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BELARUS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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In 2010-2011, the working environment of human rights defenders remained very restrictive and the situation deteriorated after the December elections. Several organisations were still denied legal status. Searches and confiscation of property were conducted by the police. Peaceful assemblies were also banned, leading to the arrest and judicial harassment of human rights defenders. Several foreign human rights defenders were also prevented from entering the country.

Political context

Belarusian authorities continued in 2010-2011 to exert undue pressure against civil society and independent media. The situation deteriorated dramatically following the presidential elections on December 19, 2010, which failed to meet key international standards for democratic elections¹. The election process was characterised by a number of improvements, including the registration of eight opposition candidates who could campaign more freely than during the previous presidential campaign and a decrease in repression, raising hope for increased freedom and space for civil society. The process however deteriorated on the election day and the following days when peaceful demonstrations against the unfair conduct of the election were violently dispersed and hundreds of persons arrested². This was accompanied by a sharp increase of politically motivated repression and human rights violations against members of opposition parties, independent civil society and media. In 2010-2011, the number of political prisoners reached an unprecedented high number during the 16-year reign of President Aliaksandr Lukashenko.

In the aftermath of the events of December 19, some 700 people were arrested and most of them sentenced to up to fifteen days of prison on

1/ See Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE), *Election Observation Mission Final Report - Presidential Elections in the Republic of Belarus*, December 19, 2010.

2/ In the evening of the election day, the police brutally dispersed participants of a mass demonstration in Minsk. By the morning of December 20, several hundred persons were detained, including seven presidential candidates. Many of those detained were beaten, including five presidential candidates. Detention and arrest of rally participants and supporters of opposition candidates continued during the following days. As of April 2011, four presidential candidates and approximately three dozens of their supporters remained in pre-trial detention facilities and under house arrest, charged with "organisation of" or "participation" in violent mass protest. See Viasna Centre for Human Rights (Viasna).

administrative charges for the participation in unauthorised demonstrations, a reminiscent of the old soviet legal system³. In addition, criminal cases under Parts 1 and 2 of Article 293 of the Criminal Code (“mass riots”), Part 3 of Article 339 (“hooliganism”) and Article 370 (“insulting national symbols”) were instituted against approximately three dozens people. As of April 2011, seven had been sentenced to prison and the others were awaiting trial, facing up to fifteen years of imprisonment⁴.

Freedom of expression was also denied in many ways. During the post-election events, at least 27 journalists from both Belarusian and foreign agencies were arrested⁵. Twenty-one journalists were reportedly beaten and the equipment of many journalists was severely damaged⁶. In the evening of December 19, the Government also severely restricted the right of citizens to receive and disseminate information by blocking the major opposition websites as well as the use of Google. In the following days, hundreds of people whose mobile phones were switched on during the demonstration, were summoned by the police for interrogation.

Relations with international organisations and the European Union had initially improved prior to the elections, but deteriorated following the post election clamp down⁷. On December 31, 2010, the authorities decided not to extend the mandate of the Organisation for Security and Co-operation in Europe (OSCE) office in Minsk⁸. In January 2011, the OSCE Representative on Freedom of the Media, Ms. Dunya Mijatovic, was refused a visa to visit the country. On January 20, 2011, the European Parliament adopted a strong-worded resolution condemning “the repression of the peaceful demonstrations by the authorities” and calling on the EU to impose “targeted economic sanctions” as well as a “visa ban” against Belarusian officials, members of the judiciary and security officers

3/ In most cases, hearings were closed to the public and lasted a quarter of an hour. The majority of those who were convicted on administrative charges were denied the possibility to appeal.

4/ See Viasna Press Release, March 3, 2011.

5/ Thirteen journalists were arrested on administrative charges for ten to fifteen days. Seven journalists, who are also members of the Belarusian Association of Journalists (BAJ), were accused on criminal charges. See BAJ.

6/ See BAJ.

7/ Reaffirming its policy of engagement towards Belarus, including in the framework of the Eastern Partnership, the EU had planned to offer Belarus a joint interim plan in order to compensate the lack of the Partnership and Cooperation Agreement and the Joint Action Plan that is not signed with Belarus since it is not a full participant of the European Neighbourhood Policy. The Council of Europe also considered re-establishing Belarus' special guest status. See European Council, *Conclusions on Belarus*, 3041st Foreign Affairs Council Meeting in Luxembourg, October 25, 2010.

8/ See Ministry of Foreign Affairs of Belarus Statement, December 31, 2010.

involved in the post-election crackdown⁹. Similarly, the United States State Department imposed on January 31, 2011, new sanctions in response to what it called a “brutal crackdown”, significantly expanding the number of officials and their families banned from travelling to the US. It also revoked licences that had temporarily authorised Americans to engage in transactions with two subsidiaries of the largest State-owned petroleum and chemical conglomerate in Belarus.

Ongoing denial of the right to freedom of association

Throughout 2010-2011, independent human rights organisations continued to be confronted with systematic refusals of registration, exposing organisations to criminal sanctions if they chose to continue their activities. For instance, the branch of the Viasna Centre for Human Rights (Viasna) in Brest, “Brestskaya Viasna”, was denied registration twelve times. Viasna continued to work openly without official registration risking prosecution under Article 193.1 of the Criminal Code¹⁰. On February 14, 2011, Mr. **Ales Bialiatski**, President of Viasna and FIDH Vice-President, was summoned by phone to the office of the Public Prosecutor, where he received a written notification stating that the activities of Viasna were illegal since the organisation was not registered with the Ministry of Justice. It further stipulated that criminal proceedings could follow. On March 30, Mr. Bialiatski appealed the warning before the Minsk Tsentralny District Court. The appeal was still pending at the end of April 2011. Moreover, the Belarus Helsinki Committee (BHC), one of the few formally registered human rights organisations, was threatened with being closed down. On January 19, 2011 the NGO received a written warning from the Ministry of Justice for violating the Law on Civic Organisations and Mass Media and for spreading dubious information discrediting the law enforcement and justice agencies of Belarus. At issue was a letter that the BHC sent on January 11, 2011 to the UN Special Rapporteur on the Independence of Judges and Lawyers, detailing the intimidation faced by lawyers representing opposition leaders arrested on December 19, 2010. According to Article 29 of the Law on NGOs, the decision to dissolve an organisation requires two warnings issued by the Ministry of Justice for the same offence during the year.

9/ See European Parliament Resolution P7_TA(2011)0022, January 20, 2011. The Parliament added that lifting of these measures should be conditional upon the release of the members of the opposition, and suggested that further targeted economic sanctions against the Belarusian Government should be considered, such as a freeze of all financial aid provided by the International Monetary Fund, the European Investment Bank and the European Bank for Reconstruction and Development.

10/ Article 193.1 of the Criminal Code criminalises activities “as part of an unregistered organisation”, punishable by a fine or a prison sentence from six months to two years.

Obstacles to the holding of peaceful assemblies

In 2010, freedom of peaceful assembly continued to be violated, as human rights defenders and organisations were repeatedly prohibited to gather. Most peaceful demonstrations that took place were violently repressed by law enforcement officials, and demonstrators were subjected to arrests and judicial harassment. For instance, on March 23, 2010, Mr. Ales Bialiatski was arrested along with three other Viasna members, Mr. **Valiantsin Stefanovich**, Ms. **Iryna Toustsik** and Mr. **Siarzhuk Sys**, while protesting in Minsk against the recent execution of Messrs. Andrei Zhuk and Vasil Yuzepchuk. The UN Human Rights Committee had previously issued interim measures requesting the authorities not to carry out the execution of Mr. Yuzepchuk while the case was pending before the Committee. Messrs. Bialiatski, Stefanovich, Sys and Ms. Toustsik were taken to the Leninski Police Department of Minsk and charged with “violation of public event procedures” under Article 23.34 of the Administrative Code. While Mr. Sys was released in the evening, Mr. Bialiatski, Mr. Stefanovich and Ms. Toustsik were detained at the Leninski Police Department of Minsk until the following morning. The next day, the Leninski District Court in Minsk sentenced the three defenders to a fine and released them. On August 28, 2010, Mr. **Raman Kislyak**, a member of the opposition movement “For Freedom”, was arrested by the local police while distributing leaflets commemorating the International Day of the Disappeared. The brochures called upon the local citizens to support Belarus’ ratification of the International Convention Against Enforced Disappearances¹¹. The police tried to forcefully take his fingerprints at the Leninski district police department of Brest. As a result, the law-enforcement officers injured his right hand. He was then released without charge. On April 1, 2011, Mr. Kislyak filed two complaints with the Prosecutor General and the Prosecutor of the Leninski district of Brest related to the abuse suffered in custody¹².

Searches by the police of human rights defenders and confiscation of their property

In 2010, some human rights organisations suffered a series of searches by the police as a result of their human rights activities. For instance, on April 30, 2010, the offices of Viasna in Navapolatsk, headed by Mr. **Zmitser Salaeu**, were subjected to a search and Mr. Salaeu’s computer was confiscated under the pretext that neo-Nazi slogans had appeared on the walls of houses in the town. These actions came as Mr. Salaeu had made several

11/ This issue remains very sensitive for Belarus since the disappearance of four of Mr. Lukashenko’s political opponents in the years 1999 - 2000, which has never been properly investigated.

12/ See Viasna Press Releases, March 30 and April 1, 2011.

unsuccessful appeals to the police concerning these slogans including on the wall of his office. In the end, Mr. Salaueu was not charged and the police later pressed charges against local skinheads, accused of vandalism¹³.

Human rights defenders were also subjected to searches and confiscation of documents at the border between Lithuania and Belarus. On October 5, 2010, part of the stickers and brochures bearing the mention “Say NO to death penalty” transported across the border between Lithuania and Belarus by members of the campaign “Human rights defenders against death penalty”, Ms. Iryna Toustsik and Ms. **Palina Stepanenka**, also a member of Viasna, was confiscated at the border post Kamennyi Log. The two defenders were not charged but the materials were never returned. In November 2010, there was another seizure of documentation intended for short-term observers of the elections that were transported across the Lithuanian border by Mr. Zmitser Salaueu and another member of Viasna, Mr. **Uladzimir Labkovich**. More than one hundred copies of the manual were sent for expertise on suspicion of “damaging the interests of the State and the existing constitutional system”. The two human rights defenders were not charged but the customs did not return the documentation¹⁴.

Repression of defenders following the December elections

Following the presidential elections of December 19, 2010, dozens of human rights defenders, including those not directly involved in election monitoring, were submitted to pressure from the authorities, including searches and interrogations by KGB officers in relation to criminal investigations on “participation in mass unrest and organisation of mass unrest” and “disorderly conduct” opened in the aftermath of the demonstration on the electoral results. For example, on December 19, 2010, Mr. **Aleh Hulak**, Chairman of BHC and Coordinator of the election monitoring campaign “Human rights defenders for free election”, was arrested by riot police as he left a peaceful rally held in Minsk. He was subjected to inhuman conditions of detention, having to spend a full day in a truck for convicts without having access to food and toilets. The following day, he was brought to court on charges of violation of Article 23.34 of the Administrative Code, before being released in the evening. As of April 2011, the charges were still pending. On December 20, 2010, during the night, about a dozen policemen in plain clothes raided the office of Viasna. Twelve computers, five laptops and documentation were seized by the police and never returned. Its members were at that time finishing up the analysis of data collected by 600 independent election observers

13/ See Viasna.

14/ *Idem*.

in the framework of the monitoring project run jointly with the BHC. Messrs. Valiantsin Stefanovich, Uladzimir Labkovich, **Andrey Paluda**, Zmitser Salaeu, Siarzhuk Sys, **Uladzimir Mikalaeu**, **Aleh Zhlutka**, **Kanstantsin Staradubets**, **Vital Charniauski** and Ms. **Nasta Loyka** were arrested and released without charge three hours and a half later. Previously, at around 7 a.m. on the same day, five men in plain clothes had tried to open the lock of Viasna offices. They explained to Messrs. Bialiatiski and Stefanovich, who had arrived at the premises that they were looking for Mr. Labkovich who, according to their information, was in the office. Since the five men refused to identify themselves, the defenders did not let them in. On December 21, a search of the home of Mr. **Aleh Volchek**, Head of the Belarusian organisation “Legal Aid to the Population”, was conducted by the KGB. Mr. Volchek was then brought to the KGB for interrogation before being released without charges. His computer and personal video archive were confiscated and had not been returned as of April 2011. On December 24, 2010, Mr. **Mikalay Matskevich**, an ecologist and member of the Centre for Legal Transformation, a human rights NGO, and of the International Youth Human Rights Movement, and Ms. **Volha Damarad**, also a member of the International Youth Human Rights Movement, were arrested during a peaceful protest near a temporary detention facility in Minsk, organised to express solidarity with those detained on December 19. They were sentenced to ten days of administrative detention, in the absence of their lawyers. On December 28, 2010 and January 5, 2011, Mr. **Uladzimir Khilmanovich**, a human rights defender and journalist in Hrodna, was questioned by the KGB about his participation in the demonstration of December 19. On December 29, 2010, Ms. **Elena Tankacheva**, Head of the Centre for Legal Transformation, was summoned to the KGB for interrogation. After that, KGB officers came to her house and carried out a search. They seized documents related to her human rights activities and her SIM card. The same day, the offices of Viasna Mladechna section were also raided. All computers, USB-keys and CD-ROMs were confiscated. As of April 2011, the documents and materials seized had not been returned¹⁵.

Harassment against human rights defenders continued in January 2011. Dozens of human rights defenders were interrogated as witnesses, their homes and offices searched and some material or equipment confiscated, in particular, photos, videos, computers and SIM cards, in the framework of the criminal investigations that followed the December 19 elections. For example, on January 4, 2011, unidentified persons claiming to be members

15 / *Idem*.

of the KGB attempted to enter the house of Ms. Nasta Loyka. As her mother refused to let them in they left. However, they returned during the night and threatened to break Ms. Loyka's door. After the search of her house, she was brought to the KGB for interrogation as a witness in a criminal case of mass riot. On February 4, 2011, Ms. Nasta Loyka 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 Ms. Nasta Loyka tried to find out what exactly would be needed from her, he responded that he wanted to invite her for an interview. She refused, demanding an official summons. After numerous calls, Ms. Loyka agreed to meet with the counterintelligence investigator. On February 15, she met the investigator during fifteen minutes, who proposed her to cooperate with the investigation by identifying people she knows in photographs and video materials, which she refused¹⁶. On January 5, 2011, four KGB officers searched the office of the BHC, based on a warrant which said that the organisation may possess documents in connection with the events of December 19. Two computers were seized. Directly following the raid, the flat of Mr. Aleh Hulak was also searched¹⁷. As of April 2011, the materials seized had not been returned. On January 6, 2011, a search was carried out by KGB officers in the office of the NGO "Legal Initiative" in Homel. The apartment of Mr. **Leanid Sudalenka**, a member of this organisation, was also searched¹⁸. On January 17, 2011, during another raid on the headquarters of Viasna, KGB officers confiscated Mr. Ales Bialiatski's computer, some old papers and several CD-ROMs. As of April 2011, the materials and documents seized had not been returned. On January 27, 2011, Mr. Valiantsin Stefanovich was invited by telephone for a "talk" to KGB Minsk office. He refused since he had not received any official summons¹⁹.

In addition, the regime attempted to tarnish the image of human rights defenders by assimilating them to the opposition or by accusing them of working for "Western donors". On January 14, 2011, the information website *Sovetskaya Belorussiya* (Soviet Belarus) published an article entitled "Behind the Curtains of One Conspiracy", in which it accused the opposition to the regime of being controlled and financed by foreign powers to cause harm to the country. The same article contained alleged quotes from a Skype chat between Mr. Ales Bialiatski and a donor as well as an alleged

16 / *Idem*.

17 / *Idem*.

18 / See Committee on International Control, *Analytical Review No 1-1, December 2010 - January 2011*, January 12, 2011.

19 / See Viasna.

copy of a contract with another donor. Below, the author of the article insinuated that the funds mentioned as being allocated for human rights activities, were misused for other purposes. In April 2011, a media campaign was launched against Mr. Bialiatski and several of his colleagues. Belarusian national television showed programmes 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.

Obstacles to foreign human rights defenders’ freedom of movement in the context of the post-election crackdown

Several foreign human rights defenders were deported or denied access to the country in the context of the post-election crackdown. The situation was sharply aggravated after the beginning of court proceedings launched against key political opposition leaders in relation to the December 19 events. On April 20, 2011 around 4 a.m., Ms. **Marina Tsapok**, an Ukrainian citizen member of the International Observation Mission in Minsk and Coordinator of the Kyiv Informational Center of the Committee on International Control over the Human Rights Situation in Belarus, was stopped at the “Teryukha” frontier post of the Ukrainian-Belarus border and taken off the train, as she was on her way to Minsk. The border police officer explained to her that she was denied entry to Belarus, but he did not specify the reasons of that denial, and no written document was handed to Ms. Tsapok. She was expelled back to Kiev with the 7 a.m. morning train. The same had happened in March 2011 to Mr. **Maxim Kitsyuk**, a Ukrainian citizen, representative of the International Observation Mission, and Mr. **Andrey Yurov**, a Russian citizen, Head of the Committee on International Control over the Situation with Human Rights in Belarus.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Name	Violations / Follow-up	Reference	Date of Issuance
Messrs. Ales Bialiatski, Valiantsin Stefanovich, Siarzhuk Sys and Ms. Iryna Toustsik	Arbitrary arrest / Judicial harassment	Press Release	March 23, 2010
	Release / Sentencing	Press Release	March 24, 2010
Messrs. Valiantsin Stefanovich, Vladimir Labkovich, Andrey Paluda, Zmitser Salaeu, Siarzhuk Sys, Uladzimir Mikalaeu, Aleg Zhlutka, Kanstantsin Staradubets, Vital Charniauski, Aleh Hulak and Ms. Nasta Loyka	Administrative charges	Press Release	December 20, 2010

Name	Violations / Follow-up	Reference	Date of Issuance
Mr. Ales Bialiatski / Viasna	Arbitrary arrest / Search	Press Release	January 17, 2011
	Search and seizure / Judicial harassment	Urgent Appeal BLR 001/0111/OBS 004	January 18, 2011
	Obstacles to freedom of association	Urgent Appeal BLR 003/0211/OBS 021	February 16, 2011
Belarus Helsinki Committee (BHC)	Obstacles to freedom of association	Urgent Appeal BLR 002/0111/OBS 008	January 26, 2011
Messrs. Andrey Yurov and Maxim Kitsyuk	Expulsion / Obstacles to freedom of movement	Urgent Appeal BLR 004/0311/OBS 038	March 18, 2011
Ms. Marina Tsapok	Obstacles to freedom of movement	Urgent Appeal BLR 005/0411/OBS 067	April 20, 2011