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BELARUS

Restrictions on the Political and Civil Rights of Citizens Following the 2010 Presidential Election

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security



BELARUS

Restrictions on the political and civil rights of citizens following the 2010 presidential election

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Restrictions on the Political and Civil Rights of Citizens Following the 2010 Presidential Election

The wave of repression that swept through Belarus following the presidential election of December 19, 2010 was a clear indication to the world and the country's civil society that the brief period known as "liberalization" had come to an end.

The scale, duration, and range of the repressions prove that this was not simply a question of suppression, albeit especially harsh, or of a specific speech or campaign, but of a sharp change in political course - from a more and more visible authoritarianism over the past 10 years to a complete rejection of adherence to international standards, and to the inevitable increased isolation of a country located, no less, in the center of Europe.

President of Belarus Alexander Lukashenko, who, according to data from the Central Election Commission of Belarus, won the presidential election that took place on December 19, 2010, held a press conference the following day where he stated that the election met standards. *"Yesterday, the citizens of Belarus and I took an examination before the future and performed honorably on it..."*, said the president. At the same time, he stressed that the relative thawing of recent months was a direct consequence of Western influence, making special mention of the country's truly unusual efforts: *"At the request of our European friends, we violated all sorts of laws by acting under their orders..."*; *"We registered all the candidates, turning a blind eye to the sins of those who had them"*; *"I do not know what else we in Belarus could have done to ensure that the election met international standards, which, by the way, do not exist."*

By that time, over 700 of those arrested on the square on December 19 were undergoing the first trials, people beaten during their arrests had been stuffed into tiny cells, and criminal cases on the "unrest" had already been launched against several dozen people in the KGB pretrial detention center. During those first days after the election, seven presidential candidates were imprisoned.

"Let's put an end to this... there will not be any more of this senseless democracy", was how the president summed up the situation.

This prediction, or, more precisely, direct order, quickly brought about results, it was not just repressive actions that swiftly followed, but also the large-scale crackdown on civil society.

The international community, which had been especially harsh in its assessment of the election process and particularly of the subsequent strong-arm actions and arrests, was subjected to criticism and open mockery from the highest podiums in the country. *“What relationship does that which happened at 1 a.m. or 2 a.m. bear to the election? Why is this being written about in an OSCE report?”* asked Lukashenko rhetorically. Rhetoric in Belarus fast became practice. On January 1, 2011, ten days after the OSCE announced the results of the work carried out by its Observation Mission (that the election did not meet the organization’s standards), Belarus let the mandate of the OSCE office lapse. *“This is a conscious decision caused by the lack of objective grounds for maintaining the OSCE mission in Belarus,”* stated Foreign Ministry Press Secretary Andrei Savinykh.

In the months following the elections, not only representatives of opposition parties, but also human rights defenders, journalists, and even diplomats found themselves under direct assault. Dozens of people remained imprisoned and the first sentences in the criminal cases of pro-opposition citizens to substantial prison terms (some under high security) confirmed the worst fears.

On April 5, 2011, the Directorate of Information and Public Relations of the Belarusian Ministry of Internal Affairs informed the mass media that the investigation into the mass unrest *“uncovered definitive proof of attempts to alter the constitutional order of the Republic of Belarus by previous concert with representatives of foreign governments and organizations, whose essential end goal was a coup d’état.”*

These trends have become more and more entrenched in recent months. The terrorist attack that occurred in the capital on April 11, 2011 served as new grounds for a sweeping ideological offensive against the opposition, human rights defenders, and citizens critical of the government. Mandatory fingerprinting has become the norm. The press has found itself operating within even stricter confines of censorship and sanctions for the slightest display of freethinking. *“The factor triggering the terrorist attack in the Minsk Metro was an overload of democracy in Belarus,”* stated President Alexander Lukashenko in an address to parliament and the Belarusian people on April 21, 2011. *“We ourselves are guilty; primarily the government is guilty of this. By the eve of the presidential election, we had become so democratized that not only you, but also I, felt queasy. There was already so much democracy that we felt nauseous.”*¹

The International Federation for Human Rights (FIDH) visited the Republic of Belarus from February 23-29, 2011 to study on-site the systematic grave violations of human rights and to put together the data gathered by its member organization the Human Rights Center “Viasna”.

The Mission was composed of **Artak Kirakosyan**, Secretary General of FIDH (Armenia), **Kirill Koroteev**, an attorney and FIDH expert (Russia and France), and **Alexandra Koulaeva**, FIDH Eastern Europe and Central Asia Desk Director (France).

The Mission’s goals were to evaluate the human rights situation in the Republic of Belarus after the presidential election and subsequent mass arrests; shed light on the detention conditions encountered by presidential candidates, members of campaign headquarters, activists,

1. <http://www.spring96.org/ru/news/42821> [in Russian]

and people who were on Independence Square on December 19, 2010 and were placed under administrative arrest during the violent dispersal of the demonstrator.

Afterwards, the Mission's participants monitored the situation using resources provided by "Viasna". Thus, this report represents the observations of the Mission supplemented by up-dated information on the cases followed during the mission until the end of April 2011. The report also includes a legal analysis of the main repressive trends that had become entrenched over the past months.

Participants in the Mission were able to meet with two candidates for the presidency of Belarus who had been freed from detention by that time, representatives from campaign headquarters for presidential candidates, people who had recently been released from detention, relatives of those arrested, attorneys, members of human-rights organizations, journalists, and representatives of European diplomatic missions. For security reasons, a complete list of people interviewed by the Mission will not be published this time.

During their visit to Minsk, members of the Mission noticed several times that they were being openly followed, that a Ford car with license plate 000 8 BB 0 was waiting for them near the entrance several times, and that their comings and goings to and from the "Viasna" office were openly recorded. Additionally, the telephone lines between FIDH's Paris office and "Viasna"'s office and the mobile numbers of its representatives were disconnected yet again after the December 19 election. Attempts to place calls from the numbers of FIDH office telephones or from the mobile numbers of its staff resulted in hour-long waits where the same audio recording of someone answering the phone and promising to call the person asked for to the phone always played against a background of noises heard in an apartment. These contrived and comically ineffective actions are but a faint echo of the difficulties that dozens of our colleagues working in the country on a permanent basis face every day.

FIDH would like to express its gratitude to the staff members of the Human Rights Center "Viasna" who provided invaluable help organizing the Mission, as well as to all those who agreed to meet with us and who provided the information used to write this report.

Introduction

Based on the findings of the independent election observation Human Rights Defenders for Free Elections, which was launched by the FIDH member organization in Belarus Human Rights Center “Viasna” and the Belarusian Helsinki Committee,² it can be noted that in comparison to previous election campaigns, the 2010 election showed certain positive changes. For example, presidential candidates were offered the opportunity to appear live on state-run television and radio and there were opportunities for the relatively free collection of signatures, campaigning, and meetings with voters. The government also made other concessions.

However, no fundamental, system-wide changes were made to the election process or election law since the regulations for forming election commissions remained the same, as did the use of early voting in the form in which it exists in Belarus. Almost 60 percent of independent observers from the Human Rights Defenders for Free Elections campaign did not have the opportunity to observe the entire vote counting process. There was widespread use of administrative resource to ensure early voting primarily by such categories as non-resident students, dormitory residents, military personnel, employees of state enterprises, etc. But the most important aspects that human rights defenders and international specialists insisted on did not happen. There were no changes in vote counting regulations and observers were not able to be present round the clock at polling stations during early voting and at the time of the election. Also, there were no regulatory procedures for storing ballot boxes and sealing rooms at polling stations and places where members of the polling station commission and police officers were located during non-voting hours. Campaign observers noted numerous cases of election law violations, such as interference by unauthorized persons in the work of the polling station commission, issuance of several ballots to one individual, failure to display records on the results of daily voting, and so forth. On the day of the election, observers also noticed instances where several people entered the voting booth together and where people presented their relatives' passports to vote for them, as well as other illegal activities that the polling commission ignored. Campaign observers lodged 125 complaints and claims with the territorial election commissions and the Public Prosecutor about these and other violations alone.

Nevertheless, the difference from previous election processes was evident and could be explained by an initial desire on the part of the Belarusian government to strengthen political and economic ties with the West. Showing regret for this necessary concession, Alexander Lukashenko stated on December 20 that “*The openness and transparency were such that people got confused - was this an election or the reality show ‘Behind the Glass’*”...

2. The main goal of this enterprise was “to conduct independent observation of the election for the president of Belarus and an evaluation of the election process from the standpoint of Belarusian election law and international standards for free and democratic elections, and to inform Belarusian society and the international community about this election.” Observation of the progress of the election was carried out in strict accordance with existing law. Also, work was carried out by both long-term observers, whose activities included observing the election process at every stage beginning with registration of candidates, and short-term observers, who directly monitored free expression of will from the first day of early voting through the counting of votes. Eighty long-term observers were spread out across the entire country and were registered with territorial election commissions in districts, cities, oblasts, and Minsk. Another 600 observers working at 300 polling stations in all regions of the country joined them on election day. See <http://spring96.org/ru/vybary2010> [in Russian] and <http://spring96.org/ru/news/40444> [in Russian].

Indeed, until the very last election day - December 19 - the so-called “Belarusian liberalization” left the hope that even if the election did not meet democratic standards, it could be “a step forward in comparison to the previous election.” But the crackdown on the peaceful demonstration and the mass arrests led to an acute deterioration of the situation within the country and to fewer opportunities to influence the development of events from outside, since widespread human rights violations in Belarus resulted in a radical shrinkage of the platform for political dialogue with Lukashenko.

19 December 2010

On the evening of December 19 after the voting, tens of thousands of people gathered on Minsk’s Independence Square. The demonstration was peaceful, but after the Central Election Commission announced that Alexander Lukashenko won 79.67 percent of the votes, law enforcement agencies reported that some people on the square started committing violent acts and were trying to break into the House of Government. According to witnesses, several people did actually start breaking the glass in the first-floor doors. Numerous OMON (special purpose police unit) troops, who appeared suddenly and lined up on the square, started arresting and beating demonstrators, some of whom suffered serious injuries.

Witnesses to the events interviewed by the Mission emphasized that as the people destroying the building continued their activity, OMON troops used brute force against people who were clearly not undertaking any violent acts and were separated from the people breaking glass by a line of armed OMON officers. As a result of the use of excessive force, many participants in the demonstration were wounded and suffered injuries. It is difficult to give an exact number of people who suffered injuries as most of them did not seek medical aid for fear of further persecution. Cases where medical aid was administered to injured people were not properly registered for further possible investigation. There were also wounded people, including those with serious injuries, among the people placed under administrative arrest, but they did not receive proper medical attention (see below).

As a result of the mass arrests, over 600 people were convicted of violating the administrative code and received sentences of up to 15 days of administrative arrest. A joint report by the Belarusian NGO Center for Legal Transformation and the International Observation Mission of the Committee on International Control over the situation with Human Rights in Belarus (hereinafter - International Observation Mission), which was created by civil activists from several countries, maintains³ that the majority of people arrested were subjected to serious violations at the moment of arrest, during administrative hearings, and during the period of detention. Materials from interviews of 205 people released from detention who were sentenced to from ten to 15 days administrative arrest form the basis of this report. This conclusion is confirmed by first-hand accounts collected in Belarus by the FIDH Mission (see below).

Of the 205 former detainees interviewed by the Center for Legal Transformation and the International Observation Mission, 148 stated that they were beaten during their arrest and the period of pretrial detention (of these, 57 stated that they were beaten with clubs). In some cases, up to 70 detainees were loaded into a minibus with a passenger capacity of 30 and kept in these conditions for several hours in the courtyard of the detention facility. Some detainees

3. <http://hrwatch-by.org/en>

asserted that when they were actually in the detention facility, they were forced to stand for up to five hours while placing their hands on the wall; when they tried to sit, they were beaten.

After the election, criminal cases for organizing and participating in mass unrest (Article 293 of the Criminal Code of the Republic of Belarus, punishable by up to 15 years in prison) were brought against 38 political opposition activists, including seven candidates in the presidential election. Most were arrested on December 19 and 20 and remained in detention until the end of January, when some were released on their own recognizance without the right to leave the city or transferred to house arrest (see below).

Civilian oversight of detention facilities in Belarus is virtually nonexistent. Over the past three years, not one independent human rights organization has been able to receive access to places of detention to monitor conditions.

In 2008, FIDH and “Viasna” published a report on detention conditions in Belarus⁴, which was based on the result of work done by an international fact-finding mission. The report is based on numerous first-hand accounts by former detainees, members of their families, attorneys, and representatives of NGOs. According to their accounts, defendants and detainees were regularly deprived of legal defense. Administrative detainees found themselves in especially difficult conditions, like cell overcrowding; absence of beds, showers, and walks outside; impossibility of receiving packages; and poor quality of food and water. Detention conditions in pretrial detention centers in the Belarusian Ministry of Internal Affairs system are also characterized by overcrowding, high humidity, low temperatures in the winter and high temperatures in the summer, poor food quality, and frequent cases of tuberculosis. Members of the fact-finding mission also received accounts of the use of torture, as well as of cases of cruel and inhumane treatment, specifically beatings and various indignities during the investigation of administrative and criminal cases.

Information received during the February 2011 Mission shows that overall detention conditions have not improved in recent years. Moreover, starting in late December 2010, illegal practices were introduced to make detention conditions more severe, especially for those detained under Article 293 of the Criminal Code (mass unrest) in the KGB pretrial detention facility (see below).

At the same time, a large-scale undertaking was being carried out to intimidate activists and simply citizens who did not agree with government policies and to collect information on participants in the December 19 demonstration, e.g. numerous searches, interrogations, “interviews” and various types of pressure on activists, as well as restrictions of their rights (see below). At the request of investigative agencies, telephone providers furnished investigators from the KGB and the Ministry of Internal Affairs with lists of numbers from which calls were made or messages were sent on December 19 in the vicinity of the area where the demonstration was held. The owners of these numbers were systematically followed and summoned for interrogations or “interviews” during which they were asked to explain why they had been on the square. A large-scale campaign was launched across the country to seize any recording media purportedly containing video, photo, or audio materials from the scene of the December 19 events (see below).

4. <http://www.fidh.org/IMG/pdf/Belarus500ang2008.pdf>

Political Context

Alexander Lukashenko, the first president of the Republic of Belarus, was elected on July 20, 1994 and has remained in power due to a series of constitutional changes. The referendum of November 1996 was essentially a constitutional *coup d'état* which made possible the expansion of presidential powers and the extension of the first presidential term by another two years. The Supreme Council, elected in 1995, was disbanded and a bicameral parliament, whose deputies were in fact appointed by the president, was created in its place. After the referendum and dismissal of parliament, on January 13, 1997, Belarus was stripped of its status as a special guest at the Council of Europe Parliamentary Assembly.

On September 9, 2001, A. Lukashenko was reelected to a five-year term in the first round of elections with an official result of 76.6 percent of the votes. The election contained a host of violations and OSCE observers did not recognize the results. During parliamentary elections on October 17, 2004, Lukashenko held a referendum on the possibility of his nomination for candidacy in the 2006 presidential election, even though the Belarusian constitution set a two-term limit on the presidency. In the end, 77.3 percent of voters supported amending the Constitution to abolish this limit.

In a report by the OSCE Election Observation Mission, the presidential election of March 19, 2006 was rated as “failing to meet OSCE commitments for democratic elections.” On the evening of the election, tens of thousands of people came out onto October Square in Minsk to protest the falsification of election results. Several hundreds of them set up a tent camp on the square, which the police stormed during the night of March 23-24. The people who were encircled on the square were arrested with the use of brute force and were sentenced to administrative arrest.

On January 1, 2006, a number of changes to Belarusian law took effect which established the legal framework for new human rights violations. New provisions were added to the Criminal Code: Article 193.1 – “illegal organization of activities of public associations, religious groups or foundations or participation in their activities” which provide for six months to two years of imprisonment; and Article 193 – “organization or management of public associations or religious groups infringing upon personhood and rights and obligations of citizens” which provides for six months to three years of imprisonment. A third section was added to Article 293, according to which the organization and funding of mass unrest is punishable by six months to three years of imprisonment. A provision was added to Article 342 according to which teaching or in other ways preparing people for participation in activities which grossly violate public order, as well as funding such activities, where there is no evidence of more serious crimes, is punishable by six months to two years of imprisonment. Punishment for public calls to seize power (Article 361) was increased, providing for six months to three years of imprisonment. The Criminal Code also included a new article on “discrediting the Republic of Belarus” (Article 369.1), which provided for six months to two years of imprisonment. Moreover, the Belarusian government regularly refuses to register nongovernmental associations, which creates for NGO members the constant threat of court proceedings that could be commenced at any time “for activity within the framework of a nonregistered organization”.

Widespread human rights violations have continued in Belarus in recent years. The situation becomes particularly acute during electoral campaigns or mass protests. Freedom to demonstrate peacefully is restricted and the government regularly prohibits demonstrations for contrived reasons, mainly under the pretext of “difficulties maintaining public order” during mass protests.

Peaceful demonstrations are brutally suppressed and participants face beatings by the police and arrests. Belarusian authorities systematically fire demonstrators from their jobs and expel them from universities.

In these conditions, it is not possible to speak about free and fair elections, even if the government displayed a greater desire to observe international commitments *during* the election campaign: the institutions and capabilities of civil society were too weak and couldn’t be mobilized in few short months against a government machine that has formed over years.

International Obligations and Sanctions against Belarus

The illegitimate referendum of 2004, the absence of conditions for free and fair elections in 2006, suppression of mass protests, arrests of demonstrators and members of the opposition, ill-treatment of political prisoners, and the lack of any progress in investigating the disappearances of Zakharenko, Gonchar, Krasovski and Zavadski, caused the European Union to introduce sanctions against high-ranking Belarusian governmental officials in April 2006, which prohibited them from entering any EU countries. In May 2006, the EU expanded its sanctions and froze the European bank accounts of the Belarusian president and 35 other governmental officials. In October 2006, four more Belarusian officials were added to the list of individuals subject to the sanctions. Due to the lack of progress, the sanctions were extended in March 2007 and again in April 2008. In parallel, in December 2003, several international and European trade unions requested the EU to launch an investigation into violations by Belarus of the freedom of association and of the right to collective bargaining under ILO Conventions 87 and 98. After a decision by the EU that these violations were “serious and flagrant,” it imposed additional (economic) sanctions on Belarus.

In 2004 the UN Human Rights Council voted to appoint a Special Rapporteur on the situation in Belarus, but his mandate was not extended in 2007.

In 2008, visa restrictions on Lukashenko and his representatives were suspended as a result of the freeing of several political prisoners and fairly vague promises for a series of democratic reforms, including reform of the Election Code. In 2009, Belarus was included in a project of the EU’s Eastern Partnership and the first meeting was held as part of the EU/Belarus Human Rights Dialogue. The country started to cooperate more actively with the OSCE and its institutions. The Council of Europe, which suspended Belarus’s status as special guest to PACE in 1997, in 2009 expressed its willingness to restart talks with Belarus under the condition that the country would begin preparations to abolish the death penalty.

An important stage in international cooperation was the country’s first review at a Universal Periodic Review session in May 2010. During talks with the Belarusian delegation, issues were raised regarding the death penalty, freedom of expression, freedom of association and assembly, as well as the independence of the judiciary and the prohibition of torture. However, the coun-

try's leadership adopted only some of the recommendations made by the UN Human Rights Council, while the ones that were adopted were not included in concrete commitments.⁵

The situation changed sharply after the December events.

As a sign of protest against the mass repressions after the presidential election of December 19, 2010, on January 31, 2011 the European Union prohibited the entry into EU countries of 158 high-ranking Belarusian officials, including Alexander Lukashenko and two of his sons—Viktor and Dzmitry Lukashenko, as well Defense Minister Yuriy Zhadobin and KGB Chairman Vadim Zaitsev. The European Union also decided to freeze the bank accounts of these individuals should any be uncovered. On March 21, 2011, the EU expanded this list to include another 19 officials.

“These restrictive measures and the list of persons targeted will be kept open and under constant review. The release and rehabilitation of all people detained on political grounds, progress towards further reforms of the Electoral Code, compliance with commitments regarding freedom of expression and of the media, and the freedom of assembly and association, would pave the way for lifting these restrictive measures,” wrote EU ministers of foreign affairs in their statement.

The United States introduced sanctions against Belarusian officials on January 31, 2011. US citizens were prohibited from entering into transactions with the two largest Belarusian oil and gas companies - Lakokraska OJSC and Polotsk Steklovolokno OJSC. Also, the list of Belarusian officials and family members prohibited from entering the United States and faced with financial sanctions was expanded significantly. On March 29, 2011, the State Department also announced the introduction of four types of sanctions against the Belarusneft Production Association, including bans on receiving export aid from the US Export-Import Bank, obtaining US government export licenses, obtaining loans of over \$10 million from private American banks in any 12-month waiting period, and entering into contracts with the US government.

On February 1, 2011 UN Secretary-General Ban Ki-moon expressed his concern over “reports of harassment and continued detention of journalists, civil society activists, and opposition candidates,” and called for their release. This was the second such statement made by the Secretary-General. The first was made on January 10, 2011.

On February 3, 2011, a number of thematic mechanisms of the UN Human Rights Council expressed concerns about the situation in Belarus in a joint statement about the suppression of public speech in a number of countries, noting that the right to freedom of expression, peaceful assembly and association “are among the most fundamental rights underpinning a democratic society.”⁶

Citing a source in government circles, on March 21, 2011 the Interfax-Zapad News Agency reported that Belarus was preparing and already implementing countermeasures against the EU sanctions on Belarusian officials that would be applied to over 150 individuals from the European Union and the United States. *“The countermeasures will be applied to over 150*

5. <http://www.fidh.org/Universal-Periodic-Review-of-Belarus-Positive>

6. <http://www.un.org/russian/news/fullstorynews.asp?newsID=15013>

individuals from the United States and EU countries, including Jerzy Buzek, President of the European Parliament, Jacek Protasiewicz, member of the European Parliament, and a number of other politicians, members of parliament, and journalists known for the most odious initiatives taken against Belarus,” noted the source. He stated that “restrictions have already been introduced on entry visas for a number of individuals displaying the most biased and destructive attitudes towards the Republic of Belarus who have played a major role in unwinding the crisis between Belarus and the West.” But Belarus has also developed a number of other countermeasures. “It is likely that these restrictions will involve transborder cooperation and the activities in Belarus of certain foreign foundations and nongovernmental organizations,” said the source at the news agency. He also stressed that the adopted measures would most likely be of a balanced and proportional nature and would not mirror the EU and US sanctions.

As BelaPAN reported, Foreign Ministry Press Secretary Andrei Savinykh clarified that “The names will not be made public. An individual may learn of his or her inclusion on the list when applying for a visa at an embassy of Belarus.” As he states in his comments distributed March 22, Belarus will continue contacts with Western partners, but “visits by European and American political delegations to our country may only be made with an invitation from legislative and executive bodies of the Belarusian government.”⁷

Due to extremely serious threats to the feasibility of implementing OSCE human dimension commitments, the Permanent Council of this organization mandated a fact-finding mission in accordance with paragraph 12 of the Moscow Mechanism of the 1991 CSCE Conference on the Human Dimension.

*Independence Avenue
on the evening of
the elections,
December 19, 2010.
Credits: Sergei Balai.*



7. <http://www.spring96.org/ru/news/41965>

Administrative Arrests and Detentions on December 19-20

Towards the end of the day on December 19, 2010, citizens dissatisfied with the latest sham elections began gathering at October Square. By some accounts, that evening there were about 25,000-35,000 people on the square who later walked through the city to Independence Square, where the House of Government is located. The crowd swelled along the way.

One participant recounted: “I was at October Square and I couldn’t hear anything of what the speakers were saying or what they were calling on us to do. I heard some shouting and even the sound of a balalaika, but there were no amplifiers. Everything was peaceful, even almost festive. I don’t know who asked us to, but the crowd started walking along the prospect and I went with it. At first it seemed as though there were not very many of us, but the crowd became enormous when we were on the avenue. People were joining it from all directions. When we reached Independence Square, people were literally inspired by the size of the crowd and everyone was floating on air. There were probably about 50,000 people and the mood continued to be peaceful and well-intentioned. People were smiling and joking...”

Soon the crowd was joined by several presidential candidates.

Demonstrator Dzmitry Fedoruk, born in 1988, told the FIDH Mission about the following: *“At first neither the law enforcement officers nor the demonstrators were taking any actions at October Square. OMON wasn’t there at all, only traffic officers and plainclothes KGB officers. A man in a black cap like the ones they all wear stood next to me and cried ‘Bring on the vodka!’, but this was an obvious provocation and the demonstrators were peacefully disposed. When we reached Independence Square, no preliminary announcements about the unlawfulness of our actions were made, nor was there any interference with the demonstration. Then a man walked up to the monument to Lenin and said that several people were needed for negotiations and that we should form a live corridor to let the members of parliament through. Still no one bothered us. Only there was one man covered in insignia who ran up the corridor we had formed, but he was detained and handed over to the authorities. We saw Rymasheuski, Statkevich, and Sannikau walk up the corridor, but they were not allowed inside. We could not see very well what exactly was happening. Then OMON appeared, from behind the doors of the House of Government or from the direction of the church, the first wounded appeared, people pressed in closer. We heard glass doors being broken behind the OMON troops, but we were on the other side of the chain. Then OMON troops emerged for a second time and reinforcements arrived 30 minutes later. We had no cell phone reception the entire time. It was lost when we left October Square. They struck at everyone without discrimination and beat people who were leaving with clubs...”*

Whatever the actions of the people who, according to the reports in the state-run mass media, were trying to forcefully enter the House of Government or who were at least breaking glass on the first floor, from interviews with many participants the FIDH Mission established that

there were few people trying to enter the House of Government and that the repressive actions taken by OMON were directed against peaceful demonstrators, the great majority of whom were cut off from possible violent activities by the chain of OMON forces and were not even aware of what exactly was happening or where the events were taking place.

Indiscriminate and disproportionate use of violence

One participant in the events reported that: *“Leaders gathered at the monument to Lenin and we started listening to speeches. The mood was semi-festive. And then I saw helmets and shields. At first we went up to them, laughed, waved at them. And then - the sound of breaking glass. We started to feel frightened. We understood that no one we knew was near these doors. I saw a young man breaking glass with a gutter pipe and I tried to stop him, telling him that our candidates would pay for this! Then he called someone. And then OMON was on top of us. I started to run away. I ran next to a woman whose head was literally split open. I was able to get away, but I don't know what happened to her.”*

Sergei Voznyak, a senior advisor in Uladzimir Niakliayeu's campaign, summed up the situation in a conversation with the FIDH Mission: *“We are now being accused of mass unrest. I don't think there was any mass unrest at all. Perhaps there was disruptive behavior, perhaps there were violations of law and order, but there was no mass unrest. On the whole, people were peacefully disposed.”*

Immediately following the indiscriminate heavy-handed actions against peaceful demonstrators on December 19, mass arrests started. According to the first-hand accounts of witnesses interviewed by the FIDH Mission, OMON forces mainly used clubs to inflict powerful blows that caused serious harm. Even people who had fallen to the ground, journalists who were performing their professional duties, and passersby who were standing nearby to observe the events were beaten. Hundreds of people were hurt by the beatings or sustained serious injuries.

One of the presidential candidates, Ryhor Kostuseu from the Belarusian Popular Front, was on the square. *“The most unpleasant things for me personally were the two blows I took to my head from a club. The first blows from the clubs happened at the same time the onslaught of the building started, but the wall of OMON forces separated us from that area. Mikalai Statkevich, another presidential candidate, and I decided to approach the OMON commander in order to persuade him not to let matters reach the stage of bloodshed. So I was standing on the right flank of the OMON line when suddenly a kind of explosion took place before my very eyes. I did not even understand what had happened and so did not even try to dodge the first blows. Then I received a very strong blow to my head. That's when I started trying to dodge the blows, so the second blow was only slight. I was lucky to not fall down, even though I lost consciousness for half a second. But it was clear to me that if I fell, I would not get up again on my own. It happened very quickly, as soon as OMON appeared on the scene. So it is hard for me to describe what happened next because everything was a blur. But, fortunately, I was wearing a hat on my head that softened the blows. I was standing on my feet and my friends led me out of the square and sat me down in a car that just happened to be passing by.”*

According to eyewitness accounts, presidential candidate Rymasheuski, also had traces of blood on his head. Andrei Sannikau was injured, but Niakliayeu suffered the most of all without ever reaching the square.

Raisa Mikhailouskaia, an aide to Niakliayeu, told the FIDH Mission about this highly-publicized incident. *“The Niakliayeu campaign’s white minibus, surrounded by about 40 people, including journalists, was slowly making its way to the square. It contained audio equipment. People were walking around with flags, with scarves, chanting. And suddenly, in a narrow part of the road, a Road Patrol Service car blocked our way. Then people in black caps and pants, all wearing combat boots, ran up behind us. They started pushing people down into the snow and some devices started exploding on the ground - even falling down was frightening and everything shook from these explosions. They were swearing and cursing, and beating everyone. I did not see them hit Niakliayeu, but I saw how he was brought into the office because we finally managed to get away. We crawled through a fence and returned to the office, where Niakliayeu was initially brought before being taken to the hospital with his wife. After that, I was constantly in touch with her. You know what happened there.”*

Sergei Voznyak, another Niakliayeu aide, was able to explain the situation from the standpoint of a person with a military background: *“I was next to him when he was beaten, a little after 7 p.m. I received a blow to the stomach and was laid face down on the ground. They were throwing sound grenades for the psychological impact - these are common pieces of military equipment. The truck driver was savagely beaten. It’s important to understand that this was a small squadron that had a commanding officer. I’m a military man myself, so I understand these things. They were ordered to come, they were ordered to leave, they were ordered to attack. They were strictly adhering to a plan. Clearly, they were from the special branches. These were well-trained people.”*

Olga Niakliayeu also described Niakliayeu’s arrest in the hospital: *“People burst in wearing civilian clothes, without identification, grabbed hold of me and moved me out of the way, despite my cries and struggling. They dragged Uladzimir Niakliayeu down onto the floor. He could not walk. Then they took a blanket, threw him on top of it and dragged him along the floor out into the corridor. I was locked in the ward, which was not unlocked until they drove him away. They said nothing. I stood in their way and asked, ‘Who are you? Who let you in here? This is an ICU!’ There were no answers. I was shoved aside.*

“I could tell from the behavior of the doctors that all this was connected with the security services, with the KGB. After the doctor’s initial examination, he gave one diagnosis, but before all this happened, he changed his diagnosis. In the doctor’s note that I asked for, he changed his diagnosis again, writing only ‘soft tissue bruise’ and ruling out traumatic brain injury or concussion.”⁸

Alexander Lukashenko had this reaction to the beatings of the candidates: *“You’re a man, after all. What made you run, bawling, to this hospital? So what, you got hit in the head? What of it? You got hit in the head, you have a black eye. The way you were lying there, I thought you had died. When I saw the pictures in the Russian mass media, I thought, well, that’s it, he died, I’ll never talk my way out of it now. It’s ludicrous, disgraceful, that they wanted to be presidents. What kind of president can you possibly be if you go crying to the whole world when you get hit in the face? Why are you crying? What kind of president are you? You just have to grin and bear it!”*

8. <http://www.russian.rfi.fr/evropa/20110117-aresty-i-obyski-v-belarusi-svidetelstva> [in Russian]

At the square, the heavy-handed actions continued even as demonstrators were being arrested. Groups of OMON surrounded the demonstrators and, rudely insulting them, using brute force, shoved them into the “avtozaki”, the special police wagons for transporting OMON fighters and prisoners. Wounded people were also loaded into these police wagons without having received medical attention and were subjected to the same brutal treatment as the rest of the people.

Demonstrators and people arrested on the square that were interviewed by the Mission described the same scene: overloaded police wagons, long - sometimes hours-long - waits in the courtyard of the pretrial detention facility, the night of December 19-20 spent in the corridor, where the detainees were arranged along the wall due to lack of space in the cells.



Okrestina
Detention Center,
December 19, 2010.

Dzmitry Fedoruk, who was well-known for his civil rights positions even before these events, gave to the FIDH Mission a detailed description of what happened to him and others arrested with him. *“It is curious that on December 18, the day before the election, police officers came to my home late in the evening and wanted to ‘have a little chat.’ They showed me their identification through the peephole, but they were not in uniform. Instead, they were dressed all in black. I didn’t let them in and they stood around by the door for two hours. They spoke with my neighbors, asking them about my comings and goings and about what I do. They told my neighbors that I would for sure go to the demonstration the next day. [...] When they started picking people up, they took me along with everyone else. I was lucky that I was on the first police wagon. It was much worse for those who were picked up last because there was no space left in the temporary detention facility. The police wagon took a strange route through the city to the detention facility on Okrestina Street, and on the way we suddenly had cell phone reception again. We called our relatives while we had the chance and told them what had happened. A police wagon (“avtozak”) is a green truck with an iron box containing two benches for Special Forces, but there were 42 of us inside. Another vehicle that arrived later held over 70 people, who were left standing like that until morning in the courtyard of the temporary detention facility because there was no place for them inside. We tried taking turns sitting on each other’s laps, so that at least the women would have a chance to sit. They were transporting us as if we were firewood. It was especially dangerous on the turns. I don’t know how some people made it. Several people were wounded, some had their heads split open and one person had lost function in his hand.”*

Conditions of arrival at the detention facilities

Staff members at temporary detention facilities in Minsk and Zhodzina, as well as at the Okrestina Detention Center, were clearly not prepared to handle such a large number of prisoners. People were kept along the corridor walls and were not allowed to sit or stretch their legs. Attempts were made to prevent conversation, and people were flatly refused drinks and opportunities to use the bathroom. It was only in several cases that witnesses were given the chance to see a doctor. Most people interviewed said that requests for doctors or medical assistance were refused.

Vyacheslav Dashkevich, who was born in 1990, informed the FIDH Mission of the following: *“They surrounded an entire group of people, beating many of them and swearing before loading them into the police wagon. I spent 2-2.5 hours in the police wagon and I consider myself lucky. Then I spent the whole night at Okrestina [Detention Center] standing in the corridor. Everyone who could possibly fit was standing there. There were probably 100-120 people on each floor.”*

Dzmitry Fedorok also experienced a long wait. *“They drove us through iron gates. First they took us to a temporary detention facility, which is a criminal building, so we thought, aha, they’re going to open cases. But it was clear that there just wasn’t enough space. They took us in three or four at a time and made us stand with our faces to the wall. They arranged us along the wall, up to 100 people total, and all the while the low-ranking soldiers were shouting, telling us not to use our phones, and refusing water and bathroom visits.*

“An elderly man stood next to me who actually had no teeth any more. He was bleeding and his hand was not functioning. He was later taken to the doctor. Then we were moved to the fourth floor and again we had to stand along the wall. Luckily there was a more considerate person there. We talked for a bit and then he started allowing us to drink and use the bathroom. We stood for four hours, if not more.”

All the interrogations followed the same scenario. Everyone interviewed by FIDH noted that the interrogations took place toward morning, without attorneys present. In some cases, requests for attorneys were flatly denied. Several officials would interrogate several people in the same room, thus failing to observe confidentiality. The questions were mainly confined to personal information, to whether the person was at the square or not, and why and with whom he or she went there. The interrogations did not last very long.

One of the demonstrators recounted that: *“They started interrogating people at 2-3 a.m. They asked for the phone numbers of our parents, but didn’t inform them of anything. I was taken to be interrogated in the morning, and after the interrogation, when it was already starting to get light outside, I was sent to a cell for three to four hours. We were all exhausted from standing and we were also hungry. We were not given anything to eat or drink.”*

Dzmitry Fedoruk: *“Officers started arriving at around 5 or 6 a.m. and started conducting preliminary interrogations. The questions were about where I had been, what I was doing, was I or wasn’t I. I was interrogated in a room at the same time with five other people. The interrogation lasted about 20 minutes. Then the officers wrote out detention reports, quite illiterately. The next day we were given copies of the interrogation and taken down to the first floor, where we were fingerprinted, videotaped, and photographed with and without caps, face forward, and in profile...Then we were divided up into groups of 4-5 people and taken to the neighboring administrative building, where we were finally sent to cells. We were finally given food 24 hours after we were detained.”*

Lack of medical care for wounded and ill persons

Enira Bronitskaya and Alexander Kupchenia, members of the organization Salidarnasts, told FIDH that a number of wounded people received emergency medical attention, but in a hurried manner. *“They closed up head wounds and sent people back to the temporary detention facility*

or the Okrestina Detention Center. Very few people were allowed to remain in the hospital. At least five people who were beaten on the square filed complaints, but not one case on the beatings has been initiated, since it was ‘impossible to establish the identities of the people inflicting the beatings.’ One young man had three broken ribs, but he still served 15 days. He was arrested on the 19th.” The Mission was told the story of Dzmitry Bulanov, who received beatings to the head while he was on the square. An ambulance was called for him and his wound was stitched up, but he was sent back to Okrestina while his mother was told that he had been sent home. He was sentenced to and served ten days at Okrestina. Then he was arrested again for causing mass unrest soon after his release. But then he started having serious health problems, including a heart valve problem and a flare-up of rheumatism (he was kept in a very cold area of the pretrial detention facility on Volodarsky Street). There he caught cold. He was transferred to a medical ward after his mother requested his transfer to the hospital.

A number of people undergoing criminal trials also testified that they arrived in prison with severe bodily injuries. Witnesses to the arrest of Natalia Radina told the FIDH Mission that she arrived at the KGB pretrial detention center with a head wound she received from being beaten on the square. Upon her arrival, she complained of a headache, but no medical examination was arranged for her. Blood flowed from her ears for ten days, but despite her requests, the only doctor to examine her was an ophthalmologist.

Many people interviewed mentioned that health complaints were met with intimidation and threats. Some people were called after their release and asked to retract their complaints and give statements. In some documents, doctors themselves recorded that people fell on their own or were injured while exercising. Some doctor’s notes were predated. Questions posed during medical examinations were notable for their superficiality and irrelevance. People with head wounds or broken bones were asked whether they had the AIDS virus. When patients replied in the affirmative to the standard question “Do you have any complaints?”, doctors responded that the symptoms described “are not virulent,” “can be lived with,” or “are not fatal.” If the patients insisted, they were given activated charcoal or aspirin regardless of their affliction. As a result, some people’s broken bones did not heal properly and other people were observed to have delayed concussion symptoms. Dzmitry Fedoruk contracted chickenpox in the pretrial detention facility. “On the second day I found out I had the chickenpox. A medical student kept with us told me that it was chickenpox and asked for an ambulance to be called. He said that I should be isolated. The paramedics came, gave me a diagnosis of immune failure, and left. The next day the nurse told me that I ‘could stay in jail’ with chickenpox and gave me brilliant green antiseptic and Demerol. Soon thereafter, a search of my cell was conducted and even the antiseptic was confiscated.”⁹ Dzmitry Fedoruk was never isolated to avoid spreading this viral disease and he was even moved from cell to cell so that even more detainees came into contact with him.

Ryhor Kostuseu, president of the Belarusian Popular Front, was taken to the KGB pretrial detention center, where he complained of the effects of two strong blows to his head. “I told people in the cell that I received two blows to the head. A boxer was there, and he told me, ‘Ask for a doctor, because this could end badly.’ The duty officer for the cell asked for a doctor. I was taken out of an interview to see the doctor, but he said that I ‘could live with this, there are no gashes, just two bumps.’ I was never examined and only started treatment after I was released.”

9. Ibid.

Trials of Administrative Detainees

Most trials of administrative detainees took place on December 20, 2010. The detainees were delivered to courthouses in the morning and waited several hours for their turns. They also stayed there awaiting transportation back to their detention centers until all the trials had been completed. Conditions varied. For example, Vyacheslav Dashkevich spent several hours waiting for his trial in a separate guarded room, where he was able to sit on a chair. Although he was not offered any food during the day, he said that *“I could eat sandwiches in packages sent by families, but I didn’t know how we have actually received these packages.”*

Another detainee, Dzmitry Fedoruk, was kept in a special area of the court building for prisoners, commonly known as “the glass.” This is a concrete 1.5 x 2m room where five people were awaiting trial (0.6 m² per person). It held only one concrete bench that could seat two people. No food was offered, and requests to use the bathroom were rudely denied by the guard: *“if you knock one more time [to ask to use the bathroom], you’ll get one in the eye.”*

While D. Fedoruk was awaiting trial, he noticed that the guards were watching a press conference on television being held by Lukashenko, who stated that all the demonstrators on the square had been sentenced to ten to 15 days of arrest. But at the time this statement was made, not one of the people in “the glass” with D. Fedoruk had been sentenced.

Trials were held both in courtrooms and in judges’ offices, but the procedures did not differ. Only the defendant and guards were present at the sessions. The public (for example, relatives of the defendants) were denied access. When V. Dashkevich requested an attorney, the judge responded, *“It’s too late. We are already closing”* (the trial took place at about 6 p.m.). Neither the accuser nor the witnesses whose evidence served as grounds for the accusation were present (therefore, there could be no question of the defense examining them). The entire process consisted of the judge informing defendants that two police officers had presented evidence that they had participated in illegal demonstrations and chanted slogans, and that these activities were an administrative violation of Article 23.34 of the Administrative Code of the Republic of Belarus. Then defendants were given the opportunity to speak in their defense. If the procedure took place in a court room, the judge retired to the deliberation room to render a verdict. Otherwise, the defendant was led out into the corridor for a few minutes. Those who pled guilty were sentenced to ten days administrative arrest, while those did not were sentenced to 15 days.

After sentencing, the convicted offenders waited in the court building for transfer to detention centers at the end of that same day. It was not until lunchtime on December 21 that they received their first food from law enforcement officials since their arrests on December 19.

Conditions of Detention

Conditions of detention for administrative prisoners have not changed significantly from what is described in the FIDH-HRC “Viasna” report “Conditions of Detention in the Republic of Belarus” (2008).¹⁰

10. <http://www.fidh.org/IMG/pdf/Belarus500ru2008.pdf>

Prisoners at Ministry of Internal Affairs pretrial detention facilities are held in cells whose size and occupancy provide 1.5-2 m² of personal space per person. There are no beds or bedding in the cells: prisoners sleep in their clothes on a wooden plank known as a “*stage*.” There is virtually no exposure to daylight in the cell because the cell windows are covered with iron guards. The cell is lit 24 hours a day by dim bulbs and there is no ventilation. In December 2010, prisoners were denied the right to take walks as the exercise enclosure was not equipped for this.¹¹ The cells have faucets with cold water and prisoners are given the chance to shower once a week. Food is served three times daily, at irregular intervals. Breakfast is served around 9 a.m. and consists of tea and watery porridge; a lunch of thin broth, watery porridge, and carrot or bread patties arrives around 4 p.m.; and another meal of tea and watery porridge is served around 6 p.m. Each meal also comes with a piece of bread. The quality of the food is quite poor. Since 2007, administrative prisoners have been denied the right to receive food packages. After December 19, 2010, prison officials started accepting only drinking water and juice (the latter has to be in a clear plastic bottle, making it impossible to put food in a non-transparent juice container; packages of tea and coffee are prohibited), as well as personal hygiene items and warm clothes.

Conditions of Release

Upon release of the administrative prisoners, law enforcement officials did everything possible to prevent them from meeting their friends and relatives when leaving the Okrestina Detention Center. After the first group of freed prisoners was exuberantly greeted after release, the rest, including V. Dashkevich, were returned to cells for another three hours. They were then put in cars that dropped them off at different public transportation stops throughout Minsk. Their relatives were not informed of this and knew nothing about the fate of their family members for the next several hours.

When D. Fedoruk’s ten-day sentence ended and his parents were told by the administration at the Okrestina Detention Center that he had been freed, his sentence was extended by the eight days that he had never served for a previous sentence to administrative arrest issued in absentia in 2008, even though the statute of limitations had expired. On the day the decision was made to extend his sentence, D. Fedoruk was able to meet with an attorney, who filed a complaint, but the court did not find cause for releasing him.

On February 25, 2011, during the time the FIDH Mission was in Minsk, Andrei Pochobut, a journalist and social activist, was supposed to be released from Okrestina. People who came to meet him saw only that he was driven away in a car, but no one knew where he was being taken. He was driven around Minsk for two hours before being released next to the monument to Lenin on Independence Square in the center of Minsk, which is exactly where he had been arrested 15 days earlier. During this time, staff members at Okrestina told people calling about A. Pochobut that he had already been released.

Also, law enforcement officials demanded payment from released prisoners of 7,000 Belarusian rubles (approximately US\$2.00 or 1.70 Euros) per day for food served them during their imprisonment. Some people were made to promise not to talk about conditions of detention. Attempts to lodge complaints with courts about detention conditions came to nothing: when

11. Interview with D. Fedoruk.

considering lawsuits about compensation for harm to health during imprisonment, judges issued decisions that such matters were not within their jurisdiction.¹²

12. <http://www.charter97.org/ru/news/2011/4/6/37482/> [in Russian]

Interrogations, “Interviews,” Searches, Violations of Freedom of Movement, Interference in Private Life

Right after the December events, numerous investigative actions were launched affecting diverse groups of people from journalists and politicians to demonstrators. Hundreds of people underwent searches and were summoned for interrogations and “interviews.” HRC “Viasna” is compiling a list of people subject to searches or interrogations and, in spite of the obvious incompleteness of these data, the list of people subject to searches already contains over 150 names.¹³

The “interview” method has received widespread use and can be applied to both people at liberty and under arrest. The distinguishing feature of the interview is that it is not an interrogation, so no record of it is made and, accordingly, its content is not recorded and there is no document for both sides to sign. Attorneys are not allowed to participate (although the FIDH Mission did learn of two exceptions to this rule), since the interview is not of an official nature. Nevertheless, significant psychological pressure is placed on people during interviews, where information that could be used against them is discussed. The meetings are obligatory, which means that they take the form of illegal interrogations. A number of people were interrogated or subjected to “interviews” over the phone, which was clear evidence that the appropriate agencies were overburdened. On February 25, 2011, Mahilou resident Alexander Demidov received a phone call from Senior Office Bolotov at the Lenin District police department summoning him for an interrogation. When Alexander asked to be sent an official notice, the police official asked him to answer the questions over the phone because he was “very busy” at that moment.¹⁴

The repressions also led to a number of cases of gross violations of the right to freedom of movement, crude and over shadowing, and unmotivated fingerprinting. Some people lost their jobs or were expelled from universities because of participation in demonstrations on December 19, and pressure was placed on the relatives of activists.

These numerous rights violations and forms of interference in private life became part of the large-scale campaign of repression and intimidation of political activists that seized Belarus and continues to this day. Law enforcement agencies evidently also focused their efforts on

13. <http://spring96.org/be/news/40809> [in Belarusian]

14. <http://spring96.org/ru/news/41485> [in Russian]

obtaining video and photo material of the demonstration through any methods to use in the preparation of judicial proceedings of demonstrators as proof of their presence on the square or their involvement in any activities on that day.

Some relatives were intimidated for the purposes of exerting influence on people who had been arrested and altering their positions. Milana Mikhalevich, wife of presidential candidate Ales Mikhalevich, was summoned for an interview on December 25, 2010, when her husband was in prison. She was asked to exert influence over her husband and persuade him to cooperate with the KGB. In return, she was promised a meeting with her husband, whom she had not seen since his arrest. For his part, Ales Mikhalevich was forced to call his wife from prison in the presence of KGB officers to try to influence her not to travel to a meeting with diplomats in Warsaw and Brussels. In return for her silence, Milana was promised frequent conversations with her husband, but instead she reported all this to journalists.

Some activists interviewed by FIDH reported that they were subjected to telephone terrorism. Raisa Mikhailouskaia was called on her cell phone because she was supposedly listed as the contact for a profitable business deal, while the number of another civil activist was displayed on a pornographic website.

Searches

Large-scale searches started to be carried out across the country right after the election, on the night of December 19-20. The searches were frequently conducted with written authorization, but FIDH has learned that in a number of cases the people carrying out the searches were dressed in civilian clothes and did not present any documents or leave any search warrants or reports.

In most cases, the people conducting the searches behaved properly and did not resort to physical force or harassment. However, the time of day when the searches were conducted (usually at night), their duration, and the large number of police officers and/or KGB officers conducting and present at the searches undoubtedly had an enormous psychological impact on the people being searched. In some cases, doors were forced open. Many people interviewed by FIDH stressed that the people conducting the search were doing it just “for form” and really were not searching for anything at all, instead limiting themselves to confiscating recording media and, in a number of cases, money.

A special category of people consisted of the families of those being prosecuted in connection with the events of December 19. Milana Mikhalevich told FIDH that her family was subjected to seven searches, two of their new apartment, one of their former apartment, one of an apartment already sold, one of their car, one of their garage, and one of her parent’s house. Body searches were also carried out, including on Milana Mikhalevich and her daughter. (Body searches of women were carried out by women). The first two searches were carried out by KGB officers and a search on January 12 before Milana’s expected departure for Poland was conducted by five KGB officers, who brought their own witness. During this search, two agents were positioned at every stairwell in the building. Clearly, the goal of this search was to prevent her trip to Poland (see below).

Daria Korsak, the wife of Alexander Otroshchenko, press secretary to presidential candidate Sannikau, told FIDH about two searches on December 25 and January 18. Alexander Otroshchenko was arrested on December 20 and sentenced on March 2, 2011 to four years in prison for participation in mass unrest. Taken from Daria Korsak's home were all her flash drives, a camera, a computer, a telephone, a modem and a folder containing documents that was listed in the report as a "red folder." None of the contents of the folder were listed. *"They weren't looking for anything in particular and they didn't find anything,"* said Daria Korsak during a conversation with the FIDH Mission. *"The searches were intended to put pressure on me, but they were almost pleasurable in comparison to everything else that went on."*

But the most searches were conducted in relation to people who were not being prosecuted for anything, either for the purposes of obtaining video and photo materials shot on Independence Square on December 19, 2010, or, apparently, for the purpose of mass intimidation.

Almost all the offices of human rights organizations were searched, beginning right on the night of December 19-20. The office of FIDH member organization in Belarus Human Rights Center "Viasna" was searched two times, and additionally one successful and one unsuccessful entry attempt were undertaken. Searches were conducted of the apartments and even country houses of "Viasna" members (see below).

Raisa Mikhailouskaia, head of the "Human Rights Center", was an aide to Niakliayeu during the election campaign. She believes that officers were possibly already preparing to conduct a search of her apartment on December 21, 2010, but that it did not take place on that day. *"On the 21st at approximately 6 p.m., my husband and I looked out the window and saw a passenger car, an ambulance, and another passenger car nearby. Three people with clubs got out of the cars and headed to the entryway of our building, when suddenly all their walkie-talkies started working. I prepared myself and started waiting, but no one came to our apartment. We looked out the window and they were already gone. Maybe the problem was that our buzzer was turned off, and they just never got to ring it."* A search of the office was performed on January 19. Three system units were confiscated and copies were made of the business cards of all contacts abroad. After this, Raisa Mikhailouskaia was informed that she would be taken home so that a search of her apartment could be conducted. *"But what was there for them to take? At home, they took two empty flash drives and the memory card from an old camera. They read various papers, but did not take them. My home computer was not working because it did not have a hard drive."*

On December 25, a search was conducted of the premises of the United Civil Party of Belarus (OGP), four of whose officials (including presidential candidate Romanchuk and party leader Lebedko) had been arrested on December 19. Romanchuk, who was sharply critical of the events of December 19 and other political leaders in the opposition, was released, but Lebedko remained imprisoned until April 7, 2011, when he was released pending trial. *"In late December, all our computers, laptops, and discs were confiscated. All this equipment is piled up at the KGB and no investigative activities involving it or us have been undertaken. We can't even reconstruct our membership because of this loss of equipment! What's more, if we don't submit our annual activity report by March 1, the Ministry of Justice could simply shut down the party. We're hanging by a thread here. But how can we write the report?"*

All the information is now stored at the KGB,” OGP Honorary President Stanislav Bogdankevich told the FIDH Mission.

He continued, “Our office in Homel was also searched and Homel district organizations also confiscated computers, disks, and flash drives. There were also searches at our offices in Hrodna and Brest. At that time, all the leaders of the party - a total of four people - had been arrested. Even party members who had no relationship whatsoever to the square or the campaign were arrested for ten to 15 days. In Homel, for example, a group of opposition activists decided not to support any of the candidates because the candidates had not united, and they believed that there should have been one single candidate. But even they were subjected to searches in Homel.”

But the situation did not develop in the same way for all the parties. The premises of the Belarusian Popular Front (BNF) in Minsk were not searched despite the fact that this was the location of the headquarters of people in solidarity with those arrested on December 19. People brought food products and other items there and drove out to various pretrial detention centers to drop off packages of food. But offices in other areas of the country were searched. In Hrodna, both the BNF office and the apartments of BNF activists were searched. The same things happened in Mahilou, Brest, Maladechna, and other cities. System units, recording media, flash drives, and discs were taken.

Journalists and newspaper offices were subject to numerous searches (see below), which were also conducted throughout the country, all the way up to regional capitals. The newspaper office of *Borisovskiy Vestnik* [Borisov News] tried to lodge a complaint about the search carried out by local KGB officers on January 10, 2011. This complaint was submitted to the prosecutor’s office for Minsk Oblast and specifically addressed the grounds for the search and the actions of officers from the Borisov police department, who confiscated all the newspaper’s office equipment, including keyboards and mice. The complaint was reviewed by the prosecutor’s office, but no violations were found to have occurred during the search. The newspaper also lodged a complaint with the court in Minsk’s Partizansky District. This complaint addressed the actions of the Investigative Department of the KGB Directorate for Minsk and Minsk Oblast, which issued the search order. The complaint also addressed the actions of officers from the Borisov District police department, who were the ones to carry out the search. At the end of February, the newspaper received a response stating that the court refused to review the case, citing procedural provisions in the Civil Code. At the time of the FIDH Mission, the newspaper was intending to file an appeal with the Minsk City Court and, in parallel, with the Belarusian Office of the Public Prosecutor. *“They used to establish a legal basis for searches, but this rarely happens now,”* said Semen Pechanko, a journalist from *Nasha Niva* [Our Field] in a conversation with the FIDH Mission. *“This year, for example, they took statuettes for the Young Front prize—without a warrant, without anything. They just came and took them.”*

On February 12, 2011, KGB officers did indeed confiscate eight statuettes meant for recipients of the “I Love Belarus” prize, which the international youth organization Young Front (registered in the Czech Republic) was preparing to award that very day. At about 2 p.m., four KGB officers appeared at the door of a student from the Minsk School of Art who was holding on to the statuettes. The young man opened the door when the officers showed their identification. Deputy Chairman of the Young Front Nikolai Demidenko stated that the KGB officers

searched the student's apartment without showing him a search warrant and confiscated the statuettes without filling out any reports to this effect. The officers ignored the young man's protests and, having confiscated the statuettes, simply left the apartment.¹⁵

A wide circle of civil activists continued to be subjected to searches in March and April 2011.

Interrogations and "Interviews"

As noted above, hundreds and possibly thousands of people were summoned for interrogations and "interviews" to the police, the KGB, or the human resources department at their place of work (for "interviews" only). Paradoxically, freed prisoners who spoke with the FIDH Mission several days after their release complained, in contrast, of an almost total absence of interrogations: after all, it was only at interrogations that they would have been able to understand the charges against them, learn about the health of their relatives from their attorneys, and receive at least some news from outside. But most of them were summoned for interrogation only for arraignment and then ignored for weeks. "Interviews" were held more frequently, but they took place without an attorney and amounted more to measures of pressure and coercion than to investigative procedures. After release, when interrogations ceased to be the only window to the outside, their number increased sharply and, in the cases of some defendants, they were held daily.

Outside of detention facilities, interrogations of people who had not been officially accused of anything were widespread. Intensive efforts were made to pressure people into cooperation.

Raisa Mikhailouskaia told the FIDH Mission about her experiences. *"First I was summoned to an interrogation on January 3. I was summoned by telephone, not by notice. I arrived at 3 p.m. and the whole thing lasted until about 7 p.m. I did not have an attorney with me by choice. I had to sign a confidentiality agreement. A second interrogation took place on the fourth, and a record of our four-hour conversation was written up, but the point of the interrogation was the same - help us and we will help you."*

OGP member Roman Bogdanchuk took a short trip outside the country soon after December 19. Six hours after his return to Belarus on January 17, he was brought a summons for interrogation. The interrogation was conducted by the Organized Crime Directorate, and many violations were committed. For example, an attorney was not allowed to be present, a complaint about this was refused, and no hard-copy record of the interrogation was signed. Investigator V.B. Sokolov spent almost an hour conducting the interrogation and everything said was entered into a computer. Roman was also photographed. On January 19, he was again summoned for interrogation, this time by phone. His attorney was allowed to be present and a hard-copy record was created. *"On January 20, a car drove up to my house, and unknown people in civilian clothes rang the doorbell. They remained in the entrance for 20 minutes and then left. Since then, I have received frequent calls from law enforcement agencies, but I have not received any official summons,"* Roman Bogdanchuk told the FIDH Mission.

15. http://naviny.by/rubrics/society/2011/02/12/ic_news_116_361298/ [in Russian]

Two months later, in April 2011, interrogations and interviews continued to be daily practice. This situation sharply deteriorated after the terrorist attack in Minsk on April 11, 2011.

Violations to the Right to Freedom of Movement

After the wave of repressions that took place in December, different levels of violations to the right to freedom of movement were noted.

First of all, people released in January and February who were involved in criminal cases related to December 19 were not returned their documents, and even though their written pledges not to leave limited their movements, nevertheless, lack of a passport complicated life within their own cities and deprived them of access to a number of services that require presentation of a passport.

Ryhor Kostuseu told the Mission that *“Several conditions were proposed: that I would give them my cell number and that I would come in whenever they asked me to. They wanted me to sign a separate document about the secrecy of the investigation, as well as a statement on travel restrictions. The thing is, though, that I am registered in Shklou, Mahilou Oblast, so I can’t understand what this means - for example, if I am summoned to an interrogation in Minsk, then I am violating the statement on travel restrictions that I signed! At 4 p.m. on December 20, I was released and I signed this statement. I went directly to a press conference at the office and I also gave a speech the next day, and no one objected, even though this was in violation of the statement I signed. The next day, this was the 21st, I was invited to an interrogation at the KGB. I took my attorney with me. That very same day, we lodged a complaint on the election results, with just two hours left until the deadline for doing this. I was again summoned for an interrogation at 8:00 or 8:30 p.m. I was told on the phone that I would only have to read over some documents. I told my attorney that there was no point in his coming. I called him and told him that I was surrendering my phone and going into an interview. I was held there until 2 a.m. - tea and interviews, tea and interviews.... My attorney got worried and kept calling so frequently that they later asked me to call him and put him at ease. At 2 a.m. I was taken by car to a hotel. They even paid for half the bill and gave me a summons to appear at 9 a.m. The next morning, I brought my attorney with me and we were released around lunchtime on the 22nd. I haven’t seen or heard anything from them since. I did call the investigator to have the travel restrictions lifted, but he only said, ‘You can write a petition.’ I wrote one and dropped it off myself. They accepted it without any problem. Five days later I called the investigator to let him know that I had not received a response yet. He answered me verbally that they had reviewed the issue and that it would not be possible to lift the restrictions. I will write them again, but this is already a game of cat and mouse. Right now I have the status of suspect in organizing and participating in mass unrest and in resisting the police, which is punishable by eight to 15 years in prison. But they haven’t detained me, interrogated me, or subjected me to any searches....”*

Some released prisoners involved in criminal cases noticed that they were being followed, which was confirmed in several cases by taxi drivers who noticed tails.

But the most flagrant violations of freedom of movement recorded occurred on the eve of a conference at the Polish Sejm to be held in Warsaw on January 13, 2011. There were plans to

have Belarusian and Polish politicians, civic activists, journalists, and relatives of those arrested participate. However, a decision was made to obstruct the participation of the latter group.

Tatiana Sieviaryniets, the mother of Pavai Sieviaryniets, who heads the Belarusian Christian Democracy and was accused of organizing mass unrest on December 19, was detained and forcibly conveyed to an interrogation as she was on her way to the train station with a ticket for Warsaw.

“I was issued a visa and was supposed to travel on January 12 on a train leaving Minsk for Warsaw at 8:40 p.m. I spent the morning outside the walls of the KGB, trying to learn something about my son. At 7:30 p.m., I went downstairs to the lobby of the dormitory where my daughter lives. Three young men approached me and said that I had to go with them to see Investigator Sankov. I called my daughter on my cell phone. She came downstairs, they put me in a car, and we drove off. Along the way, I called journalists. I also tried to jump out of the car and make a run for the metro, but they blocked my way with the car, preventing me from reaching the metro station.

“In the end, I was taken to the KGB building. I dropped my daughter off along the way - she had to go back to her children in the dormitory. At first Investigator Sankov wanted to interrogate me about my son Pavai’s case. I refused, answering only questions about myself. The interrogation went on for an hour-and-a-half, just long enough to ensure that I would not be able to leave for Warsaw.”

After her interrogation, Tatiana Sieviaryniets was escorted to the exit. Her passport was carried by her escort. *“Suddenly he dragged me towards the elevator, saying ‘I have an offer that you won’t want to refuse, a chance to meet with your son.’ I started struggling to free myself. I wanted to believe that I would see my son, but you can’t believe them no matter what. I finally got away and ran out onto the street, but then I realized that I had left my passport inside. I returned to the lobby. It seemed like the sergeants on duty wanted to help, but they were not able to. I called the investigator, but he said that he did not know who my escort had been! He even said he wasn’t sure that I had had an escort! I tried every way I could to get my passport back and then I wrote complaints about everything - my unused ticket, the money I had lost on my trip to Warsaw, the moral damage I suffered as a result of all this. I received a call from the number 017 1999000. The caller introduced himself as ‘from the KGB’ and said that I would not be returned any money. Naturally, I demanded a written response so that I could go up against them in court, but there was no response. Then my passport was returned, but it was too late. There was no need to go anywhere anymore. This is how it happened: I wrote another complaint. I was handed a folder containing my passport and my complaint, but I didn’t take the complaint because it wasn’t just about my passport.”*

Milana Mikhalevich, wife of the presidential candidate Ales Mikhalevich, was also preparing to travel to Warsaw on January 12. Suddenly people arrived at her house with a search warrant. *“This time they performed a more careful search. There were five KGB officers, including even a colonel and a lieutenant colonel. There was also one woman. They looked through family photo albums trying to find pictures taken on the square on December 19. At first they worked very slowly and carefully, but after 9 p.m. (after my train for Warsaw had already left), they started getting nervous and hurrying the people carrying out the search. They left by 10 p.m. We had missed the train, but my friend offered to drive us. At first, two or three cars were following*

us. One was silver and had temporary license plates. There's a turn near the highway when you leave the city, and there we had a good enough view to see that five cars were following us. One car held four people and the remaining cars each held two men.

"We were stopped beyond Baranovichi. A man with a KGB ID, Viktor Dmitriyevich Tukai, approached our car. He said the following, I remember exactly: 'By decision of the appropriate authorities, you have been forbidden to leave the Republic of Belarus until the criminal case against your husband has been resolved. There is no point in your attempting further movements. You may appeal tomorrow.' But he did not indicate against which specific authorities I might appeal.

There was nothing we could do but return to Minsk. The cars followed us back, but only four, not five. This open surveillance continued the next day all around the city. Two cars were following us. On the morning of the 14th, I remember, the taxi driver said we were being followed again. We didn't notice anything again. At the district police department I was issued a certificate stating that I was not subject to travel restrictions, but they explained that the certificate was only valid at the time it was issued. Maybe they just tore it up at the time."

Difficulties Holding Meetings of Activists and Political Parties

It has never been easy for political parties to operate in Belarus, but recent restrictions have become even more severe. United Civil Party of Belarus (OGP) Honorary President Stanislav Bogdankevich pointed out to the FIDH Mission that *"not one conference, not one large meeting can be held in the city of Minsk. One time we had to hold our party conference at the office of the Belarusian Popular Front - but OGP is a legal party, it is registered. In early February, the OGP group Young Democrats - those are our young activists - had a meeting. They had received a warning from the Ministry of Justice about violating the regulations, so they met 'not as a legal entity.'"*

Premises of the
Belarusian Popular
Front (BNF):
collection of parcels
for the detained and
arrested people,
December 2010.

The situation with the office of the Belarusian Popular Front (BNF) is particularly complicated. Due to the fact that other parties and associations lack offices, this office became an important public place in Minsk. It was there that people gathered on the night of December 19-20 and beyond to put together packages, organize prisoner support groups, and collect



money, which, due to the huge wave of solidarity, was gathered in significant amounts. Freed presidential candidates held press conferences and numerous meetings there both before and after the 2010 presidential election.

During FIDH Mission's presence in Minsk, on February 17, the BNF party was warned that it must vacate its Minsk office on Prospekt Masharova by March 31. The letter, signed by the Housing Repair and Maintenance Association for Soviet District, warned that the lease on the premises at 8 Prospekt

Masheroova would end on March 31, 2011 and that it would not be renewed. The cause of this decision was listed as late rent payment. This information, however, was incorrect (late payments had been made before, but not one single time in 2010), but it was clearly needed because of an agreement signed at the beginning of the lease stipulating that the lease would be renewed if there were no claims under the terms of the lease. However, on May 10, 2011, during the trial, the representative of the Housing Repair and Maintenance Association for the Soviet District claimed that the lease couldn't be renewed as the Association needed the office space for its own use.

The lease that the association refused to extend despite numerous appeals, letters, and meetings expired on April 1, 2011. Party leadership has filed a lawsuit over illegal eviction and will challenge the dissolution of the agreement. The political "order" behind this decision is clear. Many social activists in Belarus tie the decision to close the historic office of the country's oldest opposition party, which it has been renting for nearly 20 years, to the desire of the country's leadership to do away with this last small island of freedom, which undertakes independent political, social, and cultural initiatives. On May 10, 2011 the court satisfied the claims of the association and ordered the eviction of BNF, but this decision has not yet taken legal effect as a cassation appeal has been filed with the Supreme Economic Court.

Cases of Politically-Motivated Dismissal from Work or Expulsion from University

The FIDH Mission learned of a number of instances where people were dismissed from their jobs or expelled from the university because of their civil rights positions or even the civil rights positions of their relatives. This practice has long existed in Belarus. For example, as far back as 2007, Tatiana Sieviaryniets, mother of Pavel Sieviaryniets, the leader of Belarusian Christian Democracy, was fired from her position as teacher of Russian language and literature at School No. 40 in Vitebsk.

Petr Migursky, an assistant professor at the Mahilou State University of Food Technologies and a candidate of economic sciences, has been unemployed since the beginning of February. During the recent election campaign, this activist in the BNF movement Adradzhenne [Revival] served as an advisor to the presidential candidate Uladzimir Niakliayeu. During the stage of signature collection, he supported several independent candidates - V. Niakliayeu, A. Sannikau, V. Rymasheuski, and R. Kostuseu. Soon this teacher was presented with a choice: *"either we work at the university or we engage in politics."*¹⁶

History teacher at Talkov High School Natalia Ilinich, whose employment contract was not renewed by the school's director, filed a complaint with the Pukhovichi District Court in early February 2011. *"I do not agree with the order carried out by my employer and believe that the true reason for my dismissal and the refusal to sign a new employment contract amount to a restriction of labor rights due to my political convictions and in connection with my active social and political activities. I believe my dismissal to be illegal and based on a discriminatory treatment of me on the part of my employer and other government institutions. [...] My social and political activities and my political convictions have never in any way affected my professional activities as a school teacher. However, despite this fact, I was constantly*

16. <http://spring96.org/ru/news/41154> [in Russian]

subjected to pressure from the Minsk Oblast Directorate for Education and from local executive government bodies, which threatened me with dismissal many times in connection with my political convictions and views,” reads Ilinich’s petition.¹⁷

Vyacheslav Dashkevich, a participant in the December 19 demonstration who was sentenced to 15 days, was forced after his release to write a letter of explanation at his job explaining the reason for his absence from his work as a guard at a shopping center. A representative from the HR department summoned Dashkevich for an “interview” and questioned him as to how he came to be at the square. Dashkevich told the FIDH Mission that this representative “*tried to convince me that I wouldn’t get anywhere like this. He said that he was ill-disposed to the opposition. Then he strongly urged me to quit of my own accord.*” After talks, Dashkevich quit upon agreement between the parties on January 27, 2011. After this he was able to get a new job, albeit as a porter, with a lower qualification.

Irina Pankovets, mother of the *Nasha Niva* journalist Dzmitry Pankovets, has been unemployed for a long time. She was fired from her job as a cook at Staroborisov High School after serving a ten-day sentence for being present on Independence Square on the evening of December 19, 2010. After her release, school director Anatoly Kapitonenko gave her an ultimatum to write a letter of resignation. Otherwise, he threatened to fire her with cause. Irina Pankovets agreed to write the letter, believing that she would be able to find another job. As of the end of March, Irina was still unemployed, although she was prepared to accept any offers, including work as a janitor or hospital cleaner.¹⁸

Anatoly Askerko, a worker at the *Avtogidrousilitel* (AGU) factory was arrested in Minsk on December 19, 2010 during the night after the presidential election. He was sentenced to 12 days of administrative arrest for participation in unsanctioned mass protests. After this, the administration at the AGU factory offered him the chance to resign by writing a statement of his own accord. In an interview with the site *praca.by*, he said that “... *I have no violations and 2.5 years left until retirement. So I refused to resign. It is very difficult for a person near retirement age to find work, especially in a small city. Besides, my entire crew at work is behind me.*” Naturally, this phrase attracted excessive attention. A meeting was held and the crew refuted this phrase, recording this in the report. As reported in the February 23 issue of the executive committee newspaper *Adzinstva*, at the meeting laboratory head V.V. Savitsky... “*denounced the words A.Z. Askerko used - ‘Besides, my entire crew at work is behind me.’” A.S. Artyushenko, V.G. Leskin, and the remaining crew members also came out against these words. Finally, at the meeting it was decided that “1. All crew members denounce the words of operator Askerko ‘Besides, my entire crew at work is behind me’ as untrue. 2. None of the crew members support crew operator A.Z. Askerko’s participation in the unsanctioned protest in Minsk on December 19, 2010.*”¹⁹

There are dozens of examples of cases like this.

At a press conference held in Minsk on January 25, Belarusian Minister of Education Sergei Maskevich stated that “no students will be expelled for participation in the protests of December

17. <http://spring96.org/ru/news/41162> [in Russian]

18. http://www.ex-press.by/article.php?id=2031&%20action=results&poll_ident=12 [in Russian]

19. <http://spring96.org/ru/news/41516> [in Russian]

19, 2010.”²⁰ Inna Kulei, head of the Salidarnasts Committee for the Defense of the Repressed announced that on this day her organization recorded the expulsion of some twenty students and that more were under threat of expulsion. In the list provided by this organization, one can find both students expelled after the detention following the 19 December events, and for their political or civic activities. In particular, the obviously fabricated reason of poor academic results is used as a grounds for expulsion.

The European Humanities University in early February created an emergency fund for supporting and integrating students expelled from universities after participating in the protest actions of December 19-20 following the 2010 presidential election in Belarus.

Reinstatement of the Practice of Prohibiting and Censoring Appearances by Musical Groups and Performers

On March 2, 2011 mass media outlets published a document titled “List of Artists and Creative Collectives” which listed the names of Belarusian and foreign musical groups and the surnames of performers and other artists. In accordance with this document, which was anonymous and did not contain the name of a specific government agency or official, the mass media was prohibited from mentioning in any way people and groups on the list, which included well-known Belarusian groups beloved by thousands of Belarusians, like NRM, Krama, Neuro Dubel, Krambambula, Palats, Liapis Trubeckoj, the performer Dmitry Voytyushkevich, the collective Free Theater, and other artists.

Despite the fact that Belarusian Minister of Information Oleg Proleskovsky denied his ministry’s involvement in creating this document, the ban on a number of concerts and the broadcasting on FM stations of musical works by groups and performers whose names were listed in the aforementioned document points to a reinstatement of so-called “blacklists” - lists of banned musicians used during the period of 2004-2007. The “blacklist” of that period included virtually all the same Belarusian groups and performers as the 2011 “List of Artists and Creative Collectives.” These artists, performers and group members are renowned in Belarus and abroad not just for their art, but also for their civil rights positions, which differ from the official state ideology.

20. <http://news.21.by/society/2011/01/25/237327.html> [in Russian]

Criminal Prosecution

The most severe form of prosecution against participants in the events of December 19, 2011 was the initiation of a criminal case on mass unrest. A significant number of accusations were framed with reference to Parts 1 and 2, Article 293 of the Belarusian Criminal Code - participation in mass unrest and organization of mass unrest (at the time of this writing, there were 35 accused, 12 suspected and 7 convicted under this article). Additionally, two people were accused under Part 3, Article 339 of the code (disorderly conduct).

This chapter will examine observance of the rights of defendants and suspects in these criminal cases. Some violations may not seem serious when taken separately, but taken together, both minor and major violations point to the fact that the actions of government bodies have one main goal: breaking the wills of the defendants.

Arrests

Arrests of participants in the demonstration of December 19, 2010 took place on the day of the events and during the following night. For example, presidential candidate Uladzimir Niakliayeu was arrested at 7:20 p.m. on December 19, before polls closed.

Irina Halip, wife of a presidential candidate Andrei Sannikau, called her mother on the evening of December 19, 2010 to advise her that they were on their way to the injury care center with a journalist they knew. Her telephone conversation in this car was transmitted live on the Russian radio station *Ekho Moskv*y:

“Our protests were exclusively peaceful and non-violent. We formed a group of negotiators that was intending to hold talks with leaders of law enforcement agencies. Nevertheless, troops from the Special Forces, the Ministry of Internal Affairs, and OMON were massed at Independence Square. They all went on the offensive. They started to plough through the crowd, beating people. My husband Andrei Sannikau was badly beaten. I was beaten too, but fortunately not as seriously. We are now on our way to the injury care center... Oh, I’m sorry, we are being stopped by a traffic police car... You want us to pull over? It looks like we are going to be stopped. We are being stopped.

“Oh! They’re pulling me out now. They’re pulling me out... What are you, what are you doing? What are you doing?! It’s like I’m in an American action movie. They are pressing me up against the car, my husband is lying on the ground. You monsters! Bastards! Fascists! I am being hit in the face, they’re breaking my hands...”²¹

Both Irina Halip and Andrei Sannikau were arrested during this transmission. After the arrest, an SMS message signed by Andrei Sannikau, but sent from a number other than his own, went out stating that he had been arrested and would be sent to the KGB pretrial detention facility, while Irina Halip was taken around to four different temporary detention facilities and pretrial detention facilities. One of the places they stopped was the temporary detention facility on Okrestina Street, where she was searched. Her cell phone was not confiscated and she was

21. <http://www.echo.msk.ru/programs/beseda/735596-echo/> [in Russian]

able to send an SMS message advising that her son should not be taken to day care. It was not until 5 p.m. on December 20 that the investigator called Irina Halip's mother to inform her of the arrest and of the need to retain an attorney.²²

Ales Mikhalevich called his wife Milana before the polls closed on the evening of December 19, 2010 and promised to stop by their home, but soon thereafter he advised her that he would have to go to his campaign headquarters, where his supporters were blockaded. Later Mikhalevich called again to say that he would not be able to spend the night at home because he was taking a wounded journalist to the hospital and would continue to transport the wounded in his car. He came home at 1 a.m. on the night of December 20 and left for another apartment where two of his supporters were staying. At 4:30 a.m., 15 KGB officials arrived at this apartment, broke down the door, and stated that they needed to speak with Mikhalevich, but not with his two friends. Ales Mikhalevich was arrested, which Milana Mikhalevich learned of only at 8 a.m. from the people who had been with her husband at the time of his arrest. She and Ales Mikhalevich's sister started calling around to all the detention facilities in Minsk and Minsk Oblast, but they were not offered any information about his location or the grounds for his arrest. It was only at 10 a.m. on December 21 that Milana Mikhalevich received a call from a KGB officer, who informed her of the arrest of her husband and the need to retain an attorney for him.²³ Mikhalevich's family members were not informed of his short-term transfer from the KGB pretrial detention center to the Ministry of Internal Affairs pretrial detention center. An especially serious violation was the total absence of information on his location on January 10, 2011, when his attorney believed that he was still at the Ministry of Internal Affairs pretrial detention center when in fact the former presidential candidate had already been transferred back to the KGB pretrial detention facility. At the time, both facilities denied his presence at their locations.

During the evening of December 19, 2010 most of the presidential candidates, with the exception of Lukashenko and Tereshchenko, were arrested, along with many of their advisors (V. Kobets, D. Bondarenko, S. Voznyak, A. Otroshchenkov, A. Fedut, and others) and the leader of the United Civil Party (OGP) Anatoly Lebedko. OGP candidate Yaroslav Romanchuk was released on December 20, 2010 under that condition that he would make a public statement denouncing the other presidential candidates, which he did that very same day. Belarusian Popular Front candidate Ryhor Kostuseu was released on his own recognizance after several interrogations during the night of December 19-20. He was the opposition candidate for president who was not in jail at the time when the deadline to contest the election results expired, and a complaint was filed in his name.²⁴

Deputy Chairman of the Young Front movement Nasta Palazhanka was able to send her parents an SMS message about her arrest for mass unrest. But Daria Korsak, the wife of Alexander Otroshchenkov, press secretary for presidential candidate Andrei Sannikau, learned of his arrest only almost one day after the fact. Otroshchenkov refused the attorney appointed him, so the KGB investigator had to call Ms. Korsak to inform her of her husband's arrest and of the need to retain an attorney for him.²⁵ On the evening of December 20 Tatiana Sieviaryniets learned

22. Interview with L. Halip.

23. Interview with M. Mikhalevich.

24. Interviews with R. Kostuseu and with Raisa Mikhailouskaia.

25. Interview with D. Korsak.

of her son Pavai Sieviaryniets's arrest in the very same way. Furthermore, Sieviaryniets did not even see the attorney retained by his mother until December 24.²⁶

Uladzimir Kobets, chief of staff for Andrei Sannikau, was arrested December 21 as he was leaving a store after buying food to be distributed to people who had been arrested. When he was exiting the store onto the street, he saw a group of men dressed in dark clothes. Immediately, three people broke away from this group and arrested him. At the KGB pretrial detention center, he insisted on being interrogated in the presence of an attorney within 24 hours of his arrest. At the end of the interrogation, the investigator started filling out papers for Uladzimir Kobets to be released under his own recognizance. Uladzimir Kobets had already signed a written pledge not to leave the city and his wife had already been notified of his impending release when he was suddenly taken to the office of the prosecutor, who extended his sentence by ten days (and at the end of this period, for two months from the time of arrest).

In late January and early February, those released included presidential candidate Ales Mikhailevich (who, despite being released on his own recognizance, left Belarus), Young Front activist Nasta Palazhanka, Uladzimir Kobets, and a number of other prisoners. In late March and early April, Anatoly Lebedko, leader of the United Civil Party, and Alexander Fedut, advisor to the presidential candidate Uladzimir Niakliaeu, were also released. But on April 7, 2011, Andrei Pochobut, a renowned activist and chairman of the Union of Poles in Belarus, was arrested in Hrodna. He stands accused of insulting the president of the Republic of Belarus in his publications in *Gazeta Vyborychey* and on his personal blog.²⁷

What all these arrests have in common is that relatives were not given any information or were given false information about the fate of their relatives, even though every state is obligated under international human rights laws (for example, Article 9 of the International Covenant on Civil and Political Rights) to account for all the individuals located in the hands of its agents. And although it never took more than one day for family members to be notified, the practice of failure to inform family members of the arrest was common and widespread.

Legal Assistance

Despite the fact that the Constitution, codes, and laws of the Republic of Belarus guarantee suspects and defendants the right to a defense and legal assistance from an attorney of their own choosing, it has been made virtually impossible for those detained in the criminal case connected with the events of December 19, 2010 to exercise this right.

For example, almost every person in custody was able to meet with defense counsel, but only during arraignment or subsequent interrogations as a defendant. Furthermore, these people were not given any opportunity to meet with their attorneys without an investigator being present (an exception was Nasta Palazhanka, who was able to speak privately with her attorney for 10 minutes prior to her arraignment). If defendants refused to testify (which they have the right to do), then they were not interrogated, so they did not see their attorneys (this was the situation for Anatoly Lebedko). Attorneys spent several hours a day waiting in vain to see their clients at the KGB pretrial detention facility. The official explanation for the

26. Interview with T. Sieviaryniets.

27. <http://www.charter97.org/ru/news/2011/4/7/37493/> [in Russian]

denial of attorney meetings was a lack of free conference rooms. At the same time, attorneys for defendants in other criminal cases were able to meet with their clients regularly without having any problems with lack of space.

Conditions of Detention

All defendants in the criminal case connected with the events of December 19, 2010 were held or are being held at the Belarusian KGB pretrial detention facility (the one exception was the four days Ales Mikhalevich spent at the Belarusian Ministry of Foreign Affairs pretrial detention facility on Volodarsky Street in Minsk²⁸). Conditions of detention in Belarus were described in an earlier FIDH report and have not changed substantially since that time.

For example, four, and sometimes more, people are kept in 12 – 15 m² cells. The cells have no access to daylight and a dim bulb burns 24 hours a day. Prisoners cannot sleep facing away from the bulb, but instead must sleep facing it or the door. It is possible to walk in the facility's courtyard for one to three hours. The quality of food and water is satisfactory (one person the Mission spoke with even praised the food), and a number of people interviewed by the Mission indicated that they were able to send guards to purchase food and personal hygiene products by withdrawing the corresponding amounts from their personal accounts, which were replenished by relatives. Only four cells at the KGB facility have toilets (these cells are primarily used for women). The remaining cells have either holes in the floor or containers with lids. These lids, however, cannot contain the smell, so prisoners in these cells must ask for permission to visit the shared bathroom under guard. In cells with toilets, male prisoners must use them in full view of the guards, while female prisoners are allowed to hang a sheet around the toilet. Prisoners are able to take showers once a week and bed linen is changed with the same frequency. Since smoking is permitted in the KGB facility and there are no non-smoking cells, prisoners who do not smoke (both women and men) are subjected to extended periods of heavy passive smoking.

However, in the period since December 2010, several fundamental changes have occurred that require separate discussion.

At the end of December 2010, the KGB facility saw the appearance of new guards: regular guards were escorted by officers from law enforcement agencies wearing masks that completely covered their faces. During walks prisoners could hear screams and the sounds of electric shocks. Televisions that were the property of prisoners stopped receiving signals at the end of December 2010 and then administrators at the facility forced prisoners to watch a DVD recording of the president's inauguration and later forced them to surrender their televisions. At the same time, texts on internal regulations were confiscated from the cells so that prisoners would be unable to provide a basis for their demands from the administration in the future. In early January 2011, officials at the facility stopped accepting packages containing cheese, meat, suet, sausage, and chocolate. Beginning at the end of March, packages could only be received twice a month instead of three times a week. Because of this, the parents of

28. It has been confirmed that the temporary transfer of Mr. Mikhalevich to the pretrial detention facility on Volodarsky Street was due to the difference in conditions of detention: indeed, in comparison with the KGB facility, this facility is overcrowded, has a higher level of humidity, colder temperatures in the winter, weaker lighting, and poorer quality food. Probable explanations for Mr. Mikhalevich's short-term transfer could be either a punishment for his refusal to cooperate with the investigation or acknowledge his guilt, or a threat with the same purpose.

the prisoner Dzmitry Bondarenko were not able to give him medicine for the herniated spine from which he suffers.²⁹

Relatives were regularly denied meetings with prisoners. Even though prisoners have the right to send and receive correspondence, they received only a small number of letters from relatives, which were not delivered until the last days of their imprisonment (very few of the dozens of letters sent were delivered).³⁰

According to Tatiana Sieviaryniets, the mother of Pavel Sieviaryniets, the imprisoned leader of Belarusian Christian Democracy, *“I received the first letter from my son on January 19. He asked for medicine that I had sent in a package as far back as January 5 and then again on January 17, but he repeated his request in his letter. It was only in a letter from early February that he confirmed receipt of the medicine. He asked me for two toothbrushes, so I sent a package with a soft one and a medium one, but in a new letter he again asked for a medium toothbrush... It’s all a mystery.”*³¹

Alexander Otroshchenkov received no more than three letters from his wife during his pretrial detention, but Ms. Korsak wrote and sent 47 letters.³²

Finally, the most severe change in conditions of detention was made in connection with strip searches. Several times a week, prisoners were led out of their cells to the unheated gym area (the outside temperature dropped lower, to 20 °C), stripped them naked, and told them either to stand spread-eagled (hands against the wall with legs spread widely apart) for a long period of time or to squat numerous times (15 times on average).³³

Complaints about the conditions of detention could not be filed circumventing officials at the detention facility: written complaints were subject to censorship and verbal complaints could not be made if prison officials were not present. For example, the prosecutor visited the cells of prisoners on December 31, 2010, but he was escorted on his visit by the head of the facility³⁴, rendering it pointless to make any complaint about conditions of detention.

The FIDH Mission received many confirmations of the fact that prisoners released on their own recognizance were also required to sign not only an agreement not to disclose the secrets of the investigation, but also a separate agreement not to disclose the conditions of detention (alternatively, this was included as part of the secrets of the investigation). In any case, not even a broad interpretation of the concept of “secrets of the investigation” would include conditions of detention. Not only does this demand from Belarusian authorities not have any legal basis (for example, no provision is made for it in Article 120 of the Belarusian Code of Criminal Procedure, which specifies the regulations governing release under recognizance), it is also aimed at covering up the human rights violations they have committed.

29. <http://www.charter97.org/ru/news/2011/4/4/37375/> [in Russian]

30. Irina Halip's situation was especially difficult because she was not able to receive news about the fate of her three-year-old son or the arrangements being made for her mother, Lyutsina Halip, to take custody of him since Andrei Sannikau was also under arrest (interview with L. Halip).

31. Interview with T. Sieviaryniets.

32. Interview with D. Korsak.

33. See, for example, <http://www.charter97.org/ru/news/2011/3/4/36541/> [in Russian]

34. Interview with S. Voznyak.

Restrictive Measures

Pursuant to the Belarusian Code of Criminal Procedure (CCP), the decision on taking the accused into custody is made by the prosecutor (Part 4, Article 126). Although no judicial confirmation of this decision is required, prisoners may contest restrictive measures in court (Part 5, Article 126 of the CCP).

A number of defendants in the case concerning the events of December 19, 2010 contested the rulings on detention in courts. Due to the aforementioned problems with access to legal assistance, prisoners were frequently unable to instruct their attorneys to contest their detention. In cases where such instructions were given, prisoners were not summoned or taken to the court session and were not even informed of the date the complaints submitted by their attorneys would be reviewed. In one case known to the Mission, a prisoner was informed of the court's decision to deny his complaint on the day it was handed down. But another prisoner learned of the court session regarding his complaint and its denial only after his release.

Minsk district courts stated that the sole or main reason for the denial of these complaints about restrictive measures was the grave nature of the crime committed (in accordance with Part 1, Article 126 of the CCP, people suspected or accused of committing a grave or especially grave crime may be detained to ensure their appearance based on the mere gravity of the crime alone). Court decisions suggest that it is specifically in view of the seriousness of the charges that prisoners could try to evade criminal prosecution and impede proceedings by attempting to exert influence over other participants in the proceedings or by falsifying evidence, or could continue their criminal activities (the text of Article 117 of the CCP, which lists grounds for the selection of restrictive, was more or less quoted in detail).

Thus, obligations under international human rights laws were not observed in relation to restrictive measures. Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR) stipulates that release from detention before trial is the general rule, while pretrial detention is the exception. Article 126 of the CCP stipulates the opposite in relation to persons accused of crimes punishable by more than two years in prison. Article 9(4) of the ICCPR also stipulates the right to judicial appeal of detention, and even if prisoners involved in the case concerning the events of December 19, 2010 were able to initiate judicial proceedings to review the legality of their detention (and far from all were able to do this), they were not able to appear in person before the judges deciding the matter of prolonging their detention or releasing them, and they never received court rulings about why *they specifically* had to be detained further.

The tenuousness of the court rulings can be confirmed by the fact that soon after they were handed down, prisoners were released under rulings by investigators (two weeks after court rulings supporting detention, it turned out that there was no risk whatsoever of prisoners evading the investigation). Some were released following written pledges not to leave Minsk (Nasta Palazhanka, Ales Mikhalevich, where the latter pledged not to leave just Minsk, but also Belarus), while others were placed under house arrest (Uladzimir Niakliayeu, Irina Halip).

House arrest, while allowing defendants to remain in their own apartments, means that they are totally unable to leave these premises (even in prison defendants are able to take an hour-long walk in fresh air, but people are under house are deprived of this opportunity). Two law enforcement officers move into the apartment and spend 24 hours a day, seven days

a week there. They are the only ones who can open the door and they only allow in people who are authorized to enter (other residents of the apartment). Any contacts with the outside world (telephone, Internet, correspondence) are forbidden, but attorney meetings are possible. Irina Halip's guards also advised her not to approach windows and prohibited her from opening them.

Status of Suspects

A number of social and political activists involved in the campaign or the events of the evening of December 19, 2010 were named as suspects in the criminal case, even though no charges have been filed against them as of this time.

Indeed, during the pretrial stage of a criminal case, Belarusian law, like a number of other post-Soviet systems, differentiates between two different kinds of status for individuals facing criminal prosecution: suspect and accused. To file charges, the Belarusian CCP requires "sufficient evidence" of proof of commission of a crime, like place, time, culpability, and damages under criminal law (Part 1, Article 89; Part 1, Article 240; and Part 1, Article 241), but to declare someone a suspect, the fact alone of the initiation of a criminal case (Article 40) is necessary and sufficient. Even though no evidence of a crime is needed to declare an individual a suspect, suspects can be subjected to restrictive measures. In the event that a restrictive measure is selected for the suspect, charges must be filed within ten days from the time of the selection of the restrictive measure or the detention of the suspect, or the measure must be revoked (parts 2-4, Article 40 and Article 118 of the CCP). If no restrictive measures are applied, an individual may continue to have the status of suspect indefinitely, all the way up until the time the ruling on suspect status is revoked (Part 5, Article 40 of the CCP). A suspect has the right to use the services of an attorney (in private and with no restrictions on the number and length of meetings, which is applicable if the suspect is in detention) and is required to appear when summoned by the prosecuting agency (Part 1; subparagraphs 6-7, Part 2; Part 4, Article 41 of the CCP).

At the time of this writing, 12 people have the status of suspect, including former presidential candidate Ryhor Kostuseu. Almost all of them were named as suspects in the period from late December 2010 to mid-January 2011 and are currently out of prison. This means that they may be under suspicion for any amount of time. Although no restrictive measures (even written pledges not to leave the city) have been applied to them, they are not able to leave Belarus (even just to travel to Russia, whose border with Belarus has no passport control), for example, because leaving the country could be interpreted as an attempt to evade investigation.³⁵ At the same time, suspects remain in a state of extended uncertainty: they have not been charged, are not subject the restrictive measures, and there is no evidence of their guilt, but criminal proceedings involving them are being carried out and they are obligated to appear at any time for investigative actions under threat of detention.

35. Interview with R. Kostuseu.

Trials and Sentences

At the time of this writing, over 30 people were suspected of various crimes, mainly organizing and participating in mass unrest (Article 293 of the Belarusian Criminal Code). Such were the final charges against presidential candidates Andrei Sannikau³⁶, Nikolai Statkevich and Dzmitry Uss³⁷. Uladzimir Niakliayeu, Alexander Fedut, Sergey Voznyak, Andrei Dmitriyev, Vitaly Rymasheuski, Irina Halip, Nasta Palazhanka, Paval Sieviaryniets, and Dzmitry Bondarenko have been charged under Article 342 of the Belarusian Criminal Code (CC) - organizing, preparing, and actively participating in gross violations of public order (“small-scale unrest”).

Judicial proceedings for defendants in the case on the events of December 19, 2010 started in the middle of February 2011.³⁸ At the time of this writing, sentences had been handed down in seven cases relating to ten people, all of whom were found guilty under Part 2, Article 293 of the CC (participation in mass unrest in the form of violence, pogroms, arson, destruction of property, resisting the authorities). Additionally, another two people, Young Front leader Dzmitry Dashkevich and Edvard Lobov, an activist in this organization, were sentenced under Part 3, Article 339 of the CC (disorderly conduct). Sentences mainly ranged from two to four years prison time, but three defendants were sentenced to supervised release and fined.

Victims in these cases were identified as officers from law enforcement agencies who were on duty at Independence Square on December 19, 2010. The charges asserted that these officers were beaten and attacked by the defendants and that the officers sustained bodily injuries, which, however, were only documented in January and February of 2011. KGB officers and Special Forces from the Ministry of Internal Affairs were summoned as witnesses, but also only beginning in February 2011. In the criminal cases against Artem Breus, Ivan Gaponov³⁹, and Dzmitry Medved⁴⁰, both witnesses from law enforcement agencies and the victims stated that they were seeing the accused for the first time. In the criminal case against Alexander Otroshchenkov, Dzmitry Novik, and Alexander Molchanov⁴¹, two witnesses (officers from the KGB and the Ministry of Internal Affairs) stated that they saw Messrs. Otroshchenkov and Novik on a video recording of the demonstration, but the defendants did not commit any acts of aggression; at the same time, the witnesses were not able to identify the people who committed acts of violence.

Despite such unconvincing testimony from the witnesses for the prosecution, all the defendants were found guilty of participating in the mass unrest. On March 2, 2011, Otroshchenkov, Novik, and Molchanov were sentenced to terms of three to four years at a medium-security colony. On April 5, 2011, this sentence was upheld by the Minsk City Court, which denied the cassation appeal of the defendants. On March 10, 2011, Breus and Gaponov were sentenced to fines approximately equivalent to US\$3,500, and on the same day Medved was sentenced to three years of supervised release without being sent to an open-type institution.

36. <http://www.charter97.org/ru/news/2011/3/25/37115/> [in Russian]

37. <http://www.charter97.org/ru/news/2011/3/31/37298/> [in Russian]

38. The first person to be sentenced was Vasily Parfenkov, a member of the public interest group that nominated V. Niakliayeu as a presidential candidate. He was sentenced to four years in prison on February 17, 2011.

39. <http://www.spring96.org/be/news/41545> [in Russian]

40. <http://www.spring96.org/be/news/41629> [in Russian]

41. <http://www.spring96.org/be/news/41558> [in Russian]

All the accused in these cases were in custody and had no opportunity for private meetings with their attorneys. Even though the defense was able to question witnesses for the prosecution, examine witnesses for the defense, and argue the defendant's innocence during court proceedings, this was not enough to recognize the proceedings as fair. Indeed, as detailed in previous FIDH reports on Belarus⁴², the courts are institutionally dependent on the Ministry of Justice. Also, even before the end of court proceedings, head of state and de-facto head of the executive branch A.G. Lukashenko stated in regard to the participants of the demonstration on December 19, 2010 that *"they will all serve time in prison under the law. Refer to the investigator or the court."* Not only are such statements in direct conflict with the presumption of innocence, in conditions where the judicial branch is not independent of the executive branch, they also actually predetermine the outcome of criminal cases irrespective of the evidence and legal arguments presented in favor of or against the defendants. In Dzmitry Medved's case, the right to protection against double jeopardy was violated: for the same activities, he first served administrative detention (even though this punishment is not criminal under Belarusian law, from the standpoint of international human rights laws, 15 days of imprisonment is specifically considered a criminal punishment), and then he was sentenced to supervised release in accordance with the Belarusian CC.

42. FIDH-HRC "Viasna". International Fact-finding mission. Conditions of Detention in the Republic of Belarus: <http://www.fidh.org/IMG/pdf/Belarus500ang2008.pdf> ; The Observatory Judicial observation mission report in the case Public Human Rights Association "Nasha Viasna" v. Ministry of Justice of Belarus. <http://www.fidh.org/IMG/pdf/Belarusobseptembre09.pdf>

Sanctions against Attorneys Defending Civil Activists

Legal Regulation

In accordance with Article 62 of the Constitution of the Republic of Belarus, every individual has the right to legal assistance in exercising and defending rights and freedoms, including the right to make use at any time of the assistance of attorneys and other representatives of the court. The legal status of attorneys is regulated by the Bar Act adopted on June 15, 1993 No. 2406-XII.⁴³ This Act assigns the power to regulate the legal profession to the Bar Qualification Committee (Article 11). Members of this Committee are appointed by the Belarusian Ministry of Justice and the Committee is chaired by the Belarusian deputy minister of justice, who casts the deciding vote in the event of a tie. The Bar Act stipulates that the Committee be composed of representatives of governmental bodies, attorneys with no less than five years experience, and “other specialists in the field of the law.” The Act does not set forth any other requirements regarding the composition of the Committee (for example, the ratio of officials to attorneys and “other specialists”), which gives the Ministry of Justice virtually unlimited discretion over the formation of the Committee.

The Committee grades an exam for admission to the bar. Successful candidates may start practicing law after receiving a license issued by the Ministry of Justice by decision of the collegium of this Ministry based on an evaluation provided by the Committee (Article 12 of the Bar Act). Licenses are issued for five to ten years, but the Act does not identify which factors should be taken into consideration when determining the term of the license. At the same time, paragraph 16 of the regulations for the Bar Qualification Committee (approved by Ministry of Justice decree No. 105 on 11-30-2010) states that licenses are issued for one term of five years (this inconsistency cannot be contested, since in Belarus courts have no jurisdiction over secondary legislation). Licenses are extended not automatically, but through “application of a licensee, if he or she observed the Bar Act, which is determined by the appropriate division of the Bar in the course of attestation.” Licenses are extended following the same procedures through which they are issued.

The Ministry of Justice (based on a decision of the collegium of the Ministry of Justice adopted upon the recommendation of the Committee) is also authorized to revoke licenses if it uncovers a repeated gross violation of licensing laws, requirements, or conditions (paragraph 82 of the regulations “On Licensing Certain Types of Activities,” approved by Order No. 450 of the President of Belarus dated 9-1-2010). Gross violations are defined as accepting cash payments without depositing fees with the cashier’s office of the bar association using the standard receipt and refusal to provide legal assistance when required (paragraph 110 of the Licensing

43. The most recent amendments and additions to the Bar Act were made on December 31, 2009, No. 114-3.

Regulations). Moreover, the Committee's regulations do not stipulate that attorneys against whom proceedings have been initiated to revoke or deny renewal of their licenses need to be present during this session or that they have the right to appear in their own defense (paragraph 9 of the regulations stipulates that such an attorney shall be summoned "when needed"; it can be assumed that there is never such a need).

In addition to being held accountable by the licensing body, attorneys may be subject to disciplinary actions, all the way up to expulsion from the bar, by self-regulating bodies (the presidiums of regional bar associations). Recommendations for disciplinary actions introduced by the Ministry of Justice are subject to mandatory review (Article 21 of the Bar Act).

Professional ethics rules are also approved by the Ministry of Justice.

Thus, the legal profession in Belarus is under constant supervision by the Ministry of Justice: it is officials from this specific institution that work on matters related to admission to the bar; the issuance, extension, and revocation of licenses to practice law; and the initiation of disciplinary actions. Even if the legal community objects to disciplinary actions being taken against specific attorneys, the Ministry of Justice can deprive the attorneys of their licenses without even affording them the opportunity to speak in their own defense.

Sanctions Related to Criminal Cases

Attorneys who took on defense cases in the criminal case concerning the events of December 19, 2010 were subjected to various sanctions from the Ministry of Justice.

At the end of December 2010, the Ministry of Justice discovered violations of professional ethics rules in the actions of a number of attorneys and demanded that these attorneys be subjected to disciplinary actions. According to the Ministry: *"Some attorneys are abusing their right to defend individuals by presenting false information about the progress of the investigation, opportunities for defendants to exercise their right to legal assistance, their state of health, and conditions of detention, and are presenting biased information about the work of the country's law enforcement agencies."*⁴⁴

However, the Presidium of the Minsk City Bar Association, finding no grounds for sanctions, refused to discipline attorneys.

Beginning in early January 2011, background checks were carried out by the Ministry of Justice and the KGB in relation to attorney Oleg Ageyev, who was representing former presidential candidate Ales Mikhalevich. The inspectors studied all of his financial documentation and tax returns, spending four days in the lawyer's office and gathering a significant number of documents for further review at the Ministry. KGB officers (who are not authorized under Belarusian law to perform background checks on lawyers) requested "all documents relating to legal practice," without clarifying which specific documents they were interested in. The Bar Qualification Committee session during which attorney Ageyev's case was to be reviewed was scheduled for 4 p.m. on February 14, 2011, but Committee member and Chair of the Presidium of the Minsk City Bar Association Alexander Pylchenko was notified of this session only at 2 p.m. on

44. http://www.minjust.by/ru/site_menu/news?id=734 [in Russian]

the same day, which did not give him a real chance of attending the session. On the same day, the Committee adopted a decision to revoke Mr. Ageyev's license; the decision was approved by the collegium at the Ministry of Justice and signed by Minister of Justice Viktor Golovanov. Under the same decision the licenses of attorneys Tatiana Ageyeva, Uladzimir Tolstik and Tamara Goraieva were also revoked. The attorneys themselves were not notified of the session.

On February 16, 2011 Oleg Ageiev received a notification that his law license had been revoked for *"preventing the licensing body from conducting measures to monitor adherence to the law by presenting inaccurate information."*⁴⁵ The license of attorney Tatiana Ageyeva, was revoked for the same reason. The notification from the Ministry of Justice did not clarify which specific information presented by the attorney was found to be inaccurate. Oleg Ageiev and Alexander Pylchenko asked to review the materials from the background check and the factual grounds for the decision to revoke Oleg Ageyev's license, but at the time of this writing, their request had not been satisfied.

The licenses of Uladzimir Tolstik and Tamara Goraieva were revoked *"for refusal to provide legal assistance"* to Irina Halip⁴⁶. However, it was Halip who turned down the services of Uladzimir Tolstik⁴⁷ under pressure from the investigator. Tamara Goraieva actually did refuse to defend Halip, but also under pressure from the KGB.

On February 18, 2011, Alexander Pylchenko made a statement that: *"All the executive staff members at the Minsk City Bar Association believe that this situation is critical and poses a real threat to the independence of the Bar as a legal institution and to the independence of individual attorneys"*.⁴⁸

On that very same day, Alexander Pylchenko was removed from the staff of the Bar Qualification Committee,⁴⁹ and on February 25, the Presidium of the Belarusian Bar Association *"condemned the style of work"* of Alexander Pylchenko and *"declared impossible further execution of his responsibilities as Chair of the Bar."*⁵⁰ Accordingly, over the course of four days three members of the staff at the Presidium of the Minsk Bar Association were fired (Alexander Pylchenko, Oleg and Tatiana Ageyev).

On March 3, 2011 the new staff of the Presidium of the Minsk Bar Association satisfied the request of the Ministry of Justice to take disciplinary actions against the attorney Pavel Sapelko, who defended Andrei Sannikau and Pavel Sieviaryniets, and deprived him of his status as attorney. The cause for this decision was the attorney's failure to appear at the request of the investigator at the interrogations of the accused people that he was representing.⁵¹ The attorney was notified of the summons only on the day of the interrogation, but he was out of the country that day. The Presidium, however, decided that this attorney did not approve this

45. http://www.minjust.by/ru/site_menu/news?id=775 [in Russian]

46. *Ibid.*

47. Nasha Niva, 2-23-2011, pg. 2

48. Nasha Niva, 2-23-2011, pg. 2

49. http://www.minjust.by/ru/site_menu/news?id=784 [in Russian]

50. http://www.minjust.by/ru/site_menu/news?id=796 [in Russian]

51. http://www.minjust.by/ru/site_menu/news?id=812 [in Russian]

vacation with his clients and never transferred the case to another lawyer.⁵² Pavel Sapelko decided not to appeal this decision.⁵³

Thus, five lawyers for the accused in the case concerning the events of December 19, 2010 were deprived of the status of lawyer on contrived grounds and as the result of proceedings that did not give at least four of them any opportunity for a hearing during the review of whether to apply sanctions against them or not.

52. www.advokat.by/news/o-rassmotrenii-predstavleniya [in Russian]

53. <http://www.charter97.org/ru/news/2011/3/4/36554/> [in Russian]

Violations of Freedom of Media

The difficult situation of the free press in Belarus is not a new problem. Throughout recent years, the state has maintained a monopoly over print and electronic media, as well as over printing and distribution systems. Even so, several independent newspapers have faced additional censorship and other restrictions in recent years, while the new Mass Media Act, which took effect on February 8, 2009, scuttled all hopes for a relaxation of state policy in relation to freedom of expression. This law, which controls Internet media outlets and requires the registration of media outlets in a state registry, has accelerated the procedures for shutting down media outlets for minor violations and provides for criminal prosecution of journalists for publishing statements made by political parties or public associations if they “discredit the Republic of Belarus.”⁵⁴ Applications for accreditation submitted to the Ministry of Foreign Affairs by foreign media outlets are arbitrarily rejected. As a result, many foreign journalists are forced to work illegally. As part of the launch of the EU’s Eastern Partnership program and the beginnings of the “liberalization” campaign, the government took a symbolic step in November 2008 when Presidential Aide for Ideology Vsevolod Yanchevsky announced that the country’s two opposition newspapers – *Narodnaya Volya* and *Nasha Niva* – were being returned to the state distribution system. Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighborhood Policy, gave high marks to the decision made by Belarusian authorities to “*take concrete measures to allow the printing and distribution of these two independent papers,*” which played an important role in rapprochement between the EU and Belarus. The papers were distributed through standard channels for two-and-a-half years, even though they did not cease to exist during the time they were banned, but instead worked in a format close to *samizdat*.

However, both journalists from these publications and journalists from independent web sites remained targets for attacks and persecution. As part of the libel suit involving the so-called “hunting affair,” mass searches of the apartments of charter97.org journalist Natalia Radina, *Novaya Gazeta* journalist Irina Halip, and editor-in-chief and deputy editor-in-chief of *Narodnaya Volya* Svetlana Kalinkina and Marina Koktysh were conducted in Minsk on March 16. All their computer equipment was confiscated. Moreover, during the search of her apartment Natalya Radina was struck in the face by a police officer in civilian clothes. On April 14, 2010 Alexander Lukashenko confirmed in a sharp statement directed at the journalists the assumption that this decision had been made at a senior level: “*I am not going to give the names of these journalists. They are all Western-oriented journalists. They all live and work on grants from the West, but they also work for Russia.*”

On December 19, 2010, many journalists were located on the square to prepare materials for their publications. During OMON’s widespread indiscriminate actions, 27 journalists were rudely arrested. Moreover, neither the visible press badges that journalists wear on their clothes

54. Law of the Republic of Belarus Mass Media Act. Adopted 7-17-2008.

nor their work IDs had the least effect. In a number of cases, the badges used to distinguish members of the press from the public were torn up or even shredded by OMON officers directly before the arrest of these journalists.

For example, the journalist Boris Goretsky was sentenced on January 18 to 14 days of administrative arrest by the Moscow District Court in Minsk. During his trial, this journalist maintained that he was at Independence Square fulfilling an editorial assignment he received from his supervisors at Radio Racyja. Goretsky did not plead guilty. The defense provided to the court documents confirming that he was an employee of Radio Racyja, as well as recordings of his broadcasts from Independence Square on December 19. However, Judge Yevgeny Khatkevich took into account evidence given by witnesses from the police that Goretsky participated in unauthorized demonstrations, but did not consider the evidence presented by the defense. The judge also stated that Goretsky's fulfillment of professional obligations "*in no way precludes his participation in the mass action.*" Goretsky was found guilty of violating Part 1, Articles 23-24 of the Administrative Violations Code (participation in unauthorized demonstrations).

On February 11, Hrodna-based journalist Andrei Pochobut was sentenced to 15 days arrest for participating in the December 19 protests. His case was reviewed at the October District Court in Minsk by Judge Natalya Protasovitskaya, who was included on the list of people banned from entering EU countries for participation in political repression. According to Andrei Pochobut, he proposed that the judge be disqualified because he believed that she would not be impartial. "*I am a strong supporter of visa sanctions, so I am not convinced that a judge who has had sanctions placed upon her can be objective,*" he explained. The judge overruled his challenge.⁵⁵ Pochobut is still in the Hrodna pretrial detention facility charged with libel and insulting the President of the Republic of Belarus.

The FIDH mission met with *Nasha Niva* journalist Semen Pechanko, who explained how the December events reverberated throughout the profession and particularly with his newspaper.

"I have been working for the paper for about six years and I can compare the presidential campaigns of 2006 and 2010. The last few months have been calm by our standards. In the lead up to the elections, it was easier to become accredited, it was simply easier to work than in comparison to 2006. In the middle of the day on December 19, a number of opposition sites were attacked, and then problems started with Internet congestion, since the only place where independent and verifiable information can be found is on a small number of sites. The sites Charter97 and Svobody crashed, so the audience turned to us. We started getting too much traffic, but we switched to text mode, and we had no problems. There were no provisional arrests this time, but everything started on December 19. Mass arrests, beatings at the square, dozens of journalists detained... Tatiana Bublikova, Andrei Pochobut from the Polish paper, and many others... they were all held for "days." Then the searches in pursuit of photographs and videos started. On December 25, they went to Euroradio for Belarus while no one was there and carried off all the equipment. The people at Belsat were prepared: they took away all the equipment themselves and left only a typewriter! The officers came and all they got was a typewriter! On December 28, they came to us at Nasha Niva. Issue no. 48 had already been published and only the site was working, so there were only two people in the office. Dzmitry Pankovets (whose mother and sister were arrested for ten days) and a freelancer.

55. <http://www.arrests.cjes.ru/?id=794> [in Russian]

They came – a mixed group of officers from the KGB and the Ministry of Internal Affairs. There was no indication of the address that they were supposed to search on the warrant. We did not let them in until our editor arrived. After he arrived, he was also taken back to his home.

“They took all our equipment, but there were no ‘interviews’, summons, or interrogations. They were interested in photo and video materials, especially one where a group of people took down the flag from the KGB building and hoisted a white-red-white one in its place, throwing away the official one. But they didn’t really try too hard. I still have flash drives and discs that they simply didn’t notice, even though they were in the drawer of a table. Then there were just calls about some telephone numbers that were documented as having been used on the square. Yuliya Darashkevich, a well-known photographer and journalist, came by at 8 a.m. on December 31. She wrote on her Facebook page that “they” (i.e. the KGB) usually come in the evening, but they came to her in the morning, saying, “See, we don’t just come in the evening.” They took with them all her media recorders. After lunchtime on the same day, they went to see the camera operator Tatiana Gavrilchik and they also confiscated everything from her.”

On December 19, Gavrilchik filmed the protest actions in Minsk as a staff journalist for an officially registered publication. *“The KGB was primarily looking for photo and video materials that could serve as evidence for initiating criminal cases concerning the mass unrest in Minsk and for recordings of the incident where the state flag was torn off the KGB building,”* noted Nasha Niva. *“On December 31, four KGB officers conducted a search of Tatiana Gavrilchik’s apartment and confiscated her computer and office equipment. During the search, the KGB agents verbally requested Tatiana to come to their office for an interview on January 3.”*⁵⁶ Gavrilchik brought her attorney to the interview and refused to speak without him. In turn, the KGB officer refused to speak in the presence of the attorney. A KGB representative *“hinted that if Tatiana agreed to speak without an attorney present, she - and the entire editorial staff at Nasha Niva - would be returned their equipment in a shorter period of time (apparently they were referring to the video camera and the computers).”* In the end, the conversation did not take place. Two hours later, at 5:25 p.m., an unknown person called Gavrilchik’s home number and repeated twice, *“You will look pale and have gaps in your teeth.”*

“But her computer was returned several days later,” clarified Semen Pechanko in his conversation with the FIDH Mission. *“As far as I know, she was the only one who received her equipment back. People brought computers to our office and we continued working. We were actually working on the 19th and our audience increased three times to 15,000-18,000 site visitors per day. Sales grew quickly, even though the newspaper and the site are only in Belarusian. We had no problems with distribution during those days. Naturally, everything was hanging by a thread. We were issued warnings before the 19th of last year for articles about the swine flu epidemic, and they had other quibbles as well.*

“It really can’t be said that the press works normally,” continued Semen Pechanko. *“Journalists tried to unearth the legal basis for using the list of calls made from Independence Square and for conducting searches, interrogations, and arrests. But who will answer us? Sovetskaya Belarussiya [the official print and online media outlet] can publish materials from the investigation, for example, transcripts of telephone calls and excerpts from Skype communications, but*

56. http://naviny.by/rubrics/society/2011/01/04/ic_news_116_358607/ [in Russian]



*Journalists under
the blows from
Special Forces clubs,
December 19, 2010.
Credits: Vadim
Zamirovskiy.*

the Minsk metro, as Minister of Information Oleg Proleskovsky announced at a seminar in Hrodna for the heads of the republic's media outlets. Commenting on his Ministry's filing a suit with the Supreme Economic Court to end publication of these newspapers, Oleg Proleskovsky said that this was "the right of the Ministry and, as minister, my personal position." "That they dared to help some politicians dance on bones after the terrorist attack - there won't be any forgiveness for things like that," he stressed, adding that the question of whether these newspapers would continue publishing or not would be resolved by the court, "which is how it should be in civilized countries."⁵⁷

The decision on filing suit was adopted by the Ministry of Information in accordance with subparagraph 2.2, paragraph 2, Article 51 of the Mass Media Act in connection with written warnings issued to the editorial staff of the aforementioned publications over the course of two-plus years. Editor-in-chief of *Nasha Niva* Andrei Skurko believes the Ministry's court claim to be a "political order." He recalled that his publication received three warnings: two for publications related to the Russian film *Krestny Batka* [The Belarusian Godfather], which was about the Belarusian government, and the final one in connection with the terrorist attack in Minsk.⁵⁸

The warning to *Narodnaya Volya* was issued on April 15, 2011 in connection with the distribution "by the newspaper of incorrect information that tarnished the business reputation of Beltelekompanii." Evidence of distribution of such information was established in an April 13 ruling from the Supreme Economic Court.⁵⁹

Svetlana Kalinkina, deputy editor-in-chief of *Narodnaya Volya*, told BelaPAN that "*Beltelekompaniya* believed that the article tarnished its reputation. Interestingly enough, during the trial they did not contest the facts presented in the article, but rather they did not like my opinion. For example, I called the film a masterpiece of propaganda," she said. According to Kalinkina, she does not understand why the newspaper is being punished twice: once by the court that ruled that the paper must publish a retraction, and a second time by the Ministry.

we don't have access to anything. Even people who were themselves arrested are frequently bound by a confidentiality agreement..."

Shortly before the publication of this report, the situation for opposition newspapers, which had until recently been allowed to be distributed by way of the already irrelevant system created under the new conditions of "making concessions to the West," predictably deteriorated. On April 29, 2011, the Belarusian Ministry of Information filed a petition to stop publication of the newspapers *Nasha Niva* and *Narodnaya Volya*, this time due to "incorrect" coverage of the terrorist attack in

57. http://naviny.by/rubrics/society/2011/04/29/ic_news_116_366975/ [in Russian]

58. *Ibid.*

59. http://naviny.by/rubrics/society/2011/04/15/ic_news_116_365973/ [in Russian]

Prior to this, on March 28, 2011 the Supreme Economic Court, this time presided over by Judge Yekaterina Korotkevich, denied *Narodnaya Volya*'s request to quash warning No. 2, which was issued by the Belarusian Ministry of Information on January 14, 2011. *"With warnings like this, we are forming a practice where journalists must fear the slightest rustling, which is a singular kind of censorship,"* stated the paper's editor-in-chief Iosef Seredich during the court proceeding. He accused the Ministry of Information of "bias" and called its warnings "illegal," saying that they were issued because *"the journalistic angle of the case was insufficiently explored."* The authors of the warning discovered a violation in the September article "Who will Hear the Slogan 'Resign!'" which quoted the leader of the international youth organization Young Front (Czech Republic) Dzmitry Dashkevich. The publication was warned for *"distributing information on behalf of an organization that was not properly registered with the government."* Officials from the Ministry of Information made the argument in court that the publication represented Dashkevich as the leader of an organization that was not registered in Belarus and that he used the pronoun "we" when announcing preparations for street protests. Representatives for the newspaper stated that the author of the article, Lyubov Luneva, was writing about the civic campaign "Resign!," which was being conducted by a number of youth initiatives, not about Young Front, and that Dashkevich was speaking as a private citizen.

Nasha Niva and *Narodnaya Volya* contested the lawsuit. For the meantime, the review has been suspended in connection with court appeals of warnings previously issued to the paper by the Ministry of Information, since it is not possible to review a new case on the publication of the paper until the court decisions on the previous warnings take legal effect. Therefore, evidence of violations has not yet been established by the court. However, if the publications are shut down, they will need a new registration to start working again, which is virtually impossible given the current situation, since the decision to shut down is no less than a confirmation of the country's evolving repressive political course that is becoming more and more entrenched.

Similar proceedings are taking place outside the capital. On April 18, editor-in-chief of *Babrujski Kurjer* Anatoly Sanotenko received a certified letter with a notification from the prosecutor's office of Lenin District in Babrujsk. It contained an "Official Warning on the impermissibility of violations of the law regulating relationships in the sphere of administrative order." The paper's site reports that *"the document was signed by the deputy prosecutor for the district A.M. Kobernik."*

"Naturally, this sets a precedent," commented Anatoly Sanotenko on the site Naviny.by. *"It's a chance to lay the blame at somebody else's doorstep. To prevent possible complaints, I added to my blog entry a link to A.G. Lukashenko's official site, where his speech given at an emergency meeting held in connection with the explosion at the Oktyabrskaya Metro Station is posted. Among other things, this speech states: 'There is nothing to say. We are the only guilty party in this event...The blame lies with us.' Below that I posted my own short commentary, which I have the right to do under Article 33 of the Constitution of the Republic of Belarus, as well as under Article 5, 'Freedoms of Opinion and Conviction and their Free Expression,' in the Mass Media Act."*⁶⁰ Anatoly Sanotenko intends to appeal the warning.

60. http://naviny.by/rubrics/society/2011/04/19/ic_news_116_366225/ [in Russian]

Previously the Belarusian radio station *Avtoradio*, one of the most popular stations in Belarus, was shut down in a similar manner. At the end of March 2011, the Supreme Economic Court upheld the decision of the Television and Radio Broadcasting Committee to revoke the broadcasting rights of this local station, which had previously received warnings from the Ministry of Information for calls to extremist activities. The government counted as extremist activities the on-air distribution of campaign materials of alternative presidential candidates. One of these materials contained the phrase “the fate of the country is not decided in the kitchen, but on the square.”

In early April, the government restricted access for governmental and educational institutions to two opposition sites: *Belorussky Partizan* and Charter’97. The Public Prosecutor issued this decision, citing violations of laws on mass protests by calling for participation in mass protests not authorized by the Minsk City Executive Committee.

OSCE Representative on Freedom of the Media Dunja Mijatović expressed concern about the situation with the mass media and specifically with the fact that the Ministry of Information filed lawsuits with the Supreme Economic Court to shut down *Nasha Niva* and *Narodnaya Volya*. She stated that “*This move by the Belarusian government to silence a few remaining critical voices will further diminish media pluralism in the country.*” The OSCE representative stressed that the continuing crackdown against independent media being waged since December is in direct conflict with OSCE values, and is unacceptable to member countries of the organization, which has proclaimed its commitment to these values.⁶¹

61. <http://www.osce.org/ru/fom/77249> [in Russian]

Persecution of Human Rights Defenders⁶²

From the beginning of the election campaign, Belarusian human rights defenders took an active role in observing the election, which later grew into a campaign to track violations and legal assistance to victims of the postelection repressions.

On September 16, 2010, the office of the Belarusian Helsinki Committee (BHC) in Minsk held an inaugural press conference for its independent enterprise to observe the elections called Human Rights Defenders for Free Elections, which was launched jointly by BHC and the Human Rights Center “Viasna”.

The main goal of this enterprise was *“to conduct independent observation of the elections for the president of Belarus, evaluate the election process from the standpoint of Belarusian election law and international standards for free and democratic elections, and to inform Belarusian society and the international community about this election.”* Not only have both organizations spent more than ten years monitoring the human-rights situation in Belarus, they also have a great deal of experience in the independent observation of elections in various countries throughout the world.

Observation of the progress of the election was carried out through the efforts of members of these two leading human rights organizations in accordance with existing law. Also, work was carried out by both long-term observers, whose activities included observing the election process at every stage beginning with registration of candidates, and short-term observers, who directly monitored free expression of will from the first day of early voting through the counting of votes.

Searches

The role of the human rights defenders and their proactive coordination of activities to track violations during the election campaign and even more so the repressions following December 19 was exceptionally important and highly praised at the international level. It was also taken note of at the national level. The first search was conducted at the Belarus offices of Human Rights Center “Viasna”, an FIDH member organization, on the night of December 19-20, when human rights defenders were gathered there to process the results of their observations and prepare for a press conference planned for the next day.

On the night of December 19-20, KGB officers carried out a search, confiscating all computers and equipment without having the appropriate warrant or creating an inventory of what had

62. FIDH monitors cases of harassment against human rights defenders in the framework of its joint programme with the World Organisation against Torture (OMCT), the Observatory for the Protection of Human Rights Defenders (the Observatory). For more information see: <http://www.fidh.org/-Human-Rights-Defenders->

been confiscated. Ten “Viasna” members were taken to the police department in Pervomaysk District. Valiantsin Stefanovich and Uladzimir Labkovich were among those arrested. Activists were released at approximately 6 a.m. Half-an-hour later, law enforcement agencies returned to the “Viasna” office in search of Mr. Labkovich (who had just been released, but was not at the office).⁶³

On December 29, 2010, the human rights defender Valiantsin Stefanovich contested the illegal activities carried out by police officers from the Pervomaysk District police department in Minsk, who illegally arrested him and confiscated his personal property during a search on the night of December 19-20.

In his complaint to the Prosecutor’s Office for Pervomaysk District, V. Stefanovich indicated that during the search about eight unknown individuals in civilian clothes were accompanied by a senior lieutenant in the police. They did not display any identification, nor did they explain the cause for their actions. An additional group of police officers wearing uniforms and armed with assault rifles arrived to arrest the human rights defenders and take them to the Pervomaysk police department. *“I was never explained the reasons for my arrest or sojourn at the police department and no procedural documents regarding my arrest were written up,”* he informed the Prosecutor’s Office. Also, no copies of the search report describing the objects and property confiscated were left with him. Thus, V. Stefanovich does not know who confiscated his property and on what grounds. He also does not know where his property is currently located.

On December 29, 2010, the human rights defender sent a complaint about the actions of officers from the Pervomaysk police department to the Pervomaysk Prosecutor’s Office. But instead of giving a legal evaluation of the actions of the police officers and holding the guilty parties responsible, the Prosecutor’s Office forwarded the complaint to head of the Pervomaysk police department Colonel O.N. Kovalya. V. Stefanovich learned of this from the response of the assistant prosecutor for Pervomaysk District E.A. Dorozhko.

The claimant appealed to the next higher authority. *“Article 9 of the law ‘On Appeals of Citizens’ dated June 6, 1996 No. 407 prohibits the forwarding of citizen complaints to government bodies and other organizations (officials), whose actions (failure to take actions) are the subject of the complaint, with the exception of cases where review of this category of complaints is the exclusive jurisdiction of these government bodies and other organizations (officials). I believe that the steps taken by the Pervomaysk Prosecutor’s Office to avoid reviewing my complaint against the actions of officers from the Pervomaysk police department and the forwarding of the complaint to the head of the body whose actions were the subject of my complaint is, in point and fact, a gross and flagrant violation of my legal rights. Also, I have still not received a written response to my complaint, even though Article 10 of the law ‘On Appeals of Citizens’ sets a deadline of one month for review of complaints from the time they are logged by government bodies,”* wrote V. Stefanovich to the city’s Prosecutor’s Office.⁶⁴

On January 17, 2011, KGB officers spent from 3 p.m. to 9 p.m. searching HRC “Viasna”, the country house of Ales Bialiatiski, chairman of “Viasna” and vice-president of FIDH, as well as

63. See the Observatory’s Press Release, December 20, 2010

64. See the Observatory’s Press Release, December 20, 2010

the apartment where his wife and son live. *“They were looking for office equipment, checks, receipts. They confiscated my laptop that was in my office and papers relating to a number of old court cases,”* said Bialiatski.

The KGB officers did not conduct an interrogation. *“During the search of our office I was told that I would be taken in for an interrogation, but we actually drove to my dacha 30 km from Minsk. I was not allowed to turn on my cell phone.”* Bialiatski was informed that he was a witness in the criminal case concerning the mass unrest in Minsk on the evening of December 19 (Article 293 of the CC).⁶⁵

“Viasna” members in other Belarusian cities were also subjected to searches and interrogations.

On March 21, 2011, human rights defender Alexander Kaputski was summoned to the Tax Inspectorate for Maladechna District, where he was handed a request for an income and property declaration. He connects this with his social activities. It will be recalled that prior to this on November 30, 2010 his employment contract at his former place of work at a private enterprise was not extended and that on December 25 his places of residence and registration were searched and system units from his computers and cameras were confiscated.⁶⁶

Official warning on preventing violations of the law for human rights activities

On February 14, 2011, Ales Bialiatski received a call from a man presenting himself as Pavel Elisseyev, deputy head of the Department for Protecting Human Rights and Freedoms at the Belarusian Office of the Public Prosecutor. He expressed his desire to have a talk with A. Bialiatski. In response to the question of what the subject of the conversation would be, Mr. Elisseyev answered, *“About the activities of “Viasna” Human Rights Center.”*

It will be remembered that, like many other human rights organizations, the “Viasna” Human Rights Center was shut down in 2003 and has since that time applied numerous times for registration. The Supreme Court of Belarus most recently rejected the center’s application on August 12, 2009, which contravenes the July 2007 decision by the UN Human Rights Council according to which the shuttering of “Viasna” was found to be a violation of Article 22.1 of the International Covenant on Civil and Political Rights, and under which the authors of the complaint “have the right to appropriate redress, including the re-registration of “Viasna”. FIDH president Souhayr Belhassen intended to travel to the court, but she was denied a visa.⁶⁷

Under Article 193.1 of the Belarusian Criminal Code “Activities on behalf of Nonregistered Organizations,” which contradicts the Belarusian Constitution and international agreements Belarus has undertaken in the sphere of human rights, such activities are punishable by a prison term of up to two years.

65. See the Observatory’s Press Release, January 17, 2011

66. <http://www.spring96.org/ru/news/41924> [in Russian]

67. See the Observatory’s Judicial observation mission report in the case Public Human Rights Association “Nasha Viasna” v. Ministry of Justice of Belarus. <http://www.fidh.org/IMG/pdf/Belarusobseptembre09.pdf>



Human Rights Center
Viasna office after
it was searched,
January 17, 2011.
Credits: HRC
“Viasna”.

and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), adopted by UN General Assembly resolution 53/144 on December 9, 1998. Our position in regards to Article 193.1 of the Criminal Code, which stipulates criminal responsibility for activities in a nonregistered organization and which may be applied to Ales Bialiatsky and other members of the “Viasna” Human Rights Center, is unequivocal: banning such activities and holding people liable for them contravenes both the Constitution of our country and international instruments ratified by the Republic of Belarus, specifically the International Covenant on Civil and Political Rights. Application of Article 193.1 of the Criminal Code is evidence of the grossest violation by the Republic of Belarus of the freedom of association and remains the permanent object of criticism by influential international organizations, including the OSCE and the United Nations.

“We, members of the “Viasna” Human Rights Center, vigorously protest the actions of the Public Prosecutor and view them as an attempt to intimidate activists in our organization and the entire human rights movement in Belarus. We believe that our human rights activities are absolutely legal and in demand by Belarusian society, and we declare that we will not cease performing them.”⁶⁹

Ales Bialiatsky appealed the official written warning to Public Prosecutor Vasilevich, but when the Public Prosecutor refused to satisfy the complaint, Bialiatsky appealed to the Central District Court of Minsk. He stated that the Public Prosecutor’s Office had violated his constitutional rights. He also cited Article 5 of the Belarusian Constitution, which contains a list of restrictions on freedom of association. For example, the Republic of Belarus prohibits the creation and activities of political parties and other social organizations that have the goal of forcibly changing the constitutional order or that promulgate war or social, ethnic, religious or racial animosity. In light of the fact that the warning did not contain one single argument as to why Bialiatsky did not have the right to carry out human rights activities on behalf of “Viasna” or how such activities would harm national security or social order and the rights and freedoms of other individuals, he appealed this warning to the Public Prosecutor, but his complaint was not satisfied and the warning was not revoked.

On February 16, A. Bialiatsky was issued an official warning on preventing violations of the law. The warning maintained that his activities on behalf of “Viasna”, which was not properly registered with the government, contradicted Belarusian laws. He was officially warned, and in the event of further activities, criminal prosecution against him will be considered.⁶⁸

In response to this, “Viasna” published a statement reading, “We carry out activities exclusively in conformance with the Belarusian Constitution and the provisions of Declaration on the Right

68. See the Observatory’s Urgent Appeal BLR 003/0211/OBS 021

69. <http://spring96.org/ru/news/41342> [in Russian]

Surveillance and defamation

HRC “Viasna” members learned of other ways in which government structures closely followed their activities. The human rights defenders found out about one such case from a video “Anarchy. Direct Action. Non-partisan. Part 2.” posted on YouTube. In this video, which was a response to “Anarchy. Direct Action,” which was shown on Belarusian television, one of the persons accused in the “case of the anarchists,” who is now outside of Belarus, explained how he was arrested last November and spent several days at the temporary detention facility on Okrestina Street. He recounts how an operative from the Main Directorate for Organized Crime, Vadim Sokolov, offered him the opportunity to provide “assistance” while threatening him with unpleasant consequences and the status of defendant. *“Vadim Sokolov told me that human rights defenders from ‘Viasna’ would try to get in touch with me after my release. He told me that I would have to get in touch with him if they called and that he would give me a voice recorder. He said that I would have to record the contents of my conversation with these human rights defenders because the directorate was very interested in what kind of role people from ‘Viasna’ were playing.”*⁷⁰

It should be noted that as early as January 14, 2011, the newspaper *Sovetskaya Belarus* published an article titled “Behind the Curtains of One Conspiracy,” which was about the activities of individual organizations and activists allegedly causing harm to the country. This article contained excerpts from personal correspondence conducted by Ales Bialiatski using Skype, which means that, despite the lack of legal grounds for this, investigative measures had been undertaken against him.⁷¹

In April 2011, a large-scale campaign against Bialiatski and several of his colleagues was launched in the mass media. As part of this campaign, Belarusian national television showed programs during prime time hours about the illegality, harmfulness, and moral corruption of his human rights activities. Specifically, it was mentioned that people like him “dance on the bones of the Motherland,” and that he is “problem number one” for Belarus.⁷²

The Belarusian Helsinki Committee (BHC) has met with great difficulties. Its chairman Aleh Hulak was arrested at the square on December 19, but was released the next evening. On January 5, 2011, searches were carried out at the BHC office and at Aleh Hulak’s home. On January 12, the Ministry of Justice issued BHC a written warning for “*distributing inaccurate information that discredits human rights and judicial bodies of the Republic of Belarus.*” The warning appeared after the human rights defenders sent information about government pressure on attorneys defending people accused and suspected of organizing mass unrest on December 19 to the UN Special Rapporteur on the Independence of Judges and Lawyers Gabriela Knaul. On March 12, the Supreme Court denied BHC’s complaint about the warning from the Ministry of Justice.⁷³

Raisa Mikhailouskaia, chair of the Center for Human Rights, noted in a conversation with the FIDH Mission that her organization, which is officially registered, started feeling pressure with the launching of the election campaign. In September 2010, the Center received

70. <http://www.spring96.org/ru/news/42309> [in Russian]

71. See the Observatory’s Urgent Appeal BLR 001/0111/OBS 004

72. See the Observatory’s Press Release, May 4, 2011

73. See the Observatory’s Urgent Appeal BLR 002/0111/OBS 008

a notification about the initiation of two tax audits carried out by the State Audit Committee, which is an agency that audits the use of budgetary funds (the Center implements many programs financed by the government budget). The audits were conducted in parallel over the course of a month. The Committee's conclusion was that the activities of the Center as a social organization present, in view of its financing, a "high degree of risk"; this rating determines the frequency of audits by the Committee. Under law, organizations with a low degree of risk are audited once every five years. Now the Center is required to undergo an audit once a year. *"According to them, areas with this degree of risk include construction, the gambling business, and terrorism. Here's what happened. We had received financing for a project to combat violence in families... When we received the money, it had to first be registered with the Humanitarian Activities Department of the President's Administration. They required a letter of support from a government agency. It's hard to believe, but we found an agency to support us. Nevertheless, we received a response that the project was impractical. A month later, the government launched a campaign on this topic. But we had to return the money and cover banking expenses,"* Raisa Mikhailouskaia recounted.

In October 2010, Raisa Mikhailouskaia was fined six benchmark salaries (210,000 rubles, about 50 Euros) for failure to pay taxes on real estate, which amounted to 10,000 rubles for 10 years. After this, the State Audit Committee fined her another 490,000 rubles (about 120 Euros), also in October 2010. *"For keeping member files in the safe without having an internal order that they must be kept in the safe. Then it emerged that we owed 56,000 in back taxes to the state budget over 12 years of operation. We pled guilty and repaid this money in three days, and we were told that everything was in order. A week before the end of the three-month deadline for imposing administrative sanctions, they summoned us to the Tax Inspectorate, wrote up a report, and fined me as the head of the organization and also our accountant for this violation. The women at the Tax Inspectorate even said, 'When are these KGB guys going to get off your back!' Moreover, under current law social organizations may file financial reports once a year or once a quarter. But they did not extend this right to us and once a month we have to bring them forms filled with zeros because we aren't receiving anything now. All told, this takes up a lot of time..."*

Other human rights defenders from various cities throughout the country have also found themselves under close surveillance. On February 4, 2011, Anastasia Loika received a call from an investigator from military counterintelligence. He refused to give his name and said the he would show his work identification when they met. When Anastasia tried to clarify what exactly would be needed from her, he responded that he wanted to invite her for an interview. She refused, demanding an official summons. On January 4, she had already been interrogated by KGB officers, specifically investigators Borisevich and Svistun, as a witness in a criminal case on the mass unrest. After this, about two weeks ago, she also received a call from investigator Dashchinsky from the Pretrial Investigative Department of the Main Internal Affairs Directorate of the Minsk City Executive Council. *"He also tried to invite me to an interview, and again I started demanding a summons. He was very insistent and even threatened me. He knew about the complaints that we had sent to the Prosecutor's Office about the actions of several investigators in this investigative group. In the end, I never received a summons."*

After numerous calls, Anastasia Loika agreed to meet with the counterintelligence investigator. The meeting took place on February 15 and lasted 15 minutes. Moreover, Loika never received the promised summons. To start off, Captain Denis Novitsky from military counterintelligence

showed her a printout from the Internet where she supposedly evaluated the work of the investigators as “...a total mess, and this large investigative group cannot even coordinate things internally,” believing that the words “total mess” referred to counterintelligence. Anastasia Loika said that the investigator proposed that she cooperate with the investigation, saying, “You’re a pretty active person and you know many people. So help us identify people you know in photographs and video materials.” She refused, citing her ambiguous status during investigative activities, and the absence of a record of the meeting and witnesses.⁷⁴

Konstantin Shital, a social activist from Hlybokiy and a correspondent for westki.info, received a summons to the Hlybokiy District Court on March 10, 2011. During the recent presidential election, he had served as an election observer for the Belarusian Helsinki Committee. An initial review of the case was to have taken place on March 3, but after Shital appeared at the court, it emerged that the court session would not take place because it had never been scheduled. Shital is accused of violating Article 13 of the Election Code, i.e. overstepping his authority as an election observer. The grounds were that this observer allegedly asked lycée students whether they had come to early voting of their own free will. Shital himself believes that he is being persecuted for the fact that on the day of the election, he recorded evidence of election law violations at Hlybokiy Polling Station No. 2, which were then made known to society through the independent mass media.⁷⁵

As far back as January 28, Shital received a call on his cell phone from local police officer Alkhimenok, who wanted to speak with this activist about his observation of the presidential election. At the same time he informed Shital that a “paper about him” had been received by the police. Then police officers visited his mother, whom they tried to question about her son’s participation in the operation to observe the election. The next time, police officers tried to hand his mother a summons to interrogation, but she refused to accept it since Konstantin does not live at home. In an attempt to somehow locate him, officers even called Braslav, where Shital was taking part in a religious event.

This story, however, ended unexpectedly well. The review of the Hlybokiy activist’s case on March 10, 2011 lasted all of five minutes. District court judge Irina Kazak ruled to close the case due to “the end of the period for applying administrative punishment.”⁷⁶

On February 3, 2011, Baranovichi-based human rights defender Siarhei Housha was interrogated by the KGB as a witness to a criminal case on the mass unrest. He had to sign a confidentiality statement. On December 19, he was in Baranovichi and was not physically able to participate in events on the square since he was an observer at the Baranovichi City Territorial Election Commission. In accordance with Article 62 of the Constitution, Siarhei Housha asked the local KGB to allow his attorney K.I. Petrovich, a qualified jurist, to participate in the legal proceedings of February 3. The officers from the city’s KGB department who conducted the interrogation authorized investigators V.A. Timofeyev and V.G. Golubkov, denied S. Housha’s request. What’s more, they did not give any reasons whatsoever for their decision. Therefore, on February 15 Siarhei Housha wrote a complaint to the head of the city’s KGB department about the actions of officials in the department. He asked that appropriate measures be taken

74. <http://spring96.org/en/news/41306>

75. <http://spring96.org/ru/news/41143> [in Russian]

76. <http://spring96.org/en/news/41638>

to protect his rights and freedoms and to hold the guilty parties to liability as established by law. However, deputy head of the Brest Oblast KGB office stated in a written response that a review did not establish that officials had violated exiting laws. On March 28, Housha filed a complaint against the KGB with the city court.⁷⁷

On February 24, the human rights defender Uladzimir Tseliapun was interrogated at the Mazyr KGB office as a witness to a criminal case concerning the mass unrest. He only reported that Vasil Prykhodzka interrogated him, that everything was done in the proper manner, and that he had no complaints about the interrogation process. This human rights defender signed an interrogation report and a confidentiality statement, so he cannot say anything about the contents of the conversation.⁷⁸

Hrodna authorities paid particular attention to the activities of Svetlana Rudkovskaya, an independent human rights defender and member of the Belarus Helsinki Committee. In February 2011, she was summoned three times to the Economic Crime Department of Lenin District. The grounds were complaints from a number of elderly residents of the building where Rudkovskaya served as chairman of the Housing and Construction Cooperative. New problems started in March - Rudkovskaya was informed a review had been undertaken about her alleged forgery of signatures when she was elected chairman of the cooperative two years previously.

This human rights defender believes that such manifestations of persecution can be attributed to her active participation in the recent election campaign, when she served as an independent observer and wrote up a number of complaints about violations of election law.⁷⁹

Svetlana Rudkovskaya was summoned by local police officer Andrei Sheleg from the Lenin District Internal Affairs Department in mid-April. The cause was a statement made to the police on April 11 written by the family of Special Forces officer Kayanovich, which lives in the building of Housing and Construction Cooperative No. 8. The statement alleges that Rudkovskaya did not display the complaints and comments book. Rudkovskaya gave her explanation to the officer, upon which he stated that he saw no grounds for writing up a report on administrative violation and closed the matter. However, the next day the same officer Sheleg called her and informed her that at the request of his superiors, the report would be written up after all under Article 9.24 of the Administrative Violations Code. Under this article, Rudkovskaya faces a fine of anywhere from four to ten benchmark salaries.

Compulsory fingerprinting

A new trend emerged during the first months of spring: human rights defenders and activists started being summoned for fingerprinting on a large-scale.

On March 28, 2011 police officers arrested Roman Kislyak, an attorney and human rights defender, on Lenin Square in Brest. After spending several hours at the police department and refusing to have his fingerprints taken, Kislyak was released. At the time of his arrest, Roman was distributing newsletters of the Committee to Protect the Repressed Solidarnasts about

77. <http://www.spring96.org/en/news/42245>

78. <http://www.spring96.org/en/news/41487>

79. <http://spring96.org/ru/news/42323> [in Russian]

the events of December 19, 2010. Roman was taken to the Brest District police department. After confiscating 45 copies of the newsletter and writing up the appropriate report, the police tried to force the human rights defender to undergo the process of fingerprinting. Roman flatly refused, reasoning that he had the right to refuse to have his fingerprints taken. Then Roman was put in a cell and his personal items and shoelaces were confiscated. Officers from law enforcement agencies informed Kislyak that a report on administrative violations would be written up based on the fact of his resistance to comply with a legal request made by a police officer. Roman Kislyak planed to appeal the actions of the police officers.

In Hrodna, many social activists also started to be summoned for fingerprinting. On the evening of March 16, Alexander Khvalenya, a senior lieutenant in the Drug Enforcement and Counter Trafficking Department of the Oktyabr District police department for the city of Hrodna, went to the apartment of Belarusian Helsinki Committee observer Roman Yurgel. To his question about what grounds this department had for taking up the work of the Department of Preventive Measures, the officer replied only that he was acting under orders of the department head Captain Alexander Parkhomenko. Roman Yurgel refused the summons, indicating that the Drug Enforcement Department is not authorized to summon citizens for fingerprinting.

On the evening of March 17, police officers arrived at the apartment of another human rights defender, Uladzimir Khilmanovich. They requested that he travel to their office with them for fingerprinting. Khilmanovich refused to do this, asking that a summons be written up for a different day, which the officers did.⁸⁰

On March 25, which is commemorated by democratic forces in Belarus as Freedom Day, chairman of the human rights center Legal Assistance to the Population (registered in Ukraine) Oleg Volchek was summoned to the Central police department in Minsk for fingerprinting. *“But this summons differed from all previous ones. The police warned me that if I failed to appear, I would be held to administrative liability under Article 23.4 of the Administrative Violations Code for refusing mandatory fingerprinting. Fines for this can reach US\$250. Even though I verbally stated on the phone several times that the police’s actions contravene existing laws on mandatory fingerprinting, since there are no timeframes within which draft-age men are required to come in for fingerprinting. Moreover, internal affairs agencies do not have the legal right to carry out this procedure on draft-age men, since the law on internal affairs agencies does not grant them this right. Their actions may be seen as abuse of authority in relation to draft-age men.”*⁸¹

Obstacles to the work of foreign human rights defenders in Belarus and blacklisting of Belarusian human rights defenders at the borders of the country

Another emerging trend is deporting independent observers from Belarus or preventing them from visiting the country. Civil society has encountered this problem before. As mentioned above, the president of FIDH was banned from entering Belarus with no explanation given as long ago as 2009 and other well-known human rights defenders were blacklisted. David Helton, a representative of the American Institute in Kiev, was also denied a visa in 2009.

80. <http://www.spring96.org/ru/news/41849> [in Russian]

81. <http://spring96.org/ru/news/41683> [in Russian]

He was told he had been blacklisted and that the inviting organization would have to apply to have him removed from the list. However, he never received an official statement that his presence in Belarus was undesirable. The situation was sharply aggravated after the beginning of court proceedings concerning players in the criminal case concerning the events of December 19.

At 3:20 p.m. on March 9, 2011, Maxim Kitsyuk, a Ukrainian citizen who is an aide to the Chairman of the International Observation Mission of the Committee on International Control over the Situation with Human Rights in Belarus and a member of the Foundation of Regional Initiatives, was denied crossing at the Belarusian border while traveling on the Kiev-Minsk train.

The reason for the refusal was that Maxim was banned from entering the Republic of Belarus. After removing him from the train, the border guards sent a query to Minsk and the status of “entry banned” was confirmed. Maxim spent the night in a cell and was sent to Ukraine the next morning on the St. Petersburg-Kiev train, which he took to the station Gornostayivka. The word “deported” was stamped on his ticket.⁸²

On March 14, 2011, a car was detained at the Belarusian-Polish border containing Hrodna human rights defender Viktor Sazonau. Belarusian border guards at the Berestovitsa-Bobrovniki border crossing first spent a long time consulting with their supervisors and then confiscated Sazonau’s passport. The car, which also carried two other passengers, was moved to the side. During the presidential election, Viktor Sazonau had been already detained at a border crossing. A total of ten Hrodna journalists and social and political activists had similar problems in November and December of last year. Later, there were no problems crossing the border. Sazonau’s detention proves that there are new blacklists at border crossings.⁸³

The expulsion from Belarus of the Russian human rights defender Andrei Yurov, head of the International Observation Mission of the Committee on International Control over the Situation with Human Rights in Belarus, director of development for the Moscow Helsinki Group, and honorary president of the International Youth Rights Movement, received wide coverage. Yurov was arrested on the evening of March 16. The apartment where he was located with other members of the Mission was visited by officers from the Soviet police station. They stated that Yurov was banned from entering Belarus and took him to the police station, where a report on his violation of the ban on entering the country was written up. Andrei Yurov spent the night in a cell and was released in the morning with an order to leave Belarus within 24 hours.

When he was arrested, it was explained to him that he was being accused of committing a criminal offense, since he was persona non grata in Belarus. However, no one had ever warned Yurov of his inclusion on a blacklist. Thanks to the efforts of human rights defenders and attorneys (also, as Yurov suggests, a representative from the Russian consulate became involved in the case), the Soviet police department decided to cancel the initiation of the criminal case. Yurov was handed two documents—an order to dismiss the criminal case and a notification of inclusion on the list of persons whose entry into Belarus is forbidden or undesirable.

82. <http://spring96.org/en/news/41624> and the Observatory's Urgent Appeal BLR 004/0311/OBS 038

83. <http://spring96.org/en/news/41699>

His entry into Belarus is forbidden until 15.2.2013. Both documents were signed by Lieutenant Colonel A.V. Germanovich, chief of the Soviet police department.⁸⁴

This is the only case known to the authors of this report where the existence of a blacklist was officially recognized and where an individual received confirmation of his inclusion in this list, even though such lists are also used to monitor the movements of Belarusian human rights defenders. Border stations have lists of individuals who are regularly subjected to customs control every time they cross Belarusian borders. Valiantsin Stefanovich, an attorney for “Viasna”, was on such a list for a year-and-a-half. Ales Bialiatski, vice-president of the FIDH and head of “Viasna”, is currently blacklisted.

On April 20, 2011, Ukrainian citizen Marina Tsapok, an information assistant to the Chairman of the International Observation Mission, was arrested for the same reason when trying to cross the Ukrainian-Belarusian border.⁸⁵

The next day, April 21, another Ukrainian human rights defender named Mikhail Kamenev, who was traveling to Belarus, was also forbidden to enter the country.

At approximately 1:30 p.m. Minsk time on April 28, 2011, law enforcement officers detained human rights defender Ivan Kondratenko at the October District Court in Minsk, where he was located as an observer for the International Observation Mission and was monitoring the court proceedings of participants in the events of December 19, 2010. About five people in civilian clothes (presumably KGB officers) approached Ivan Kondratenko, checked his documents, and took him to the district police station. As he was leaving the courtroom, he was stopped and asked, on camera, about the purposes of his visit to Belarus. Ivan was taken to the Moscow police department in Minsk, where his passport was taken under the pretence of checking its authenticity, along with his two telephones.

Ivan Kondratenko was released only at 6 p.m. after spending over four hours at the police station. He was not charged with anything and no reports were written up about his arrest. In the end, he was handed a notification from the migration service instructing him to leave Belarus within 24 hours.

As a result of these recent events, on April 22, 2011, the Steering Council of the Committee on International Control over the Situation with Human Rights in Belarus issued an official statement regarding violations by Belarus of OSCE commitments to assist NGOs in monitoring conditions in the human dimension. In this statement, participating organizations of the Committee on International Control over the Situation with Human Rights in Belarus expressed their concern about the situation regarding members of the International Observation Mission, which was created under the aegis of the Committee.

“While in Belarus, the human rights defenders Andrei Yurov, Maxim Kitsyuk, Marina Tsapok, and Mikhail Kamenev, were acting openly and were monitoring the compliance of the Republic

84. See the Observatory's Urgent Appeal BLR 004/0311/OBS 038

85. See the Observatory's Urgent Appeal BLR 004/0411/OBS 067

of Belarus with its international human rights commitments in accordance with the UN and OSCE standards on human rights activities,” reads the statement.⁸⁶

New law “On Nonprofit Organizations”

Yuriy Chausau, representative of the Assembly of Belarusian Nongovernmental Organizations, told the FIDH mission about the situation regarding the law “On Nonprofit Organizations,” the writing of which was undertaken as a high priority by the Ministry of Justice in late December 2010. The law was forwarded to the government for review and then introduced in parliament in March 2011. The Center for Legal Transformation and the Assembly of Nongovernmental Democratic Organizations called on Belarusian civil society structures to collect signatures for a collective appeal against aggravating the already difficult situation for NGOs in the country. This collective appeal took into consideration the interests of NGOs in various areas with differing organizational and legal forms. Civil society organizations in the country worked out a common stand on the draft law based on the expert opinions of Belarusian and foreign NGOs.

The authors of the collective appeal noted that NGOs with different organizational and legal forms representing various areas of activity joined forces to develop a common stand on the law. The collective appeal was signed by union associations, environmental and social organizations, and youth, regional, cultural, and educational NGOs. Religious organizations, whose interests may also be affected by the new law “On Nonprofit Organizations”, also joined the collective appeal.

Approximately 200,000 members have already joined the collective appeal. Thus, this initiative is the most large-scale attempt ever to assert the interests of civil society structures in the sphere of lawmaking. This document was forwarded to the government, which is responsible for writing the law, as well as to the House of Representatives in the Belarusian parliament.

Unfortunately, it must be acknowledged that Belarusian leader Alexander Lukashenko has included human rights defenders in the long list of people making up the notorious “fifth column.” The news agency Interfax quoted Lukashenko on his readiness to liquidate any “fifth column”: *“There will be no opportunity to break down the country. We will destroy any fifth column or twenty-fifth column. The Belarusian people are not easily frightened and will not be deceived by foolish prattle about the need for a color revolution.”⁸⁷*

Especially troubling is the fact that, four months after the election, cases of persecution of human rights defenders noted during the first wave of repressions (searches, interrogations, interviews, attempts to persuade people to cooperate with the authorities) continue to be observed, while new forms of persecution, like mandatory fingerprinting, expulsion from the country, blacklisting of foreign colleagues, and preparation of a new restrictive legal framework, are being added to the list. Civil society is suffering through a difficult time, even as it stoically continues its effective work under conditions of constant and heightening repression. There are reasons to fear that in a shrinking media field, human rights advocates, who are constantly informing society of human rights violations and presenting critical analysis of events in the

86. <http://spring96.org/en/news/42863>

87. <http://www.spring96.org/ru/news/42821> [in Russian]

country, will be perceived with even greater hostility. It should also not be forgotten that the European Union's decision to freeze the bilateral dialogue with Belarus taking place within the framework of its Eastern Partnership and to provide robust support, including financial support, for civil society institutions that continue to operate in the country, could further polarize the relationship between the government and the third sector. It is no coincidence that in a recent address to the Belarusian people, Lukashenko once again alluded to "*Western structures*" that are engaged in "*democracy for export*."⁸⁸

88. <http://www.spring96.org/ru/news/42821> [in Russian]

Conclusion

The wave of repression that followed the presidential elections on December 19, 2010, has led to a dramatic decline in the human rights and civil and political liberties in Belarus.

The level, the duration, and the sheer amount of repression is cause for particular concern. The mass administrative detentions and arrests conducted on December 19-20, were characterized by their wanton use of force, interrogations, and of court proceedings conducted with gross violations of procedures, laws, and international standards. Fabricated criminal charges in an environment of complete control of the court system are followed by searches, interrogations, and a campaign of slander and fear against a wide range of civic and political activists. Amidst the constant stream of information about the cruel and degrading treatment, and of torture, there is practically no civil oversight over the institutions of detention in Belarus.

The relatively illusory freedom of the press prior to elections was subjected to yet another round of restrictions. The gross violations of the freedom of association, which in previous years have led to a mass disruption of civic and human rights organizations, have been augmented by additional forms of harsh controls, monitoring, pressure, and defamation. Independent attorneys were also subjected to pressure and repression, while tens of students and citizens were expelled from their places of study or employment because of their civic or political activities.

The dramatic situation in Belarus demands a strong and immediate reaction from the international community.

Recommendations

To the Belarusian Government:

- Drop all criminal cases against participants in the peaceful demonstration of December 19, 2010, immediately and unconditionally release all individuals held in detention as part of this case, pardon or grant amnesty to all the accused and revoke any consequences of their convictions (criminal record and other possible restrictions on rights);
- Investigate all complaints of harsh treatment and torture in detention and at the time of arrest and bring all those responsible to justice;
- Adopt all legal and administrative measures to prevent acts of torture on the territory of Belarus; establish criminal, civil and administrative sanctions for violations of legal procedures (arrest, interrogation, treatment of detainees);
- Carry out prison reforms to improve detention conditions;
- Conduct judicial reforms that would remove judges and the Bar from the oversight of the Ministry of Justice and would separate the functions of trial and arraignment;
- Stop persecuting Belarusian and foreign human rights defenders in Belarus;
- Immediately cease all forms of pressure on attorneys and judges, reissue licenses illegally taken from the attorneys of the participants in the events of December 19 and their families;
- Not impede the registration of human rights and public organizations;
- Stop persecuting journalists, refuse to support court cases on shutting down *Nasha Niva* and *Narodnaya Volya*;
- Return equipment, items, money, and documentation confiscated during searches;
- Cease the practice of pressuring private enterprises, which are prevented from renting offices for public meetings, as well as the practice of threatening to deprive organizations of their legal address and of dissolving lease agreements without grounds;
- Ensure both legislatively and in practice the transparency of vote counting during elections and the opportunity for observers to participate effectively in the voting process, the counting of the votes, and the publication of election results;
- Ensure freedom of association, specifically by ending the use of brute force to disperse and arrest demonstrators, even in the event of unauthorized demonstrations;
- Cancel administrative punishment in the form of arrest as it does not offer the necessary fair trial guarantees;

- Create a joint social and government commission to review all the events and circumstances of December 19 and the following months, as well as evidence of violations within the framework of the election campaign itself. This commissions' work must be carried out under the observation of international organizations (specifically, the OSCE, the European Union, the United Nations, Council of Europe);
- Adopt an immediate moratorium on the death penalty, as a first step towards abolition, and refrain from instrumentalizing the supposed popular support of capital punishment in order to avoid any reform in this field; on the contrary, awareness raising campaigns should be launched focusing notably on the absence of a dissuasive effect of that punishment; put an end to the secrecy surrounding executions and make the number of executions public in order to allow an informed public debate on this issue;
- Implement the recommendations of the UN Human Rights Committee and other UN treaty bodies as well as those of the UN Human Rights Council's human rights mechanisms;
- Ratify the UN Convention on the Prevention of Torture and Inhumane or Degrading Treatment or Punishment; to ratify the Optional Protocol (Istanbul Protocol) to CAT, establishing a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment;
- Issue a standing invitation to UN special procedures, and reply positively in particular to the requests to visit by the Special Representative of the Secretary general on the situation of human rights defenders;
- Ratify the UN International Convention on the Protection of All Persons from Enforced Disappearance;
- Restore the OSCE office in Minsk according to its mandate and cooperate fully with the OSCE mechanisms on Human Dimension, notably ODIHR. Conform with the OSCE Human Dimension's commitments in particular in the field of the Rule of Law and relating to civil and political rights;
- Following the publication of the report on the human rights situation in Belarus prepared by the OSCE Special Rapporteur in the framework of the Moscow mechanism, study its conclusions and recommendations and implement them.

To international organizations:

- Use all the political and diplomatic leverages at their disposal to make Belarusian authorities execute the aforementioned recommendations;
- Use all the political and diplomatic leverages at their disposal to make Belarusian authorities cooperate effectively with the UN Human Rights Council and the UN Office of the High Commissioner for Human Rights and the UN human rights bodies;

- Create a mandate for a Special Rapporteur on the situation of human rights in Belarus under the UN Human rights Council, who can enter in an effective dialogue both with the government and the civil society of Belarus and monitor the situation, elaborate recommendations and present regular reports to the UN Human Rights Council;
- Keep calling for the immediate release and rehabilitation of all political prisoners and urge the Belarusian authorities to immediately put an end to the crackdown on political opposition, lawyers, journalists and human rights defenders;
- Maintain the regime of targeted sanctions adopted by the Council of the EU in October 2010, March and May 2011 until the release of all political prisoners and the end of the crackdown on political opposition, lawyers, journalists and human rights defenders;
- Fully use EU diplomatic channels in Belarus to optimize the EU's direct support to harassed human rights defenders, journalists and detained political prisoners, through concrete local *demarches* and visits;
- OSCE Office for Democratic Institutions and Human Rights (ODIHR) should closely monitor the situation in Belarus, and the OSCE Parliamentary Assembly should follow-up on the issues raised in this report, and invite its Belarusian members to take the relevant legislative initiatives to bring domestic law into conformity with international human rights standards in this field.

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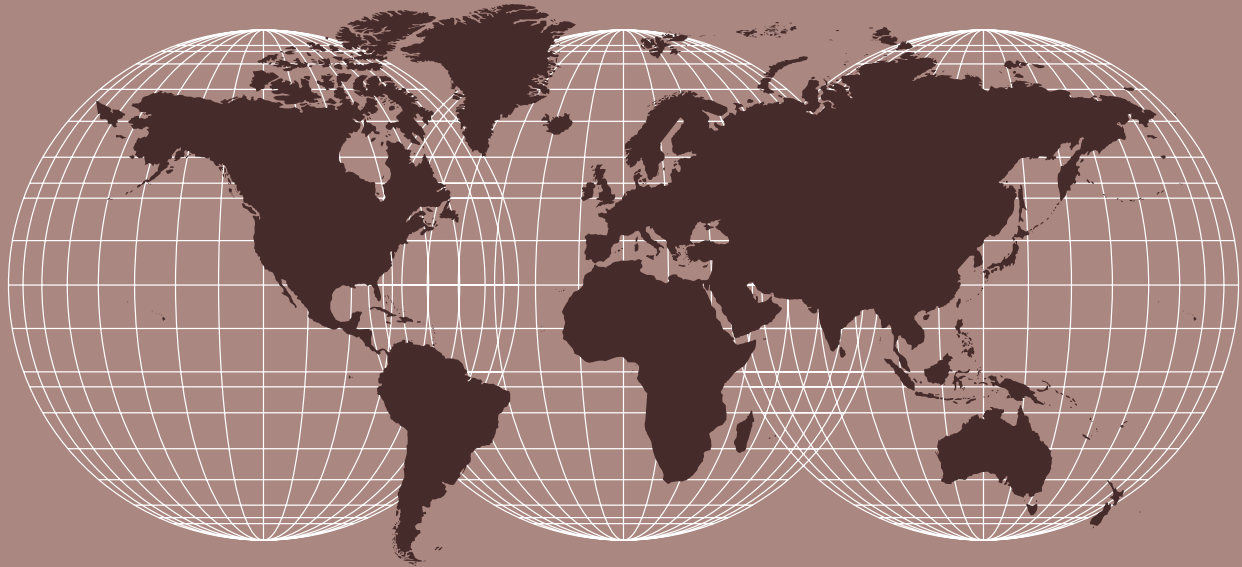
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of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

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