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MONITORING REPORT ON DEVELOPMENTS IN BELARUS

NOVEMBER 2009 – JUNE 2010

EXECUTIVE SUMMARY

This report captures the key developments concerning civil society in Belarus during the period of November 2009 - June 2010. It is the sixth of a series designed to inform policymakers about developments in Belarus during the ongoing EU-Belarus Dialogue Process. This report was prepared through the joint efforts of more than 50 Belarusian and international civil society organizations¹.

If at the beginning of the dialogue process the isolated concessions of the Belarusian government to the political opposition and civil society were considered to be a sign of possible change, the regression in their practice during recent months indicates the lack of political will for genuine pro-democratic reforms. Not only were the small steps towards democratization never backed up by any significant changes to the legal framework, the decrees and amendments introduced recently considerably constrained the work of civil society and opposition. Repressive measures remain in place and continue to be enforced on a selective basis. The minor amendments to the election legislation, introduced before the local elections, have brought no change in practice. Two waves of searches and confiscations in April-May 2010 of the offices and private apartments of journalists, politicians and human rights activists is viewed as the first indicator of the pressure the authorities will exercise during the Presidential election campaign. The present situation does not guarantee the necessary prerequisites for conducting free and fair elections that would demonstrate real progress in Belarus.

In September, the EU will again consider its future relations with Belarus and the possibility of sanctions. Belarusian civil society suggests that the EU pay attention to the following seven issues in order to promote more tangible and consistent change:

- The new Internet regulations;
- Insufficient amendments to electoral legislation;
- Continuous repression against unregistered organizations and failure to repeal Article 193-1 of the Criminal Code;
- Excessive oversight of registered civic organizations and media outlets;
- The forthcoming law on “Non-commercial organizations”;
- New political prisoners; and
- New death penalty verdicts.

Fundamental civil and political rights remain seriously restricted. The persecution of civil activists, non-governmental organizations, independent journalists and pro-democratic politicians will most likely intensify on the eve of the Presidential elections.

¹ Compiled by the Assembly of Belarusian Prodemocratic NGOs, Belarusian Association of Journalists, Belarusian Helsinki Committee, Committee for Defence of the Repressed „Salidarnasc”, Human Rights Center “Viasna” in cooperation with the Belarusian Robert Schuman Society and the Belarusian International Implementers (BIIM) group.

FREEDOM OF EXPRESSION

The present conditions in the country will not allow Belarusian media to provide voters with objective and up-to-date information and to become a platform for open discussion of election programs of different candidates.

New Laws

Decree No. 60, which is to take force on 1 July 2010, covers “a wide range of spheres dealing with the Internet”². It regulates e-commerce and e-services provided by companies, based in Belarus, sets common standards for state institutions’ websites, as well as contains a number of clauses aimed at copyright protection and prevention of Internet ‘piracy’. However, the Decree also provides for new possibilities to restrict user privacy. According to the decree³ all online access devices such as computers and mobile phones, as well as all internet café users, are to be identified and registered with Internet Service Providers. The providers are obliged to store the data on the Internet use of individuals for a full year and to hand that information over to law-enforcement agencies upon request. It also requires Internet service providers to block access to any website within 24 hours of being asked to do so by government regulators. The President’s signing the Decree was described by Lutz Guellner, spokesman for the EU High Representative Catherine Ashton as “a significant step in the wrong direction.”⁴

Registration of publications and free dissemination of information

The much-feared process of re-registration of media outlets, as required by the new Law on Mass Media, finished on 8 February 2010 and has not resulted in any politically motivated non-registrations. At the same time, at least eight new non-state newspapers were refused registration since February as the Ministry of Information introduced additional restrictions for registration of new media outlets, which are not provided for in the Media Law. Moreover, ten independent publications still have no possibility to be distributed through *Belsayuzdruk*, the state monopoly retail press distribution system, and the *Belposhta* subscription catalogue.

Foreign accreditation

On 11 November 2009 the Belarusian MFA registered the European Radio for Belarus and allowed it to open its office in Minsk for one year. At the same time, on 8 December, the Belarusian MFA turned down the application for registration from BelSat, a Polish Television satellite channel broadcasting in Belarusian, for the second time, justifying its decision by the fact that its correspondents had previously reported from Belarus without official registration and accreditation.

Impediments for independent journalists

The persecution of independent journalists continues. The police conducted a series of searches and interrogations of journalists in connection with the legal investigation of a defamation suit, filed by Ivan Korzh, ex-Head of KGB Department for Homiel region, on December 31, 2009 against militia officers who have provided journalists with false information. The professional equipment of journalists from Charter97, “Narodnaya Volya” and “Novaya Gazeta”, who are only witnesses in the case, has been confiscated. Repressive measures were also applied to Ivan Shulha, who served 10-day administrative arrest for petty hooliganism on 4 February 2010. All of the aforementioned journalists are members of the Belarusian Association of Journalists, the only legal independent entity of journalists, which, on 13 January 2010 received a warning from the Ministry of Justice, upheld by the Supreme

² Chavusau, Y. (2010). Soon there will be less privacy in Belarusian Internet. *BelarusInfo Letter*, 3, 1-2.

³ [BAJ analysis of Decree 60](#)

⁴ [Radio Free Europe](#), February 4, 2010.

Court, putting the Association at risk of being closed down for any alleged misconduct. The Ministry warned BAJ about the inadmissibility of including the word “Press” on its membership IDs, the incompatibility of the activity of its Legal Center for Media Protection with “the statutes of the organization” and the discrepancy between BAJ objectives as presented on its website and in its statute.

FREEDOM OF ASSEMBLY

The government continues to regularly harass and hinder public meetings organized by or including civil society and political opposition figures. During the reporting period there were at least ninety cases of detentions, at least ten cases of administrative arrests for participation in unauthorized street actions and at least forty cases of administrative fines imposed. But out of ten applications to conduct a demonstration, only four have been granted permission. Ten out of eleven unauthorized demonstrations have been “forcefully disrupted by Belarusian security forces, many of whom refused to identify themselves, and demonstrators were harassed, man-handled, arrested and detained. Moreover, there were deliberate attempts to block media coverage of the actions, in violation of Belarusian laws”, as mentioned in the statement on the freedom of assembly in Belarus by Political Counselor Casey Christensen from the United States Mission to the OSCE.

AMENDMENTS TO ELECTORAL LEGISLATION.

The new electoral code came into force on January 4, 2010. In their joint opinion on the amendments, published on June 4, 2010, the European Commission for Democracy through Law and OSCE/ODIHR note that “the Amendments represent a step towards removing some flaws in Belarus’ election legislation, although they are unlikely to resolve the underlying concern that the legislative framework for elections in Belarus continues to fall short of providing a basis for genuinely democratic elections”⁵. In particular, the Amendments did not address certain key concerns, including ensuring the transparency of the vote count and providing the possibility for meaningful observation of the voting, counting and tabulation of results.

The application of the amendments during the April Local Council Elections signified little change in practice from previous elections in Belarus. Domestic observers⁶ noted that:

- The composition of the local commissions remained largely unchanged, despite the introduction of legislative changes to ensure diversity and civic representation.
- No appeal on the composition of the election commissions was satisfied.
- The meetings of election commissions were conducted in a non-transparent and at times secret manner.
- The parties reported incidents of pressure and repression against them.⁷
- The state media devoted minimum time to election coverage.
- The printed campaign materials and pre-recorded speeches were censored by the local authorities and local mass media.
- No meaningful observation of vote count was possible.
- Flaws, irregularities and at times crude violations during the vote count.

As the joint opinion of OSCE/ODIHR and the European Commission for Democracy through Law stressed, “the quality of future elections in Belarus will depend not only on the quality of the legislation but also on its good faith implementation.”

⁵ [OSCE Press Release, 4 June 2010](#)

⁶ “Monitoring Report on the 2010 Local Elections” of Human Rights Defenders for Free Elections.

⁷ The Press conference of Belarusian Christian Democracy party on 12 March 2010.

FREEDOM OF ASSOCIATION AND THE SITUATION OF NON GOVERNMENTAL ORGANIZATIONS

On 12 May 2010, during a Session of the Human Rights Council within the UN Universal Periodic Review, the Belarusian delegation presented a report maintaining that there are no problems with freedom of association and “the number of civic organizations is growing”⁸. Though the government consulted the representatives of civil society while preparing the report, its conclusions contradict the findings of the civil society. For instance, the number of newly registered organizations, in fact, remains the same. The amendments to the Law on Political Parties and the Law on Civic Associations, which came into force on 5 February 2010, create wider possibilities for denying registration on spurious grounds. On 6 January 2010 the President issued a decree, under which the government should develop a Law on Non-commercial organizations⁹. While the concept of the Law remains unknown, there is a danger that on the eve of Presidential elections it could worsen the conditions of the relatively unregulated forms of legal entities, like business associations and non-commercial institutions, which have been used by civic activists as the last resort for legalizing their activity.

Oversight of registered organizations

On 18-19 May 2010, searches were conducted in the private apartments and offices of civic activists in more than 20 towns and cities of Belarus. Dozens of people were subjected to arbitrary detention and the equipment, documents and money of the institution “Rukh Napierad”, charitable fund “Shchyrasc” and civic campaign “Govori Pravdu” (“Tell the Truth”) were confiscated. Civic campaign “Govori Pravdu” activists Andrei Dzmitryieu, Uladzimir Niakliayeu and Siarhei Vazniak, were detained as suspects in a criminal case under Article 250, ‘dissemination of false information about goods and services’. All of them remain suspects in the case. The campaign “Govori Pravdu” was initiated by a registered institution, “Rukh Napierad”. On 10 June 2010 the local authorities filed a case against the institution, demanding its deregistration for providing the wrong legal address in their registration documentation. The date of the hearing is still undefined.

In accordance with Presidential Decree № 510 as of 16 October 2009, every six months the Committee of State Control needs to prepare a plan of oversight activities of various institutions, to be exercised by different state bodies. According to the plan for the second half of the year, published on 14 June 2010, over twenty large civic organizations¹⁰ are to undergo such inspections, mainly from the Ministry of Taxes. Most inspections are scheduled for October and November, the time of the Presidential campaign. Notably, only one such inspection took place in the first half of the year.

Denial of registration

Several large civic organizations had their applications for registration turned down during this reporting period. Among them are youth organization Malady Front (1 April 2010, third denial), the Assembly of Pro-Democratic Non-Governmental Organizations (12 February 2010, third denial) and independent trade union “Razam” (25 January 2010, third denial). Registration was also denied to civic youth association “Maladaya Backaushchyna” and the Belarusian branch of the International Helsinki Association of Human Rights. The Belarusian Christian Democracy Party, civic association “Spadchyna”, civic association “Zalaty Leu”, human rights organization “Berasciejskaya Viasna”, the Assembly of Pro-democratic Non-Governmental Organizations and youth organization “Malady Front” appealed to the Supreme Court, but the decisions of the Ministry of Justice have been upheld in all the cases.

⁸ [National Report, submitted by Belarus to Human Rights Council Working Group on the Universal Periodic Review](#)

⁹ [The official website of the President of Belarus](#)

¹⁰ Belarusian Association of Journalists, Ekadom, Human Rights Centre, Centre for Legal Transformation and other members of the Assembly of Pro-Democratic Non-governmental Organizations.

On 30 May 2010 youth organization “Malady Front” has held another founding assembly and will apply for registration for the forth time, as well as youth party organization “Moladz BHD”, which has held its assembly on 22 May 2010.

Article 193-1 and persecution of unregistered organizations

Governmental declarations in Autumn 2009 about the possibility of reviewing Article 193-1 of the Criminal Code, which criminalizes activities on behalf of a non-registered organization, have not resulted in any concrete steps. Since 2006, 17 persons have been convicted under this Article. During the reporting period the authorities’ enforcement of the Article remained arbitrary and selective, and it continues to be used to intimidate civic activists, particularly youth, and dissuade citizens from participating in unsanctioned events. In the latest case, the Prosecutor issued an official warning to Ivan Stasiuk for possible criminal responsibility for acting in the name of unregistered youth organization “Malady Front”.

Starting from the end of April, a wave of searches and confiscations at offices and private apartments of journalists, human rights defenders, civic and political activists swept across the country. Activists involved in the election observation activities of unregistered human rights organization “Nasha Viasna” had their apartments searched and equipment confiscated in Navapolatska and Rechytsa.

OTHER HUMAN RIGHTS

The acquittal of two activists, charged with evasion of military service and the discharge from the army of two young activists for health reasons is welcomed. Nonetheless it can only be considered as isolated cases of good will, as restrictions on fundamental freedoms and political reprisals against young political and civic activists, as well as religious and ethnic minorities, continue to cause concern.

Ethnic minorities

In January 2010 the conflict between the representatives of the unrecognized Union of Poles, supported by the Polish authorities, and their officially recognized counterparts over the Union’s premises in the village Ivianets in Minsk region resulted in massive detentions and the confiscation of the premises in favor of the officially recognized branch. The criminal case against Teresa Sobol, former head of the Polish House in Ivianets, is still pending. On 17 February, the Polish Parliament adopted a resolution condemning actions of Minsk in relation to the Polish minority in Belarus. The resolution included recommendations to consider return to the policy of sanctions against the Belarusian government. EU High Representative Catherine Ashton was also reported to express “concern over the situation around the Polish ethnic minority in Belarus”¹¹.

Forced conscription

On 9 March 2010 Minsk Regional Court upheld the appeal of Ivan Mikhailau, who had been criminally convicted for demanding to be assigned to alternative civilian service on conscientious grounds instead of obligatory military service. On 14 May 2010 the Minsk District Prosecutor issued a protest against the acquittal of Mikhailau, which is still pending. On May 2010 Homel Central District court acquitted Dzmitry Smyk in a similar case. However, on 4 June 2010 Yauhen Yakavenka, an activist of the unregistered Belarusian Christian Democracy Party, has been sentenced to one year of restricted freedom by the same court for refusing to serve in the army until receiving the notice in Belarusian language.

¹¹ [Ministry of Foreign Affairs of the Republic of Poland, 10 February 2010](#)

Ivan Shila and Franak Vyachorka, young activists who were drafted into the army on political grounds, were discharged from the military service for health reasons on 3 December 2009 and on 14 April 2010. Dmitry Fedaruk, Andrew Tsanyatyuta, Ales Krauchenya and Eugen Skrabets, who were drafted under similar circumstances, are still serving in the army.

Political prisoners

After keeping Vaukavysk businessmen Uladzimir Asipenka, Mikalai Autukhovich, Mikhail Kazlou and Aliaksandr Laryn in custody for more than a year, on 6 May 2010 the Supreme Court of the Republic of Belarus found Mr. Asipienka, Autukhovich and Laryn guilty of “illegal actions with explosives, firearms and ammunition” and Mr. Kazlou – of “failure to act”. Aliaksandr Laryn, Uladzimir Asipenka and Mikalai Autukhovich were sentenced to 5, 3 and 3 years of imprisonment respectively, and Mikhail Kazlou – to 2 years¹². The case was tried by the Supreme Court as the court of the first instance, which deprived the accused of the right to appeal, in contradiction of Articles 2 and 14 of the International Covenant on Civil and Political Rights. The analysis of the evidence gives no reasons to consider it as a sufficient basis for a guilty verdict¹³. As stated by Human Rights Watch, “the three activists’ imprisonment is more likely in connection with their civil society activism”.¹⁴

Among other opposition activists accused on political grounds are Aleg Surgan (sentenced by the Oktiabrskiy Court of Vitebsk on 19 February 2010 to 6 months’ detention for resisting arrest for hanging a white-red-white flag) and Siarhei Kavalenka, an activist of the Belarusian Popular Front party (sentenced by the Kastychnitski District Court of Vitsebsk on 14 May 2010 to three years of restricted freedom for hanging a white-red-white flag on the city’s Christmas tree).

In April 2010 a criminal fraud case was brought against well-known politician Ales Zarembyuk, who was standing as a candidate in the local elections. Aliaksei Bondar, Mikhail Kryvau and Tatsiana Tsishkevich, who were sentenced to restricted freedom for participation in a peaceful action of entrepreneurs in January 2009, still have not been granted parole and must remain abroad for fear of criminal prosecution. Prisoner of conscience Maksim Dashuk continues to serve a sentence of restricted freedom for participation in unsanctioned demonstrations in May 2008 after his sentence was extended by 10 months until September 2010 because of an alleged violation of the terms of his restricted freedom penalty.

Capital punishment

Belarus continues to exercise the death penalty. The execution of Andrei Zhuk and Vasil Uzepchuk, sentenced last year, took place in March 2010, despite the fact that the UN Human Rights Committee sent requests for interim measures of protection. Two more death penalty verdicts have been announced by the Hrodna Regional Court to Andrei Burdyka and Aleh Hryshkautsou¹⁵. In response, on 29 April 2010 the Parliamentary Assembly of the Council of Europe decided to suspend its activities involving high-level contacts with the Belarusian Parliament and government authorities, having noted a “lack of progress” towards Council of Europe standards and a “lack of political will” on the part of the authorities to adhere to the Organization’s values¹⁶.

¹² The definition ‘political prisoners’ according to CE document SG\Inf(2001) 34\24 October 2001.

¹³ [Joint Statement by the International Federation for Human Rights \(FIDH\) and the Human Rights Center ‘Viasna’](#)

¹⁴ [Human Rights Watch, retrieved on 12.06.2010](#)

¹⁵ [Amnesty International, Belarusian Helsinki Committee and Human Rights Centre Viasna condemn new death convictions](#)

¹⁶ *Assembly debate* on 29 April 2010 (16th Sitting) (see [Doc. 12223](#), report of the Political Affairs Committee, rapporteur: Mrs Hurskainen, and [Doc. 12224](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). *Text adopted by the Assembly* on 29 April 2010 (17th Sitting).