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# Belarus

## Stifling the promotion of human rights

### Introduction

Belarus is a country where the theory of human rights on the one hand, and everyday implementation on the other, diverge widely. Even though Belarus is a party to most of the international human rights treaties and a whole spectrum of human rights and fundamental freedoms are guaranteed in the country's constitution, an inordinate gap exists between these rights in theory and their implementation in practice.

In recent months a disturbing number of non-governmental organizations (NGOs), directly and indirectly engaged in the promotion and defence of human rights in Belarus, have been closed on the basis of controversial legislation and regulations, widely considered as restrictive, by a judiciary whose independence has been repeatedly called into question by the international community (see *Human Rights Defenders under Pressure in Belarus*, AI Index: EUR 49/004/2003). Amnesty International has repeatedly expressed its concerns about other pressures on human rights defenders, in particular regarding obstacles and constraints on their rights to freedom of association; constraints and violations of their rights to receive and impart information about human rights; harassment. Violations of the rights to be free from torture, ill-treatment, arbitrary arrest and arbitrary detention create a climate which impedes on the important work of human rights defenders in Belarus, and sometimes places them at personal risk.<sup>1</sup>

In light of these concerns Amnesty International wrote to Minister of Justice Viktor Golovanov on 18 September 2003, urging him in his capacity as Minister of Justice to immediately take measures to ensure that Belarus fulfil its international human rights obligations, including under the International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders. In particular, human rights defenders in the country should be allowed to exercise their rights of association and peaceful assembly without fear of obstruction, harassment, intimidation or fear of reprisals.

As a response to this letter and appeals by Amnesty International's members, the organization received two replies from the Ministry of Justice<sup>2</sup>. In its responses the ministry ensures its commitment to adhere to international standards, in particular Article 22 of the ICCPR. The ministry indicates it "welcomes initiatives, which enable a more constructive relationship between the government and NGOs, who on their part need to respect the legislation of the republic. Simultaneously the government is working towards the perfection of legislation with regards to the regulation of the activities of public associations."

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<sup>1</sup> See for example *In the Spotlight of the State: Human Rights Defenders in Belarus* (AI Index: EUR 49/005/2001).

<sup>2</sup> Letters dated 5 December 2003 and 29 January 2004.

Unfortunately the ministry has failed to address the specific recommendations made by Amnesty International:

- to **stop** the deliberate pattern of obstruction, harassment and intimidation of human rights defenders, by closures, and threats thereof, of several NGOs, including *Legal Assistance to the Population, Spring-96* and the *Belarusian Helsinki Committee*, directly and indirectly engaged in the promotion and defence of human rights in Belarus;
- to immediately **review** laws, regulations and administrative practices relating to the registration and activities of non-governmental organizations in order that their establishment and free operation may be facilitated in accordance with Articles 21 and 22 of the ICCPR;
- to **adhere** to the principles of the UN Declaration on Human Rights Defenders (*Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, adopted by the United Nations General Assembly, 9 December 1998.)

The lack of political will by the Belarusian authorities to initiate a meaningful process of reform concerning the establishment and free operation of NGOs and civil society in general becomes clear in further statements by the Minister of Justice Viktor Golovanov as well as President Alyaksandr Lukashenka at the beginning of 2004. On 23 January 2004 the Minister of Justice reportedly announced the achievements by his ministry in the area of strengthening of legal order, in particular with regards to freedom of association. He reportedly stated that “in the past year we *tightened* [emphasis added] the control over NGO activities. 81 NGO’s were subject to our expanded inspections. As a result of those inspections the Ministry of Justice issued 810 written warnings ... which is 6 times more than in 2002. Fifty one organizations have been shut down by court decisions based on charges brought by the ministry.”<sup>3</sup>

On 16 February 2004 President Alyaksandr Lukashenka ordered the Ministry of Justice to strengthen its role in the enforcement of legal order among trade unions, political parties and other public associations. Every organization must fulfil every well-founded requirement of the Ministry of Justice and all public associations must abide by current legislation, in line with the obligations laid down in the constitution.<sup>4</sup>

This document focuses on curtailments of the rights to freedom of association and assembly, and infringements on the right to freedom of expression, as experienced by various human rights defenders in Belarus. The cases mentioned in this report include closures of human rights organizations, arbitrary detention of individuals and members of trade unions and pressure on independent media outlets, including independent trade union newspapers and individual journalists.

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<sup>3</sup> Report on [www.belta.press.net.by](http://www.belta.press.net.by), Viktor Gavrysh, 23 January 2004, Minsk.

<sup>4</sup> Internet portal President of Belarus, [www.president.gov.by](http://www.president.gov.by), 16 February 2004.

## **What are Human Rights Defenders?**

Human rights defenders around the world are united by their commitment to protecting and upholding the dignity and rights of people. They are individuals and groups who put pressure on governments to live up to international human rights obligations.

In 1998, the UN General Assembly declared that “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”<sup>5</sup> All those who are peacefully struggling for the realization of human rights are therefore human rights defenders. Some work in human rights organizations, student and youth groups, religious, women's or development associations; others are lawyers, journalists, academics, teachers, students, the unemployed or farmers in remote and poor rural areas.

Their work includes the search for truth and justice and strengthening the rule of law; the strengthening of democratic governance and accountability; the struggle for gender, racial and sexual equality; the protection of economic, social and cultural rights and the rights of indigenous peoples; the struggle against environmental degradation, hunger, disease and poverty; the struggle for an adequate standard of living, education and medical attention; the struggle to end war and arms proliferation and to provide urgent assistance to victims of conflict or natural disasters. Defenders work in various spheres of society and their work is often inspired and guided by internationally recognized human rights standards.

International, regional and national human rights governmental and non-governmental organizations have affirmed and adhered to this broad and inclusive definition of human rights defenders with the aim of ensuring the concept takes into account all forms of human rights activities around the world.

Human rights defenders often raise individual cases of human rights violations, seek redress and reform with the intention of compelling governments to improve respect for fundamental freedoms. To this end, human rights defenders monitor and report on government policy and practice to uphold the principles of the rule of law and human rights standards protected in domestic and international legislation.

The degree of engagement of a government with the community of human rights defenders is a measure of its commitment and understanding of human rights and its willingness to make improvements in human rights protection. Conversely, the degree of difficulties and attacks faced by human rights defenders often reflects the pervasiveness of human rights violations at large. In defending the rights of others, human rights defenders need to be protected too.

## **International protection for human rights defenders**

When governments persecute human rights defenders, they violate basic rights such as the rights to freedom of expression, opinion, assembly and association, as well as the rights to a

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<sup>5</sup> Article 1(2) of the UN Declaration on Human Rights Defenders.

fair trial, freedom from arbitrary arrest, ill-treatment and torture and the right to life. All these rights are enshrined in a long string of international and regional treaties and declarations.

Leading human rights organizations, including Amnesty International, campaigned for more than a decade for the adoption of an international instrument that recognizes and strengthens the right to defend human rights.

On 9 December 1998, on the eve of the 50th anniversary of the Universal Declaration of Human Rights, the UN General Assembly adopted the Declaration on Human Rights Defenders. The adoption of the Declaration on Human Rights Defenders at such a significant moment reflected the level of importance afforded to the role of human rights defenders in advancing the promotion and protection of human rights.

The Declaration stresses the universality and indivisibility of all human rights, focussing on the rights of association, opinion, access to and sharing of information, the right to make criticism of public affairs and to complain to governments, the need for investigation and remedy of abuses, and the right to communicate with international organizations. It affirms that states should promote understanding of human rights, create or support independent national human rights institutions and programs of human rights education for citizens to know and exercise their rights, and train public officials in human rights.

Article 12.2 emphasizes the duty of states to protect human rights defenders: "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration."

A Special Representative of the UN Secretary General on the situation of human rights defenders was appointed in August 2000: Hina Jilani, a prominent human rights defender and lawyer from Pakistan, whose mandate is:

- (a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;
- (b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;
- (c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations.<sup>6</sup>

In 2001 the Special Representative on human rights defenders had transmitted a number of concerns to the Belarusian government, including concerns about the system of official warnings administered by the Ministry of Justice. These and other concerns were published in the Special Representative's second report to the UN Commission on Human

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<sup>6</sup> UN Commission on Human Rights Resolution 2000/61, UN Doc. E/CN.4/RES/2000/6 of 27 April 2000. The Special Representative's mandate has been resumed annually since.

Rights, published in February 2002.<sup>7</sup> In her third report to the UN Commission on Human Rights, published in January 2003, she stated that “there are clear trends illustrating a strategy within some States of restricting the environment in which human rights defenders operate. Organizations are closed down on the slightest pretexts, sources of funding are cut off or inappropriately restricted, efforts to register an organization with a human rights mandate are intentionally slowed by bureaucracy”.<sup>8</sup> In her fourth report to the UN Commission on Human Rights, published in January 2004, the Special Representative with regards to Belarus “notes with deep concern that, in numerical terms (103), communications concerning courts, including security and military courts, administrative bodies such as the Ministries of Social Affairs, the Interior and Justice and, in some cases, the parliament, as perpetrators of violations appear to have taken precedence over those concerning military and paramilitary forces. This worrying trend suggests the institutionalization of acts against defenders.”<sup>9</sup>

## **1. Curtailments of the rights to freedom of association and assembly**

In previous years Amnesty International has expressed its concern about obstacles human rights defenders in Belarus face, many of them bureaucratic and apparently quite arbitrary, in exercising the rights of freedom of association and assembly. This is in contradiction to Article 36 of the Constitution of Belarus, as well as Article 2 of the Law on Public Association (1994)<sup>10</sup>, which provide every citizen the right to freedom of assembly. However, people who are actively interested in human rights in Belarus are not allowed to join together and form human rights organizations in order to protect or promote human rights. Instead, human rights organizations, as well as trade unions, like all other non-governmental organizations (NGOs), must register with the Belarusian authorities and receive official approval to lawfully function once they fulfil the requirements as set out in Presidential Decree No.2 (1999).<sup>11</sup> After being officially registered, human rights organizations are subjected to a set of strict guidelines which include an official system whereby an organization can be closed down after it receives more than two “warnings” in any one-year period. Article 22 of the Law on Public Associations states that public associations can only represent and defend the rights and legal interests of its members and not third parties. A new guideline was introduced in June 2003<sup>12</sup>, which enables a court to close down a public organization immediately if it has breached legislation with regards to public meetings, such as demonstrations or pickets.

In 2001 Amnesty International reported that “human rights defenders have informed Amnesty International about the difficulties they faced and the frustrations they experienced

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<sup>7</sup> UN Doc. E/CN.4/2002/106, 27 February 2002 - paragraphs 20-37 (Annex).

<sup>8</sup> UN Doc. E/CN.4/2003/104, 3 January 2003 – paragraph 18.

<sup>9</sup> UN Doc. E/CN.4/2004/94, 15 January 2004 – paragraph 75.

<sup>10</sup> Law on Public Associations (4 October 1994, amended in 1995, 1999, 2001 and 2003).

<sup>11</sup> Presidential Decree No.2 “*About several measures on regulating the activities of political parties, trade unions and other public associations*”, January 1999.

<sup>12</sup> Law of the Republic of Belarus No, 213-3, 26 June 2003.

while registering with the judicial authorities".<sup>13</sup> During 2003 these difficulties and frustrations turned into exasperation and desperation, as more and more NGOs directly or indirectly engaged in the promotion or defence of human rights, were closed down by court order or simply ceased their activities after receiving warnings, having lost their faith in the independence of the judiciary. One of the latest human rights groups being closed down in January 2004 was the Independent Society for Legal Research (ISLR), on the basis of a complaint by the Minsk City Executive Committee's Justice Department. The committee claimed that the organization had repeatedly participated in court proceedings involving other NGOs, who were not based in Minsk and that this was not in accordance with the Law on Public Associations and ISLR's own statute. The chair of ISLR, Elena Tonkacheva, reportedly stated that this charge was unfounded, as the statute of ISLR states that the organization works in the whole of Belarus. ISLR's activities include giving informational and legal assistance to other non-governmental organizations, as well as conducting analytical work and research in the field of the freedom of association. Since its establishment in 1996 ISLR had not received complaints by the authorities regarding these activities until 2003. The steps taken by the authorities coincided with those against other human rights groups, such as Legal Assistance to the Population and Spring-96 (see below) and confirm an apparent pattern of obstruction of the work of human rights defenders in Belarus.

### **1.1. Registration and regulation of non-governmental organizations**

Amnesty International believes that the system of official warnings, to which NGOs are subjected in Belarus, has deliberately been used in combination with the bureaucratic system of registration and the controversial set of operational guidelines to impede the legitimate activities of such organizations and ultimately silence human rights defenders in the country.

#### **The closure of Spring-96**

Spring-96 is one of Belarus' best known human rights organizations. It includes human rights activists of various backgrounds, such as lawyers, writers, journalists, students and academics. It was reportedly formed informally, in April 1996, during a large-scale anti-presidential demonstration, in order to provide assistance to detained demonstrators and victims of alleged police ill-treatment and to disseminate information about the incident. The organization was officially registered in March 1998 and has continued to provide legal assistance to victims of a broad range of human rights violations in Belarus. The organization aims to promote human rights in Belarus, through the collection and dissemination of information about human rights violations in Belarus, in particular through its website ([www.spring96.org](http://www.spring96.org) – in Belarusian, English and Russian). Spring-96 has also been involved in election monitoring and public events.

On 13 September 2003 Spring-96 received a court summons by the Supreme Court, dated 2 September 2003, in which the organization was threatened with closure on the basis

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<sup>13</sup> See *In the Spotlight of the State: Human Rights Defenders in Belarus* – (AI Index: EUR 49/005/2001) - p.10.

of charges filed by the Ministry of Justice. These charges included that a number of documents submitted for registration in 1999 were legally invalid, which according to the ministry were allegedly forged, for example with fake signatures. The ministry also claimed that the number of members of the Mogilev region was insufficient, that Spring-96 violated legislation on elections and that the organization had violated Article 72 of the Civil Procedure Code, which prohibits the representation of citizens who are not members of the organization.

On 23 September, during the pre-trial proceedings at the Supreme Court, Spring-96 filed a written complaint, requesting the court to find the case inadmissible on the basis of violation of the Civil Procedure Code, as no evidence was provided to support the accusations by the plaintiff. The Supreme Court accepted this complaint and adjourned the court proceedings to 30 September, requesting the Ministry of Justice to submit evidence in written form.

In its complaint Spring-96 stated that it rejected the accusation of forged signatures, as this was concluded on the basis of a visual analysis and even the signature of A. Bialiatski, chair of Spring-96, appeared among those allegedly forged. The decision to register the association in 1999 was made by the State commission on registration (re-registration) of public associations and by the Ministry of Justice. It is difficult to understand why only in 2003, after inspections in 2001 and 2002, the ministry found that the association was registered with invalid documentation. The ministry's claim that the organization did not have sufficient members in the Mogilev region is controversial, since at the time of Spring-96's official establishment in 1998 legislation did not require 10 members, as this was only introduced by Presidential Decree No.8 (1999).<sup>14</sup> Currently the organization has at least 150 members in the region. The claim that Spring-96 provided legal representation to people who were not members of the organization contradicts Article 62 of the Constitution, which states that every citizen has the right to use the legal services of advocates or other representatives. Article 70 of the Civil Procedure Code gives citizens the right to appoint a representative in court. Members of Spring-96 did represent the rights of others in the period 1999-2003, but not on behalf of the organization, rather as private individuals. The Ministry of Justice did not issue any warnings after its yearly inspections in 2001 or 2002 - these were suddenly issued in 2003, when the ministry inspected four regional branches and the central office of Spring-96 in Minsk.

Spring-96 informed Amnesty International in September 2003 that it is of the opinion that its persecution by the authorities is in connection with its public activity (monitoring of human rights, support to victims of political repression, monitoring during the elections). The organization considers the closure of human rights and other NGOs a planned campaign of the authorities, aimed at removal of active public organizations from civil society.

On 28 October 2003 the Supreme Court ruled to close down Spring-96. Amnesty International condemned the closure. The Supreme Court upheld its decision on 24 December 2003.

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<sup>14</sup> Presidential Decree No.8, "About several measures to improve receiving and using foreign humanitarian aid", March 2001, superseded in November 2003 by Presidential Decree No.24.

### **The closure of Legal Assistance to the Population**

Legal Assistance to the Population (LAP), one of Belarus' most prominent human rights organizations, is a legal advice centre based in Minsk, which offers free legal advice on a wide number of issues to people who are unable to afford the services of lawyers. People may come to and speak with a member of the centre who will provide them with written documents informing them of their rights. LAP has offered free legal assistance to people who have been arrested and sometimes ill-treated by police officers during the course of the demonstrations which have been organized by the opposition. Its chairperson Oleg Volchek is also a leading member of the non-governmental committee which has demanded an independent investigation into a spate of possible "disappearances", and has published material about the cases.

On 8 September 2003 Minsk City Court closed down LAP. The decision was based on allegations, brought by the Minsk City Executive Committee's Justice Department, which included that the organization had, in violation of existing legislation, exercised its activities without the required permission (licence), and during its activities gravely abused legislation. According to the committee, LAP - despite a written warning - continued these activities, for which the organization was given a second written warning on 18 September 2002. The judgment also states that the representatives of the defending party did not appear in court, although they were informed about the time and place of the court hearing as required. Their absence was considered by the court as an intention to prolong the court proceedings and therefore it considered that the court hearing could take place without the presence of the defendants. LAP appealed against the decision, but the ruling of the Minsk City Court was upheld by the Supreme Court on 13 October 2003.

According to LAP the decision of the court was pre-determined and politically motivated. The court's decision to continue with the court hearing in the absence of the defence (while representatives were reportedly in the building trying to arrange a larger room to ensure that those who wished could attend) adds to the impression of an arbitrary decision. Another representative was refused entry into the court building by police. LAP refutes the claim that it rendered paid legal services as the organization provided legal assistance free of charge, an activity that does not require a license. It questions the impartiality of the judiciary, as the judge presiding over this case had ruled in a number of other court cases against the organization and apparently used information which was not provided by the plaintiff, but obtained from cases she had presided over.

Amnesty International expressed its concern that the closure of LAP was in clear violation of Belarus' international human rights obligations and appeared to have taken place in a context of increasing intolerance on the part of the authorities towards peaceful dissent.<sup>15</sup>

In addition, on 24 September 2003 Oleg Volchek, LAP's chairperson, was attacked after the trial by an unknown person, who tried to provoke him. He had to receive medical attention in hospital and submitted a complaint to the police. Oleg Volchek fears that the attack was orchestrated to discredit him and his organization.

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<sup>15</sup> See *Human Rights Defenders under Pressure in Belarus* (AI Index: 49/004/2003) – p.1.

### **The possible closure of the Belarusian Helsinki Committee**

In January 2004 another prominent human rights association, the Belarusian Helsinki Committee (BHC), was fined 385 million Belarusian rubles (approximately US\$180,000) by the tax inspection office of the Minsk Moskovskaya District. The reasons for the fine constituted an alleged violation of Presidential Decree No.8 (1999). The tax authorities accused BHC of using a grant provided by the EU TACIS<sup>16</sup> program without registering the foreign humanitarian aid and not paying taxes in accordance with the regulations of the decree. BHC has appealed against the decision, since the aforementioned decree has since been superseded and more importantly, international technical assistance does not fall within the remit of the decree, but is regulated by an international agreement between the government of Belarus and the European Commission. On 10 February 2004 the European Commission reportedly sent a *'note verbale'* to the Belarusian government expressing its concern regarding the situation around the human rights association and the taxation of technical assistance programs. If the decision is upheld, BHC will be unable to continue its activities and will have to close its offices.

### **1.2. Arbitrary detention of peaceful demonstrators**

Amnesty International considers that the detention of people solely as a consequence of the peaceful exercise of their fundamental rights to freedom of expression and association is arbitrary detention and violates several rights set out in the UN Declaration on Human Rights Defenders and guaranteed in the ICCPR, which the government is bound under international law to respect. The arbitrary detention of peaceful opponents of the government in Belarus has been commonplace since the dissolution of the 13<sup>th</sup> Supreme Soviet in November 1996. Since the end of 1996 Belarus' opposition staged a series of large-scale peaceful demonstrations, as well as numerous smaller protest actions, throughout the country protesting against President Alyaksandr Lukashenka's dissolution of the former parliament and the rapid deterioration of the human rights situation. Amnesty International condemned the arrests of demonstrators for peacefully exercising their right to freedom of assembly, and it considered them prisoners of conscience. Human rights defenders, including trade union activists, have also been among those individuals who have been arbitrarily deprived of their liberty in recent years. Many cases of arbitrary detention have been documented in past Amnesty International reports.<sup>17</sup>

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<sup>16</sup> European Union Technical Assistance to the Commonwealth of Independent States.

<sup>17</sup> See for example *Belarus: Dissent and Impunity* (AI Index: EUR 49/014/00), *Belarus: Briefing for the UN Committee against Torture* (AI Index: EUR 49/002/2001), *Trodden underfoot: Peaceful protest in Belarus* (AI Index: EUR 49/008/2002) and News release: *Belarus: Independence Day marred by new detentions* (AI Index: EUR 49/002/2003).

### **The case of Aksana Novikava**

On 11 February 2004 Aksana Novikava was amnestied by the Frunzensky District Penal Commission. She had received a two-year suspended prison sentence in April 2003 for libel against President Alyaksandr Lukashenka in October 2002. On 17 October 2002 she had been detained for distributing anti-Lukashenka leaflets.

Aksana Novikava reportedly stated after the penal commission's decision: "It's nice to feel a free person without the depressive thought of possible imprisonment. Now it will be much easier to continue fighting against the ruling regime, without fear of impending imprisonment, although I was ready for that kind of scenario when I went out on the streets to hand out anti-presidential leaflets to passers-by."

Since receiving her suspended sentence Aksana Novikava had been detained several times, for example on 11 December 2003. Police had detained Aksana Novikava in front of the Minsk City Court for holding a poster reportedly stating: "Belarus needs trial by jury". She was charged under Article 167 of the Code on Administrative Infringements for unauthorized picketing and was informed she had breached her two-year probation period. On 17 January a court hearing regarding this breach was scheduled, but a district judge postponed the hearing pending the decision by the penal commission. On 29 January 2004 the Frunzensky District Court reportedly fined her 3.5 million roubles (approximately US\$1620) for the above-mentioned charges.

In January 2004 Aksana Novikava told an Amnesty International representative that she would continue to demonstrate for human rights in Belarus, regardless of the consequences. Since 2002 she had become more publicly active as she witnessed a deterioration of the human rights situation and had realized that change would not occur if people remained passive. "Unfortunately not many people know their rights and at the same time people are afraid, afraid of repercussions." She had taken part in large scale demonstrations to protest against the authorities, but also picketed on her own, for example during the court proceedings against LAP, during which she was detained for holding a placard saying "we need an independent judiciary".

### **Trade union activism**

Like Belarus' human rights community, the independent trade union movement in Belarus leads a precarious life. In its 2003 Annual Survey of Violations of Trade Union Rights the International Confederation of Free Trade Unions (ICFTU) described the concerns about trade union rights in Belarus in the following dramatic terms: "Democratic rights are not respected in Belarus, least of all trade union rights. The government has sought by every means to undermine, if not eliminate, the trade unions. Workers are actively discouraged from joining independent trade unions ... Those who do, face continual pressure at the workplace to leave the union or risk losing their jobs. Members of independent trade unions have been arrested for distributing trade union literature, have had materials confiscated and have been denied access to work sites ... Trade union leaders are particularly targets for harassment.

Threats are taken very seriously in a country where political opponents to the regime have disappeared.”

### **The imprisonment of Alyaksandr Bukhvostov**

On 30 October 2003 the chair of the Belarusian Automobile and Agricultural Machinery Workers' Union, Alyaksandr Bukhvostov, was detained by police in central Minsk for staging a peaceful protest action against the government's alleged interference in the trade union's internal affairs. The Minsk authorities had refused Alyaksandr Bukhvostov permission to stage a picket in the city centre, only allowing a protest action to take place on the outskirts of the city. Alyaksandr Bukhvostov countered this decision by staging the picket on Oktyabrskaya Square in the city centre, prior to which he reportedly explained the reasons for the action: "I will be at Oktyabrskaya Square at 4pm. This is imperative. I want to say openly what is happening. The authorities are relentlessly exerting colossal pressure on the Automobile and Agricultural Machinery Workers' Union. People are inciting against my comrades and against the leadership of the trade union. They are being crushed psychologically. They need defending. We have turned to the procurator's office and other organs informing them that pressure is being put on the union. However, to date we have not received a reply from the Prosecutor General's office or from the Ministry of Industry." It was alleged that the Ministry of Industry had ordered enterprise managers to exert pressure on the local trade union structures of the Automobile and Agricultural Machinery Workers' Union in order to force them to leave the union and affiliate with a government-sponsored trade union, the Belarusian Trade Union of Industry Workers.

Police detained Alyaksandr Bukhvostov shortly after he arrived at Oktyabrskaya Square on 30 October. However, Alyaksandr Bukhvostov, surrounded by supporters, journalists and members of the security services, successfully unfurled a placard which read: "We protest against violations of workers' rights!". The police subsequently detained Alyaksandr Bukhvostov and another trade unionist, Igor Komlik, and took them to Tsentralny Ministry of Internal Affairs in Minsk. Although Igor Komlik was released soon afterwards without being charged, later the same day Tsentralny District Court in Minsk convicted Alyaksandr Bukhvostov in a closed hearing under Article 167 (1) of the Code for Administrative Infringements for staging an unsanctioned demonstration and sentenced him to 10 days' imprisonment. Amnesty International considered him to be a prisoner of conscience. In January 2004 an Amnesty International representative met with Alyaksandr Bukhvostov, who said: "I organized the picket because it was the only remaining option to publicly protest, I wanted to express my opinion and I don't consider myself guilty of a crime for doing this."

## **2. Restrictions on the right to freedom of expression**

Amnesty International also remains concerned about the overall precarious state of press freedom in Belarus. The right to freedom of expression in Belarus is guaranteed both domestically, by Article 33 of the Belarusian Constitution, and by international treaties which Belarus has ratified and is therefore legally bound to observe. However, Belarus has

frequently been criticized both domestically and internationally for violations of these rights, particularly with regard to lack of press freedom in the country. The Belarusian authorities have been successful not only in stifling free debate through its virtual monopolization of the press and tight control of domestic television and radio but also in keeping the independent press in check through a campaign of harassment and intimidation. Amnesty International considers that the use of the Belarusian Criminal Code as well as other regulations by the authorities to curb the legitimate exercise of the right to freedom of expression violates the government's international human rights obligations, particularly under Article 19 of the ICCPR.

The Ministry of Information regularly employs a similar system of official warnings and suspensions as used by the Ministry of Justice to control independent media. In 2003 several influential newspapers, including trade union newspapers were targeted by the authorities, who suspended their publication, while others were burdened by crippling defamation suits brought by state officials. Internet publications seem the next target of the authorities, as on 2 February 2004 the first journalist was fined for publicizing information on the web-site of an unregistered organization.

The restrictions on the freedom of the media have not been conducive to the promotion of human rights and civil liberties. The mass media has therefore not been available to human rights defenders, including independent trade unions, to raise awareness about human rights and disseminate information about alleged human rights violations in Belarus.

## **2.1. The vestiges of an independent trade union press**

### **Silencing criticism in the trade union newspaper *Belaruski Chas***

In 2002 the Belarusian government allegedly orchestrated the removal of the leadership of the Belarusian Federation of Trade Unions. The change in leadership of the BFTU - the manner of which was criticized by the International Labour Organization - coincided with the adoption of a conciliatory approach by the union towards the government, which had direct consequences for the staff of BFTU's weekly newspaper *Belaruski Chas*. On 8 August 2002 the editor of *Belaruski Chas*, Alyaksandr Strykevich, was finally dismissed from his position on the instructions of the new BFTU leader and former deputy head of the Presidential Administration, Leonid Kozik. The latter's repeated attempts to dismiss Alyaksandr Strykevich were said to have been motivated by Alyaksandr Strykevich's support for the former leader of the BFTU, Vladimir Goncharik, in the September 2001 presidential elections.

On 10 December 2002 the acting editor of *Belaruski Chas*, Irina Germanovich, was forced to resign from her position, reportedly following increasing pressure from the BFTU to tone down the critical language of the newspaper. The acting editor's departure was followed in mid-January 2003 by the dismissal of five other members of staff purportedly owing to the newspaper's difficult financial circumstances. Independent trade unionists in Belarus, however, regarded the dismissals as another deliberate attempt by the BFTU leadership to stifle one of the few remaining dissenting voices of Belarus' trade union movement.

**The harassment of the independent trade union newspaper *Salidarnasts* (Solidarity)**

After his dismissal from *Belaruski Chas* Alyaksandr Starykevich became the editor-in-chief of a weekly newspaper devoted to trade union issues, *Salidarnasts*, established by the Belarusian Independent Trade Union. However, *Salidarnasts* has had its activities repeatedly frustrated by the interference of the Belarusian authorities. In October 2003 the Committee of State Control sequestered the newspaper's assets in order to secure payment of a fine equivalent to US\$2000 which had previously been imposed on the newspaper. The fine followed an inspection of the newspaper by the Committee of State Control in June 2003, during which it was discovered that the newspaper had not provided any information [on its front cover] about the size of its circulation and the date it was founded. Alyaksandr Starykevich appealed against the fine, the outcome of which was reportedly not known at the time the newspaper's assets were seized by the Belarusian authorities. *Salidarnasts* came under the close scrutiny of the authorities shortly after it had printed material from the banned newspaper, *Belaruskaya Delovaya Gazeta*, under its masthead in early June 2003.

Previous to the heightened scrutiny of the Belarusian authorities *Salidarnasts* had reportedly faced recurring difficulties in finding a publishing house willing to print the newspaper. The *Red Star* publishing house in Minsk reportedly refused to print the newspaper in mid-June 2003 shortly after it had included material from the banned newspaper *Belaruskaya Delovaya Gazeta* in one of its editions. After a gap of several months the newspaper resumed publication in early October 2003 with an edition devoted to the work of the ILO. Shortly afterwards, its assets were seized by the authorities but the newspaper managed to continue its publication, until its printing house *Svetoch* announced on 17 December 2003 that it could no longer print the paper due to lack of capacity. On 9 January 2004 *Salidarnasts* resumed its publication, this time through a publishing house in the Russian Federation.<sup>18</sup>

**2.2. The silencing of independent journalism****The imprisonment of Viktor Ivashkevich**

On 16 December 2003 Viktor Ivashkevich, the editor of the influential independent trade union newspaper, *Rabochy*, was released after serving a one-year sentence of "restricted freedom". He had originally been sentenced by a court in Minsk on 16 September 2002 to a two-year term of "restricted freedom" after being convicted of slandering the President in a newspaper article, "*A Thief Belongs in Prison*", in the run-up to the September 2001 presidential elections. The offending article accused the presidential administration of corruption, although it was never published due to its entire print-run being confiscated. In June 2003, however, the two-year sentence of "restricted freedom" was reduced by one year, bringing forward the date of his release to 16 December 2003. Prior to being sentenced Viktor Ivashkevich stated: "I am absolutely convinced of the correctness of everything printed in my newspaper and I will continue to do so".

<sup>18</sup> [www.praca.org.by](http://www.praca.org.by), 10 January 2004.

During his sentence Viktor Ivashkevich was subjected to compulsory labour in Baranavichy, located 140km south-west of the capital Minsk, and was reportedly forced to live in guarded barracks where he had to return at a given time each evening. After being released Viktor Ivashkevich reportedly stated: "I will not return to journalism at this moment in time, when even registered newspapers are unable to resume publication after closure, I simply don't have the means". His paper *Rabochy* lost its registration on 9 October 2003.

The imprisonment of Viktor Ivashkevich prompted considerable international criticism. Shortly after Viktor Ivashkevich's conviction, the Organization for Security and Cooperation in Europe's Representative on Freedom of the Media, Freimut Duve, in a press release urged "... the Belarusian authorities to immediately cease its policy of criminal prosecution and intimidation of independent journalists, and to repeal the existing criminal laws on libel and defamation" and called upon "...the authorities to abide by the commitments to freedom of expression and freedom of the media that Belarus has subscribed to as an OSCE participating State". Amnesty International considered Viktor Ivashkevich to be a prisoner of conscience and actively campaigned for his release.

#### **The imprisonment of Alyaksandr Yaroshuk**

On 18 September 2003 Leninsky District Court in Minsk sentenced the President of the Belarusian Congress of Democratic Trade Unions, Alyaksandr Yaroshuk, to 10 days' imprisonment, provoking widespread protest in the international labour movement. The court found him guilty of contempt of court in violation of Article 166 (1) of the Belarusian Administrative Code. The alleged offence related to an article which Alyaksandr Yaroshuk had written in the independent newspaper, *Narodnaya Volya*, on 21 August 2003 in which he criticized the decision of the Belarusian Supreme Court to close down the Trade Union of Air Traffic Controllers of Belarus. The offending article entitled "*A Pyrrhic Victory or the Chronicle of a Freefalling Trade Union*" cast doubt on the Supreme Court's impartiality, stating that the court hearing was "a show whose outcome was known in advance".

The registration of the Belarusian Trade Union of Air Traffic Controllers had been annulled by the Supreme Court on 7 August 2003 for allegedly violating Presidential Decree No.2. The court ruled that the trade union had not met the minimum of 500 members required for registration as a national trade union structure. The closure of the Belarusian Trade Union of Air Traffic Controllers provoked much criticism in Belarus and Russia and many trade unionists believed that it had been politically motivated.

After being released 10 days later Alyaksandr Yaroshuk described the conditions of detention in which he was held at the Okrestina detention centre in Minsk, declaring that it was "no holiday camp". He reportedly stated: "There is complete isolation, a strict regime, and no outdoor exercise. Conditions are austere and cold. For three nights I did not sleep at night because of it. Due to the poor light in the cell it was not possible to read for any length of time." Amnesty International considered him to be a prisoner of conscience.

### **The case of Natalya Kolyada**

On 2 February 2004 Natalya Kolyada, journalist and staff member of Charter-97, a civic initiative promoting and defending human rights, in particular through its web-site [www.charter97.org](http://www.charter97.org), was fined 20 minimal wages (350,000 Belarusian rubles, approximately US\$150) by the Minsk Tsentralny District Court. She was fined for preparing and disseminating information on behalf of Charter-97. The court considered this a violation of Article 167 (10) of the Code of Administrative Infringements, which outlaws activity on behalf of an unregistered or not re-registered political party, trade union or public association.

On 10 December 2003 Natalya Kolyada had been arrested during a public action “We remember”, in remembrance of “disappeared” members of the opposition. She reportedly presented her press-card, and told the police officers she was present at the action as a journalist and would write a report about the action for Charter-97. She was released without being charged, but the next morning police visited her at home to take a written statement about her presence at the action. On 17 December she reportedly received a phone-call by the department for crime prevention of the Ministry of Interior inviting her for a “conversation”, which she refused to attend without an official summons.

After receiving the fine Natalya Kolyada reportedly said: “Today’s trial is part of a campaign of intimidation on the eve of the parliamentary elections. However, we will continue to tell the truth about what happens in Belarus, because there are no other possibilities left to disseminate information in Belarus today: the independent press has been destroyed and television and radio are monopolized by the state.”<sup>19</sup> According to the Belarusian Helsinki Committee (BHC), whose deputy chair, Garry Poganyailo, represented Natalya Kolyada in court, the decision is an unprecedented step towards further restriction of the freedom to receive, collect and disseminate information, enshrined in the Belarusian Constitution (Art 34.) BHC stated that that this step shows the intention of the authorities to censor not only printed publications but also internet resources to instil total government control over dissenting views. The organization added that Natasha Kolyada was punished for posting information about human rights violations on the website of Charter-97; “Evidently, this is something the authorities don’t like.”<sup>20</sup>

### **Conclusion**

In view of these and other cases known to Amnesty International, the organization is concerned that a deliberate pattern of obstruction, harassment and intimidation of human rights defenders and other representatives of civil society by the Belarusian authorities remains in place. The organization is further concerned that as more and more organizations are closed down, those individuals continuing their work as human rights defenders will be targeted on a personal basis, as they are no longer part of recognized, “registered”

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<sup>19</sup> *Vlyast boitsya pravdy (Authorities afraid of the truth)*, [www.charter97.org](http://www.charter97.org), 2 February 2004.

<sup>20</sup> Press-release, [www.bhc.unibel.by](http://www.bhc.unibel.by), 3 February 2004.

organizations. This concern was also expressed by participants of a human rights forum<sup>21</sup> held against the background of continuing and intensified pressure on civil society by the Belarusian authorities. For example, the chair of the Independent Society for Legal Research, Elena Tonkacheva, wrote: “the situation will worsen, despite the fact that things do not seem to be able to get worse. I presume that human rights activists will have to prepare in the near future for new forms of attacks by the authorities. Having ‘cleaned-up’ NGOs, but failing to achieve the ultimate goal of stopping their activities, the authorities will most probably resort to other forms of discreditation, not on an organizational level, but on a personal level.”<sup>22</sup>

The Special Representative on human rights defenders acknowledged this concern in her fourth report to the UN Commission on Human Rights, published in January 2004, in which she mentions Belarus as a country where defenders have faced increasing administrative harassment in connection with the registration and the status of their organization. “Human rights organizations have been closed by local courts on complaints from government ministries for minor administrative irregularities such as having a different street address from that registered, the absence of quotation marks surrounding their names on their letterheads, and undertaking activities deemed outside the scope of their charter. The use of such pretexts by Governments to close organizations has forced defenders to continue their work without registration. This has resulted in a criminalization of their activities, making them even more vulnerable to legal proceedings.”<sup>23</sup>

The steps taken by the Belarusian authorities in 2003 and the beginning of 2004 show an increasing intolerance towards the activities undertaken by human rights defenders in the country. The political will to initiate a meaningful process of reform on the functioning of NGOs and civil society in general is absent. The introduction and implementation of controversial new and existing legislation and regulations, in particular the system of official warnings, to which NGOs are subjected in Belarus, has deliberately been used in combination with the bureaucratic system of registration and the controversial set of operational guidelines to impede the legitimate activities of such organizations and ultimately silence human rights defenders in Belarus. None of the organizations that were closed down or people, who were arbitrarily detained or fined, were able to appeal successfully in court. Access to the rights to freedom of association and assembly has effectively been denied to human rights defenders.

Simultaneously the restrictions on the freedom of the expression have not been conducive to the promotion of human rights and civil liberties. The mass media has therefore not been available to human rights defenders, including independent trade unions. Raising awareness about human rights and disseminating information about alleged human rights violations in Belarus has become increasingly difficult. A next target seems to be internet based publications, one of the only media outlets currently able to function more or less independently.

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<sup>21</sup> Human Rights Forum, 23 and 24 January 2004, Minsk.

<sup>22</sup> Elena Tonkacheva, *Pravozashita v Belaruse. Otsenka vnutrennykh ugroz – put k razvitiyu, Legal protection in Belarus. Assessment of internal threats – path to development*, December 2003, Minsk.

<sup>23</sup> UN Doc. E/CN.4/2004/94, 15 January 2004 – paragraph 70.