



**Assembly of Pro-democratic
NGOs of Belarus**



• FOUNDATION FOR LEGAL TECHNOLOGIES DEVELOPMENT •

Freedom of association and the legal status of NGOs in Belarus

2007

This analysis is prepared by experts of the Assembly of Pro-democratic NGOs of Belarus within the framework of the joint project with the Foundation for Legal Technologies Development.

In 2007, the situation in respect to the freedom of association in Belarus did not improve and the legal status of NGOs remained extremely difficult. The legal climate for the establishment and activities of independent civic organizations remained unfavorable. The enactment and law implementation revealed a growing tendency toward further restrictions on freedom of association. Much of the abridgment of freedom of association and restrictions on the activities of NGOs are not based on laws but are due to Decrees of the President, regulations and instructions made by the Ministry of Justice and law enforcement. In 2007, the most severe repressive measures against NGOs were related to activities carried out by unregistered organizations, which is regarded as a penal action. The regime's arsenal of repressive measures includes the criminal prosecution of members of unregistered NGOs and knowingly illegal mass arrests of civic activists (frequently of a preventive nature). Unwarranted searches of NGO offices were reported regularly, as was intimidation of their activists by the security services.

At the same time, it should be mentioned that several initiatives were undertaken to bring legal regulations concerning civic organizations in conformity to existing legislation. The Republican Committee on the Registration (Re-Registration) of Civic Organizations was eliminated, which brought terms of decisions on registration inline with requirements under law. The number of calls for the liquidation of public associations by the Ministry of Justice and, correspondingly, the number of NGOs which were closed down by the authorities, fell. Despite pessimistic expectations, the procedures required to adjust the statutes of nongovernmental organizations as required by the Law "On Civic Organizations" (the 2005 amendment) did not result in significant difficulties for NGOs and did not become the basis for a massive liquidation of organizations. The number of civic organizations registered in 2007 remained small, and politically motivated denials of the registration of new groups did take place. There remain few opportunities to create independent nongovernmental organizations in Belarus.

Legislative Developments

There were no significant changes in the legal regulations governing the activities of NGO activity in 2007. The May amendments to the Law "On Civic Organizations" only reflected earlier statutory acts as set forth by the President. The requirement that the registration of newly established NGOs be approved by the Republican Commission on the Registration (Re-Registration) of Civic Organizations (which was dissolved by a Decree of the President in fall 2006) was abolished. The requirement of a registration fee for new NGOs was clarified. The size of the fee was not changed and remains relatively high. When applying to register a local civic association, a fee of \$160 must be paid to the state; the cost of a national NGO exceeds \$400. The registration procedures for foundations were also not changed in 2007.

However, new legal regulations indirectly affecting the interests of nongovernmental organizations, which restrict or potentially restrict freedom of association, were adopted in 2007. **The cancellation of discounted office rent for public associations is likely to affect NGOs most of all, especially given the recent large increases in office rent driven by the market.** According to Decree of the President #533 "On amendments and additions to the Decrees of the President of September 30, 2002 and August 4, 2006" (October 23, 2007), most nonprofits will be deprived of their right to discounted space in office buildings owned by state (keeping in mind that the state owns **most** office buildings in Belarus). This means that office rents are likely to increase dramatically. The majority of NGOs will not be able to pay much higher rates and will be forced to relocate. The Main Economic

Department of the President's Administration sent notifications to all civic organizations based in state-owned buildings proposing to renew rent contracts with an increase of 10 times the discounted rate. If this proposal is not accepted, rental agreements will be annulled and civic organizations will have to clear out of their office by April 24, 2008. Only humanitarian organizations are permitted to maintain their current rent contracts at the discounted rate. It is not enough that an NGO lists humanitarian activities as a goal in its statutes. A special certificate is required from the Department on Humanitarian Activities of the President's Administration. Therefore, discounted rates are likely to be granted only to those charitable and humanitarian organizations which are in the good graces of the authorities.

In December 2007, a diverse group of NGOs, including the Belarusian Association of Legal Advisers, Belarusian Union of Entrepreneurs, Belarusian Society of Assessors, Belarusian Association of Journalists and Belarusian Culture Foundation, addressed the authorities with a request to reconsider the decision and restore the discounted rent rates. The appeal declared that "civic organizations, which are not involved in any type of for-profit activities, sustain themselves by collecting membership fees and are therefore deeply concerned with the financial consequences of the new ruling regarding office rent rates. According to Belarusian legislation, membership fees are taxed and taxes are paid from the NGOs' labor funds. It is well known that a relatively high minimum rent rate for commercial organizations was established with the goal to prevent 'shadow schemes' in relations between renters and tenants. But the increase of the minimum rent rate for NGOs will lead to significant difficulties in their financial sustainability." **Experts have noted that the changes in rent rates can potentially result in the collapse of many NGOs.** Ms. Elena Titova, Head of the Belarusian Association of Disabled Children and Young People, has declared that if the rent rate increase takes place her organization "will just not be able to survive."

The same decree is likely to be applied to NGOs renting space in the buildings of communal ownership. In the absence of a free real estate market and with total state control over the allocation of space, as well as considerable restrictions on receiving donations and foreign support, such "reforms" will put the existence of many Belarusian NGOs at risk. According to Belarusian law, the absence of a 'legal address' for a nongovernmental organization is a major violation and is punishable by the liquidation of the organization.

A new Law "On Counteraction to Extremism", adopted on January 4, 2007, includes regulations potentially threatening to NGOs and their activists, which can also restrict freedom of association. This law is aimed at combating violent acts and nationalist or other types of hate crimes, but experts note that these regulations can potentially be used against democratic political parties, NGOs, journalists and members of unregistered groups. Some experts believe that under the new law any critique of the existing political regime and its policies; call for civic actions to defend social, civic or political rights; or attempt to organize strikes and other forms of civic activity can be labeled as extremist action.

The Belarusian government continues to prepare a new version of the Law "On Trade Unions". The draft is expected to be sent to the Parliament in spring 2008. The authorities present this as a step towards adhering to the recommendations made by the International Labor Organization (ILO), which has criticized Belarus for violations of the rights of working people, including the right of association. However, the current draft version not only does not improve the situation, but significantly worsens the prospects for freedom of association, making the existence of free trade unions impossible in Belarus. Under conditions of unprecedented pressure from the authorities, independent trade unions will not be able to meet the high minimum number of members as required

by the draft law. Adoption of the draft will legitimize the monopoly of the pro-governmental Federation of Trade Unions of Belarus. Independent unions which are united into the Belarusian Congress of Democratic Trade Unions are certain that the approach of and criteria in the draft will considerably aggravate the legal status of non-state controlled unions and make their legal existence impossible. Independent trade unions have labeled the draft as 'anti union' and insist that it contradicts the ILO's recommendations. Even the pro-governmental Federation of Trade Unions of Belarus has expressed its disagreement with parts of the draft. In turn, independent trade unions have proposed their own alternative draft.

On the other hand, Decree of the President #8 "On amendments and additions to Decree of the President #11 of March 16, 1999," signed on December 17, 2007 and establishing a new version of the Regulations of State Registration and Liquidation (Termination of Activity) of Economic Entities, can be considered to be a positive step towards improving the legal conditions for certain categories of NGOs. This decree somewhat simplifies the registration procedure for some non-commercial organizations, such as private non-profit entities, associations (i.e. unions of legal entities founded with nonprofit purposes), associations of owners, associations of gardeners, consumers' cooperative societies, and chambers of trade and commerce. The registration procedure itself will now include some declarative elements for the creation of juridical entities. Starting on January 1, 2008, fewer documents will be required for the registration of the types of entities listed above. For example, they will not need to present a document confirming a legal address (letter of commitment). The registration period will be decreased from 20 to 5 days and a number of procedures will become easier and clearer. Nevertheless, many of the traditional shortcomings of the registration system in Belarus were not improved. In particular, the Decree makes no provision for the registration of a non-commercial organization in private homes, although the Decree does allow private unitary enterprises, which are commercial organizations, to register their legal addresses at such premises. Another undoubtedly positive change which approximates the registration system to the declarative one is the reduction in the control functions of the registering bodies at the founding stage of the legal entities. The state registration bodies have lost their right to verify the documents submitted for registration. Instead, the applicants themselves are legally responsible for insuring that the documents meet the legislation and for the correctness of the information contained in them. These changes bring the procedure closer to the declarative principle of registration.

It is obvious that this liberalization of registration procedures is aimed primarily at assisting commercial legal entities. The simplified procedure will not affect those non-commercial organizations whose registration is regulated by other legal acts, such as political parties and coalitions, nongovernmental organizations, foundations, trade unions, and religious organizations. However, it might have the unintended effect of creating a 'loophole' for NGOs: groups unable to be registered as civic organization or foundation NGOs could obtain registration status as private entities. However, it is too early to evaluate the impact of these recent legislative changes.

Developments Concerning State Policy toward NGOs

While the legislation regulating the activities of nongovernmental organizations has not significantly changed and remains largely unfavorable for civic society groups, there were some changes in the state policy towards NGOs. It is not possible to say that the legal climate for NGOs in Belarus has improved. But with the economy facing growing challenges and the need to

establish better relations with the West (respect of human rights and freedom of associations, as well as the ceasing of repression of civic society, are among the conditions put forward by the EU and US), the Belarusian government has been trying to minimize any unjustified and unnecessary pressure on NGOs. This seems to be the reason why the authorities have permitted what appears to be a 'thaw' that is marked by a reduction in repression. The political impulse behind the limitation of NGO activities and for violations of the freedom of association has become less obvious.

2007 was marked by a certain departure from the authorities' practice of trying to destroy independent structures. From 2003-2005, the term 'moping-up' was used for describe governmental policy towards the third sector. Today, the situation closely resembles "cold war" relations: both sides have no illusions regarding their respective positions, openly display their negative attitude to the other, and would like their opponents to be eliminated. But the rules of the game and the current situation make mutually assured destruction tactically unattractive. The third sector, which defines its ultimate goal to be the democratization of society, has divided into two groups: the so called "political NGOs," which together with political parties constitute the Belarusian democratic opposition, and "non-political NGOs," which are pursuing long-term goals to create the preconditions for the democratization of Belarusian society.

Both of these groups of pro-democratic civic structures have left behind the revolutionary rhetoric that characterized 2006, the year of the last presidential election, and now agree on the need for dialogue and the inevitability of change. In principle, they have accepted the idea that the rules of the game are defined by the authorities. In turn, while not changing its attitude in regard to 'subversive' NGOs that are considered to be potential threats to the current system, the government has had to limit the severity and intensity of its repressions.

Despite much apprehension, the government's campaign to require amendments to the statutes of civic organizations to bring them into conformity with the 2005 changes to the Law "On Civic Organizations" did not cause undue difficulties for NGOs and was generally not used as a tool to close down organizations. Although hundreds of civic organizations and several political parties made their changes long after the prescribed deadline, law enforcement bodies closed their eyes to this fact: in the absolute majority of cases no penalties followed. Some civic organizations submitted their amended statutes as late as 2007, but state officials allowed the changes. Nevertheless, the process of amending the statutes was often followed by ungrounded interference by law enforcement bodies into the internal affairs of civic organizations. Often the law enforcement bodies demanded the inclusion of regulations that did not directly relate to the legislation and were based on subjective interpretations of legal regulations by officials (i.e. the forced inclusion in the statutes of the subject, goals and methods of activities of organizations, the conditions for membership and the powers of organizational bodies, etc). For example, the Belarusian Helsinki Committee reported that the Ministry of Justice initiated additional changes in the Committee's statute and failed to register the amended statute on time. Nevertheless, there is only one documented case in which the amended statute was used as the grounds for the closing down of an NGO. The Brest Public Association "Stary Horad" (Old Town) was denied re-registration even though the leaders of the organization submitted an amended statute to the authorities, as required by the new legislation. In general, the campaign on adjusting statutes of organizations in accordance with the new edition of the legislation took place without significant losses from the side of Belarusian NGO sector.

Table 1. The quantity of civic organizations in Belarus according to statistics from the Ministry of Justice*

	April 1, 1998	1999 **		August 12, 2002	October 30, 2003	January 1, 2004	January 1, 2005	January 1, 2006	March 1, 2007	April 1, 2007	July 1, 2007	November 12, 2007	January 1, 2008
		Subject to re-registration	Successfully passed re-registration										
Total number of NGOs	2191	2433	1326	1980	2248	2214	2259	2247	2248	2242	2223	2253	2255
National civic organizations	932	-	-	757	741	734	726	724	724	721	715	722	722
International civic organizations	129	1164	-	196	236	235	245	239	231	231	230	237	235
Local civic organizations	1130	1269	-	1027	1271	1245	1288	1284	1293	1290	1278	1294	1298
Unions of civic organizations	-	-	-	8	16	16	17	16	17	-	18	-	19
Regional and local branches of civic organizations	-	-	-	-	-	6507	-	10046 ***	11917	12387	13075	-	14513
Foundations	-	-	-	-	-	-	-	-	56	60	63	61	64

* The statistics do not include political parties, trade unions and religious organizations.

** The data of the Ministry of Justice from the beginning and the end of the re-registration period set by Decree of the President #2 “On certain measures of adjusting the activities of political parties, trade unions and other civic organizations” (January 1999). Subsequently, several civic organizations appealed against the ruling against re-registration and were registered in accordance with a court decision, or they submitted documents for the registration of new civic organizations and were registered in this way.

*** The years 2004 and 2005 were a period in which hundreds or thousands of organizational structures of pro-democratic organizations were liquidated. At the same time, numerous local branches of pro-government civic organizations were created to offset these statistics.

In 2007, the main obstacles to the legal registration of civic associations remained the following:

- The licensing system of registration of civic organizations;
- The high minimum number of founders required to establish and administer a civic organization (especially for national and regional organizations);
- The high cost of the procedures necessary to register international and national civic organizations; and
- The ban against using the place of residence of any member of a civic organization as the legal address of this organization (apart from cases in which the legal address is considered the private residence by agreement with executive and administrative bodies).

To sum it up, civic organizations are required by law to have their legal addresses at non-residential premises. It is rather difficult to meet this requirement in Belarus because almost all office buildings are either owned or controlled by the state, and their representatives (especially in the regions) simply refuse to allow NGOs to open offices in these buildings. Permission to allow the legal address to be in a private residence entirely depends on the whim of local executive and administrative bodies. It is necessary to mention that the lawgiver prohibiting civic organizations to use places of residence of their members as their legal addresses still vests this right in commercial organizations (in particular – in private unitary enterprises).

Finally, the regular practice by registration agencies of introducing their own amendments concerning purely internal organizational matters into the statutes of organizations, as well as the process of sending submitted registration documents for review to numerous ministries and agencies, also remain significant obstacles for registering a civic organization.

The Liquidation of Civic Organizations

It seems that the most likely reason for the decrease of repressions against independent civic society structures in Belarus is foreign pressure on the regime. Since 2003, reports about the liquidation of pro-democratic civic organizations have become a regular part of every-day life in Belarus: 51 organizations were closed down in 2003, 38 in 2004, and 68 in 2005. There was no official data released on how many NGOs were liquidated in 2006, but the total number exceeds 50. **In 2007, the number of organizations that lost their registration was the lowest since 2002.**

However, one should also consider the practice of the ‘voluntary’ self-liquidation of civic organizations. In 2007 alone, 48 organizations decided to cease their activities. This number indicates that, at the present time, many organizations which are threatened by law enforcement bodies with a liquidation suit, prefer the procedure of self-liquidation. This continues a trend that emerged in the period from 2003 to 2006.

Table 2. The Dynamics of Governmental Regulation of the Nonprofit Sector

(data from the Ministry of Justice)

	International and	Local	Total	International and	Local	Total		
2003	33	61	94	10	41	51	-	810
2004	39	116	155	15	23	38	69	264
2005	16	45	61	17	51	68	43	425
2006	16	69	85	-	-	-	-	-
2007	20	80	100	-	-	26*	48*	-

* up to November 2007

The court ruling to dissolve the Brest cultural and historical civic organization “Stary Horad” (one of the city’s oldest NGOs) and the national organization Belarusian Literature Fund attracted broad public attention. In the first case, the legal grounds were quite traditional — the major justification was the absence of a legal address. As for the second case, the antagonism shown by the authorities was obviously caused by a change in the organization’s leadership. In 2003, Mr. Mikalaj Carhiniec, a member of the upper chamber of the Parliament, became chairman of the organization. During this period, the organization did not experience any problems. But as soon as the leadership was changed and state representatives were excluded from the organization, the Ministry of Justice immediately started noticing violations in the group’s activities. On May 4, 2007 the Supreme Court upheld the claim of the Ministry of Justice regarding the closing down of the organization. One of the spurious charges was that the Fund used documents, stamps and emblems that were not entirely consistent with legislation. The members of the organization claim that the reason for liquidation was the fact that the Fund owned a rest facility, the sanatorium “Islac,” which is a lucrative property attractive to investors. Some experts connect the liquidation of this organization with the fact that it was competing with the pro-government Union of Belarusian Writers, now chaired by the same Mr. Carhiniec.

The situation in which the authorities exert pressure on independent civic organizations with the aim to eliminate competitors to pro-government organizations appears to be quite typical. At the end of 2007, the Union of Belarusian Sportsmen received several warnings from the Ministry of Justice. In a open letter directed to the Government by members of this influential organization, concerns were expressed about treatment by state officials during the routine check of this group. Experts believe that the regime’s aim was to eliminate the competitor to the national pro-governmental Presidential Sport Club chaired by Mr. Dzmitry Lukasenka, son of the President of Belarus. Later, however, the claims of the Ministry of Justice against the organization were retracted and the Union resumed its activities.

In August 2007, a court case to close down the Civic Society Center Supolnasc unexpectedly did not end with its liquidation. Initially, the Ministry of Justice demanded the shutting down of the organization based on the following pretexts: the organization failed to respond to a number of letters issued by the Ministry; a person who was not a permanent resident of Minsk was a member of the group's governing body; and the leader of the organization had been elected the chairman of the Working Group of a unregistered organization, the Assembly of Pro-Democratic NGOs of Belarus. The case however was resolved by a compromise agreement between the representatives of the organization and the Justice Department of Minsk City. Supolnasc agreed to fix the problems with its documentation and actions while the Department of Justice agreed to withdraw its decision to liquidate the organization. This is the first case in recent years in which a civic organization has managed to survive a liquidation court case and retain its legal status.

In 2007, there were several examples in which when law enforcement bodies decided not to proceed with the liquidation process after they discovered minor violations in the activities of some civic organizations. The practice of suspending the activities of organizations for a period of up to six months was instead used. In several cases, however, organizations were indeed closed down after the suspension period ended.

At the present time, it can be deduced that the number of independent registered organizations in the third sector has greatly diminished and their activity are circumscribed to the point that the authorities do not see the necessity to continue its 'moping-up' operations. The negative political consequences of continuing the liquidation campaign outweigh the real political benefits from permitting few civic organizations to remain functioning in a controlled fashion. **The liquidation and repression by law enforcement bodies is now directed almost exclusively against civic organizations operating in the political sphere, first and foremost against political parties and their regional structures.**

Pressure on political organizations

Pressure on political organizations significantly increased in 2007. The main indication of this trend is the number of official warnings directed to political parties and the number of parties that received such warnings. **Throughout 2007, the Ministry of Justice issued written warnings to almost every opposition party**, including the Belarusian Popular Front, Christian Conservative Party of the BPF, Belarusian Green Party, Belarusian Social Democratic Party 'Hramada', Belarusian Women's Party 'Nadzieja' and Belarusian Party of Communists. Some of these parties got several warnings, many based on the lack of officially registered local branches. The Law "On Political Parties", as amended in 2005, requires a relatively high minimum number of local branches.

Several pro-governmental political parties, such as the Agrarian Party, Belarusian Patriotic Party, Belarusian Social Sport Party, Social Democratic Party of People's Accord and Republican Party also received official warning from the Ministry. Each warning demanded that the violations be addressed and stipulated that their continuation could result in the liquidation of the party. All attempts to reverse the warnings by appeal through the legal system proved unsuccessful. Only once did the Ministry of Justice recall a warning. The case was such that the Ministry mistakenly mailed a warning to the wrong party.

For the first time since 2004, two opposition political parties were liquidated this past year. The decisions were based on warnings received from the Ministry of Justices. The Belarusian Women's Party 'Nadzieja' was liquidated by a ruling of the Supreme Court on October 11, 2007.

Party members considered this act to be a vivid example of persecution of political opponents by the regime. 'Nadzieja' had not been especially active for awhile, but members of the Labor Party, shut down in 2004, had joined it, attracting the scrutiny of the Ministry. On August 29, 2007 the Supreme Court ruled that Belarusian Environmental Green Party 'BEZ' was to be closed down as well. Of the two Belarusian Green parties, 'BEZ' was the least active and did not even attempt to retain its registration during the court hearings. These two parties did not play a significant role at Belarusian political stage, but their names nevertheless were known in Belarus and they would have gained a small percentage of votes and influence should Belarus ever adopt a proportional representation electoral system.

At the same time, it is practically impossible to register a new political party in Belarus at present. There were regular but unsuccessful attempts to obtain official registration by the Party of Freedom and Progress and Belarusian Christian Democracy. An attempt of several leftist parties to create a coalition to coordinate joint activities—the Union of Left Parties—was also denied registration twice. The first denial was based on the fact that the founding congress of the Union took place outside of Belarus, even though Belarusian legislation does not prohibit founding congresses and conferences to be held abroad. Nevertheless, on February 14, 2007 the Supreme Court ruled in favor of the Ministry of Justice's decision to deny the registration of the Union of Left Parties. The Ministry also issued written warnings to all of the founding parties. When the parties tried to register their coalition once again the Ministry initiated the liquidation of one of the founding parties, the Belarusian Women's Party 'Nadzieja'. This action, along with typos found in the Union's statutes, became the grounds for yet another denial on November 14, 2007. An additional pretext for the second denial was that some founders and members of the Union's governing bodies used to be members of other liquidated political parties.

In 2007, the total number of political parties in Belarus decreased from 17 to 15. At the same time, the activities of one party—the Belarusian Party of Communists (PKB)—were suspended for six months by a court decision. Experts have pointed out that repression against the pro-democratic communist Party is designed to make space for the pro-regime Communist Party of Belarus. The authorities also were also motivated by the fact that, in a climate of economic downturn, reduced subsidies and escalating social tension, leftist parties constitute the greatest threat. The official legal justification to suspend the PKB was its participation in the founding congress the Union of Left Parties outside Belarus, the basing of local party branches in offices without legal addresses, and other minor violations. The resulting confrontation of the PKB with the Ministry of Justice in regard to the latter's demand that the party provide a complete list of members including home addresses should also be mentioned. The PKB refused to comply with the demand, citing Belarusian law which prohibits governmental bodies from requiring that citizens reveal their party affiliation apart from the case in which a party is being registered. The PKB was justifiably concerned that providing the personal data of its members could make it easier for the government to employ illegal pressure and repression against them at their work places and places of residence, as has repeatedly been the case in earlier election campaigns. After a lengthy dispute, a warning issued to the party, and judgment against it in the Supreme Court, the Belarusian Party of Communists was forced to hand over the data. Nevertheless, the activities of the PKB were suspended for six months by the Supreme Court on August 2, 2007. The PKB's leader, Siarhiej Kalakin, declared that the decision had been expected and was politically motivated.

The suspension was to end on February 2, 2008. The Ministry of Justice, however, initiated the liquidation of the party even before this date. The PKB was accused of violating the Supreme Court's ruling by continuing its activities during the suspension. In particular, the following actions were

seen as a continuation of the party's activities: the participation of several leaders in a number of international conferences and meetings with other Belarusian political parties in regard to the fall 2008 parliamentary elections. At the same time, the Ministry did not take into consideration the fact that the legal definition of the 'cessation of activities of a political party' does not include a clear statement of what activities can be classified as violations. It also did not consider that members of the party can also act as individuals. During preparations for the legal case against the PKB, the court was provided with evidence demonstrating the innocence of the activities of the party during the suspension period and materials proving that the other violations had been rectified. After considering these submissions, the legal case was suspended and the Ministry decided to withdraw the case.

Refusal to register civic organizations

This past year, numerous attempts by Belarusian NGOs to obtain legal status failed. In 2007, the regime's law enforcement agencies and courts adopted new approaches to justify their pretexts for denial. Some of these new approaches demonstrate the practice of legal discrimination against certain citizens on the basis of their political beliefs. In the past, many believed that certain NGOs were denied registration because their leaders were known as opposition figures. The denials were seen as personal in their nature. **But last year, there were several cases when the court directly stipulated that civic organizations could not be established by some persons who had been previously been prosecuted in other politically-related cases, for example activities on behalf of unregistered civic organizations. Thus it is clear that a certain category of Belarusian citizens has been deprived of their freedom of association.**

In 2007, the 'For Freedom' Movement, headed by Alaksandar Milinkievič, was denied official registration twice. At first, 'For Freedom' attempted to register as a human rights organization. On September 20, 2007 the Supreme Court upheld the denial issued by the Ministry of Justice; its decision was based on the fact that the founders of 'For Freedom' had transferred the required governmental fee to the wrong payment account, whose information had been given to them by an official from the Ministry of Justice. The decision came after the founders had transferred the fee to the correct account.

In the second case, the registration documents were submitted under another name - the Civic Organization for Human Rights Defense and Education 'The Movement 'For Freedom.' But the Ministry of Justice denied the registration again without providing any justification, except the claim that the founding meeting of "For Freedom" had taken place without the permission of local authorities. This unprecedented ruling was not backed up by any relevant legislation. It was the first time that a founding meeting of a civic organization was interpreted to be a "mass rally" according to the Law "On Mass Actions". On December 19, 2007 Supreme Court ruled against the appeal of 'For Freedom.'

In 2007, the civic organizations 'Young Social Democrats', Liquidators of the Chernobyl disaster 'Liquidator', and 'For Free Development of Entrepreneurship' were also denied registration. On February 5, 2007 the Supreme Court ruled against the appeal of the founders of the pensioners organization 'Starejšyny,' which was denied registration on the basis of minor mistakes in its documents.

On December 6, 2005 the Ministry of Justice denied the registration of the social civic organization 'Belarusian Christian Democracy' based on the view that its founders did not explain in the group's statute the meaning of "Christian values" and the means by which the organization would implement them.

The civic organization Young Front was denied registration twice. The regime's actions appear to be quite cynical in the light of the numerous criminal cases initiated against the members of this youth organization for participating in the activities of an unregistered organization (Article 193-1 of the Criminal Code on 'The Illegal Organization of Activity of a Civic Organization, Religious Organization or Foundation, or Participation in their Activities'). The Minsk City Court twice denied the registration using the justification that the organization's founders had been previously been prosecuted for different misdeeds and participation in the activities of an unregistered organization. The Supreme Court upheld the decisions even though the denials were obviously politically motivated and did not conform to the Law "On Civic Organizations".

Law enforcement agencies tried to use the same tactic when denying the registration of the human rights organization 'Viasna,' whose founders had also previously been arrested. But in the case of 'Viasna', the Ministry of Justice denied the registration based on mistakes in the registration documents. In particular, "problem" cited was the resemblance of the name of the new organization to the name of the previously liquidated one – the 'Human Rights Centre 'Viasna'.

The case of 'Viasna' is also an example of the disrespect Belarusian government pays to the decisions of the United Nations Human Rights Committee. The liquidation of 'Viasna' in 2003 was recognized by the UN Human Rights Committee as violation of the freedom of association as stipulated by the Pact on Civil and Political Rights signed by the Republic of Belarus. The decision of the UN Human Rights Committee on this case was made at the very time when 'Viasna' members were applying to register a new version of the organization. This timing offered the authorities an opportunity to manifest their good will and respect for human rights and freedom of association in regard to universally recognized standards. Yet, the Belarusian government did not make use of this opportunity. On October 26, 2007 the Supreme Court upheld the refusal issued earlier by the Ministry of Justice. In this case, and others, the authorities also chose not to acknowledge the Committee's ruling. The regime also did not restore the registration of civic organization 'Helsinki-XXI', liquidated in 2001, or the civic organization 'Civic Initiatives,' liquidated in 2003.

During 2007, the UN Human Rights Committee received a number of appeals from Belarusians who considered themselves to be victims of violations of freedom of association perpetrated by the Belarusian government. These appeals included complaints regarding illegal and arbitrary denials of registration of the Assembly of Pro-Democratic NGOs and organization of pensioners 'Starejšyny', as well as complaints regarding the illegal liquidation of the civic organizations Independent Institute of Socio-Economic and Political Studies, Belarusian Students Association, Society of Lovers of Knowledge (Philomaths), Hrodna regional civic organization 'Ratuša' and others.

There were, however, a few positive changes in the registration system that potentially can improve the situation regarding freedom of association in Belarus. Most important was the abolition of the National Committee on Registration (Re-registration) of Civic Organizations in 2006. Human rights and other civic organizations had been trying to achieve this since the establishment of this body back in 1999. This Committee not exercised political control over the process of creating new organizations but also hindered the entire registration process due to its irregular meetings. In practice, before 2007 it had never been possible to complete the registration process within the month-long

period set by the legislation; some groups ended up waiting for years for decisions regarding their registration (the refusal of the registration of the Assembly of Pro-democratic NGOs was announced a year and a half after it had applied, not within the month set by the law).

While registration procedure has not become simpler it is now as quicker and more transparent. In 2007, law enforcement bodies more or less met the one month requirement in the majority of cases. Moreover, the number of organizations registered in 2007 increased in comparison to 2005. Yet the majority of the newly registered groups are organizations that either have proved their loyalty to or were directly created by the regime, such as organization 'Bielaja Rus'. There were numerous reports in the media that students and government officials were forced to attend this organization's founding events. But sometimes it proved possible even for a truly independent non-political organization to get registered, especially those active in the social, cultural, local history and environmental fields. As the Minister of Justice Mr. Viktor Halavanau reported, just less than 50 civic organizations were denied registration in 2007.

Criminal Responsibility for Participating in the Activities of Unregistered Organizations

Criminal charges for participating in the activities of unregistered civic organizations can still be brought against citizens in Belarus. Article 193-1, regarding 'The Illegal Organization of Activity of a Civic Organization, Religious Organization or Foundation, or the Participation in their Activity' introduced into the Criminal Code on the eve of the 2006 presidential elections is incompatible with the principles of freedom of association. Unlike as in 2006, in the last year this regulation was mostly used to frighten members of unregistered organizations. The practice of bringing criminal charges under this article was applied mostly to organizations carrying out activities of a political nature; for the majority of other unregistered NGOs, it serves as a scare tactic. For example, official warnings threatening to bring criminal charges against members of the liquidated Belarusian Students Association and the unregistered initiative 'For a Clean Barysau' were issued in 2007. It is estimated that the number of unregistered NGOs in Belarus is approximately the same as the number of those registered and totals more than 2,000 groups. Potentially, every member of every one of these organizations can be criminally prosecuted, and this threat makes members act more carefully and sometimes be less active.

In 2007, the leader of fascist organization RNE (Russian National Unity) in Homiel city was the only person sentenced and imprisoned under Article 193-1. Eight members of the Young Front were sentenced according to the Article and punished with fines and warnings. Criminal cases against three more Young Front members of Homiel region (Andrej Cianiuta from Homiel, Kiryl Atamancyk from Zlobin and Arsenij Jahorcanka from Mazyr) were initiated, suspended and then restarted. On December 28, 2007 a criminal case was launched against a Young Front activist from Po³acak, Kaciaryna Salaujova. In total, dozens of Young Front members have been summoned to testify or been involved in other ways regarding investigations being conducted on activities of unregistered organizations.

In comparison with 2006, when this Article was introduced, the number of persons convicted under it increased in 2007. In 2006, three criminal cases based on the Article led to the conviction of six activists from the Young Front and Partnership (five were sentenced to imprisonment and one was fined). It is also known that several other cases were initiated but did not come to trial and were

closed. In 2007, nine people from two organizations were convicted under the Article, but only one was sentenced to imprisonment. There were no acquittals in cases regarding the Article in 2006 or 2007.

An analysis of these types of cases indicates that the activists of the Young Front appear to be the main target of the regime. The following members suffered criminal prosecution in 2007: Zmicier Chviedaruk, Barys Harecki, Nasta Palazanka, Aleh Korban, Alaksiej Januseuski, Nasta Azarka, Ivan Syl'a, and Jaras³au Hryscenia.

In April and May 2007, the Ministry of Justice demanded that dozens of pro-democratic NGOs explain their membership in the unregistered umbrella organization known as the Assembly of Pro-Democratic NGOs of Belarus (such inquiries were received by the Belarusian Language Society, Leu Sapieha Foundation, BPF 'Renaissance', Belarusian Helsinki Committee and many others). At the same time, the Ministry stipulated that cooperation with such an unregistered organization could become the grounds for criminal charges against their members under Article 193-1. The Assembly is a union of civic organizations having a democratic character; it has regularly tried to register but the Ministry has always denied legal status. During one of the illegal searches of the Assembly carried out by the authorities, several documents relating to the registration process were seized. Despite the fact that these documents were being prepared to be submitted to the Ministry of Justice (and some of them had actually been submitted), the Ministry interpreted the activity regarding registration as violation of existing legislation. **At the present time, the question of the legality of the denial of the Assembly's registration is being considered by the UN Human Rights Committee.**

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To summarize relations in Belarus between the government and civic society structures in 2007, it should be mentioned that there is a trend towards moving from a heavy handed policy of illegal repression to a more nuanced and sophisticated mechanism for controlling civic society. Still, criminal prosecution remains the main threat for unregistered NGOs, especially those active in politics. For other organizations, this factor appears to be an incentive in encouraging conformity with a government-set agenda. The activities of independent NGOs remain highly regulated and frequently persecuted. Meanwhile, much of the authorities' efforts are directed creating a substitute for real civic society by establishing state-controlled organizations (GONGOs). In relation to other NGOs continuous complication of their activity is taking place that transforms to direct repressions only in extraordinary cases.

The legal obstacles that had been interfering with the process of creating and the activities of civic organizations, such as the complicated registration process and forced closures, did not disappear in 2007; still, their use has not intensified either. It is possible to say that Belarusian civic society has become accustomed to these unfavorable conditions. Several markers allow us to state that the political climate for the creation and activities of NGOs became less onerous in 2007 than during the earlier 2003-2006 period.

The general situation regarding a lack freedom of association and the climate for NGOs in Belarus continued to be unsatisfactory. Pressure has not increased, but the current legal climate continues to restrict freedom of association, especially its realization by political opponents of the regime. The loosening of the registration barrier and simplification of the registration procedure

should not be seen as a firm trend, since it has not actually become easier to create a new organization. The problem of arbitrary registration denials and the arbitrary liquidation of civic associations and political parties remain the most relevant ones for Belarusian civic society. **The most important and immediate problem is to achieve as soon as possible the decriminalization of activity on behalf of unregistered organizations, political parties, religious organizations and foundations. Only the abolishment of Article 193-1 on ‘The Illegal Organization of Activity of a Civic Organization, Religious Organization or Foundation or the Participation in their Activity’ of the Criminal Code and the removal of the ban to participate in the activities of unregistered organizations could be recognized as a step towards real abidance of the freedom of associations in Belarus.**