public human rights association “Viasna”.

However, the name of the public association — Public human rights association “Viasna” – collides with part 6 of Article 12 of the Law of the Republic of Belarus “On Public Associations” (hereinafter – the Law) about inadmissibility of naming a public association by the name of the public association which was liquidated by court decision earlier.

Besides that, the founders failed to submit a bank document of payment of the “state fee”, as it is required by Article 13 of the Law in its edition of May 17th, 2007.

On August 23rd, 2007 the Ministry of Justice of the Republic of Belarus denied state registration to Public human rights association “Viasna”.

The circumstances are confirmed by the materials of the civic case (application for state registration of Public human rights association “Viasna”, the statute, the list of founders of the association, and the Ministry of Justice’ denial of state registration), as well as by the materials of the civic case about liquidation of the Human Rights Center Viasna, considered by the Supreme Court of the Republic of Belarus in 2003.

Thus, taking into account the facts, that the name of the public association does not meet the requirements of the legislation, the founders failed to submit to the Ministry of Justice all the documents required for state registration, the decision of the registering body about denial of state registration to a public association is legal and well-grounded. There are no grounds to cancel it.

Guided by Article 302 of the Code of Civic Procedures of the Republic of Belarus, the court

DECIDED:

To reject the complaint of Valiantsin Stefanovic, Uladzimir Labkovich, and Alexander Bialiatski about the decision of the Ministry of Justice of the Republic of Belarus about denial of state registration of public human rights association «Viasna».

The decision comes into force immediately; it is not subject to cassation appeals and protests.

Chairing judge of the Supreme Court of Republic of Belarus
S.K. Yakhnavets

Valid:
Supreme Court judge

S.K. Yakhnavets

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