

# MONITORING REPORT ON DEVELOPMENTS IN BELARUS

## OCTOBER 2008 - FEBRUARY 2009

### EXECUTIVE SUMMARY

As the six-month EU-Belarus dialogue period draws to a close, this monitoring report has been prepared by Belarusian civil society organisations and their international partners<sup>1</sup> to ensure that detailed information regarding the actual situation on the ground in Belarus is available to decision makers reviewing the EU decision on suspending sanctions for Belarus.

The report draws the following conclusions:

- The steps taken by the Belarusian authorities during this dialogue period have been primarily cosmetic and are ultimately reversible; the process has been neither systematic nor institutionalized. While a small number of organizations have benefited, little has been done to facilitate the functioning of independent civic and media sectors in any meaningful manner.
- The minor changes have not addressed the core problems facing civil society in Belarus today. On-going restrictions on human rights and fundamental freedoms continue to cause concern and demonstrate that Belarus has not yet begun a meaningful democratization process. In particular, the authorities' repression against young political and civic activists, as well as religious minorities, continues unabated. But rather than creating more political prisoners, more subtle forms of repression, including forced military service and "restricted freedom" (house arrest) are increasingly being utilized to control civic and political activists.
- While the recent steps by the Belarusian government are welcome, they can only be considered minimal efforts designed to demonstrate a modicum of good will to the EU and a willingness to continue with a process of controlled liberalization. During a February 2009 visit, Goran Lindblad, chairman of the Political Affairs Committee of the Council of Europe Parliamentary Assembly (PACE), declared that "There hasn't been even symbolic progress on democracy in Belarus so far."<sup>2</sup>
- Although independent civil society and the political opposition have been invited to offer their ideas for reforms, genuine dialogue has yet to take place. The three councils established by the authorities do allow a small number of independent experts and politicians to meet with the regime and express their views, but the bodies are advisory and have no influence on governmental decision-making. To date there is no evidence that any ideas originating from outside of governmental circles have been incorporated into strategies for change.

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<sup>1</sup> Compiled by the Committee for Defence of the Repressed 'Salidarnasc', Human Rights Center "Viasna," Belarusian Association of Journalists, Cooperating Council for Individual Entrepreneurs, *Belarusi i Rynok*, Institute for Privatization and Management, Assembly of Belarusian Prodemocratic NGOs and Belarusian Institute for Strategic Studies in cooperation with the Belarusian International Implementers (BIIM) group.

<sup>2</sup> BelaPAN, February 18, 2009.

During a meeting with Javier Solana, EU High Representative for a common foreign and security policy, President Lukashenka publically stated that he would prefer Brussels to “exclude any mediators” from the EU-Belarus dialogue. His concept of a dialogue is strictly between government officials, excluding domestic and international civil society, such as Belarus’ democratic opposition.<sup>3</sup> EU officials have countered by insisting that civil society and the democratic political opposition must be part of the dialogue process.

The following key events can be observed from the period under review:

- The Belarusian authorities released a “non-paper” that identified a small number of issues that were subsequently addressed as part of the on-going dialogue with the EU. These were allowing two independent newspapers (*Nasha Niva* and *Narodnaya Volya*) to return to official circulation and distribution lists, organizing a round table on the new media law in cooperation with the OSCE, and offering to hold detailed discussions with OSCE/ODIHR on improving the electoral code.
- A number of "additional steps" by the Belarusian authorities towards the liberalisation of the country not specifically foreseen in the non-paper were also taken. These included:
  - Registration of the NGO “For Freedom.”
  - Registration of the Homel branch of BPF opposition political party.
  - Establishment of three advisory public councils: the Inter-agency Working Group on Development of the Country Marketing, Coordination Council on the Media, and Public Advisory Council on Human Rights at the Presidential Administration. The councils initially included representatives of independent civil society and/or the political opposition.
  - The National Council for Labor and Social Matters approved an Action Plan for implementing the ILO's trade union recommendations.
- In the area of Freedom of the Media, in spite of the limited access granted to the state distribution networks for the two newspapers mentioned above, four other similar applications were rejected or went unanswered. In total, 13 officially registered independent newspapers and one independent journal continue to be unavailable at state kiosks.
- In the area of Freedom of Association, at least three NGOs, including the Human Rights Center “Viasna,” and one trade union had their registration requests refused. In addition, the requests for re-registration of a number of prominent independent NGOs, including the Assembly of Pro-democratic NGOs, remain pending.
- Criminal cases were brought against a number of opposition activists, in particular youth and small entrepreneurs. For example, Alyaksandr Barazhenka was sentenced to one year of "restricted freedom" for participating in a peaceful protest.

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<sup>3</sup> BelaPAN, February 19, 2009.

- Numerous applications for public gatherings and demonstrations were refused, including those for events commemorating the 60<sup>th</sup> anniversary of the UN Declaration of Human Rights.
- No steps have been taken to reconsider controversial Articles<sup>5</sup> of the Belarusian Criminal Code, which severely curtail the working environment and hinder the functioning of independent civic initiatives. Neither has Presidential Decree #533, which regulates the use of office facilities by NGOs and political parties, been repealed. The repeal or amendment of this legislation would indicate a genuine commitment to improving the climate for independent NGOs.
- The Belarusian government continues to violate the Vienna Convention by refusing to implement the decisions of the United Nations Human Rights Committee regarding the liquidation of the Human Rights Center “Viasna” and the deregistration of the Homel-based NGO “Civic Initiatives.”

## 1. INTRODUCTION

On October 13, 2008, the Council of the European Union decided to suspend existing sanctions against prominent Belarusian officials for a period of six months.<sup>6</sup> This followed the August 2008 release of Alexander Kazulin, Siarhei Parsiukevich and Andrei Kim, who were widely considered to be political prisoners.

The Council noted that this decision would be reviewed after six months, following an assessment of the progress Belarusian authorities had made in a number of specific areas concerning "fundamental freedoms, including the freedom of expression and of the media, and the freedom of assembly and political association.”

On November 19, EU officials in Brussels received a non-paper in which the Belarusian government made three concrete promises to liberalize the situation in Belarus “to demonstrate the seriousness of its intentions to normalise the relations with the EU.”<sup>7</sup>

These steps were to organise an international roundtable on legislation regulating the Internet and Media with the OSCE representative for Freedom of Media and the OSCE office in Minsk, under the auspices and active cooperation of the Ministry of Information; allow two independent newspapers (*Nasha Niva* and *Narodnaya Volya*) to return to state-run newspaper kiosks and distribution networks; and affirm its readiness for a detailed discussion of the OSCE/ODIHR recommendations regarding improvements of the Belarus Electoral Code.

Since October, two resolutions designed to contribute to a coherent and unified EU strategy towards Belarus have been passed by the European Parliament. Both the first, passed on October 9, and second, passed on January 24, emphasised that the Belarusian government continues to fall far short of meeting international standards of democracy and respect for human rights. The resolutions demonstrate the EP’s

<sup>5</sup> Part 2 Art. 367 – Defamation of the President of the Republic of Belarus; Part 1 Art. 368 - Degradation of the President of the Republic of Belarus; Article 369-1 - Discrediting the Republic of Belarus; Article 193–1 deals with acting on behalf of non-registered organizations.

<sup>6</sup> Conclusions of the 2897th External Relations meeting of the Council of the European Union.

<sup>7</sup> BelaPAN, November 21, 2008; Non-Paper of Belarus, November 19, 2008.

commitment to monitoring the Belarusian authorities' actions as indicators of genuine progress, rather than being satisfied with mere declarations.

To ensure that decision makers reviewing the decision on sanctions in six months time will have detailed information regarding the actual situation on the ground in Belarus, participants of the Belarusian International Implementers Meeting (BIIM), held in Warsaw in October 2008, decided to produce this monitoring report. It is based on the observations and insights of international experts and independent organisations in Belarus.

The BIIMs have been held on a regular, bi-annual basis since 2002 and bring together donor and NGO implementer organizations from across Europe and the USA working in the areas of human rights and democracy development in Belarus. The purpose of the meetings is to exchange experiences, build a common strategy and better coordinate international efforts focusing on Belarus. 48 NGOs and donor organizations, from Czech Republic, Germany, Denmark, Lithuania, Norway, Poland, Slovakia and Sweden, as well as the USA and European Commission, participated in the Warsaw meeting.

This report examines developments within the fundamental freedoms, including freedom of the media, freedom of association and freedom of assembly. It also considers freedom from political persecution and arbitrary detention, the repression of civic activists, and updates on economic liberalisation.

## 2. FREEDOM OF THE MEDIA

As set forth in the Belarusian non-paper, on November 25-26, 2008, the independent newspapers *Narodnaya Volya* and *Nasha Niva* were allowed to participate again in the state-run Belposhta newspaper subscription service and be sold again in state-owned Belsayuzdruk kiosks.<sup>8</sup> The two publications had been excluded from these state monopolies in 2005, in the run up to the 2006 presidential election.<sup>9</sup> These newspapers are now considered readily accessible and appear in kiosks throughout Belarus.

In practice, however, copies are often difficult to find; according to its contract, *Nasha Niva* is limited to selling 1800 copies per issue through Belsayuzdruk kiosks in Minsk.<sup>10</sup> Moreover, Belsayuzdruk and Belposhta charge 55 percent of the price of the newspapers, making access to these state monopolies extremely costly for the independent publications. Past economic discrimination by authorities has contributed to the poor financial situation of these publications, hindering their ability to take advantage of the new situation by substantially increasing print runs. Furthermore, the new status of these registered newspapers has not altered the hostility with which they are treated by the government and has not permitted them to compete on an equal playing field with the state press. In December, for example, two activists were detained for distributing free promotional copies of *Narodnaya Volya* in Brest.<sup>11</sup> A

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<sup>8</sup> *Nasha Niva*, November 25, 2008.

<sup>9</sup> *Annual Report 2006*, Reporters Without Borders; *Mass Media in Belarus in 2006*, monitoring by the Belarusian Association of Journalists

<sup>10</sup> *Nasha Niva*, February 24, 2009.

<sup>11</sup> Human Rights Center "Viasna," December 9, <http://spring96.org/en/news/26404> (citing Radio Racyja).

*Narodnaya Volya* journalist, Maryna Koktysh, was refused accreditation to cover meetings of the Parliament.

In spite of these steps, 13 other registered independent newspapers and one independent journal still remain banned from the state distribution network.<sup>12</sup> During the period under review, a majority of these newspapers approached Belsajuzdruk and Belposhta with requests to re-start their subscription and sales agreements. With one exception, all have received negative answers.<sup>13</sup>

All independent newspapers are facing official re-registration following the coming into force of a new media law on February 8, 2009.<sup>14</sup> This process has raised serious concern among independent media since, in the past, the Belarusian government has used re-registration processes to reduce drastically the number of independent publications. The new media law was passed by the National Assembly in June 2008 and signed by President Lukashenka on July 17. The law bans media outlets from receiving money and property from foreign persons and legal entities, and from “anonymous sources,” as well as restricts the maximum share of foreign capital in a media outlet’s authorized capital stock to 29 percent. The legislation also prohibits journalists from working for foreign media outlets without accreditation and provides for sanctions for “the distribution of false information that may cause damage to state and public interests.”

The law has been criticized by media freedom advocates, who have urged the government to bring it into line with international standards, and media rights organizations, including Reporters Without Borders (RSF), Article 19, the Committee to Protect Journalists, and the International Federation of Journalists, among others, as well as several international bodies, including the OSCE.<sup>15</sup> On July 1, 2008, the European Commission denounced the adoption of the law. External Relations Commissioner Benita Ferrero-Waldner declared: “I deplore the adoption by the Belarus parliament of a new media law that will further restrict the freedom of the press in Belarus. Freedom of the press is an essential element of democracy.”<sup>16</sup>

As proposed in the Belarusian non-paper, a round table discussion on “Internet Media: A Challenge of the 21<sup>st</sup> Century” was held on November 24 under the auspices of the Belarusian Ministry of Information, OSCE representative on Freedom of the Media and OSCE Office in Minsk. The event brought together international

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<sup>12</sup> There are 13 non-state newspapers and one journal that are experiencing problems with access to the systems of state distribution. The following newspapers have problems with both Belsajuzdruk, the state kiosk distribution network, and Belsajuzposhta, the state post office subscription network: *Tovarishch*, *Borisovskie Novosti*, *Vitebskiy Kurier M*, *Volnaye Hlybokae*, *Hanzavicki Chas* and *Intex-press*. *Hazeta dla Vas* is available in both Belsajuzdruk and Belposhta but only on a limited territory. *Rehianalnaya Hazeta* is not available at Belsajuzdruk kiosks but is available through Belposhta in a small region; its requests to widen the territory covered by subscription have not been successful. The newspapers *Hazeta Slonimskaya*, *Novy Chas*, *Bobruyski Kuryer* and *Niasvizhski Chas* have problems only with Belsajuzdruk. The newspaper *Svobodnyye novosti plus* has problems only with Belposhta. The magazine *Arche* has been denied the possibility to be distributed through Belsajuzdruk. Due to economic problems, the newspaper *Vitebski Kurier M* has temporarily stopped publishing at the beginning 2009; for the same reasons, *Tovarishch* temporarily suspended publishing in mid-February. Source: Belarusian Association of Journalists.

<sup>13</sup> The only exception is *Hazeta dla Vas*, which received permission to broaden its distribution in one specific territory. BAJ Media Monitoring Report.

<sup>14</sup> Article 54 of the Law on Mass Media.

<sup>15</sup> OSCE Press Statement, June 27, 2008, <http://www.osce.org/item/31898.html>; NB the media law was originally drafted in 2002, consequently there are numerous critical statements, the original OSCE memorandum was prepared by Article 19 and published December 3, 2003 - [http://www.osce.org/documents/rfm/2003/12/1601\\_en.pdf](http://www.osce.org/documents/rfm/2003/12/1601_en.pdf). CPJ letter to President Lukashenka - <http://cpj.org/2008/07/belarus-considers-restrictive-media-law.php>.

<sup>16</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1065&format=PDF&aged=0&language=EN&guiLanguage=en>

experts, state officials and independent media practitioners.<sup>17</sup> The independent Belarusian Association of Journalists (BAJ) viewed the meeting positively, especially since the participation of state officials was a break with recent practice.

The round table discussion focused on the differing views regarding the new media law scheduled to come into force on February 8, 2009. Independent journalists fear that existing media laws will be applied to Internet media with the objective of limiting independent information. The Belarusian authorities claim to seek to control the flow of information so as to prevent illegal content such as child pornography. Independent media fear this will be used as a pretext to further limit access to information on the Internet.<sup>18</sup> The meeting appeared to identify a compromise of voluntary registration that would be acceptable to both parties. This option would allow the government to meet the requirements of the media law while permitting online media outlets that wish to be officially considered as media to obtain this status. In a follow-up to the meeting, on January 25, Information Minister Uladzimir Rusakevich seemingly pledged that no formal registration requirement would be introduced for online information sources.<sup>19</sup>

On November 26, a meeting was held between representatives of the Belarusian Association of Journalists and Usevalad Jancheuski, the Head of the Main Ideological Department of the Presidential Administration. Although there was no concrete outcome of the meeting, it was considered positive by BAJ especially as the meeting was the first of its kind.

On October 29, 2008, the authorities agreed to establish a Public Coordination Council on the Media. In mid January 2009, the Council of Ministers proposed three independent media practitioners to take part in the Council, including Zhanna Litvina, chairperson of the Belarusian Association of Journalists, Alena Mironava, editor-in-chief of *Komsomolskaya Pravda in Belarus*, and Iosif Seredich, editor-in-chief of *Narodnaya Volya*.<sup>20</sup> Council activities have so far produced no tangible results.

The issue of journalist accreditation for foreign-based media outlets remains problematic. Two Polish journalists were given temporary accreditation, but requests by other foreign media outlets, including the European Radio for Belarus and Radio Racyja, have not been successful.<sup>21</sup> Three correspondents of Radio Racyja were refused accreditation in January 2009 on the grounds that they had previously worked in Belarus without accreditation.<sup>22</sup>

On December 20, BelSat, a Polish Television satellite channel broadcasting in Belarusian, submitted an application for accreditation of the channel's office in Minsk with the Belarusian Ministry of Foreign Affairs. In the process, BelSat was required to explain why its correspondents had previously reported from Belarus without official registration and accreditation.<sup>23</sup> On February 24, the Homel Regional Prosecutor's Office warned BAJ member Tatsyana Bublikava with respect to her

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<sup>17</sup> Reporters Without Borders, November 27, 2008.

<sup>18</sup> BAJ Media Monitoring Report.

<sup>19</sup> BelaPAN, January 25, 2009.

<sup>20</sup> BAJ, <http://baj.by/m-p-viewpub-tid-1-pid-6311.html>.

<sup>21</sup> Belarusian Association of Journalists, January 25, 2009; Radio Racyja, May 28, 2008.

<sup>22</sup> Radio Racyja, January 23, 2006.

<sup>23</sup> BelaPAN, December 22, 2008.

alleged work for BelSat.<sup>24</sup> On March 2, the Ministry of Foreign Affairs denied BelSat's application for accreditation. The official grounds were flaws in the documents.<sup>25</sup> The decision is a rejection of a January 2009 resolution by the European Parliament that called on the Belarusian government to make the submission of an appropriate application the only requirement for a foreign media outlet, and specifically BelSat, to obtain accreditation and registration in Belarus.

Finally, the application of the Law "on counteraction to extremism"<sup>27</sup> continues to hinder freedom of media and stifle dissent. In November, the KGB in Brest petitioned the Maskowski District Court in Brest to order the destruction of ten copies of the August 2008 issue of the independent intellectual journal *Arche*, which had been seized by customs officers at the Belarus-Poland border on October 24. The KGB alleged that the magazine contains "calls for extremist activity and propaganda of such activity."<sup>28</sup> On January 25, the Court, in a closed hearing, ruled that the issue is "extremist" and ordered the copies to be destroyed.<sup>29</sup>

Similarly, a district judge in Hrodna declared *Lekcja Bialoruskiego*, a documentary on Belarus by a Polish director, to be an extremist film. The list of materials considered extremist also includes the 2004 Chronicle of Human Rights Violations and three CD collections of songs collected by the Polish initiative "Solidarity with Belarus," among others.

These incidents indicate that the Law "on counteraction against extremist" has been applied selectively, appearing to target opposition activists with a view to acting as a deterrent to independent civic activities.

On January 13, the Minsk Regional Economic Court fined the publisher of *Barysaukskija Naviny* a fine of 48 million BYR (about €13,250), which threatens the independent newspaper with bankruptcy. Despite a decision by the Council of Ministers (№ 1221) which stipulates that there is no need to include information about renting a trade space in one's license, the judge found in favor of the tax inspectorate's argument that a rented sales space was misreported.

A state-run publishing house broke a January 8 agreement to publish the independent newspaper *Borisovskije novosti* after printing just one issue. The publication had not been able to sign a contract with a Borisov publishing house since 1996.

On January 20, the Supreme Court of the Republic of Belarus upheld the decision of a Svetlahorsk Court to fine Vikrat Ahramchuk, Sviatlana Mihalchanka and Sergei Shevialenka 1,400,000 BYR each (about €390) for "abusing the freedom of speech of mass media." Prior to the September 2008 parliamentary elections, they were members of the team of a pro-democratic candidate and had an unregistered newspaper *Hlytok Pavietra* and an information bulletin "Elections-2008" confiscated from them by the police.

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<sup>24</sup> BelaPAN, February 24, 2009.

<sup>25</sup> BelaPAN, March 2, 2009.

<sup>27</sup> Entered into force on January 21, 2007. According to the law, extremist materials are information products that contain calls for extremist activities, promote them or are regarded as extremist by a court decision.

<sup>28</sup> "Real Media Freedom Still Long Way Off," BelaPAN, November 28, 2008.

<sup>29</sup> BelaPAN, February 26, 2009.

#### 4. FREEDOM OF ASSOCIATION

Since October 2008, several independent structures have been formally registered by the Belarusian authorities. Others, however, have had their registration denied or have not yet received replies to their applications. Consequently, there is no firm evidence of a consistent change of approach by the Belarusian authorities in this area.

The "For Freedom" Movement (*Rukh za Svabody*), headed by former presidential candidate Aliaksandr Milinkevich, was registered on December 17, 2008. This was the NGO's fourth attempt to register; all previous attempts were refused by the Belarusian Ministry of Justice. After a year of attempts, the Homel branch of the Belarusian Popular Front opposition political party received official registration on December 18. However, on 3 March 2009, the application for registration of Human Rights Center "Viasna" (liquidated in 2003) and its regional branch in Brest was turned down based on spurious technicalities.<sup>30</sup>

A number of other independent national organisations are in the process of applying for re-registration. These include the Assembly of Belarusian Prodemocratic NGOs (denied in 2003, founding conference held February 7, and documents submitted during the first week of March),<sup>31</sup> Party of Freedom and Progress (denied three times, founding conference to be held in March),<sup>32</sup> Civic Association "For Free Development of Entrepreneurship" (denied in 2007, founding conference to be held in April)<sup>34</sup> and Party of the Working People (liquidated in 2004, founding conference to be held in April).<sup>35</sup>

At the regional level, the government refused to register the Baranavichy branch of the Belarusian Association of Journalists and provide legal addresses for the Vilejka branch of the Belarusian Popular Front (BPF) party, the public association "For A European Masty" and the activists of Malady Front.<sup>36</sup> Only the Mogilev branch of the BPF succeeded in obtaining a legal address, which permits it to officially apply for registration.

In October 2008, official registration was denied to the Civic Organization of Belarusian Pensioners "Nasha Pakalennie"<sup>37</sup> and the Social Patriotic Civic Organization "Haryzantal."<sup>38</sup> In November, the Executive Committee of Mahilou refused for the seventh time to register the local Independent Trade Union of the Radio-Electronic Industry. After considering the case since August, the Committee refused registration on the grounds that the union did not possess a legal address.

Two appeals against denials of registration are pending before the Belarusian Supreme Court. The NGOs "Centre for Support of Chernobyl Initiatives" and

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<sup>30</sup> Radio Svaboda, 3 March 2009 <http://www.svaboda.org/content/Article/1503138.html>

<sup>31</sup> On December 24, 2003, the Supreme Court of Belarus upheld the decision of the Ministry of Justice not to re-register the Assembly.

<sup>32</sup> Constituent assemblies were held on November 22, 2003; May 29, 2004; and May 29, 2005.

<sup>34</sup> Human Rights Center "Viasna," November 13, 2008.

<sup>35</sup> On October 28, 2003, the Center was liquidated by the Ministry of Justice.

<sup>36</sup> On January 21, BPF activist Alaksei Siudak made the request to the Vilejka Regional Executive Committee. He received a negative reply February 9 (Document #14). Civic activist Ales Zarembyuk applied to the Masty Regional Executive Committee and received a negative reply on January 19, 2009. Both replies were justified on the grounds of a lack of space.

<sup>37</sup> Court decision of October 17, 2008 (second denial).

<sup>38</sup> Court decision of October 23, 2008 (second denial in one year).

“Haryzantal” are appealing against the negative decisions of the Ministry of Justice.<sup>39</sup>

In October 2008, Uladzimir Katsora appealed to the Supreme Court, demanding it abide by the resolution of the UN Human Rights Committee that the Homel NGO "Civic Initiatives" should be allowed to resume its activities. Similar appeals were addressed to the Ministries of Foreign Affairs and Justice, but none were successful. The official position of the Republic of Belarus is that the decisions of this UN Committee are not binding, which violates the international obligations of the Republic of Belarus as stipulated by Article 27 of the Vienna convention on the rights of international agreements and Article 2 of the International Pact on civil and political rights and its facultative protocol.

The authorities did make a symbolic step in improving the working conditions for civic initiatives by issuing Presidential Decree #689 on December 19, which suspends inspections and audits of all legal entities, including civic organizations and NGOs, for six months.<sup>40</sup> Despite this decree, the Belarusian Pen Centre received an official warning following an inspection of its activities.<sup>41</sup> Other forms of harassment continue to persist, including official searches of nonregistered entities and private quarters.<sup>42</sup>

On January 22, the Belarusian authorities gave permission for the VI Congress of the Assembly of Belarusian Prodemocratic NGOs to take place on March 6-7, 2009 in Minsk. Traditionally, the Congresses bring together hundreds of civic organizations from across Belarus, as well as international guests.<sup>43</sup> Despite official approval to hold the VI Congress, the visa requests of several invited international guests planning to attend the event have been turned down.

Despite the government’s decision to register the NGO “For Freedom,” organizations that are part of the “For Freedom” Movement continue to have difficulties in receiving official permission to organize civic initiatives. For example, on January 26, The NGO “Barmica” in Glubokoye, applied to the Masty regional executive committee for permission to organize a public meeting on the financial crisis but was denied on February 1, 2009. The civic initiative “For A Clean Barysau” requested permission to hold a public meeting on “A European Perspective for Barysau,” with the participation of Alexander Milinkevich, the head of the “For Freedom,” but was denied. “For Freedom” civic activist Ales Zarembiuk applied to the Masty regional executive committee for a legal address for the public association “For A European Masty” but received a negative reply.

In February 2008, authorities opened a Supreme Court case against the Belarusian Helsinki Committee (BHK), a registered NGO, to liquidate the organization on the grounds that it had not paid taxes on an EU TESIS project awarded in 2002-03.

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<sup>39</sup> www.telegraf.by.

<sup>40</sup> “Monitoring on the fulfilment of the suggestions of the European structures in the sphere of bringing non-governmental organizations and freedom of association to normal condition by the Belarusian authorities,” Assembly of Belarusian Prodemocratic NGOs, January 2009.

<sup>41</sup> For the lack of a legal address, despite the organization having an signed rental agreement, inaccuracies in reporting, and unsanctioned email correspondence. Source: Monitoring of the Assembly of Prodemocratic NGOs.

<sup>42</sup> Ibid. Specific cases include the search and seizure of equipment in the “For Freedom” offices on November 18, and forced entry into the private flat of a Belarusian Popular Front opposition political party member and subsequent seizure of the independent unregistered newspaper *Tut i Tsiapier*.

<sup>43</sup> *Assembly* Newsletter, January 2009.

Although the Ministry of Justice ultimately withdrew the case, the penalties imposed remain. The BHK is still being required to pay the authorities more than €47,000. Due to the penalties, the BHC is not able to utilize its bank account. The BHK is a member of the International Helsinki Federation, which holds consultative status with the United Nations and the OSCE. In July 2008, the BHK was granted the status of a Council of Europe partner organization.<sup>44</sup>

## 5. AMENDMENTS TO ELECTORAL LEGISLATION

A meeting was held between representatives of OSCE/ODIHR, the Presidential Administration of the Republic of Belarus, the Belarusian Central Election Commission, the National Center for Legislative and Legal Research, and the Ministry of Foreign Affairs on January 22-23, 2009, to discuss the conclusions of the Final Report of the OSCE/ODIHR Election Observation Mission to the September 2008 Parliamentary Elections. It was agreed that an initial round of consultations between OSCE/ODIHR and a working group of Belarusian experts would be held in February 2009.<sup>45</sup> The working group is headed by Valery Mitskevich, deputy head of the Central Election Commission and director of the National Center for Legislation and Legal Studies, and includes experts in election law and other legal professionals. No members of the political opposition were invited to join the working group. On February 10-11, the working group met with experts from OSCE/ODIHR to discuss amendments to the Election Code.

In a parallel process, a working group of the United Democratic Forces opposition coalition developed a draft of changes and amendments to the Election Code. The draft was submitted to the Presidential Administration, OSCE/ODIHR, and Venice Commission of the Council of Europe. The working group planned to hold a founding conference for a signature collection group to initiate amendments to the election code on January 25, but despite submitting requests with 12 venues, no positive response was received. Subsequently the working group requested permission to hold an open air meeting on February 8, but the application was ignored by the Minsk city government.<sup>46</sup>

## 6. FREEDOM FROM POLITICAL PERSECUTION AND ARBITRARY DETENTION

The number of administrative arrests of democratic activists has decreased compared to the same period in 2007. 44 civic activists were sentenced to administrative arrest in October-December 2007, compared with 16 in 2008. However, the number of activists fined for their political activity was approximately equal: 16 in October-December 2007 compared with 12 during the same period in 2008.<sup>47</sup>

Criminal cases against civic activists Mikhail Sharamet and Yury Karetnikau, who were arrested in connection with the explosion of a bomb in Minsk on July 4, 2008, were halted on December 1. However, there remain other civic activists arrested in connection with the same incident whose criminal cases have yet to be closed.

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<sup>44</sup> Human Rights Center "Viasna," 2008 Monitoring Report.

<sup>45</sup> Press Release of the Ministry of Foreign Affairs of the Republic of Belarus, January 23, 2009.

<sup>46</sup> Information from the United Democratic Forces. BelaPAN, February 25, 2009.

<sup>47</sup> Human Rights Center "Viasna" Monitoring Report, [www.Spring96.org](http://www.Spring96.org).

Since October, cases were launched against two of 14 young participants who had been detained following an unsanctioned January 2008 protest, during which more than 3,000 sole entrepreneurs and their sympathizers took part in a peaceful demonstration against the government's crackdown on small business.<sup>48</sup> The cases have become known as the "Process of the Fourteen." Earlier in 2008, 9 of the 14 had received sentences of 2 years of "restricted freedom" (house arrest).<sup>49</sup> In December 2008, Alyaksandr Barazenska was sentenced to one year of "restricted freedom." Maksim Dashuk was arrested in Minsk on February 23 for failure to meet the requirements of his 18-month "restricted freedom" sentence. On February 24, Mr. Dashuk was released on his own recognizance. The 17-year-old activist was charged under the Criminal Code's Article 415 and faces up to 3 years in prison.<sup>55</sup>

On December 20, there was an apparent incident of illegal detention when Artur Finkevich, a former political prisoner and the leader of the unregistered opposition movement "Young Belarus," was reported to have been abducted near his home by individuals in civilian clothes. According to independent accounts, Mr. Finkevich was beaten, had his documents and money taken, and was left in a forest outside of Minsk.<sup>56</sup> On February 26, Mr. Finkevich's laptop computer was confiscated by the Belarusian authorities at the Belarus-Poland border.

On January 13, the Supreme Economic Court of Belarus upheld the Minsk city government's decision to take away the land plot and church of the New Life Church. On February 10, the Protestant community filed an appeal with the Court.

On February 3, a district judge in Homel imposed heavy fines on three opposition activists who took part in a peaceful street protest earlier that day. Uladzimir Zhukowski was fined 3.5 million BYR (about €970) and Andrey Tsyanyuta and Vasil Takarenka were fined 2.8 million BYR (about €775) each for allegedly violating regulations governing demonstrations and ignoring lawful orders by police officers.<sup>57</sup>

On February 5, five activists of the opposition group European Belarus were released without charges after being arrested in a raid on an apartment in Minsk. Police arrested Pavel Yukhnevich, Yahwen Afnahel, Uladzislaw Ihnatovich, Marta Krylova and Alyaksandra Lyndava. Two laptop computers, a camera, a video camera, images of prominent Belarusians believed to have been kidnapped and murdered, European Union flags, and stickers advertising European Belarus' campaigns were seized during the raid. Although the five were released two hours after their arrest, the confiscated items were not returned.<sup>58</sup>

On February 6, the Minsk City Prosecutor's Office dropped a long-standing criminal case against Anatol Lyabedzka, leader of the opposition United Civic Party. The criminal proceedings against the politician were instituted in 2004, after he had given an interview to a Russian TV channel and the independent Belarusian

<sup>48</sup> 14 young activists were accused of organising and participating in actions deemed to violate public order (Article 342.1 of the Criminal Code – Organisation of group events violating public order, or active participation in such) for taking part in a peaceful street protest of entrepreneurs in Minsk.

<sup>49</sup> Pashkevich M., Krivau M., Tsishkevich T., Chernushou A., Bondar A., Dubsky A., Subach M., Vinagradau P., Straltsou A.

<sup>55</sup> BelaPAN, February 25, 2009.

<sup>56</sup> BelaPAN, December 20, 2008.

<sup>57</sup> BelaPAN, February 3, 2009.

<sup>58</sup> BelaPAN, February 5, 2009.

newspaper *Narodnaya Volya* had published his article about the Belarusian government's "shadow revenues and sales of weapons."

On February 8, three civil society activists, Mikalay Awtukhovich, Yury Lyanonaw and Uladzimir Asipenka, were arrested by Almaz counter-terrorist units and charged under Article 218 of the Criminal Code; the charges carry prison sentences ranging from three to twelve years. During his incarceration, Mr. Lyanonaw was hospitalized. Police alleged that the defendants are suspects in a series of arsons which took place as far back as 2005, despite the fact that these cases had been solved previously and the perpetrators jailed. In 2006, Mr. Awtukhovich and Mr. Lyanonaw had been imprisoned for alleged economic crimes and recognized internationally as prisoners of conscience, but were released in January 2008. Mr. Awtukhovich is a member of an independent association of military veterans and had petitioned the government to restore state benefits to veterans which had been cut. Guenter Nooke, the German federal human rights commissioner and a member of a visiting delegation of European human rights officials, inquired about the cases but did not receive a clear answer.<sup>59</sup> On February 16, demonstrators protesting the arrest of the three activists were violently removed by riot police.<sup>60</sup>

In February, two Danish citizens, Erling Laursen, and Rolf Bergen, were ordered to be deported from Belarus for "illegal religious activities" after being arrested at a religious service of the Living Faith Church in Homel. Mr. Bergen left Belarus on February 11 and Mr. Laursen followed him on February 19.<sup>61</sup> Another Protestant activist, Veniamin Brukh, who is a bishop, pastor and founder of the Church of Jesus Christ in Minsk, one of the largest Protestant communities in Belarus, was summoned on February 16 to meet with police in connection with an explosion in July 2008. A Ukrainian citizen, Mr. Brukh was deported from Belarus on October 16, 2008.

On February 21, seven members of the opposition Belarusian Christian Democracy political party and two journalists, Aleh Razhkov and Dzmitry Karmazin, were detained in Homel after attempting to hold a peaceful rally on the UNESCO-sponsored Mother Language Day. The demonstrators were stopped on their way to lay flowers at the statue of St. Cyril of Turaw in front of the Regional Drama Theater. Three activists, Maryya Tulzhankova, Vasil Takarenka and Alyaksandr Vyartseyka, were fined. Prominent opposition activist Kanstantsin Zhukovsky was sentenced to seven days in jail. On February 26, Mr. Zhukovsky began a hunger strike.<sup>62</sup>

The authorities continue to threaten civic activists with prosecution under Article 193-1 of the Criminal Code, acting on behalf of an unregistered organization. In October, Viktor Harbachaw, the leader of "For Free Development of Enterprenership" received a written warning from the Prosecutor of Barysau region.<sup>63</sup> On February 19, Teresa Selivonchyk, head of the unregistered Union of Poles branch in Baranavichy, received a warning, the first time an activist from this organization was accused of violating the Article.<sup>64</sup>

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<sup>59</sup> BelaPAN, February 26, 2009.

<sup>60</sup> BelaPAN, February 18, 2009.

<sup>61</sup> BelaPAN, February 21, 2009.

<sup>62</sup> BelaPAN, February, 26, 2009

<sup>63</sup> 2008 Monitoring of the Assembly of Prodemocratic NGOs.

<sup>64</sup> Monitoring of the Assembly of Prodemocratic NGOs, February 2009.

## 7. FREEDOM OF ASSEMBLY

There have been mixed results concerning applications to hold public demonstrations since the beginning of the dialogue period in October.

Permission was granted to the opposition Belarusian Popular Front political party to carry out the annual “Dziady” procession on November 2.<sup>65</sup> The event is devoted to honoring the memory of ancestors, in particular victims of political repressions during Soviet rule. The opposition Conservative Christian Party, together with the unregistered Freedom Party, Belarusian Christian Democracy party and Young Belarus organised a parallel, unsanctioned, march. Police did not interfere with either march, which together drew some 1,000 people. Likewise, permission was granted to the civic organisation “Perspektiva” to hold a meeting of entrepreneurs to protest changes in legislation that restrict possibilities to work.<sup>66</sup>

However, the Belarusian authorities refused over a dozen requests to hold meetings devoted to the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights. On November 7, official celebrations marking the anniversary of the October Revolution took place, but concurrent pickets by the opposition youth group Young Front against communist ideology were banned. Five representatives of the Young Front were sentenced to 3 days of administrative arrest for carrying out an unauthorized protest.<sup>67</sup>

On October 31, authorities prohibited Dzianis Karnou, a Young Front activist, from organizing a charity event, “A Belarusian Book to Every Child,” in a Minsk suburb, without providing any official reason.<sup>68</sup>

In January, civil society activists in western Belarus were denied permission by local authorities to hold a series of peaceful protests in Maladzechna, Smargon and Vilejka against the construction of a nuclear power plant in Grodno region.<sup>69</sup> The government has not permitted independent experts or the public to be involved in a dialogue as part of the decision-making process regarding the plant’s building or location.

On January 20, 2009, the Minsk regional court upheld a decision of the Kletsk oblast court to fine Siarhiey Panamarou, head of an independent association dedicated to preserving historical and cultural monuments, for organizing an unsanctioned meeting on November 7, 2008. Originally the Kletsk authorities had informed Mr. Panamarou that meetings of this kind did not require official permission.<sup>70</sup>

Following several unsuccessful attempts to obtain official permission, the opposition Young Front organized an unsanctioned protest on St. Valentine’s Day, February 14. During the peaceful “Day of Love” action, special police units beat demonstrators and used force to disburse the event in downtown Minsk. Several Young Front leaders were detained prior to the event and several demonstrators were hospitalized following the crackdown. The following day, the Minsk Savetski district police

<sup>65</sup> BelaPAN October 28, 2008, *ibid.* November, 2, 2008.

<sup>66</sup> [http://www.telegraf.by/in\\_belarus/8654.html](http://www.telegraf.by/in_belarus/8654.html).

<sup>67</sup> Under Article 23.34 Part 1 of Administrative Code of Republic of Belarus

<sup>68</sup> Human Rights Center Viasna, October 31, 2008.

<sup>69</sup> BelaPAN, January 14, 2009.

<sup>70</sup> Open statement of the Belarusian Voluntary Association for the Conservation of Historical and Cultural monuments, January, 22, 2009.

department refused to accept complaints from three young activists who were beaten during the crackdown.<sup>71</sup>

On February 13, the founding committee for the opposition Belarusian Christian Democracy political party was granted an approved venue for its founding conference by authorities in Minsk. The committee had sent venue requests to 11 official institutions. After receiving 10 denial notices, it warned authorities that the conference might be held in Minsk's central Kastychnitskaya Square. The conference finally took place on February 28 in Minsk. While on the way to attend the event, 11 members were detained by police in Brest on the pretext of possession of drugs.<sup>72</sup>

On January 27, the government established the Public Advisory Council at the Presidential Administration. The Council is made up of 29 officials, representatives of non-governmental organizations and independent experts, including opposition activists. The advisory body was established to improve the "social, economic and political vectors of the country's development." It held its first meeting on February 6, which focused on procedural issues and the agendas of forthcoming meetings.

## 8. FREEDOM FROM REPRESSION DUE TO CIVIC ACTIVITY

According to the Human Rights Center Viasna, from October to December 2008, there were a total of 142 cases of administrative persecution against pro-democratic activists. This compares to 42 cases from July to September 2008.<sup>73</sup>

Despite EU calls to refrain from pressuring students involved in political activities, the Belarusian government continues to repress young democratic activists, expel politically active students from universities, and forcibly induct young male activists into the military.

In January 2009, Aliaksei Zmushko, a member of the opposition Belarusian Christian Democracy political party, was expelled from the Belarusian State Agricultural Academy in Horki.<sup>74</sup>

After being expelled from their studies, three prominent members of opposition youth groups, Franak Vyachorka (Youth of the Belarusian Popular Front), Ivan Shyla and Zmitser Fedaruk (both of the Young Front) were forcibly conscripted into the military in late January 2009. Despite being declared fit to serve by doctors, some after earlier medical exemptions, all three have experienced medical problems.<sup>75</sup> As of February 28, all three were in military hospitals. More than a dozen young democratic activists have been forcibly drafted over the last year.<sup>76</sup>

Jacek Protasiewicz, Chairman of the EP's Delegation for Relations with Belarus, strongly condemned the actions of the Belarusian government and called for an end to "all forms of harassment against the activists from youth organizations..."<sup>77</sup> Mr. Protasiewicz noted that "this issue of refraining from the usage of army conscription

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<sup>71</sup> BelaPAN, February 14 and 15, 2009.

<sup>72</sup> BelaPAN, February 28, 2009.

<sup>73</sup> See the database of the Human Rights Center Viasna, <http://spring96.org/persecution>.

<sup>74</sup> BelaPAN, January 16, 2009.

<sup>75</sup> BelaPAN, February 19, 25 and 27.

<sup>76</sup> BelaPAN, January 30, 2009.

<sup>77</sup> BelaPAN, January 31, 2009.

for the reasons of political repression will remain among the key factors in the evaluation process of the human rights situation in Belarus during the six-month period of partial suspension of travel restrictions imposed on certain Belarusian Government officials."<sup>78</sup> Jacek Saryusz-Wolski, chairman of the European Parliament's Committee on Foreign Affairs, also expressed concern about the military inductions of pro-democratic youth.<sup>79</sup>

The Human Rights Center Viasna reports that during this period three activists from civic organizations lost their jobs for political reasons. It is feared that as long as the contract system of employment, in which an employer does not need to justify a failure to renew contracts, remains in place, it will be abused and used as a means to exert pressure on civic activists.<sup>80</sup>

In December, Alyaksey Shydlovski, a young activist who has been repeatedly jailed over the past decade for his political activities, and his wife received political asylum in the Czech Republic.<sup>81</sup>

## **9. DEVELOPMENTS IN SPHERE OF ECONOMY/ ECONOMIC LIBERALISATION**

Peaceful protests against excessive state interference in the economy and business continue to be suppressed through courts and trials. On December 9, Jevgeniia Bochna, an entrepreneur from Novopolotsk was sentenced to six years of imprisonment. It is believed that Ms Bochna was prosecuted because her company was blocking a large investment by a Russian company. During the investigation, the case was illegally transferred from an economic to a criminal court.<sup>82</sup>

On December 10, a 24-hour nationwide strike of small entrepreneurs took place which shut down bazaars and market places across the country. Approximately 60 percent of entrepreneurs across the country protested the abolition of discounts on tax- and duty-payments on goods imported from Russia.<sup>83</sup> On December 15, a state-sanctioned protest, organized by the small business association "Perspektiva," drew some 3,000 small entrepreneurs to Minsk's Bangalore Square. Police did not interfere with the protest.

In a related development, despite having a list of 519 state-owned enterprises to be privatised by 2010, including 176 joint-stock companies by the end of 2008, by mid-February 2009, the Belarusian government only privatized two; 54 privatization offers were blocked by the authorities. As a result, the majority of the economy continues to be controlled by the state.<sup>84</sup>

On December 31, the government issued a directive for establishing the Inter-agency Working Group on Development of the Country Marketing strategy. The Group included state officials from the Ministries of Foreign Affairs and Finance, marketing

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<sup>78</sup> BelaPAN, January 26, 2009.

<sup>79</sup> BelaPAN, February 28, 2009.

<sup>80</sup> See Viasna reports at [www.spring96.org](http://www.spring96.org).

<sup>81</sup> BelaPAN, December 5, 2008.

<sup>82</sup> According to the Coordinating Council of Individual Entrepreneurs (CCIE).

<sup>83</sup> BelaPAN, December, 10, 2008; according to the For the Free Development of Entrepreneurship, which organised the strike, 80-90% of vendors supported the strike, *ibid*, interview with Viktor Harbachow.

<sup>84</sup> IPM Research Centre Belarus; BelaPAN, February 19, 2009.

executives, and two independent experts, Yaroslav Romanchuk, from the Mises think tank, and Andrei Vardematski, from the polling organization Novak. Two meetings took place in January. Independent experts submitted their proposals to the Group's leader on January 16. At the end of January, Mr. Romanchuk withdrew from the Group because his proposals were ignored.<sup>86</sup> On February 4, the Group submitted a draft country marketing strategy to the Council of Ministers. It is not known if the draft contains any ideas contributed by the Group's independent members.

On January 21-22, approximately 150 government, employer and trade union representatives attended a conference in Minsk organized by the ILO in cooperation with the Congress of Democratic Trade Unions. In 2004, the ILO had set forth 12 recommendations to reverse the Belarusian government's repression of independent trade unionism. In December 2006, the European Union suspended Belarus' trade benefits under the Generalized System of Preferences because the government failed to respect independent trade unions' rights and carry out the ILO's recommendations. In November 2008, the ILO Administrative Council had released an assessment of the government's insufficient efforts to implement the recommendations and its failure to address the lack of respect for trade union rights. At the January 2009 meeting, the ILO organized a workshop on the recommendations and the Belarusian government presented an Action Plan to address them.

On February 20, the National Council for Labor and Social Matters approved the government's Action Plan for implementing the ILO's recommendations. The most significant aspect of the Action Plan is the expansion of the Council for the Improvement of Social and Labor Legislation to include independent actors. The Council oversees the implementation of the ILO recommendations, includes 7 government and 7 independent representatives, and is chaired by the Minister of Labor and Social Protections. According to the Action Plan, the Council will improve conditions for the creation and registration of trade unions as well as, in conjunction with the Ministry of Justice, investigate delays or refusals to register trade unions. The Government also promised to examine complaints of trade union rights violations. Of particular significance, the plan the Council is to study legislation concerning foreign aid and mass actions and propose "rational solutions" to bring these in line with international standards and principles. No visible progress has been made since the February 20 meeting.<sup>87</sup>

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<sup>86</sup> BelaPAN, February 2 and 3, 2009.

<sup>87</sup> BelaPAN, February 20, 2009.