Belarus (88)

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Basis of Claims and Background Information on Asylum-Seekers and Refugees from the Republic of Belarus

United Nations High Commissioner for Refugees (UNHCR)
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LIST OF ACRONYMS

AI	Amnesty International
AMG	Advisory and Monitoring Group
BAJ	Belarusian Association of Journalists
BPF	Belarusian Popular Front
BPL	Belarusian Party of Labor
BSDG	Belarusian Social Democratic Gromada
BSDP	Belarusian Social Democratic Party (Narodnaya Hramada)
CAT	Committee Against Torture
CEC	Central Election Commission
CEDAW	Committee on the Elimination of All Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CIS	Commonwealth of Independent States
CPB	Communist Party of Belarus
CRC	Committee on the Rights of the Child
DOM	Department of Migration
EIU	Economist Intelligence Unit
EU	European Union
FSU	Former Soviet Union
LEOM	Limited Election Observation Mission
MOJ	Ministry of Justice
NGO	Non-governmental organization
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PCB	Party of Communists of Belarus
UCP	United Civic Party

I. INTRODUCTION

1. Based on official statistics made available to UNHCR by asylum countries, the number of citizens from the Republic of Belarus ("Belarus") claiming asylum in 29 of the most industrialized countries in the world, while limited, has increased in the last few years. Since the early 1990s, some 18,200 citizens from Belarus applied for asylum in these countries, with the number of claims peaking in 2002 (3,600) and 2003 (3,500).[1] Some 200-300 Belarusian nationals receive refugee status per year, which reflects a beyond average recognition rate of approximately 10 per cent.[2]

2. This trend has generated numerous queries addressed to UNHCR by asylum countries assembling information relevant to the determination of the status of asylum-seekers originating from Belarus. UNHCR Geneva has been requested to assist in this latter regard. This background paper has been prepared by UNHCR Geneva in response to queries for general information and for the analysis of relevant legal considerations on asylum claims lodged. Neither can be considered an exhaustive analysis.

II. MAIN ASYLUM CLAIMS BY GROUPS

3. Claims lodged by asylum seekers from Belarus fall generally into one of the following categories: claims by journalists, media workers and human rights defenders for having openly criticized the authorities; claims from political opponents whose political opinions are allegedly perceived as a threat by the authorities; those asylum-seekers who base their claim on the fact that they are draft evaders or deserters; and religious minorities.

4. See the Annexes of this paper for a compilation of publicly available background material relating variously to the situations of above-mentioned claims.

III. SOME RELEVANT LEGAL CONSIDERATIONS

5. UNHCR consistently recommends that all asylum-seekers, regardless of their origin, be given access to individual refugee status determination procedures, where available.

6. This section sets out legal considerations bearing upon the above groupings of claimants from Belarus. UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, ("Handbook")[3] is an important source of guidance in this regard.

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[1] For more detailed information, please see section of Annex 2 entitled "Refugees and asylum-seekers from Belarus." In the Republic of Belarus, UNHCR Minsk works with asylum seekers arriving in Belarus. For a description of refugees and asylum seekers arriving in Belarus, see Annex 3 of this paper. Most of the sources cited in this paper are available in Refworld CD ROM.

[2] Statistical information of UNHCR, Population Data Unit.

[3] Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UN doc. HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992.

A. Journalists and Media workers, Human Rights Advocates, and Political Opponents

7. The Handbook discusses the grounds for an asylum claim based on political belief:

> Holding political opinions different from those of the Government is not in itself a ground for claiming refugee status and an applicant must show that he has a fear of persecution for holding such opinions.[4] This presupposes that the applicant holds opinions not tolerated by the authorities. It also presupposes that such opinions have come to the notice of the authorities or are attributed by them to the applicant. ... The relative importance or tenacity of the applicant's opinions--as far as this can be established from all the circumstances of the case--will also be relevant.[5]

8. While the definition speaks of persecution "for reasons of political opinion" it may not always be possible to establish a causal link between the opinion(s) expressed and the related measures suffered or feared by the applicant. Such measures have only rarely been based expressly on "opinion." More frequently, such measures take the form of sanctions for alleged criminal acts against the ruling power. It will, therefore, be necessary to establish the applicant's political opinion, which is at the root of his behavior, and the fact that it has led or may lead to the persecution that he claims to fear.[6]

9. Whether a political offender can also be considered a refugee will depend upon various other factors. Prosecution for an offence may, depending upon the circumstances, be a pretext for punishing the offender for his political opinions or the expression thereof. Again, there may be reason to believe that a political offender would be exposed to excessive or arbitrary punishment for the alleged offence. According to the Handbook, such excessive or arbitrary punishment will amount to persecution.[7]

B. Draft Evaders/Deserters

10. Claims allege various abuses against military servicemen.

11. Punishment for refusal to perform military service may constitute persecution under certain circumstances.[8] Chief among these are the following:

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[4] In 2004 the Commission on Human Rights called on all states "[t]o refrain from the use of imprisonment or the imposition of fines for offences relating to the media which are disproportionate to the gravity of the offence and which violate international human rights law." Economic and Social Council, Resolution 2004/42 (E/CN.4/2004/L.65), 15 April 2004, Civil and Political Rights: freedom of Expression.

[5] Handbook, para 80.

[6] Ibid, paras. 81-84.

[7] Ibid, para. 85.

[8] See also paragraph 167 of the Handbook

> [i]n countries where military service is compulsory, failure to perform this duty is frequently punishable by law. Moreover, whether military service is compulsory or not, desertion is invariably considered a criminal offence. The Penalties may vary from country to country, and are not normally regarded as persecution. Fear of prosecution and punishment for desertion or draft-evasion does not in itself constitute well-founded fear of persecution under the definition. Desertion or draft-

(a) If, owing to a Convention reason, the **punishment is applied in a discriminatory manner**. For instance, if sanctions for draft evasion/desertion are only applied in a country to persons of a certain ethnic background, political opinion or religious belief;

(b) If the **punishment for draft evasion/desertion is aggravated** owing to a Convention reason. This would be the case if, for example, the sanction generally applied is 6 months' imprisonment, but persons of a certain race, religion, or political opinion are sentenced to two years;

(c) If, again owing to a Convention reason, the person is **denied due process of law**.

12. A deserter or draft-evader may be considered a refugee

if it can be shown that he would suffer disproportionately severe punishment for the military offence on account of his race, religion, nationality, membership of a particular social group or political opinion. The same would apply if it can be shown that he has well-founded fear of persecution on these grounds beyond the punishment for desertion.[9]

13. There are also cases where the necessity to perform military service may be the sole ground for a claim to refugee status, i.e. when a person can show that the performance of military service would have required his participation in military action contrary to his genuine political, religious or moral convictions, or to valid reasons of conscience. In this regard, the fact that the deserter may be linked to claimed abuses against military servicemen should be considered. According to paragraph 171 of the Handbook,

> not every conviction, genuine though it may be, will constitute a sufficient reason for claiming refugee status after desertion or draft-evasion. It is not enough for a person to be in disagreement with his government regarding the political justification for a particular military action. Where, however, the type of military action, with which an individual does not wish to be associated, is condemned by the international community as contrary to basic rules of human conduct, punishment for desertion or draft-evasion could, in the light of all other requirements of the definition, in itself be regarded as persecution.[10]

14. The question as to whether objection to performing military service for reasons of conscience can give rise to a valid claim to refugee status should also be

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evasion does not, on the other hand, exclude a person from being a refugee, and a person may be a refugee in addition to being a deserter or draft-evader.

Paragraph 168 continues

A person is clearly not a refugee if his only reason for desertion or draft-evasion is his dislike of military service or fear of combat. He may, however, be a refugee if his desertion or evasion of military service is concomitant with other relevant motives for leaving or remaining outside his country, or if he otherwise has reasons, within the meaning of the definition, to fear persecution.

[9] Ibid, para. 170.
[10] Ibid, para. 171.

considered in the light of more recent developments in this field. An increasing number of States have introduced legislation or administrative regulations whereby persons who can invoke genuine reasons of conscience are exempted from military service, either entirely or subject to their performing alternative (i.e. civilian) service. The introduction of such legislation or administrative regulations has also been the subject of recommendations by international agencies. In the light of these developments, it would be open to Contracting States to grant refugee status to persons who object to performing military service for genuine reasons of conscience,[11] where alternative service was not available.

15. The genuineness of a person's political, religious, or moral convictions, or of his reasons of conscience for objecting to performing military service, will of course need to be established by a thorough investigation of his personal beliefs and background. The fact that he may have manifested his views prior to being called to arms, or that he may already have encountered difficulties with the authorities because of his convictions, are relevant considerations. Whether he has been drafted into compulsory service or joined the army as a volunteer may also be indicative of the genuineness of his convictions.[12]

16. A case for valid conscientious objection may be made where the military action in which the asylum seeker would be requested to participate is contrary to basic rules of human conduct. This, for instance, would be the case if the action has been condemned by the international community (Cf. Handbook, paragraph 171). This is not, however, indispensable. Even if the military action in which the person is required to participate is generally conducted within the limits prescribed by the laws of war, he/she may be regarded as a conscientious objector and, hence, qualify as a refugee, if he/she can establish that his/her moral, religious or political objections to participating in such action are so genuine, serious and profound that it would be morally wrong to require him/her to participate in such action. One case that may fall under this description is that of a member of an ethnic minority who, in a situation of internal conflict, may be required to participate in military action against his/her own ethnic community.

17. For the status determination of deserters, it is important to recall that those who commit war crimes, crimes against humanity, or serious non-political crimes may be excluded from refugee status as not deserving of international protection, even though they may otherwise have a well-founded fear of being persecuted for one of the Convention reasons. Important considerations and areas of questioning which must be taken into account in such exclusion matters include an examination of

- the **nature of the acts** for which the asylum seeker is responsible and whether they amount to the excludable acts (in this case, a consideration of crimes against humanity, including genocide, may be relevant) and
- the **level of responsibility** of the individual asylum-seeker for any such excludable acts.

18. It is also important to consider defenses to exclusion, including coercion, necessity, and lack of awareness of the nature of the act. Questioning on these areas

[11] Ibid, para. 173.
[12] Ibid, para. 175.

and a careful analysis of the implications of the answers will be essential to a proper application of the exclusion cases. Important considerations might include the extent to which the asylum-seeker had knowledge of, and a moral choice to be involved or complicit in excludable acts.[13]

19. If, after a comprehensive interview, the decision is made to exclude a refugee, that person can no longer receive refugee protection or assistance from UNHCR. The person, if desiring to stay in the asylum country, should request the protection of the host country government on another basis. It should be noted that under international law provisions other than the 1951 Convention, persons may still be protected against refoulement. Examples of instruments providing such protection include the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms.[14]

C. Religious Minorities

20. The right to freedom of thought, conscience, and religion is one of the fundamental rights and freedoms in international human rights law. In determining religion-based claims, it is therefore useful, inter alia, to draw on Article 18 of the 1948 Universal Declaration of Human Rights (the "Universal Declaration") and Articles 18 and 27 of the 1966 International Covenant on Civil and Political Rights (the "International Covenant"). Also relevant are the General Comments issued by the Human Rights Committee,[15] the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief, the 1992 Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities and the body of reports of the Special Rapporteur on Religious Intolerance.[16] These international human rights standards provide guidance in defining the term "religion" also in the context of international refugee law, against which action taken by States to restrict or prohibit certain practices can be examined. Guidance should be drawn from UNHCR's Guidelines on Religion-based Refugee Claims.[17]

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[13] Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, UN doc. HCR/GIP/03/05, 4 September 2003. See also The Exclusion Clauses, Guidelines on their Application, UNHCR, Geneva, 1996.

[14] Further guidance on the relevant inclusion issues can be found in the UNHCR Handbook, paragraphs 167 - 174. Material in the "Suggested Framework of Analysis on Refusal To Perform Military Service As A Basis For A Well-Founded Fear Of Persecution", Immigration and Refugee Board of Canada (September 1992) may also be helpful in analyzing such cases. Further guidance on exclusion can be found in the UNHCR Handbook, paragraphs 147 - 163, and in the Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, UN doc. HCR/GIP/03/05, 4 September 2003. See also The Exclusion Clauses, Guidelines on their Application, UNHCR, Geneva, 1996. These materials can be found on the UNHCR Refworld CD ROM.

[15] See, in particular, Human Rights Committee, General Comment No. 22, adopted 20 July 1993, UN doc. CCPR/C/21/Rev.1/ADD.4, 27 September 1993.

[16] The latter can be found at http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/intolerance+En?OpenDocument. Relevant regional instruments include Article 9 of the 1950 European Convention on Human Rights; Article 12 of the 1969 American Convention on Human Rights; Article 8 of the 1981 African Charter on Human and Peoples' Rights.

[17] Guidelines On International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, UN doc. HCR/GIP/04/06, 28 April 2004.

21. Persecution for "reasons of religion" may assume various forms, e.g. prohibition of membership of a religious community, of worship in private or in public, of religious instruction, or serious measures of discrimination imposed on persons because they practise their religion or belong to a particular religious community.[18]

22. Mere membership of a particular religious community will normally not be enough to substantiate a claim to refugee status. There may, however, be special circumstances where mere membership can be a sufficient ground.[19]

23. Persecution is normally related to action by the authorities of a country. It may also emanate from sections of the population that do not respect the standards established by the laws of the country concerned. A case in point may be religious intolerance, amounting to persecution, in a country otherwise secular, but where sizeable fractions of the population do not respect the religious beliefs of other parts of the population. Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection.[20]

24. Article 18(3) of the International Covenant permits restrictions on the "freedom to manifest one's religion or beliefs" if these limits "are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." As the Human Rights Committee notes: "Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner."[21] In assessing the legitimacy of the restriction or limitation at issue, it is therefore necessary to analyze carefully why and how it was imposed. Permissible restrictions or limitations could include measures to prevent criminal activities (for example, ritual killings), or harmful traditional practices and/or limitations on religious practices injurious to the best interests of the child, as judged by international law standards. Another justifiable, even necessary, restriction could involve the criminalization of hate speech, including when committed in the name of religion. The fact that a restriction on the exercise of a religious freedom finds the support of the majority of the population in the claimant's country of origin and/or is limited to the manifestation of the religion in public is irrelevant.[22]

25. In determining whether restrictions or limitations rise to the level of persecution, the decision-maker must not only take into account international human rights standards, including lawful limitations on the exercise of religious freedom, but also evaluate the breadth of the restriction and the severity of any punishment for

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[18] Handbook, para 72.

[19] Ibid, para 73.

[20] Ibid, para 65. See also Guidelines On International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, UN doc. HCR/GIP/04/06, 28 April 2004.

[21] See Human Rights Committee, General Comment No. 22, paragraph 8.

[22] Guidelines On International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, UN doc. HCR/GIP/04/06, 28 April 2004, para. 15.

noncompliance. The importance or centrality of the practice within the religion and/or to the individual personally is also relevant.[23]

D. Gender-related Claims: Homosexuals

26. Gender-related claims have typically encompassed, although are by no means limited to, acts of sexual violence, family/domestic violence, coerced family planning ... punishment for transgression of social mores, and discrimination against homosexuals.[24]

27. Refugee claims based on differing sexual orientation contain a gender element. A claimant's sexuality or sexual practices may be relevant to a refugee claim where he or she has been subject to persecutory (including discriminatory) action because of his or her sexuality or sexual practices. In many such cases, the claimant has refused to adhere to socially or culturally defined roles or expectations of behavior attributed to his or her sex. The most common claims involve homosexuals, transsexuals, or transvestites, who have faced extreme public hostility, violence, abuse, or severe or cumulative discrimination.[25]

28. Even where homosexual practices are not criminalized, a claimant could still establish a valid claim where the State condones or tolerates discriminatory practices or harm perpetrated against him or her, or where the State is unable to protect effectively the claimant against such harm.[26]

29. Homosexuals would fall within the definition of a particular social group, as sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are frequently treated differently than men. Their characteristics also identify them as a group in society, subjecting them to different treatment and standards in some countries. Equally, this definition would encompass homosexuals, transsexuals, or transvestites.[27]

30. The Handbook, as well as number of states, has recognized both homosexuals and women as a "particular group" within the meaning of the 1951 Convention.[28]

E. Conclusions

31. The claims of the following categories of persons are most likely to raise issues calling for careful analysis against considerations which have been held to meet refugee status under the 1951 Geneva Convention criteria:

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[23] Ibid, para. 16.
[24] Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, UN doc. HCR/GIP/02/01, 7 May 2002, para. 3.
[25] Ibid, para. 16.
[26] Ibid, para 17.
[27] Ibid, para. 30.
[28] See UNHCR Guidelines on International Protection, "Membership of a Particular Social Group" within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees", UN doc. HCR/GIP/02/02, 7 May 2002, paras. 18 and 19, and Alienikoff, A., Protected characteristics and social perceptions: an analysis of the meaning of 'membership of a particular social group," p. 286, in Feller, E., Türk, V., and Nicholson, F. (eds.), Refugee Protection in International Law: UNHCR's Global Consultations on International Protection, Cambridge University Press, 2003, pp.717.

- Journalists and media workers openly critical of the local authorities;
- Human rights defenders openly criticizing the national and/or local authorities;
- Prominent political opponents, especially those with a solid financial base, whose political ambitions may be perceived as a threat by the authorities.

ANNEX 1: BACKGROUND INFORMATION

A. General Information on Belarus

1. Belarus is a landlocked republic located in Eastern Europe, with an area of 207,600 sq km, adjoining Latvia (141 km) and Lithuania (502 km) to the North-West, Poland (407 km) to the West, Ukraine (891 km) to the South and the Russian Federation (959 km) to East and North-East.[1] The capital of Belarus is Minsk with 1.8 million inhabitants. Belarus is comprised of six regions (Brest, Gomel, Grodno, Minsk, Mogilev and Vitebsk)[2] and one municipality, the capital Minsk. Belarusian and Russian are the official national languages.[3]

2. The number of inhabitants is 9.99 million, according to official 2002 figures.[4] Belarusians comprise 81.2 per cent, Russians 11.4 per cent, and Polish, Ukrainian, and other 7.4 per cent of the population. The main religions are Eastern Orthodox (80 per cent) and Roman Catholic (about 15-20 per cent). Others include Protestant, Jewish, and Muslim (1997 estimates).[5] As death rates have exceeded birth rates since 1993, the population declined slightly from 10.4 million in 1993. Population density is 47.7 per sq km, compared with over 80 per sq km in neighboring Ukraine and under 10 per sq km in Russia.[6]

3. The Belarusian currency is the rouble ("Belarusian rouble"), introduced in May 1992. It was redenominated at a rate of 1,000 old roubles = 1 new rouble on 1 January 2000.[7] The current Belarusian national flag bears red and green horizontal bands; a white vertical stripe on the hoist side has a Belarusian national ornament in red.[8] Both the national flag (with the exception of sickle and hammer removed) and the state emblem of Belarus closely resemble the old "Soviet" symbols of the former Byelorussian Soviet Socialist Republic. The current official flag and state emblem were introduced as the result of a 1995 referendum. The white-red-white flag (three equal horizontal bands of white-red-white) and historical symbol "Pahonia" ("Chase") - the latter shared with Lithuania - were adopted upon proclaiming of Belarus' independence in 1991.[9]

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[1] International Human Rights Instruments, Core document forming part of reports of States Parties: Belarus, HRI/CORE/1/Add.70, 10 June 1996.
[2] Institute for War and Peace Reporting, Country Profile, Belarus [Internet].
[3] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[4] Committee on the Elimination of All Forms of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Belarus, CEDAW/C/BLR/4-6, 19 December 2002, p. 2:

> At the beginning of 2001, Belarus had a population of 9,990,400, which was equivalent to its 1986 population; over a total of 10 years, from 1990 to 2000, the population fell by 221,000. Furthermore, since 1993, the death rate in Belarus has exceeded the birth rate, resulting in depopulation of urban as well as rural areas. The birth rate over this period fell by 39.8 per cent.

[5] Institute for War and Peace Reporting, Country Profile, Belarus [Internet].
[6] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[7] Ibid.
[8] CIA World Factbook, Belarus [Internet]; See annex State Symbols and Passport.
[9] The Virtual Guide to Belarus http://www.belarusguide.com/as/history/pahonia.html#4

4. Belarus is a republic. Its first post-Soviet Constitution was adopted on 15 March 1994 and was revised by a national referendum in November 1996, giving the presidency greatly expanded powers. The revised Constitution entered into force on 27 November 1996.

1. Government

5. The executive branch is headed by the President, who enjoys broad powers as a result of the 1996 constitutional amendments. The President is elected by popular vote for a five-year term.[10] He appoints the prime minister and deputy prime ministers, 8 members of the Upper House of the Parliament, half of the members of the Constitutional Court and all other judges, the chairperson of the National Bank of Belarus, the state prosecutor-general, the heads of the Supreme, High Economic, and Constitutional Courts, the head of the Central Election Commission (CEC), the head of the State Control Committee, the head of the State Security Committee ("KGB"), and the heads of the local authorities. In addition, he is in control of the country's government – Council of Ministers, Presidential Administration and State Security Council, and is the Commander-in-Chief.

6. Mr. Alexander Lukashenko became the first President of independent Belarus on 20 July 1994. He was re-elected on 9 September 2001 with 75.6 per cent of votes.

7. Legislative power is vested in the bicameral Parliament, the National Assembly, which replaced the dissolved Supreme Soviet after the 1996 referendum. The lower house, the House of Representatives, comprises 110 elected members, while the upper house, Council of the Republic – consists of 64 members, with 56 members elected by the regional councils and 8 members appointed by the President.

8. The Supreme Court is the highest court in the country and its judges are all appointed by the President. Other senior courts include the High Economic Court and the Constitutional Court, where, in the latter, half of the judges are appointed by the President and half are appointed by the House of Representatives. In the first term of Mr. Lukashenko's presidency, the Constitutional Court acted as the main centre of opposition to Mr. Lukashenko. However, following the 1996 referendum, the judiciary, according to some observers, has proven neither independent nor objective by international standards. Independent lawyers were barred from representing their clients in courts in 1997.[11]

2. Economy

9. The economy in Belarus is highly industrialized and largely dependent on the import of energy and raw materials. Trade, services, and the industrial sector are the main sources of economic development. Belarus exports large quantities of machinery, transport vehicles, chemical and petrochemical products, fibers, fertilizers, and transport services. Raw materials remain the main import, coming mostly from the Russian Federation, country's main trading partner.[12]

10. The dissolution of Soviet Union left Belarus with one of the highest standards of living in the former Soviet Union (FSU). Since then, the country passed through

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[10] Second presidential elections were supposed to be held in 1999; however, President Alexander Lukashenko's first term in the office was extended to 2001 by the November 1996 referendum.
[11] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[12] The World Bank, Belarus Country Brief 2003 [Internet].

several phases in its political and economic development. During 1991-1995, with the support of the international community, Belarus initiated preliminary reforms towards a market economy.[13]

11. However, Belarus has seen little structural reform since 1995, when President Lukashenko launched the country on the path of "market socialism." According to the Economist Intelligence Unit,

> Mr. Lukashenka's state-centered economic model is designed to perpetuate his Administration's tight control over the country's political and economic space, and to prevent the destabilizing social unrest that he feels has marred the transition in other post-Soviet countries. By ensuring high employment levels, widespread subsidies and rising real wages, he has retained considerable popular support.[14]

12. Observers agree that the country retains many features of a planned economy, with central administrative controls over prices, currency exchange re-imposed and the state's right to intervene in the management of private enterprises expanded. The state retains control of most productive resources, and a significant share of GDP is allocated to social expenditures and subsidies. Market-oriented reforms have been very limited and foreign investors have stayed away.[15] Small-scale privately-owned enterprises are either forced to the margins or else pushed into the shadow economy.[16]

13. Economic growth resumed in 1996, led by the state-owned enterprises. However, lack of investment, the ineffective use of resources, and the decline in the competitiveness of Belarusian products in Russia had an adverse effect on GDP growth in 2001 and 2002.[17] The country continues to be affected by the explosion at the Chernobyl nuclear power plant in 1986, when almost 23 per cent of its territory was contaminated by the radioactive fall-out. With a labor force of approximately 4.8 million in 2000, the official rate of unemployment remains low at around 3.3% of the workforce in April 2003. However, this represents a rise compared with the year-earlier period, when unemployment stood at 2.6%. According to the Economist Intelligence Unit, recorded official figures are highly distorted, as there is little incentive for unemployed workers to register (less than half of the unemployed qualify for benefits, which are equivalent to less than 10% of the average wage). With a large number of workers on forced leave or part-time schedules, it is likely that actual unemployment as a percentage of the working-age population is in the double digits.[18] For the time being, Belarus remains largely isolated from the western open-market economies.[19] In the absence of progress in large-scale privatization, restructuring or private-sector growth, Belarusian producers will find it much easier to switch from one Russian region to another than to break into more competitive non-traditional markets.[20]

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[13] Ibid.
[14] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[15] BBC NEWS, Country Profile, Belarus [Intemet].
[16] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[17] The World Bank, Belarus Country Brief 2003 [Internet].
[18] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus, p. 17 [Internet]
[19] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus, p. 15 [Internet]
[20] Ibid, p. 31.

B. Political Developments

1. Since 1991

14. The Commonwealth of Independent States (CIS) was established on 8 December 1991, and the treaty was signed by the heads of state of the Republic of Belarus, the Russian Federation and the Republic of Ukraine. The Agreement between the three republics sealed the end of the Soviet Union. By December 1993, CIS included all the former Soviet republics except the Baltic States. The CIS sought to fill the institutional vacuum resulting from the disintegration of the Soviet Union.[21]

15. Stanislav Shushkevich, a university professor and reform-minded leader, served as head of state (the Chairman of the Supreme Soviet) from 1991 to 1994. Presidential and parliamentary elections were held in the Republic of Belarus in 1994 and 1995 respectively under a new Constitution adopted in 1994 providing for parliamentary democracy and political pluralism.[22] President Lukashenko, a former state farm director, was elected president for a five-year term in 1994 by a large majority, following his performance as chairman of the parliamentary anti-corruption committee.[23] After President Lukashenko's election in 1994, the powers of the parliament (the Supreme Soviet) declined as executive powers grew and the practice of governing by presidential decree gained currency.[24]

16. In a 1996 referendum, Belarusian citizens approved constitutional amendments that extended Lukashenko's term by two years, broadened presidential powers, and created a new bicameral parliament. When the President ignored a court ruling that the referendum was non-binding, Prime Minister Mikhail Chyhir resigned in protest. Most Western nations refuse to recognize the 1996 Constitution or the new parliament.[25] The referendum results sparked widespread protests at home and abroad.[26]

17. In its 1997 report to the Human Rights Committee, Belarus stated

> In the period leading up to the referendum, there were isolated violations of the law, which, however, did not affect the legal basis for the referendum or have any influence on the extent to which it was legitimate. Neither the Central Electoral Commission on Elections and the Holding of National Referendums nor the Procurator's Office of the Republic of Belarus found any serious violations calling in question the legality of the results of the referendum....Thus the National Assembly of the Republic of Belarus enjoys the necessary democratic legitimacy, acts within the limits of its powers and exercises legislative power on the basis of a genuine division of powers. The National Assembly is a

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[21] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[22] OSCE/ODIHR Limited Election Observation Mission, Republic of Belarus, Presidential Election, Final Report, revised version of 4 October 2001 [Internet].
[23] BBC NEWS, Country Profile, Belarus [Internet].
[24] OSCE/ODIHR Limited Election Observation Mission, Republic of Belarus, Presidential Election, Final Report, revised version of 4 October 2001 [Internet].
[25] Freedom House, Belarus, Overview [Internet].
[26] Economist Intelligence Unit (EIU), Country Report, Belarus, September 2003 [Internet].

representative and legislative body performing the function of control over the executive power.[27]

18. In 1997, protesters against President Lukashenko signed a pro-democracy manifesto called "Charter 97."[28] The same year, Belarus' observer status in the Parliamentary Assembly of the Council of Europe was suspended.[29]

19. Following the dissolution of the Supreme Soviet in November 1996, a majority of deputies moved to the new body. The opposition minority formed a shadow parliament (now defunct) defined by its opposition to President Lukashenko's regime. In January 1999, in an effort to consolidate their activities, opposition parties convened a congress of democratic forces and called for a presidential election to be held in May 1999, as stipulated in the abrogated 1994 Constitution.

20. President Lukashenko was elected for another five-year term in the presidential elections of September 2001, which were criticised as undemocratic by Western observers. The Organization for Security and Cooperation in Europe (OSCE) described the election process as neither free nor fair. The October 2000 parliamentary elections had received a similar evaluation.[30] In March and November 2003, local elections were held that were allegedly neither free nor fair.[31] Since mid-2003, a number of statements by the President have fuelled speculation that he might try to extend his time in power, in defiance of the constitutional limits currently in place. Under the Constitution, Lukashenko is not permitted to seek another mandate when the current one ends in 2006. However, the President has hinted that he would most likely attempt to do this through a nation-wide referendum, in which the electorate would be asked to approve the necessary constitutional amendments.[32]

2. *Political Parties*

21. Belarus witnessed the emergence of numerous political parties and movements in the years immediately following independence. The Communists, Russian nationalists, and pan-Slavists occupy one end of the political spectrum, with Belarusian nationalists, market reformers, and moderate social democrats at the other end. At present, there are no extreme right-wing (nationalist) parties and organisations in Belarus, with the exception of some marginal groups like skinheads. Some of the Belarusian nationalists have softened their rhetoric, in comparison with the period of early 90's when they were on the rise. The critical demarcation lies between those who support President Lukashenko's regime and its pro-Russian rhetoric, and those who favor Belarusian independence, market reforms, and a pro-Western orientation.[33] Although President Lukashenko has to date failed to win the West's acceptance of his administration's legitimacy, and observers note that tensions between him and the Russian leadership are growing he remains securely in power.

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[27] Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant on Civil and Political Rights, Belarus, CCPR/C/84/Add. 7, 27 August 1997, paras. 8 and 9.
[28] www.charter97.org
[29] BBC NEWS, Timeline: Belarus, A chronology of key events [Internet].
[30] U.S. Department of State Country Report on Human Rights Practices 2002 - Belarus - March 2003
[31] U.S. Department of State Country Report on Human Rights Practices 2003 - Belarus - March 2004
[32] Economist Intelligence Unit (EIU), Country Report, Belarus, September 2003 [Internet].
[33] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].

22. In order to operate within the law, all non-state organizations must register, with re-registration required periodically. In January 1999, all parties were required by a presidential decree to re-register. Only 17 out of 36 parties managed to do so.[34] At present, eighteen political parties are registered by the Ministry of Justice.[35]

23. The majority of main political parties operating in Belarus are associated with the opposition. The Belarusian Popular Front (BPF), a nationalist party committed to Belarus' independence and national revival, emerged in 1988 as the republic's first political opposition movement. The United Civic Party, founded in 1995, supports democratic political transformation and market reforms. Among its prominent members was Viktor Gonchar, the deputy chairman and former head of the Central Electoral Commission. Mr. Gonchar, an ardent critic of the President, disappeared without a trace under mysterious circumstances in September 1999.[36] The Belarusian Social Democratic Party (BSDP, Narodnaya Hramada), established in 1991, strongly opposes the current regime and calls for democratic reforms. The Agrarian Party, founded in 1994, currently voices strong support for President Lukashenko. The Party of Communists of Belarus (PCB) won the largest number of votes in the 1995 election to the Supreme Soviet. Although a number of members opposed President Lukashenko, others in the party approved of the President's economic and foreign policies. President Lukashenko actively sought to keep the PCB on his side, and as a result, the pro-Lukashenko Communist Party of Belarus (CPB) broke off from PCB in 1996. The CPB won six seats in the 2000 parliamentary election, while PCB won none. The Party of Communists of Belarus (PCB), in contrast with the CPB, as a result of the split, opposes the Lukashenko regime. The party calls for democratization of political life in Belarus, while retaining a commitment to left-of-centre economic and social policies.[37]

24. According to the PCB, in order to be registered, a party must have 1,000 founding members and branches in at least four of the country's six regions as well as in the capital, Minsk. In addition, a party's by-laws may not contain anything contravening the Constitution. The Belarusian Helsinki Committee reported that the registration requirements obliged opposition parties to standardize their rules, thereby blurring ideological differences.[38]

25. The most significant opposition group is "Coalition Five Plus," which consists of five political parties:

United Civic Party (UCP);
Party of Communists of Belarus (PCB);[39]
Belarusian Popular Front (BPF);
Belarusian Social Democratic Gromada (BSDG);[40] and
Belarusian Party of Labor (BPL).

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[34] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].
[35] Official site of the Ministry of Justice of the Republic of Belarus, http://ncpi.gov.by/minjust/struct/ua-pp.htm
[36] For more details see D. 7 "Disappearances."
[37] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[38] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].
[39] The Program of the PCB, http://pkb.promedia.by/22-23_05_03/007.htm
[40] The Program of BSDG (unofficial site), http://hramada.by.ru/statut.htm

26. The coalition members represent different political trends and have elaborated a political programme titled "Five steps towards a better life," which outlines the measures meant to improve the socio-economic and political conditions in Belarus.[41]

27. The small, but very vocal and active Parliamentary group "Respublika," whose prominent members are General Frolov, Mr. Skrebets and Mr. Parfenovich, cooperates closely with the "Coalition Five Plus." The Group has been trying to use the parliamentary platform for introducing changes in legislation (for instance, the Electoral Code). The group at present consists of only six deputies.[42]

28. Another opposition group is the European Coalition "Free Belarus," which includes a number of political parties, NGOs, civil coalitions and individuals, among them the Social-Democratic Party "Narodnaya Gromada," the Women's Party "Nadzeya" and the public association "Charter-97." Their immediate goal is free and fair elections, the far-reaching goal being the adoption of the European values by Belarus and the country's integration in the European Union.[43]

29. Other independent political parties include the Liberal Democratic Party of Belarus, whose leader, Mr. Gaidukevich, was one of the contenders at the 2001 Presidential elections, and the Conservative-Christian Party (CCP) headed by Mr. Pazniak. Zenon Pazniak used to be a charismatic leader of Belarusian Popular Front (BPF), an opposition political movement founded in 1988. Although Mr. Pazniak has been living in exile since 1996, he retained his position of BPF Chairman until 1999. In October 1999, one faction of the BPF elected Mr. Vincuk Viacorka (formerly Deputy Chairman), as the new Chairman. However, another faction of the BPF membership disagreed with the change of the leadership and established a separate Conservative-Christian Party of the BPF, electing Mr. Pazniak as its Chairman. Thus, at the moment, there are two political parties claiming that they are true successors of the BPF.[44]

30. There are several youth opposition organizations acting in the country. The most famous, although unregistered, at the moment are Zubr (Bison)[45] and Maladaya Hramada.[46]

31. The opposition parties have practically no access to television or to the state controlled newspapers. However, some of the political parties and groups have their own web-sites in the Internet.[47]

32. The administration has reportedly limited political participation of opposition parties which are not represented in legislative bodies. Although the opposition represents a broad spectrum of political opinion, little exists in a way of an institutionalized party political system.[48] Some observers note that most political

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[41] Charter97, http://www.charter97.org/bel/news/2004/02/10/lebedka
[42] Parliamentary group 'Respublika', http://www.dgrespublika.org/
[43] Charter97, http://www.charter97.org/bel/news/2003/11/03/eu
[44] History of the Belarusian Popular Front, website of BPF, http://pages.prodigy.net/dr_fission/bpf/, website of CCP, http://www.bpfs.boom.ru/History.htm
[45] Movement Zubr, http://www.zubr-belarus.com/
[46] Movement Maladaya Hramada, http://mhramada.org/
[47] Belarusian Popular Front, http://pbpf.org/, Zubr, http://www.zubr-belarus.com/, Conservative-Christian Party, http://www.bpfs.boom.ru/, United Civic Party, http://www.ucph.org/, Parliamentary group 'Respublika', http://www.dgrespublika.org/
[48] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].

parties are small and poorly organized and lack political experience and that therefore on the Election Day, voters tend to vote for "independent" candidates (meaning not affiliated with the parties) rather than for supporters of certain political ideas or parties.

33. Several opposition figures were sentenced to brief jail terms in March 2003 for leading an opposition demonstration in Minsk demanding the President's resignation.[49] In mid-June 2003, the upper house of the Belarusian legislature, the Council of the Republic, approved a law allowing the government to ban political parties for holding unauthorized demonstrations. The law on demonstrations was already harsh and allowed judges to impose short prison sentences on participants in unauthorized protests.

3. Parliamentary Elections – October 2000

34. The 15 October 2000 elections to the 110-seat House of Representatives were the first parliamentary elections in Belarus since the disputed referendum of 1996. They followed a year of intense domestic and international activity that sought to create the conditions for democratic elections.[50] The Government of Belarus invited OSCE's Office for Democratic Institutions and Human Rights (ODIHR) to observe the elections.

35. Following commitments by President Lukashenko to hold democratic parliamentary elections in 2000, negotiations between the authorities and opposition to seek resolution to the constitutional controversy began in the autumn of 1999. The negotiations concentrated on access to the media for all political forces, the Electoral Code, and the functions of the parliament to be elected. After initially signing an agreement on the opposition's access to the electronic mass media, President Lukashenko subsequently revoked the agreement. No further negotiations took place and a new Electoral Code was adopted by the parliament in January 2000.[51] Faced with little possibility of campaigning effectively, democratic and nationalist opposition parties decided to boycott the election – although some of the leading opposition figures stood unsuccessfully for seats in the legislature as independent candidates.[52]

36. The Electoral Code was amended in June 2000, improving some provisions. On 25 July, the OSCE/ODIHR published a comprehensive analysis of the amended Electoral Code, outlining the remaining shortcomings.[53]

37. However, the 2000 elections brought little change in relations between the presidency and the legislature. None of the newly-elected deputies represent the major opposition parties, and most have no party affiliation at all. Although nominally independent, deputies are not professional politicians and are subordinated

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[49] BBC NEWS, Timeline: Belarus, A chronology of key events [Internet].
[50] OSCE/ODIHR Technical Assessment Mission, Belarus, Parliamentary Elections, Final Report, 15 and 29 October 2000 [Internet].
[51] Ibid.
[52] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[53] See "OSCE/ODIHR Assessment of the Electoral Code of the Republic of Belarus and of the Position of the Government of Belarus on the Electoral Code as Stated by the Central Election Commission of Belarus," 25 July 2000 [Internet].

to the state either directly, as employees of government agencies, or indirectly, as managers of enterprises under government control.[54]

38. The parliamentary elections in October 2000 were criticised by election observers as not free and fair. Turnout in some constituencies was so low that a re-run was necessary. The election commission reported voter turnout at 60 per cent, but the opposition accused the commission of falsifying the number and declared the election invalid.[55] Parliamentary elections were re-run in thirteen constituencies in March 2001. Officials declared the votes valid. Police made more than a dozen arrests in Minsk as thousands demonstrated against President Lukashenko.[56]

39. The OSCE/ODIHR Technical Assessment Mission concluded that

> the 15 October 2000 parliamentary elections in Belarus failed to meet international standards for democratic elections, including those formulated in the 1990 Copenhagen Document of the OSCE. In particular, the elections fell short of meeting the minimum commitments for free, fair, equal, accountable, and transparent elections. Despite some improvements since previous elections, the process remained flawed.[57]

4. Presidential Elections – September 2001

40. The OSCE/ODIHR Limited Election Observation Mission (LEOM) was established in Minsk on 17 August 2001 and shortly thereafter started monitoring the electoral process with 27 experts and long-term observers deployed in the capital and seven regional centres. Due to a delayed invitation by the authorities of Belarus, the OSCE/ODIHR limited its observation to the last three weeks of the electoral process only.

41. Nonetheless, Election Day proceedings were not the determining factor for concluding that the presidential election failed to meet the OSCE commitments for democratic elections. During the months leading to 9 September 2001, conditions in Belarus were such that the presidential election did not meet the OSCE commitments for a free, fair, equal, transparent, and accountable election. According to the OSCE, in a political culture unaccustomed to opposition and pluralistic political debate, with vertical State structures in control of not only all levels of government but also industry, agriculture, education and social services, and the great majority of the population dependent on these vertical structures for its livelihood, the environment did not provide an equal opportunity for contestants, nor the possibility for the public to be informed about the choices available.[58]

42. In the intervening period between the parliamentary and presidential elections, non-governmental organizations co-operated closely in order to set up a countrywide network of independent election observers. More than 10,000 such observers were

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[54] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[55] Freedom House, Belarus, Overview [Internet].
[56] BBC NEWS, Timeline: Belarus, A chronology of key events [Internet].
[57] OSCE/ODIHR Technical Assessment Mission, Belarus, Parliamentary Elections, Final Report, 15 and 29 October 2000 [Internet].
[58] OSCE/ODIHR Limited Election Observation Mission, Republic of Belarus, Presidential Election, Final Report, revised version of 4 October 2001 [Internet].

registered by NGOs cooperating under the umbrella group "Belarus Initiative – Independent Observation."[59]

43. President Lukashenko won a second five-year term in the first round of the presidential election in 2001. According to the official data, he received close to 76 per cent of the vote. On Election Day, the President declared himself the victor. Vladimir Goncharik, the candidate jointly backed by the major opposition parties, came in a distant second with only 16 per cent of the vote. President Lukashenko's re-election followed a sustained and effective campaign by state officials to limit the potential for any electoral upset. Employees of state-controlled enterprises reportedly faced intense pressure by management to support Lukashenko's candidacy, while the government influenced the composition of election commissions. Senior positions on these commissions went mostly to local government officials or representatives of state-controlled enterprises.[60] Domestic supporters of opposition candidate Vladimir Goncharik accused the government of falsifying the results and claimed that no candidate received more than 50 per cent of the vote – an outcome that, by law, would require a second round of voting.[61]

44. The 2001 presidential election also failed to meet the OSCE commitments for democratic elections formulated in the 1990 Copenhagen Document.[62] Opposition and Western observers assert that elections were unfair and undemocratic.[63] International observers criticized in particular the administration's use of state resources to stymie the opposition, alter electoral rules, and dominate the media.[64]

45. The OSCE and the Council of Europe made a joint declaration on 30 October 2001 pertaining to the presidential elections held in Belarus. The declaration read that

> with reference to the situation in Belarus, both organizations have been following developments very closely, particularly those related to the Presidential elections on 9 September 2001. Participants agreed that these elections failed to meet OSCE and Council of Europe standards. However, they underlined that international isolation of Belarus is not in the interest of the people of Belarus and should be reconsidered, provided the authorities adopt concrete steps and measures on the path of democratic reform and genuine dialogue with the opposition.[65]

46. The Commission on Human Rights in April 2004 expressed its concern about the electoral process and legislative framework in Belarus, which remain fundamentally flawed, as local elections held in March 2003 have shown, in spite of detailed recommendations being made by the Office for Democratic Institutions and

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[59] OSCE/ODIHR Limited Election Observation Mission, Statement of Preliminary Findings and Conclusions, International Limited Election Observation Mission, 2001 Presidential Election In The Republic Of Belarus, Belapan, http://elections.belapan.com/president2001/eng/article.php?show=471&rubrica=14

[60] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].

[61] Freedom House, Belarus, Overview [Internet].

[62] OSCE/ODIHR Limited Election Observation Mission, Republic of Belarus, Presidential Election, Final Report, revised version of 4 October 2001 [Internet].

[63] BBC NEWS, Timeline: Belarus, A chronology of key events [Internet].

[64] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].

[65] Joint Declaration by OSCE and Council of Europe, 30 October 2001, Vaduz, Liechtenstein [Internet].

Human Rights of the Organization for Security and Cooperation in Europe after previous elections.[66]

C. Some Significant Aspects of International Relations

47. When Belarus declared independence on 25 August 1991, it ended centuries of foreign rule by Poland, Russia, and ultimately, the Soviet Union. Nevertheless, Belarus retains closer political and economic ties to the Russian Federation than any other of the former Soviet Republics. The nature of political links with the Russian Federation remains a key issue. Belarus and Russia signed a treaty of two-state union on 8 December 1999, envisioning greater economic and political integration.

48. Relations with the Russian Federation remain at the centre of Belarusian foreign policy. Despite sometimes cooler relations in 2003 and in the first half of 2004, the integration process with the Russian Federation – a long-term goal of the Lukashenko administration – is not officially abandoned and will probably continue. However, the future of the Union Treaty negotiated between Alexander Lukashenko and Mr. Putin's predecessor, Boris Yeltsin, remains uncertain. Underlying tensions remain as Mr. Lukashenko and Mr. Putin espouse widely differing visions of the future union state. While the former seeks a grand supranational structure, the latter concentrates on issues of economic cooperation.[67]

49. The Belarus-Russia Union Treaty was signed in December 1999. This treaty envisages the creation of a union state with a supranational legislative body, and close coordination of defense, economic and monetary policies. The treaty does not provide for the full incorporation of Belarus into the Russian Federation, but instead reconfirms the continued sovereignty of both states. Russia's interests are served by the defense provisions of the treaty, which allow it to make use of Belarus' extensive military infrastructure and station Russian forces on NATO's new eastern border. In return, Belarus benefits from easy access to the Russian market for Belarusian manufactured goods and low energy import prices. The Lukashenko administration also receives the political support needed to ease its international isolation and ensure continued domestic support.[68]

50. The 1999 treaty envisages the most comprehensive integration among the post-Soviet states, but stops short of surrendering Belarus' sovereignty to supranational bodies. As envisaged in the treaty, these bodies would eventually include a Supreme State Council, made up of leaders from both countries, a joint Council of Ministers,[69] and a bicameral union parliament, comprising a House of the Union and a House of Representatives. Delegates from the Russian and Belarusian legislative bodies will form the House of the Union, whereas delegates to the House of Representatives will be directly elected. The Supreme State Council forms the union's executive bodies, and approves its budget and international agreements. Each country will have a right to veto and each will take turns to chair the Council.

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[66] Resolution of Commission on Human Rights 2004/14, Situation of human rights in Belarus, quoted from Draft report of the Commission, UN Doc. E/CN.4/2004/L.11/Add.2, 50th meeting, 15 April 2004.
[67] Ibid.
[68] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[69] The Council of Ministers includes prime ministers, foreign ministers, and ministers of economics and finance from the governments of both countries. It is charged with the coordination of foreign and defence policy, and with the creation of a joint economic space, including the harmonization of fiscal, monetary, and credit policy. Full harmonization of customs tariffs is not envisaged until 2005.

51. Under the 1999 Union Treaty, both the Russian Federation and Belarus retain sovereignty and national identity, and will remain separate entities in the United Nations and other international bodies. Military cooperation includes the creation of a joint military doctrine, a joint armament programme, a joint regional air defense system, and a regional group of Russian and Belarusian troops.[70]

52. In November 2000, President Lukashenko and Russia's President Vladimir Putin agreed on the unification of monetary systems and introduction of a single currency by 2008.

53. Belarus is heavily dependent on Russian gas to meet its energy needs. The Russian Federation announced its decision to stop subsidizing gas supplies from 2004, and notwithstanding Belarus' complaints, in January 2004, gas was no longer supplied at the internal Russian rate but at much higher price applied for CIS countries. The extra energy costs will be an even greater burden on the economy.[71]

54. While there has been much talk of union, there is little tangible evidence of real progress. In August 2002, President Lukashenko rejected Kremlin proposals to embrace union under the Russian constitution with a single government and a single parliament. Some saw the Russian proposals as a potential danger to sovereignty, and far from the union of equals as asserted by President Lukashenko.[72] In 2002, Russian President Vladimir Putin expressed skepticism about the future of the union and made it clear that Russia would not sacrifice its economic interests to support Belarus. Instead, Putin advanced two proposals for unification – one that would effectively absorb Belarus into Russia, subjecting it to Russian economic policies and possibly removing Lukashenko from office, and the other suggesting a supra-state formation similar to the EU. Lukashenko rejected both proposals.[73]

55. Notwithstanding occasional strains, the administration's ties with the Russian Federation stand in stark contrast to the cool relations with the United States. According to the 2003 U.S. State Department report:

> The Government's human rights record remained very poor and worsened in some areas; although there were improvements in a few areas, it continued to commit numerous abuses. Authorities effectively continued to deny citizens the right to change their government. Authorities did not undertake serious efforts to account for the disappearances of well-known opposition political figures in previous years and continued to discount credible reports regarding the Government's role in those disappearances. Police abuse and occasional torture of prisoners and detainees continued. There were also reports of severe hazing in the military forces. Prison overcrowding remained a problem. Security forces arbitrarily arrested and detained citizens, and the number of politically motivated detentions remained high, although most of these detentions were for short periods. Security services continued to infringe on privacy rights and freedom of movement by closely monitoring the activities of

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[70] Ibid.
[71] BBC NEWS, Country Profile, Belarus [Internet].
[72] Ibid.
[73] Human Rights Watch World Report 2003, Belarus, January 2003.

opposition politicians, human rights organizations, and other segments of the population.

> The Government continued to restrict freedom of speech and of the press, and did not respect freedom of assembly or association. The Government introduced several new decrees that further restricted these freedoms. It intensified an assault on the independent media that resulted in the closure of several newspapers and the jailing of journalists on libel charges. It severely restricted the activities of NGOs, closing many of them. Religious freedom was severely restricted, and the Belarusian Orthodox Church (BOC) was favored as the expense of nontraditional religions. The Government restricted freedom of movement. Opposition political parties and movements were subjected to increased pressure through both judicial and extrajudicial measures, including physical abuse of political opponents. Security agents closely monitored human rights organizations and hindered their efforts. Societal violence and discrimination against women remained significant problems. Authorities continued to restrict severely workers' rights to associate freely, organize, and bargain collectively. Trafficking in women and children remained a problem, which the Government took some steps to address.[74]

56. As such, the U.S. Embassy in Belarus focuses its support on mainly civil society and humanitarian activities in the country. On 22 July 2003, the U.S. House of Representatives passed the Belarus Democracy Act, which allocates U.S. $40 million for the promotion of democracy in Belarus and places travel restrictions on senior Belarusian government officials.[75]

57. Belarus' tense relations with international organizations, e.g., the OSCE, since 1996 generally stem from criticism of the administration's human rights record and an apparent aversion to meaningful democratic reforms.[76] The OSCE refused to recognize the results of the 1996 referendum that increased presidential powers and extended Lukashenko's term of office to 2001. Although the OSCE voted to reinstate Belarus' membership in the OSCE Parliamentary Assembly in February 2003[77] – after banning the country following the dissolution of the Belarusian Supreme Soviet in 1996 – the criticism of Belarus' human rights record continues.

58. In 2002, the administration refused to grant visa extensions to the OSCE Advisory and Monitoring Group (AMG) personnel and refused entry visas to potential replacements. When the AMG was in effect forced to close its office in Minsk in late October 2002, the European Union and the United States of America imposed a travel ban on President Lukashenko and several senior government officials in November 2002. The ban was lifted in April 2003, following an

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[74] U.S. Department of State, Country Reports on Human Rights Practices, Belarus, 31 March 2004 [Internet].
[75] Economist Intelligence Unit (EIU), Country Report, Belarus, September 2003 [Internet].
[76] Country Report on Human Rights Practices 1997, Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State on January 30, 1998, http://minsk.usembassy.gov/html/hrr_97.html
[77] Ministry of Foreign Affairs of the Republic of Belarus, Internet, http://www.mfa.gov.by/eng/index.php?d=press/news&id=1&news_id=1134

agreement by Belarus and the OSCE to reopen the AMG mission in Minsk with a new mandate as of 1 January 2003. Senior OSCE officials insist that the new mandate allows the organization to continue its monitoring of the human rights situation in the country.[78]

D. Review of Material on the General Human Rights Considerations in Belarus

59. The regime's human rights record performance is generally regarded by the international community as poor.[79] Observers tend to agree that the authorities effectively deny citizens the right to change their government,[80] and do not undertake serious efforts to account for the disappearances of well-known opposition political figures.[81] Prison overcrowding remains a problem. The security services reportedly continue to infringe on privacy rights and freedom of movement by closely monitoring the activities of opposition politicians, human rights organizations, and other segments of the population.[82] There is little sign of concern over Western criticism of human rights abuses.[83]

60. The Constitution of Belarus outlines a range of personal liberties and freedoms. Belarus has a three-tiered judiciary and a Constitutional Court.[84] As the executive still determines judicial appointments, dismissals, salaries, and housing, Belarus' judiciary is not considered independent or impartial.[85]

61. The UN Commission for Human Rights on 15 April 2004 issued a resolution on Belarus where it expresses deep concern:

> (*a*) At reports from credible sources, including statements of former investigators and senior law enforcement officials of the Government of Belarus, and the report of the Council of Europe approved by the Parliamentary Assembly's Committee on Legal Affairs and Human Rights on 26 January 2004, implicating senior officials of the Government of Belarus in the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist;
>
> (*b*) About the electoral process and legislative framework in Belarus, which remain fundamentally flawed, as local elections held in March 2003 have shown, in spite of detailed recommendations being made by the Office for Democratic Institutions and Human Rights of the

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[78] Economist Intelligence Unit (EIU), Country Profile 2003, Belarus [Internet].
[79] Council of Europe, Parliamentary Assembly, Resolution 1306 (2002) on Situation in Belarus [Internet]; see also Draft Report 2004 – Belarus, covering events from January 2003 to December 2003 (AI Index: EUR 49/004/2004).
[80] Resolution of Commission on Human Rights 2004/14, Situation of human rights in Belarus, quoted from Draft report of the Commission, UN doc. E/CN.4/2004/L.11/Add.2, 15 April 2004.
[81] Ibid.
[82] U.S. Department of State, Country Reports on Human Rights Practices, Belarus, 31 March 2003 [Internet]., See also Resolution of Commission on Human Rights 2004/14, Situation of human rights in Belarus, quoted from Draft report of the Commission, UN doc. E/CN.4/2004/L.11/Add.2, 15 April 2004.
[83] BBC NEWS, Country Profile, Belarus [Internet].
[84] Economist Intelligence Unit (EIU), Country Profile, Belarus, 2003 [Internet].
[85] Ibid.

Organization for Security and Cooperation in Europe after previous elections;

(*c*) About continued reports of cases of arbitrary arrest and detention;

(*d*) About persistent reports of harassment and closure of non-governmental organizations, national minority organizations, independent media outlets, opposition political parties and independent trade unions, and the harassment of individuals engaged in democratic activities, including independent media;

(*e*) About increased restrictions on the activities of religious organizations;

(*f*) About reports of harassment of independent and internationally oriented educational establishments such as the European Humanities University and the Yakub Kolas Humanities Lyceum;

(*g*) About the failure of the Government of Belarus to cooperate fully with all the mechanisms of the Commission on Human Rights, as requested in its resolution 2003/14;

(*h*) About the criminal prosecution of a leading opposition figure...[86]

62. The UN Commission on Human Rights decided to appoint Special Rapporteur to investigate human rights issues in the country.[87] Belarus did not submit its last periodic report under Article 40 of the International Covenant on Civil and Political Rights, due on 7 November 2001.[88]

63. In late September 2002, the Parliamentary Assembly of the Council of Europe (PACE) rebuffed any notion that Belarus' special guest status in the Assembly would be restored. Council of Europe Resolution 1306 on Situation in Belarus stated:

> At present, Belarus shows severe democratic deficits and it does not yet meet the Council of Europe's relevant standards. The electoral process is imperfect, human rights violations continue, civil society remains embryonic, the independence of the judiciary is doubtful, local government is underdeveloped and, last but not least, Parliament has limited powers.[89]

64. Considering that the reasons leading to the suspension in 1997 were still valid, the Bureau of the Assembly rejected the Belarus Parliament's request for restoration of its special guest status with the Parliamentary Assembly. However, it expressed the desire to continue dialogue with Belarus and to observe the parliamentary elections due to be held there in the autumn of 2004.[90]

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[86] Resolution of Commission on Human Rights 2004/14, Situation of human rights in Belarus, quoted from Draft report of the Commission, UN doc. E/CN.4/2004/L.11/Add.2, 15 April 2004.
[87] Ibid.
[88] Ibid.
[89] Council of Europe, Parliamentary Assembly, Resolution 1306 (2002) on Situation in Belarus [Internet].
[90] Web-site of the Parliamentary Assembly of the Council of Europe, http://assembly.coe.int/

1. Freedom of Religion

65. Belarus is a poly-denominational state. As of 2001, 26 religious denominations were officially registered in Belarus. Among the believers, about 80 per cent associate themselves with Orthodoxy, 15-20 per cent with Catholicism, and about 2 per cent with Protestantism.[91]

66. While the amended 1996 Constitution reaffirms the equality of religions and denominations before the law, it also contains language stipulating that relationships between the State and religious organizations shall be regulated by law, taking into account their influence on forming the spiritual, cultural, and state traditions of the Belarusian people.[92] On October 31, 2002, President Lukashenko signed a new law on religion despite protests from international and domestic human rights organizations, the European Union, and domestic religious groups, including Orthodox religious groups not affiliated with the Belarusian Orthodox Church (BOC), itself a branch of the Russian Orthodox Church.

67. According to the legislation, new religious communities established in Belarus must pass through a special vetting procedure before registration. The law effectively prohibits all religious activity by unregistered religious groups.[93] Religious material must also be cleared by the government before publishing, although no restrictions on the importation of religious literature have been reported.[94] The law also denies groups the right to establish religious schools to train their own clergy. The new law requires all registered groups to reregister within 2 years, effectively banning the religious activities of unregistered religious groups. Officials have stated publicly that no group that was registered when the law was enacted would lose its registration status. While leaders of some minority religious groups are skeptical of this assurance, there were no reports of the Government denying re-registration to previously registered religious groups during the period covered by this report.[95]

68. Under the Law on Religion, there are two types of religious organisations: religious communities (unions of citizens) and religious unions (unions of religious communities). Up to 20 adult believers are required to found a religious community. To create a religious union, the existence of no less than 10 communities of the same religion are required, in which one of them has working experience in Belarus for no less than 20 years. Only religious unions may found monasteries and monastic

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[91] The information of the Committee of Religious Affairs and Nationalities of the Council of Ministers.

[92] Article 16 of the Constitution:

- Religions and faiths shall be equal before the law.
- Relations between the State and religious organizations shall be regulated by the law with regard to their influence on the formation of the spiritual, cultural, and state traditions of the Belarusian people.
- The activities of confessional organizations, their bodies and representatives, that are directed against the sovereignty of the Republic of Belarus, its constitutional system and civic harmony, or involve a violation of civil rights and liberties of its citizens as well as impede the execution of state, public and family duties by its citizens or are detrimental to their health and morality shall be prohibited.

[93] U.S. Department of State, Country Reports on Human Rights Practices, Belarus, 31 March 2004.

[94] U.S. Department of State Annual Report on International Religious Freedom for 2002 – Belarus [Internet].

[95] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labour, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.

communities, brotherhoods and sisterhoods, educational institutions for training clergy or religious personnel, and missions.

69. Foreigners were generally prohibited from preaching or heading churches the authorities view as non-traditional faiths or sects, including all Protestant groups. Theoretically, citizens are not prohibited from proselytizing, but the authorities may intervene to prevent, interfere with, or punish individuals who proselytize on behalf of an unregistered religion. A 1997 Council of Ministers Directive permits the teaching of religion at youth camps for registered religious groups.

70. The authorities continue to deny registration to some communities considered non-traditional, and to communities considered to be sects.[96] There is a *de facto* ban on Orthodox groups not affiliated with the Moscow Patriarchate. The Greek Catholic, Pentecostal, and Full Gospel Churches claim that they have been unable to register new communities for the past two or three years. Members of Hare Krishna and Hindu communities have been regularly detained and fined for meditating in public places, chanting religious hymns in the streets, or protesting repeated refusals to register their community.[97]

71. Authorities continued to refuse registration to the Hindu group "Light of Kaylasa," which has sought registration since 1992. According to a 2003 State Department report, the Government

> continuously harassed, threatened and arrested members of this group. On July 13, 2002, police arrested 18 members of this community as they were preparing to hold a meditation ceremony in a Minsk park. Several of those arrested were jailed for 2 days and heavily fined. On August 9, 2002, police broke up an outdoor wedding ceremony that was being conducted by the group. On August 17, 2002, police broke up a demonstration held by the group protesting against Government pressure on the Light of Kaylasa. Six members of the group were sentenced to 10 days imprisonment. Members of the Light of Kaylasa reported being fired from their jobs due to their affiliation with the group.[98]

72. A significant number of Protestant churches, including charismatic and Pentecostal groups, remain unregistered. Several Pentecostals were fined for illegally conducting and hosting religious services. One Pentecostal group reported that local authorities questioned local pastors and instructed them to provide information about

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[96] Commonly listed non-traditional denominations in Belarus are: the Old Believer, the Seventh-Day Adventists, the Greek Rite Catholic Church, the Pentecostal Church, the Apostolic Christian, the Calvinist, the Light of Kaylasa Hindus, the Bahai, and Jehovah's Witnesses. Destructive sects are the Ahmadiyya Muslims, the Full Gospel Church, the Hare Krishnas, the Aum Shinri Kyo, the Great White Brotherhood, the Blessed Virgin Centre, the Children of God, the Moon Sect and so on.

[97] Human Rights Watch World Report 2003 - Belarus - January 2003.

[98] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.

their communities, including lists of minors, despite the fact that no such list is required under the religion law. The pastors refused to provide these lists.[99]

73. There are several restrictions on religious events held in public. It is necessary to receive the permission of the respective executive committee to rent premises for any religious organization meeting in public space and the authorities may deny such permission. State permission is also required for outdoor religious worship.

74. With or without registration, some religious organisations experience difficulty when renting, purchasing or reclaiming property to establish places of worship, in building churches, or in openly training clergy. On 13 September 2002, the deputy Mufti of the Muslim Religious Association of Belarus accused the Minsk city authorities of imposing a high tax on land allotted to the Association to build a mosque in order to deliberately hamper the construction of the city's only mosque. However, in April 2003, the Minsk City Council decided to lower the land tax for religious groups. This decision has been implemented to the satisfaction of the Muslim Religious Association.[100] The construction has reportedly started on 27 January 2004 in Minsk at a former Tatar cemetery on Griboyedova Street. The construction, financed by Saudi Arabian donors, is scheduled to be completed in 2005.[101]

2. *Freedom of Movement*

75. According to both the 1994 and 1996 Constitutions, citizens are free to travel within the country and to live and work where they wish However, the internal registration ("propiska") system continued to control freedom of movement and choice of residence. In November 1999, the Ministry of Internal Affairs announced a three-stage program to replace the propiska system, but the latter was still in effect at the end of 2003.[102]

76. Official entry and exit regulations specify that citizens who wish to travel abroad must first obtain "global" exit permissions valid for 1 to 5 years. Once the traveler has this document, travel abroad is not restricted further by law; however, the authorities occasionally limit foreign travel. For example, they have delayed issuing "global" exit permissions and passports to some opposition activists in an effort to hinder their political activity abroad.[103]

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[99] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.

[100] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.

[101] Divalog, Cultural and Religious Catholic Journal, 9.03.2004, Internet, http://svd.catholic.by/dialog/news/n2004/09032004.htm

[102] U.S. Department of State Country Report on Human Rights Practices, Belarus – 2002, 31 March 2003 [Internet].

[103] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.

3. *Freedom of Assembly*

77. Protests and rallies require authorization from local authorities, who can arbitrarily withhold or revoke permission.[104] Many have been deprived of their liberty solely for exercising their rights to freedom of expression and assembly.

78. According to a May 2004 Amnesty International report, independent trade unions and their activists in Belarus are subject to a deliberate pattern of obstruction, harassment and intimidation by the authorities in their attempt to ultimately silence them. "Independent trade unions struggle to survive in a climate in which the authorities are stifling their activities by curtailing their rights to freedom of assembly and expression. In this they share the fate of human rights defenders in the country," said Amnesty International. The independent trade union movement in Belarus is coming under increasing pressure to conform with government policies - its members are under constant harassment, while its unions struggle to survive in an atmosphere where a disturbing number of non-governmental organizations have been closed on the basis of controversial legislation and regulations, widely considered as restrictive, by a judiciary whose independence has been repeatedly called into question by the international community.[105] Amnesty International estimates that between January and April 2002 more than 200 people were detained during anti-government demonstrations and pickets, and at least 51 were subsequently imprisoned for between three and fifteen days. The practice of detention continued throughout 2003, although on a lesser scale.[106]

79. During 2003, the authorities took numerous measures to suppress independent trade unions and continued to interfere in the work of the Belarusian Federation of Trade Unions (BFTU), especially regarding activities of independent, affiliated unions. In June 2003, the International Labor Organization's (ILO) Standards Committee included the country in its special paragraph on trade union violations for a second consecutive year and urged the Government to address the ILO recommendations to eliminate government interference in unions. On 19 November 2003, the ILO approved the establishment of a Commission of Inquiry to investigate alleged serious violations of workers' rights in the country.[107]

80. In 2002, there was a takeover of the BFTU and several national unions, which lead to an official complaint to the ILO. In August 2003, the Supreme Court ordered the closure of the Belarusian Air Traffic Controllers' Union (BATCU), the first instance of a court-ordered union closure. The Court determined that the BATCU's membership enrolment did not meet the minimum threshold of 500 members, established by presidential decree. The BATCU claimed that the union has approximately 1,000 members, stating that the Government neglected to count members employed in enterprises outside of the capital.[108]

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[104] Freedom House, Belarus, Political Rights and Civil Liberties [Internet].
[105] Belarus: Stop harassing independent trade unions and their activists, Amnesty International, EUR 49/012/2004, News Service No: 106, 1 May 2004.
[106] Amnesty International Report 2003 – Belarus, covering events from January to December 2002 [Internet].
[107] ILO Acts Against Violations of Workers' Rights in Belarus, Geneva, 19 November 2003, http://www.ilo.org/public/english/dialogue/actray/new/191103.htm
[108] Ibid.

81. Independent trade unions face continual government harassment. In April 2003, a union activist was fired from the Grodno Truck Factory after a factory security guard discovered $0.20 (454 rubles) worth of nuts and screws when he was leaving work. The worker was a member of a trade union commission in 2002 that uncovered management's failure to index back wages. On 18 September 2003, Chairman of the Belarusian Congress of Democratic Trade Unions (BCDTU) Aleksander Yaroshuk received a 10-day prison sentence for contempt of court. The Prosecutor's Office filed charges against Yaroshuk for describing the Supreme Court's decision to close the Air Traffic Controllers Union as "a stage play with an end known in advance" in an article published by an independent newspaper.[109]

4. Freedom of Expression

82. Freedom of expression in Belarus is guaranteed in law both domestically, by Article 33 of the Belarusian Constitution, and by the international treaties Belarus has ratified. In 1997, the Chamber of Representatives passed the law "On Amendments and Corrections to the Law on Press and Other Means of Media," prohibiting the defamation of the President, senior government officials, and others in the ruling elite. The law also allows the state authorities to suspend a publication for three months without a court ruling.[110] Foreign correspondents may be held personally liable for critical remarks made about state officials. Since March 1998, state officials were allegedly prevented from sharing official information with independent publications and from placing advertisements in them.[111]

83. Since March 1997, movement of certain goods across customs borders is restricted; the legislation specifically prohibits the import and export of printed, audio, and video materials, or other news media containing information "that could damage the economic and political interests of the country, its national security, health or morality of people."[112] Likewise, Belarus' postal service is not allowed to deliver opposition publications. As an example, the postal service unilaterally cancelled an agreement to deliver the independent newspaper "Belorusskaya Delovaya Gazeta."[113] Independent delivery of newspapers is subject to licensing. On 20 October 2003, according to the Presidential Decree,[114] the Council of Ministers declared mail services a licensed activity.[115] On 15 December 2003, the Law "On Mail Service" was issued. According to this law, subscription and delivery of printed mass media were given a status of mail services.[116] In March 2004, the Ministry of Communication stated that from 1 May 2004, editorial offices that carry out the

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[109] U.S. Department of State Country Report on Human Rights Practices 2003 - Belarus - March 2004.
[110] Article 16 of the Law on Press and Other Mass Media
[111] Article 19, http://www.article19.by/publications/pressurepress/49.html
[112] Decision of the Counsel of Ministers of the Republic of Belarus of 18 March 1997 No. 218; Decree of the President of the Republic of Belarus of 5 February 2001 No. 57, para 7.1.2
[113] Belorusski Rynok, newspaper, No.1, 2004, http://www.br.minsk.by/index.php?article=20643
[114] The Decree of the President of the Republic of Belarus of July 14, 2003 #17 "On Licensing Certain Activities." National Register of Normative Documents of the Republic of Belarus 2003. #79 1/4779.
[115] Regulations on Licensing the Activity in the Field of Communication, approved by the Decree of the Council of Ministers of the Republic of Belarus No. 1387. October 20, 2003. National Register of Normative Documents of the Republic of Belarus. No. 122. 5/13297
[116] The Law on Mail Service dated December 15, 2003 No. 258-3. National Register of Normative Documents of the Republic of Belarus 2004 No. 2. 2/1007

subscription and delivery of printed media would be outlawed.[117] Reportedly, no private company obtained a license for delivery of newspapers as of May 2004.[118]

84. The relevant portion of Belarus' 1997 report to the CCPR reads

> The State Committee on the Press in the Republic of Belarus is responsible for seeing that the law is observed in the press. According to article 1 of the Constitution, the Republic of Belarus shall "defend its independence and territorial integrity and its constitutional system and safeguard legality and law and order." For that reason the Government of the Republic of Belarus attaches particular importance to violations of article 5 of the Press Act (fomenting national, social, racial or religious intolerance or conflict, incitement to change the social order by violence, divulging of information which is a State secret, infringement of citizens' moral integrity, honor and dignity) and of article 40 (publication of information that is not objective and does not correspond to the facts). As a rule, violations of these articles are committed by non-State publications. During 1996 and the first quarter of 1997, the State Committee on the Press sent warnings under articles 5 and 40 of the Press Act to the editors of the newspapers Svaboda, Pagonya, Birzhi i banki, Belorusskaya delovaya gazeta, Nasha niva, Beresteisky krai, Belaruskaya maladzezhnaya. The articles of the Press Act most frequently violated are articles 11, 26 and 27 (publication of printed mass media without registering the publication or re-registering it in accordance with the Press Act, publication of incomplete information on the publication, failure to fulfill the requirement to send out compulsory free copies). For example, in the first quarter of 1997, the State Committee on the Press sent 95 warnings to the editors of different publications concerning violations of these articles of the Act....[119]

85. Reports by Russian journalists have frequently been critical. In late June 2003, this led to the expulsion of Pavel Selin, the head of the Minsk office of NTV, one of the two major Russian television channels accessible across Belarus. The authorities then closed the NTV office, apparently because of Mr. Selin's coverage of the large opposition turnout at the funeral of Vasil Bykaw, a famous Belarusian writer and a symbol for the nationalist opposition. The Belarusian Government refuses to ease its five-year ban on Mr. Selin entering the country.[120] While it allowed NTV to reopen its Minsk office with a different head, Belarusian authorities have been replacing Russian TV programs with Belarusian ones.

86. The defamation law makes no distinction between private and public persons in lawsuits concerning defamation of character. A public figure criticized for poor performance in office may ask the prosecutor to sue the newspaper that printed the

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[117] Mass Media in Belarus, Belarusian Association of Journalists, Annual Report, 2003, Internet, http://baj.ru/man/Report2003.zip

[118] Belorusskaya Delovaya Gazeta, newspaper, No. 1434, 8.06.2004, Internet, http://bdg.press.net.by/2004/06/2004_06_08.1434/1434_2_3.shtml

[119] Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant on Civil and Political Rights, Belarus, CCPR/C/84/Add. 7, 27 August 1997, para. 31.

[120] Economist Intelligence Unit (EIU), Country Report, Belarus, September 2003 [Internet].

criticism. On 27 August 2002, chief editor Pavel Zhuk announced the closure of the independent newspaper Nasha Svoboda (Our Freedom). One of the country's leading independent newspapers, Nasha Svoboda closed after a Minsk court handed down a fine of $55,000 in damages in a libel suit filed by the chief of the state control committee, claiming an article injured his reputation.[121]

87. According to the Belarusian Association of Journalists (BAJ) President Zhana Litvina, the laws penalizing slander of a government official effectively impose a ban on press criticism of the regime. In September 2002, BAJ began to collect signatures for a petition to remove the three articles of the criminal code – on libeling the President, insulting the President and insulting a government official – but the petition was left without any response by the year's end.[122]

88. Journalists convicted of libel face imprisonment of up to five years.[123] The most noted instance dates back to the 1997 case of Pavel Sheremet and Dmitry Zavadsky, Russian Public Television (ORT) journalists and Belarusian citizens. On 7 July 1997, Pavel Sheremet, ORT Minsk bureau chief, was stripped of his accreditation for alleged systematic distortion of information about events in Belarus. On July 26, several days after they filmed a program to demonstrate the transparency of the Belarusian-Lithuanian border, Belarusian police arrested Pavel Sheremet and two of his crew members (including Dmitry Zavadsky) on charges of having "unlawfully crossed the border." After pressure from Russia, Belarusian authorities released all the journalists relatively quickly, with the notable exception of Sheremet, who was finally released on 8 October 1997, having spent seventy-four days in custody.[124] On 28 January 1998, a court sentenced Sheremet and Zavadsky to one and a half years of imprisonment, suspended for one year.[125] Pavel Sheremet left Belarus and is currently working with ORT in Moscow. Dmitry Zavadsky "disappeared" in 2000 under unknown circumstances.[126]

89. On 24 June 2002, Leninsky District Court in Grodno sentenced Nikolai Markevich, editor of the independent newspaper Pahonia (The Emblem), and staff writer Pavel Mozheiko to two and two and a half years of forced labor respectively for libeling the President. On 15 October 2002, a Minsk City court panel upheld a previous court decision sentencing Viktor Ivashkevich, editor-in-chief of the independent newspaper Rabochy (The Worker), to two years "restricted freedom" for defaming the president[127].

90. There were reports of independent journalists and writers physically attacked by unidentified assailants. The circumstances surrounding the attacks were unclear and those responsible were not brought to justice.[128] In September 2002 alone, three journalists and writers were knocked unconscious in separate incidents.[129] A

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[121] U.S. Department of State Country Report on Human Rights Practices, Belarus – 2002, 31 March 2003 [Internet].
[122] Reporters Without Borders, Belarus – Annual Report 2003 [Internet].
[123] Amnesty International Report 2003 – Belarus, covering events from January to December 2002 [Internet].
[124] Human Rights Watch World Report 1998 - Belarus- January 1998.
[125] Human Rights Watch World Report 1999 - Belarus- January 1999.
[126] For details see D.7 "Disappearances."
[127] U.S. Department of State Country Report on Human Rights Practices 2002 - Belarus - March 2003
[128] Ibid.
[129] Ibid.

correspondent for the Warsaw-based independent radio station Radio Racija, Gennady Kesner, suffered a serious head wound during an attack on 28 September 2002 in Minsk. No valuables were reportedly stolen during the assault.[130] In all the mentioned cases, authorities started an investigation but were not able to apprehend the assailants.[131]

91. According to the 2002 U.S. State Department report, newspapers and other print media with the largest circulation are state-owned, although there remain a number of independent publications, some of which are critical of the regime. Independent newspapers are reportedly becoming less available in Minsk, not to mention outside of the capital, where the variety is limited to the state-run national newspaper and local newspapers, only some of which are independent. The state controlled and provided subsidies to a number of large publications. Although there are several Internet service providers in the country, they were all state controlled.[132]

92. The Ministry of Information has licensed more than 40 radio and 165 television entities, the largest of which are controlled by the State Committee on Television and Radio. The state has suspended some Russian broadcasts for their critical reports on the Lukashenko regime. Although some independent radio and television stations do exist, according to the U.S. Department of State "all nationally available radio and television broadcasts originating in the country are government-owned."[133]

93. The temporary suspension of several independent newspapers in Belarus in May 2003 by administrative orders from the Minister for Information led to widespread international criticism and drew attention to the situation of the media in Belarus. The Parliamentary Assembly of the Council of Europe (PACE) started an investigation to probe the situation with press in Belarus. Christos Pourgourides, the Cypriot parliamentarian, a member of the Committee on Legal Affairs and Human Rights of PACE and a Special Rapporteur, prepared a report entitled "Persecution of the press in the Republic of Belarus" for the consideration of the Committee and of the PACE.[134] The conclusions of the report were approved by PACE Resolution, which stated, *inter alia*, that

> The Assembly remains appalled by the fact that the disappearance of the journalist Mr. Dmitri Zavadski more than three years ago and his alleged extra-judicial execution has not been properly and truly investigated,
>
> The Assembly deplores the systematic harassment and intimidations carried out by state officials, in particular the Ministry of Information, against journalists, editors and media outlets which are critical of the President of the Republic or the Government of Belarus.

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[130] Amnesty International Report 2003 – Belarus.
[131] Human Rights Center Viasna, http://www.spring96.org/viewn.php?id=43&pagelang=ru
[132] U.S. Department of State Country Report on Human Rights Practices, Belarus – 2002, 31 March 2003 [Internet].
[133] Ibid.
[134] Persecution of the press in the Republic of Belarus, Doc. 10107, 12 March 2004, Report, Political Affairs Committee, Rapporteur, Mr. Christos Pourgourides, Cyprus, Group of the European People's Party, http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2F_Documents%2FWorkingDocs%2Fdoc04%2FEDOC10107.htm

> The Assembly condemns as totally unacceptable in a democratic society subjecting journalists to imprisonment, including forced labor, for criticism of the President and state officials.
>
> The Assembly is deeply concerned by the level of state control over the electronic media, in particular the public television and radio company of Belarus which works under a Presidential Decree, but also the private joint-stock companies where the state typically holds major shares and interests. The same concern is also caused by the fact that the printing companies and the companies distributing print media are largely state controlled.
>
> The Assembly believes that the current controlled media landscape does not provide for the freedom of information through the media necessary for the preparation and conduct of democratic parliamentary elections in autumn 2004.
>
> The Assembly calls on all member and observer states of the Council of Europe not to tolerate any longer the existing state of affairs in Belarus. Fundamental rights and freedoms are systematically violated in Belarus with the sole aim of keeping a non-democratic regime in power. The regime of President Lukashenko bases its existence on repression, intimidation and fear. The measures of repression and intimidation are directed not only towards the media but also towards all other democratic institutions, human rights activists and the people at large. Belarus remains in the year 2004 a police state with conditions similar to those prevailing in the country during the Soviet Union era. It is imperative to do everything possible in order to bring democracy to Belarus. Millions of Belarusians were killed during the Second World War fighting bravely against the forces of Hitler. But freedom has not yet come to their land. All member and observer states of the Council of Europe have a duty to ensure that Belarus ceases to be the last dictatorial state in Europe.[135]

94. The Assembly called on the European Parliament, the Council of the European Union, the European Commission, the OSCE Parliamentary Assembly, the Chairman-in-Office of the OSCE, the OSCE Representative on Freedom of the Media, the United Nations and, in particular, the United Nations Commission on Human Rights, not to tolerate any longer the systematic violation by Belarus authorities of the fundamental freedoms guaranteed by the international human rights instruments.[136]

95. After a series of tax raids and confiscation of equipment and publications that accompanied the election campaign in 2001, Belarusian authorities launched criminal libel suits against several journalists. On 24 June 2002, a court sentenced Pavel Mazheiko, a journalist for the independent weekly *Pahonia*, and the weekly's editor, Mikola Markevich, to two and two and a half years of forced labor respectively for libeling the President; the sentences were reduced to one year on appeal. On the eve of the 2001 elections, *Pahonia* had published an article suggesting the President's

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[135] Persecution of the press in the Republic of Belarus, PACE Resolution 1372 (2004), http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FAdoptedText%2FTA04%2FERES1372.htm

[136] Ibid.

involvement in the "disappearances" of political leaders. After confiscating the entire print run of the issue and giving an official warning, the authorities shut down *Pahonia* in November 2001.[137]

96. On 16 September 2002, Victor Ivashkevich, editor of *Rabochii* (The Worker) was found guilty of "attempted libel and insulting the president" and sentenced to two years of forced labor. The charges stemmed from an article accusing Lukashenko and his administration of corruption.[138]

97. On 12 November 2001 *Pahonia* was legally liquidated as a registered newspaper by the Belarusian Supreme Economic Court, after the newspaper received two official warnings from the State Press Committee in the course of a 12-month period, one of which related to comments the newspaper made about the President. Since its closure, *Pahonia* has ceased appearing in a printed form and has only been available via the Internet.[139]

98. In 2003, state-run printing houses refused to print independent newspapers, which were forced to place orders outside of Belarus. On 4 June 2003, in Minsk, the polygraphic enterprise Cyrvonaja Zorka terminated publishing contracts with the newspapers *Ekho* and *Predprinimatelskaya Gazeta* due to the "unsatisfactory technical condition of the printer." The incident occurred after the mentioned editions published materials by journalists from the suspended newspaper BDG. On 5 June 2003, the director of Cyrvonaja Zorka was sacked. The official reason for the dismissal was "not meeting the conditions of contract."[140] Authorities widely employ the practice of suspension or closing of newspapers, citing formal grounds like inconsistency of the elements of the printing type to the state standards, etc. IREX Promedia and Internews Network programs were closed under pressure by the state authorities. Independent journalists and newspapers are fined with excessive penalties for publication of "libels" upon state officials.[141]

99. The *Belarusian Delovaya Gazeta* (BDG), a prominent independent daily newspaper, was suspended for 3 months for an alleged violation of the Law on Press and defamation of the President. In 2003, BDG was published outside Belarus. Belpochta, the national postal service, refused to distribute BDG, unilaterally canceling a contract to distribute subscriptions in the first half of 2004. Belpochta returned subscription money to subscribers.[142] Irina Makovetskaya, a local correspondent of BDG, reportedly received death threats over the phone in January 2004. She linked the threats to her story about the period of Prime Minister Sergei Sidorsky's career when he lived in Gomel. The caller was apprehended, at first denying the allegations saying he had called her to "express his opinion" and without malice or intention to kill her. Police refused to press charges on the grounds that no crime had actually been committed. The caller later left his job with the Gomel

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[137] Human Rights Watch World Report 2003 - Belarus - January 2003.
[138] Ibid.
[139] Ibid.
[140] Mass Media in Belarus, Belarusian Association of Journalists, Annual Report, 2003, Internet, http://baj.ru/man/Report2003.zip
[141] Monitoring of the Human Rights Violations in the Republic of Belarus in 2003, Charter97, http://www.charter97.org/files/monitoring-2003.zip
[142] Ibid.

Regional Television and Radio Group, apparently due to peer disapproval of his behavior.[143]

5. Human Rights Organizations and Civil Society

100. NGOs whose goals do not coincide with those of the regime reportedly may face closure, often stemming from their contact with Western counterparts. As domestic sources of financing for political activities remain non-existent, the opposition parties often rely on grants from Western governments and international human rights organizations. The Lukashenko administration has been known to view grants as an indication that the grantees are agents of foreign powers.[144]

101. A report submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, in January 2004 refers several times to the situation in Belarus, expressing concern about "serious obstacles" encountered by "those working on democratic rights," and about "increasing administrative harassment in connection with the registration of organizations and the institutionalization of acts against human rights defenders by courts and administrative bodies of the State.[145]

102. "On a daily basis human rights defenders in Belarus face obstacles in exercising their rights to freedom of association and assembly as well as violations of their right to receive and impart information about human rights," according to a March 2004 Amnesty International report. The report states that a number of non-governmental organizations (NGOs), directly and indirectly engaged in the promotion and defense of human rights in Belarus, have been closed on the basis of controversial legislation and regulations, widely considered as restrictive, by a judiciary whose independence has been repeatedly called into question by the international community. None of the organizations that have been closed down or people who have been arbitrarily detained or fined were able to appeal successfully in court. Restrictions on the freedom of expression have not been favorable for the promotion of human rights and civil liberties. Access to most media is therefore increasingly not available to human rights defenders, including independent trade union activists. Raising awareness about human rights and disseminating information about alleged human rights violations in Belarus has become increasingly difficult.[146]

103. Activists with Vyasna (or Vyasna-96, Spring-96)[147], a prominent human rights NGO, reported that they were repeatedly harassed, and denied access to court hearings and detention facilities. One of them, Vladimir Malei, was sentenced to fifteen days imprisonment in January 2002 for holding a protest commemorating the anniversary of the Universal Declaration of Human Rights the previous month.[148] Amnesty International condemned the closure by the Belarusian authorities of

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[143] Belarusian Association of Journalists, Monitoring: Mass Media of Belarus in 2004, http://baj.ru/man/man04-pagrozy.asp#3

[144] Economist Intelligence Unit (EIU), Country Report, Belarus, September 2003 [Internet].

[145] Commission on Human Rights, Report on the Promotion and Protection of Human Rights – Human Rights Defenders, submitted by Hina Jilani, Special representative of the Secretary-General on the situation of human rights defenders, E/CN.4/2004/94, 15 January 2004, para. 70, 75, 37.

[146] Belarus: Stifling the promotion of human rights, Amnesty International, EUR 49/005/2004 (Public), News Service No: 64, 29 March 2004.

[147] Web-site of Vyasna, http://www.spring96.org/

[148] Human Rights Watch World Report 2003, Belarus, January 2003

Vyasna-96 as a further attempt to suppress what remains of the country's human rights community.[149] As in the case of several other human rights NGOs, the court ruled that Spring-96 violated several provisions of a highly controversial law that tightly regulates NGO activities. In one instance, the court ruled that in rendering legal assistance to individuals who were not members of the human rights organization, Spring-96 violated the law.[150]

104. According to the 2003 State Department report

> The Government closed most major registered human rights NGOs and NGO resource centers during the year. The law requires only two violations before the MOJ can initiate procedures against an NGO. The primary violations cited were failure to use the correct stamp for the organization, a mailing address at a residence rather than at an office, forgeries among registration signatures, and inaccuracies in organization letterhead. The Government's actions particularly focused on organizations that participated in observations of elections. On October 28, [2003], the Supreme Court closed Vyasna, one of the country's most prominent human right's NGOs. The Court refuted the prosecutor's charges that Vyasna falsified member signatures but closed the NGO for a 2001 violation during Vyasna's observation of the presidential elections.[151]

105. Several domestic human rights groups are active in the country, although members of domestic human rights groups reported that the authorities hindered their attempts to investigate alleged human rights violations (see following paragraphs). According to the U.S. State Department, the authorities monitored NGO correspondence and telephone conversations, and allegedly also harassed NGOs by bureaucratic means. The authorities generally ignore reports issued by human rights NGOs and do not meet with these groups. Official state media does not report on human right NGOs and their actions; and independent media that reported on human rights' issues are subject to closure and harassment.[152]

106. The Belarusian Helsinki Committee (BHC) regards the situation in the country as differing from that in other post-communist states, with human rights violations not occurring in any of the others in the same way as in Belarus.[153] BHC itself came recently under fire. Belarusian tax authorities claimed in January 2004 that BHC owes them more than 380 million roubles ($176,000) in penalties for its alleged failure to pay taxes on aid received under the European Union's Technical Assistance to CIS Countries (TACIS) program in 2002 and 2003.[154] On 19 August 2003, the Ministry of Justice (MOJ) issued a warning to the Belarusian Helsinki Committee, for the absence of quotation marks in its letterhead and seal.

107. According to the U.S. State Department, in 2003, some 20 NGOs were closed during two last months of 2003 by the authorities citing numerous, and often minor,

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[149] Amnesty International, News Release, *"And then there were none,"* 29 October 2003 [Internet].
[150] Ibid.
[151] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.
[152] Ibid.
[153] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].
[154] International Helsinki Committee, Open letter, 21 April 2004, http://bhc.unibel.by/index_news.htm

violations of the law.[155] On 17 June 2003, the Gomel Regional Court closed the Gomel-based NGO resource center, Civic Initiatives, claiming that the organization used foreign aid for illegal purposes. On 9 July 2003, the Brest Regional Court closed the Baranovichi-based NGO resource center Varuta, claiming that Varuta abbreviated its name in internal documents and referred to itself as an organization, rather than an association as stated in its registration. On 31 July 2003, the Vitebsk Regional Court closed the Vitebsk-based NGO resource center, the Center of Youth Initiatives Kontur, for violations in tax regulations and for failing to reside at the registered address. On 10 September 2003, the Independent Society for Legal Studies received its third warning for contributing to a bulletin of an unregistered organization, and the MOJ can at any point initiate proceedings to close the Society. On 21 August 2003, a Grodno City Court outlawed the Grodno-based NGO resource center Ratusha for keeping and using a Risograph digital printing machine without a publisher's license. The NGO tried on numerous occasions to donate the machine, worth several thousand dollars, but no NGO had a license to publish and Grodno State University refused to accept it. On 2 September 2003, the MOJ issued a warning against the Lev Sapegha Foundation after expelling Jan Busch, a member of Germany's Youth Socialists who had come to participate in a seminar sponsored by the organization. On 16 October 2003, a Supreme Court judge closed the Lutskevich Brothers Foundation for using an incorrect seal and for having an office in a residence. The Foundation focused on historical research and social and cultural projects. The Government closed several other cultural and social NGOs, including Cassiopeia, Women's Response, and NGOs supporting women; several other such NGOs received warnings, including Karani, a Loyev-based historical NGO, the Gomel Children and Youth Organization, and Hand of Help, which provided assistance to prisoners. Independent observers viewed the closing of the NGOs and resource centers as politically motivated.[156]

108. Amnesty International condemned the closure by the Belarusian authorities of one of Belarus' most prominent human rights organization, Spring-96, as a further attempt to suppress what remains of the country's human rights community.[157] As in the case of several other human rights NGOs, the court ruled that Spring-96 violated several provisions of a highly controversial law that tightly regulates NGO activities. In one instance, the court reportedly ruled that in rendering legal assistance to individuals who were not members of the human rights organization, Spring-96 violated the law.[158]

6. Political Opposition

109. The OSCE has stated that Belarus' electoral framework is "fundamentally flawed" because the President rules by decree, voting and tabulation processes lack transparency, restrictions on campaigning are excessive, electoral commissions lack sufficient independence, the work of independent observers is limited, and the

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[155] Monitoring of the Human Rights Violations in the Republic of Belarus in 2003, Charter97, http://www.charter97.org/files/monitoring-2003.zip
[156] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.
[157] Amnesty International, News Release, *"And then there were none,"* 29 October 2003 [Internet].
[158] Ibid.

opportunities to challenge decisions of the Central Election Commission (CEC) are few.[159]

110. These sentiments were later echoed in the 2003 State Department report:

> On March 2, [2003] local elections were held that were neither free nor fair. A delegation from the OSCE Parliamentary Assembly Working Group determined in mid-February that the Government had not begun a genuine process of democratization, but instead that the deterioration of human rights, freedom of the press and political freedom had worsened since the previous elections.... The local elections were marked by early voting, ballot replacement, and falsified vote counts... Opposition parties had problems registering their candidates, and in the majority of districts, pro-government incumbents ran unopposed. Party candidates were often prevented from registering based on petty clerical errors on their registration forms and property declarations. Numerous opposition party candidates, who succeeded in registering, were arbitrarily deregistered just prior to elections.... There were signs of overt repression. For example, a candidate in Borisov was ordered by local security authorities to leave town for the duration of elections. In the 2 weeks prior to this warning, he reported that police had searched his home twice.... The Government used several tactics to intimidate and restrict the ability of opposition leaders and groups from organizing and publicizing their views. In a move widely perceived as preparation for the 2004 elections, the Government began to close independent newspapers and NGOs. In 2002, authorities added three articles to the Criminal Code that made libel of the President a criminal offense, which were used to punish not only opposition party members but independent media as well. During the year, the Government used excessive force to disperse demonstrations by the opposition.[160]

111. The Belarus state prosecutor has opened a criminal case against the leader of the United Civic Party, Anatoli Lebedko. According to the head of the Republic Prosecutor's press office, Yuri Azarenok, Lebedko is accused of having slandered the country's president, Alexander Lukashenko. On 18 March 2004, Anatoli Lebedko was brought in for questioning by an inspector of the Minsk town Prosecutor, who is investigating the matter. Lebedko, accused under article 367, paragraph 2 of the country's criminal code, could face up to five years in prison. The criminal case was opened 1 March 2004.[161]

112. One of Lukashenko's major opponents in the past, former Prime Minister Mikhail Chigir, was sentenced in July 2002 to three years in prison for tax evasion, with the sentence suspended for two years. In 2001, the government reportedly

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[159] OSCE/ODIHR Limited Election Observation Mission, Final Report, 9 September 2001, http://www.osce.org/documents/odihr/2001/10/1237_en.pdf, quoted in Freedom House, Belarus, Political Rights and Civil Liberties [Internet].

[160] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.

[161] Belarus opposition leader accused of slandering President, Prima News, 18 March 2004, http://www.prima-news.ru/eng/news/news/2004/3/18/27895.html

prevented Chigir from running for president by launching politically motivated charges of abuse of office and imprisoning him.[162]

113. Anatoly Lebedko, chair of the opposition United Civic Party (UCP), was charged in July 2002 with "defaming the Belarusian President" after he published an article citing foreign media reports that the president supplies "rogue" states with military equipment. His party also received an official warning, which put the UCP under threat of liquidation.[163]

114. On 15 March 2002, troops from the Ministry of Internal Affairs dispersed a march held to mark the eighth anniversary of the 1994 constitution of independent Belarus. March organizer Nikolai Statkevich, leader of the Social Democratic Party Narodnaya Hramada, was later sentenced to ten days of imprisonment.[164]

115. Harassment of youth opposition activists continued throughout the year. Two Youth Front leaders were respectively fined and briefly imprisoned for their role in organizing an unsanctioned demonstration in February 2002. In March 2002, members of another youth opposition movement, Zubr, were fined for "publicly insulting the president" after their street performance satirizing the President prior to the 2001 elections.[165]

116. According to the Human Rights Development report published by the International Helsinki Federation for Human Rights in 1999, in June 1998, the Provincial Court in Warsaw rejected the request of the Belarusian Prosecutor's Office for the extradition of a Belarusian business man, on grounds of false pretences. The man, Pupiejko, arrested in December 1997, claimed that the accusations of the Belarusian government were solely on action of reprisal, because he had refused to sponsor President Alexander Lukashenka's electoral campaign. Belarusian intellectuals, writers, and publicists supported Pupiejko, and offered to testify for him. The court found extradition inadmissible.[166]

117. According to the State Department

> While the Constitution does not address forced exile and the authorities did not generally use forced exile, there were credible reports that the security services threatened opposition political activists and trade union leaders with criminal prosecution or physical harm if they did not cease their activities and depart the country.[167]

118. On 27 March 2003, President Lukashenko announced plans to establish a state ideology. While the exact details remain unclear, President Lukashenko and other government officials said that the ideology would be based upon and promote the ideals of independence, loyalty to the state, "all the positive experience the country gained when it was part of the USSR," and the Belarusian Orthodox Church. The Government earmarked $2.14 million (4.5 billion rubles) and has established

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[162] Human Rights Watch World Report 2003 - Belarus - January 2003
[163] Ibid.
[164] Ibid.
[165] Ibid.
[166] J, Jachowicz, "Pupiejko jako azylant" (Pupiejko as Asylum Seeker), Gazeta Wyborcza, No. 128, 12 June 1998, p. 4, and Annual Report 1999; Human Rights Developments in 1998, published by International Helsinki Federation for Human Rights (IHF), p. 206.
[167] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.

"information and propaganda" groups to conduct ideological instruction at work places on the third Thursday of each month.[168]

7. "Disappearances"

119. The Commission on Human Rights in its April 2004 report expressed deep concern

> at reports from credible sources, including statements of former investigators and senior law enforcement officials of the Government of Belarus, and the report of the Council of Europe approved by the Parliamentary Assembly's Committee on Legal Affairs and Human Rights on 26 January 2004, implicating senior officials of the Government of Belarus in the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist...[169]

120. According to its April 2004 resolution, the Parliamentary Assembly of the Council of Europe

> has been concerned for over two years by the disappearances of Yuri Zakharenko, former Minister of the Interior (disappeared on 7 May 1999), Victor Gonchar, former Vice-President of the Parliament of Belarus (disappeared on 16 September 1999), Anatoly Krasovski, businessman (disappeared with Mr. Gonchar) and Dmitri Zavadski, cameraman for the Russian TV channel ORT (disappeared on 7 July 2000). ... On the basis of the solid results of the Rapporteur's work separating mere rumours from facts established by evidence or well-founded conclusions, the Assembly concludes that a proper investigation of the disappearances has not been carried out by the competent Belarusian authorities. On the contrary, the elements collected by the Rapporteur have lead it to believe that steps were taken at the highest level of the State to actively cover up the true background of the disappearances, and to suspect that senior officials of the State may themselves be involved in these disappearances.... As long as no substantial progress is made as regards paragraph 11 above, the Assembly considers inappropriate the presence, even informal, of Belarusian parliamentarians during its sessions.[170]

121. The authorities to date have not determined the fate of leading opposition figures Yury Zakharenko and Viktor Gonchar, as well as businessman Anatoly Krasovsky ("disappeared" in 1999) and journalist Dmitry Zavadsky ("disappeared" in 2000). Former government investigators and human rights monitors continued to provide credible reports that senior regime officials were involved in the disappearances.[171] Observers suspect that Zakharenko, Gonchar, and Zavadsky, who each worked for the Lukashenko administration prior to joining the opposition, were

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[168] Ibid.
[169] Resolution of Commission on Human Rights 2004/14, Situation of human rights in Belarus, quoted from Draft report of the Commission, UN doc. E/CN.4/2004/L.11/Add.2, 15 April 2004.
[170] Resolution 1372, Parliamentary Assembly, Council of Europe, 28 April 2004.
[171] See also Washington Post, In Video, Officials Tie Death of Foes to Belarus Leader, by S. LaFraniere, 28 August 2001, p. A09 [Internet].

killed because of their involvement with the opposition.[172] There was no significant government effort to solve these disappearances and presumed murders. Zavadsky was officially declared deceased on 28 November 2003, although no body was found. The U.N. Commission for Human Rights approved a resolution on 17 April 2003 urging the Government to conduct an impartial investigation of the disappearances of Krasovsky, Gonchar, Zakharenko, and Zavadsky, and to begin by suspending those senior officials suspected of involvement. However, there were no *confirmed* reports of politically motivated disappearances.[173]

122. In September 2002, the Parliamentary Assembly of the Council of Europe (PACE) stated that it was "seriously concerned about the lack of progress" and established an investigative sub-committee to probe into the "disappearances."[174] Christos Pourgourides' report contains the statement that Belarusian authorities did not conduct a thorough investigation of the "disappearances" and allegations that the measures to conceal the true circumstances of "disappearances" were taken "on the highest level." The report was unanimously approved by the Committee on 27 January 2004. In a draft recommendation, the committee calls for criminal investigations into the alleged involvement in the disappearances of the Prosecutor-General Victor Sheyman, the current Sports Minister Y.L. Sivakov, and a high-ranking officer of the Special Forces, Colonel Pavlichenko.[175]

123. The parliamentarians demand a truly independent investigation of the disappearances and any possible cover-up – following the resignation of Mr. Sheyman, who has been accused of having orchestrated the disappearances himself. They also call for the maximum political pressure on the current leadership of Belarus, including sanctions and the opening of murder proceedings in countries whose laws foresee international jurisdiction for cases of serious human rights abuses.[176]

124. In March 2002, a court found several former officers of the special police unit guilty of abducting Dmitri Zavadsky, but the verdict did not satisfy his family, whose lawyers saw the officers as mere scapegoats for higher-level authorities involved in the "disappearance." For stating this view publicly, one of the lawyers, Igor Aksenchik, lost his license to practice, was charged with slander, and, in October 2002 was sentenced to eighteen months in prison, with a sentence suspended for two years. Belarusian authorities also banned the broadcast of a new documentary on Zavadsky's and other "disappearances" entitled "Wild Manhunt-2," shot by Zavadsky's friend and colleague Pavel Sheremet. In November 2002, parliament

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[172] Draft report of the Council of Europe Parliamentary Assembly, web-site of the Parliamentary Assembly of the Council of Europe, http://press.coe.int/cp/2004/043a(2004).htm http://charter97.org/files/memorandum.html

[173] Emphasis added. U.S. Department of State Country Report on Human Rights Practices 2003 - Belarus - March 2004.

[174] Amnesty International Report 2003 – Belarus.

[175] Disappeared persons in Belarus, Doc. 10062, 4 February 2004, Report, Committee on Legal Affairs and Human Rights, Rapporteur: Mr. Christos Pourgourides, Cyprus, Group of the European People's Party, http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2Fdoc04%2FEDOC10062.htm http://charter97.org/ files/memorandum.html

[176] Council of Europe, Disappeared persons in Belarus, Recommendation 1657, 28 April 2004, http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FAdoptedText%2Fta04%2FEREC1657.htm#_ftn1

declined the request of the Belarusian Helsinki Committee to carry out a parliamentary investigation into the disappearances.[177]

8. Law Enforcement

125. The Committee for State Security (KGB) and the Ministry of Internal Affairs (MVD), both of which report directly to the President, share law enforcement and internal security responsibilities. According to the US State Department

> the Presidential Guard - created initially to protect senior officials - continue to act against the political enemies of the Lukashenko Government with no judicial or legislative oversight. Apart from the President, civilian authorities do not have effective control of the security forces. Members of the security forces have allegedly committed numerous serious human rights abuses. Impunity remains a serious problem, as the authorities often do not investigate abuses by the security forces or hold the perpetrators accountable. Credible reports indicate that petty corruption among police was widespread. Members of the security forces committed numerous serious human rights abuses.[178]

126. The 2003 State Department report continues

> Both the 1994 and 1996 Constitutions prohibit such practices; however, police and prison guards regularly beat detainees and prisoners. By law, police and prison officials may use physical force only against detainees and prisoners who are violent, have refused to obey the instructions of the prison administration, or have violated "maliciously" the terms of their sentences. However, human rights monitors repeatedly reported that investigators coerced confessions through beatings and psychological pressure.[179]

127. There were numerous reports of ill-treatment by police officers. Anti-government demonstrators were particularly at risk, usually at the time of arrest. In the absence of prompt, impartial, and thorough investigations of complaints, offending police officers were rarely brought to justice.[180]

128. Prison conditions are poor and face severe overcrowding, shortages of food and medicine, and the spread of diseases such as tuberculosis, syphilis, and HIV/AIDS. On 23 October 2003, Interior Minister Naumov stated that the prison population exceeded its capacity by 21 percent.[181] Credible reports indicated that prison guards regularly beat detainees and prisoners. According to Vladimir Kudinov, a member of the disbanded Parliament and vocal critic of the Lukashenko Government who spent 4 years in prison, torture is widespread in prisons. Several persons held in administrative detention complained about conditions and claimed that authorities ignored their complaints.[182]

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[177] Human Rights Watch World Report 2003 - Belarus - January 2003.
[178] U.S. Department of State Country Report on Human Rights Practices 2003, Belarus, March 2004.
[179] Ibid.
[180] Ibid.
[181] Ibid.
[182] Ibid.

9. Death Penalty

129. Belarus remains the last country in Europe to execute prisoners sentenced to death. On 30 May 2002, the House of Representatives rejected the abolition of the death penalty after a parliamentary debate.

130. Precise information on the number of those executed, and awaiting execution, is difficult to obtain and is sometimes inconsistent. In September 2002, the Minister of the Interior confirmed that five people were executed in 2002.[183] According to Amnesty International, at least one prisoner was believed to have been executed in 2003, although the international NGO concedes that accurate information on the death penalty was difficult to obtain. According to the same report, the Deputy Chairman of the Supreme Court said in October 2003 that two men were sentenced to death in 2003, "although other sources suggested the number could have been five." In a presentation to 9th European Country of Origin Information Seminar, Dublin, 26 and 27 May 2004, Tatiana Termacic, Programme Adviser in the Directorate General of Human Rights of the Council of Europe, stated

> In 2003, there were 91 persons under sentence of death held in a special quarter built in Colony No 8. Because they are carried out following a secret instruction, the number of executions actually carried out is unknown but according to some sources, in 2002 and 2003, five persons were executed. The place and date of the execution, which takes place by shooting, is not known to the relatives, nor the place of burial. Therefore, the body is not given back to the family.[184]

131. On May 2004, the UN Human Rights Committee ruled that the secrecy surrounding the death penalty in Belarus amounted to inhuman treatment. Concerning the execution itself, the Committee concluded that the secrecy surrounding the date of execution and the place of burial, and the refusal to hand over the bodies for burial, had the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress. It decided that the authorities' initial failure to notify the authors of the scheduled dates of the executions, and their subsequent persistent failure to notify the authors of the location of their sons' grave amounted to inhuman treatment of the author, in violation of article 7 of the Covenant.[185]

132. Concluding an investigation requested by parliamentary deputies into the legality of abolishing the death penalty, Belarus' Constitutional Court ruled on 11 March 2004 that both a moratorium and a subsequent total ban would be permissible under the Belarusian Constitution. The Constitutional Court cited statistics about number of convicts sentenced to death in 1994-1998 (25, 37, 29, 46, 47 persons

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[183] Amnesty International Report 2003 – Belarus, covering events from January to December 2002 [Internet]. For further background, see http://www.belarusembassy.org/humanitarian/criminalcode.htm

[184] Tatiana Termacic, Some Aspects of the Human Rights Situation in Belarus, 9th European Country of Origin Information Seminar, Dublin, 26 and 27 May 2004.

[185] UNHCHR, Human Rights Committee Rules on Complaints of Violations from Individuals, 13 May 2004; Communication No. 886/1999, Belarus 28/04/2003, CCPR/C/77/D/996/1999; Communication No. 887/1999, Belarus 24/04/2003, CCPR/C/77/D/887/1999.

accordingly); 4 persons in 2002.[186] The ruling opens the way for parliament to consider suspending the practice or outlawing it altogether.[187]

10. Draft Evaders/Deserters

133. According to findings of a fact-finding mission by the Danish Immigration Service, Belarus devotes about 4.2% of its GDP to defense. Pay is low, troop training minimal, uniforms old and the quality of facilities is low. Military training is considered to be poor, with younger soldiers in particular often being assigned to menial tasks. Corruption is allegedly rife in the armed forces, leading to trafficking in arms and equipment, and a rising crime rate among officers. Harassment among soldiers is also reportedly widespread and on the increase, obliging the military command to set up a hotline for soldiers to phone in complaints. Those responsible can thus be punished for bullying conscripts.[188] There is universal compulsory military service for 18 months.[189] Conscripts are called up twice a year.

134. Dedovshchina - the practice of hazing new army recruits through beatings and other forms of physical and psychological abuse – has reportedly been a problem in the army. According to the 2003 State Department report, during 2002, the most recent date for which information is available, 15 criminal charges were brought against servicemen accused of beating their subordinates and disciplinary action was taken against 160 officials. The Government asserted that the overall crime rate in the armed forces had decreased by 35 percent, but no data on hazing incidents was available. The authorities blocked efforts by family members and human rights monitors to investigate these and other reports of Dedovshchina.[190]

135. The law provides that citizens may serve beyond the country's borders (including in peacekeeping operations) only after obtaining their written consent.[191] Belarus made a reservation in the framework of the Treaty creating the CIS peacekeeping forces, which provided that Belarusian military troops may be deployed abroad only by the decision of the Belarusian parliament.[192] Belarusian nationals may be involved in the fighting in Chechnya, but only as mercenaries.

136. The following offenses are punishable by law:

- draft evasion (punishable with fine or jail sentence up to 2 years, if committed after administrative punishment was imposed);
- evasion from military registration (fine or arrest up to 3 month);

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[186] Decision of the Constitutional Court of the Republic of Belarus of 11 March 2004 No. Z-171/2004
[187] Institute for War and Peace Reporting, End of Executions Draws Near, by Yuri Potemkin, 18 March 2004, http://www.iwpr.net/index.pl?archive/brs/brs_55_1_eng.txt
[188] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001, [Internet and UNHCR Refworld CD-Rom]
[189] For conscripts with higher education - 12 month, for conscripts who received a military training and a rank of the officer during undergraduate study in civil institute of higher education – 24 months. Law on Military Conscription and Military Service of 5 November 1992.
[190] U.S. Department of State, Country Report on Human Rights Practices 2003, Belarus, March 2004; Ground Forces, Belarus, Global Security.org., www.globalsecurity.org/military/world/belarus/_army.htm+130.+Dedovshchina+belarus&hl=en
[191] Law on Defense of 17 July 2002; Law of 25 June 1996.
[192] Law on Ratification of the Treaty on Status of Formation of Forces and Facilities of the System of Collective Security of 30 November 2002.

- voluntary absence from the duty station (for enlisted personnel only, punishment varies depending on the period of absence: arrest up to 6 months or transfer to a special unit, or jail sentence up to 5 years);
- desertion (voluntary absence from the duty station with the purpose to evade the military service in general, for enlisted personnel only, jail sentence from 2 to 7 years);
- evasion from military duty by means of mutilation, or otherwise (for enlisted personnel only, jail sentence up to 7 years).[193]

137. Officially, there are very few draft evaders per annual induction, with the official figure of 120 remaining unchanged for years. A certain amount of corruption allegedly takes place in connection with conscription and evasion. One case involved 33 young men allegedly bribing their way into reserve officer positions and thereby avoiding military service. Bribery can also be used to secure disqualification as unfit to serve: there are many "unfit" young men, especially in Minsk.[194]

138. No figures are available on the number of deserters, although reportedly it is not high. There were also many exempted persons, for reasons of health, continuing education, or family commitments, conferring temporary or permanent exemption from military service.[195]

139. The Constitution and the Law on Military Service[196] allows for alternative service. However, the option has not been made available yet, as implementing legislation is still in parliament.[197] Young men refusing to bear arms have until now, reportedly, been able to perform their national service in unarmed units such as railway troops. Those refusing to perform military service altogether, on religious or pacifist grounds, generally receive a prison sentence (usually suspended). The number of conscientious objectors is on the increase, from five or six individuals five years ago to 60 or 70 today. Reportedly, conscientious objectors can expect very little sympathy from society.[198]

140. The Constitutional Court in 2000 examined legislation pertaining to the alternative service and punishment for refusal to serve in the army. The Court noted that the corresponding law should have been adopted two years after the adoption of the Constitution in 1994. The Court also noted that refusal of military service is punishable by the law. According to the Court's conclusion, with the references to the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference for Security and Co-operation in Europe of 1990, every one has the right to refuse service in the army for religious grounds but this right, although stated, may not be implemented because of the lack of procedure prescribed by the law. However, according to the Court, service in the railroad troops, in comparison to other military units, allows for the interests of the state and of the

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[193] Criminal Code of the Republic of Belarus, Art. 435, 437, 445, 446, and 447.
[194] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].
[195] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].
[196] Law on Military Duty and Military Service of 5 November 1992 No. 1914-XII.
[197] Web-site of the Ministry of Defense of the Republic of Belarus, http://mod.mil.by/altern.html
[198] Danish Immigration Service, Fact-finding mission to Belarus, 30 January-7 February 2001 [Internet].

person to be taken into account, and provides for the fulfillment of the military duty by all citizens of the Republic of Belarus, including those who may not do military service in full according to their religious beliefs. Several dozens of conscripts are assigned annually to the railroad troops. Thus, the Court stated in its decision that it considers it necessary to adopt a Law on Alternative Service without further delay and agreed that in the present exceptional situation it is permissible to create appropriate conditions for the fulfillment of the military duty "in forms not contravening citizens' religious beliefs" (implicitly referring to the service in the railroad troops). The Court also suggested that the appropriate state bodies apply a case-by-case approach where citizens refuse military service, in order to respect the person's religious beliefs, on one hand, and to exclude a possibility to abuse, from the other.[199]

141. The International Helsinki Federation's Belarusian Helsinki Committee provides conscientious objectors with legal assistance and in 2000 won one court case (the prison sentence was replaced by a conditional sentence).[200]

142. There is no reported pattern of widespread intimidation and mistreatment in the Belarusian military that would give rise to a claim based on the grounds of the 1951 Convention although cases of mistreatment and harassment among young soldiers are not unusual. There are no reported cases of excessive punishment for draft evasion and desertion. Therefore, in general, draft evaders and deserters, should not be considered as refugees. However, some individual cases of conscientious objectors may have a basis for a claim.

11. Trafficking in People

143. Belarus is a state party to the 2000 UN Convention against Transnational Organized Crime and two supplementing Protocols thereof: the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol against Trafficking in Persons, Especially Women and Children. Since 1 January 2001, Belarusian legislation provides for a criminal liability for illegal trade ("trafficking") in persons. Belarusian authorities have taken serious measures to prevent trafficking in persons and punishment of the organizers of such crimes. A telephone hot-line "La Strada" for prevention of trafficking already has been functioning in Belarus for 3 years. During 2002, Belarusian authorities detected 443 crimes connected with trafficking, including 90 solicitation with trafficking (215 victims), 2 trade in persons, 2 abductions and 20 instances of recruitment with the purpose of sexual exploitation.[201] A total of 35 defendants were reportedly convicted of trafficking in persons. Belarusian police participated with German police in a criminal investigation involving the trafficking of more than 160 Belarusian women and terminated the operations of 10 organized criminal groups operating in Belarus.

144. According to the U.S. State Department classification, Belarus moved from Tier 3 in 2002 to Tier 2 in 2003, meaning that although Belarus does not yet fully comply with the minimum standards, it was determined to be making significant

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[199] Decision of the Constitutional Court of the Republic of Belarus of 26 May 2000 No. R-98/2000.
[200] Collection of Press Releases for 2000, Belarusian Helsinki Committee, 30.03.2000, 25.04.2000, http://bhc.unibel.by/press/press.rar
[201] Information Handbook on Combating Trafficking in Women, International Organization on Migration.

efforts to do so. The government has recognized that trafficking is a serious problem in Belarus and has increased investigative efforts and overall awareness, despite resource constraints. Although more remains to be done, particularly in the area of protection and assistance to victims, the government of Belarus has demonstrated its political will to combat trafficking in persons. The government showed increased action with respect to prevention and prosecution efforts, even in light of limited resources. Commitment to protection of victims, however, remains weak.[202] NGOs reported a sharp increase in victim protection referrals from law enforcement officials, due in part to better awareness and to an increase in the number of trafficking investigations. The criminal code contains procedures for witness protection, but government officials contend that financial restraints limited the government's capacity to implement those procedures.[203]

145. In 2001, the Counsel of Ministers adopted a 5-year, 33-point strategy to combat trafficking in persons and spreading of prostitution. The strategy covered ways of improving legislation, international co-operation, combating trafficking, and rehabilitation of victims.[204] A joint European Commission/UNDP Project "Combating Trafficking in Women in the Republic of Belarus" has been under implementation since June 2003. Its main purposes are:

- Comparative analysis of the Belarusian legislation with the regulations of the EU countries on combating trafficking in women;
- Exchange of the relevant information and experience between the state authorities and NGOs;
- Establishing modern system of coordination and information exchange through supply and installation of the relevant equipment for the state authorities;
- Establishment of a facility for victims of trafficking including a shelter in Minsk as well as supply of equipment to NGOs in six regions, and
- Implementation of awareness programs targeted on the general public and risk groups.[205]

12. Ethnic Minorities

146. Belarus is a multi-ethnic state with over 100 ethnic groups. According to the most recent national census (in 1999), the largest ethnic groups are Belarusians (81.2 per cent), Russians (11.4 per cent), Poles (3.9 per cent), and Ukrainians (2.4 per cent). The Constitution and the Law on National Minorities in the Republic of Belarus declare the principle of equality of national minorities before the law and respect of their rights and interests.

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[202] US Department of State, Office of the Under Secretary for Global Affairs, revised June 2003, http://www.state.gov/documents/organization/21555.pdf

[203] US Department of State, Office of the Under Secretary for Global Affairs, Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report. Released by the Office to Monitor and Combat Trafficking in Persons, June 14, 2004, http://www.state.gov/g/tip/rls/tiprpt/2004/33192.htm

[204] Regulations of the Counsel of Ministers of the Republic of Belarus of 8 November 2001 No. 1636

[205] UNDP in Belarus, http://www.un.minsk.by/print/en/undp/news/belarus/25-08-03-1.html

147. The 1999 census indicates that there are around 28,000 people of Jewish origin (0.3 per cent of the total population) still living in Belarus (Jewish organisations estimate approximately 45,000 people).[206] Reportedly, during the Holocaust Belarus lost some 810,000 Jewish inhabitants,[207] and about 57,000 immigrated to Israel since 1989.[208] State-run Jewish classes with about 300 students (including Jews and other nationalities) marked their 10th anniversary in 2003. The courses are stationed in one of Minsk's secondary schools and give a general secondary education.[209] There are no government supported Jewish schools in the country (although the state runs Jewish classes in one of Minsk's secondary schools).[210]

148. In general, "anti-Semitism is not so obvious a problem in Belarus like in Russian and Ukraine."[211] The First Secretary of the Israel Embassy to the Republic of Belarus (closed in 2003 for non-political reasons) stated in May 2003 interview:

> I can absolutely clearly say that as of today there is no state on the territory of the former Soviet Union that would carry out a policy of so called state anti-Semitism. Of course, everyday anti-Semitism exists even today but it is a different issue.[212]

149. Hostility against Jews is not usually openly exhibited. However, a number of incidents of vandalism against Jewish tombstones and memorials have reportedly taken place in several Belarusian towns, including Minsk, in 2003. Criminal investigations have been launched in relation to all incidents; however, the authorities are usually not able to find the perpetrators. The memorial to Holocaust victims in Minsk has become a target of vandalism in May 2003. The Police have tightened security at cemeteries and memorials in the city after the incident, paying special attention to the protection of monuments to the victims of Nazism. Some arson attempts against the Minsk synagogue have been registered over the last few years.[213]

150. Jewish organizations continue to criticize the Government for failing to protect cemeteries and Holocaust memorials. In May and June 2003, unknown assailants vandalized both Jewish and non-Jewish gravesites at three Gomel cemeteries. Although the authorities launched criminal investigations into the incidents, no arrests have been made. In April and July 2002, approximately 70 tombstones in a Jewish cemetery in Borisov and 19 tombstones in a Jewish cemetery in Minsk were reportedly vandalized. On July 16, 2002, local authorities in Borisov detained a teenager on suspicion of participating in the Borisov cemetery desecration. Given the fact that non-Jewish headstones were also damaged during these attacks, there is no indication that these acts were specifically motivated by anti-Semitism.[214]

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[206] Central Jewish Resource http://www.sem40.ru/world/belarus.shtml
[207] http://www.beljews.info/English.shtml
[208] Central Jewish Resource http://www.sem40.ru/world/belarus.shtml
[209] BELAPAN, http://www.naviny.by/node.phtml?index=14608
[210] BELAPAN, http://www.naviny.by/node.phtml?index=14608
[211] Central Jewish Resource http://www.sem40.ru/world/belarus.shtml
[212] BELAPAN, http://www.naviny.by/node.phtml?index=14608
[213] The UCSJ, What's happening in Belarus, http://www.fsumonitor.com/indices/Belarus.shtml
[214] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.

151. Skinhead attacks in Belarus are not wide-spread. In 2002, a Skinhead group from Vitebsk was accused of "ethnic intimidation" and was placed on trial. Four Vitebsk youths were sentenced to 3½ to 6 years' imprisonment for attacking students from India, Lebanon, and Nepal in 2001.[215]

152. In April 2003, the leaders of four Jewish community organizations in Belarus sent a joint letter to the prosecutor's office and its Committee on Religious and Nationalities Affairs demanding action against the distributors of an anti-Semitic newspaper, Russky Vestnik, produced in Russia and distributed in Belarus at the end of 2002. In May 2003, the Ministry of Information ordered the removal of Russky Vestnik from kiosks and stores in Minsk.[216]

153. In September 2003, authorities shut down the International Humanitarian Institute in Minsk, the only institution of higher education in Belarus with a Judaic department (it will be transferred to the Belarusian State University). The reasons of liquidation were not officially stated.[217]

154. Two times in 2003, a Russian rock group Grazhdanskaya Oborona (Civil Defense) performed in Belarus, despite protests from the Union of Councils for Jews in the Former Soviet Union Minsk Bureau, the opposition Youth Front and negative articles in the local press. The GO was labeled as a neo-Nazi band proclaiming anti-Semitic slogans, although this classification is a subject of dispute.[218] However, some performances of GO were indeed banned in Russia and other countries because of its radical content.[219]

155. In autumn 2003, foreign students of the Belarusian National Technical University, the Belarusian Medical University, and the Grodno Medical University reported beatings and assaults by Skinheads. The situation recurred in Gomel in the beginning of 2004 when several fights between locals and foreigners were reported. The authorities are reluctant to find a connection between the instances of assaults on foreigners and the skinhead movement in Belarus. Criminal proceedings against offenders were put under way but perceived such acts as "usual youth hooliganism and have no traces of racial hatred."[220] In 2002, several skinheads stood trial over inciting intolerance in Vitebsk and received prison terms between 3 and 6 years.[221]

156. In August 2003, Ministry of Justice reprimanded the Union of Poles of Belarus, which is registered as an NGO and cited several formal grounds like usage of Polish language in bookkeeping.[222] Several reprimands may lead to the dissolution of an organization.

157. The Constitution declares two official languages: Belarusian and Russian. Russian is without a doubt the predominant language, which is favored in all spheres

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[215] Ibid, http://www.charter97.org/bel/news/2003/02/24/head
[216] Annual Report on International Religious Freedom for 2003 – Belarus, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 18 December 2003, covers the period from July 1, 2002, to June 30, 2003.
[217] Charter97, http://www.charter97.org/rus/news/2004/02/04/inst
[218] http://letovinil.tripod.com/egormainpage.html
[219] http://www.charter97.org/rus/news/2003/11/10/go
[220] Belorusskaya Delovaya Gazeta, 26 March 2004, No. 1414 http://bdg.press.net.by/2004/03/2004_03_26.1414/1414_1_1.shtml
[221] Charter 97, http://www.charter97.org/bel/news/2003/02/24/head
[222] Charter 97, http://www.charter97.org/bel/news/2003/08/25/poland

of life, including teaching, television and newspapers, and government communication. According to the 1999 census, 74 per cent consider Belarusian their mother tongue, although only about 37 per cent of Belarusian residents speak Belarusian in their every day lives (in rural areas, 75 per cent, in urban areas, 20 per cent). The corresponding figure for Russian is 63 per cent.[223] More than half of the urban population does not speak fluent Belarusian but most people would understand it.

158. As some observers note, the Russian language continues to dominate within the state administration, the judiciary, the educational system, and the army. Russian prevails in newspapers, on radio and television.[224] Only 35 per cent of schools teach in Belarusian and higher education establishments teach only in Russian. In the capital, the main language spoken is Russian, with Belarusian today spoken only among the rural population and in remote villages. The state-run public media mostly use Russian, whereas the opposition press uses both Russian and Belarusian.[225] Since the Belarusian and Russian languages are similar, and because of a long history of russification, almost every Belarusian-speaker born in Belarus speaks Russian easily (with the possible and rare exceptions in the rural population).

159. Some may choose to use Belarusian language instead of Russian in every day life, demonstrating their support for the "Belarusian cause." Belarusian-speakers (meaning those who refuse to speak Russian in every day life) in some cases may face discrimination: only a small number are represented in state administration, law enforcement agencies and in parliament, where they mainly held unimportant posts.[226] In 2003, authorities liquidated a National State Humanitarian Lyceum, the only Belarusian-language school in Minsk, citing a need for "optimizing of educational facilities."[227]

160. The language question is a political issue in Belarus. At the official level, Russian has been enthusiastically promoted. The ratio of Russian to Belarusian programs on state TV and radio in 2003 was 86% to 14%. TV programs featuring social, economic and political issues of significance to the public in 2003 were transmitted in Russian. Belarusian has been presented solely as a language of ethnography, history and literature.[228] Consequently, Belarusian-speakers (those who refuse to speak Russian in every-day life) can in some cases be imputed as holding political opinions different from the government and, as a result, face discrimination. However, as shown above, the use of the Belarusian language in cultural and social life is tolerated. Some Belarusian university professors use Belarusian in giving lectures without any particular problems and consequences. Thus, mere use of the Belarusian language in every-day life would in itself not suffice to substantiate a claim to refugee status, but all other grounds on persecution should be examined.

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[223] Belarusian Language Society, Internet, http://tbm.iatp.by/eng/perapis.html
[224] Belarusian Helsinki Committee, Human Rights in Belarus, 2002, The International Helsinki Federation Report, http://bhc.unibel.by/arhiv/belarus_ihf.pdf
[225] Danish Immigration Service: fact-finding mission to Belarus, 30 January to 7 February 2001, December 2001.
[226] Belarusian Helsinki Committee, Human Rights in Belarus, 2004, Report to The International Helsinki Federation, http://bhc.unibel.by/arhiv/BelarusAR04.doc
[227] Regulations of the Council of Ministers of the Republic of Belarus of 25 June 2003 No. 850,
[228] Belarusian Helsinki Committee, Human Rights in Belarus, 2004, Report to The International Helsinki Federation, http://bhc.unibel.by/arhiv/BelarusAR04.doc

161. Aside from the instances mentioned above, particular cases of trends of persecution based solely on ethnicity or national identity have generally not been reported. Based on these observations, any Belarusian asylum-seeker claming persecution solely on ethnic grounds would not qualify for inclusion under Article 1(A) 2 of the 1951 Convention, unless other elements can be found. An individual assessment of the case is still advisable.

13. Homosexuals

162. Homosexuality *per se* is not illegal in Belarus, as the Soviet-era legislation outlawing homosexuality was abolished in 1994. The Criminal Code of 1999 provides for the criminal prosecution of men and women for sodomy, lesbianism and other acts of sexual nature committed only contrary to the will of a victim and forcibly or with threat of violence or because of helpless state of a victim (article 167). The legal age of consent in Belarus is 16. Forceful acts of a sexual nature, or acts with persons below the age of consent are prohibited.

163. However, according to local homosexual groups, homosexuals can be victims of discrimination and harassment, and subject to maltreatment by the ordinary population, while the police remain passive and sometimes refuse to protect the rights of persons with different sexual behavior. Crimes based on hatred towards gays are not uncommon, and some officials have made openly anti-homosexual statements.[229] While the Belarusian Constitution forbids discrimination,[230] sexual orientation is not on the list of social characteristics on whose basis discrimination is legally prohibited. Homophobia is not recognized as an independent motive for crimes, as Belarusian legislation contains no laws that refer specifically to perpetrators of crimes motivated by homophobia. Although many people live outside of marriage, domestic partnership/cohabitation does not lead to legal consequences for the purposes of inheritance, parental rights (with the exception of the process of adoption), alimonies, etc.[231]

164. In general, few homosexuals openly declare their sexual orientation. While it is easier to openly live as a homosexual in Minsk, homosexuals living in other places, especially in small towns and in the country, can face discrimination by the local population. Reportedly, homosexuality is frowned upon in Belarusian society, and condemned by the church. As some observers note, Belarusian society is conservative in this respect, with homosexuals generally being socially stigmatised. Parents usually take a very unfavourable attitude towards homosexuality in their children and there have been cases of parents having to move house on account of harassment from neighbours.[232]

165. According to the list of diseases adopted by the Ministry of Health and Ministry of Defense, homosexuality - along with transsexuality, pedophilia, etc. - is classified as a personality disorder of moderate degree. As a result, homosexuals may

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[229] Belarusian League for Sexual Equality, Report on Murders, Persecution and Discrimination of Gays in Belarus during 2001 – June 2003.
[230] Article 22 of the Constitution: "All shall be equal before the law and entitled without discrimination to equal protection of their rights and legitimate interests."
[231] Belarusian Legislation about Homosexuals, a study by Amnesty International Gomel/Belarus 1, 30 June 2002.
[232] Danish Immigration Service: Fact-finding mission to Belarus (30 January to 7 February 2001), December 2001

not serve in the army during peacetime but may be enlisted in wartime as "partially able."[233] Homosexuals from the Brest region in 2003 were reportedly being entered into a special database, following a murder of a homosexual from the Brest region.[234]

166. However, homosexuality would in itself not suffice to substantiate any claim to refugee status.

[233] Order of the Ministry of Defense and Ministry of Health of the Republic of Belarus of 12 June 1998 No. 369/173

[234] APAGAY, web-site of homosexuals in Belarus, http://www.apagay.com/analitika/region/2003/2003001.php

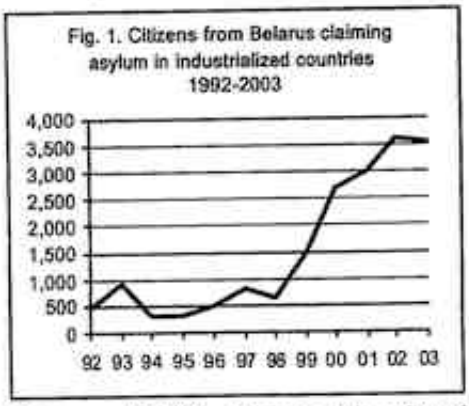
ANNEX 2: REFUGEES & ASYLUM SEEKERS FROM BELARUS

1. Belarus is the country of origin of a limited number of officially recognized refugees. By the end of 2002, some 6,400 refugees from Belarus were hosted by some 20 asylum countries, only eight of which hosted more than 50 refugees. By far the largest number of refugees from Belarus are living in the United States (4,120) and Germany (2,970) (see Table 1).[1]

Table 1. Refugees from Belarus: main asylum countries end-2002 (bold: 2003)

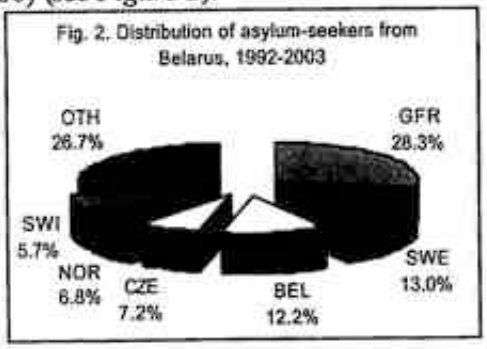
Asylum country	No.
United States	**4,120**
Germany	**2,970**
Czech Rep.	**110**
Canada	90
Sweden	90
France	85
Poland	70

2. The number of citizens from Belarus claiming asylum in the industrialized countries, while also limited, has increased in the last few years. Since the early 1990s, some 18,200 citizens from Belarus applied for asylum in the industrialized world with the number of claims peaking in 2002 (3,600) and 2003 (3,500) (*see Figure 1*).



1. During the 2003, the number of asylum claims submitted by citizens from Belarus in the industrialized countries has been very stable, between 830 and 930 per quarter (*see Table 2*).[2]

2. During 1992-2003, Germany received the largest number of asylum-seekers from Belarus (5,200), followed by Sweden (2,400), Belgium (2,200), Czech Republic (1,300), Norway (1,200) and Switzerland (1,000) (*see Figure 2*).



3. In 2002, some 3,430 asylum claims submitted by citizens from Belarus were adjudicated. Of these, almost 1,100 were closed (rejected) without receiving a substantive decision. Of the 2,300 substantive decisions taken, 250 were grants of refugee status (11%), 45 were grants of humanitarian status (2%), whereas the remaining 2,025 claims (87%) were rejected. Recognition rates varied greatly, depending on the country of asylum, the type of asylum application and the level in the asylum procedure (see Table I).

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[1] Due to the absence of refugee registers, UNHCR has estimated most of figures in industrialized countries based on recent recognition of asylum-seekers and arrivals of resettled refugees.

[2] See Asylum *Levels and Trends: Europe and non-European Industrialized Countries, 2003*, available at http://www.unhcr.ch/statistics (Asylum trends).

Table 2. Monthly asylum applications lodged in industrialized countries, 2003

Nationality: Belarus

Values between 1 and 4 have been replaced with an asterisk.

Source: Governments, compiled by UNHCR.

Country of asylum	No. of applications Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Sweden	47	80	76	54	65	87	94	85	89	75	78	71	901
Germany	42	57	39	35	31	18	44	35	33	44	33	28	439
Switzerland	23	19	28	47	14	19	21	34	40	50	30	15	340
Norway	17	24	35	25	34	26	11	22	23	38	17	8	280
Czech Rep.	12	34	38	32	10	17	25	21	13	28	30	-	260
France	21	33	35	28	17	22	15	16	28	26	18	-	259
USA (cases)	13	15	16	15	22	48	15	10	19	22	27	23	245
Belgium	10	17	11	14	*	8	26	21	17	26	17	17	188
Austria	10	9	13	11	8	16	6	12	8	15	10	8	126
UK (cases)	12	8	8	10	8	7	13	10	12	21	5	8	122
Poland	*	*	*	5	*	*	7	-	10	*	8	13	58
Luxembourg	*	*	10	*	*	5	7	*	7	*	*	*	55
Netherlands	7	*	*	6	*	-	*	7	12	*	*	*	55
Finland	*	*	*	*	*	10	*	6	6	*	5	*	45
Spain	-	-	*	*	*	-	-	6	14	*	*	*	38
Ireland	5	*	*	6	*	*	5	-	*	-	*	5	37
Canada	5	*	*	*	*	*	5	*	*	*	*	-	31
Denmark	*	*	-	*	*	*	5	*	*	-	5	*	28
Slovakia	-	*	*	*	5	*	-	*	*	-	*	*	21
Greece	*	-	*	*	*	-	-	-	*	*	-	*	13
Liechtenstein	-	-	-	-	-	*	-	*	-	*	-	-	*
Portugal	-	-	-	*	-	*	-	-	-	*	-	-	*
Australia	-	-	-	-	*	-	-	-	-	-	*	-	*
Hungary	-	-	-	-	-	-	-	*	*	-	-	-	*
Total	235	319	330	303	236	299	303	299	345	364	302	218	3,553

Refugee status determination of asylum claims lodged by citizens from Belarus, 2002

T = Type of procedure (Government, UNHCR)

A = Type of application (New application, Repeat application)

L = Level of procedure (First instance, Administrative review, Executive Office of Immigration Review, Immigration and naturalization Service,

Values between 1 and 4 have been replaced with an asterisk.

Country of asylum	Procedure			Pending cases begin year	Applied since 1 Jan.	Decisions during 2002					Pending cases end year	Recognition rate		Pending cases change (%)
						Recog-nized	Other (hum.)	Rejected	Otherw. closed	Total		Excl. o/w cl.		
	T	A	L									Ref. status	Total	
Australia	G		AR	13	*	-	-	6	*	9	8	0.0	0.0	-38.5
Australia	G		FI	7	5	*	-	8	*	11	*	20.0	20.0	-85.7
Austria	G	RA		-	123	*	-	18	70	89	-	5.3	5.3	..
Belgium	G		AR	-	51	*	-	24	5	33	-	7.7	7.7	..
Belgium	G		FI	-	218	11	-	52	10	73	-	17.5	17.5	..
Canada	G			101	54	44	-	16	14	74	81	73.3	73.3	-19.8
Czech Rep.	G	NA	AR	21	60	-	-	29	29	58	23	0.0	0.0	9.5
Czech Rep.	G	NA	FI	353	312	26	-	105	203	334	331	19.8	19.8	-6.2
Denmark	G	RA	AR	*	-	*	-	*	-	5	*	20.0	20.0	-50.0
Denmark	G	NA	FI	*	30	-	-	9	-	9	6	0.0	0.0	50.0
Finland	G	NA	FI	14	39	-	14	14	17	45	-	0.0	50.0	-100.0
France	G		FI	-	284	13	-	190	-	203	-	6.4	6.4	..
France	G		RA	-	6	6	-	-	-	6	-	100.0	100.0	..
Germany	G	NA		274	671	21	6	492	83	604	339	4.0	5.6	23.7
Germany	G	RA		10	76	*	-	*	87	71	17	25.0	25.0	70.0
Greece	G	NA		*	7	-	-	9	*	10	-	0.0	0.0	-100.0
Hungary	G	NA		-	*	-	-	*	-	*	*	0.0	0.0	..
Iceland	G	NA	FI	-	*	*	-	-	*	*	-	..	..	..
Ireland	G	NA	FI	-	61	5	-	39	61	105	-	11.4	11.4	..
Ireland	G	RA	AR	-	41	19	-	19	*	40	-	50.0	50.0	..
Israel	V	RA		*	*	-	-	-	*	*	*	..	..	0.0
Italy	G			-	7	*	-	6	-	9	-	33.3	33.3	..
Liechtenstein	G			-	*	-	-	*	*	*	*	0.0	0.0	..
Luxembourg	G			-	8	-	-	-	-	-	-	..	..	..
Latvia	G	NA		-	*	-	*	-	-	*	-	0.0	100.0	..
Malaysia	U			-	*	-	-	*	-	*	-	0.0	0.0	..
Netherlands	G		AR	41	-	-	-	34	*	36	11	0.0	0.0	-73.2
Netherlands	G		FI	74	131	*	5	124	27	160	49	3.0	6.8	-33.8
Netherlands	G		JR	24	-	-	-	-	-	-	92	..	..	283.3
Norway	G	NA	FI	-	395	*	*	246	159	408	-	0.4	1.2	..
Poland	G	NA	AR	-	-	*	-	-	-	-	*	100.0	100.0	..
Poland	G	NA	FI	-	67	9	-	67	5	81	-	11.8	11.8	..
Portugal	G			-	6	-	*	*	-	5	-	0.0	80.0	..
Spain	G			-	17	*	*	*	11	15	-	50.0	75.0	..
Slovakia	G	NA		*	5	0%	0%	*	*	*	*	0.0	0.0	50.0
Slovenia	G	RA		*	-	-	-	-	*	*	-	..	..	-100.0
Sweden	G	NA	AR	-	-	11	10	105	10	136	-	8.7	16.7	..
Sweden	G	NA	FI	-	722	-	-	239	103	342	-	0.0	0.0	..
Switzerland	G	NA	FI	77	276	-	-	51	159	210	142	0.0	0.0	84.4
United States	G		EO	80	96	13	-	12	35	60	116	52.0	52.0	45.0
United States	G		IN	56	183	54	-	96	12	161	69	36.2	36.2	23.2
Total				1,160	3,949	252	47	2,024	1,096	3,421	1,293	10.8	12.9	11.5

ANNEX 3: REFUGEES IN BELARUS

A. UNHCR Operations 1999-2003

1. UNHCR's presence in Belarus dates from 1995.[1] Situated at Europe's crossroads, Belarus' territory is a transit corridor for irregular migration movements from east to west. According to the Government, this is estimated at several thousand foreigners a year entering Belarus from Russia and then moving towards Poland, Lithuania, and Ukraine.

2. In 1999, UNHCR sought to ensure the following: access of asylum-seekers throughout the country to procedures; that decisions on asylum claims were consistent with international standards; that recognized refugees could integrate into Belarusian society; and that Belarus acceded to the 1951 Convention on Refugees and its 1967 Protocol. With a view to bringing national refugee legislation in line with international standards, UNHCR welcomed the 1995 Belarusian Refugee Law and started training activities.

3. The Government of Belarus was willing to co-operate closely with UNHCR in developing a national asylum system and integrating Belarus into the international refugee protection system. The necessary legislative framework was created as well as an administrative migration service, which is represented both in the capital and in the regional centres. In 2001, Belarus acceded to the 1951 Refugee Convention and 1967 Protocol and began working on revising its refugee legislation accordingly. The Government also gradually accepted local integration as a durable solution for recognized refugees and in 2001 began working with UNHCR in this area.

4. UNHCR encouraged the formation of a proper legal framework in the country, supporting the central and regional authorities to enable them to implement the national refugee law countrywide and address the issue of statelessness.

5. In 2002, noticeable progress was made in improving and consolidating the national asylum system, integrating it into the international refugee protection system. The newly-adopted national Refugee Law of 2003 was almost entirely in line with the 1951 Refugee Convention,[2] and a new citizenship law of 2002 addressed some of the UNHCR's concerns. The opening of a temporary accommodation centre in Vitebsk in 2002 helped ease the difficulties of vulnerable asylum-seekers, but the integration of recognized refugees remained problematic.

6. Despite notable progress, the asylum system in Belarus is still young and fragile. The Refugee Status Determination Procedure (RSDP) became operational countrywide only at the end of the 1990s, and although the number of recognized refugees in Belarus has steadily grown during the last three years, the denial of access to the RSDP on formal grounds still remains a protection challenge. The general situation is exacerbated by a need for increasing the level of cross-border and sub-regional cooperation. The most serious protection concern is the absence of readmission agreements with the main transit countries (Russia and Ukraine). Furthermore, neither the Government nor local NGOs are able to implement

[1] UNHCR Country Operations Plans 2001, 2002 & 2003; UNHCR Global Report 2002; UNHCR 2002 Global Appeal; UNHCR Global Report 1999 – Belarus; all documents found on Refworld.
[2] Available in English in Refworld and on UNHCR web-site.

temporary or durable solutions for asylum-seekers and refugees by themselves due to financial constraints and the overall poor economic conditions.

7. From 1997 to December 2003, the Government recognized 719 persons as refugees, the vast majority of them being from Afghanistan, Georgia, Tajikistan, Ethiopia, and Azerbaijan. The overwhelming majority of asylum-seekers and refugees in Belarus are urban population. The removal of the Taliban regime in Afghanistan at the end of 2001 opened up the prospect of voluntary repatriation for some of the displaced Afghans in Belarus, but as of the end of 2003, the situation in their country of origin was still too uncertain. The unresolved conflict between Georgia and the breakaway region of Abkhazia ruled out voluntary repatriation of the majority of Georgian persons of concern. For the time being, therefore, local integration remains the most practical solution for the majority of refugees in Belarus, while resettlement is reserved for cases with acute legal and physical protection needs and family reunification.

8. Considering that UNHCR's European partners are either not present in Belarus, or have limited mandates or roles, as in the case of the OSCE, UNHCR's broader significance in helping to fill the resulting void should be borne in mind. The encouraging factor is that the Belarusian authorities have remained receptive to UNHCR's message and have shown in practice their will to cooperate in establishing a humane system for managing migration flows and respecting the rights of asylum-seekers and refugees. The steady rise in the number of recognized refugees in Belarus during 2000-2003 and Belarus' accession to the 1951 Refugee Convention in 2001 attest to this.

9. With the exception of IOM, UNHCR has been the main international organization operating in Belarus that is concerned with refugee and broader migration related issues. The situation appeared to change somewhat at the end of 2001 as details began to emerge of an EU-funded project to be implemented by UNDP in 2002 on improving border management between Belarus and Ukraine, and of the prospect of EU funding for asylum related projects in 2003-04.

B. Treatment of Refugees and Asylum-seekers

10. A new revised version of the Law on Refugees was promulgated on 4 January 2003 and entered into force on 18 July 2003. It acknowledges that asylum-seekers should not be penalized for illegal entry. Asylum-seekers are permitted to apply at the country's borders. Since there is an open border between Belarus and Russia, in practice, claims are only accepted at the seven regional Migration Service centres, and occasionally after detention of the asylum seekers by the interior authorities or by the border guards near the Polish, Ukrainian, or Lithuanian borders. After applications are accepted, the central migration authorities make a status determination using information provided by the regional migration service. While the case is pending, registered asylum-seekers are entitled to stay legally in the country, but in most cases are not able to work legally because of a burdensome procedure for obtaining work permits, and poor language abilities. As a result, many work illegally to support themselves. Public schools permit asylum-seekers to enroll their children. Recognised refugees have the same economic and social rights as citizens. Refugee status is granted for an indefinite time, until fundamental changes occur in the country of origin. However, recognized refugees have to re-register with the migration

authorities annually, and to regularly register with the local interior authorities, until the permanent registration (propiska) is obtained.

11. The steady growth in the number of recognized refugees in Belarus continued. At the end of 2003, some 3,500 asylum-seekers and refugees in need of protection were living in Belarus. These included persons recognized as refugees by the Belarusian government (719 by the end of 2003), asylum-seekers with pending cases, persons who were registered with UNHCR, and persons – mostly from outside the former Soviet Union – who were rejected by the Belarusian authorities, but whom UNHCR continues to regard of concern under its mandate because Belarus lacks a humanitarian status to provide complementary protection to refugees fleeing generalized violence that do not meet the criteria for asylum under the UN Refugee Convention.

12. There exists a rudimentary form of temporary protection in the form of permission to temporarily stay in Belarus. Such protection is available for foreign nationals (or stateless persons) who may not be deported contrary to his/her will to the territory of state where his life or freedom is in danger because of his/her race, faith, citizenship, nationality, membership in a particular social group or political opinion. Permission to stay is given for a period specified by the migration authorities, but for no more than one year. The person in question can legally stay in Belarus for the duration of the permission's term and is protected from refoulement. Such persons have a limited right to work or carry out business activities subject to additional license. No other rights are conferred.

13. The Belarus Migration Service determines the admissibility of cases into the asylum procedure.[3] UNHCR does not conduct refugee status determination, except in compelling cases in need of third-country resettlement. However, UNHCR finances the Refugee Counseling Service (RCS) – with offices in Minsk and Vitebsk -- to assist asylum-seekers throughout the process. The RCS receives newly-arrived asylum-seekers who have not yet applied to the Belarusian Migration Service and provides them with legal services, information, and referrals. Asylum-seekers rejected at the registration phase (which was possible in accordance with the earlier edition of the Law) or denied on the merits of their case (usually after a failed appeal) are directed by the RCS to UNHCR for consideration for resettlement to other countries.

14. After the terrorist hostage-taking that occurred in a Moscow theatre in late October 2002, the authorities of Belarus introduced tighter migration control measures affecting the situation of foreigners in Belarus. In particular, the police rigorously checked the status and identities of foreigners residing in Belarus, which lead to an increased number of reports about the police harassment.

15. A Temporary Accommodation Centre (TAC) established in the city of Vitebsk was opened in May 2002 and provides 30 temporary accommodation places for vulnerable asylum-seekers. A Belarusian Red Cross Centre of Medical and Social Support in Minsk modernized and refurbished by UNHCR and IFRC was opened in March 2002. It significantly improved the organization of medical services to refugees and asylum-seekers who do not have access to the state health system or have language problems. UNHCR, in cooperation with the Ministry of Health in 2002, identified a referral hospital in Minsk that will provide basic and specialized

[3] U.S. Committee for Refugees World Refugee Survey 2003 – Belarus, 1 June 2003 [Internet].

medical services for those asylum-seekers and refugees who do not have access to medical assistance provided by the State free of charge.

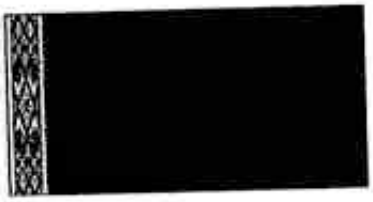
16. Lawyers co-operating with UNHCR's partners (contracted advocates and NGO lawyers) represent asylum-seekers in appeals against refusals by the Migration Services to register applications for refugee status and in appeals against denial of refugee status all instances. No refusals of the Migration Services to register applications were quashed the by the courts. Twelve rejections of refugee claims by the DOM have been overturned by a court since 1999. Two police decisions on the deportation of asylum-seekers were appealed in courts in 1999, and one of them was overturned.

17. Local integration in Belarus remained the most practical durable solution for the majority of the refugee caseload (Afghans and Georgians from Abkhazia). Large-scale voluntary repatriation was not feasible, except for a few individual cases. In 2003, UNHCR assisted in voluntary repatriation of 11 persons to their country of origin on their request.[4]

18. Throughout 2002-2003, Belarus required residence permits (*propiska*) for all its citizens, as well as foreign legal residents. To obtain one, foreigners, including refugees, must establish their legal residency in Belarus, have a legal contract with a landlord, and obtain the consent of all other permit-holders living in the housing where they will reside. In practice, residence permits function much like the propiska system of the Soviet era. They are a requirement for social benefits such as medical care and education, as well as legal employment and to avoid problems with the police. According to the Department of Passports and Visas, at the end of 2002, about 51 per cent of recognized refugees had residence permits. However, many still experience difficulties finding accommodation, especially in the capital.[5]

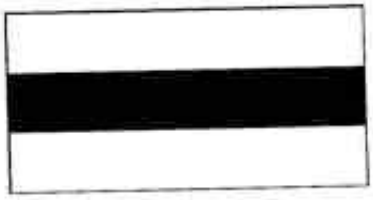
[4] Ibid.
[5] Ibid.

ANNEX 4: STATE SYMBOLS/PASSPORT



Current official flag

Current state emblem



Official flag during 1991 – 1995

State emblem "Pahonya" during 1991 - 1995

Current Passport Cover

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ANNEX 6: MAP OF REPUBLIC OF BELARUS, JUNE 2003