

# MONITORING REPORT ON DEVELOPMENTS IN BELARUS

## MARCH – OCTOBER 2009

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### EXECUTIVE SUMMARY

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

The Belarusian government's policies have remained largely unchanged since the March 2009 monitoring report<sup>1</sup> was released. While isolated concessions were made to the political opposition and civil society that allowed them carry out some activities without harassment, repressive measures remained in place and continued to be enforced on a selective basis. No significant changes have been made to the legal framework that would indicate a substantive shift in the government's authoritarian politics. With local and presidential elections scheduled for 2010 and 2011, substantive amendments to current legislation and the transparent implementation of legal norms are necessary prerequisites for conducting free and fair elections that would demonstrate real progress in Belarus.

Some positive trends were noted during the period under review, including:

- A number of national meetings convened by independent organizations and political parties were allowed to take place without hindrance;
- Repressive amendments to the controversial Media Law were not enforced;
- Re-registration of the mass media is proceeding in a generally positive manner;
- Some independent organizations and newspapers were successfully registered;
- Fewer administrative arrests and no politically motivated expulsions were noted.

Unfortunately, a number of negative trends continued, including:

- The government's persistent refusal to register key independent public associations, political parties, trade union branches and newspapers based on dubious grounds;
- The government continues efforts to control and monopolize Belarus' information space;
- The criminal conviction of a civic activist under Article 193-1 for working for an unregistered civic organization;
- The forced conscription of two youth activists into the military;
- The discussion of legislation in Parliament which would expand the grounds for denying registration to public associations;
- Stepped up government pressure on independent trade unions and back-sliding on reform promises made earlier in the year;
- Continued repression of believers and denominations based on their religious beliefs;

Contrary to claims made in a September 2009 Belarusian government Non-paper, this report demonstrates that the authorities have made little progress towards meeting EU expectations for genuine reforms or undertaken comprehensive efforts to meet international standards. Most importantly, the government has not amended or repealed any legislation that limits basic freedoms in Belarus. Civil society in Belarus considers the current "liberalization" to be cosmetic changes and rhetoric, rather than concrete reforms.

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<sup>1</sup> For an appendix of organizations cooperating on this monitoring project and copies of reports on the periods October 2008 – January 2009, January – March 2009 and March – September 2009, please contact [biim@eedc.org.pl](mailto:biim@eedc.org.pl).

## CRITERIA

In light of the developments, or lack of, during this reporting period, it is clear that the Belarusian government has done little to improve the situation of civil society. To date, the dialogue between the state and civil society has not produced concrete change. The government has highlighted consultations, meetings, advisory bodies and promises of reform at the expense of implementing tangible reforms.

Civil society expects that, before the EU improves relations with Belarus, the government must demonstrate real progress in the five areas of concern elaborated by Brussels: electoral legislation, freedom of the media, freedom of assembly, freedom of association, and the situation of civil society. In April, the European Parliament insisted that civil society must be included in the EU's dialogue with Belarus.<sup>2</sup> In this role, civil society has identified concrete criteria with which to measure progress during the dialogue. Belarus' civil society strongly believes that improvements in EU-Belarus relations should only take place in tandem with tangible improvements in meeting these criteria by the government.

Regarding independent media:

- Ceasing all government pressure against independent media outlets and journalists;
- Bringing Belarus' media legislation in line with international standards;
- Returning all independent newspapers to the state-controlled printing, subscription and distribution services;
- Accrediting journalists of foreign media outlets and permitting them to open representative offices in Belarus;
- Voiding the libel, defamation, extremism and other articles of the Criminal Code that are used to threaten and prosecute independent journalists and media outlets;
- Abolishing the pertinent regulations in the Law "On Public Service" and Presidential Decree No.65 which restrict access to information.

Regarding freedom of assembly:

- Enacting changes to the Electoral Code to bring it in line with OSCE standards;
- Ending the use of force against peaceful civil society and political demonstrations;
- Bringing the Law "On Mass Actions" into accordance with international standards;
- Declaring amnesty, pardon or parole for all those convicted in the "Case of the 14";
- Permitting an independent investigation and open trial of the case of the imprisoned entrepreneurs and activists Messrs. Avtukhovich and Osipenko;
- Ceasing the criminal persecution on economic grounds of civil society activists.
- Bringing the Law "On Religion" into accordance with international standards and ceasing the repression of all believers and denominations.

Regarding freedom of association:

- Registering all political parties, NGOs, trade unions, and media outlets seeking to participate in Belarus' civil society;
- Abolishing Article 193.1 of the Criminal Code, which criminalizes activities on behalf of unregistered organizations;
- Suspending amendments being considered to the Law "On NGOs" which would restrict freedom of association;
- Simplifying the registration procedures of independent civil society organizations.

Regarding the improvement of the situation of civil society:

- Continuing a moratorium on political prisoners;
- Halting the criminal and administrative persecution of civil society activists;

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<sup>2</sup> "European Parliament urges Minsk to make progress on democracy," BelaPAN, 2 April 2009.

- Ceasing all politically motivated expulsions or exclusions of activists from places of study and work;
- Abolishing the forced military conscription of democratic activists and establishing a system of alternative military service;
- Declaring an immediate moratorium on the death penalty.

## RECOMMENDATIONS

In March 2009, EU foreign ministers decided not to reimpose travel sanctions and agreed to extend their suspension by 9 months in order to encourage the Belarusian government to strengthen ties with the EU and carry out "further concrete measures towards democracy and respect for human rights and fundamental freedoms." However, numerous EU representatives have subsequently noted that no sustained reform has followed. In October, for example, Reinhold Brender, deputy head of the unit for relations with Belarus in the EC's Directorate-General for External Relations, noted that a lack of positive steps and systematic democratization is preventing further rapprochement between Belarus and the EU.<sup>3</sup>

The EU has echoed Belarusian civil society in calling for more systematic and swifter change. In April, the European Parliament urged the Belarusian government to make "substantial progress" on democratic reforms. The resolution called for equal rights for all media and greater freedom of association, assembly and religion. Belarus' civil society shares the EU's disappointment over – and this report confirms – the lack of recent positive signals and steps. President Lukashenka has declared "some speculate now that on the eve of the EU Council's meeting...we'll try to liberalize something to please Europe. This is what I caution our foreign ministry and government against. We should by no means do anything on this occasion."<sup>4</sup> In November, the EU will again consider further relations and the issue of sanctions. Belarus' civil society offers the following five recommendations to promote more tangible and consistent change:

- 1. No progress on cancelling the visa sanctions against officials of the Belarusian government should be made without significant progress on meeting the criteria outlined above.**
- 2. The suspension of sanctions should be extended for a period of 18 months. This would provide time to facilitate consolidation of the symbolic changes introduced by the Belarusian government and ensure that there will be no return to the poor human and civic rights situation prior to October 2008. It is important that this further suspension period will cover the period of the 2010 local and 2011 presidential elections in Belarus.**
- 3. Within the framework of the Eastern Partnership, the EU should produce a comprehensive progress report on developments in Belarus during the period of dialogue. The review and report should be based on concrete criteria such as those outlined above and include the opportunity for civil society input.**
- 4. Belarusian civil society should have the opportunity to contribute, comment on, and provide independent input to the EU-Belarus Dialogue at all stages of the process.**
- 5. The European Union, EU Member States and the OSCE should enhance their presence in Belarus to enable more accurate monitoring of developments in Belarus. Where appropriate assistance should be increased to facilitate the adaptation by the Belarusian government of reform measures.**

<sup>3</sup> "Absence of positive steps by Belarus prevents further rapprochement with EU, says European Commission official," BelaPAN, 2 October 2009.

<sup>4</sup> "Lukashenka warns EU against putting pressure on Minsk," BelaPAN, 21 October 2009.

**A more detailed monitoring of the March – October 2009 Period in Belarus follows:**

## **FREEDOM OF THE MEDIA**

Despite some symbolic and isolated gestures on the part of the authorities, major constraints on freedom of expression remain unchanged. In its recent Non-paper, the Belarusian authorities claim that significant progress has been made. Closer scrutiny reveals that certain claims are, at best, exaggerated and are not tied to any systematic changes that would indicate tangible progress.

During the period under review, several international meetings concerning media freedom were convened.<sup>5</sup> On a positive note, the meetings included both state-controlled and non-state media representatives. The Civic Coordination Council for Mass Media under the Ministry of Information, which includes independent media representatives, met twice. While civil society welcomed the opportunity to provide input, this body serves only an advisory role and has, to date, produced no concrete result.

In September, a visiting international delegation of media freedom groups noted an easing of pressure against media and journalists but also condemned unequal economic, legal and regulatory treatment of independent outlets. The delegation called for a “lasting commitment to ensure the rights of journalists and undertake much needed reforms of the media environment. Such changes need to be far reaching and irreversible.”<sup>6</sup>

### **New Media Law**

In general, the implementation of the new Law on Media, widely criticized by the EU and international organizations, has been without controversy. Re-registration of media outlets has gone smoothly and newspapers were not required to incur additional costs. Nevertheless, the mandatory registration of media with state entities by itself contravenes international standards of freedom of expression.<sup>7</sup> As of 1 October 2009, 557 print outlets and news agencies (including 402 non-state media) had been re-registered.<sup>8</sup>

The authorities have instituted a moratorium on implementing the flawed articles of the Media Law concerning online outlets. These articles would essentially treat electronic media like its print and broadcast counterparts, allowing the state to curtail freedom of the Internet. To date, the government has respected its moratorium, but the Law remains unchanged and in force. It continues to fall short of meeting international free media standards and still includes a number of repressive provisions that can be used to silence critical voices in the run-up to elections or on other politically sensitive issues.<sup>9</sup> While the government’s Non-paper notes that it has refrained from using these restrictive powers, there is no guarantee it will not do so in the future.

### **Other Legal Issues**

A positive development was the closing of the case against the independent magazine *ARCHE*. Charges were brought under the Law “On countering extremism” in February 2009

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<sup>5</sup> Two OSCE supported forums addressing “Mass Media in Times of Global Economic Crises. Forming of Social Attitudes of the Population,” convened on 6-7 May 2009, and a seminar on media self-regulation on 8-9 September 2009.

<sup>6</sup> Statement, International Mission to the Republic of Belarus, 20-24 September, 2009. For further information, please contact [marc.gruber@ifj.org](mailto:marc.gruber@ifj.org).

<sup>7</sup> See: [BAJ Media Monitoring Report #3 \(14\) May - August 2009](#).

<sup>8</sup> See: <http://mininform.gov.by/smi>.

<sup>9</sup> “Dormant repressive provisions of Media Law can be used during presidential elections,” BelaPAN, 18 August 2009.

for publishing allegedly extremist materials, but were withdrawn, following an appeal in May. Despite the case's favorable resolution, the government has not brought the Law, which has been used against other pro-democracy media materials, in line with international standards and practices.

The government has made no progress in amending or voiding libel, defamation and other articles of the Criminal Code that are used to threaten and prosecute independent journalists and media outlets, specifically Article 367 "Slander in relation to the President of the Republic of Belarus," Article 368 "Insult of the President of the Republic of Belarus," Article 369 "Insult of representatives of the authorities," Article 369.1 "Discrediting the Republic of Belarus," and Article 193.1 on criminalizing activities on behalf of non-registered organizations (see below).

Also troubling is the introduction of new regulations restricting access to information. Changes to the Law "On Public Service" approved on 15 July 2008 oblige all public employees to first obtain their superiors' approval before participating in interviews. Presidential Decree No.65 (6 February 2009) now limits those authorized to provide information at all state institutions and state-owned organizations to spokespersons controlled by the Office of the President. These restrictions will further hinder access to state information, already a daunting problem for the independent media.

### **Registration of Publications**

Some progress has been made in the process of registering new media outlets. The requirement of obtaining special permits from the local authorities where the outlets would be based has been eliminated. As of 1 October, 97 new print media have been registered since the beginning of 2009. While 92 of the editions are non-state publications, the majority are non-political outlets focusing on entertainment and advertising. Only a few are independent political and news publications, and they tend to be quite small. The first registered, *Uzgorak*, is an independent weekly with circulation of only 1,000 copies that is distributed in three districts of Mogilev region. But in the months since it began publishing, the paper has reported encountering obstructions from the state-run *Belsojuzpechat* distribution network that have constrained its sales.<sup>10</sup>

During this period, the government refused to register three new non-state publications: *Soligorsk Plus* (Soligorsk), *Novaya Gazeta Bobrujska* (Bobrujsk) and *Mahiliouski Chas* (Mahilau). The refusal of the first two was because their editorial boards were based at private addresses. The government's refusal to register the third was due to its editor-in-chief not having a higher education degree, despite the fact that the registration procedure does not require any specific information about editors' schooling.<sup>11</sup>

### **Free Dissemination of Information**

Two independent newspapers have been granted access to the state-run *Belsojuzpechat*, which has a monopoly on distribution in Belarus, and have been available at news stands since mid-July. In 2009, the local *Bobrujski Kurier* and *Volnaje Hlybokae* joined the national *Narodnaya Volya* and *Nasha Niva* in state kiosks (the latter were added to official distribution lists in November 2008). At the same time, almost half of the country's registered independent social and political publications, 12 of 25, were refused contracts with *Belsojuzpechat* and *Belpochta*, the state-run subscription monopoly, because their small circulations and sales

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<sup>10</sup> Source is the publisher of *Uzgorak*.

<sup>11</sup> See <http://baj.by/m-p-viewpub-tid-1-pid-7469.html>

made them unprofitable to carry.<sup>12</sup> Each of the 12 publications, however, has a circulation well above *Uzgorak*'s 1,000 copies – and many have circulations over the 5,000 copies that *Narodnaya Volya* and *Nasha Niva* are limited to by their state-imposed contracts. *Tovarishch*, *Intex-Press*, and *SNPlus – Svobodnyje Novosti Plus* have circulations of over 20,000 copies each. The state monopolies ignored the recommendation of the Public Coordinating Council for the Media to sign contracts with the independent publications.

The Belarusian authorities continue efforts to restrict foreign media broadcasting from abroad. The Ministry of Foreign Affairs has refused to issue accreditation to correspondents of the Poland-based BelSat, Radio Racyja, and European Radio for Belarus, as well as journalists working for other foreign media. In Belarus, “cooperating with foreign media outlets without accreditation” continues to be an administrative offense subject to fines. For this “offense,” the Belarusian Association of Journalists (BAJ) reports that at least 14 media workers have received official warnings from Prosecutors’ offices or the KGB.<sup>13</sup> The government continues to ignore appeals made by the European Parliament,<sup>14</sup> PACE and other European institutions to simplify accreditation procedures for domestic and foreign correspondents and to register a local representation of the BelSat TV channel.

In October, the Belarusian Ministry of Information forced Avtoradio, a private FM station in Minsk, to take the daily “EuroZOOM” news and music show off the air. Produced jointly with the Warsaw-based European Radio for Belarus, “EuroZOOM” is co-funded by the European Commission within the framework of the European Neighborhood Policy.<sup>15</sup>

Since the new Media Law came into effect, the government continues to maintain control over Belarus’ information space. The few positive changes that have taken place have proved to be symbolic and were driven by the EU-Belarus Dialogue Process. The controversial Media Law remains in force and poses a threat to independent media if the current favorable international environment changes for the worse.

## **FREEDOM OF ASSEMBLY**

During the reporting period, there were both positive and negative developments in the field of freedom of assembly. The number of administrative actions against democratic activists decreased significantly compared to the same period one year ago. From October 2008 to September 2009, there were 12 cases of administrative arrest and 82 cases of fines,<sup>16</sup> compared to 185 administrative arrests and 166 fines during the same period from the previous year. Nevertheless, such actions continued to be used to disrupt public protests and prevent the distribution of independent publications.

### **Electoral Legislation**

The Belarusian government and the OSCE agreed to revise the Electoral Code after the 2008 parliamentary elections that international observers declared fell short of democratic standards. A working group to draft amendments held two rounds of discussions in February-March, but did not include representatives of civil society or opposition political parties. Draft proposals were developed by a governmental expert group in May and circulated for study by government agencies during the summer. In October, the Central Election Commission

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<sup>12</sup> *Tovarishch*, *Novy Chas*, *Borisovskie Novosti*, *Vitebskij Kurier M*, *Hazeta dla Vas*, *Hazeta*, *Intex-Press*, *Gazeta Slonimskaya*, *Hanzavicki Chas*, *Niasvizhski Chas*, *SNPlus - Svobodnyje novosti plus* and *ARCHE-Pachatak*.

<sup>13</sup> See [BAJ Media Monitoring Report #3 \(14\) May - August 2009](#). In a recent incident on 29 August, Dmitry Kissel received a phone call warning of prosecution if he did not cease his cooperation with *Radio Racyja*. See [Dmitry Kisel gets a verbal warning](#),” Radio Racyja, 24 September 2009.

<sup>14</sup> [European Parliament resolution on the EU strategy towards Belarus](#), 14 January 2009.

<sup>15</sup> “Information ministry forces radio station to take show off the air,” *BelaPAN*, 5 October 2009.

<sup>16</sup> “Viasna” Human Rights Center.

declared that it has proposed amendments to Belarus' Electoral Code that would meet recommendations made by experts from OSCE's Office for Democratic Institutions and Human Rights (ODIHR). But with local elections scheduled for early 2010, a bill has yet to be drafted and no specific date has been set for its consideration by the National Assembly during its fall session.

### **Excessive Police Force**

Human rights activists noted the increased frequency of the use of excessive police force against public meetings organized by civil society and the political opposition. As the Belarusian Helsinki Committee reported, "Most of the demonstrations staged in 2009 by political parties, nongovernmental organizations and groups of citizens were forcibly ended by police officers."<sup>17</sup>

Recent examples include meetings to commemorate the 10<sup>th</sup> anniversary of the disappearance of two opposition figures held on 16 September and 16 October. On both dates, about 30-40 people gathered in Minsk's downtown Kastychnitskaya Square to mark the decade since the disappearance of Viktor Hanchar and Anatol Krasowski.<sup>18</sup> In both cases, the peaceful "We Remember" meetings were immediately attacked by police and the participants, including prominent political opposition and civil society figures, arrested. In both cases, brutal force was employed against peaceful protesters. Sweden, which currently holds the EU presidency, voiced concern about the use of force against the 16 September protestors. The presidency urged the authorities to "refrain from the use of force in dealing with peaceful demonstrations."<sup>19</sup>

### **Politically-motivated Detentions**

Four of the 14 young participants detained following a January 2008 protest, "The Case of the Fourteen," were freed in accordance with the 2009 "Amnesty Law."<sup>20</sup> Ales Straltsou and Ales Chernushov's restriction of freedom sentences were commuted to correctional work, though their lawyers maintained that they should have been included in the amnesty; Mr. Straltsou's appeal was rejected in September.<sup>21</sup> Two other participants were found guilty of evading their sentences under Article 415 of the Criminal Code and are serving time: Artiom Dubskiy was sentenced in July to one year of imprisonment and Maksim Dashuk was sentenced in June to 15 months of restricted freedom. Three other youth activists of the "14" remain outside of the country and wanted by the police.

Following six months of pre-trial detention, Yuriy Leonov – one of three politically active entrepreneurs from Volkovysk arrested in February on suspicion of arson and conspiracy to murder state officials<sup>22</sup> – was released and charges were subsequently dropped. Nikolai Avtukhovich and Vladimir Osipenko remain in pre-trial detention. According to a Ministry of Internal Affairs press statement issued in August, the case now falls under Article 359 of the Criminal Code "Act of terrorism," which carries a possible death penalty sentence. In April, Mr. Avtukhovich launched a hunger strike lasting 91 days, the sixth since his detention, and the longest in Belarus since 1991. In the view of many opposition politicians and human rights defenders, the arrest and detention of the Volkovysk entrepreneurs is politically motivated and

<sup>17</sup> "Belarusian Helsinki Committee asks for personal meeting with Interior Minister Kulyashov over police crackdowns on peaceful demonstrations," BelaPAN, 22 September 2009.

<sup>18</sup> On 16 September 1999, the opposition politician Viktor Hanchar, a former member of parliament and head of the Central Election Commission, and his friend Anatol Krasowski, a businessman supportive of the opposition, disappeared in Minsk. To date, their fate remains unknown. They are widely presumed to have been abducted and executed by figures connected with the government.

<sup>19</sup> "EU expresses concern over police crackdown on demonstration in Minsk," BelaPAN, 17 Sept 2009.

<sup>20</sup> Legal Information Data Bank, 5 May 2009. See [here](#).

<sup>21</sup> "Viasna" Human Rights Center, 14 September 2009. See [here](#).

<sup>22</sup> The Committee for Defense of the Repressed "Salidarnasc," See [here](#).

the authorities have delayed the investigation. In contrast, a foreign expert hired by the OSCE Minsk office to examine the case reportedly found the detention to be legal which was contested by leaders of the democratic opposition.

### **Obstruction of Meetings**

In a positive development, some major civil society organizations and opposition political parties were granted permission to hold events during this period with relatively minor obstructions. Notable events included the congresses of the Belarusian Association of Journalists, Belarusian Party of Communists, and Belarusian Popular Front.

However, the government continued to regularly harass and hinder public meetings organized by or including civil society and political opposition figures. A recent example was the 8 October “public hearing” on the environmental impact of a controversial nuclear power plant to be built in the Astravets area. There was a heavy presence of plainclothesmen who stopped and searched those attending the meeting. Some political figures, like Anatoly Lebedko, leader of the United Civic Party, were not allowed to enter. The Russian environmentalist Andei Ozharovsky, who attempted to participate, was arrested by plainclothesmen and taken to the Astravets district police station.

The government’s practice of refusing to provide the premises required to convene cultural, social or political events continues. For example, the World Alliance of Belarusians “Batskawshchyna” experienced great problems in obtaining premises for its 18-19 July congress; it proved successful only after receiving 19 rejections. In October, the final of 11 requests by the Belarusian Christian Democracy party for a venue to hold its founding conference was rejected. The party intends to hold the conference outside, in Minsk’s Kastychnitskaya Square. A number of other opposition political parties, such as the United Civic Party and the Svaboda Social Democratic Party, have experienced problems in obtaining government permission and venues for party-related meetings.

## **THE SITUATION OF CIVIL SOCIETY**

Despite some minor improvements regarding the human rights situation in comparison to the previous six-month period, restrictions on fundamental freedoms and political reprisals against young political and civic activists, as well as religious and ethnic minorities, continue. While activists are still imprisoned, the authorities have generally adopted more subtle forms of repression, including forced military service and “restricted freedom” (house arrest) to control opponents and dissenters.

The declaration of the Belarusian government’s readiness to enter into a dialogue on human rights issues with the EU is welcomed, as was its participation in initial consultations in Prague in June 2009. The Belarusian side subsequently forwarded the information requested from these consultations to the Czech MFA and General Secretariat of the EU Council. But other than this process, there has been little improvement of the overall human rights situation inside Belarus, aside from the release of the US lawyer Emanuel Zeltser from prison.<sup>23</sup>

### **Repression of Youth Activists**

While the government continues to target and repress young activists, no students have been expelled from educational establishments on politically motivated grounds in 2009. However, pressure on students by the KGB and administrators continues. In May, Piotr Ruzau, a

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<sup>23</sup> Mr. Zeltser was arrested under unclear circumstances on 12 March 2008 and sentenced to three years in prison for “using false official documents” and “economic espionage” following a closed trial. An appeal to the Supreme Court was denied on 31 October 2008, also in a closed hearing. For further information on the case, see [here](#).

politically active student at Baranovich State University was shown an order for his expulsion that was cancelled the next day by the rector, who warned the student that if he was detained again he would be expelled.<sup>24</sup>

Another means of pressuring youth activists employed by the government is forced conscription. This punitive behavior has become less frequent since human rights defenders and the EU highlighted the shameful practice. The government denies all allegations of “politically-motivated” conscription as “absolutely unfounded.”<sup>25</sup> Yet during this period, two new cases occurred.

Since 2007, the authorities have persecuted Andrey Tsyanyuta for being an activist of the unregistered youth group Malady Front. In February 2009, he was arrested and fined for taking part in an unauthorized protest. In May, he joined a hunger strike in solidarity with imprisoned entrepreneur Nikolai Avtukhovich (see above) and in June, his apartment was raided by the police. In August, he was forcibly taken to a military recruitment office in Homyel for a medical exam. After again being arrested for peacefully protesting on 16 September and despite being earlier declared medically unfit for military duty, Mr. Tsyanyuta was forced to begin military service on 25 September.<sup>26</sup>

In September, Yauhen Skrabets, an activist of the unregistered youth group Malady Front from Brest, was forcibly conscripted into the military. After being detained and placed in a hospital, he was certified by a medical board as fit to serve despite a serious back condition. On 21 September he was sent to a military unit.

In addition, on 8 October the National Assembly began considering a new version of the Military Servicemen Status Law that would provide penalties for conscripts participating in political activities. A leader of the Belarusian Helsinki Committee declared: “I can’t think of any country in Europe that has legislated penalties for military personnel participating in political activities.”<sup>27</sup>

### **Religious Persecution**

During this period, the government continued to restrict the rights of certain religious groups. During the reporting period, the authorities maintained its persecution of the New Life Church.<sup>28</sup> In 2002, the Church bought a cowshed from a collective farm and converted it into a prayer house. In 2007, the government began a legal process to confiscate and demolish the prayer house. A September preliminary hearing marked the 27<sup>th</sup> time the Church as gone to court to defend its rights. On 7 October, the Minsk City Economic Court upheld an eviction order. The Church has appealed to the UN Human Rights Committee to consider the case.<sup>29</sup> A land permit for the Evangelical Protestant Grace Church, issued in 2005, was revoked in October by the city government of Navapolatsk. This is the third time in 15 years that the religious community has had its land permit revoked.<sup>30</sup>

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<sup>24</sup> “[Activist is renewed at his university after case becomes public](#),” Radio Free Europe, 29 May 2009.

<sup>25</sup> Belarus Non-Paper – extended version, September 2009.

<sup>26</sup> “Young opposition activist Andrey Tsyanyuta condemns his recruitment into army as illegal,” BelaPAN, 23 September 2009.

<sup>27</sup> Tatsyana Hatura, deputy chair of the Belarusian Helsinki Committee, quoted in “Rights defenders condemn plans to introduce penalties for conscript soldiers participating in political activities,” BelaPAN, 8 October 2009.

<sup>28</sup> Registered in 1992, the New Life Church is one of the largest communities of the Association of Full Gospel Christians and claims more than 1,000 members in Belarus.

<sup>29</sup> “Minsk City Economic Court to hear eviction suit against New Life Church on October 7,” BelaPAN, 21 September 2009.

<sup>30</sup> “Union of Evangelical Faith Christians appeals to Lukashenka over Navapolatsk authorities’ refusal to provide land plot to Grace Church,” BelaPAN, 23 October 2009.

On September 27, Belarusian State Television's "Panorama" news show attacked the unregistered Belarus Christian Democracy party, labeled it a sect, and claimed its ideology was incompatible with Christianity.

### **Capital Punishment**

Belarus remains the only country in Europe and the post-Soviet region where the death penalty remains a sentencing option and prisoners are executed. Two people were sentenced to death in Belarus in 2008. The European Union and many international organizations have long called on Belarus to declare a moratorium on capital punishment. On 23 June, the Council of Europe (CoE) adopted a resolution declaring that Belarus would be eligible to regain its Special Guest Status in PACE only after abolishing the death penalty. Although high-ranking officials claim that Belarus is ready to declare a moratorium, two death penalty sentences have been recently handed down by the Brest and Minsk regional courts. On October 9, Samuel Zbogar, chairman of the CoE Council of Ministers; Lluís Maria de Puig, president of the CoE Parliamentary Assembly; and CoE Secretary General Thorbjørn Jagland issued a joint statement expressing "deep concern" about the fate of Vasil Yuzepchuk, a 30-year-old Belarusian citizen who is facing imminent execution. Mr. Yuzepchuk's final appeal was rejected by the Supreme Court on 2 October. He has complained to the UN Human Rights Committee that he was denied a fair trial and tortured and his case has been raised by Amnesty International. On 8 October, local authorities banned a protest against capital punishment in Baranavichy to mark the "World Day Against the Death Penalty." Despite an ongoing international dialogue on improving its penal system, Belarus continues to have one of the world's highest prison populations and the second highest in Europe.<sup>31</sup>

### **FREEDOM OF ASSOCIATION**

After a promising start, the registration of independent civic organizations has stalled and remains a critical issue for civil society in Belarus. At the close of 2008, after the registration of the "For Freedom" Movement, there was cautious optimism among independent activists that the registration of other civic organizations would follow. In 2009, however, virtually no independent civil society groups or political parties succeeded in obtaining registration. The six months covered by this report witnessed only a series of high profile rejections. The total number of registered public associations remains roughly the same as compared to previous years. According to the Ministry of Justice, during the period January - June 2009, the Ministry registered only 47 new public associations, none of them notable. Despite the rhetoric of "liberalization," the number of newly registered public associations in 2009 is set to be the lowest in the last three years.

#### **Denial of Registration**

More than a dozen high profile civil society organizations were denied registration in 2009. Among the national organizations refused by the Ministry of Justice during this reporting period were the Assembly of Pro-Democratic NGOs, the Belarusian Christian Democracy party, the Party of Freedom and Progress (fourth attempt since 2003), Belarusian Party of Working People, and the "Youth Christian Social Union" and "Young Social Democrats" groups. The situation with local organizations proved to be no better; the youth group "MODES" (Mahileu), cultural association "Spadchyna" (Harodnia) and human rights group "Berastejskaya Viasna" (Brest) were denied registration, the latter for the third time. No new political party has been registered in Belarus since 2000.

The government again denied the registration of the "Nasha Viasna" human rights NGO (its third attempt, second in 2009). "Nasha Viasna" (Our Spring) is the successor organization to the "Viasna" Human Rights Center, one of Belarus' leading human rights groups, which was

<sup>31</sup> "Belarus has one of world's highest prison population levels, expert says," BelaPAN, 10 Sept 2009.

liquidated by the authorities in 2003. In April 2009, the NGO's leader, Ales Bialiacki, received a reply to an appeal requesting information about steps taken by the Ministry of Foreign Affairs to implement a UN Human Rights Committee decision regarding the abolition of "Viasna's" registration. In 2007, the Committee concluded that the NGO's dissolution was a violation of Article 22, Paragraph 1, of the International Covenant on Civil and Political Rights. It also found that, according to Article 2, Paragraph 3(a), the complainants were entitled to redress, including the re-registration of "Viasna."<sup>32</sup> The April response, signed by the Vice Minister, stated that the government considers the Communication of the UN Human Rights Committee to be only a recommendation. Amnesty International believes that the continuing rejection of "Nasha Viasna's" registration applications is an attempt by the state to prevent the NGO's staff from "carrying out their legitimate work as human rights defenders."<sup>33</sup>

Most of the government's grounds for denying registration continue to be trivial, spurious, extralegal and politically-motivated. For example, the Hrodna regional branches of the Belarusian Popular Front opposition political party and NGO "BPF Adradzhenne" were denied registration on the grounds that their applications were printed using an improper font, even though no regulation addresses this issue. During its consideration of the registration documents of the Belarusian Party of Working People in August 2009, the Ministry of Justice illegally demanded that party members submit documents not stipulated by law.

During the reporting period, every appeal against the denial of registration of a public association was rejected by the judiciary. The courts also affirmed decisions to deny registration to the Homyel, Vicebsk and Mahilou branches of the Trade Union of Radio-Electronic Industry Workers. Appeals against the denial to register the Belarusian Christian Democracy political party and "Nasha Viasna" are currently before the Supreme Court.

### **Amendments to Registration Laws**

Belarus' flawed legislation governing registration currently allows state bodies to deny requests without any substantive grounds. In 2009, the authorities made statements about the possibility of simplifying the registration process for NGOs and political parties by amending the laws "On political parties" and "On public associations." Changes were adopted in a first reading and are being prepared for consideration in a second reading by Parliament scheduled for this fall. State media claims that the registration process will be simplified; in particular, "incomplete sets" of documents submitted will no longer serve as a valid reason for denial.

However, the proposed amendments, ostensibly designed to facilitate registration, may in fact make it easier to deny requests based on legal grounds. Independent analyses suggest that the proposed changes are aimed at replacing the current unreasonable grounds for refusal with a more credible legal basis for denial. Under the amended law, grounds for refusal would be found in inconsistencies with the statute's legislative requirements, not only in terms of goals, objectives, methods and areas of activity, but also in all other provisions of the statute. Also, a new basis for denial of registration is to be introduced: "the representation of public organizations, unions and other documents and/or information does not follow legal requirements, including fraudulent, counterfeit or invalid documents." It appears to civil society that this regulation is not aimed at simplifying registration but at simplifying the denial of registration. The only positive change is the automatic registration of registered NGOs with the Tax Office (before it had to be done separately). This change in no way provides any meaningful improvement for independent organizations.

Due to the difficulties of registering as a public association, a number of independent organizations have been forced to seek registration as "institutions." For example, the youth

<sup>32</sup>Communication No. 1296/2004 on the basis of an individual complaint.

<sup>33</sup>Ibid.

organization “Right Alliance,” which was denied registration as a public association in 2004, succeeded in registering as an institution in 2009. This year, the Belarusian government has simplified the process of registering as an institution. But as institutions are not legally membership organizations, this does not increase freedom of association. More importantly, registered institutions do not possess many of the rights accorded to registered public associations, such as the right to represent citizen interests in court, delegate its members to observe elections and serve on election commissions, and apply for state financial support. It has been suggested that the government has eased registration requirements for institutions, and registered some organizations under this category, to demonstrate a more liberal approach while at the same time ensuring that these NGOs will pose less of a threat than they would as registered public associations.

### **Article 193.1**

Civil society continues to object to Article 193.1 of the Criminal Code, which criminalizes activities on behalf of a non-registered organization, and its punitive use by the government. Since 2006, 17 persons have been convicted under this Article. During the reporting period, the authorities’ enforcement of the Article remained arbitrary and selective; it continues to be used to intimidate civic activists, particularly youth, and dissuade citizens from participating in unsanctioned events. Prior to the March Congress of the unrecognized Union of Poles in Belarus, for example, participants were threatened with prosecution under the Article if they took part.<sup>34</sup> In September, Amnesty International called on the Belarusian government to immediately abolish the Article 193.1 and “to allow people to exercise their right to freedom of association free from harassment and intimidation.”<sup>35</sup> The International Helsinki Federation for Human Rights has declared that the Article “violates the Constitution of Belarus, which guarantees the freedom of association, as well as Article 22 of the International Covenant of Civil and Political Rights and commitments to the Organization for Security and Cooperation in Europe.”<sup>36</sup> In October, three members of the Parliament of Sweden, which currently holds the EU presidency, urged the Belarusian government to abolish the Article.<sup>37</sup>

In May, Andrei Nesterovich was convicted under the Article for taking part in the activities of the unregistered group Russian National Unity, but served no time due to an amnesty.<sup>38</sup> In July, the Homyel Regional Prosecutor's Office refused an appeal to drop a criminal case against the youth activist Kiryl Atamanchyk, launched in 2007 for taking part in activities of the Malady Front, an unregistered organization. In August, Brest youth activist Mikhail Ilyin was warned by prosecutors that he would face criminal charges if he did not cease participating in Malady Front actions.<sup>39</sup>

Article 193.1 was used for the first time to initiate a criminal investigation against a person acting on behalf of an unregistered religious organization. In July, 25 year-old Yawhen Volkaw, was charged with acting on behalf of the Rev. Moon's Unification Church, which is banned in Belarus; the case was eventually dropped. Previously, the authorities have used it only to target members of unregistered political groups.<sup>40</sup>

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<sup>34</sup> “[Article 193-1, again](#),” *Nasha Niva*, 19 July 2009.

<sup>35</sup> “Amnesty International urges Lukashenka to ensure that human rights group Nasha Vyasna obtains registration,” *BelaPAN*, 22 September 2009.

<sup>36</sup> Quoted in “Criminal Code article that penalizes activities on behalf of unregistered organizations may be abolished, justice minister says,” *BelaPAN*, 8 October 2009.

<sup>37</sup> “Three Swedish lawmakers urge Belarusian government to abolish Criminal Code article that penalizes acting on behalf of unregistered organizations,” *BelaPAN*, 22 October 2009.

<sup>38</sup> “[An extremist has been pardoned in the honor of the 65<sup>th</sup> anniversary of the end of II World War](#),” *Coalition Against Hate*, 9 July 2009.

<sup>39</sup> “[An activist of Malady Front will face criminal charges?](#)” *Radio Free Europe*, 12 August 2009.

<sup>40</sup> “Young man facing criminal charge of acting on behalf of Unification Church,” *BelaPAN*, 2 July 2009.

## Legal Addresses and Oversight

The requirement of a legal address in a non-residential building continues to be problematic for new and established associations alike; in a number of cases it has even forced organizations to close down. For example, the Borisov branch of the "Children in Need" NGO was forced to cease its activities in April after it could no longer pay its rent. The organization has appealed several times to the local authorities without success for subsidized rent. Since April, the Belarusian Popular Front, one of Belarus' leading opposition political parties, has been struggling to renew the lease on its Minsk headquarters. On the grounds of tardy rent payments, the building's state owners have refused to renew the party's long-term contract and continue to rent the premises on the basis of a month-to-month lease that can be terminated any time. If it loses its legal address, the party can be liquidated.

Despite the government's declaration of a moratorium on inspections in December 2008, many civic organizations continue to experience excessive scrutiny from various oversight bodies. In May 2009, for example, the NGO "Ekodom," which is active in fostering public debate over the government's controversial decision to build a nuclear power plant in Belarus, was investigated for tax violations and fined 14 million BY rubles (over 3,000 euro) and its bank account was frozen. "Ekodom" is currently appealing what it considers to be a politically-motivated decision.

## Discrimination against Independent Trade Unions

After several months of progress towards meeting the ILO's recommendations, the Belarusian authorities began to backslide on independent trade union issues. On 28 August, the Belarusian Congress of Democratic Trade Unions (BCDTU) submitted its "Own Comments" to Belarus' ILO application, which concluded that the government has failed to address the fundamental problems of nonregistration and harassment, and is returning to previous anti-union practices.<sup>41</sup> In September, the BCDTU accused the authorities of renewed pressure on independent trade union members.<sup>42</sup> It noted that independent trade unions at the Hrodna Azot fertilizer plant and the Naftan oil refinery were denied collective bargaining agreements, and members of an independent union at the Mazyr oil refinery and the Free Trade Union at Brest State University faced pressure directed at forcing them to withdraw from the independent organizations. In response, the BCDTU is considering suspending its membership in the National Council on Labor and Social Matters and withdrawing its representatives from the advisory Council on Social and Labor Regulations Enhancement.

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<sup>41</sup> BCDTU's Own Comments on the Application in Belarus of the ILO Conventions 87, 98 and 122, submitted to the ILO Geneva, 28 August 2009.

<sup>42</sup> "Belarusian Congress of Democratic Trade Unions accuses Belarusian government of continuing pressure on independent trade unions," BelaPAN, 3 September 2009.