



ARTICLE 19
INTERNATIONAL CENTRE AGAINST CENSORSHIP



Беларуская
Ліга Правоў Чалавека

BELARUS: FREEDOM OF EXPRESSION

SUBMISSION

TO THE UN HUMAN RIGHTS COMMITTEE

by

ARTICLE 19

in association with

BELARUS LEAGUE FOR HUMAN RIGHTS

July 1997

ARTICLE 19

33 Islington High Street, London N1 9LH, United Kingdom

tel: +44 171 278 9292; fax: +44 171 713 1356

BELARUS LEAGUE FOR HUMAN RIGHTS

PO Box 23, 220050 Minsk, Republic of Belarus

tel/fax: 375 172 31 75 50

Introductory note

Members of the Human Rights Committee, considering the third periodic report of Belarus in July 1992, noted that Belarus was a society in transition undergoing a major structural upheaval, entailing changes not only in legislation but also in institutions of society and modes of thought. The Committee commented that much needed to be done to make irreversible the process of introducing multi-party democracy and strengthening the rule of law, and referred in particular to the difficult challenge of restructuring the legal system. But they expressed the view that, since consideration of the third periodic report, there had been progress in making legislative provision for civil and political rights, and that the reforms were being handled in a manner allowing a propitious social and political environment for the further protection and promotion of human rights.¹

But hopes for the establishment of a legal order providing effective protection for human rights have not been realized, particularly in the areas of freedom of expression and related rights which are the focus of the present paper. In its fourth periodic report to the Committee, dated April 1995, the government of Belarus itself recognized that since the submission of its previous (third) report the situation regarding the implementation of the Covenant had become more difficult. In the two years since the fourth periodic report was submitted, the situation for freedom of expression has deteriorated further still.

The fourth periodic report submitted by the government of Belarus focuses on constitutional and legal provisions. But there are a number of legal provisions it does not mention which have a bearing on freedom of expression, such as the Law on Press and other Mass Media, adopted in January 1995, and certain provisions in the Civil, Criminal, and Administrative Codes. Moreover, in the past three years, a large number of presidential decrees and other executive orders have been issued on an apparently ad hoc basis and without prior consultation or public debate, which play a prominent role in the regulatory framework. Many of these measures effectively override constitutional and other legal provisions which appear to provide guarantees for the protection of human rights. Amendments to the Law on Press proposed by the authorities in June 1997 would further curtail freedom of expression in the media.

The authorities exercise close control over the state sector of the media, which remains heavily dominant, despite a prohibition on media monopolies by the state or other bodies which is set out in Article 33 of the Constitution. The National State Television and Radio Company has a virtual monopoly of domestic broadcasting, and its output is controlled by the government by means of internal regulations and other management controls. In the printed sector the state-owned daily press, which is estimated to have about 90% of the total circulation, is similarly subject to

¹ CCPR/C/SR.1151-3 (24 July 1992), and CCPR/C/79/Add.5 (25 September 1992).

(ii)

government control. The government controls printing and distribution facilities and other means by which the non-state media reach the public. This has enabled it to force non-state broadcasters off the air and to obstruct the printing and distribution of non-state printed media.

In this context, legal provisions which may on their face appear to provide a measure of protection for freedom of expression, such as some provisions in the Constitution or in the Law on Press and other Mass Media, are rendered ineffective, being contradicted or outweighed by other provisions, or simply ignored or not applied in practice. They therefore amount to little more than statements of principle and provide little or no effective protection.

To obtain an accurate picture of the situation for freedom of expression in Belarus, it is necessary to consider not only formal legal provisions, but also the way they are applied in practice and other actions of the authorities, and the overall political context within which this happens. The first chapter gives a brief account of recent political developments (§1). That is followed (§2) by a general description of media structures and issues relating to freedom of expression, including brief reference to some issues and events which are set out in more detail in later chapters. Relevant domestic constitutional and legal provisions are described in §3. The following chapters (§4 to §6) deal with the state and non-state sectors of the broadcast and print media and actions taken against individual media professionals, focusing in particular on developments over the past three years and particular events which exemplify those developments. There follows a description of recent increases in controls on the flow of information across the border (§7) and on the use of the telecommunications system (§8). §9 deals with freedom of expression and information in the context of elections and referendums, and §10 with freedom of assembly as a specific form of freedom of expression.

This paper focuses principally on media freedom, referring where relevant to other aspects of freedom of expression and related matters. In addition to Article 19 of the Covenant, the issues described here touch on Article 7 (ill-treatment - see §10); Articles 9 and 14 (protection against arbitrary arrest, fair trial - see, for example, §6.8 and §10); Article 17 (privacy - see §8); Article 21 (freedom of assembly - see §10); and Article 25 (genuine elections - see §9).

Taken all together, the matters described in this paper amount to an overall and systematic pattern of restriction and suppression of freedom of expression, in breach of international human rights standards and, specifically, of Belarus's obligations under the International Covenant on Civil and Political Rights, to which it has now been party for almost 25 years.

(iii)

This paper is based on monitoring of media and other local sources by ARTICLE 19 and the Belarus League for Human Rights, and research carried out by ARTICLE 19 on a visit to the country in March 1997, which included discussions with local activists, media professionals, eyewitnesses and others. On that visit ARTICLE 19 appreciated having the opportunity to meet briefly with the Deputy Minister of Foreign Affairs and to take note of some points he made, which it has endeavoured to reflect in this paper. The organization regrets that during that visit, despite several earlier assurances, it was not afforded the opportunity to have a substantive meeting with the Chairman of the State Committee on the Press to discuss these matters in more detail.

The paper is based on information which was available up to the end of June 1997. It also includes brief references to some developments which took place in July, after the main part of the paper was finalized. It is hoped to make available to the Committee any additional relevant information which becomes available by the end of September, ahead of its consideration of Belarus's fourth periodic report.

The initial paragraphs of most sections of the paper summarize briefly what follows in the section as a whole. For the assistance of readers not in a position to read all of the paper in detail, these summary paragraphs are set in bold type.

TABLE OF CONTENTS

1.	Overview: general background	1
2.	Overview: media structures and restrictions on freedom of expression	5
3.	Constitutional and legal provisions	11
	Constitutional provisions	11
	The Law on Press and other Mass Media	11
	Criminal, Civil and Administrative Codes	14
	Protection of honour and dignity	15
	Slander and insult	15
	Insulting state officials	16
	Incitement to hatred	16
	Other provisions	17
4.	Broadcast media	17
	State-controlled broadcasters	17
	Non-state domestic broadcasters	20
	Russian broadcasters	21
5.	Printed media	25
	State sector	25
	Non-state sector	26
	Regulatory controls	26
	State controls over technical and other facilities	27
	Special tax inspections and financial penalties	29
6.	Obstruction, harassment and intimidation of media professionals	31
7.	"... regardless of frontiers ..." -- the use of border controls to impede the flow of information	33
8.	Telecommunications	34
9.	Freedom of expression and information with regard to elections and referendums	35
	May 1995 elections and referendum	36
	December 1995 elections	37
	November 1996 elections and referendum	37
10.	Freedom of assembly	39
11.	Conclusion	44

BELARUS: Freedom of expression

Submission to the UN Human Rights Committee

July 1997

1. Overview: general background

1.1 Belarus played a major part in the economy of the former USSR, particularly in agriculture and in manufacturing heavy machinery and armaments. It has undergone severe economic decline since the break-up of the USSR in 1991. It received 70% of the fallout from the 1986 Chernobyl disaster in neighbouring Ukraine, causing major environmental and public health problems which continue to be a heavy drain on the economy.¹ There has been a lesser degree of privatization than in many other post-Soviet states, and most of the economy remains under state control.

1.2 Under the Constitution adopted in March 1994, there was a single-chamber Parliament (Supreme Soviet) of 260 deputies; a President directly elected by popular vote for a five-year term; and a Constitutional Court of eleven judges elected by the Supreme Soviet. The Constitution provides for the state to be based on the separation of legislative, executive and judicial powers, with the relevant organs of state providing checks and balances on each other.

1.3 Alexander Lukashenko was elected President in July 1994 by a large majority. In the ensuing three years there has been a steady shift in power to the executive with a corresponding marginalization of the other branches of government. The concentration of economic and political power in the executive, and specifically in the Presidential Administration, known locally as "the vertical", has enabled the executive to exert close control not only over the state sector itself, but over the small non-state sector which is dependent on the state sector in order to function.

1.4 The 1994 Constitution provided that decrees of the President were subject to review by the Constitutional Court to determine whether they conform with the Constitution and the laws of Belarus. The first ruling on such a point by the Constitutional Court, in April 1995, was on an issue directly relating to media freedom, when the Court ruled that a 1994 presidential decree reorganizing the State Television and Radio Company breached the constitutional prohibition on media monopolies. By the end of November 1996, the Constitutional Court had ruled 19 presidential decrees

¹ According to the observations made in December 1996 by the Committee on Economic, Social and Cultural Rights on the third periodic report of Belarus under the Economic and Social Covenant [E/C.12/1/Add.7/Rev.1 (2 December 1996)], it is estimated that dealing with the effects of the Chernobyl disaster absorbs up to 20% of the national budget.

But all such rulings were disregarded by the President, who at times alleged that the Constitutional Court itself was becoming involved in political activity, so violating the Constitution. In November 1995 Belarusian state radio quoted the President as saying that, whatever the Constitutional Court may decide, the executive power must function on the basis of his decrees and orders. Towards the end of December 1995, the head of the Presidential Administration called for the resignation of the Chairman of the Constitutional Court. The following day the President issued a decree obliging the government and local executive bodies to carry out all previous presidential decrees and to disregard the rulings of the Constitutional Court. In April 1996 the Court ruled that this decree, too, was unconstitutional, but this, like its other rulings, was disregarded and had no effect on the actions of the executive.

1.5 A referendum was held in November 1996 on several questions, of which the most significant related to proposals for revising the 1994 Constitution. One set of proposals was put forward by the President; a different set of proposals was put forward by the majority factions in the Supreme Soviet. The referendum contained questions on both of these competing sets of proposals. The legality of the referendum, its timing, the way it was conducted, and whether it should be treated as consultative or its results should be binding, were matters of intense dispute between the President and the Supreme Soviet. The information provided to the electorate by the state-dominated media was heavily weighted in favour of the presidential proposals, with spokesmen for the Supreme Soviet being prevented from making use of the domestic broadcast media to present their proposals to the electorate. The Chairman of the Central Electoral Commission expressed concern that early voting had begun without the draft texts of the constitutional proposals having been made available to the voters and with a massive campaign in the state-owned media in favour of the presidential proposals. Two days later, he was dismissed from office by the President who replaced him with his own appointee, despite the fact that he had been elected by the Supreme Soviet for a five-year term, in accordance with the provisions of the Constitution and relevant legislation. The outcome of the referendum was, according to official figures, a large majority in favour of the President's proposals.

1.6 The constitutional arrangements implemented following the referendum, while making no formal change to the provision setting out the general principle of separation of legislative, executive and judicial powers, significantly enhanced the status of the President and extended his formal powers, giving him the power to form new bodies of state administration. The Supreme Soviet was replaced by a two-chamber National Assembly, comprising the Council of the Republic (the upper house) and the House of Representatives. Of the 64 members of the upper house, 56 are elected from among their own members by local soviets in the regions and the city of Minsk, and eight are directly appointed by the President. The legislative

initiative of the National Assembly is effectively subject to veto by the President, who also has the power to dismiss the House of Representatives if it passes a vote of no confidence in the government or for a second time does not agree to a presidential nominee for the post of Prime Minister. The President appoints half the members of the Constitutional Court and the Electoral Commission, with the remaining members of each being appointed by the Council of the Republic (under the 1994 Constitution both these bodies were elected by the Supreme Soviet). The provisions in the 1994 Constitution that decrees of the Constitutional Court are final and subject to no appeal, and prohibiting pressure being placed on the Constitutional Court and its members in relation to their role of constitutional supervision, have been removed, as has the Constitutional Court's power to issue rulings on its own initiative. The President's own five-year term, of which he had already served around half, was renewed with effect from the time of the referendum.

1.7 The new constitutional arrangements provided for the members of the House of Representatives to be selected by the President and the Supreme Soviet from among the members of the Supreme Soviet. With only 110 members in the House of Representatives, a substantial number of Supreme Soviet deputies were therefore unable to fulfil the duties to which they had been elected. Indeed some were unwilling to serve in the new National Assembly which they do not regard as a legitimate body. Some of them who continue to assert their position as legitimately elected deputies, but are effectively ignored by the government and play no formal part in political life, have become a focus for public opposition to the 1996 constitutional changes.

1.8 Most members of the Constitutional Court resigned shortly after the referendum. The Chairman stated that he did not recognize the new Constitution and could not serve under it. He described the developments of late 1996 as "a legal Chernobyl" and "an act of legal vandalism".

1.9 At the international level, the outcome of the referendum was promptly recognized by the Russian government, but it has not been recognized by regional and other bodies. A summit meeting of the Organization for Security and Cooperation in Europe (OSCE) early in December in Lisbon, Portugal, stated that the referendum "was conducted in contradiction with constitutional procedures and cannot be considered as legitimate". On 13 January 1997 the Parliamentary Assembly of the Council of Europe announced that the Belarusian Parliament's special guest status² had been suspended because the way in which the new legislature came into being deprived it of democratic legitimacy. A European Union fact-finding mission which visited Belarus at the end of January stated that "the

² Belarus applied for membership of the Council of Europe in March 1993.

establishment, execution and implementation of the referendum cannot stand the test of criticism on minimal democratic standards and general principles of the rule of law".³ In April the governing body of the Inter-Parliamentary Union (IPU) suspended the affiliation of the National Assembly of Belarus stating that it did not meet the democratic requirements for IPU membership.

1.10 Another factor in the recent political upheaval has been the question of union with Russia, which President Lukashenko has strongly promoted. Since the break-up of the former USSR, some political leaders in Belarus have called for the restoration of closer links between the two countries, possibly with the eventual participation of other CIS states. This position appears to have considerable popular support in Belarus where many people evidently still identify closely with Russia and see the restoration of the former links with it as a way of reviving the economic situation. But there is also a vigorous nationalist opposition to such developments, led by the Belarusian Popular Front (BPF), particularly among some younger people and those living in Minsk and other large towns. Some people evidently fear that restoring links with Russia will undermine the new-found independent identity of Belarus, and see it as a retrograde step towards re-establishing the structures of the former USSR, rather than looking to a future where Belarus would establish itself as an independent state with links to the rest of Europe.

1.11 A Belarus-Russia treaty establishing a Community of Sovereign Republics was signed in April 1996. This established a joint parliamentary assembly and executive committee, and envisaged moves to create a common market with free movement of goods, services, capital and labour, with the eventual development of a common foreign policy and cooperation in defence and security matters. It was planned to conclude a second treaty one year later, in April 1997, taking the process forward but, with growing opposition among liberals and others with influence in the Russian government, together with a growing, albeit minority, opposition to it in Belarus, only a scaled-down document was signed at that time by the two presidents. After further discussions a revised treaty, omitting an earlier disputed provision envisaging an eventual single federation, was signed at the end of May. Following ratification this came into effect in mid-June 1997.

1.12 These two broad strands in recent political events in Belarus, the concentration of power in the presidency and the development of closer links with Russia, are reflected in the opposition which comprises broadly constitutional and nationalist elements, but with much overlap between the two. Political tension over these issues has intensified over the past year,

³ Report of the European Union fact-finding mission to Belarus, 26-31 January 1997, p.1.

and on the government side has manifested itself in an intense sensitivity to criticism and attempts to suppress the expression of alternative views. The pro-government and opposition elements have become increasingly polarized and the conflict between them more intense as opportunities for democratic debate, such as the media and other means of exchange of information and expression of opinion, have been stifled.

2. Overview: media structures and restrictions on freedom of expression

2.1 At the time of his election in 1994 President Lukashenko gave assurances that he would end the state monopoly on mass media, political censorship and persecution of journalists, and allow the independent distribution of information. However, since that time, the reverse has happened, and the government has stifled not only direct criticism but, more generally, the expression of any alternative views, particularly in the state sector of the media and in broadcasting. This has been most marked at times such as elections or referendums and when political tension has risen over issues such as the negotiations on the treaty with Russia. These are the very times when the media have a crucial role to play in a modern democracy, providing the public with a range of well-balanced information and a forum for the expression and discussion of different viewpoints, so that voters have a chance to make a genuinely free and well-informed choice in elections or referendums.

2.2 In 1997 the authorities introduced several measures placing further restrictions on the operation of the media and on freedom of expression generally. The most recent of these were proposed amendments to the Law on Press and other Mass Media, approved at first reading by the National Assembly at the end of June, and currently expected to be adopted later in the year.

2.3 The government controls the structures which enable the media to reach the public, either by its direct control over the dominant state sector of the domestic media, or by its controls over facilities which the non-state media require in order to function. While the non-state press is on the whole readily available in Minsk and the main towns, where most of the population can also receive one or more Russian television channels, the population in other parts of the country is largely denied effective access to media independent of government control, except for the Russian television channel ORT, which the government now plans to replace with a second state television channel.

2.4 While official censorship as such is no longer formally practised (and is expressly prohibited by the Constitution and the Law on the Press), the internal administrative controls within the state sector amount to much the same thing. Media professionals working in the state sector who have produced material not meeting with official approval have been told that it is not acceptable. Those who have attempted to resist the restrictions have been dismissed or effectively forced to resign. The non-state media, while not subject to internal censorship in the same way, have had their printing and distribution obstructed, and have been subjected to economic and other forms of harassment including the constant threat of measures being taken to suspend their operations.

2.5 The government exercises virtually total control over domestic broadcasting through the State Television and Radio Company, which is the only domestic broadcasting service with national coverage. Since 1994 it has been under the control of the Presidential Administration. Its programming content is subject to internal management controls, and the authorities have obstructed attempts by individual media professionals working for the company to present public-interest material with an independent standpoint. Far from complying with the special responsibility on public broadcasters to provide impartial information and to reflect a balance of alternative views, which is the essence of public service broadcasting, the state-controlled broadcast media have been used as a mouthpiece for the government, denying access to alternative sources of information or those advocating other points of view.

2.6 There are a few privately-owned broadcasting stations, but none has nationwide coverage and they mainly broadcast light entertainment and re-transmissions of satellite television material with little news content. Their wavelengths are allocated and licences issued by government bodies, which has enabled the authorities to force off the air those stations which have attempted to broadcast material expressing opposition or alternative views. (For further details see §4.12 to §4.15.)

2.7 The main sources of broadcast news and information not controlled by the Belarusian government are the Russian television channels (currently four, of which one has coverage over most of the country). But in order to relay their material to Moscow and to transmit programmes from Russia into Belarus they rely on facilities controlled by the State Television and Radio Company. This has enabled the Belarusian authorities to exercise prior censorship of their material and, on occasion, simply to block their transmissions. Media professionals working for these channels have been intimidated and threatened and, in two cases, have had their accreditation withdrawn by the Foreign Ministry; in March 1997 one was expelled from the country (see §4.21 to §4.25). In early 1997 the government announced plans for a second national television channel which would use the

broadcasting wavelength currently used by ORT, the most widely-received Russian channel. With this proposed replacement of one of the few existing sources of alternative broadcast information by another state channel, a large majority of the population would effectively have access only to those broadcast media whose content is subject to control by the Belarusian government. (For further details see §4.26.)

2.8 In the printed sector the mass-circulation state-owned media are numerically dominant, although the small but influential non-state sector provides some alternatives, at least in Minsk and the main towns. In the latter part of 1996 around 700 publications were registered with the authorities, but this figure does not, as it might seem, indicate a strong non-state sector. It includes state-owned publications and others of local or specialized interest or which are published only occasionally. The actual number of non-state publications carrying news and general information is only a small proportion of the total. Moreover their circulation figures are much smaller and their distribution more restricted than state sector publications, and they are generally more expensive since they do not benefit from the various forms of subsidy afforded to the state press. Local media professionals have estimated that the non-state media, taken together, have about a 10% share of the total circulation.

2.9 The major mass-circulation dailies, such as *Sovietskaya Byelorussia*, *Narodnaya Gazeta*, and *Respublika* are state-owned. A presidential decree issued in January 1996 provided that the chief editors of most state-owned publications would be official state employees. Since the end of 1994 several editors of state-owned newspapers have been dismissed after publishing or attempting to publish material or reports of statements made by others which were critical of the government. (For further details, see §5.2 to §5.5)

2.10 Non-state publications are not subject to direct management control in the same way as those in the state sector, but the requirement to register with the authorities, the continual threat that their registration might be withdrawn, the imposition or threat of financial sanctions, and the government's control of the means of distribution act as a powerful curb on their ability to publish freely.

2.11 The government has issued formal warnings to non-state media for publishing material which allegedly infringes widely-drawn restrictions in the Law on Press and other Mass Media. Such warnings, if repeated, can lead to the suspension of the paper (see §5.8 to §5.12). Over the past year the government has also used administrative measures such as unannounced tax inspections resulting in the imposition of harsh financial penalties in what appears to be a concerted move to undermine the financial viability of the non-state media. (For further details see §5.17 to §5.24.)

2.12 Most printing facilities are state-controlled. A decree of August 1994 brought the state printing house in Minsk under the direct control of the Presidential Administration, and printing facilities elsewhere in the country, controlled by regional and district executive committees, were instructed in October 1995 that they could conclude printing contracts with non-state press only with the authorization of the Presidential Administration. Following refusals by state-controlled facilities to print them -- or, at best, the risk that printing facilities, if restored, might be withdrawn at any time -- a number of the non-state press have resorted to printing in neighbouring Lithuania. This has increased the scope for interference by the authorities at the border. State control over the post office and other distribution systems has also obstructed the distribution of non-state printed media outside Minsk and the main towns. People living outside the main towns who wish to take out subscriptions must make payment through the post office, but non-state publications are often not included on the subscription lists made available to them by the post office, and at times the state distribution system's delivery of non-state publications to readers and subscribers has been suspended. (See also §5.13 and §5.14.)

2.13 The past year has seen systematic harassment, including physical attacks, against individual journalists. Many have been beaten or detained while carrying out their professional duties in reporting demonstrations, and some have been charged with public order offences. Video- and photo-journalists attempting to report on demonstrations have had their film confiscated, exposed or destroyed and their equipment damaged. There have also been personal threats and attacks by unknown assailants on journalists and their families in their homes, with the apparent purpose of intimidating them from exercising their professional right and duty to inform the public. (For further details, see §6.)

2.14 While there have been some cases where media have resorted to the courts against administrative measures or other penalties imposed by the authorities, in some cases with a measure of success, the courts on the whole appear to be ineffective in providing protection against excesses of executive authority. This paper does not attempt to analyse the role of the courts in light of international standards on the independence of the judiciary, but simply notes that the lack of independence of the courts and the judiciary is a matter of major concern with respect to protection of human rights and the rule of law, and that there is still a strong perception in Belarus that the courts act as a branch of the state and in deference to the authorities.

2.15 In any case, even though on rare occasions resort to the courts has resulted in some measure of compensation or restraint on an executive act, the constant threat of formal warnings, the unclear and vague criteria on which they are based, the wide discretion allowed to the authorities in issuing such warnings, and the additional and unpredictable restrictions

which come into effect on an apparently ad hoc basis from time to time, are bound to have a chilling effect on media freedom. One media professional, contrasting the current situation with that under the Soviet system where, generally speaking, editorial staff knew where the boundaries lay and learned to operate within them, said that now it is not possible to operate within the rules because the rules are unclear and applied inconsistently.

2.16 According to the Law on Press and other Mass Media, all printed media with a circulation of 500 or more, or audiovisual media providing services for ten subscribers or more, must register with the authorities. But according to information available at the time of writing, an amendment to the Law on Press, proposed in June 1997 (see §3.6), would remove the exemption for small-circulation media, so that all media, however small their circulation, would have to register. In March 1997 the authorities informed the media that they would shortly be required to re-register. The only reasons set out in the 1995 Law on Press for which re-registration is required are if the publication in question has been re-organized or has changed its nature or its founder, if more than a year has elapsed since it was last published, or if the nature or the form of the publication has changed. The authorities indicated, however, that in this instance the re-registration was necessary because they intend to apply stricter requirements relating to the legal status of media entities and their founders. These indications appear to be borne out in the proposed amendments to the Law on Press, which, if adopted, would impose additional requirements on persons or legal bodies applying to register media entities, such as that an applicant provides documentary proof that relevant local authorities approve the location of the media entity's offices, and that the tax authorities certify that the founder has no outstanding tax liabilities. The proposed amendments would also prohibit a founder of any media entity which has been suspended by the authorities from establishing any other media entity for a period of two years.

2.17 In the current climate of increasing restrictions and widespread harassment, even before the announcement of the proposed legislative amendments, media professionals feared that the re-registration would be used by the authorities to refuse, delay, or simply not to grant, re-registration, so preventing or obstructing newspapers or other media from functioning. The proposed amendments reinforce such fears. Under the law as it currently stands, the authorities are supposed to make a decision on registration within a month of an application being submitted, but the proposed amendments apparently would make formal provision for the authorities to delay registration, apparently indefinitely, in vaguely defined circumstances where, according to their own estimation, such delay is warranted.

2.18 The government has also announced plans for the re-accreditation of foreign journalists working in Belarus. No clear reasons have been given for

this requirement apart from repeated references by government spokesmen to the allegedly biased reporting on Belarusian affairs by Russian television channels. Up to now, foreign journalists have been accredited by the Ministry of Foreign Affairs, but the proposed amendments to the Law on Press would require that foreign journalists be approved also by the State Committee on the Press, the executive body which wields extensive powers over the operation of the media as a whole (for further details see §3.12). New regulations on the activities of foreign journalists, adopted by the Cabinet of Ministers on 13 June 1997 and published in the press on 9 July will require journalists to renew their accreditation annually and will place new limitations on individuals who can be accredited as correspondents of foreign media.

2.19 One of the few means of political expression available to the opposition is public demonstrations. But the right of assembly, too, is restricted in law and in practice and subject to much wider limitations than those permissible under Article 21 of the Covenant. Demonstrations can be held only with official permission which must be sought well in advance. Over the past year or so many participants in demonstrations have been beaten by police and security forces; many have also been detained and arrested on public order charges for participating in or organizing such events. A presidential decree issued in early March 1997 brought the regulation of mass meetings and demonstrations under central government control and increased some of the penalties for participants and organizers. (For further details see §10.)

2.20 In addition, other measures introduced in 1997 have disturbing implications for freedom of expression. A decree on border controls announced in mid-March placed formal restrictions on the import or export of materials which, in the judgment of the authorities, "could do harm to the political or economic interests of the republic, the security of the country, or the health and morals of its citizens" (see §7), and a parallel provision is included in the proposed amendments to the Law on Press. A new telecommunications contract issued in April explicitly prohibits use of the telecommunications network for purposes "contrary to state interests and public order" (see §8). Amendments to the Law on Press, proposed by the authorities in June, but not yet adopted into law, would provide for a further disturbing intensification of state control over the media (see §3.4 to §3.13). The full effects in practice of these recent and proposed measures have yet to be seen. At one level, they merely codify and formally regulate a de facto situation, but in doing so they give additional and broadly defined powers to a government whose actions over the past few years have shown a propensity to use whatever legal and practical measures are available to obstruct not only direct criticism, but other alternative views and information which it perceives as a threat.

3. Constitutional and legal provisions

3.1. While a number of legal provisions appear on their face to provide a measure of protection for freedom of expression, they are effectively overridden by other provisions, or simply not applied in practice.

Constitutional provisions

3.2 The 1994 Constitution, in Article 33, states that every person has the right to freedom of opinion and expression. It states also that censorship and the monopolization of news media by the state, public associations or individuals is prohibited.

3.3 Article 34 states that citizens have the right to obtain, store and disseminate full, reliable and timely information about (among other things) the activities of state authorities and political life; it also states that state organs and officials are obliged to give citizens access to material affecting their rights and legitimate interests. A proviso to this article, added by the 1996 constitutional amendment, states that "the use of information may be restricted by law with the aim of protecting the honour, dignity, private or family life of citizens and the full implementation of their rights".

The Law on Press and other Mass Media

3.4 The Law on Press and other Mass Media, adopted in January 1995, with amendments in June 1996, states in its preamble that it secures the constitutional rights of citizens for freedom of speech, press and information. But this is misleading: if anything, it tends towards the reverse. In fact, apart from statements simply reiterating some of these constitutional rights, it contains no measures to give effect to them. Nor does it contain any statement reiterating the constitutional prohibition on monopoly of the news media. A number of its provisions set out stringent state controls, and are applied in a way which severely curbs freedom of expression in the media. Amendments proposed by the authorities in June 1997, and expected to be approved by the National Assembly later in the year, would intensify the level of state control over the operation of the media.⁴

3.5 Some articles of the Law on Press contain statements about freedom of expression which reflect similar statements in the Constitution and

⁴ If additional information about the proposed amendments to the Law on Press becomes available at a later date which would modify, change, or add to the comments made in this paper, it is intended to make that information available to the Committee ahead of its consideration in October of Belarus's fourth periodic report.

provisions set out in relevant international standards. Article 3 states, among other things, that citizens are guaranteed the right of freedom of the press and other mass media; have the right to seek, obtain, use and disseminate information through the press and other mass media; and have freedom of expression of their thoughts, attitudes and beliefs. It also says that the state recognizes the mass media as the basis for achieving the constitutional rights of citizens for freedom of press and information. Article 4 specifically prohibits state or other bodies exercising censorship over editorial staff and attempting to prevent the printing or broadcasting of any reports or materials, and also specifically prohibits the creation of organizations, institutions, bodies or posts with a censorship function. Article 44 states that citizens have the right to obtain reports and materials from foreign mass media.

3.6 However, the law contains no provisions giving effect to these statements, which in any case are entirely undermined by its numerous more restrictive provisions. The broad-ranging terms of these restrictions on freedom of expression, which leave wide discretion to the authorities, and the way they are applied in combination with the law's regulatory provisions, mean that the Law on Press is in practice a means of restricting, rather than protecting, media freedom. Amendments proposed by the authorities in June 1997 would reinforce the restrictive aspects of this law. The proposed amendments were passed at first reading by the National Assembly in the last week of June, and it is understood that further stages in the legislative procedures will take place after the summer recess. The proposed amendments would add several substantive restrictions to those already contained in the current law, as well as a number of more stringent regulatory provisions, which would considerably increase the scope for the authorities arbitrarily to refuse registration or to suspend media entities on wide-ranging grounds without the media bodies concerned having effective recourse against such decisions.

3.7 Article 5 of the Law on Press sets out the purposes for which mass media may not be used: criminal activities, disclosure of material which is the property of the state or other confidential material; calling for the usurpation of power, the forcible change of the constitutional order or a breach of territorial integrity of the state; incitement of national, social, racial or religious intolerance or strife; propagation of war and aggression; distribution of pornography or infringing public morals, honour and dignity; and disclosure of material relating to uncompleted inquiries, unauthorized publication of information relating to pending legal proceedings, or materials obtained as a result of carrying out operational investigations. One of the proposed amendments to the law would apparently prohibit also the dissemination of material prejudicial to the honour and dignity of the President, as being an abuse of freedom of expression. (This would be a parallel provision to that on protection of the President's honour and dignity introduced as one of the 1996 amendments to the Constitution (see §3.21).)

Article 40 sets out responsibilities which journalists must comply with, which include the provision of objective information. No criteria are indicated as to how to assess what amounts to "objective" information.

3.8 The law's provisions on regulation and registration include provisions for suspending and discontinuing activities of mass media. A publication can be refused registration or suspended if, among other things, in the view of the authorities it infringes the prohibitions in Article 5. As the law currently stands, a decision by the authorities to declare a registration certificate invalid, or to suspend the operation of a media entity, has to be confirmed by a court. But the proposed amendments would apparently remove the role of the courts in such matters, providing for the registration authority itself to suspend the operation of a media entity or to rule that its registration certificate is invalid.

3.9 The law provides that the authorities can issue formal warnings to media which have, in the authorities' estimation, infringed Article 5. Multiple warnings in the course of one year can lead to the closure of the publication concerned. The law does not appear to specify how many warnings constitute "multiple" warnings, although it is commonly understood by media professionals to mean that more than one warning in the course of a year puts a publication at risk of closure. This is just one example of the kind of lack of clarity about the operation of the law -- in common with other legal provisions and regulations -- which leaves wide discretion to the authorities. This lack of clarity also makes it particularly difficult for people subject to a particular provision to comply with it, or to rebut any decision by the authorities that they have infringed it.

3.10 While to date no publications have formally been permanently closed for infringing Article 5, the media work under the constant threat of receiving formal warnings for alleged infringements, with no procedures or opportunity to rebut the allegations without resorting to the courts. While there have been a few cases where media have appealed successfully to the courts on such matters, the courts have not generally proved to be effective in limiting the excesses of the executive. In any case, the constant implied threat of such measures being taken against the media, and the need to engage in time-consuming and expensive litigation in order to attempt to rebut the authorities' allegations, is bound to have a chilling effect not only on those media directly subjected to them, but also on others who can never be sure whether or not these measures will at some stage be applied to them. The proposed amendments to the law, which would apparently further limit the role of the courts, would reduce even this limited possibility for review of executive decisions in such matters.

3.11 In addition to the points mentioned above, the proposed amendments to the Law on Press would reinforce other measures introduced in recent months which restrict freedom of expression. For example, a proposed

amendment to its provisions on distribution of the media reflects the provision contained in the March 1997 decree of the Cabinet of Ministers on border controls (see §7) prohibiting the import or export of material deemed likely to damage the political or economic interests or security of the country or the health and morals of its citizens. Another proposed amendment provides that, with certain exceptions covered by international agreements, foreign periodicals could be distributed in Belarus only with the permission of the authorities. This amendment would appear to contradict Article 44 of the law, which states that citizens are guaranteed the right to obtain reports and materials from foreign mass media. More generally, the provisions in these proposed amendments would appear to be clear violations of the right to seek, receive, and impart information regardless of frontiers, set out in Article 19.2 of the Covenant.

3.12 The proposed amendments would also confer a formal role on the State Committee on the Press, acting under the authority of the Cabinet of Ministers, in creating and implementing state policy with regard to the media. The amendments therefore appear to envisage active intervention in the formulation of policy by the same state body which has the task of, regulating the press and of granting (or withholding) registration, and which would also have the power to suspend the operations of media without reference to the courts.

3.13 Taken all together, the wide-ranging and vaguely-formulated substantive restrictions in the Law on Press, together with its provisions dealing with regulation and registration, subvert the provisions on press freedom and freedom of expression set out in the law itself and the Constitution, and amount to flagrant violations of international standards on freedom of expression. The already restrictive nature of this law, and the scope provided by its substantive and procedural provisions for the authorities to deny freedom of expression and to suppress the free operation of the media, will be heavily reinforced if the proposed amendments are formally adopted later in 1997.

Criminal, Civil and Administrative Codes

3.14 A number of provisions in the Civil and Criminal Codes have a bearing on freedom of expression. Some are reflected also in parallel provisions in other laws or executive decrees. On some occasions these provisions have been used by government officials in an apparent effort to muzzle their critics. Such actions happen less frequently now than they once did, possibly because the authorities by now have created a much wider range of other means which can be applied, such as the restrictive provisions in the Law on Press and numerous other provisions described elsewhere in this paper.

Protection of honour and dignity

3.15 Article 7 of the Civil Code deals with the protection of honour and dignity. It provides that any person or organization who believes that a statement made about them is defamatory can take action in court to demand that a correction be issued if it cannot be proved that the statement is true. If a correction is not issued as ordered by the court, the court can impose a fine.

3.16 In 1992 and 1993 there were a number of cases where government officials invoked Article 7 of the Civil Code in an attempt to silence Supreme Soviet deputies who had voiced criticisms of them, particularly with regard to allegations of corruption by senior government officials. (While deputies had protection from prosecution under the Criminal and Administrative Codes, such protection did not extend to prosecution under the Civil Code.) However, such use of these provisions has diminished in recent years with the increased availability and use of other means for suppressing opposition views.

3.17 Claims under this provision have been brought also against media professionals, by government officials and by others. These include claims against journalists who have voiced criticism of government officials, and in particular reported on alleged corruption. In a number of such cases the information on which the report was based had been obtained from official sources, but in such cases, so far as is known, no claims were brought against the officials who supplied the information. In many of these cases the court has not only ruled that a correction be published, but has also granted the plaintiff's claim for heavy financial compensation. The number of these claims against the media, too, has declined in recent years: a total of over one hundred claims were initiated in 1994, but only around half that number in 1996. According to local human rights monitors, this decline is in large part because the risk of a successful defamation claim, together with its often drastic financial consequences for the journalist or media body concerned, has led media professionals to become more inhibited than previously in their reporting on alleged corruption and malpractice by officials.

Slander and insult

3.18 Articles 128 and 129 of the Criminal Code deal with slander and insult. Slander -- defined as the knowing dissemination of false and defamatory fabrications -- is punishable by up to one year's imprisonment or corrective labour. Insult -- defined as the deliberate and indecent humiliation of personal honour and dignity -- is punishable by up to six months' corrective labour. The penalties are very much greater for a second offence or for slander or insult in printed form, or for slander taking the form of accusation of having committed a particularly grave crime.

Insulting state officials

3.19 Article 188 of the Criminal Code prohibits, among other things, insulting a representative of the authorities, a worker in the police or armed services, or any other person in connection with the execution of their official duties of maintaining public order. This offence is punishable by up to one year's corrective labour or a fine.

3.20 A recent notable case where this provision was invoked is that of Slavomir Adamovich, who wrote, and had published, a poem entitled "Kill the President", which evidently expressed violent sentiments. He was also charged with illegal border crossing (allegedly to escape arrest) and carrying an offensive weapon. According to reports, he was initially charged under Article 67 of the Criminal Code, which prohibits incitement to overthrow or betray the constitutional order, incitement to treason or terrorism, and the dissemination of material containing such incitement. But, after protracted legal proceedings, in mid-June 1997 he was sentenced to imprisonment under Article 188, as well as for attempting to illegally cross the border. However, having already been detained pending trial from early 1996 to February 1997, he was not required to serve any further period in detention after the conclusion of the trial.

3.21 Several legislative measures introduced within the past year contain provisions similar to those set out in Article 188 of the Criminal Code. Some of them explicitly prohibit such insults directed against the President. Article 79 of the revised version of the Constitution adopted after the 1996 referendum states that the honour and dignity of the President shall be protected by law, with a parallel provision in the proposed amendments to the Law on Press. Article 9 of Presidential Decree no. 5 regulating demonstrations, issued in early March 1997, prohibits "humiliating the dignity and honour of the executive persons of state bodies".

Incitement to hatred

3.22 Article 71 of the Criminal Code prohibits, among other things, the deliberate incitement of national, racial or religious hatred or strife, and the humiliation of national honour and dignity. The offence is punishable by imprisonment for up to three years or, in aggravated cases, up to ten years.

3.23 According to unconfirmed reports by some local human rights bodies, this provision has been used at times to penalize the expression of nationalist sentiments, for example, by those who have called for proper provision for Belarusian-medium teaching in schools, but, by contrast, does not appear to have been used to the same extent, if at all, against those espousing vitriolic anti-semitic views.

Other provisions

3.24 Many people detained at or in the vicinity of demonstrations have been charged under Article 156 of the Administrative Code, dealing with "petty hooliganism", which provides for up to 15 days' administrative arrest. (This provision was applied in the case of Vladimir Dzuba, mentioned in §6.7 and §6.8 below.) However, the introduction in March 1997 of Presidential Decree No. 5 regulating demonstrations (see §10.3 and §10.4) provided for penalties expressly relating to breaches of the regulations on demonstrations, and these latter provisions have been applied in many recent cases, such as those referred to in §10 below, in particular the case of the student whose case is described in §10.13 to §10.17.

3.25 In addition, a number of other presidential and executive decrees contain provisions restricting freedom of expression. Several of these are mentioned at relevant points in the present paper.

4. Broadcast media

4.1 The government is intensely sensitive about the broadcast media, and the degree of control it exercises over this sector is greater than the control it has exercised to date over the printed media. The state broadcast media have routinely been used, especially at election times (see §9), as a mouthpiece for the government. The government has direct control, through the Ministry of Communications and the State Television and Radio Company, over allocation of licences and wavelengths to non-state broadcasters and over their use of essential broadcasting equipment. It has prevented domestic broadcast media being used as a platform for not only directly critical views but, more broadly, any alternative information or points of view. The only broadcast media which have provided alternative information to that of the government on national news and matters of public interest are the Russian channels. But they use a studio belonging to the State Television and Radio Company to transmit their footage to Moscow, and are dependent on retransmission agreements with the Belarusian authorities for transmitting programmes within Belarus. At times the authorities have used their control over these facilities to obstruct the work of these broadcasters also.

State-controlled broadcasters

4.2 The National State Television and Radio Company of the Republic of Belarus was brought under the direct control of the Presidential Administration by presidential decree in August 1994. The following month

another decree was issued reorganizing it as a regulatory body for other broadcasters, as well as a broadcaster on its own account. The Constitutional Court ruled in April 1995 that this dual role as a body of mass media and of state management breached the constitutional prohibition on media monopolies, but, despite that ruling, no steps were taken by the authorities to separate the two functions.

4.3 The directors of the company are appointed by the President. Their management function includes supervision of the programming output, although, according to one senior broadcasting professional, this practice contravenes a formal provision that officials of the company should not interfere in its programming content. In numerous instances plans by editorial staff for broadcasting particular programmes have been refused management approval and prevented from going ahead. Such decisions are not effectively open to discussion by the editorial staff.

4.4 The second radio channel, Radio 2, was established as a channel of information, news and analysis broadcasting in Russian and Belarusian. During the May 1995 referendum the station was closed for three days on the personal instructions of the senior director, and simply broadcast classical music. On some occasions when programmes have been cut they have simply been dropped, leaving blank spots in the schedules. One project barred was a series of programmes on 16th century Belarusian history, based on sources other than the pre-1991 history books which, according to the terms of a 1995 presidential instruction to the Ministry of Education, were once again the officially approved texts for use in Belarusian schools.

4.5 In April 1996, the editorial team planned a broadcast on the unauthorized demonstration which was to take place in Minsk to commemorate the tenth anniversary of the Chernobyl disaster. But this plan was prohibited, and the editorial team was required to report instead on an official government-sponsored commemorative rally to be held that day. However, in an effort to maintain some degree of balance, the chief editor decided, when the planned report on the unofficial demonstration was prevented from going ahead, to report on neither. In September 1996 the editorial team intended to broadcast an interview with the Chairman of the Supreme Soviet, but they were prevented from doing so on the order of the management.

4.6 One of the original aims of the editorial staff of this channel had been to provide information of political, economic or social interest, with, where possible, live discussions providing listeners with the opportunity to telephone the broadcasting station to provide feedback or to obtain further information. But in mid-1996 the management prohibited any further live programming on such issues, and after that, most programmes on these matters were presented by an announcer reading material prepared by the journalists.

4.7 Apart from prohibitions on or drastic cuts in programmes, administrative sanctions have from time to time been applied against the staff. For example, individual editorial staff have often had their salary in a particular month arbitrarily reduced by the management, without explanation. At one point in May 1996 security guards were instructed by the management to prevent the senior editor and some of his staff from gaining access to their offices.

4.8 Similar forms of management control over editorial matters have been applied in the state television channel, where independent studios producing news and current affairs programmes have had their material denied approval for transmission. To begin with, there were no formal requirements for management approval of individual programmes, but by mid-1995 a requirement that material be checked for hidden advertising was clearly being used for political reasons. In May 1995, an edition of the magazine programme *Couloirs*, which had already been advertised in advance to viewers, was rejected as "not suitable". One of the subjects included in it was an account of the forcible eviction the previous month of nationalist opposition deputies who had staged a sit-in in the Supreme Soviet building in protest at the President's plans for a referendum. During the following three months, six similar programmes produced by that studio were refused authorization for transmission. According to media professionals producing material for the State Television and Radio Company, the management has discretion to edit their film without consultation. While formally the law on copyright prohibits amendment without the author's consent, and Article 39 of the Law on Press states that journalists have the right to withdraw their material if it is altered during editing, in practice there are few effective opportunities to challenge such amendments because it entails taking the case to court, and ultimately the authorities have the discretion to terminate the production contract.

4.9 Such measures obstruct efforts which have been made by media professionals in the state broadcast media to work according to principles of public service broadcasting. An alternative view of the role of a public broadcaster has been expressed by President Lukashenko. In a February 1995 meeting with staff of the State Television and Radio Company, he reportedly said, while stating that he recognized the importance of the freedom of the press, "When one watches or listens to your programmes the question unfortunately arises too often: where does this ... obvious reluctance to support the political course of the President of this nation come from? You work for a state radio-television company ... and this obliges you to do everything for the benefit of the state".

Non-state domestic broadcasters

4.10 There are a few non-state domestic broadcasting channels, but none have national coverage and many broadcast only a few hours a week. They carry light entertainment, music, films, and retransmissions of satellite television material, with little or no political, news or current affairs content. The few attempts by non-state domestic broadcasters to cover political issues or matters of public interest have led to their being denied access to the airwaves.

4.11 One broadcaster which attempted to provide a range of programming including news and information was the Minsk-based Radio 101.2FM, which was summarily closed down by the authorities, ostensibly for technical reasons, at the end of August 1996. It had been established in July 1995, with substantial assistance from the Belarusian Soros Foundation, and provided a mix of music and news, including, in addition to its own material, retransmissions of BBC, Deutsche Welle and Polish Radio programmes.

4.12 In August 1996, at a time of heated controversy about the President's proposal for a referendum on constitutional changes, and when spokesmen of the Supreme Soviet had been unable to obtain airtime on public broadcasting channels to put their views across to the public, Radio 101.2FM gave airtime to Semyon Sharetsky, the Chairman of the Supreme Soviet. On 31 August, the Ministry of Communications notified Radio 101.2FM that "in order to eliminate interference" in the reception of a government frequency used by the police and other official bodies, it should cease to use the 101.2FM frequency with effect from the next day. The station had received no previous complaints about interference. Nevertheless, it took all the necessary steps to have its equipment checked. It was given a clean bill of health, but despite this Radio 101.2FM has not been able to obtain permission to resume broadcasting.

4.13 The real reason for the closure of 101.2FM was revealed a few weeks later, when the President, speaking to participants in a youth forum in the latter part of September 1996, reportedly stated that "neither Radio 101.2FM nor anybody else [would] be allowed to pursue anti-state policies on the state radio waves", and referred to "dirty tricks on the radio and television financed by 'Soros' and others". In January 1997 a government memorandum on establishing a government-sponsored youth organization in Belarus stated the intention to make use of the frequency of 101.2FM for a youth channel linked to that organization.

4.14 At the time Radio 101.2FM was established, the law did not permit equipment such as radio transmitters to be held by any bodies except the state. This meant that the transmitter provided for them by the Belarusian Soros Foundation had to be made over to the Ministry of Communications.

Although the law on this matter was changed in 1995, the Ministry had by June 1997 made no response to repeated requests by the directors of Radio 101.2FM for the return of their transmitter, which has thereby, in effect, been confiscated without any legitimate basis.

4.15 At the end of September 1996, in circumstances similar to those surrounding the closure of Radio 101.2FM, NBK, a local non-state radio channel in Grodno, in western Belarus, was forced to close. After it had broadcast a statement by the Chairman of the Supreme Soviet which was critical of the presidential proposals for constitutional changes which were to be put to the referendum, it was given two days' notice to quit the premises it rented from the regional state radio station. The authorities also initiated a check on the station's financial and commercial operations – although there had been no earlier suggestions of malpractice – and ordered its bank account to be frozen for alleged "serious breaches". The management of NBK appealed in court against the closure of the bank account, but without success.

Russian broadcasters

4.16 There are currently four Russian television channels which, as well as broadcasting within Russia, broadcast also to Belarus: the publicly-owned channels ORT and RTR, which can be received in most areas of the country; the St Petersburg channel; and the non-state channel NTV, which can be received in Minsk and a few other places. They appear to be preferred viewing for those of the Belarusian population who can receive them. They have been openly critical of some of the policies of the Belarusian government, in particular those of the President. The government has shown an intense sensitivity to their output, alleging that they provide selective and distorted news coverage and that they focus unreasonably on public unrest and demonstrations. These broadcasters' dependence on the Belarusian State Television and Radio Company for essential technical facilities leaves them ultimately subject to control by the Belarusian authorities. At times during the past year their material has been subjected to prior censorship, and on occasion they have been prevented outright from transmitting their footage to Moscow. In March 1997 the local correspondent of NTV had his accreditation withdrawn and was expelled from the country, and in July 1997 the correspondent of ORT was also deprived of his accreditation.

4.17 On 2 April 1996, Russian television channels reported on a protest in Minsk involving over 10,000 people, against the treaty with Russia signed that day. Two days later the President stated that he had started "active talks" with Russian television channels whose journalists had

- broadcast reports from the demonstration, and that "these journalists will not be working here for many more days".

4.18 At a 1996 May Day rally in Minsk, it was reported that men believed to be plainclothes agents confiscated an NTV film crew's videotapes of the rally, beating one of the cameramen; another Russian television correspondent travelling home afterwards was forced to stop his car and threatened by unidentified men. Shortly afterwards, a spokesman for the President stated that Russian television journalists were filing inflammatory reports and the most serious measures would be taken against them.

4.19 During the run-up to the referendum, the Russian television channels were the only broadcasters which put across the Supreme Soviet's point of view. On more than one occasion their wavelengths were taken over for several hours by Belarusian television to broadcast speeches by the President. At times during this period their correspondents were also prevented from transmitting their video material to Moscow. In one instance, in September, the official reason given was that the control room was closed for maintenance. On another occasion, in November, the studio's communications line was simply cut off. In September, Pavel Sheremet, the correspondent for ORT (who is also editor of a non-state newspaper in Belarus) was reportedly warned by a senior official of the Presidential Administration that ORT's Minsk bureau would be closed if his material was broadcast on that channel. In mid-November, the President publicly condemned the allegedly unobjective coverage by ORT and NTV of public protests taking place at that time in connection with the referendum, and the deputy head of the Presidential Administration, in a public statement, accused these channels of waging what he described as a dirty tricks campaign.

4.20 Threats to curtail these journalists' activities continued after the referendum. In February 1997 NTV carried a report about the Presidential Administration taking over ownership of buildings housing a kindergarten for the children of police officers and other Interior Ministry personnel. The NTV correspondent, Alexander Stupnikov, was summoned to the Foreign Ministry and given an official warning concerning his allegedly unobjective coverage. The Foreign Ministry also sent a protest note to the Russian Foreign Ministry, and a spokesman of the Foreign Ministry, speaking on Belarusian television, described the correspondent as detrimental to Belarus/Russia relations.

4.21 Towards the end of March 1997, NTV was prevented from transmitting news footage from the Belarusian television studio to Moscow. An NTV crew then tried to take the videotape to Lithuania for transmission from there but they were prevented from taking it across the border. (A new decree on border controls had been issued by the Cabinet of Ministers a few

days previously -- see §7.3 -- although it was not to formally come into effect until a month afterwards.) The following day the accreditation of the NTV correspondent, Alexander Stupnikov, was withdrawn by the Foreign Ministry. According to the Foreign Ministry this was because he had systematically distorted information about Belarus. This meant that any material which he had prepared could no longer be transmitted by NTV from the Belarusian television studio to Moscow. He also received personal threats that his physical safety would be at risk if he did not cease his activities. A senior official in the Presidential Administration made it known to other NTV staff that if NTV provided information distorting the situation in Belarus or attempted to broadcast any material prepared by Alexander Stupnikov, the authorities would regard this as a provocation not only by the journalists concerned but by the company, and would accordingly consider cancelling their retransmission agreement. Correspondents of the other Russian channels were also informed by a senior official in the Presidential Administration that their accreditation, too, might be withdrawn.

4.22 Restrictions, including prior censorship, were also placed on the other Russian channels around this time. At one point, according to NTV, they each received a call from a senior official in the Presidential Administration telling them that it was forbidden to transmit footage of opposition marches and rallies, and the following day security guards denied them access to the building, so preventing them transmitting any material from the Belarusian television studio to Moscow. Shortly afterwards, internal instructions were issued within the State Television and Radio Company that, among other things, there must be a preliminary viewing and a copy made of all material before its transmission to Moscow, and a duty officer must be present throughout the transmission.

4.23 Although there was apparently no formal notification of any change in these arrangements, after a few weeks the correspondents of the Russian TV channels were no longer having their material routinely submitted to prior censorship before being allowed to transmit, although in mid-June, almost three months after these controls were imposed, journalists reported that official monitoring, in the form of recording a copy of all footage transmitted to Moscow, was still in place. However, even with this partial relaxation, there remains the constant possibility that prior censorship could be re-imposed at any time as and when the authorities decide it is necessary or opportune to do this, with the additional implied threat that the authorities may summarily withdraw the accreditation of the individual correspondents or terminate the retransmission agreements with any of the Russian TV companies.

4.24 Three days after his accreditation was withdrawn, Alexander Stupnikov was notified that he was to be expelled from the country and given four days to leave. He did not receive this notification until after it was announced on Belarusian television. The Interior Ministry's official

letter stated that his activities were "undermining the atmosphere of trust, good neighbourliness and friendship that has developed between Belarus and Russia". He had spent many years in Belarus and his wife and children are Belarusian citizens. Having had his own Soviet citizenship withdrawn some years ago he holds Israeli nationality; he had applied in September 1996 for restoration of his Russian nationality, but it was not until after his expulsion from Belarus, in early April, that he was told it had been granted with effect from the end of February.

4.25 On 7 July 1997, Pavel Sheremet, the correspondent for ORT, received a letter from the Foreign Ministry informing him that his accreditation had been withdrawn. According to reports, the letter gave no reasons. This followed the temporary suspension, a few days earlier, of his accreditation to cover special events, including Independence Day commemorations on 3 July, after an edition of ORT's *Vremya* current affairs programme in which he apparently described the new Belarusian independence celebration date as President Lukashenko's idea, and depicted a "day of voluntary labour" (*subotnik*) declared by the government as being required by the state to pay for the damage from the hurricane which had recently afflicted parts of Belarus.

4.26 ORT, which is the Russian television channel with the widest coverage in Belarus, also faces the prospect of going off the air. In early 1997 a spokesman for the Presidential Administration announced plans for a second national television channel which would take over the wavelength currently used by ORT. If this measure goes ahead, it would significantly increase the capacity of the Belarusian state broadcaster at the same time as removing the main source of alternative broadcast information for most of the population.

4.27 At the end of May, President Lukashenko announced in the House of Representatives that the government would soon establish a new procedure for the accreditation of foreign journalists, a measure which had been intimated to the Russian television journalists at the end of March. On this occasion, once again, the President singled out NTV for their critical coverage, alleging that they distorted and falsified facts. Under proposed amendments to the Law on Press introduced in June 1997 foreign journalists would, in addition to registering with the Ministry of Foreign Affairs, have to be approved by the State Committee on the Press. New regulations adopted by the Cabinet of Ministers on 13 June, and published in the press on 9 July, shortly after the removal of Pavel Sheremet's accreditation, set out stricter requirements governing the accreditation and activities of foreign journalists (see also §2.18).

5. Printed media

5.1 The state-owned printed media are numerically dominant and distributed throughout the country. While non-state media are not subject to internal administrative controls in the same way as the state-owned media, they are dependent on state-controlled printing and distribution facilities which have in the past been unpredictably withdrawn. They are also vulnerable to the continual implied or explicit threat of withdrawal of official registration, and to other measures such as harsh financial penalties for technical infringements of tax regulations, which have been imposed after ad hoc inspections which take place with little or no warning.

State sector

5.2 The main mass-circulation dailies are state-owned. Presidential Directive No. 3RP on state information policy, issued in January 1996, stated that editors-in-chief of most state-financed periodicals would from then on be appointed by the Cabinet of Ministers in consultation with the Presidential Administration or, in the case of local state periodicals, would have to be approved by local executive committees and would become members of those committees. Since the end of 1994, several editors of state-owned media who have attempted to assert a measure of editorial independence, or whose newspapers provided alternative information or a platform for views not in line with government policy, have been dismissed from their posts by presidential order or forced to resign.

5.3 In December 1994 a deputy made a statement in the Supreme Soviet criticizing corruption in the Presidential Administration. According to the editors of two state-owned newspapers, the printers were instructed not to print reports of the deputy's statement. The largest circulation state-owned newspaper, *Sovietskaya Byelorussia*, as well as *Zvyazda* and *Respublika*, were published with blank spaces in the place where the editors had intended to report the deputy's statement, and the relevant issue of *Narodnaya Gazeta* failed to appear. Shortly afterwards, the editors of *Sovietskaya Byelorussia* and *Respublika* were dismissed.

5.4 In March 1995 the editor of *Narodnaya Gazeta*, at that time owned by the Supreme Soviet, was dismissed by the President after the newspaper had published a letter from a reader criticizing the pro-Russian policies of the Presidential Administration which, it was alleged, incited violence and civil unrest. When asked whether the President had the authority to dismiss the editor of a newspaper not formally under his own control, a presidential spokesman stated that the Constitution authorizes the President to take measures to ensure political and economic stability.

5.5 One year later, in March 1996, the succeeding editor of *Narodnaya Gazeta* was dismissed by the President. The newspaper had, among other things, been critical of the steps taken by the President towards re-uniting Belarus with Russia.

5.6 At the end of June 1996, *Narodnaya Gazeta* was reorganized into a company with a controlling share held by the government, and the remainder belonging to the collective of workers. This reorganization was ordered by presidential decree despite the stipulation in the newspaper's charter that it could be reorganized only by resolution of the Supreme Soviet. At the request of the Supreme Soviet the Constitutional Court reviewed the presidential decree and in October 1996 ruled that it amounted to an intrusion on the legislative branch by the executive and so was not in accordance with the Constitution. But this ruling, like the Constitutional Court's rulings that certain other presidential decrees breached the Constitution, was disregarded by the President.

Non-state sector

5.7 While the non-state press is not subject to direct government control in the same way as the state-financed sector, the government has applied a range of regulatory and administrative measures in a way which severely inhibits its freedom and ability to operate. It is subject to government control through the regulatory provisions of the Law on Press and, with the government having almost complete control over printing works and the distribution system (including the post office and state-run sales kiosks), is heavily dependent on state-run facilities in order to operate. Over the past year the authorities have applied measures which appear to be aimed at undermining the financial viability of this sector of the media.

Regulatory controls

5.8 There have been numerous cases where the government has used its powers to issue formal warnings on the wide-ranging grounds set out in Article 5 of the Law on Press. These warnings carry the threat of suspension or withdrawal of registration, which would in effect deprive media of their licence to publish. Like many other legal provisions described in this paper, the determination as to whether a newspaper falls foul of these broadly-worded provisions is left largely to the discretion of government officials, with no clear criteria for making the determination and no possibility for the publication concerned to rebut the allegations without resorting to the courts. Moreover, even though on occasion appeals to the courts have resulted in some measure of success, the courts can by no

means be relied on as a protection against the arbitrary exercise of executive power.

5.9 For example, in June 1996 *Belaruskaya Delovaya Gazeta* was suspended from publication having received a warning about "divulging state secrets" in violation of Article 5 of the Law on Press. It had published an article about the special armed forces under the President's command. It was able to resume publication later but the warning itself remained in effect, in that a further warning within one year would bring the risk of its registration being withdrawn.

5.10 Later that month, the State Committee on the Press issued a warning to *Pagonya* for an alleged "infringement of public morals, honour and dignity" and in relation to Article 40 which obliges journalists to provide objective information. A further warning was issued to the same newspaper in early August for two articles published in March and May which allegedly "inflamed national, social, racist or religious intolerance or hatred".

5.11 In July 1996 the State Committee on the Press issued a warning to *Svaboda* for an alleged breach of Article 5. The newspaper appealed to the court for the warning to be declared invalid, pointing out that the article they had published had not resulted in any libel claim or any other legal action against the newspaper, but in October the court refused the newspaper's claim. In September 1996, the State Committee on Press issued a further warning after *Svaboda* published an article which allegedly insulted the President and other senior officials.

5.12 While the Law on Press provides that multiple warnings within a year can lead to the suspension of a publication, the authorities have not to date permanently closed a publication on those grounds. Nevertheless, the media work under the constant possibility that at some stage the authorities might go so far as to make use of the full potential of this provision in the Press Law. And even without going to those lengths, it is clear that the implicit threat that such measures might be implemented is sufficient to seriously hinder the free operation of the press. Moreover, in this climate, and with the recent additional administrative and other measures taken against the press, described below, it is understandable that media professionals regard the recent requirement for re-registration, described in §2.16 and §2.17 above, as a potential means of withholding registration from some of the non-state media.

State controls over technical and other facilities

5.13 In October 1995 the state printing works in Minsk cancelled its printing contract with *Narodnaya Volya*, and the state printing works in

- Gomel, in eastern Belarus, notified two other newspapers, *Belaruskaya Delovaya Gazeta* and *Imya*, that, because of a need to carry out preventive maintenance at the plant, it could no longer print them. Around this time the Presidential Administration notified local executive committees that state-owned printing facilities in the regions would be authorized to conclude printing contracts with non-state media only with the agreement of the Presidential Administration. As a result of these measures, several non-state publications arranged for their printing to be done in Lithuania. The editorial board of *Narodnaya Volya* challenged the cancellation of its printing contract in court, seeking compensation and an order for fulfilment of the printing contract, but without success.

5.14 Around this time also, the state distribution services were ordered not to carry newspapers printed outside Belarus, and several newspapers were notified by the state distribution agency that their distribution contracts were cancelled. One of the publishers affected took the matter to court but, while the court ordered the post office to pay compensation for losses incurred, it did not order it to fulfil the contract. Similarly, when a group of subscribers took action in court against the suspension of delivery of *Narodnaya Volya* the court ordered compensation to cover the loss of their postal fees, but made no order for deliveries to be resumed. Subsequently the newspapers concerned were able to make arrangements with distributors, but their distribution, especially outside Minsk, is hindered by the state monopoly over distribution structures (see §2.12), with the attendant possibility that, as before, the arrangements could be cancelled at any time.

5.15 One aspect of the increasing centralization of political and economic power in Belarus is the acquisition of properties by the Presidential Administration. These include buildings occupied by non-state media. This has put them at risk of eviction with little or no advance notice. In January 1996 *Svaboda* was notified that the Presidential Administration had taken over the building housing its offices; it received notice to quit the premises within a month, although its occupation of the offices was based on a leasing agreement running to 1997. (*Svaboda* appealed to the courts against this eviction. The case was still pending as of late April 1997.) The following month the non-state news agency *Belapan*, which leased part of a building owned by the Presidential Administration, was ordered to vacate the premises the next day because the building was needed for "state purposes". Other tenants of the building (including the state news agency) did not receive any such notice to quit.

5.16 Such evictions are not confined to properties owned by the Presidential Administration. In early April 1997 *Pagonya* was forcibly evicted from its offices in premises owned by the local executive committee in Grodno, western Belarus. According to reports, officials and police officers ordered staff of the newspaper to leave the building, and when the

editor refused to leave his office he was forcibly removed. Despite protests by staff, their computer and other equipment was removed from the building and dumped in the street. *Pagonya* was offered alternative premises, but without a telephone line or other essential facilities.

Special tax inspections and financial penalties

5.17 There have also been special tax inspections carried out with no advance notice, resulting in many cases in harsh financial penalties. Given the complex, unclear and sometimes conflicting tax and other regulations which must be complied with, it is very likely that a newspaper can be found in breach of some technicality. For example, one newspaper was penalized for selling subscriptions for cash rather than through the post office according to the established practice, even though it had been constrained to do that because the authorities had prevented the post office from accepting readers' subscription payments.

5.18 There was a spate of such inspections in August and September 1996. Some publications were inspected several times in this way in the latter part of 1996. It was clear that these inspections were undertaken at the instigation of the Presidential Administration, and they were widely perceived as a concerted act of harassment. One editor was told by the tax inspectors that they had been sent to uncover any breach of tax regulations they could find, and would keep searching till they found it.

5.19 The penalties imposed on some newspapers in September 1996 were reported to range from \$42,000 to \$118,000. However, the newspapers' actual losses are likely to have been much greater. For example, in a more recent case, a newspaper had to pay \$25,000 for minor violations. This had to be paid immediately, and the newspaper was accordingly unable to pay its other bills on time, incurring financial penalties in respect of those. Taking account of such consequential effects, the basic penalty of \$25,000 in this case amounted to an estimated total loss of \$60,000 -- about six weeks' running costs for the paper. Following that, it had to cut its number of pages by 25% and its circulation by half. According to one editor, such economic pressure is more destructive than direct political pressure because it threatens the newspaper's very existence. Indeed, it is hard not to conclude that that -- or at least the implied threat -- may be its purpose.

5.20 Such inspections have continued from time to time since then. In mid-May 1997 it was reported that *Nasha Niva* and *Zdravyi Smysl* were subjected to inspections. In late May *Pagonya* reportedly had to pay more than \$9,000 following such an inspection (this was within a few weeks of its being evicted from its offices, mentioned above).

5.21 As well as punitive taxation measures, the authorities can exert subtle forms of financial pressure on non-state media with regard to their advertising revenue. Most advertisers are within the state sector and are subject to government direction as to where they place their advertising. Given the already precarious financial position of many non-state media, the knowledge that what advertising they have may be withdrawn for political reasons is likely to add to the overall chilling effect on the ability of the media to operate freely.

5.22 Because of the difficulties of securing economic viability in such a climate, many non-state media have relied heavily on voluntary funding from international agencies. The most active has been the Belarusian Soros Foundation, which, like its counterparts in several other countries in the region, has undertaken a major programme of support for projects in Belarus working in the area of freedom of expression and free media. When it commenced its activities in 1995, the government granted it tax exempt status as a charitable organization. Since then it has made grants in Belarus totalling around \$13 million. But the government has shown an increasing sensitivity about its activities, particularly its support for bodies which the government perceives as linked to its critics and opponents. This was evidenced in the President's remark, referred to in §4.13 above, following the closure of Radio 101.2FM, which had been a major beneficiary of Belarusian Soros Foundation support.

5.23 In mid-March 1997 the Belarusian Soros Foundation's local representative was refused entry to Belarus after a trip abroad, and the organization was subjected to a tax inspection. At the end of April the government announced that the Foundation's activities had violated its tax-exempt status and issued a demand for past taxes amounting to \$3 million. Despite the Foundation's notification to the authorities that it planned to appeal against this, its bank was ordered to transfer the funds immediately. In mid-May the Foundation announced that, as a result, it could no longer operate and would have to suspend its activities in Belarus. In a letter to President Lukashenko, George Soros, the Chairman of the Foundation's US-based parent body, protested strongly against the arbitrary attempt to seize the Foundation's assets, describing the government's accusations as inflammatory and unfounded. He repeated the Foundation's view that the fines levied against it were politically motivated and had no basis in law.

5.24 It is not at this stage possible to identify what will be the consequences of these events for media freedom in Belarus. But it seems very likely that the withdrawal of what has been, for some of the non-state media, a vital source of economic support will only increase their vulnerability to economic and other pressures by the authorities.

6. Obstruction, harassment and intimidation of media professionals

6.1 There have been repeated attempts over the past year to obstruct journalists from carrying out their work. This applies in particular to video- and photo-journalists attempting to report on demonstrations, who, despite taking no part themselves in the demonstrations and despite showing their press identity cards, have been detained and beaten and had their equipment and film damaged, confiscated or destroyed by unidentified men in plain clothes who are believed to be members of the presidential security service. Media professionals have also been subjected to various forms of personal harassment, including physical attacks in their homes.

6.2 At the end of April 1996, during police dispersal of an unauthorized demonstration in Minsk on the tenth anniversary of the Chernobyl disaster, those beaten and detained included several journalists reporting on the demonstration, one of whom received a serious head injury.

6.3 A few days later, several journalists were obstructed from reporting on an authorized and generally peaceful May Day rally in Minsk, when the authorities prevented them from getting pictures of the event. A freelance photojournalist was prevented by men in plain clothes from photographing them; they exposed his film. It was reported also that a film crew of the Russian channel NTV were stopped by men believed to be plainclothes security agents who confiscated three of their videotapes containing footage of the rally, and one of their cameramen was beaten. After the rally, a correspondent for another Russian television channel was followed on his way home by several men in a car who forced him to stop and threatened to smash his windows.

6.4 Such obstruction of journalists attempting to report on demonstrations has continued into 1997. A Baltic News Service correspondent was arrested half an hour after the end of a demonstration on 14 February, despite showing his foreign press correspondent's card. The police seized his recording equipment and erased his recordings, and he was charged with a public order offence.

6.5 Twelve journalists and observers for local human rights organizations were among those detained at a demonstration in Minsk on 14 March. Some were held for several days before being brought to court on public order charges. Following a protest by journalists to the Foreign Ministry, there were no journalists reported detained at a demonstration the following weekend, but at subsequent demonstrations the obstruction of journalists resumed.

6.6 Several journalists were reportedly detained and beaten, three of them severely, when reporting on an unauthorized demonstration on 2 April on the occasion of the planned signing of the second treaty on union with Russia, at which there were violent clashes between police and protesters. One was later sentenced to ten days' detention on public order charges. Following further protests by journalists to the Foreign Ministry, the Minister of Foreign Affairs, Ivan Antonovitch, was reported to have criticized foreign journalists for conducting what he described as "an information war" against Belarus, saying that their accreditation might be withdrawn because of their lack of objectivity, and to have indicated that their safety could not be guaranteed if they continued to cover unauthorized demonstrations.

6.7 Harassment of media professionals is not confined to those observing and attempting to report on rallies and demonstrations. Late in the evening after the Chernobyl demonstration in April 1996, Vladimir Dzuba, the chief editor of Radio 2 whose intention to broadcast a news story about it had been obstructed by the management of the State Television and Radio Company, was detained on his way home from work. He had not been present at the demonstration which by then had finished some time ago, but his detention was apparently one of several similar detentions of passers-by in its aftermath. The following morning, he, with eleven others, was placed into a cell where he was held for two more days. The detainees had to share one metal drinking cup; on the first day they received bread and water; the second day they were given some lunch. On the third day a judge was brought to the detention facility to conduct trials. Vladimir Dzuba was convicted of "petty hooliganism" under Article 156 of the Administrative Code, on the evidence of a police officer whom he did not recognize. He was sentenced to three days' administrative arrest, and returned to the cell for a few hours to serve the remainder of the sentence.

6.8 So far what happened to him was comparable with what has happened to others detained in the vicinity of demonstrations, but it seems likely that subsequent events were linked to his professional activities. On his release he was immediately re-detained without explanation. The next day he was brought to court again, apparently for the same alleged offence as before. He was sentenced to 15 days' administrative arrest (the maximum sentence under the Administrative Code), again on the evidence of two police officers he did not recognize but who claimed to have been the officers who detained him. After he went on hunger strike and international protests on his behalf he was released after eight days' detention. He protested to the Procurator General and to the Supreme Court about his detention, but the Supreme Court ruled that his arrest and detention were legitimate, and he did not feel it was worth attempting to pursue any further appeals on the matter.

6.9 Within the past year there have also been alarming incidents of physical attacks on journalists and their families in their homes. While to date it has not been possible to establish with certainty the responsibility for such attacks, they are widely perceived as being linked to the authorities.

6.10 Towards the end of June 1996 two intruders forced their way in the middle of the night into the apartment of Yury Drakokhrust, a correspondent for the Russian Service of Radio Free Europe/Radio Liberty. In recent months he had been covering the suppression of the opposition and the non-state press and the beating of journalists at demonstrations. At the time of the incident he was away from home. The intruders assaulted his wife, telling her "tell your husband about this". No money or valuables were taken from the apartment.

6.11 In mid-February 1997 shots were fired into the home of Igor Hermanchuk, the editor of *Svaboda*, through the window of the room where he usually works in the evenings, although that particular evening he was not at home. In another incident the same month, Anatol Lyabedska, a deputy of the Supreme Soviet known for his publications in the non-state press, was attacked and beaten up by two unknown assailants at the entrance to his home.

7. "... regardless of frontiers ..." – the use of border controls to impede the flow of information

7.1 The authorities have interfered with the free flow of information across borders. This de facto practice was disturbingly legitimized by a decree of the Cabinet of Ministers passed in March 1997.

7.2 The potential problems for the non-state press of printing in Lithuania were brought into sharp relief in mid-November 1996, in the run-up to the referendum, when Belarusian customs officials at the Lithuanian border detained the publisher of *Nasha Niva* and seized the print run of a special edition of the newspaper containing a digest of articles critical of the policies of the President. Customs officials reportedly said a presidential decree had been issued recently ordering the confiscation of material critical of the President. Media professionals have reported also that some months earlier, on several occasions around the time of the April 1996 Chernobyl demonstration, newspapers being brought into Belarus from printers in Lithuania were held up for several hours by border control authorities.

7.3 The scope for the authorities to obstruct the flow of information at the border was increased in mid-March 1997 when the Cabinet of Ministers issued a decree on border controls. This, among other things, prohibits the

import or export of materials, whether in printed, video, audio or other form, which, in the view of the authorities, could "do harm to the political or economic interests or security of the country, or the health and morals of its citizens". The decree does not set out any criteria for how such an assessment should be made, and in practice such decisions are left largely to the discretion of individual border control officers. A parallel provision is included among the proposed amendments to the Law on Press, expected to be formally adopted into law later in 1997 (see §3.11).

7.4 Although the decree on border controls was not formally supposed to come into effect until 18 April, one month after it was announced, the authorities were already intercepting certain material crossing the border. In the early morning of the day the decree was announced, that day's print run of *Belaruskaya Gazeta* was held up at the border and its contents inspected before it was allowed through. A few days later, a crew from the Russian television channel NTV, having been prevented from transmitting footage to Moscow from the Belarusian television studio, was prevented from taking their videotape across the border to Lithuania for transmission from there. A few days after that, on 25 March, the editor of *Narodnaya Volya* was held up at the border for several hours when bringing back that day's edition from the printer in Lithuania.

8. Telecommunications

8.1 In April 1997 telephone subscribers in Minsk received a revised telephone contract issued by the Minsk City Telephone Network, which falls under the authority of the Ministry of Communications. The new clause states that "telephone communication shall not be used for purposes contrary to state interests and public order". The contract also provides that the City Telephone Network retains the right to cancel the contract if the subscriber breaches that condition.

8.2 Like the other restrictive provisions described elsewhere in this paper, this provision is drawn in dangerously broad terms, and leaves a wide discretion to officials with regard to its interpretation. There is no indication of the criteria that would be used by the authorities in applying this provision, and of how a telephone subscriber could challenge a decision to withdraw telephone services on these grounds. The provision also raises the inevitable question of how the authorities would know that -- in their view -- the subscriber is using the telephone network for such purposes. This has disturbing implications for the right to privacy set out in Article 17 of the Covenant.

8.3 By mid-1997 there were strong indications that telephone calls to and from non-governmental organizations and media professionals in Belarus were being subjected to increasingly intensive surveillance by the authorities.

9. Freedom of expression and information with regard to elections and referendums

9.1 The government's refusal to allow the state broadcasting media to give any voice to alternative views has been particularly marked at times of elections or referendums. These media have been used as a mouthpiece for the government viewpoint, instead of providing a channel for information and acting as a forum for public debate of the issues at stake. Such one-sidedness is particularly harmful in a country having only a limited range of non-state media, which places a particular responsibility on the state media to provide balanced information and a forum for expression of a plurality of views. It effectively deprives the public of their right to the information necessary for them to meaningfully make a free and informed choice, and so calls into question the genuineness of the electoral process to which they have a right under Article 25 of the Covenant.

9.2 Attempts by advocates of alternative political viewpoints to obtain access to state broadcasting media to put their views across to the voters have been consistently denied. This is despite the constitutional provision that political parties are entitled to make use of official news media, provisions in the Law on Elections that candidates should have equal access to state media, and an amendment to the Law on Press, adopted in June 1996, requiring state-owned media to give airtime to the Supreme Soviet as well as to other organs of government. The few attempts by domestic broadcasting media to provide a means for the expression of viewpoints other than that of the government and to give effect to the electorate's right to information have been suppressed by the authorities, and non-state broadcasters giving voice to alternative viewpoints have been summarily closed down.

9.3 In the printed sector, while the small-circulation non-state media provide some alternative sources of information, the government has made use of the dominant state-owned media, including special editions printed at public expense, to deliver their own message to the electorate, with no such facility being provided for other parties in the elections or for alternative points of view in the referendums.

9.4 In May 1995 and in November 1996, elections to the Supreme Soviet took place concurrently with referendums. In both instances the media virtually ignored the elections, as they did also at the time of the elections held in December 1995 to fill the seats in the Supreme Soviet which, under the stringent majority rules required by the election law, had not been filled in the earlier round of elections. This lack of attention paid to the elections, focusing almost exclusively on the referendum questions, should be seen in the context of the general process of marginalization of the legislative branch of government over the past three years.

May 1995 elections and referendum

9.5 The May 1995 referendum was announced in the latter part of March when the arrangements for the elections were well under way. There were four questions: whether Russian should be given the same status as Belarusian (the 1994 Constitution had declared Belarusian to be the official language); whether voters supported the introduction of a new state flag and emblem to replace the national flag and emblem adopted in 1991 (the proposed new state symbol was based on the former Soviet one, but omitting the hammer and sickle, and was vehemently opposed by the Belarusian Popular Front); whether they supported the President's moves towards economic integration with Russia; and whether the Constitution should be amended to give the President power to dismiss the Supreme Soviet if it were to systematically or grossly violate the Constitution.

9.6 A presidential decree issued on 30 March ordered that candidates' speeches and election platforms could be covered only by local media in their own constituencies. As a result, the national media gave virtually no coverage to the parties and candidates and the political issues at stake in the elections. This effectively prevented any systematic national coverage of the policies of various political parties which could present an alternative to the policies of the government.

9.7 The State Television and Radio Company focused almost entirely on the referendum. According to the European Institute for the Media, which undertook detailed monitoring of media coverage at the time,⁵ an internal document of Belarusian State Radio set out two main goals for the campaign: to encourage the population to take part in the referendum, and to encourage an affirmative vote on all the questions put forward. A discussion programme broadcast simultaneously on radio and television four

⁵ *The May 1995 Belarusian Parliamentary Elections: Monitoring of the Election Coverage in the Belarusian Mass Media - Final Report* (Dusseldorf: European Institute for the Media, July 1995). Much of the information in this section of the present paper is drawn from the results of that monitoring.

days before the referendum included ten people who almost all expressed the same point of view in favour of the four questions. State television was also used in an apparent attempt to discredit the opposition when, shortly before the election date, a film was broadcast twice over a period of three days suggesting that the Belarusian Popular Front were successors to Fascism.

December 1995 elections

9.8 During the election campaign towards the end of 1995, the Chairman of the Supreme Soviet, Myacheslav Gryb, was denied access to Belarusian television in order to address the electorate and encourage them to vote. The reason for the refusal given by a senior official of the State Television and Radio Company was that "We believe that additional appeals to the electorate would be unwise, because they can provoke an undesirable and negative attitude towards the [Supreme Soviet], and also because we need to ensure the mass media is not used to create bias". Accordingly, he had to resort to Russian television channels who agreed to give airtime for his appeal to the electorate. But shortly before the broadcast was due, the Belarus Ministry of Communications ordered the closure of the transmitters, ostensibly for preventive maintenance.

November 1996 elections and referendum

9.9 During the run-up to the referendum and elections in November 1996, the media again virtually ignored the elections and focused on the referendum, particularly the questions about the proposed constitutional amendments. The government used its virtually total domination of the broadcast media to persuade the public to vote for the presidential proposals. Where the Supreme Soviet's proposals were mentioned at all, they were presented in a distorted way. Even voter-education programmes, which should have been neutral, were strongly slanted towards encouraging the voters to opt for the presidential proposals. According to a survey by the European Institute for the Media,⁶ over 90% of time on the state broadcast media in the run-up to the referendum was strongly in favour of the presidential position; the rest was neutral. None supported the position of the Supreme Soviet.

9.10 Spokesmen for the Supreme Soviet were obstructed from putting their point of view across on domestic broadcast media. It was intended by the second state radio channel, Radio 2 (see §4.4 to §4.6), to give some

⁶ *Monitoring the media coverage of the Belarusian referendum in November 1996: Final Report* (Dusseldorf: European Institute for the Media, February 1997).

airtime to a spokesman for the Supreme Soviet, but this was stopped by the management. The Supreme Soviet filed four written requests with the State Television and Radio Company for an opportunity to appear on television to explain their position on the proposed referendum. They received no reply. This was despite an amendment to the Law on Press, adopted in June 1996, requiring state-owned broadcasters to provide airtime to addresses and statements of the Supreme Soviet as well as of the President, the Supreme Court, the Constitutional Court and the Cabinet of Ministers. At the end of September the Supreme Soviet, for their part, annulled the parliamentary accreditation of the State Television and Radio Company, noting its lack of objectivity and tendentiousness in covering sittings.

9.11 Although denied access to the state broadcast media, Semyon Sharetsky, the Chairman of the Supreme Soviet, was given airtime on two domestic non-state radio channels, 101.2FM and NBK. But in each case, shortly afterwards, these channels were summarily closed down (see §4.12 to §4.15).

9.12 The only broadcasters which carried the point of view of the Supreme Soviet were the Russian television channels. But on more than one occasion these channels were taken over for several hours and their wavelengths used by the State Television and Radio Company to relay speeches by the President. On other occasions local correspondents of Russian television channels were prevented from transmitting their footage to Moscow.

9.13 The government similarly made use of the printed media to put its own message across to the voters and to obstruct the presentation of alternative information and viewpoints. The presidential proposals for the constitutional amendments were printed and distributed at public expense in a special edition of four million copies of the state-controlled daily *Sovietskaya Byelorussia* distributed to every voter, although this was not until a few days after early voting had started on 9 November. The Chairman of the Electoral Commission requested *Sovietskaya Byelorussia* to print the Supreme Soviet's proposals also, but the newspaper asked for payment in advance, for which the Electoral Commission did not have the funds. It was not until 19 November, ten days after voting in the referendum had started, that the Supreme Soviet's proposals were made available to the electorate, in *Zvyazda*, a Belarusian-language state-owned newspaper. But this had to be purchased in the normal way, was a much smaller print run (*Zvyazda*'s normal circulation is in the region of 175,000), and was in the Belarusian language, which is read by only a minority of the population.

9.14 A leaflet distributed free of charge to voters, while presented as an official information leaflet, gave a distorted and out of date account of the Supreme Soviet's proposals. Voter-information programmes on television

were presented in a way which assumed that voters would vote for the presidential proposals and against those of the Supreme Soviet, and informed them how to fill in their voting papers accordingly.

9.15 Government officials have reportedly sought to defend the bias in the domestic broadcasting coverage by citing the strong support for the Supreme Soviet's viewpoint provided by the Russian television channels.⁷ But this cannot justify the blatant partiality of the state-owned domestic media, the campaign of disinformation they presented to the public, and the steps taken by the authorities to deny access to the domestic media by alternative points of view.

9.16 Instead of any proper debate on the crucial and fundamental issues at stake, the referendum campaign polarized into a crude and one-sided battle between the Supreme Soviet and the President. The media in effect became a weapon in this political battle, instead of a forum in which the debate could be carried out in order to inform the electorate about the issues on which they were to vote.

9.17 There is little doubt that President Lukashenko continues to enjoy popular support, particularly outside Minsk and the main towns and in the rural areas. But the flagrant bias of the campaign, and the use of the state-owned media to conduct propaganda on behalf of the presidential proposals and to discredit those of the Supreme Soviet, raises strong doubts as to what the extent of that support would be if the population had access to more balanced information and a chance to consider alternative views. This is an essential element not only of the right to freedom of information set out in Article 19 of the Covenant, but also the right set out in Article 25 to vote at "genuine elections ... guaranteeing the free expression of the will of the electors".

10. Freedom of assembly

10.1 The 1994 Constitution provides for the freedom of assembly, "so long as this does not violate the legal order [and] the rights of others". In practice the stringent legal and other restrictions placed on this right prevent people from being able to exercise it effectively. Demonstrations and rallies can be held only with official permission. When -- as often happens -- this is not given, the demonstration is regarded as unauthorized, which leaves the organizers and participants liable to

⁷ According to the quantitative survey carried out by the European Institute for the Media, just under 50% of the Russian TV coverage was neutral and just over 50% was in favour of the Supreme Soviet's proposals; at no point did these channels give favourable coverage to the presidential proposals.

prosecution. Many participants in demonstrations have been beaten by police and security forces, and many people have been detained and charged with public order offences for participating in or organizing such events.

10.2 Since 1991, shortly after the dissolution of the USSR, the regulation of marches, demonstrations and rallies fell under the authority of regional executive committees (and the City of Minsk). These local regulations were, in substance, broadly similar to the earlier Soviet legislation, in that such meetings could be held only with official permission, with provision for penalties to be imposed in the case of meetings held in contravention of the regulations. However, the local regulations did not themselves make direct provision for penalties -- if people were prosecuted for infringing the regulations, the offence would be related to other legal provisions -- for example, Article 156 of the Administrative Code, which deals with "petty hooliganism".

10.3 Presidential Decree No. 5, issued at the beginning of March 1997, formally established central government control over matters relating to demonstrations, rallies and meetings, vesting responsibility for its implementation in the National Security Council. It sets out a wide-ranging definition of the types of demonstrations, rallies and meetings falling within its scope, and prohibits such events being held in the vicinity of a wide range of official and government buildings. It requires organizers to apply to the authorities for authorization at least 15 days in advance of a planned demonstration. It also sets out a range of widely-defined prohibited activities, including "humiliating the dignity and honour of the executive persons of state bodies". This is formulated in broad-ranging terms, as with comparable provisions in other legislation or regulations mentioned in this paper. In practice, with no clear criteria for defining the offence, the definition of the offence in any particular instance leaves wide discretion to individual police officers or other officials. The decree also prohibits "using flags and pennants which are not registered in accordance with the established procedure". This effectively makes it illegal for any participants in a demonstration to carry the traditional national flag of Belarus, even if the demonstration itself may have been authorized by the authorities.

10.4 The decree makes direct provision for the imposition of penalties for organizing or participating in unauthorized demonstrations or meetings and for other violations of its provisions. The penalties range from a formal warning to a fine of \$750 or 15 days' detention (for a second offence the fine can be as high as \$1,500). Fines of several hundred dollars are frequently imposed. Such fines can be ruinous when the average salary is in the region of \$50 a month, and where many of the people so affected are not employed, in many cases having been dismissed or forced to resign from their jobs because of their refusal to conform with the demands of the authorities.

10.5 In the past year or so, with heightening political tensions over the plans for strengthening links with Russia and the intense dispute over the constitutional changes, together with the clampdown on other forms of freedom of expression, political opposition has sought expression in political demonstrations. Many such demonstrations have been unauthorized, and participants and organizers have been arrested and charged with public order offences. On some occasions the police have used an alarming degree of violence against demonstrators. While in some cases there has been violence on both sides, in many cases such beatings by the police have apparently been unprovoked or out of all proportion to any provocation. Some people who have been detained at demonstrations have also stated that they observed other detainees being beaten after being taken into police custody.

10.6 The authorities have at times accused the media, particularly the Russian television channels, of provocative reporting of demonstrations. This appears to have been one of the main reasons for the measures taken against the Russian broadcasters, as well as for the obstruction and intimidation of journalists generally - particularly photo- and video-journalists -- attempting to cover demonstrations. For their part, the state-owned media have apparently, at least at times, played down such events.

10.7 At the end of April 1996, during police dispersal of an unauthorized demonstration in Minsk on the 10th anniversary of the Chernobyl disaster, large numbers of people were beaten and over 200 reported detained, including around 20 leaders of the Belarusian Popular Front. About half the detainees were released within two or three days. The remainder were brought to court, and many were sentenced to prison terms ranging from a few days to a month on public order charges. Two leaders of the Belarusian Popular Front were held pending trial on more serious charges, but after going on hunger strike (as a result of which one of them had to be hospitalized) and sustained protests, in Belarus and internationally, on their behalf, they were conditionally released on medical grounds.

10.8 On 19 October 1996 a protest demonstration was held in Minsk as an alternative event to the All-Belarusian Congress, an ad hoc assembly convened by the President to demonstrate support for his proposed constitutional changes. The demonstration itself was reportedly peaceful, but several participants were reported to have been detained later, after it had dispersed.

10.9 In mid-February 1997 the youth wing of the Belarusian Popular Front held an unauthorized march in Minsk under the slogan "Belarus into Europe", during which they delivered appeals to several embassies. Tear gas was used to disperse the marchers and, according to press reports, over 20 people were taken into custody by the police (some estimates were that the number detained was considerably higher). In one case, a person was

detained for four days, on the grounds, according to the court decision, that he had "taken part in an unauthorized march, formed part of a column of marchers, and carried a blue flag with twelve yellow stars on it [the flag of the European Union]".

10.10 From March 1997 onwards there was a large number of demonstrations and marches protesting against the proposed second union treaty with Russia as well as against the 1996 constitutional changes. Some of these demonstrations were authorized, and some not; in some cases the organizers were given partial authorization, for example to hold a rally at a specific place, but not to process through the streets.

10.11 Several of the leaders of these events, many of them senior political figures and members of the Supreme Soviet, have been placed under surveillance and arrested at their homes for violating Presidential Decree No. 5 or other provisions. In many cases brought to trial to date, the penalties have been heavy fines, although in a number of cases custodial penalties have been imposed. For example, Lyavon Barshevsky, a leader of the Belarusian Popular Front, was sentenced *in absentia* to five days' administrative arrest for his alleged part in a demonstration in January. Myacheslav Gryb, a former Chairman of the Supreme Soviet, who had taken part in a demonstration of around 10,000 people in Minsk on Constitution Day, in mid-March, was fined over \$800 for allegedly insulting the state flag and calling for the overthrow of the existing constitutional order, in violation of Decree No. 5. Commenting afterwards on the court's judgment, he told journalists, "This is the beginning of a reprisal against the opposition Supreme Soviet ... at the hands of judges and prosecutors. One should not expect our courts to be fair, because all decisions are predetermined and the judges follow the orders they receive from above."

10.12 At such events the security forces act in a way that suggests they detain people indiscriminately. According to an eyewitness statement, a woman walking with her 11-year-old daughter in the unauthorized procession on 23 March 1997 had a Belarusian national flag snatched out of her hand by riot police (commonly known as "black berets") who attempted to manhandle mother and daughter into a police car. They resisted with the assistance of bystanders, and the girl was tugged one way and another between the police and bystanders till eventually the police desisted. This episode is consistent with accounts by other people detained on demonstrations, who have said that on these occasions the police appear to be aiming to round up enough people to fill the police van, then drive off and deliver them to the police station where they are detained and charged. On the day of this particular protest, involving about 10,000 people, around 70 were reported to have been detained, although some estimates of the number of detainees were considerably higher.

BELARUS: Freedom of Expression
Submission to UN Human Rights Committee - July 1997

10.5 In the past year or so, with heightening political tensions over the plans for strengthening links with Russia and the intense dispute over the constitutional changes, together with the clampdown on other forms of freedom of expression, political opposition has sought expression in political demonstrations. Many such demonstrations have been unauthorized, and participants and organizers have been arrested and charged with public order offences. On some occasions the police have used an alarming degree of violence against demonstrators. While in some cases there has been violence on both sides, in many cases such beatings by the police have apparently been unprovoked or out of all proportion to any provocation. Some people who have been detained at demonstrations have also stated that they observed other detainees being beaten after being taken into police custody.

10.6 The authorities have at times accused the media, particularly the Russian television channels, of provocative reporting of demonstrations. This appears to have been one of the main reasons for the measures taken against the Russian broadcasters, as well as for the obstruction and intimidation of journalists generally - particularly photo- and video-journalists -- attempting to cover demonstrations. For their part, the state-owned media have apparently, at least at times, played down such events.

10.7 At the end of April 1996, during police dispersal of an unauthorized demonstration in Minsk on the 10th anniversary of the Chernobyl disaster, large numbers of people were beaten and over 200 reported detained, including around 20 leaders of the Belarusian Popular Front. About half the detainees were released within two or three days. The remainder were brought to court, and many were sentenced to prison terms ranging from a few days to a month on public order charges. Two leaders of the Belarusian Popular Front were held pending trial on more serious charges, but after going on hunger strike (as a result of which one of them had to be hospitalized) and sustained protests, in Belarus and internationally, on their behalf, they were conditionally released on medical grounds.

10.8 On 19 October 1996 a protest demonstration was held in Minsk as an alternative event to the All-Belarusian Congress, an ad hoc assembly convened by the President to demonstrate support for his proposed constitutional changes. The demonstration itself was reportedly peaceful, but several participants were reported to have been detained later, after it had dispersed.

10.9 In mid-February 1997 the youth wing of the Belarusian Popular Front held an unauthorized march in Minsk under the slogan "Belarus into Europe", during which they delivered appeals to several embassies. Tear gas was used to disperse the marchers and, according to press reports, over 20 people were taken into custody by the police (some estimates were that the number detained was considerably higher). In one case...

political and social situation in the Republic of Belarus, in violation of Presidential Decree No. 5, and he received the minimum penalty of an official warning.

10.17 But while he received only the minimum judicial penalty, it had serious non-judicial consequences. His university was informed of his case, and university officials told him that they had the right to expel him on this account, although they would be unlikely to take such action immediately. However, he was warned that as a result of this he would be likely to fail his next examination, which would result in his expulsion.

10.18 This account is consistent with other reports of victimization of students who have participated, or who have been accused of participating, in demonstrations and protests. For example, at the end of March 1997 it was reported that a student serving a ten-day prison sentence for his part in organizing a student protest rally some days earlier had been expelled from the Belarusian State University. It was also reported around the same time that in many higher educational establishments in Minsk the students were being required to sign an undertaking not to take part in unauthorized demonstrations, and that police and school authorities were searching students' rooms and removing national symbols from the walls. This is a clear violation of the right to free expression and free assembly under Articles 19 and 21 of the Covenant.

11. Conclusion

11.1 Many media professionals and human rights activists in Belarus take the view that the situation for freedom of expression has deteriorated significantly since around the beginning of the 1990s. While the level of freedom of expression in that earlier period must not be exaggerated, and state controls were never entirely removed, there had been a significant relaxation in the middle and late 1980s in the USSR. With the political developments surrounding the emergence of Belarus as an independent state in 1991, it was hoped that there would be a greater degree of respect for human rights in the future, and in particular a greater degree of freedom of expression.

11.2 But, as in other former USSR states, the previous legal and political structures in Belarus have not been fully dismantled. For example, the media outlets formerly owned by the Communist Party were simply taken over by government structures, which are in many cases run by the same people who had formerly been running the Communist Party structures. The perpetuation of former structures and procedures, albeit in a different guise,

and the persistence of attitudes from earlier years, has obstructed the development of plurality in the media and freedom of expression generally.

11.3 With regard to the broadcast media, it is clear that at the government level expectations persist that the role of public sector broadcasters is to support and act as a mouthpiece of the government. This has been ensured by continuing political controls -- albeit no longer formally acknowledged as censorship -- within the state sector. Such a role is inconsistent with that of a public service broadcaster, which is to ensure the full representation of a plurality of views and balanced information from government and independent sources on matters of public concern. The expectation that public sector broadcasters have a duty to support the government is particularly dangerous in a situation where the state has a monopoly or near-monopoly of the broadcast media. Moreover, in Belarus the state has actively used its monopoly position to force off the air non-state broadcasters which have attempted to provide alternative information and views on matters of public concern. The result is that the only non-state domestic broadcasters able to function are those which carry light entertainment with no substantial material on matters of public interest.

11.4 But the events described in this paper show that it is not simply the persistence of former structures and habits of thought which pose a threat to freedom of expression in Belarus. The authorities have actively suppressed freedom of expression and obstructed such efforts that have been made, not only in the non-state sector, but also by media professionals working in the state sector, to develop plurality in the media, particularly in the crucial broadcasting sector.

11.5 While the degree of control over the printed media is less complete, it cannot be said that the printed media operate freely. The harassment and intimidation described in this paper is bound to lead to a degree of self-censorship, especially when the financial resources of the publications are so limited and their economic viability is threatened by these restrictive measures. In these circumstances, financial support to the media such as has been provided by the Belarusian Soros Foundation and other institutions is particularly important. The potential loss of such sources of financial support is likely to have a grave effect on the prospects for freedom of expression in the future and, together with the re-registration requirements and the amendments to the Law on Press recently proposed by the government, the implications are very disturbing.

11.6 These restrictions on the media are just one element of a broader political context of a tightening of restrictions on freedom of expression generally, in the media, in the political sphere and for individuals, which have had consequential effects on other aspects of human rights. The restrictions on political demonstrations have not only undermined the right to free assembly, but also reveal deficiencies in protection against arbitrary

arrest and the right to fair trial. The restrictive provisions on the use of the telephone system have disturbing implications for the right to privacy. And the events surrounding the elections and referendums have shown how state monopolization of the media effectively deprives the population of their right to participate in genuine elections guaranteeing the free expression of the will of the electors.

11.7 The suppression of freedom of expression also has other disturbing consequential effects within the sphere of freedom of expression itself. One effect of it can be an increasing polarization, as any media which are relatively free of government control may attempt to redress the gross imbalances caused by the government's abuse of its near-monopoly position; this in turn induces the government to claim justification for further repressive measures. An example of this is what happened during the November 1996 referendum in the case of the Russian broadcasting media, which were the only audiovisual media to present an alternative point of view to the electorate: the authorities responded to what they perceived as partisan presentation by the Russian television channels, by citing it in justification of their own partisan use of the state media and of the measures they took to suppress or restrict the operation of the non-state domestic media.

11.8 The result is that the reality in Belarus with regard to freedom of expression bears no relation to its constitutional provisions or laws which are meant to provide for that freedom. These supposedly protective provisions are not applied or are overridden by other, restrictive, provisions which contradict them. One very clear example of this is the Law on Press which contains some apparently fine statements of principle, but the parts of it which are applied in practice are its restrictive elements. Moreover those restrictive provisions are applied in a repressive and arbitrary manner, with no effective possibility of recourse to the courts to uphold constitutional or legal provisions on freedom of expression. The amendments to this law proposed in June 1997 indicate the authorities' apparent intention to crack down still further on the free operation of the media, and underscore the inescapable conclusion that the provisions in the Law on Press which supposedly provide for the legal protection of freedom of expression are in reality no more than cosmetic.

11.9 Moreover, in addition to the profoundly disturbing proposals for amendments to the Law on Press, other restrictive measures have been introduced in recent months, such as Presidential Decree No. 5 regulating demonstrations, the decree on border controls, and the revised telephone contract. Such initiatives raise the most serious doubts about the commitment of the authorities to protect human rights in the area of freedom of expression and information. In such a climate administrative measures such as the requirement for re-registration of the media can only be regarded as ominous.

11.10 But even if (which has not happened in Belarus) repressive legislation is removed and replaced by more positive provisions, freedom of expression cannot be assured by legislation alone. It requires also the establishment of the procedures, mechanisms and processes necessary to ensure the implementation in practice of positive legislative provisions. This includes taking active steps to make the necessary changes in organizational structures and to ensure that those working within those structures, whether in the state sector media, in the judiciary, or in the administration of the government itself, are properly aware of, and carry out their duties in conformity with, relevant national legal and constitutional norms and with Belarus's international human rights obligations. This is essential to ensure the protection of freedom of expression and related rights which depend on it, and to ensure that the only limitations applied are in full conformity with international human rights standards and in particular the International Covenant on Civil and Political Rights.