

# THE OBSERVATORY

For the Protection of Human Rights Defenders

## L'Observatoire

pour la Protection  
des Défenseurs des Droits de l'Homme

## El Observatorio

para la Protección  
de los Defensores de los Derechos Humanos

## International Mission of Investigation

### Belarus

## A Caricature of Autocracy

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**FIDH**

International Federation  
for Human Rights

September 2001

**OMCT**

World Organisation  
Against Torture

# **BELARUS : A CARICATURE OF AUTOCRACY**

## **The Civil Society in a Stranglehold**

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## Introduction

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### **Mandate and objectives of the mission**

FIDH and OMCT, as part of their joint «Observatory for the Protection of Human Rights Defenders» mandated an international investigation mission on Belarus to obtain all useful information on the state of rights and freedoms guaranteed to human rights associations and defenders. The mission, composed of Philippe Kalfayan, Deputy Secretary General of FIDH and Isabelle Doré, jurist and member of the Quebec Human Rights League, was in Minsk from 14 to 21 July 2001.

The Observatory is an action programme that aims to contribute to the protection of human rights defenders who may be – in accordance with the working definition adopted by FIDH and OMCT - any «... person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments».

The Observatory undertakes a wide range of activities, e.g. systematic alerts on violations of rights and freedoms of human rights defenders, international investigation missions, judiciary observation, defence, solidarity, regular action in international and regional bodies, material assistance to defenders in danger, etc.

### **Persons encountered during the mission**

The mission met a large number of civil society representatives and authorities. However, the mission regrets that the presidential administration and the Ministry of the Interior did not honour requests for audiences.

#### NGO

- Viasna («Spring 96»): Ales' Bialiatsky, President, and Valentin Stefanovitch, Vice-president.
- Helsinki Committee for Belarus: Gary Paganaiaila, Vice-president and jurist, and Dimitry Morkouchevsky, press attaché.
- Legal Assistance to Population: Oleg Voltchek, President.

- Belarus Association of Journalists: Zhanna Litvina, President; Yuri Toporashev, journalist at the newspaper «aba-jour» and expert at the media production centres; Anatoly Gouliaev, Vice-president and editor-journalist at the newspaper «Dien», Andrei Bastounietz, Vice-president, jurist, and journalist at the newspaper «Dien».
- Juridical centre for the protection of the media (Association of Belarus Journalists): Mikhail Pastukhov, Director, Professor of law, former judge at the Constitutional Court.
- Helsinki 21: Valery Filippov (physicist) and Boris Zvozkov (member of the United Civic Party)
- The Centre for Human Rights: Vera Stremkovskaya, President, lawyer.
- Charter 97 (network of correspondents in opposition to the government): Andrei Sannikov, international coordinator; Ludmila Gryaznova, former deputy of the 13th Soviet Supreme.

### Unions

- Federation of Belarus Unions: Vladimir Gontcharik, President, standing for the presidential elections of September 2001.
- Union of automobile and agricultural machinery workers: Alexandre Bukhvostov, President.
- Union of agricultural workers and the food industry: Alexandre Yaroshuk, President, standing for the presidential elections.
- Congress of Free Unions: Vladimir Makartchouk, Vice-president, and President of the Union of Transporters affiliated to the Congress of Free Unions; Nicolaï Kanakh, second Vice-president.

### Others

- Lubov Louneva, journalist at Radio Liberty, committed to human rights defence; carried out a personal investigation into the scope and conditions of capital punishment in Belarus.
- Vasily Nesterenko, scientist, Director of the Private Institute for Protection against Radiation, which welcomed Prof. Yuri Bandazhevsky when he was discharged as Director of the State Institute for Medicine in Gomel.
- Mrs. Valentina Polevikova, President of the women's party.
- Dimitry Ivanischko, lawyer in Gomel. Defends Ravkhov (case of corruption Gomel Institute/Bandazhevsky) and the son of Michael Chiguir (well-known opponent and standing for the presidential elections).
- Pavel Severenets, President of the Youth Front Movement (youth group of the National Front Party), Vice-president of the National Front party.
- Vadim Lobkovitch, young demonstrator who spent six months in detention.

### Diplomatic Corps

- M. Bernard Fassier, Ambassador of France in Belarus.
- Dr. Hans-Georg Wieck, Ambassador of the OSCE in Belarus, in charge of the Advisory and Monitoring Group in Belarus.

### Belarus authorities

- Ministry of Foreign Affairs: Natalya Gilevich, Head of the International Co-operation Department; Mr. Serpikova and Mr. Bassik, responsible for European co-operation in this ministry.
- Ministry of Justice: Valery Minskevitch, first Vice-minister, Elena Kovodkova, department in charge of NGO registration, and Vladimir Katchianov, Vice-minister.
- State Press Committee: Mikhail Podgainy, President.

### **Acknowledgements**

We would like to thank the following organisations: Viasna, Charter 97 and the Belarus Association of Journalists for their help in preparing this mission.

Our gratitude also goes to Bernard Fassier, Ambassador of France, and Hans-Georg Wieck, Ambassador of OSCE, for their invaluable technical assistance in the course of the mission.

Last, we would like to warmly thank Ioulia Shukan, a Belarussian, academic and student at the *Institut des Sciences Politiques*, Paris, who participated in the preparation of the mission and served as the interpreter; her assistance contributed greatly to the success of the mission.

### **Mission report**

The present report, published in the context of the presidential elections (9 September 2001), gives details of the obstacles to freedom of action of independent associations committed to the defence of human rights and democracy in Belarus (NGOs, unions and the media) and everyone committed to this cause.

The report also provides a picture of the political and constitutional context prevailing in Belarus, together with a general overview of the main human rights violations occurring in this country.

## **Part A: Context**

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### **Chapter 1: Presentation of the historical, economic and political situation and changes since 1990**

#### **Striking historical facts**

Belarus is a little known country whose past has often been assimilated with that of Russia. Yet its history is mottled with wars, invasions and, in response, heroic uprisings and resistance to invaders, mainly Russian.

In the 16th century, Belarus went to war against Russia twice before being absorbed into the Russian Empire in the 18th century and then into the Soviet Union in 1917. Russian presence led to mass uprisings in 1794 and then again in 1863-1864. This was followed by Stalinist repression (between 1922 and 1953, 250,000 people were executed or deported to camps).

Further, Napoleon's adventure in 1812, and the German invasions in 1914-1917 and then in 1941-1945 resulted in a high human tribute. During the Second World War, 2.2 million people died.

It is worth noting that the western part of Belarus was independent from 1918 to 1921 and under Polish rule from 1921 to 1939.

This historical background has a significant impact on claims to national, cultural and linguistic sovereignty voiced by certain political parties and a very strong diaspora : 3.5 million people for a resident population of 10.5 million. This also largely explains the mixed feeling of the Belarussians towards Russia. On the one hand, shared experiences support a desire to cooperate, but, on the other hand, painful experiences of domination militate in favour of political independence. The country's disastrous economic situation since the implosion of the USSR, political pressure from Russia as

well as Mr. Lukashenko's election as President have favoured economic and political rapprochement with Russia (Treaty on the Russia-Belarus Union<sup>1</sup>).

Belarus was declared independent on 25 August 1991.

Belarus' geographic position in the centre of Europe, between Russia and Poland, which is now considered as the front line of the future enlarged European Union, partly explains the geopolitical battle currently opposing the USA, Russia and the European Union.

Last, the 1986 Chernobyl nuclear power catastrophe had a devastating effect on Belarus since Chernobyl is very close to the Ukraine/Belarus border since much of the radioactive fall-out crossed the border. The Belarus population had to be evacuated to far off areas and suffered considerable health problems.

### **Demographic, economic and social data**

#### Facts and figures<sup>2</sup>

**Capital:** Minsk

**Size:** 207,600 sq. km.

**Main cities:** Gomel, Vitebsk, Grodno, Mogilev, Baranovichi, Brest, Orsha, Pinsk

**Population:** 10,315,000 (1999 est.) +3,500,000 abroad (est.)

**Ethnic composition:** 80% Belarussian, 13% Russian, 4% Polish, 3% Ukrainian

**Languages:** Belorussian and Russian (official languages), Polish, Ukrainian

**Religion:** 50% Eastern Orthodox, 25% Roman Catholic, Protestant, Jewish, other.

**Infantile mortality:** 23°/00 (1995-2000)

**Life expectancy:** 68 years (1995-2000)

**Human development index:** 0.763 (60th in world ranking) (1997)

**GDP:** US \$ 53 billion (est. 1998)

**Per capita GDP/inhab.:** US \$5,200 (1998)

**Inflation rate:** 73.2% (1998)

**Total foreign debt:** US \$1,162 million (1997)

**GDP per sector:** Agriculture (20%), Industry (43%), and Tertiary (37%). (Est. 1997)

**Working population:** 4.3 million (1998)<sup>3</sup>

**Unemployment rate:** officially 2.3%<sup>4</sup>

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<sup>1</sup> The treaty on the Russia-Belarus Union was signed on 2 April 1997. The Charter of this Union was signed on 23 May 1997. On 25 December 1998 the treaty on the future Russia/Belarus rapprochement was signed. Last, the treaty on the creation of a unified state was signed on 8 December 1999 by Pres. Yeltsin and Pres. Lukashenko. There are plans to harmonise legislation and develop a common policy on customs and defence matters by 2005. This entails creating a common military force and the possibility for Belarus to benefit from Russia's nuclear protection if attacked, even though the Constitution forbids the State from entering into defence alliance treaties. The agreement provides for two distinct sovereign entities, although it also provides for the creation of specific Union organs (a Supreme Council composed of the heads of the executive branch of the two countries, a Parliament and a Court.

<sup>2</sup> Re: Etat du Monde 2000, La découverte, and the website [www.photius.com](http://www.photius.com)

<sup>3</sup> Belarus includes retired people and students in this figure.

## Economic situation

It is difficult to paint a complete picture of the Belarussian economy because much data is deliberately hidden. But it is common knowledge that Mr. Lukashenko's policy favouring a return to a State-controlled economy has driven away both local entrepreneurs and foreign investors although the country has a highly qualified labour force. Agriculture is still dominated by the coexistence of the Soviet era, *i.e.* the kolkhoz (collective farms) and the sovkhoz (State farms), on the one hand, and private plots of land, on the other. Further, the State still controls the main industrial products, sales prices, currency exchange rates, etc.

Belarus has a strong agricultural tradition but yields are low. A large part of the industry has come to a total standstill since collapse of the ex-USSR industrial system. The main industrial exports are agricultural machines and rolling stock (trucks, tractors), plus a few petro-chemical and agri-food products. Belarus has no natural sources of energy. Fuel and coal are imported from Russia at preferential rates (by virtue of the Union Treaty), thus creating strong dependence. Nearly all electricity comes from thermal power stations. The trade balance is recurrently negative.

Last, estimates show that more than half the population lives below the poverty threshold<sup>5</sup>.

### **President Lukashenko era**

Mr. Lukashenko was elected president of the Republic in July 1994. He rapidly tried to increase the prerogatives of the executive branch thus decreasing the powers of the legislature and the judiciary. He called upon the electorate not to vote in the legislative elections of 1995 (a voting rate below 50% empowering him to dissolve the parliament); he systematically ignored decisions of the Constitutional Court declaring his decrees unconstitutional. When, in July 1996, the 13th Soviet Supreme (parliamentary assembly) refused to extend his term of office from 5 to 7 years, to vote in favour of the creation of a second legislative chamber which members he would select and to accept power limitation of the Constitutional Court, he decided to have his reforms adopted through a referendum.

The results of this national consultation of 24 November 1996, whose pro-Lukashenko outcome was highly contested, empowered the president to amend the constitution and, thus, to grant himself nearly full powers (despite the decision of the Constitutional Court that the outcome of the referendum was not binding). Mr. Lukashenko immediately dissolved parliament and extended his presidency until 2001. He then convened parliament to constitute a new assembly. Only his partisans responded to the invitation which resulted in the parliament being composed exclusively of Lukashenko backers. **Since the referendum, which was contested both within the country and abroad, political opponents (*viz.* former deputies in the 13th Soviet Supreme and both sovereign and liberal parties) have ceaselessly denounced the illegality and authoritarianism of the presidency.**

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<sup>4</sup> The real rate is not available.

<sup>5</sup> 77% in 1997, according to the website [www.photius.com](http://www.photius.com)

Despite repeated protests from the international community and intergovernmental organisations<sup>6</sup>, Mr. Lukashenko has locked himself away in his ivory tower and now runs the country through decrees that sometimes contain articles violating the Constitution and international treaties whose primacy is recognised by the Constitution. Belarus has entered an era of autocracy.

On 16 May 1999, a coalition composed of members of the dissolved former Soviet Supreme, opposition parties and NGOs tried to organise «presidential elections» to protest against the enlargement of Lukashenko's mandate<sup>7</sup>. In response to this initiative, the authorities took 17 members of the opposition's electoral commission to court and pressured the newspapers into silence.

After these events, later in 1999, the authorities led a campaign against political opponents and other members of civil society, especially demonstrators, independent media and NGOs. Several political opponents disappeared under very dubious conditions thus clearly illustrating government repression<sup>8</sup>.

During the summer of 1999, there seemed to be a few signs of political improvement: in order to smooth over relations with the West and to hold legislative elections in October 2000, the Government recognised the need to start talks with the various political parties and civic movements. With this in mind, a coordination group was set up, led by Mr. Sazonov, an adviser to the President who was supposed to negotiate with the various opposition groups on a number of topics such as a new electoral law on a free, equitable electoral procedure, the question of the opposition's access to the media, and the scope of authority of the newly elected parliament. But on 11 February 2000, Mr. Lukashenko promulgated a new electoral law which did not comply with Council of Europe and OSCE requirements and did not take any of the opposition's proposals into account<sup>9</sup>. Hence the opposition called for a boycott of the future legislative elections.

## September 2001 presidential elections

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<sup>6</sup> Council of Europe: On 16 September 1992, Belarus obtained the special-guest status which authorised it to attend sessions of the Parliamentary Assembly. On 12 March 1993, Belarus applied for admission to the Council. But following the constitutional amendments adopted in 1996, which were seriously criticised by the Venice Commission (See opinion of the Commission, 1996), the Parliamentary Assembly suspended (but did not withdraw) Belarus' special-guest status on the grounds that the new constitution was illegal (non respect of minimum democratic standards, and violations of the principles of separation of powers and the rule of law). The Council of Ministers decided to maintain its assistance activities, in particular the ones that provide support for civil society, and to send a joint investigation mission (together with the EU) to assess the situation in Belarus. In January 1998 a Council of Europe liaison officer for Belarus was appointed.

In December 1998, the procedure for admitting Belarus to the Council of Europe was suspended. The Council hopes that Belarus will guarantee the independence of its magistrates, show goodwill towards, and cooperate with, the opposition, and adopt electoral laws that lead to free, equitable and fair elections.

The European Union: In December 1996, reacting to Mr. Lukashenko imposition of an authoritarian regime, the European Parliament called for the suspension of all assistance programmes, except the ones designed to support democracy under the TACIS programme. The procedure underway to ratify the EU/Belarus partnership and cooperation agreement signed in 1995, including the part on trade relations, was suspended by the Parliament, and then, in 1997, by the Council, as requested by the opposition.

<sup>7</sup> According to the 1994 Constitution, Mr. Lukashenko's term of office should have ended in 1999. As the opposition does not recognise the amendments to the Constitution, which the authorities introduced in 1996, and which allowed Lukashenko to extend his term of office until 2001, they decided to organise elections at the originally scheduled time, *i.e.* in May 1999.

<sup>8</sup> See chapter in this report devoted to «Human rights: the overall situation»

<sup>9</sup> The elections schedule is now decided by the President and not the Parliament anymore. Any person sentenced by a court or even simply detained by the police loses the right to stand for office. The rights of the opposition groups, and even equal access to the media, are no longer guaranteed, etc.

The September 2001 elections seem crucial for the future of the country. Regardless of the outcome or accuracy, their impact on civil society is already important. The opposition, with the support of western diplomats, is trying to organise itself, in particular by designing a strategy and selecting a common candidate. Civil society, with the help of NGOs, is preparing to observe the elections. This initiative, supported by the OSCE, and mandated by the OSCE Parliament and the European Union, and the United States, has caused the authorities to become even more rigid. For example, they accuse the Civic Initiative Centre, which brings together NGOs engaged in establishing a network of independent observers, of being an illegal (*i.e.* not registered) organisation and thus legally banned<sup>10</sup>, in other words, the CIC could be indicted for violating the law. Mr. Lukashenko and his government, moreover, have not hesitated to attack the OSCE delegation in Belarus several times.

Despite this pressure, during a meeting in Paris on 5 July 2001, the European institutions (European Commission and Presidency of the European Union), the parliamentary troika (European Parliament, OSCE Parliamentary Assembly, and the Council of Europe), the OSCE representatives and the National Democratic Institute (an American NGO) re-confirmed their support and their willingness to participate in the independent electoral observation system established at the local level<sup>11</sup>.

Furthermore, everyone involved in this election appealed to Mr. Putin to pressure President Lukashenko into guaranteeing that the elections would be free and multi-party.

### Overall political structure

Since the 1996 amendments to the Constitution<sup>12</sup>, which gave the President considerably more power, Belarus has had a strong presidential regime. Separation of powers, guaranteed by Art. 6 of the Constitution, is now limited to a formal expression since the President dominates and controls both the legislature and the judiciary.

#### The Executive

**The President of the Republic:** guarantor of the Constitution, fundamental rights and public freedoms. He defines the main lines of both domestic and foreign policy, represents the State abroad and within international organisations, ensures the safety and integrity of the territory and economic/political stability, as well as continuity of State and collaboration among State institutions.

As Commander-in-Chief of the Armed Forces (Art. 84 para. 28), he can declare a state of emergency in the event of natural disaster, or any threat to the population, territorial integrity or survival of the State (on condition of approval by the Council of the Republic within three days).

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<sup>10</sup> Official statement from the Ministry of Justice on 16 August 2001.

<sup>11</sup> The OSCE Declaration, 9 July 2001, stresses the importance of four criteria central to free and equitable elections: a transparent electoral process, opponents' access to state media, no harassment of and threats to opponents, and introduction of real powers in the new parliament.

<sup>12</sup> The first constitution in the post-Soviet era is dated 15 March 1994, and was revised on 24 November 1996, the day of the referendum.

He can issue decrees which have the force of law and other instructions, insofar as they respect the Constitution (Art. 85).

The President is elected by direct universal suffrage for 5 years, and cannot exercise more than two terms. Candidates can only stand for election if they are at least 35 years of age and have the signature of 100,000 voters (Art. 81). Elections are only valid if over 50% of the citizens on the electoral rolls participate. Mr. Lukashenko took advantage of amendments to the Constitution in 1996 to extend the duration of his term from 5 to 7 years (Art. 144)<sup>13</sup>.

In all his personal responsibilities, the President is assisted by an institution devoted wholly to the formulation and monitoring of presidential policy: the **Presidential Administration**.

**The Government:** accountable to the President and Parliament, and responsible for exercising executive powers. The Prime Minister is appointed by the President, with the approval of the House of Representatives. (According to Art. 106, if the representatives reject the candidate proposed by the President twice, the President can appoint him without approval and dissolve the House). The Government is composed of the Prime Minister, his ministerial group (a few co-workers, as staff «representatives») and approximately to 25 Ministers. The President, at his own initiative and whenever he wants, can dismiss the Prime Minister or any other member of the Government.

The Government can ask the House of Representatives to vote a motion of confidence in his programme. If the House refuses, the President can either accept the resignation of the Council of Ministers or dissolve the House and call new legislative elections.

### The Legislature

**The Parliament:** bicameral since 1996. It is composed of the House of Representatives (110 deputies elected through universal suffrage) and a Council of the Republic (to represent the regions - 8 representatives of each region plus the representatives of the districts of Minsk), re-elected every four years.

The House of Representatives may be dissolved if it adopts a no confidence vote, if it rejects the candidate proposed by the President for the post of Prime Minister twice in a row, or if the Constitutional Court recognises that it has committed a gross violation of the Constitution (Art. 94). The duration of the two parliamentary sessions shall not exceed 90 days (art 95). Art. 143 of the new Constitution provides that the composition of the first House of Representatives shall be negotiated by the Soviet Supreme and the President. Only a handful (110) of former deputies who remained loyal to the President

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<sup>13</sup> Section IX of the Constitution, after the 1996 amendments, includes a series of final and transitional clauses, and, in Art. 144, stipulates that the term of office of the current President of the Republic should be calculated as of the date of entry into force of the new constitution. This provision enabled Mr. Lukashenko to claim that the starting date of his 5-year term was 1996 date of entry into force of the new constitution, and not the date of his election (1994), and thus justifies his remaining on seat until 2001, although the presidential elections were supposed to be held in 1999.

were involved in this negotiation. The representatives were very carefully selected by the President in November 1996.

Mr. Lukashenko's mode of government, i.e. through presidential decrees, reduces the role of this Assembly to sanctioning such decrees by ratifying them or converting them into laws. Currently, and particularly for the last two years, the President has ignored the Parliament and made laws himself. Since 1996, when the Constitution was amended, the President has disposed of very extensive law-making powers e.g. any draft law with implications for State finances can only be discussed in Parliament with the consent of the President (Art. 99). Furthermore, in the event of «emergency or necessity» (which Mr. Lukashenko interprets very broadly), the President can promulgate decrees with the force of law, without the need for the representatives to delegate the related powers (Art. 101). These decrees, in principle, are supposed to be confirmed by Parliament *a posteriori* (to invalidate an enactment requires a majority of 2/3rds of both chambers).

The initiative for law-making falls, in principle, on the Parliament (Art. 99), but, here again a presidential decree largely outweighs this principle. Presidential decree no. 99 of 4 April 1998 «*Questions concerning the legislative activities of the Republic of Belarus*» introduces a very complex extra-parliamentary procedure as a prerequisite to the right to put a proposed law on the agenda of the Parliament. The proposed law first has to be submitted to the National Legislative Centre (created by the President's office) and bear proof of its great necessity. At this stage, the proposal can already be rejected by the experts of the Centre, or members of Government or the President. If it is approved, it is entered on the agenda of a parliamentary session. This procedure does not apply to draft laws coming from the President. The decree stipulates that amendments introduced by Parliament are to go through a very lengthy procedure: before being discussed in a session, the draft amendment must be approved by their authors, then sent to the National Legislative Centre and to the President. If the proposal is rejected by any of this three, Parliament cannot discuss it. Even if the proposal is approved, Parliament does not have time to discuss it since the Assembly sessions are too short (Art. 95 of the constitution limits the duration of the sessions to three months and it is almost impossible to get the approval of the authors, the Centre and the President in so short a time). The ultimate plan is to make the National Legislative Centre responsible for the preparation of all texts for future laws.

### Judicial system

The Constitutional Court, the Supreme Court and the High Economic Court are the country's three highest levels of jurisdiction. But all of the judiciary is subjected to strong pressure from the President and no longer exercises any control over the actions and decisions of the executive branch.

**The Constitutional Court:** since he became president in, President Lukashenko has systematically ignored all Court decisions that establish the unconstitutionality of his decrees and has ordered the other government institutions to do the same. Amendments to the Constitution in November 1996 placed the Court under the control

of the President who personally appoints 6 of its 12 members, including the Court President. The other six members are appointed by the Council of the Republic. The number of institutions that can bring a case before the court has been reduced and, furthermore, the court can no longer act on its own initiative. In November 1996 five judges, including the president, resigned in protest and another judge, Judge Pastukhov, was dismissed by presidential decree shortly thereafter. On 4 March 1997, a new Constitutional Court was established, composed of 11 judges (instead of 12 as provided for in Art. 116 of the Constitution). Mr. Lukashenko appointed the majority of them. Significantly the Court's first decision was to validate the presidential decree declaring the validity of the results of the referendum.

**Other jurisdictions:** The new constitution is far from guaranteeing the independence of the judiciary<sup>14</sup> (even though Art. 110 and Art. 6 bring up the principle of the independence of judges). The status of the judges is not protected. The Constitution (Art. 111) simply mentions that the system for appointing judges and their dismissal shall be determined by law. In other words, the Constitution does not provide any protection against dismissal for political reasons. Furthermore, all the ordinary judges are appointed by the President. Judges in the Supreme Court, after appointment by the President, are confirmed by the Council of the Republic, but only the President can dismiss them.

Furthermore, the law empowers local authorities to call upon a qualification commission to investigate irregularities (including procedural ones) committed by the judges. If the judge is recognised as guilty, he can be dismissed. This procedure increases the risk of frequent abuse since overworked courts commit procedural irregularities very often. Actually, all the procedures relating to the confirmation of post, discipline and dismissal of judges are incompatible with the principle of independence and impartiality of the judiciary. «The President of the Republic thus has absolute discretionary powers concerning the appointment and dismissal of judges»<sup>15</sup>.

## Being a lawyer

Here again, the Executive, via the Ministry of Justice, has excessive custodial powers over the lawyers in their profession. Presidential decree no. 12 of 2 May 1997 on the activities of the lawyers and notary publics lessens their independence by obliging them to be a member of the centralised State college controlled by the Minister of Justice, i.e. the organ empowered to grant or withhold temporary licences required to exercise their profession. The licence has to be renewed every five years. This decree puts an end to all of the lawyers' free and private activities. Fees are paid initially to the College of Lawyers which gives 50% of them back to the lawyers themselves. The central College rules the nine districts of the Minsk bar, and the six regional bars. In these regional bars, local authorities exercise heavy political and social pressure on the lawyers in sensitive areas (children's education, telephone, access to housing, etc.). Lawyers are often charged or threatened when they work on defence of political groups and other

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<sup>14</sup> See the report of the Special Rapporteur on the Independence of Judges and Lawyers, following the assignment he was given by the U.N. Commission on Human Rights. Publication date: 8 February 2001 (E/CN.4/2001/65/add.1)

<sup>15</sup> Idem.

opponents to the regime or on human rights issues. One permanent and direct threat is the impermanent nature of lawyers' licences<sup>16</sup>.

## **Chapter 2: Human rights: the overall situation**

It is undeniable that human rights and democracy have declined considerably since Lukashenko became president in 1994. Slowly but surely he has turned himself into the country's sole master, and refuses and reprimands all form of criticism.

The international community is continually faulting Belarus<sup>17</sup> for violating international law, in particular universally recognised democratic standards. Recently, Belarus had its special-guest status at the Parliamentary Assembly of the Council of Europe suspended<sup>18</sup>.

The political climate is especially tense and deleterious as the September 2001 presidential elections draw near. This has led the Executive branch to increase repression against anyone who expresses «divergent» opinions, e.g. political opponents, independent media, NGOs. The Belarus authorities are accusing Europe, and the United States even more so, of financing subversive activities designed «to upset the course of history» during the forthcoming elections. Repression is exercised through legal channels, i.e. publication of presidential decrees, and by using the State's administrative services and security forces. Human rights are actually at the heart of the electoral campaign and constitute a real political stake.

A study of the serious violations of freedom of action for associations and defenders of human rights (See Part B) clearly portrays the overall situation of human rights in Belarus, both on means and methods, and on people responsible for and perpetrators of these violations. It brings out the basis of the policy wielded by the highest authorities of Belarus who are seeking to control civil society entirely and eliminate opponents. The Observatory has highlighted out some particularly serious situations.

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<sup>16</sup> Example: the case of Vera Stremkovskaya presented in detail at the end of this report.

<sup>17</sup> See footnote no. 6 and the recent resolution of the European Parliament dated July 2001, no. EP 307.286.

<sup>18</sup> Decision of the Council of Europe's Parliamentary Assembly, 13 January 1997.

## **Prisoners of conscience and forced disappearance**

The year 1999 was marked by the disappearances of a number of well-known political opponents but also by an long list of political opponents being indicted under common law<sup>19</sup>; most of them belonged to the 13th Soviet Supreme, which has been dissolved, or were former workers of the Presidential Administration.

On 7 May 1999, during the opposition's campaign for alternative presidential elections, the former Minister of the Interior, Yuri Zakharenko disappeared. A few years earlier, he had resigned from his post because of a disagreement with the policies of the President and his entourage. As an ex-member of the security forces, he was apparently planning to form a free union of officers (police and army); his activities in the opposition were perceived as a threat to the regime. In September 1999 Viktor Gonchar, First Vice President of Parliament and President of the central electoral commission, and Anatoly Kraszovsky, a businessman, were kidnapped in broad daylight. Then, in July 2000, Dimitri Zavadsky, a cameraman for a Russian public television channel (ORT), disappeared while on his way to the airport to meet a colleague. He had been the President's personal cameraman before being imprisoned for two months in 1997 for reporting on breaches of security along the border between Belarus and Lithuania.

Disappearances are central to the present electoral campaign, during which, week after week, focus is placed on people in authority close to the President<sup>20</sup> and who are said to have a hand in these disappearances.

The security forces, which enjoy total impunity, are suspected of having played an major role in these kidnappings. So far, none of the official investigations have produced any tangible results. The latest information from the *Procurature* office indicates, first, the people suspected of being behind the assassinations of disappeared persons and, second, the names of the cemeteries where the disappeared may have been buried. These revelations, backed by written documents, have emerged following the strange death of two investigators involved in these affairs and the flight abroad of two others.

## **Inhuman and degrading treatment**

Ill treatment and police brutality are commonplace in Belarus, especially towards political opponents and peaceful demonstrators. There is an abundance of testimonies by victims. Yet, investigations following complaints lodged by victims are often so partial and slow that they come to naught. In many cases the system guarantees impunity for the perpetrators of these acts. Furthermore, the conditions of detention in the prisons and in preventive detention centres are far below international standards and, consequently, are assimilated to cruel, inhuman and degrading treatment. Prisoners are underfed, receive inadequate medical treatment, and are held in overcrowded cells with

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<sup>19</sup> See OSCE Note of 28 February 2000. Mention is also made of politically motivated judicial cases concerning the following people: Yuri Bandazhevsky, Mikhail Chigir, Edward Eidan, Yuri Feoktistov, Vladimir Khilko, Andrei Klimov, Vladimir Kudinov, Vassili Leonov, Tatyana Leshchinskaya, Viktor Logvinets, Yevgeni Murashko, Vladimir Pleschenko, Valeri Schukin, Vassili Starovoitov, Nikolai Statkevich, Ales Surov.

<sup>20</sup> Youri Sivakov, former Minister of the Interior, now 2nd Deputy Chief of the Presidential Administration, and Victor Sheiman, Public Prosecutor.

poor ventilation and heating. All these practices were denounced by the UN Committee Against Torture during the 2000 examination of the 3rd periodical report on Belarus<sup>21</sup>.

### **Capital punishment**

The death penalty is still applied, and the number of executions is high. According to data obtained locally but not confirmed by official sources, 74 people sentenced to death were shot in 1998, 68 in 1999 and 36 in 2000. These figures, squared against the country's population, makes Belarus one of the countries with most frequent recourse to capital punishment. The only people condemned to death are adult men who have committed homicide (recently the maximum age for the death penalty has been lowered to 65 years). The cruelty of the system lies in the following elements: the condemned person and his relatives are not told when or how he will be executed, the services of a priest are not allowed, the family cannot recover the body, no information is provided on the place of burial, and no psychological support is provided for the officers who perform the execution. Further, for statistical purposes, some condemned prisoners are forced to confess to having committed unsolved crimes.<sup>22</sup>

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<sup>21</sup> See Conclusions and Recommendations of the U.N. Committee Against Torture dated 20 November 2000 (CAT/C/XXV/Concl/2/rev.1).

<sup>22</sup> Discussion with Mrs. Lubov Luneva.

### **Chapter 3: Belarus human rights commitments**

#### **Constitutional protection**

Section II of the Constitution is devoted entirely to individual rights and freedoms. Safeguarding them stands out as a supreme goal of the State (Art. 21). This includes the rights set out in the Constitution and the law, as well as rights and freedoms stemming from Belarus' international obligations.

Special mention is made of:

- the principle of equality before the law, and non discrimination (Art. 22)
- possible restrictions to liberty for reasons of national security, public order, the protection of morals and health of the population (Art. 23) (possibility to suspend rights, by virtue of Art. 63, in state of emergency or martial law ; but the right to life, prohibition of torture, presumption of innocence and freedom of religion, etc. are rights that may not be suspended);
- right to life, but possibility for a jurisdiction to apply the death sentence for particularly serious crimes (Art. 24);
- safeguarding personal liberty, inviolability and dignity (Art. 25), and the ban on torture, cruel and inhuman treatment and punishment, and medical experiments without prior consent;
- presumption of innocence, i.e. guilt must be proven (Art. 26);
- right to private life i.e. privacy of correspondence and communications, protection of one's honour and dignity (Art. 28);
- right to security and protection of private property (Art. 29);
- freedom of circulation and movement (Art. 30);
- freedom of religion, thought, belief and expression (Art. 32), prohibition of State censorship and monopolisation of the mass media (Art. 33);
- right to information but possibility of restrictions imposed by legislation (Art. 34);
- freedom to hold assemblies and demonstrations so long as they do not disrupt law and order (Art. 35);
- freedom of association (Art. 36);

- freedom to participate in public life, participate directly in the administration and affairs of State (Art. 37);
- right to vote freely and to be elected on the basis of universal, equal, direct or indirect suffrage by secret ballot (Art. 38);
- ban on forced labour other than through verdicts of a jurisdiction or state of emergency or martial law (Art. 41);
- right to private property and its inviolability (Art. 44);
- right to the protection of one's rights before a competent, independent and impartial tribunal (Art. 60) and to bring one's case before international human rights organisations of which Belarus is member. Right to legal assistance to defend one's rights (Art. 62);
- right to health care (Art. 45), right to education, etc.

### **Belarus and international law**

Belarus recognises the supremacy of the principles of universal international law over the laws of the Republic, participates in international organisations and has ratified many international treaties. Belarus, «on paper» cannot be accused of being reluctant to give consideration to human rights.

#### State of ratification

##### *General Conventions:*

- International Covenant on Civil and Political Rights (ICCPR) + Declaration on Art. 41 of the Covenant + its first optional protocol (1966);
- International Covenant on Economic, Social and Cultural Rights 1966).

##### *Humanitarian law:*

- Convention for the prevention and the repression of the crime of genocide;
- Convention on the imprescriptibility of war crimes and crimes against humanity;
- The four Geneva conventions of 12 August 1949 and the two additional protocols of 1977;
- 1980 Convention on classical weapons of indiscriminate character that produce excessive traumatic damage + protocols I, II, III (but not protocol IV of 1995 nor the 1996 amended version of protocol II).

##### *Slavery, traffic in persons, forced labour, torture:*

- Slavery Convention (1926) as amended by the Protocol of 7 December 1953;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, (1956);
- Convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (1949);
- Forced Labour Convention (ILO, 1930);
- Abolition of Forced Labour Convention (ILO, 1957);

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

*Protection of workers:*

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (no. 87);
- ILO Employment Policy Convention;
- ILO Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service.

*Protection of women and children:*

- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Rights of the Child.

*Conventions on discriminations:*

- International Convention on the Elimination of All Forms of Racial Discrimination;
- International Convention on the Suppression and Punishment of the Crime of Apartheid;
- International Convention against Apartheid in Sports;
- ILO Equal Remuneration Convention;
- UNESCO Convention against Discrimination in Education;
- ILO Discrimination (Employment and Occupation) Convention.

*European conventions:*

- European Cultural Convention, October 1993;
- European Convention on Information on Foreign Law, October 1997.

Belarus participation in intergovernmental organisations

Belarus is a member of:

- The UN - On 20 August 1999 the Government of Belarus committed itself before the UN Sub-Commission on the Promotion and Protection of Human Rights to improve its human rights situation and, in particular, to ratify the European Convention on Human Rights, organise fair and equitable elections in 2000 and authorise universal access to the mass media.
- OSCE - (since 30 January 1992). Belarus signed the Final Act of the Helsinki Summit in February 1992 and the Charter of Paris in 1993. The OSCE Advisory and Monitoring Group (AMG) was established for observation purposes and to respond to violations of human rights in Belarus.
- The CIS - Belarus has been a member of the Community of Independent States since December 1993.

As for Belarus' relations with the European Union and the Council of Europe, discussions on partnership with the EU have been frozen and the only assistance

programme still enjoyed by Belarus is TACIS; as for relations with the Council of Europe, its special-guest status in the Parliamentary Assembly has been suspended<sup>23</sup>.

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## Part B. Associative freedoms

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### **Chapter 1. The right to form, to belong to and participate in organisations, the right to receive and use resources, right search, publish ideas, information and knowledge on all human rights**

The main instruments for the protection of human rights, at their forefront the Universal Declaration of Human Rights (art. 23), the International Pact on Civil and Political Rights (art. 22 to 24), the International Pact on Economic, Social and Cultural Rights (art. 8) – all of which have been ratified by Belarus – and the Declaration on Human Rights' Defenders (1998) guarantee the right to associate. This last declaration specifies all the rights which assure freedom of action to individuals and associations.

Article 5: In order to promote and protect human rights and fundamental freedoms, everyone has the right, individually or in association with others, at national and international level to form non-governmental organisations, associations or groups, to belong to and participate in them.

Article 6: Individually or in association with others, people have the right to a) hold, look for, obtain, receive and keep information on all human rights ... b) and to publish, communicate to others and to disseminate freely ideas, information and knowledge on human rights.

Article 13: Individually or in association with others, people have the right to solicit, receive and use resources with the stated aim of promoting or protecting human rights and fundamental freedoms by pacific means, in accordance with article 3 of the present declaration.

In addition, Convention 87 of the International Labour Organisation<sup>24</sup> which protects trade union freedoms lays down that, in addition to the right to create, without prior

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<sup>23</sup> See footnote no. 6.

<sup>24</sup> Convention on union freedoms and the protection of union rights, C87, adopted in 1948.

authorisation, the organisations of their choice and belong to them<sup>25</sup>, union organisations have the right to elect their representatives freely, organise their management and their activities, etc. ... In addition, «the public authorities must abstain from making any intervention which may limit this right or hamper its legal exercise».<sup>26</sup>

At present, these rights are seriously threatened by the different measures adopted by the President and his administration, who are seeking to bring under their control all the independent sectors of civil society (NGOs, unions and media active in looking for and disseminating information on the human rights' situation in Belarus), with complete disregard for the Belarussian constitution (art. 36) guaranteeing freedom of association.

### **Creation of organisations: the constraints of the registration and re-registration system**

In 1999, a new presidential decree (no. 2)<sup>27</sup> was adopted which brought great changes in the system for registering associations which until then had been a simple formality (1994 law on associations). All human rights organisations and unions, including those already legally registered, were obliged to conform to this new system which contains a number of particularly limiting clauses. Failure to conform means dissolution of the organisation or declaration of activities illegality.<sup>28</sup>

In early 2000, the Ministry of Justice re-registered 28 unions out of 42 and some 1,316 NGOs (of all types) out of 2,500.

There are numerous ways in which registration or re-registering can be refused. For example, Paragraph 11 of the aforementioned decree allows a committee, composed of the prime minister and the highest member of the State Security Council, to examine the contents, tasks and procedures as well as the territory covered by the activities of the organisation concerned, and to reject registration if the organisation fails to 'conform to legal requirements'. Four organisations, including the Helsinki 21 Committee have started legal actions, which are still pending, before the High Court, denouncing the illegality of the authorities' refusal to re-register them, arguing that these organisations lack legal grounds.

The requirement for a specified legal address is one of the most pernicious points of the system as most of the so-called legal addresses for such organisations belong to state-run bodies or companies whose local management is the responsibility of the local Executive Committee, an administrative body whose president is directly or indirectly

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<sup>25</sup> Article 2 of Convention C87 of the ILO, 1948.

<sup>26</sup> Article 3 of ILO convention C87, 1948.

<sup>27</sup> Presidential decree no. 2, 26 January 1999, 'On certain measures regarding the regulation of political parties, unions and other public associations'.

<sup>28</sup> Decree no.2, article 3, lays down that organisations which are not legally registered are illegal.

named by the President of the Republic. Private landlords, not very numerous in any case, come under pressure from the authorities to refuse to accept this sort of tenant.<sup>29</sup> Thus the authorities control access to a physical address, a compulsory part of the paperwork for the registration or re-registration of organisations, determining their legality, without any right to appeal.

**The case of unions** within companies is extremely problematic since, in addition to the minimum membership requirement set at 10% of a company's employees<sup>30</sup>, a letter from the company director confirming the legal address of the union on its premises is required for registration and re-registration.<sup>31</sup> Until now, many company heads have refused to issue the required letter, thus preventing the registration of at least ten unions.<sup>32</sup> The Congress of Belarussian Democratic Unions, whose local branches have not been able to register because of legal address problems has stated<sup>33</sup> that «the consequences of this non-registration are considerable, since employers refuse to negotiate with non-registered bodies, and the directors of these bodies are not authorised to enter the premises and are removed by force». Certain company managers have even gone so far as to withdraw a previously granted legal address, thus making the union illegal in a total arbitrary manner.<sup>34</sup>

All these measures<sup>35</sup> have been heavily criticised by the ILO's different bodies, as they constitute serious interference in the internal affairs of unions<sup>36</sup>, such interference being forbidden by ILO Convention 87.

**The independent media** face similar obstacles and interference. Presidential decree 11<sup>37</sup>, adopted in March 1999, obliged them to re-register as commercial bodies or as non-profit making organisations before January 2001.

First, the media face similar constraints regarding registration, in particular, they are required to produce a certificate specifying their legal address, in accordance with the

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<sup>29</sup> Specific example given by Gary Paghaniailo. In Orcha, the municipality pressured a private landlord to make him write a letter specifying that he refused to rent his premises to the local branch of the Helsinki Committee.

<sup>30</sup> Decree 2, art.3, para.2.

<sup>31</sup> Decree 2, art.3. The union must submit to the competent authority confirmation of its legal address.

<sup>32</sup> See the litigation brought to the ILO by a group of unions (the Belarus automobile and agricultural machine union, the Belarus agricultural workers union, the Belarus radio and electronic industry union, and the Congress of democratic unions. The case of the Belarussian Free Trade Union at the Grodno Fine Fibers Production Company is mentioned, also the Local Organisation of the Workers of the Minsk Instrument Plant, Minsk, 29/02/2000.

<sup>33</sup> See letter to the ILO dated 24 January 2001.

<sup>34</sup> See the case brought before the ILO by a group of unions (the Belarus automobile and agricultural machine union, the Belarus agricultural workers union, the Belarus radio and electronic industry union, and the Congress of democratic unions). The case of the Screen factory in Mogilev is denounced, also the problems faced by the Free Union of Auto-Industry Workers.

<sup>35</sup> In particular, the current application of presidential decree 2, making the registration and re-registration of NGOs and unions compulsory, which is its legal basis.

<sup>36</sup> Interim report of the Committee on Union Freedoms, case 2090, goes into this in detail, paragraphs 154 to 156 on the contravention of the clauses of ILO Convention 87, which came into force on 4 July 1950, and was ratified by Belarus in 1956.

<sup>37</sup> Decree 11, On the Regulation of State Registration and Termination of the Activities of Commercial Subjects, March 1999.

law on the media<sup>38 39</sup>. Second, on the basis of decree 11, the independent media, now obliged to register as commercial bodies, must demonstrate their commercial viability – or else be forced to declare bankruptcy.<sup>40</sup> Demonstrating such viability is practically impossible in the current context. The income of newspapers has been reduced considerably by the discriminatory measures adopted by the authorities towards them. State companies and bodies have been given instructions to avoid advertising in the independent media, with the result that the majority of these media only survive thanks to foreign aid<sup>41</sup>.

### **Receiving foreign aid: limitations placed by the public authorities**

In March 2001, the adoption of presidential decree 8, concerning ‘certain measures aiming to improve the regulations on the receipt and use of free foreign aid’ established a de facto system of authorisation by the President of the Republic, with respect to all foreign funding in support of the activities of NGOs involved in defending human rights, unions, the independent media or political parties. Moreover, this decree lays down that any form of aid, be it financial or material, must be the object of a registration certificate issued by the Department of Humanitarian Aid, placed under direct presidential management, before it may be used. Without this authorisation, penalties will be applied.<sup>42</sup> Moreover, the decree specifies that free foreign aid cannot be used for the preparation and management of events of a political or social character such as elections and referenda, nor can it be used for holding «public meetings, gatherings, street marches, demonstrations, strike pickets, strikes, nor for the design and distribution of campaign material or the organisation of seminars and other forms of campaigning destined for a mass audience».<sup>43</sup> A single violation of this rule can lead to the dissolution of the organisation benefiting from the aid.<sup>44</sup> The donor, be it a body representing a foreign organisation or an international NGO based in Belarus, might see itself forced to cease all activity.<sup>45</sup>

To cite an example, in early July 2001, the editorial board of the Volny Gorad newspaper in Kritchev had its computer, which had been received as foreign aid,

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<sup>38</sup> Art.10 of the Law on the Press and Other Mass Communications Media, 15 January 1995, no.3515-XII, Gazette of the Supreme Soviet of the Republic of Belarus, 1995, no.12, p.121; Gazette Zvyazda, 9 February 1995; Narodnya Gazette, 15 February 1995.

<sup>39</sup> According to Mikhail Pastukhov, director of the legal centre of the Association of Belarussian Journalists, «If an office or some kind of organisation allow their office space to be rented (by a non-state newspaper), then as a rule they start to have some serious problems – tax inspections and the like». (From an international NGO report, Article 19, «Belarus: the mechanics of repression. Obstacles to free and fair elections», May 2001, pp.49-50.

<sup>40</sup> See report in Article 19 report, p.49. The legislation applicable to commercial enterprises provides for the closure of newspapers in an extra-judicial manner, i.e. by the authorities, in 14 different ways. See also the 2001 annual report of the Helsinki International Federation of Human Rights.

<sup>41</sup> According to Mr. Pastukhov, director of the legal centre of the Belarus Journalists’ Association, almost all newspapers finance themselves with foreign aid.

<sup>42</sup> 30% of the foreign aid is deduced as taxation, and its use is regularly monitored by the authorities.

<sup>43</sup> Decree 8, article 4.3.

<sup>44</sup> According to the notes in appendix to the decree.

<sup>45</sup> Paragraph 5.3 of Decree 11.

confiscated. The authorities alleged that it was being used without prior authorisation from the Department of Humanitarian Aid.<sup>46</sup>

Decree 11 was adopted in the run-up to the recent elections. It has been the object of heavy criticism by human rights NGOs as one of its aims was to prevent the training of independent election observers with the help of the OSCE in the period prior to the presidential elections of 9 September 2001.

Moreover, the ILO's Committee on Union Freedoms stressed in a report<sup>47</sup> that «unions should not be obliged to obtain prior authorisation to benefit from international financial assistance with regard to union activities ...». Still according to this committee, «legislation forbidding acceptance by a national union of financial aid coming from an international workers' association to which it is affiliated brings into question principles related to the right to belong to international organisations».<sup>48</sup>

### **Major obstacles to the right to belong to and participate in organisations: the case of the unions**

Given the multiplication of government interference in internal union matters, in 2000, the unions of Belarus, gathered under two main organisations, the FBU (Federation of Belarussian Unions)<sup>49</sup> and the CDUB (Congress of Democratic Unions of Belarus)<sup>50</sup>, and together they brought a case which was taken up by the ILO<sup>51</sup>. In addition to the controls on foreign aid exercised by the President of the Republic<sup>52</sup>, the presidential administration has also become publicly involved in the election of union leaders. In February 2000, the head of this administration<sup>53</sup> gave instructions to the ministries and the presidents of governmental committees to intervene<sup>54</sup> in branch and congress union

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<sup>46</sup> Case reported by the Association of Belarus Journalists.

<sup>47</sup> Report of the Committee on Union Freedoms, case 2090, Belarus, para.168.

<sup>48</sup> Idem, note 47, article 5(b) of the DHRD provides for the right of individuals to form non-governmental organisations and groups, and to belong to them.

<sup>49</sup> The FBU claims that it has 4 million members. Historically, the FBU was the main organisation federating the unions under the previous regime. It continues to have administrative and statutory problems inherited from the old days. (Employers, students and retired people are also members). Nevertheless, over the last two years, the FBU has criticised the present government on a number of occasions. Its president, Mr. Gontcharik, was a candidate in the presidential elections held on 9 September 2001.

<sup>50</sup> The CDUB has four unions and 20,000 members. The local and branch organisations of these unions have been most severely effected by the authorities' refusal to re-register them. This led to a refusal of registration of the organisation itself.

<sup>51</sup> The Committee on Union Freedoms, which heard the case, made a first interim report in March 2001. After supplementary documents had been put forward by the unions, and after answers made by the government in response to certain new allegations, the Committee made a complete report, no.2090. A number of examples of government interference in union affairs are given. See paras. 157-168 of the complete report of the Committee on Union Freedoms.

<sup>52</sup> See comments on presidential decree 8.

<sup>53</sup> Mr V. Miasnikovich would seem to have been behind these instructions given during a working meeting on 11 February 2000.

<sup>54</sup> Those receiving instructions were made responsible for submitting to the presidential administration the names of candidates for the post of union president that they could recommend and support. They were asked to keep the

elections and in the elections for the congress of the Federation of Belarus Unions.<sup>55</sup> The implementation of these instructions had a number of impacts, including company managers and their representatives standing in the union elections and the election of certain of these people to posts as union representatives.<sup>56</sup> In one case, the minister of Agriculture was candidate in a union's presidential elections.<sup>57</sup> On this occasion, pressure was put on the outgoing president of the union, also a candidate, to leave his post.<sup>58</sup> Delegates with voting rights were the object of threats aimed at forcing them to vote for the minister-candidate.<sup>59</sup> In another case, workers were threatened with sacking 'should they fail to vote according to orders' during the process of selecting election candidates.<sup>60</sup>

The President also intervened in the question of the payment of union subscriptions. According to the Committee on Union Freedoms<sup>61</sup>, at the time when many private unions were criticising the delays in the payment of sums by companies and had made an appeal to the Constitutional Court regarding this issue, a presidential instruction stressing the 'inopportune character of paying part of the union subscriptions to higher level union structures' was adopted in January 2001. According to the Union of Automobile Industry and Agricultural Machinery Workers (UAIAMW)<sup>62</sup>, this instruction resulted in a ban on paying to union bodies subscriptions by any other method than cash. This goes against a decision of the Constitutional Court confirming the constitutionality of the principle of deduction at source, if the employee has so requested in writing.<sup>63</sup> In March 2001, the subscription sums owed to the UAIAMW totalled 300 million roubles.

It should also be mentioned that a number of so-called 'yellow' unions have been set up in companies where workers are already represented by a union. Such unions are set up on the initiative of (or under pressure from) company managers.<sup>64</sup> The case of the

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presidential administration informed of the nature of their participation in preparing and organising the branch union congresses.

<sup>55</sup> This is a direct violation of the right of workers to full freedom to elect their representatives protected by article 3 of ILO Convention C87 (1948). The Committee on Union Freedoms along with the ILO Commission has denounced this interference severely, affirming that «it cannot be tolerated».

<sup>56</sup> See the case brought before the ILO by a group of unions (the Belarus automobile and agricultural machine union, the Belarus agricultural workers union, the Belarus radio and electronic industry union, and the Congress of democratic unions).

<sup>57</sup> During the last presidential elections held at the congress of the Union of Belarus Agricultural Workers. Mr Alexandre I. Yaroshuk, whom we have met, is the current president. During the elections, he was the candidate opposing the Minister of Agriculture. Yaroshuk was elected with 80% of the votes.

<sup>58</sup> By way of an example, one week before the election, he was offered a job in the diplomatic corps.

<sup>59</sup> According to the current president of the union elected during these elections, the delegates were told «you won't get home if you vote for him».

<sup>60</sup> Information provided by the president of the Automobile and Agriculture Union of Belarus, Mr Alexandre Bukhvostov, one of those who brought the case to the ILO.

<sup>61</sup> See the Committee's report to the ILO, case 2090, par.163.

<sup>62</sup> Taken from the report by the Committee on Union Freedoms, par.135.

<sup>63</sup> See report of the Committee on Union Freedoms, par.160.

<sup>64</sup> See the case of the Tsvestotron factory, the Belarus Metallurgical Factory and the Retchiski Tool Factory in Gomel as mentioned in ILO documents. See the report of the Committee on Union Freedoms, para.171-172. According to

Integral industrial complex is interesting in this respect: the director made threats in order to oblige workers to withdraw from the existing union and join the new one under his control. Furthermore, the authorities refused to inquire into these actions.<sup>65</sup>

Another example of interference in internal union affairs concerns the minister of Justice. This ministry, in a press release issued on 12 January 2001, indicated that it would raise the question of the dissolution of the Federation of Belarus Unions if Mr. Gontcharik, the president of this organisation, stood as a candidate in the presidential elections on 9 September 2001, which turned out to be the case, alleging that this would be in contradiction with the constitution of the FBU. The Committee on Union Freedom judged that recourse to the dissolution of the FBU was unjustifiable in the light of the circumstances.<sup>66</sup>

### **Obtaining and publishing information: the example of independent media under pressure from the authorities**

Even though the Constitution forbids any monopoly of the media, the major media (television, press and radio), are under the effective, direct control of the presidential administration. The President personally nominates those responsible for programming and broadcasting (TV and radio). The major printing companies in Minsk are also a quasi-state monopoly, and come under the direct control of the presidential administration.<sup>67</sup>

Official controls require that all printing presses obtain authorisation from the presidential administration before signing a printing contract with an independent newspaper.<sup>68</sup> As a result, a number of newspaper boards have been unable to obtain a printing contract with state-owned printing presses<sup>69</sup> or get their existing contract with them renewed. The only independent printing press in Minsk that was capable of producing multi-page newspapers, Magic, is no longer operational as one of its two presses have been confiscated.<sup>70</sup>

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one union leader, the minister of Industry asked the company directors to persuade the workers to create new 'submissive' unions.

<sup>65</sup> In its case brought before the ILO, the Union of Radio and Electronics Industry Workers, part of the Federation of Belarus Unions, criticised the existence of the new, non-affiliated union within the Integral industrial complex, along with the actions of the director who «placed pressure on members of the unions and threatened them with dismissal if they refused to leave the official union for the sector». He also made efforts to restrict access by union leaders to the factory. The State Prosecutor's Office, when the complaint was brought before it, refused to open an inquiry and legal proceedings, «on the basis that there was no crime, even though the district prosecutor had given instructions to the director of Integral to ensure that all violations of union law ceased». The minister of Justice answered that he had received no declaration concerning the massive recruitment of members by the new union, adding that employees are free to choose the union to which they wish to belong. See the report by the Committee on Union Freedoms, paras.116-117.

<sup>66</sup> See the report by the Committee on Union Freedoms, para.166.

<sup>67</sup> See the report *Mechanics of Repression: obstacles to free and fair elections* (May 2001), section 19, p.41.

<sup>68</sup> Ibid, note 67.

<sup>69</sup> Ibid, note 67.

<sup>70</sup> From 1996 to March 2001, Magic printed four of the main independent newspapers, namely Rabochy, Nasha Svaboda, Narodnaya Volya and BDG, along with a small number of regional newspapers. See report, Article 19, p.41.

### The case of the Magic Printworks

The main printing press belonging to the Magic Printworks was confiscated on 16 October 2000, the justification being the repayment of the debts of the former owner of the machine, the Soros Foundation of Belarus<sup>71</sup>, to the tax authorities.<sup>72</sup> As the Soros Foundation refused to pay the exorbitant sum of \$US 73,000 requested, it was closed down by the authorities in 1997.

The confiscation of this printing press is politically motivated.<sup>73</sup> It came several weeks after the confiscation of 112,000 copies of Rabochy, a union newspaper, on Magic's premises, on 13 September 2000.<sup>74</sup> Moreover, a few days before the authorities decreed the seizure of the press, Magic's accounts were frozen without official explanation by the authorities and an inquiry opened a few days before the elections. An appeal against this decision made by the Open Society Institute, owners of the confiscated press, was rejected. In order to continue to honour its contractual commitments, Magic had to rent a new press from a private company. On 12 March 2001, the owner of this rented press ended the contract on the grounds that there was a backlog of outstanding payments.<sup>75</sup>

In such circumstances, the independent press is highly vulnerable, especially as the government forbids the importation of all newspapers printed outside the country. This is the result of the implementation of presidential decree 218, March 1997<sup>76</sup>, and of a more recent presidential decree, of 5 February 2001.<sup>77</sup> Both forbid the import and export of printed, audio and video material «which might harm the political and economic interests of Belarus, its security, and ...».

### The case of the Dien newspaper<sup>78</sup>

Recently, in July 2001, the state printer responsible for the printing of the independent newspaper Dien informed its directors that the print contract would be unilaterally ended

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<sup>71</sup> On 5 Sept 1997, the Soros Foundation of Belarus transferred ownership of the press to the Open Society Institute, a private USA foundation established by the investor and philanthropist George Soros. Magic was supported by this foundation, which made the printing press available to it.

<sup>72</sup> See report on Article 19, p.41, p.42.

<sup>73</sup> Opinion of Mr Pastukhov, director of the legal bureau of the Centre for Belarus Journalists, also see Article 19, p.42.

<sup>74</sup> On this occasion, the owner of Magic was held briefly. The chief editor of Rabochy was fined according to article 67 of the Administrative Code, for having supported a call for the boycotting of the parliamentary elections by the opposition in this edition of the newspaper. (Article 167 contained a special measure regarding boycott which was withdrawn on 9 October 2000). See report on Article 19, p.42.

<sup>75</sup> Ibid, note 74.

<sup>76</sup> See the report on Article 19, pp.6-7.

<sup>77</sup> Presidential decree 57, «On the validation of the rules for transport by physical persons, across the customs frontiers of the Republic of Belarus, of merchandise not destined to production or other commercial activity».

<sup>78</sup> Information obtained during our interview with the president of the Belarus Association of Journalists and the editors of Dien on 18 July 2001. See communiqué by the association on their website, **Erreur! Signet non défini.unibel.by** : 'Authorities harass independent newspaper Dien' 7 July 2001, 'Independent newspaper office robbed' 17 July 2001, and 'Independent newspaper Dien robbed again' 24 July 2001.

on 1 August 2001.<sup>79</sup> This decision came several weeks after the refusal of the printer to print requested additional copies of the newspaper.<sup>80</sup> In fact, in early July, printing was unilaterally suspended (but started again 24 hours later under media pressure), without any explanation from the media. Subsequently, via its director Mr Kazak, the printer made it known that they refused to print the newspaper, considering that the printing of further copies required prior notice, which had been given according to the newspaper's directors. On the following day, after negotiations with the management of the printing press, the latter accepted to print the usual number of copies of the newspaper, without the extra copies requested (which would have made 50,000 copies in all). For the newspaper, this created distribution problems and lost sales.

The newspaper's editorial board considers that this decision is politically motivated. The contents of the edition concerned, announced a week in advance, was highly political. It included an interview with Ivan Titenkov, then in flight in Moscow, a former leading member of the presidential administration, responsible for accounting and finance and close to President Lukashenko. In the interview, Titenkov criticised the president heavily, admitting possible links between the disappearance of political figures and certain high ranking figures of State.

During these events, the metal print sheets necessary for producing the newspaper had been hidden in the printworks by employees.<sup>81</sup> In addition, during the same month, July 2001, there were a number of carefully targeted thefts on the premises occupied by the editorial board of the newspaper. These thefts shed more light on the political motivations behind the various measures (suspension of impression, non-renewal of contract, removal of print sheets). In the night of 16-17 July 2001, individuals broke into the offices and stole the operating systems of the three editorial computers, leaving behind monitors and printers. Thus all the information on the 'disappeared' politicians, to be printed on 18 to 19 July, was stolen. During the night of 23 July, all the material necessary for the publication of a special edition on the disappearances in Belarus, of which 250,000 copies were to be printed, disappeared following a further theft of the newspaper's computers, a monitor and a notebook.

### Discriminatory measures

Independent newspapers have been the object of a series of discriminatory measures which create severe difficulties for them, especially in terms of achieving a certain financial balance. Their capacity to act is thus directly blocked. Discriminatory rates for printing and distribution reduce their income severely: the fees required by state printing companies are two to three times higher for independent newspapers than for the state press.<sup>82</sup> Distribution is controlled by the state<sup>83</sup>, and tariffs are four to five times higher

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<sup>79</sup> Information obtained on the Belarus journalists' website, **Erreur! Signet non défini.** in the article 'Independent newspaper Dien robbed again' 24 July 2001.

<sup>80</sup> Information obtained from the Belarus journalists' website, **Erreur! Signet non défini.** in an article entitled 'Authorities harass independent newspaper Dien', 7 July 2001.

<sup>81</sup> Information from the Association of Journalists of Belarus.

<sup>82</sup> Information provided by Mr Pastukhov, director of the legal centre of the AJB.

<sup>83</sup> The state monopoly on newspaper distribution is almost complete, thanks to state-owned companies like Belpotcha (post), and Belsoyuspechat (newspaper kiosks). See report on Article 19, p.43.

for independent titles, according to the Association of Journalists of Belarus (AJB). The State Press Committee has recognised this discrimination.<sup>84</sup>

Nor do independent newspapers have easy access to advertising revenue. A non-public circular, the existence of which is confirmed, issued by the ministry of the Interior, forbids state companies, administrative bodies and para-governmental bodies from taking advertising space in independent newspapers, on the grounds that «it is an important source of revenue»<sup>85</sup> for the independent media. Private companies are subject to indirect pressure, being under a constant threat of tax investigations by the competent authorities.<sup>86</sup>

### **Recurrent harassment**

#### Harassment by the administration

According to the Association of Journalists of Belarus (AJB), repeated tax inquiries are among the most efficient administrative methods used to put pressure on the independent media and paralyse their activities : their bank accounts can be frozen from the very beginning of the procedure, tax inspectors are present in the offices from the beginning of the procedure (which may last up to three months<sup>87</sup>), fines are imposed, and there is always a possibility of the paper being closed after a month of investigation.

Like NGOs, unions have been subject to repeated checks and investigations. The Federation of Belarus Unions had its accounts frozen for two months; its organisation was the object of an inquiry which only ended on 16 July 2001. On 17 July, the president of this union, also a candidate for the presidential elections, gave a press conference regarding documents establishing a link between the disappearance of politicians and the presidential administration. Three days later, the Federation's premises were searched by the tax authorities and the KGB.

#### Thefts of equipment

NGOs working to defend human rights<sup>88</sup> and the independent media<sup>89</sup> have been the object of repeated, targeted burglaries since the beginning of 2000. In cases reported to

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<sup>84</sup> Mr Podgainy, president of the State Committee on the Press, affirmed that postage rates are 1.9 roubles for independent papers as compared with 1 rouble for official newspapers. He recognised the discrimination and declared that as from 1 January 2002, the cost will be the same for all newspapers, namely 2 roubles. A case against this discrimination has been brought by the AJB and heard by the authorities. The ministry of Private Enterprise has recognised the discriminatory nature of the distribution tariffs in vigour.

<sup>85</sup> According to AJB information which obtained a copy of this secret circular in 1997.

<sup>86</sup> Ibid. Article 19 refers to this on p.47 of its May 2001 report.

<sup>87</sup> Article 19, mentions three cases of financial inspections of different newspapers, namely Navigny, BDG and Svobodnye Novosti, which lasted up to three months, during which time the newspapers' accounts were frozen. In two cases, these investigations led to fines of a few tens of dollars US for Navygny to \$US 1,500 for Svobodnye Novosti (p.40).

<sup>88</sup> In particular the Centre for Legal Aid to the Population chaired by Oleg Voltchek, the Centre for Human Rights chaired by Vera Stremkovskaya, and the Helsinki Committee for Belarus.

<sup>89</sup> The AJB mentioned the following cases: De Facto in Mogilev, Chag (Baranovitchy), Nasha Svaboda (Minsk), Pagonia (Grodno) and Dien.

us<sup>90</sup>, the computers, and in particular the hard discs<sup>91</sup> containing data essential to these bodies, are targeted. It is clear that such thefts are politically motivated, as shown by the two thefts in July which targeted the Helsinki Committee and Dien newspaper. Moreover, the computers of the Helsinki Committee in Minsk, stolen for the third time, from a building monitored by the authorities (the same building houses a listening service for the state security services), contained an unpublished list of electoral observers trained by the committee for the forthcoming presidential elections (including the names of the trained volunteers and observers), as part of the observation apparatus set up by civil society with the support of the OSCE. This apparatus is heavily contested by President Lukashenko.<sup>92</sup> Moreover, the computers stolen from Dien<sup>93</sup> newspaper, twice during July 2001, contained articles referring to disappearances in Belarus which were to be published in the newspaper, which has a total print run of 250,000 copies.

Moreover, criminal investigations started at the request of the organisations do not seem to have produced any tangible results. Worse still, the authorities take them as an opportunity to investigate the organisations before closing the case, according to Mr Pastukhov<sup>94</sup>, director the Legal Centre of the Association of Journalists of Belarus.

#### Harassment by the state security services

Pressures exercised by the state security services can be various. Tapping into telephone lines and implanting listening devices in apartments seem to be widespread and permanent practices with regard to the human rights organisations interviewed.<sup>95</sup> Other forms of harassment mentioned include frequent visits by the security services<sup>96</sup>, telephone calls questioning the representatives of the bodies concerning their activities<sup>97</sup>, and anonymous telephone threats.<sup>98</sup> Journalists also frequently come under pressure and intimidation from the security services. Because of the publication of an article, they may be called for questioning. Sometimes this questioning involves all those

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<sup>90</sup> Two break-ins at Dien newspaper in July 2001, at the Helsinki Committee in Minsk (March and July 2001), and the Citizen's Legal Aid Centre in 2000.

<sup>91</sup> Scanners, printers, screens and other objects of value are not taken during these break-ins, see the case of the Helsinki Committee, night 8-9 July 2001.

<sup>92</sup> See part A, chapter 1.

<sup>93</sup> See above in the paragraph on Dien newspaper.

<sup>94</sup> After thefts have been reported, the authorities take the opportunity to question all editorial staff, to monitor where the computers came from, and then close the case.

<sup>95</sup> All the organisations encountered mentioned at least one of these forms of harassment.

<sup>96</sup> The case of the Centre for Legal Aid to Citizens.

<sup>97</sup> Following a presentation on the human rights situation in Belarus to the European Parliament, Valery Filippov, member of the Helsinki 21 Committee, received visits from the KGB, the state security services, and the Prosecutor's Office, inquiring into the names of the people who had invited him, the contents of his paper, etc.

<sup>98</sup> Oleg Voltechek, of the Centre for Legal Aid to the Population, actively involved in the unofficial inquiry into the disappearance of Zakharenko, received threats on her mobile phone from the security services as a direct effect of her work with which the aforementioned services were surely familiar.

working for a newspaper<sup>99</sup>, and, in certain cases, journalists may be taken outside the city perimeter by the KGB for questioning and 'discussions'.<sup>100</sup>

#### The case of Lubov Louneva, journalist

Mme Lubov Louneva<sup>101</sup>, journalist at Radio Liberty, deeply involved in the defence of human rights<sup>102</sup> was the object of intimidation, physical and verbal threats linked to her work on two occasions over a three month period. On the first occasion, men associated with the security forces (equipped with mobile phones and wearing leather jackets, one with a camera used to film Mme Louneva and her colleague from Radio Liberty). They were present at an appointment set up with a civil servant who wanted to give her some information concerning the disappearance of Zavadsky. Later, she recognised one of the security man as part of the inquiry into the disappearance of politicians. He is at present in political exile in the United States of America.<sup>103</sup> According to Mme Louneva, the civil servant in question was extremely pale. He did not come up to her to speak with her. However, one of the men present stated that she 'had a very dangerous job'. The second event took place a week later. Mme Louneva surprised some unknown men as they were trying to break into her flat on the 6<sup>th</sup> floor of a building. They dragged her by force to the building's lift, then opened a window to show her what might happen if she continued her investigations, adding an intimidating comment to the effect that she would do better to think about her son ...

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<sup>99</sup> See the case of the journalist Pavel Mazheikam, of the Grodno-based newspaper Pagonia, interrogated three times in one week by the security services following the publication of an article on 10 May 2001 about a small group until then unknown, the Council of commanders of the self-defence forces of the Belarussian people. The whole editorial team of seven people was also questioned by the KGB following the publication of this article. See press communiqué of 25 May 2001, information department, Viasna.

<sup>100</sup> Information obtained by the AJB.

<sup>101</sup> Met by members of the mission to Belarus.

<sup>102</sup> In 1999, she presented a report on torture in Belarus to the UNO Committee against Torture. She also worked on the issue of the death penalty and the disappearance of politicians. She also acted as a public defender for demonstrators arrested and arbitrarily charged.

<sup>103</sup> Mr Oleg Slutchek.

## **Chapter 2. Freedom to meet, the right to peaceful assembly, and the right to strike**

The freedom to meet and assemble peacefully, guaranteed by the Belarussian Constitution (article 35), and international instruments for the protection of human rights – in particular article 5 of the Declaration on defenders of human rights, according to which each and everyone has the right to meet and gather peacefully – is severely restricted in Belarus. This has been the case for a number of years now. Demonstrations and public opposition meetings are systematically followed by harassment of the demonstrators by the authorities (aggressions, arrests and detention, judicial proceedings, etc.).

### **Legal measures**

If they wish to be associated with a public event, NGOs must be registered or re-registered according to recent legislation. According to Viasna, numerous NGO activists are sentenced on the basis of article 167 (10) of the Administrative Code which sanctions the use of the name of a non-registered organisation. One of the many examples of this was the case of Pavel Severinets for the organisation the Youth Front in May 2001.

In addition, since May 1997<sup>104</sup>, the organisation of a demonstration of any sort – a gathering, meeting, march, strike picket, hunger strike – requires the organisers to request permission from the authorities, at least a fortnight before the event. The local authorities reserve the right to modify the time and the place of the event and, in a number of cases, refuse to give permission in a completely arbitrary manner.<sup>105</sup> In Minsk, authorised demonstrations, including strikes, can only take place in a location designated by the authorities, generally the Bangalore Square, located more than 3 km from the city centre. Banners with slogans are strictly checked – they must be registered – and the use of certain symbols, like the former Belarus flag, is forbidden. Municipal councils have the right to require organisers to be responsible for the cost of maintaining order. Numerous penal sanctions are laid down in Decree 5. For example, demonstrators may be charged for participation in an unauthorised demonstration, for obstruction to the work of the police, for use of unauthorised symbols, for shouting slogans against the President of the Republic.

In May 2001, a few months prior to the presidential elections, the President, via presidential Decree 11, increased the pressure on the NGOs, unions and political parties which are behind the most significant demonstrations, i.e. those of more than 1,000 people. This decree makes them responsible for maintaining order during the demonstration. The penalty for failure is the closure of the association, notably for «having caused considerable damage ... to the interests of the state and society».<sup>108</sup>

<sup>104</sup> In 1997, the presidential administration adopted Decree 5 on assemblies, meetings, marches, demonstrations, strike pickets. Of a highly restrictive nature, this decree was later cancelled. Law 114-3 of 30 December 1997 codified the exercise of the freedom to meet and demonstrate.

<sup>105</sup> See the report, Article 19, p.34, May 2001.

<sup>108</sup> Article 1.5 of decree 11 stipulates that «Only political parties, unions and other organisations, which name a person responsible for the organisation and management of the event, can organise meetings, gatherings, street

This decree also deprives simple citizens and other unregistered movements of the right to organise such demonstrations. This same decree lays down numerous motives for forbidding mass demonstrations. These demonstrations become subject to, for example, the «payment of costs regarding medical assistance, cleaning of the area after the demonstration» and other vague considerations like «the maintenance of public order and other circumstances influencing the maintenance of public security». According to this decree, it is the head of the Executive Committee in Minsk, directly designated by the President of the Republic, who takes the decision to permit or forbid a demonstration in the capital.

### **Repressive acts towards organisers and demonstrators**

The authorities undertake systematic, large scale actions to counter and repress organisers and demonstrators. According to data obtained, notably from Viasna<sup>109</sup> in 2000, the demonstration which led to the most significant repression took place on 25 March 2000, the day marking the proclamation, in 1918, of the independent People's Republic of Bielorrussia, which remained unrecognised by the Bolsheviks. More than 500 people were held in custody, including 36 journalists and 2 foreign diplomats who attended the event. Some of these persons were beaten up. 62 people were accused of having contravened the regulations for holding demonstrations on the basis of article 167.1 of the Administrative Code, and a number were fined or given a warning.

Recently, unauthorised demonstrations gave rise to a wave of arrests and severe police brutality. According to Viasna, on 21 April 2001, on the occasion of the Day for Mental Health, more than 1,500 people attended an event organised by the non-violent youth movement, the Aurochs, in the Gorky Park. 32 young people were arrested and then held after the police had declared to those present that it was an unauthorised event and asked people to leave. Four women demonstrators were badly beaten up, one of whom passed out.<sup>110</sup> After their trial<sup>111</sup>, a number of them were condemned to three days of administrative imprisonment (i.e. the equivalent of the time spent in prison after their arrest).<sup>112</sup> Furthermore, still according to Viasna<sup>113</sup>, on 18 May 2001, during protests held alongside the Congress of the Assembly of all Belarussians held by the President of the Republic, some tens of people were arrested. During the evening, members of the opposition formed a human chain along the Avenue Frantskysk Scarina. They carried pictures of disappeared people, including Dmitri Zavadsky, Yuri Zakharenko, Viktor Gonchar and Anatoly Krasovsky. According to Viasna, «men with

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marches, demonstrations and pickets at which more than 1,000 people are scheduled to participate». Article 1.2 «The political parties, unions and other organisations whose personnel has failed to ensure the orderly organisation or management of a meeting, gathering, street march, demonstration or picket, leading thereby to large scale damage or considerable harm to the legal rights and interests of citizens, may be dissolved according to the established regulations for having failed to satisfy the legislation on meetings, gatherings, street marches, demonstrations and pickets».

<sup>109</sup> Viasna, Report 2001 entitled *Review of Human Rights Violations in Belarus in 2000*, pp.9-10.

<sup>110</sup> Iryna Toutsik, Matvienka, Tatiana Marosava and Katsja Shaban were beaten. Mme Shaban was beaten on the head until she passed out. See Viasna press release of 21 April 2001.

<sup>111</sup> They were accused of having contravened article 167.1 of the Administrative Code.

<sup>112</sup> Ibid, note 109.

<sup>113</sup> See the Viasna communiqué for 18 May 2001.

shaved heads, in civilian dress, very muscular, using cell phones and refusing to decline their identity, surrounded members of the human chain and pushed them into an underground entrance». Valery Schouki, journalist and human rights activist, present at the time was severely beaten up by these men and then detained. Other participants were also beaten and then held. One of them, Vital Novikov, was repeatedly punched and kicked in the back by eight of these men, according to those present.<sup>114</sup>

#### Graffiti: an example of repression<sup>115</sup>

On 5 April 2001, at 23h00, a young man of under 18, Mikita Sasim<sup>116</sup>, was held and tortured by police belonging to Department 2 of the police station for the Moskovsky area of Minsk, on the basis that he was linked to graffiti of a political nature. He was repeatedly beaten and threatened with a further beating and of having his hair cut. Moreover, he was forced to sign a declaration in which he recognised his responsibility for Aurochs graffiti at a number of points in the city (bus-stations, walls, bridges). The police personnel present tied his hands behind his back, laid him face to the ground, and frightened him by brandishing an automatic rifle over his head. They also threatened to use an electric shock machine on him, which had just been brought in the premises. It was only at 18h30 on the following day, after having signed the police document, that he was released, without having had anything to eat during the day.<sup>117</sup>

### **The right to strike**

The right to strike, even though it is protected by Convention C87 of the ILO as an essential aspect of the unions' right to organise their activities<sup>118</sup>, is the object of excessive restrictions<sup>119</sup> heavily criticised by different ILO bodies. According to the ILO Expert Commission, recognition of the right to strike implies that this right can not be restricted, or even forbidden, except in cases of extreme national crisis or in the case of civil servants.<sup>120</sup> On the one hand, the Labour Code provides for legislative restrictions to the right to strike on an extremely broad basis, i.e. «when the interests of national security, public order, the population's health along with the rights and freedoms of others are at stake». <sup>121</sup> On the other hand, the President of the Republic has the power to delay, or even to stop, strikes during a period of up to three months for the same reasons.<sup>122</sup> This in fact can signify a definitive withdrawal of the right to strike since a legal measure stipulates that a strike cannot be started more than three months after it has been declared.<sup>123</sup> In addition, the legislation requires that the duration of the strike be specified before it has even begun, which obviously unduly limits the unions' freedom

<sup>114</sup> Ibid, not 113.

<sup>115</sup> The production of graffiti and slogans in the public way are considered as an infraction of the Penal Code under the heading hooliganism.

<sup>116</sup> His full account can be found in the Viasna press communiqué of 11 April 2001.

<sup>117</sup> Ibid, note 116.

<sup>118</sup> See article 3 of Convention C87 of the ILO.

<sup>119</sup> See the report of the Expert Commission, taken from the document Application of International Conventions on Work. International Labour Conference, 89<sup>th</sup> session, 2001. International Labour Office, Geneva, p.246ff.

<sup>120</sup> Ibid, note 120.

<sup>121</sup> Article 388 of the Labour Code. See the report of the ILO Expert Commission, cited above.

<sup>122</sup> Article 393 of the Labour Code.

<sup>123</sup> Article 388 of the Labour Code.

of action.<sup>124</sup> Finally, it is compulsory for all companies to provide minimum services during strikes.<sup>125</sup> These services required are excessive and should, according to the Expert Commission, be limited to public utilities and managed by an independent body.<sup>126</sup>

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<sup>124</sup> Article 390 of the Labour Code, and requirements relative to notification of strike action.

<sup>125</sup> Article 392 of the Labour Code.

<sup>126</sup> See the report of the ILO Expert Commission, cited above, p.249.

## **Chapter 3. Freedom of expression and opinion**

### **Access to official information**

Access to official government information is essential to the activities of organisations working for the defence of human rights and the independent media.<sup>127</sup> However, numerous measures restrict this access. The Belarussian government deprives the independent media of all official information.<sup>128</sup> Official documents are not communicated to the independent media ; high-ranking civil servants are not authorised to comment and must not grant any interviews ; journalists of the independent press are deprived of access to official events.<sup>129</sup> A licence is required to disseminate information of an official nature. Moreover, access to information of a diplomatic nature depends on accreditation issued by the ministry of Foreign Affairs. Finally, and in particular in provincial towns and cities, local police stations have set up accreditation systems for journalists wishing to obtain information from them.

#### **The case of Valery Schoukin**

In Spring 2001, Valery Schoukin, member of the AJB, human rights activist and former deputy of the 13<sup>th</sup> Soviet dissolved by President Lukshenko was sentenced to three months of detention<sup>130</sup> after having tried to attend a press conference given by the minister of the Interior regarding the disappearance of politicians in Belarus. As he was not on the official list of journalists issued for the occasion, he was refused access to the conference. He was seized by three policemen. The breaking of a pane of glass on the location of these events was enough to justify his arrest and sentence.<sup>131</sup>

### **Power of censorship and constraint exercised by the authorities**

Even though censorship is formally forbidden by the Belarussian Constitution<sup>132</sup>, and the Law on the Press and Other Mass Media (article 4), the authorities have censorship power over media which disseminate remarks which may be taken as defamatory and an attack on the dignity and honour of the President of the Republic and other people in positions of executive responsibility (article 5). They may also place sanctions on the publication of information on unregistered NGOs, political parties and unions. The Law

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<sup>127</sup> Article 6 (a) of the Declaration on Human Rights Defenders protects, amongst other things, access to information in terms of the way effects is given to rights and freedoms in the national legislative, legal and administrative systems.

<sup>128</sup> According to Mr Pastukhov, this practice, denied by the government, arises from a ministry of the Interior circular, a copy of which was obtained by the Association of Journalists of Belarus in 1997.

<sup>129</sup> By way of example, on 14 June 2001, independent journalists were refused access to the Central Electoral Commission during a visit by President Lukashenko. This was in clear violation of the Electoral Code which gives them access. According to the official version, the names of these journalists were not on the presidential list. See press release of 15 June 2001, Viasna information department.

<sup>130</sup> This sentence is due to two infractions, one of them being organisation and participation in actions of a nature to trouble civil order, according to article 186-3 of the Criminal Code. Mr Schoukin denies this saying that he merely attended the event, the All-Belarus Congress, on 18<sup>th</sup> May as a journalist. Apparently, he was held and severely beaten on this occasion. See press communiqué, 18 April 2001, 18 May 2001 and 12 to 22 June 2001, issued by Viasna.

<sup>131</sup> Ibid, note 130. According to Viasna, the breaking of the glass was entirely accidental.

<sup>132</sup> See Article 33 (2) of the Belarussian Constitution.

on the Press forbids this, just as it forbids revelation of so-called state secrets and other information which might be endanger the economic, political and moral security of the country. Should an article be published contrary to these measures, the State Press Committee or the Prosecutor may issue a warning. A second warning issued in the same year for a similar infringement allows the court to oblige the media at fault to shut down.<sup>133</sup>

By way of illustration, in 1999, following the publication of a small advertisement stating that 'the general parallel parliamentary elections', organised by the opposition, would take place on 14 May 1999, seven newspapers received warnings, on the basis of article 5 of the 1995 Law on the Press and Mass Media, for having 'called for a coup d'état'. More serious accusations of crimes against the state were made as well, but later withdrawn. More recently, the Brest Courier newspaper received a warning for having published information concerning an unregistered NGO, namely the regional Belarus Rada, an umbrella organisation for 100 NGOs, and for having affirmed its support for an opposition candidate.<sup>134</sup>

In 1999, nine warnings out of ten were issued to independent newspapers using article 5 of the same law. In March 2000, eight warnings were given using this article, of which four led to an appeal. So far, only one independent newspaper, Svaboda, extremely critical with respect to the government, has been obliged to close (in 1997) by judicial means.<sup>135</sup> Nevertheless, it would seem that the authorities hesitate to make use of this sanction<sup>136</sup>, even though they continue to issue lots of warnings.<sup>137</sup>

On 31 August 2001, the assistant-director of the State Press Committee, Vladimir Glushakov, directly censored two pages of two special issues of the private newspaper *Predprinimatelskaya Gazeta* (entrepreneurs' journal). The AJB noted that it was the second incident in a week. Mr Glushakov had already suspended the printing of *Rabochy* (Workers), another independent newspaper, several days earlier. The State Committee had thus contravened, by this direct intervention, the Constitution and laws of Belarus which ban censorship.

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<sup>133</sup> On this question, see articles 5 and 6 of the Law on the Press and Other Mass Media, adopted 19 January 1995, amended subsequently in 1996, 1998 and 1999. It is to be stressed that the State Press Committee also has the power to suspend, unilaterally, the activities of the newspaper for three months should the law be infringed, without any requirement to use legal channels. See article 16 of the Law on the Press on this.

<sup>134</sup> Information provided by the AJB, Association of Journalists of Belarus.

<sup>135</sup> The newspaper received eight warnings issued by the State Press Committee. It then re-registered under a new name, the *Navigny*.

<sup>136</sup> Example: Mr Podgainy, president of the State Press Committee, affirmed that the committee had not requested the closure of *Nasha Niva* newspaper, even though three warnings had been given to it.

<sup>137</sup> In 2000, the State Press Committee gave 42 warnings using the Law on the Press, of which 30 were confirmed by the courts, 8 rejected and 4 went on to arbitration. In 2001, the Committee recognised that it had lost four cases: two, against the newspapers *Nasha Niva* and *Navinki*, failed because the warnings were badly worded, and two others, against the *Courier of Brest* and the *Narodna Vola*, because of warnings which criticised these papers for disseminating information on unregistered organisations. Information provided during an interview with Mr Podgainy, president of the SPC.

On the same day, the police seized 100,000 copies of *Belaruskaya Maladzoyzhnaya*, an independent newspaper, on the premises of the Association of Students of Belarus. The Belarussian authorities put pressure on the official media to support President Lukashenko. On 31 August 2001, the state press agency, BELTA, disseminated a note from the Department of Politics and Society of the presidential administration to all regional newspaper editors recommending that they publish an interview with the writer Ivan Shamiakin in future issues. In this interview, the writer expressed his support for the outgoing president.

The AJB considers this state interference to be a violation both of Belarussian electoral law and of article 48 of the Law on the Press and Other Mass Media which forbids all interference in media editorialising.

### **Criminal proceedings following criticism of officials and policies**

Journalists who criticise the President of the Republic or an official may be the object of criminal proceedings for defamation, with a possible five year prison sentence.<sup>138</sup> Proceedings may also be taken for damages and interest for their critical remarks. This was the case of Sergeï Anisko, a journalist belonging to the Helsinki Committee, who was the object of criminal proceedings following the publication of an article criticising the Public Prosecutor of the Republic of Belarus, Mr Scheiman.<sup>139</sup> The journalist, recognised as guilty by the court, was unable to pay the fine and thus had his house confiscated. Recently, this same journalist was accused of criminal activity by the KGB for having revealed in an article that the security services had accumulated information and documents on the candidates in the presidential elections. The newspaper's editor himself was interrogated by the KGB on this matter.

#### The case of Yuri Bandazhevsky

Yuri Bandazkhevsky is a scientist of international repute and a specialist in medical research linked to nuclear radioactivity. He was the rector of the State Medical Institute (SMI) of Gomel, second city in Belarus. On 18 June 2001, he was found guilty and sentenced to eight years of hard detention on the grounds that he had requested cash-bribes from parents of students at the SMI of Gomel. The main witness' account, that of the vice-rector of the SMI, was disproved during the trial. Numerous legal experts, including a number with mandates from the OSCE, observed the trial and concluded that Mr Bandzhevsky had not had a fair trial. It is well known that this doctor's research revealed the harmful effects of the Chernobyl catastrophe on the population of Belarus, in complete contradiction with the official versions given by the authorities. Moreover, Mr Bandazhevsky had criticised the misuse of funds within the ministry of Health, which should have been used to support research in this area.

### **Detention for distribution of independent newspapers**

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<sup>138</sup> See Article 128 of the Penal Code on the defamation of an official.

<sup>139</sup> Mr Gary Paganaiilo, legal expert and vice-president of the Helsinki Committee, whom we met, supported this journalist.

According to Viasna, numerous distributors (unregistered, and therefore unlicensed) of independent newspapers, brochures and leaflets are arrested and then held as a result of their activity. The authorities' behaviour is a further restriction on freedom of expression and freedom of the press. By way of example, during the 1<sup>st</sup> May official holiday, Vladimir Vialchjin and Kirly Danko were held in Bieratsie for having given out copies of a special edition of Rabochy newspaper to passers-by. The issue contained material on Tchernobyl.<sup>140</sup> On 6 June 2001<sup>141</sup>, members of the Association of Students of Belarus were held for having distributed the newspaper Student, an officially registered publication. One student was seriously beaten (dislocation of an arm), and the police refused to call an ambulance. The students were released after the police tried to accuse them of posing a threat to public order.

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<sup>140</sup> See Viasna press release for 2 May 2001.

<sup>141</sup> See Viasna press release for 8 June 2001.

## **Chapter 4. Legal protection for human rights defenders and recourses**

### **Repressive measures against lawyers on account of their involvement with human rights defenders**

Access to the legal profession and its exercise is subject to serious hurdles, particularly for those who wish to become involved in defending human rights. Since 1997, private lawyers' practices have been forbidden in Belarus. All lawyers must be registered with the State College of Lawyers, controlled by the ministry of Justice. Admission to this college is the object of close monitoring by state officials, both from the ministry of Justice and other agencies, including the state security forces.<sup>142</sup> Furthermore, the license to exercise the profession of lawyer is only valid for five years and may only be renewed under certain conditions, which may include an oral exam.<sup>143</sup>

These measures which clearly fail to respect international principles on the role of the Bar and the administration of justice, have been denounced by the UNO special rapporteur on the independence of judges and lawyers of the Human Rights Commission, following a visit to Belarus in June 2000. The regulations of the College of Lawyers are extremely restrictive. For example, lawyers are obliged to register their movements on a daily basis. If they fail to comply, they may receive a warning from the college. A second warning issued in the same year is enough for the lawyer to be excluded from the profession.<sup>145</sup> Lawyers' clients must pay fees directly to the college, which takes 50% of the total, 20% as a tax, 30% for the college. The remaining 50% goes to the lawyer as a fee. In this way, the college has total control over lawyers' accounts. It may thereby check to what extent the lawyer is respecting the list of fees 'recommended' by the college.<sup>146</sup>

In regions, the control on lawyers is even closer. Access to a flat, to schooling, to a telephone line and even food depend directly on the good will of the local authorities. According to Mr. Gary Paganaiolo of the Helsinki Committee, pressure by the authorities is exercised in different ways : in social terms or maintenance. By these means, authorities have a significant influence on lawyers' practice of their profession.

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<sup>142</sup> See press release for 22 June 2000, published by the United Nations Organisation, summing up the report of the special rapporteur on the independence of judges and lawyers of the Commission of Human Rights, following a visit to Belarus in June 2000.

<sup>143</sup> Decree 12, 3 May 1997, 'On certain measures with a view to improving the activities of lawyers and notaries in the Republic of Belarus', article 1.2.

<sup>145</sup> Mme Dudareva, lawyer, refused to submit to these procedures and can no longer exercise the profession. Mr Paganaiolo has left the college.

<sup>146</sup> Information provided by Mme Vera Stremkovskaya, a lawyer met during the mission. As member of the Minsk College of Lawyers, she received a warning in spring 2000 for having failed to fill in her logbook on her professional movements.

### The case of Vera Stremkovskaya

Internationally recognised lawyer, President of the Centre for Human Rights of Belarus<sup>147</sup>, Vera Stremkovskaya has represented a number of members of the political opposition and human rights activists. She has been subjected to a multitude of threats and pressure linked to her work. This is an illustration of the seriousness of the obstacles placed on the work of lawyers and human rights defenders in Belarus.

She defended Mr Vassily Starovoitov, director of a kolkhoze (collective farm), accused of having illegally distributed small plots of land to individuals on the farm<sup>148</sup> and brought to trial. In 1998 and 1999 he was represented by Mme Stremkovskaya who was subsequently accused of defamation of representatives of the state. The accusations of defamation were later withdrawn. Moreover, she was the object of sanctions issued by the College of Lawyers, following a complaint made by the judge responsible for the Starovoitov affair. The latter made this complaint when Mme Stremkovskaya requested a reduction of her client's sentence stating that his continued detention was undermining his health. For this she received a first warning from the College of Lawyers.<sup>149</sup> At the end of the trial, when she asked where the 40 bottles of cognac confiscated at her client's home were, the investigating judge concerned reacted by starting civil proceedings for an attack on his dignity. In August 2000, Mme Stremkovskaya was required to pay \$US500 worth of damages to the investigator. The appeal is currently pending. In addition, Mme Stremkovskaya has been expelled from the College of Lawyers. The renewal of her licence, which had expired after the five years validity period, was refused due to her involvement in the defence of human rights.<sup>150</sup> It was only after numerous protests that she was finally granted a new licence was finally, but 'only on condition that she refrains from defending members of the opposition'.

Moreover, in June 2000, at a time when Mme Stremkovskaya was representing Alexandre Shchurko, victim of police brutality and torture after a march in 1999, the offices of the Centre for Human Rights in Belarus, an organisation chaired by her, were burgled and the computers and printers stolen.

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<sup>147</sup> She has received numerous international prizes for her work in defending human rights causes.

<sup>148</sup> Mr Starovoitov wanted to establish a participatory system of management in the place of the old kolkhoze system, with the support of all the farmers belonging to the kolkhoze.

<sup>149</sup> She received a second warning in December 1999, which could have led to her exclusion from the profession.

<sup>150</sup> She was not required to sit an exam, but had to come to an interview, during which officials informed her that she was not a 'good lawyer' and referred to the three international prizes she had received for her work as a lawyer committed to the defence of human rights.

## **Conclusions and recommendations**

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On the eve of presidential elections in Belarus, the stranglehold limiting the freedom of action of civil society, NGOs, political parties, unions, media independent of the official line and the opposition is tightening, in legislative, administrative, police and legal terms. The constitutional reform of 1996, contested and contestable regarding the main principles of the rule of law, and this reform's highly personal interpretation by its initiator, have permitted an extension of the President of the Republic's mandate. Hence he will remain in power until 2001. The separation of powers no longer exists, the running of Belarus by President Lukashenko has become a very caricature of autocracy.

Both political opponents and defenders of human rights, in the widest sense of the term adopted by the Observatory for the Protection of Human Rights Defenders, are at the forefront of the anti-Lukashenko movement which first appeared in Minsk before spreading to the rest of the country.

The whole panoply of laws and decrees limiting the activities of human rights defenders is an attack aimed at the rights and freedoms of independent organisations. However, this legislative veneer cannot mask the underlying political intentions. President Lukashenko, in producing and signing decrees as his needs changed and evolved to counter the opposition and divergent currents of opinion and their action is exposing himself directly to criticism, both in his own country and abroad. The contested laws and decrees regulate the daily rhythm of life in the Republic. And not only do they contravene the international conventions and treaties ratified by Belarus, they also contravene the very Constitution of the country, in which their primacy over national law is recognised.

During July and August 2001, Mr Lukashenko and his powerful presidential administration were quick to criticise and then ban an initiative bringing together NGOs with a view to setting up an independent observation system and to train observers for the coming elections. This mechanism is crucial to the future of a country which today finds itself marginalised in Europe. By taking the risk of banning this organisation on the basis of the notorious law requiring the registration of NGOs, the Belarus authorities have made a direct attack on the international community, and notably on inter-governmental and inter-parliamentary organisations which, in a single voice, support the actions of the OSCE's delegation in Belarus to provide advice and assistance in the setting up of this system of independent observation.

### **Recommendations with respect to the rights and freedom of action of human rights organisations and defenders**

The Observatory requests that the government of the Republic of Belarus:

1. respect in all circumstances the principles and dispositions featured in international instruments for the protection of human rights, ratified by the Republic and guaranteeing in particular the freedoms of expression, the right to meet,

demonstrate, and express opinions, and notably the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and Convention 87 of the ILO;

2. conform in all circumstances to articles 1 and 12 of the Declaration on Human Rights Defenders adopted by the United Nations General Assembly in December 1998: article 1 lays down that each person has the right, individually or in association with others, to promote the protection and implementation of human rights and fundamental freedoms at both national and international levels, while article 12 refers to the obligation of the state to protect human rights defenders;
3. immediately free Yuri Bandazhevsky, currently the object of an arbitrary sentence;
4. end the harassment and reprisals taken by state services against human rights defenders; the Observatory calls on the government to commit itself publicly in this respect;
5. abolish all presidential decrees which fail to respect the Constitution of the Republic and international instruments, notably with respect to freedom to form associations, gather and meet, demonstrate and express opinions;
6. invites the Special Representative of the Secretary General of the United Nations Organisation responsible for the question of human rights defenders to visit Belarus as soon as possible;
7. conform immediately to the recommendations formulated on 3 July 2001 by the Committee on Union Freedoms of the International Labour Organisation;
8. ensure that NGOs working for the defence of human rights, including those established with a mandate to observe the elections, may exercise their activities in full freedom, in accordance with the Declaration on Defenders of Human Rights.

### **General recommendations**

The Observatory requests the government of the Republic of Belarus:

1. to put the Constitution and the laws of the Republic in conformity with international treaty provisions, as specified in article 8 of the Constitution which recognises the primacy of internationally recognised principles of international law;
2. to guarantee the holding of free, multi-party elections in accordance with the commitments made, notably in the framework of the OSCE;
3. to authorise the presence of independent observers, both national and international, under the aegis of the OSCE during the presidential elections of September 2001, and to ensure their security;
4. to implement the recommendations made in June 2000 by the Special Rapporteur of the UNO Commission on Human Rights regarding the independence of judges and lawyers: in particular, reform the Constitution for a real separation of the executive, legislative and judiciary powers, and the promulgation of new laws guaranteeing the independence of the judiciary and lawyers within the Belarussian legal system;
5. to implement the November 2000 recommendations made by the UNO Committee Against Torture, in particular with a view to introducing into Belarussian legislation the crime of torture, and to establish a mechanism for examining independent complaints;

6. to abolish the death penalty which features in the Penal Code of the Republic of Belarus;
7. to facilitate visits to Belarus of the Special Rapporteur on forced or voluntary disappearances (UNO Commission on Human Rights), as part of the inquiry on the issue of 'disappearances' in the Republic of Belarus, and in particular the cases of Mr Yuri Zakharenko, Mr Viktor Gonchar, Mr Anatoly Krasovsky and Mr Dimitri Zavadsky.

### **Recommendations to international and inter-governmental organisations**

The Observatory requests that all international, inter-governmental and inter-parliamentary organisations continue to exert the necessary pressure on the Belarussian authorities so that they may establish the conditions necessary for the establishment of a durable democracy and true rule of law in Belarus and adopt all other measures which may usefully contribute to improving the situation.

# THE OBSERVATORY

For the Protection of Human Rights Defenders

## L'Observatoire

pour la protection  
des Défenseurs des Droits de l'Homme

## El Observatorio

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de los Defensores de los Derechos Humanos

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### Activities of the Observatory

The Observatory is an action programme, based on the conviction that strengthened co-operation and solidarity among defenders and their organisations, will contribute to break the isolation of the victims of violations. It is also based on the necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the priorities of the Observatory are:

- a) a system of systematic alert on violations of rights and freedoms of human rights defenders, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) personalised and direct assistance, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- d) the preparation, publication and diffusion at a world-wide level of reports on violations of human rights and of individuals, or their organisations, that work for human rights around the world;
- e) sustained lobby with different regional and international intergovernmental institutions, particularly the United Nations, the Organisation of American States, the Organisation of African Unity, the Council of Europe and the European Union.

The activities of the Observatory are based on the consultation and the co-operation with national, regional, and international non governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria for the examination and admissibility of cases that are communicated to it. It also targets action based interpretations of the definition of "Human Rights Defenders" applied by OMCT and FIDH.

The competence of the Observatory embraces the cases which correspond to the following "operational definition": "Each person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

An FIDH and OMCT venture - Un programme de la FIDH et de l'OMCT - Un programa de la FIDH y de la OMCT

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