

# **R e p o r t**

**of the mission of the Personal Representative**

**of the Chairman in Office of the OSCE**

**to the Republic of Belarus**

**15-18 April 1997**



**Report  
of the Mission of the Personal Representative  
of the Chairman in Office of the OSCE  
to the Republic of Belarus,  
15-18 April 1997**

**Summary**

From 15 to 18 April a Personal Representative of the OSCE Chairman-in-Office visited Belarus accompanied by a delegation including legal and press experts as well as representatives from the EU chairmanship and the Council of Europe. The Mission met with President Lukashenko, Foreign Minister Antonovich, other members of the government and government officials as well as representatives from the opposition, the press and non-governmental organizations.

The conversations confirmed the impression of a gradual effacement of the trias politica in Belarus in which all powers increasingly operate at the discretion of the president in order to curb expressions of discontent and opposition in the media and elsewhere. Thus, the protestations of the Belarussian authorities that their country is progressing towards democracy appear less than convincing. On the contrary, there is every indication that the authorities are constructing a system of totalitarian government.

The Mission's meetings with government officials left little if any impression that the Belarussian authorities at present were ready to accept international advice with regard to human rights, democratic institutions, and freedom of the media to any significant extent. On the contrary, the Belarussian authorities rejected the idea that such advice was at all necessary.

While it is important to counter the danger of Belarussian isolation from international society, it is the international obligation and responsibility of the OSCE to contribute to the establishment and safeguarding of democracy and the rule of law in Belarus - a member state of the organization and thus committed to respect its rules and norms.

At the present time, the most significant positive step, therefore, would be the establishment of a long-term OSCE mission in Belarus. The mandate of the mission should allow it to assist the Belarussian authorities in making progress towards democratization as well as to monitor and report on that progress. Such a mission would be in the interests of Belarus. It would, for the present, adequately counter the danger of Belarussian isolation from international society, and would reduce the concern of the international community while working more discreetly than frequent fact-finding missions.

## Background

On 7 February 1997 the Chairman-in-Office of the OSCE suggested to the Minister for Foreign Affairs of Belarus, Mr. Ivan Antonovich, that a Personal Representative of the Chairman-in-Office might undertake a Mission to Belarus. The mandate of the Mission would include assessment of democratic rights in general, and in particular freedom of the press, freedom of expression, and freedom of movement. In addition, the Personal Representative would consider the possibility of structuring a mandate for an OSCE Mission to Belarus to assist in consolidating the process of democratic development.

The Mission was first planned to take place from 18 to 21 March 1997. However, shortly before the Mission was due to set out, the Chairman-in-Office received reliable reports of concerted police action against the Belarussian opposition. Moreover, Foreign Minister Antonovich wrote to the Chairman-in-Office criticizing the Personal Representative's selection of people and organizations to meet and suggesting that the Belarussian authorities should draw up a new programme for the Mission. This left the Chairman-in-Office with no choice but to cancel the Mission.

Following discussions, on 9 April 1997 Foreign Minister Antonovich guaranteed to the Chairman-in-Office that the Personal Representative would have access to any person whom he wished to meet. On this basis it was decided that the Personal Representative could undertake a Mission to Belarus. On 10 April 1997 the Ministers of the Troika of the OSCE, the Foreign Ministers of Poland, Switzerland, and Denmark, expressed their satisfaction that the Mission to Belarus would take place and reiterated the willingness of the OSCE to assist in facilitating democratic reform.

The members of the Mission accompanying the Personal Representative on the Mission provided expertise in legal systems, international law, human rights law, and the press, as well as considerable knowledge and experience of the current situation in Belarus. Moreover, the Mission included representatives appointed by the European Union and the Council of Europe. The members of the Mission were:

Ambassador Rudolph A. Thorning-Petersen, Personal Representative  
of the Chairman-in-Office of the OSCE, Head of Mission  
Professor Michael Singer, ODIHR  
Editor Ib Faurby, Press Expert  
Legal Counsel Jan Lucas I. van Hoorn, EU Presidency  
Political Advisor Ivan Koedjikov, Council of Europe  
Minister Counsellor Lars Groenbjaerg, Danish Embassy in Moscow  
Head of Section Christian Dons Christensen, Danish Foreign  
Ministry  
Secretary-Archivist Bjoern Krog Andersen, Danish Embassy in Moscow

The Mission arrived in Belarus on 15 April 1997 and departed on 18 April 1997.

## Introduction

The Belarussian authorities treated the Mission with courtesy and respect at all times. The authorities met all the Mission's requests for appointments, except as specifically noted.

President Lukashenko declined to meet the entire delegation of the Mission. He did, however, request a meeting with the Head of Mission, Ambassador Thorning-Petersen, accompanied only by Head of Section Dons Christensen as notetaker. Foreign Minister Antonovich attended this meeting. Foreign Minister Antonovich also met the entire delegation of the Mission on another occasion, and in addition, at his request, met separately with Ambassador Thorning-Petersen.

The Mission had meetings with other government officials, including Prime Minister S. Ling, Minister of the Interior Major-General V. Agolets, Chairman of the Supreme Court V. Sukalo, Chairman of the State Committee on the Press V. Zametalin, Procurator-General A. Bozhelko, and Deputy Head of Administration of the President I. Pashkevich. The scheduled meeting with V. Sheiman, Secretary of the State Security Council, was cancelled owing to Mr. Sheiman suddenly being taken ill, and the Mission met instead with Deputy Secretary of the State Security Council A. Tozik.

The Mission also met with representatives of the opposition, the press, and non-governmental organizations, and with members of the diplomatic corps.

A complete list of the persons and organizations that the Mission met will be found in Annex 1 to this report.

Meetings with officials of government and organizations closely affiliated with government were held in government premises. Meetings with representatives of the press were mainly held in their offices. Meetings with members of the opposition were held in the residence of the British Ambassador. The Mission would like to express its great appreciation to Ambassador Pearce and her staff, whose support made it possible to organize the Mission on short notice. A meeting with heads of the diplomatic missions was held in the premises of the German Ambassador; this support from Ambassador Albrecht for the Mission is much appreciated.

## Purpose of the Mission

The purpose of the Mission was to extend support to Belarus with regard to general democratic rights, freedom of the press, freedom of expression and freedom of movement, with a view to enabling Belarus again to participate fully in the international community. Thus, the Mission was chiefly concerned with the present situation in Belarus, and with how progress might be made towards developing a fully democratic system of government with proper protection of human rights.

Consequently, the Mission focused more on the present and the future than on the past. Thus, the Mission did not initiate discussion with government officials of the lawfulness of the referendum of November 1996 and the questions this must raise regarding the legitimacy of the present government. However, the Mission was aware of the European Union mission to Belarus of 26-31 January 1997, headed by Mr. Aad Kosto, former Netherlands Minister of Justice, and of the ODIHR delegation of legal experts to Belarus of 14-16 October 1996, headed by Professor Michael Singer. The present Mission has studied the reports of these earlier missions, and wishes to stress that it entirely shares their findings and supports their conclusions regarding the events that took place in Belarus up to the end of January 1997. Thus, the forward-looking approach of the Mission and of this report should not in any degree be interpreted as accepting the lawfulness of the referendum or the legitimacy of any current governmental structures to which it has given rise.

### **Official Responses to the Mission**

The Mission's meetings with government officials all took a similar course and left little if any impression that the Belarussian authorities at present were ready to accept international advice with regard to human rights, democratic institutions, and freedom of the media to any significant extent. On the contrary, the Belarussian authorities rejected the idea that such advice was at all necessary.

Although the officials generally declared themselves ready for objective and equal dialogue with a view to democratic development, in reality nearly all officials seemed unwilling to engage in any genuine dialogue.

On the many occasions that the Mission expressed concern regarding a clear pattern of abuse by organs of government, the official would deny the existence of any pattern and demand details of individual cases of abuse, with clear proof. When the Mission responded with such details, the official would retort that because Belarus was only a young democracy the occasional mistake was bound to occur.

The official would then continue with a claim that a "double standard" was being applied, under which Belarus was expected to meet requirements that were not imposed on other states. In support of this claim, several officials tried to justify the legal and constitutional provisions of Belarus that the Mission had called into question, by comparing them with allegedly similar provisions in the systems of other states, particularly Russia, Ukraine, and Western European states. However, these comparisons were in every case made without reference to context, in particular the existence in the constitutional systems of other states of checks and balances that limit the potential for abuse.

In addition, certain questions aimed at determining the precise responsibilities and powers of the State Security Council were

given confusing, obfuscating and even self-contradictory responses.

There were just two potentially positive interactions. Foreign Minister Antonovich - without, however, engaging himself in a genuine substantive dialogue - stated that he would welcome specific advice from the European Union or the OSCE, and promised to give such advice serious consideration and support. He added that he was setting up a special monitoring group in the Ministry of Foreign Affairs to deal with international counselling and guidance, and had made a public statement that Belarus must be more open to such counselling.

The other potentially positive interaction came in response to the Personal Representative's proposal to President Lukashenko that the OSCE establish a small, long-term mission in Belarus to support the efforts of Belarus to comply with its OSCE commitments. After an initial refusal followed by considerable reluctance, President Lukashenko finally promised to consider the proposal. Ambassador Thorning-Petersen later discussed with Foreign Minister Antonovich the issues that would need to be settled before a long-term presence of the OSCE could be established. It appeared that Foreign Minister Antonovich would prefer an OSCE presence that is not a regular mission and that is given another name.

## **Findings**

*The emerging structure of government in Belarus*  
Belarussian government officials repeatedly make fine declarations that Belarus is a young, emerging democracy deserving not only the support but also the patient understanding of the international community. However, rather than taking slow steps towards democracy, the administration in Belarus seems engaged in a process of establishing a totalitarian system of government. This process has already progressed to an extent that flouts OSCE commitments to democratic governance and merits the focus and concern of the international community.

The structure of government in Belarus is based upon Presidential rule by decree. The decrees are prepared by the Presidential Administration and implemented by the Secretariat of the Security Council. The constitutional provisions that President Lukashenko presented in the November 1996 referendum, and that now are effectively the law in Belarus, allow the President to rule with little concern for the views of a legislative body that is, in any event, largely subject to his control. The judiciary does not question the legal force of Presidential decrees. A majority of the Constitutional Court was nominated by the President. Thus, hardly a vestige of the trias politica remains in Belarus.

The President relies for implementation of his decrees on a hermetic inner circle, in which the State Security Council figures prominently. The State Security Council sits under the chairmanship of the President and includes among its members the

key ministers and the speakers of both chambers of the legislature. Despite the inconsistent and contradictory explanations that the Mission received concerning the role of the State Security Council, it became clear that this is a body with remarkable influence and authority. The decisions of the State Security Council require implementation through laws, presidential decrees, and government resolutions; but it would seem that its decisions are in any event invariably implemented. The State Security Council can request information, in the name of the President, from any minister in Belarus, and even from any civil servant; the latter category apparently includes the judiciary and the tax authorities.

There is no effective political structure in Belarus to oppose the descent into totalitarianism. Politicians, members of the judiciary, civil servants, and leaders of organizations affiliated with the government appear to unite in giving out the same inane and unconvincing arguments, often in strikingly similar words.

Only the members of the so-called "shadow government" had some considerations of a more forward-looking kind, the realism of which, however, cannot be properly evaluated. Thus, in its efforts to unite the opposition, the shadow government is preparing a coherent economic programme to be sent to the EBRD and the IMF for comments. As for solutions to the present deadlocked political situation the shadow government pointed to extraordinary parliamentary elections as a way out of the stalemate.

The formation of a credible cohesive political opposition in Belarus, however, seems a prerequisite for a genuine democratization process.

#### *The Judicial System*

The Mission received numerous reports of judicial proceedings that fail to maintain basic standards of justice. These particularly concerned trials for violations of the presidential decree restricting public gatherings (discussed below). The reports claimed that these trials were closed to the public as a routine matter, that convictions were based on inadequate evidence, that defendants were not allowed to call witnesses, and that sentences were unduly severe.

Chairman of the Supreme Court V. Sukalo explained to the Mission that Belarussian law treats violations of the decree restricting public gatherings as administrative offences under a simplified, accelerated procedure. In particular, this permits restrictions on the defendant's right to call witnesses and allows proceedings to take place in a judge's office when no courtroom is available. Judges' offices may not allow room for members of the public, but Mr. Sukalo assured us that lack of space would be the only constraint in such a case and that there was no policy to exclude members of the public.

The Mission pointed out to Mr. Sukalo that any restriction of the right to public assembly was a serious matter according to international standards, regardless of whether Belarus treated it

as an administrative matter with only limited procedural protections. The Mission was unable to accept the unsupported assurances of the Chairman of the Supreme Court regarding adequacy of evidence and severity of penalties, but did accept his assurance that there was no policy of closing trials to the public.

At the very time that Mr. Sukalo was offering this assurance, a member of the Mission attempted to attend the trial of Mr. Novikov (Communist), Deputy Speaker of the 13th Supreme Council. The trial took place in a District Court judge's office where the available chairs could accommodate about eight to ten persons. However, the judge told the Mission member that only the defendant, his lawyer, and the witnesses (police officers) would be admitted to the room. When the delegation member repeated his request for admittance the judge's assistant called in several police officers. The member of the Mission left the judge's office as the police cleared the corridor in front of it of a small group of agitated supporters of Mr. Novikov. Mr. Novikov, registered as jobless, was fined 5 million roubles (the equivalent of 35 times minimum salary, approximately USD 200).

The Mission cannot accept that this closure of a trial was a solitary incident that coincidentally occurred on the one occasion when a member of the Mission attempted to attend a trial. The Mission must conclude that there is a policy in Belarus to exclude the public from judicial proceedings, or at least from those dealing with freedom of assembly.

#### *The Police*

The Mission received and considered numerous eyewitness reports of random arrests and police brutality, particularly in the context of public gatherings. The police are under the control of the Ministry of the Interior, and under pressure of questioning Minister of the Interior V. Agolets did acknowledge that the police do sometimes react over-hastily to the mere threat of disorder.

Mr. Agolets did not, however, perceive any urgent need to train the police to react less hastily. His main concern was the need to maintain order in society. This is especially troubling in that the Minister adheres to a very strict definition of "order." He made it clear that this definition demands a complete lack of public expression of any views not authorized by the authorities.

The Mission concludes that random arrests and police brutality constitute a major threat to civil rights and the rule of law in Belarus. The police play a key role in carrying out the clear governmental policy of persecuting and stifling dissenting opinion.

#### *Abuse of Governmental Powers*

The Mission found a clear pattern of the selective use of governmental powers against persons or entities expressing dissent. The full range of these powers is directed in a coordinated effort to suppress expressions of dissent, discontent,

and opposition. In each case taken alone, the law may be correctly and justifiably applied. However, the pattern of selective enforcement against dissenters constitutes a violation of basic principles of justice.

One example among the many brought to the attention of the Mission concerns the treatment of a nongovernmental organization, the East-West National Centre for Strategic Initiatives, which occupied premises within a state-owned building controlled by the President's Administration. On 3 March 1997 the organization was given notice to leave the premises by 31 March 1997 "in connection with the necessity to use the premises by State structures." The organization's lease did allow for termination with one month's notice for such a reason. However, of the scores of tenants in the huge state-owned building it so happened that only the nongovernmental organization, occupying a modest-sized flat, was asked to leave.

Even taken alone, this incident would arouse suspicion that the organization was selected to lose its premises because of its dissenting views. However, this is not a solitary incident, but part of a clear pattern. The pattern includes a disproportionately high level of tax audits and police raids of nongovernmental organizations, media organizations, and members of the opposition. It includes manipulation of the registration process, as applied to the mass media and foreign correspondents. It undermines the rule of law and respect for the law in Belarus.

#### *Freedom of Assembly*

Virtually no freedom of assembly remains in Belarus. On 5 March 1997 President Lukashenko issued Decree No. 5 "On Assemblies, Meetings, Street Marches and Picketing in the Republic of Belarus," imposing severe restrictions on public gatherings. Under this decree, organizers of a public gathering must apply for permission at least fifteen days in advance; in the absence of permission, any preparation for the gathering is illegal, including drafting and printing of leaflets (even if they are not actually distributed) and publishing information concerning the gathering in the media. Also, demonstrations and marches must not take place in the vicinity of public buildings, and must not interfere with the normal functioning of public services, nor with the circulation of traffic or the movement of pedestrians. Furthermore, the use of non-registered flags and other symbols is illegal.

Decree No. 5 entrusts the Ministry of the Interior with drawing up "protocols" on violations of the decree, and the courts with taking up cases of such violations. Offenders are liable to fines (between 20 and 300 times minimum salary) or administrative arrest (3 to 15 days detention). The decree states that control over its application is vested in the Secretary of the State Security Council of Belarus, but despite repeated questions the Mission did not receive any clear explanation of what this may mean in practice.

Hundreds of people have been arrested and fined or detained for violation of this decree. It is reported that one person served four days of administrative arrest for displaying the flag of the European Union. This decree destroys the right of public assembly in Belarus, and thus violates one of the most basic norms of the international community.

#### *Freedom of the Media*

Media freedom is very limited in Belarus. Over large areas of Belarus the public is served by only the state-controlled media. Chairman of the State Committee on the Press V. Zametalin asserted "objectivity" as the main editorial principle for the state-controlled media. This principle is interpreted to include unedited coverage of presidential pronouncements and, owing to the tense political situation in Belarus, to exclude the dissemination of views that "could have negative consequences." As earlier reports of missions to Belarus have noted, the result is that the state-controlled media almost always report only the views of the authorities.

The independent press is subjected to systematic persecution by the authorities. Editors from the independent press described to the Mission a political climate in which high government officials repeatedly criticized the independent media for "lack of objectivity" and "misrepresentation," and in which vague and contradictory laws and decrees create legal uncertainties that allow the authorities to apply arbitrary administrative measures. The specific complaints included arbitrary eviction from rented premises and repeated rent increases; intrusive and prolonged tax inspections accompanied by temporary blocking of bank accounts; extended administrative procedures for registration of newspapers and periodicals; the possibility of administrative closure of newspapers following two government warnings; and police harassment of journalists. The editors also expressed apprehension over planned changes in the law on the media and the announcement of a "re-registration" of newspapers and journals.

The restrictions on the media that earlier reports of missions to Belarus have noted are still in effect. These stem from the government's control over the major printing facilities and the distribution system. Some newspapers have been denied printing at the State Printing House in Minsk and have been forced to move their printing to Vilnius, Lithuania. They have then experienced problems with Belarussian customs police at the border and with the state-controlled distribution system in Belarus.

The problems concerning freedom of the media in Belarus are inextricably related to the general problems of democratization, rule of law, and economic reform.

#### **Recommendations**

The protestations of the Belarussian authorities that their country is progressing towards democracy appear less than

convincing. On the contrary, there is every indication that the authorities are constructing a system of totalitarian government.

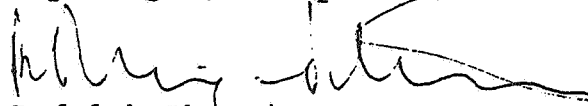
While it is important to counter the danger of Belarussian isolation from international society, it is the international obligation and responsibility of the OSCE to contribute to the establishment and safeguarding of democracy and the rule of law in Belarus - a member state of the organization and thus committed to respect its rules and norms.

At the present time, the most significant positive step would be the establishment of a long-term OSCE mission in Belarus. The mandate of the mission should allow it to assist the Belarussian authorities in making progress towards democratization as well as to monitor and report on that progress. Such a mission would be in the interests of Belarus. It would, for the present, adequately counter the danger of Belarussian isolation from international society, and would reduce the concern of the international community while working more discreetly than frequent fact-finding missions.

In addition, it would be valuable to undertake programmes in relation to Belarus that encourage progress towards democratization. It would be appropriate to set up, for example, programmes that foster the long-term development of the press in Belarus, or that provide education in human rights.

Such programmes should plainly require that Belarussian government authorities demonstrate in clear deeds - not merely in words - a commitment to democratic processes. This might take the form of establishing a broad political dialogue, visible changes in the pattern followed so far with regard to the press and other media, interpretation of rules concerning police authority, and safeguards for fair judicial procedures.

Copenhagen, 29 April 1997



Rudolph Thorning-Petersen  
Ambassador

Personal Representative  
of the OSCE Chairman-in-Office

**Annex 1: List of conversation partners during the visit by Ambassador Rudolph Thorning-Petersen to Belarus on 15 to 18 April 1997:**

**Authorities:**

Alexandr Lukashenko, President  
A. Tozik, Deputy Secretary of the State Security Council  
I. Pashkevich, Deputy Head of the President's Administration  
Sergei Ling, Prime Minister  
Ivan Antonovich, Foreign Minister  
Valentin Agolets, Minister of the Interior

**Judiciary:**

V.O. Sukalo, Chairman of the Supreme Court  
A. Bozhelko, Procurator General

**Opposition:**

S. Sharetsky, Chairman of the 13th Supreme Council  
V. Gonchar, Former Chairman of the Central Electoral Commission, Member of the 13th Supreme Council  
M. Chigir, Former Prime Minister  
G. Karpenko, Prime Minister of the Public Coalition Government (the Shadow Government)  
S. Bogdankevich, Former Director of the Central Bank, Member of the 13th Supreme Council, Vice Prime Minister of the Public Coalition Government (the Shadow Government)  
A. Sannikov, Former Deputy Foreign Minister, Chairman of Foreign Policy Committee of the Public Coalition Government (the Shadow Government)  
L. Borshevsky, Leader of Belarussian Popular Front

**Trade Unions:**

V.I. Goncharik, Chairman of the Federation of Trade Unions  
G. Bykov, President of the Congress of Democratic Trade Unions

**Media:**

V. Zametalin, Chairman of the State Committee on Media  
G. Kisel, President of the National TV and Radio Company  
V. Dudko, 1st Vice President of the National TV and Radio Company  
V. Khodosovskiy, Editor-in-Chief of "Belarusiskij Rynok"  
I. Germenchuk, Editor-in-Chief of "Svaboda"  
Rahojza, Deputy Editor of "Svaboda"  
M. Volodin, Editor-in-Chief of "Minsk Economic News"  
I. Seredich, Editor-in-Chief of "Narodnaya Volya"  
P. Yakobovich, Editor-in-Chief of "Sovetskaya Belarussia"  
P. Aleksandrovna, Deputy Dean of the Faculty of Journalism at the University of Minsk (as well as members of the teaching staff and a group of students)

**Non-Governmental Institutions:**

L. Zaiko, Chairman of the East-West National Centre for Strategic Initiatives  
Filipov, Chairman of the Belarussian Helsinki Committee  
P. Kurza, Secretary of the Belarussian Helsinki Committee

**Diplomatic Corps:**

Polish, Russian, American, British, German, Italian, and French embassies

