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In the Spotlight of the State: Human Rights Defenders in Belarus

Introduction:

"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".

Article 1 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms¹

Belarus is a country where the theory of human rights on the one hand, and their everyday implementation on the other, diverge widely. Even though a whole spectrum of human rights and fundamental freedoms are guaranteed in the country's laws and constitution, and Belarus is a party to most of the international and regional human rights treaties, there continues to exist an inordinate gap between law and practice. On account of Belarus' failure to implement into practice human rights guarantees and safeguards and fundamental freedoms Belarus has come under considerable criticism from abroad in recent years. In the light of the deteriorating human rights situation, human rights defenders in Belarus - as in many societies - have a central role to play, both defending the rights of Belarusian citizens and raising the overall awareness of human rights within the country. Yet in the course of their work human rights defenders in Belarus face considerable obstacles, which appear to be part of a deliberate campaign on the part of the Belarusian authorities to frustrate and undermine their activities. This report seeks to highlight the considerable obstacles which human rights defenders face in Belarus in working to defend and promote human rights; in doing so, it aims to underscore the divergence between the principles set out in the Declaration on Human Rights Defenders and reality.

This report complements numerous reports by Amnesty International regarding a wide range of human rights concerns in Belarus. In the past 18 months the organization has published a number of public documents highlighting its wide-ranging concerns in the country.² Amnesty International is deeply concerned about the spate of possible "disappearances" in the country; continued allegations of ill-treatment of detainees; arbitrary detention of political opponents of the government; prisoners of conscience; egregious conditions inside the country's prisons and

¹Henceforth referred to as the Declaration on Human Rights Defenders.

²See *Belarus: Dissent and Impunity*, June 2000, AI Index: 49/14/00; *Belarus: Briefing for the UN Committee against Torture*, April 2001, AI Index: EUR 49/002/2001; country related extracts from *Concerns in Europe* January - June 2000, AI Index: EUR 01/03/00 and July - December 2000, AI Index: EUR 01/001/2001.

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detentions centres which are so poor as to amount to cruel, inhuman and degrading treatment and punishment; and the continued use of the death penalty. These concerns remain outstanding as in few instances have any concrete measures been taken by the Belarusian authorities to investigate, prosecute, ensure reparation and take measures to prevent recurrence of human rights violations.

The Declaration on Human Rights Defenders: An International Turning Point?

In December 1998 the United Nations General Assembly, in resolution 53/144, adopted the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, otherwise known as the Declaration on Human Rights Defenders. This Declaration sets out principles aimed at ensuring that states take measures to ensure that human rights defenders are free to carry out their legitimate activities to promote and defend human rights without fear of reprisals, hindrance or obstacles.

The Declaration was drafted and adopted as a result of growing international recognition and consensus of the invaluable contributions human rights defenders, working individually and with others, have made to the establishment, strengthening, use and growth of the universal system of human rights protection, and the recognition that human rights defenders require particular protection in the light of the difficulties they face and violations of their rights as a result of their work to defend the rights of others.

The Declaration on Human Rights Defenders stands out as an important advance in promoting the work of human rights defenders and setting standards for their protection. Article 1, cited above, is an universal assertion of the fundamental right of individuals and groups to promote and work to protect and defend human rights and fundamental freedoms. It acknowledges the important role and responsibilities of individuals and organizations in safeguarding democracy, promoting human rights and fundamental freedoms, and contributing to the promotion and advancement of democratic societies, institutions and processes. It proclaims the right of people to engage in peaceful activities to highlight and oppose violations of human rights and fundamental freedoms. The Declaration also sets out principles for the recognition and protection of the rights to freedom of association and movement, as well as the rights to freedom of expression and the rights to receive and impart information and knowledge about all human rights and fundamental freedoms.

A number of the Declaration's 20 articles will be referred to in the course of this report, which focusses on Amnesty International's concerns about the obstacles

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confronting human rights defenders in Belarus. 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; and violations of the rights to be free from torture, ill-treatment, arbitrary arrest and arbitrary detention, create a climate in which impedes the important work of human rights defenders in Belarus, and sometimes places them at personal risk.

A Background to the Human Rights Situation in Belarus

In the past four and a half years, since President Alyaksandr Lukashenka dissolved Belarus' last democratically elected parliament, the 13th Supreme Soviet, in November 1996, Belarus has increasingly come into the international spotlight for its rapidly deteriorating human rights record. Alyaksandr Lukashenka took steps to accumulate and consolidate power in the period after being elected as President in July 1994 and to simultaneously weaken the influence of the country's first democratically elected parliament through a series of referenda, which were deemed to be unconstitutional by many domestic and international observers.³ On 24 November 1996 a highly controversial referendum was held which replaced the 13th Supreme Soviet with a bicameral parliament over which President Lukashenka wields considerable influence. In the course of the same referendum President Lukashenka also broadened his powers and extended his tenure in office by two years until 2001.

In February 2001, the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, characterized the broader post-November 1996 political context in the following terms: "... the pervasive manner in which executive power has been accumulated and concentrated in the President has turned the system of government from parliamentary democracy to one of authoritarian rule. As a result, the administration of justice, together with all its institutions, namely the judiciary, the prosecutorial service and the legal profession, are undermined and not perceived as separate and independent. The rule of law is therefore thwarted".⁴ Concern has been expressed both domestically and abroad about the influence which the executive now wields over the various branches of the state and the repercussions it has had for the human rights situation in the country.

Since the November 1996 referendum Belarus' opposition have contested its outcome through staging a large number of peaceful protest activities, during which Amnesty International documented numerous human rights violations. The

³Many countries today continue to recognize the dissolved 13th Supreme Soviet as Belarus' legitimate parliament and have refused to recognize the outcome of the parliamentary elections held in October 2000 because of serious doubts about their fairness.

⁴UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - page 2.

organization learned of numerous instances of the arbitrary detention and ill-treatment of political opponents of the incumbent regime frequently in the context of peaceful anti-government, pro-democracy demonstrations. Hundreds of opponents of the president who had taken to the streets, peacefully protesting against Belarus' democratic deficit and the erosion of the rule of law were sentenced to short periods of imprisonment. Many detainees complained that police officers ill-treated them or used excessive force in order to detain them.

During the same period leaders of the country's opposition were subjected to much longer periods of imprisonment. Amnesty International adopted as prisoners of conscience several opposition figures who had actively opposed President Lukashenka's dissolution of parliament through presidential impeachment, or had organized high-profile anti-presidential protest activities. In the period 1999 - 2000 the human rights situation appeared to fall steeper into decline when leading members of the opposition apparently "disappeared" at key political moments. These possible "disappearances" were set against a backdrop of nonchalance on the part of the Belarusian authorities at the fate of the "disappeared" and the suffering of their families, and an apparent unwillingness to promptly and impartially investigate these grave human rights violations.

Amnesty International has not been alone in expressing concern about developments in Belarus in the past four-and-a-half years. Most recently, in November 2000, the body of experts which monitors states implementation of their obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵ noted the deteriorating human rights situation in Belarus since 1992 including "persistent abrogations of the right to freedom of expression, such as limitations of the independence of the press, and of the right to peaceful assembly, which create obstacles for the full implementation of the Convention".⁶ The Committee against Torture expressed concern about "[t]he numerous continuing allegations of torture and other cruel, inhuman and degrading punishment and treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the government and peaceful demonstrators, and including disappearances, beatings, and other actions in breach of the Convention".⁷ The Committee against Torture also expressed concern about "[t]he pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators, in nonconformity with articles 12 and 13 of the Convention".⁸

⁵Committee against Torture.

⁶UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6a.

⁷UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6c.

⁸UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6e.

In an effort to counteract the pervasiveness of police impunity in Belarus, the Committee against Torture recommended, among other things, that "...[u]rgent and effective steps be taken to establish a fully independent complaints mechanism, to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate of alleged perpetrators".⁹ To these ends the Committee against Torture also recommended that the Belarusian authorities consider establishing an independent and impartial human rights commission with effective power to promote human rights and investigate all complaints of human rights violations.

In 1997, the Human Rights Committee, the body of experts which monitors implementation of Belarus' obligations under the International Covenant on Civil and Political Rights (ICCPR), had also expressed concern about instances of physical abuse of detainees by police officers and the widespread existence of impunity, stating: "The Committee expresses its concern about numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations and on arrest and detention, and about the high number of cases in which police and other security officials resort to the use of weapons. Noting that investigations of such abuses are not conducted by an independent mechanism and that the number of prosecutions and convictions in these cases is very low, the Committee expresses concern that these phenomena may lead to impunity for members of the police and other security officials".¹⁰ Similar to the recommendations made by the Committee against Torture in November 2000, the Human Rights Committee recommended that: "... in order to combat impunity, steps be taken to ensure that all allegations of ill-treatment and unlawful use of weapons by security and police officials be promptly and impartially investigated by an independent body, that the perpetrators be prosecuted and punished, and that the victims be compensated".¹¹

The bodies and mechanisms of the Council of Europe have also expressed concerns to the Belarusian authorities about the human rights situation. In January 1999 the Parliamentary Assembly of the Council of Europe undertook a fact-finding mission to Belarus in order to assess the overall human rights situation in the country. The report of this mission commented, among other things, on the ill-treatment of detainees, stating: "Many instances of arbitrary detention and police violence have been reported. There does not seem to be independent, effective supervision of the police by prosecutors and judges. Opposition representatives said that the police are

⁹UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 7b.

¹⁰UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 9.

¹¹UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 9.

omnipresent and are often used against political opposition".¹²

A year later, in January 2000, the Parliamentary Assembly of the Council of Europe discussed and adopted a critical report of the overall human rights situation in Belarus. The report, entitled *Situation in Belarus*, stated: "The Assembly expresses its profound concern that Belarus continues to fall seriously short of Council of Europe standards as regards pluralist democracy, the rule of law and human rights".¹³ The report went on to state that: "The Assembly also condemns the persecution of opponents of the current regime, such as members of the 13th Soviet, which is the last legitimate parliamentary representation of Belarus, opposition parties and independent trade unions, journalists and participants in demonstrations and strikes. It expresses its profound concern at the disappearance of political opponents in Belarus".¹⁴ In such circumstances, the Assembly stated that there could be no change in the existing situation regarding the suspension of special guest status and of the accession procedure.¹⁵ More recently, in March 2001, the Parliamentary Troika, composed of members of the European Parliament and the Parliamentary Assemblies of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE), which had visited Belarus between 5 - 7 March 2001, expressed "...its continuing concern about the human rights situation" and particularly "... at the lack of progress in investigating the disappearances of political opponents, Mr Zakharenko, Mr Gonchar, Mr Krasovsky as well as the journalist Mr Zavadsky".¹⁶

It is within this overall deteriorating human rights context, referred to above, which the activities of human rights defenders in Belarus will be discussed in this report. The report will focus on three broad rights enshrined in the Declaration on Human Rights Defenders, namely: (1) the rights to freedom of association and assembly; (2) the right to protection and (3) the right to promote and defend human

¹²Doc. 8292 Addendum II to the Progress Report, Council of Europe Parliamentary Assembly, 6 January 1999 - paragraph 43.

¹³Doc. 1441 (2000), recommendation of the Political Affairs Committee, *Situation in Belarus*, adopted by the Parliamentary Assembly 26 January 2000 - paragraph 2.

¹⁴Doc. 1441 (2000), recommendation of the Political Affairs Committee, *Situation in Belarus*, adopted by the Parliamentary Assembly 26 January 2000 - paragraph 4.

¹⁵Doc. 1441 (2000), recommendation of the Political Affairs Committee, *Situation in Belarus*, adopted by the Parliamentary Assembly 26 January 2000 - paragraph 8.

¹⁶Parliamentary Troika visit to Belarus - Final Statement, 7 March 2001.
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rights.

(I) Curtailments of the Rights to Freedom of Association and Assembly

"For the purposes of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups; (c) To communicate with non-governmental or intergovernmental organizations".

Article 5 of the Declaration on Human Rights Defenders

The right of human rights defenders to come together in order to promote and safeguard human rights is enshrined in Article 5 of the Declaration on Human Rights Defenders. The right of freedom of association and peaceful assembly are also found in a number of other international human rights instruments, such as Articles 21 and 22 of the International ICCPR, to which Belarus is a state party. Article 36 of the Constitution of Belarus also confers on every citizen the right to freedom of assembly. Yet in Belarus Amnesty International is concerned that human rights defenders face a considerable number of obstacles, many of them bureaucratic and apparently quite arbitrary, in exercising the rights of freedom of association and assembly. People who are actively interested in human rights in Belarus are not simply allowed to join together and form human rights organizations in order to protect or promote human rights. Instead, human rights organizations, like all other non-governmental organizations (NGOs), must register with the Belarusian authorities and receive official approval to lawfully function. Once officially registered, human rights organizations are subjected to a set of strict guidelines regulating their activity. A further complaint cited by human rights defenders was the existence of an official system whereby an organization can be closed down if more than two "warnings" are accumulated in any one-year period. The combined effect of these obstacles has made existence quite arduous for human rights defenders who seek to act collectively. Amnesty International believes that this system of warnings is used in combination with the bureaucratic system of registration and the complicated set of operational guidelines to hamper the formation of non-government organizations and to regulate the activities of human rights organizations already registered with the relevant authorities.

1. Registration of Human Rights Organizations

Human rights organizations, like other NGOs, political parties, religious organizations and trade union organizations, must be registered with the judicial authorities in order to exist and function legally in Belarus. The main law governing all associations is the 1994 Law on Public Associations. Belarusian legislation distinguishes between local, national and international associations. Local associations must register with the Justice Departments of the Oblast¹⁷ Executive Committees or the Minsk Regional Council of Deputies, depending where the head office of the association is located; national and international associations must register with the Ministry of Justice, based in the capital, Minsk. In order to be registered by the appropriate authorities, a minimum of ten adults must hold an initial founding meeting establishing the association. Within one month of the meeting an application must be submitted to the appropriate authorities. Most importantly, in its application, the association must show that it: has met the provisions of the law; it possesses a statute and a legal address (see below); and has paid the registration fee. It must also provide information about the founding members of the association. According to law, within one month of the application, the registering body must take the decision to register the association, postpone registration or refuse registration.¹⁸ In practice, the decision to register an association can take much longer. For example, the registration of the human rights organization, Spring-96, reportedly took place in March 1998 after a delay of approximately eight - nine months from the time it submitted its application.

Concern has been expressed about the wide scope of interpretation given to the authorities to postpone or refuse registration. In particular, Article 15 of the 1994 Law on Public Associations, reportedly states that officials can refuse registration if the aims and means of activity of an association are incompatible with the Constitution of Belarus, the 1994 Law or other legislative acts of the Republic of Belarus. Interpretation of this article is open to abuse¹⁹, especially considering the lack of independence of the Ministry of Justice in Belarus. Very recently, in February 2001 and November 2000 respectively, both the UN Special Rapporteur on the independence of judges and lawyers and the Committee against Torture have questioned the independence of the judiciary in Belarus.²⁰ The process of registration - as embodied in the 1994 Law on Public Associations - has been described by one

¹⁷Belarus is divided into six 'oblasts' or regions.

¹⁸See Elena Lipskaya, *Principles of Establishing and Registering Voluntary Organizations in Belarus*, Pavel Kazanecki (ed), Belarus: The Third Sector, 1998, Minsk-Warsaw, pp.31 - 34.

¹⁹Vinsuk Vyachorka and Piotr Sadvski, *A Synopsis of NGO Development in Belarus: A Historical Perspective*, Pavel Kazanecki (ed), Belarus: The Third Sector, 1998, Minsk-Warsaw, p. 38.

²⁰UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - pp. 4-5; UN Doc. CAT/C/XXV/Concl.2/Rev.1, 20 November 2000 - paragraph 6f.

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commentator in the following way:

"[D]istinguishing features [of the 1994 Law] are the strict definition of the types of organizations, the unusually detailed process for establishing an organization, the long process of the registration process (up to six months), and *the significant degree of interference by the registration body in the process of registering an organization* [emphasis added] (in practice, numerous corrections in the text of statutes)".²¹

Throughout the 1990's associations in Belarus were subjected to two rounds of re-registration, at the end of 1994 and again in 1999. While Amnesty International knows of only a small number of human rights organizations which have been refused registration or re-registration, it is aware that a number of other NGOs certainly have faced severe difficulties. For the most part, human rights defenders have informed Amnesty International about the difficulties they faced and the frustrations they experienced while registering with the judicial authorities. It is important to stress that these difficulties and frustrations are compounded significantly when put in the overall context of the difficulties encountered in promoting and defending human rights in Belarus.

The Human Rights Committee has also expressed concern in the past about "the difficulties arising from the registration procedures to which non-governmental organizations and trade unions are subjected" and "about reports of cases of intimidation and harassment of human rights activists by the authorities, including their arrest and the closure of the offices of certain non-governmental organizations", stating: "The Committee, reiterating that the free functioning of non-governmental organizations is essential for protection of human rights and dissemination of information in regard to human rights among the people, recommends that laws, regulations and administrative practices relating to their registration and activities be reviewed without delay in order that their establishment and free operation may be facilitated in accordance with article 22 of the Covenant".²²

The experiences of Oleg Volchek, head of Legal Assistance to the Population, and his recent efforts to register a human rights organization on a national - as opposed to a solely local - basis, epitomizes the apparently arbitrary nature of the process of registration.

(A) The Refusal to Register Legal Defence of Citizens

Oleg Volchek is the chairperson of the legal advice centre, Legal Assistance to the Population, which offers free legal advice on a wide number of issues to people who

²¹Elena Tankashova, *Legislation Regarding Non-Profit Organizations in the Republic of Belarus*, Pavel Kazanecki (ed), Belarus: The Third Sector, 1998, Minsk-Warsaw, p.27.

²²UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 19.

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. The centre has offered legal advice 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. 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.

Legal Assistance to the Population was successfully registered on a local - as opposed to a national - basis in Minsk in September 1998 and then re-registered in August 1999. Oleg Volchek informed Amnesty International that he wished to create a national based human rights organization, for which he was required to register the organization. A founding meeting, held on 13/14 January 2001, was attended by lawyers and human rights activists from five out of Belarus’ six oblasts or regions.²³ The organization was to be named Legal Defence of Citizens. In accordance with the law, on 9 February 2001 Oleg Volchek submitted the documents required to register the organization to the Ministry of Justice within the one-month deadline. However, he informed Amnesty International that the Ministry of Justice refused - as opposed to merely postponing - registration of the organization on 2 April 2001, claiming that the organization did not meet the necessary requirements to become a public association. The main basis for the refusal was the organization’s statute which declared its aims to render legal assistance and associated consultations to others in the area of human rights and basic freedoms. According to the refusal, the aims were contrary to the official definition of the term ‘legal assistance’.

Among the other reasons cited for refusing to register Legal Defence of Citizens was the fact that the organization’s activities would be contrary to Article 22 of the Law on Public Associations, which states that public associations can only represent and defend the rights and legal interests of its members and not third parties (see the Mogilov Human Rights Centre below). This restriction greatly curtails the ability of human rights organizations to defend the rights of others. Oleg Volchek informed Amnesty International that he was intending to appeal this decision to the Supreme Court of the Republic of Belarus and expected the process to take several months.

2. Regulating the activities of Human Rights Organizations

²³According to the 1994 Law on Public Associations registration on a national basis requires the attendance of members from at least four of Belarus’ six oblasts.
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Human rights organizations, like all other associations, are also subject to a system of official warnings which can result in their official closure by the Ministry of Justice. If an organization receives more than two official warnings from the Ministry of Justice in the course of a year closure will ensue. Official warnings can be issued for violations of the 1994 Law on Public Associations for a wide ranging alleged violations, as the following cases reveal, and effectively permit the Belarusian authorities to interfere in the internal affairs of the organizations.

(A) The Case 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. Today the main aim of the organization is the defence of human rights in Belarus, through the collection and dissemination of information about human rights violations in Belarus.

An Amnesty International delegation recently met several members of Spring-96 in their offices in Minsk. Three of its leading members, its chairperson Ales Byalytski, Palina Stepanenka and Valyantsin Stefanovich informed the organization about an official warning Spring-96 had received from the Ministry of Justice on 18 August 2000. The Ministry of Justice had complained that the letterhead used on Spring-96's office paper violated official regulations. According to Spring-96, the typeface used on the letterhead was reportedly considered to be the wrong size and inverted commas had been omitted. Subsequently the Ministry of Justice issued an official warning to the organization and ordered it to correct the typeface. In October 2000, Spring-96 received a second official warning for the alleged incorrect use of the organization's name on its monthly human rights publication, *Right to Freedom*. According to Spring-96, the term 'public association' had been omitted from the publication, making it inconsistent with the organization's officially registered name. The Ministry of Justice reportedly repeated the warning to Spring-96 on 27 December 2000, stating that it had received no response to its warning of 26 October 2000. The letter allegedly threatened to revoke the registration of Spring-96 as a public association unless the required changes were made and a response was forthcoming. Spring-96 have stated that they had already responded to the Ministry's warning of October.

Spring-96 has not been the only human rights organization to receive an official warning from the Ministry of Justice for the incorrect use of typeface in a public documents. At the end of August 2000, the Centre for Human Rights also is

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reported to have received a warning from the Minsk Regional Council of Deputies for using an organizational symbol different to that which it had used at the time of registration. In 2000, a number of other NGOs also received official warnings for using the inappropriate typeface in their public material, including the Belarusian Student Association and the Frantsysk Skaryna Association of Belarusian Language.

(B) The Case of the Mogilov Human Rights Centre

The Mogilov Human Rights Centre is a human rights organization which has been subjected to considerable pressure by the authorities. Based in a town 180km to the east of Minsk, the Mogilov Human Rights Centre is one of the most prominent human rights organizations in the region. The chairperson and founder of the organization, Sergei Obodovsky, informed Amnesty International that the organization was successfully re-registered in 1999 but reportedly only "after a lot of arguments". The organization was founded to help: citizens whose rights had been violated; defend people in court; monitor the human rights situation in the region and undertake human rights education.

The system of official warnings has been used to regulate the activities of the organization, effectively restricting the Mogilov Human Rights Centre rights of association and assembly. Sergei Obodovsky reportedly received a warning from the local justice authorities on 29 September 2000 stating that the Mogilov Human Rights Centre had violated the 1994 Law on Public Associations by defending the rights of people who were not members of the organization. In the course of its activities the Mogilov Human Rights Centre provides free legal advice to people whose rights have been violated, which according to the Department of Justice of the Mogilov Regional Executive Committee violates the 1994 Law. Subsequently, the Mogilov Human Rights Centre was ordered to refrain from representing non-members or face punitive measures. Sergei Obodovsky informed an Amnesty International delegation that he had attempted to appeal against the action taken against the organization to a higher judicial instance. He has argued that this severe restriction on the rights of association and assembly not only violates various international human rights standards but also the Belarusian constitution. At the time of publication no information about the appeal was known.

The human rights organizations, Belarusian Helsinki Committee and Spring-96, have also come under similar pressure but have not yet been formally warned. It is clear that the ability of the Belarusian authorities to determine who a human rights organization can and cannot advise or defend severely restricts the work of human rights defenders in Belarus.

(C) Securing a Legal Address

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In the course of Amnesty International's visit to Belarus earlier this year a number of human rights organizations informed Amnesty International about the difficulties they experienced in securing a legal address required to both register their organizations and, thereafter, function as a human rights organization. According to the 1994 Law on Public Associations all organizations must include in their application a registration address. Until July 1999 founders could register their associations at their place of residence. However, since July 1999 it has become unlawful to register an association at a domicile address, giving the justice authorities the power to refuse registration or later issue a warning if this provision is deemed to be violated. Human rights defenders must therefore rent or purchase offices in order both to register their organizations and to subsequently operate. This obligation places a heavy financial burden on human rights organizations, which frequently survive on a trickle of voluntary contributions and occasional foreign grants, and can have the effect of diverting resources from core activities such as human rights defence and promotion. The problem of securing a legal address is compounded by the fact that many local authorities refuse to rent office space to human rights organizations due to the nature of their work. A large proportion of property in Belarus is still state-owned, forcing human rights organizations into the small private sector property market where rents are higher. Even in Minsk the largest national human rights organizations have faced significant problems securing and maintaining affordable legal addresses. The Belarusian Helsinki Committee, for example, has repeatedly been threatened with eviction from its present offices. Two of its leading members, Tatyana Protsko and Aleh Gulak, informed visiting Amnesty International delegations in 2000 and 2001 of the problems they faced in this respect. Both Legal Assistance to the Population and Spring-96 have reportedly experienced similar problems in the past two years.

Outside of the capital the problem of finding affordable offices is infinitely greater. Amnesty International learned that human rights defenders frequently rely on the existence of so called 'resource centres', which are often privately owned premises whose aim is to promote civic initiatives working for human rights and democratization in society. These resource centres rely solely on private benefactors, voluntary contributions and foreign grants. However, such resource centres are few and far between and practically non-existent outside the major cities. For example, the Mogilov Human Rights Centre operates out of the Mogilov regional resource centre Circle of Friends, which is home to a number of civic initiatives. In the western city of Brest, located on the Belarusian-Polish border, the resource centre Vezha offers a similar service to civic organizations and actively organizes human rights seminars and events.

In the regions of Belarus human rights defenders are often forced to work
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informally, hoping that they do not attract the attention of the local authorities. Organizations function in an unregistered manner because they are unable to find a legal address or simply lack the means to afford and maintain a legal address. Amnesty International knows of a number of human rights organizations which operate out of rented office space, obtained on false premises, who work assiduously to defend the rights of others, mostly free-of-charge. The main drawback of operating in this manner is that they are unable to advertise their presence and vital services to the wider population, greatly restricting the access people have to them. In this respect, the requirement of a legal address places a considerable burden on all but the largest human rights organizations and significantly hampers their activity and longer-term expansion.

In contrast to the bureaucratic resources employed by the Belarusian authorities, more overt ways of frustrating the work of human rights organizations and individual human rights defenders will be examined in the following part of the report.

II. The Right to Protection

"Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms".

"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".

Articles 12 (1) and 12 (2) of the Declaration on Human Rights Defenders

The right of human rights defenders to defend and promote human rights individually and collectively and to be protected from any form of adverse consequences as a result of their legitimate activities by the state or other third

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parties is set out in Article 12 (1) and 12 (2), cited above. The latter paragraph places the burden to protect human rights defenders firmly on the state. Amnesty International has received significant numbers of reports in recent years that the authorities have deliberately violated the obligation to protect human rights defenders through an apparently concerted campaign of harassment and intimidation. Amnesty International has learned that human rights defenders in Belarus have been arbitrarily deprived of their liberty and subsequently subjected to cruel, inhuman and degrading conditions of detention and some individuals have complained of being ill-treated by police officers while being detained. Certain offices of human rights organizations have been raided by police officers, while others have been burgled under suspicious circumstances with the loss of valuable information and equipment. In recent years the Belarusian authorities have put significant degrees of external pressure on human rights lawyers, which has undermined their professional autonomy, resulting in expressions of international concern. A number of high profile human rights lawyers have also been subjected to repeated criminal prosecutions, which Amnesty International believed were designed to silence and punish them for their human rights activities and contrary to the principles of the Declaration on Human Rights Defenders.

1. Arbitrary Detention

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 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 extremely commonplace since the dissolution of the 13th 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 peaceful exercising their right to freedom of assembly, whom it considered prisoners of conscience. Human rights defenders 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.²⁴ Here relatively more recent examples of the wide cross-section of people who have been detained for their involvement in the defence of human rights will follow.

²⁴See *Belarus: Dissent and Impunity*, June 2000, AI Index: EUR 49/14/00 and *Belarus: Briefing for the UN Committee against Torture*, April 2001, AI Index: 49/002/2001. AI Index: EUR 49/005/2001 Amnesty International 8 August 2001

(A) International Human Rights Day Detentions 2000

On 10 December 2000 a number of Belarusian human rights organizations staged events around the country to mark International Human Rights Day. A number of the activists were subsequently detained for their involvement in these human rights celebrations. According to the human rights organization Spring-96, many of its regional branches had applied for permission to stage small-scale events, for which permission was either outrightly refused or events were confined to the outskirts of towns. Nevertheless, events were reportedly staged in 15 separate cities and towns, with the particular aim to bring to the public's attention possible "disappearances" in the country. According to Spring-96, in Minsk police officers reportedly detained two peaceful demonstrators (who were marching with around 150 other people) on the pretext that they were suspected of having burgled a flat in the area. The two human rights defenders - like a number of other demonstrators - were reportedly dressed in black cloaks adorned with photographs of the former Deputy Speaker of the 13th Supreme Soviet, Viktor Gonchar, who "disappeared" in September 1999. The two men were taken to Moskovsky District Department of Internal Affairs but released several hours later without charge. Police officers allegedly attempted to detain other participants throughout the duration of the march including the chairperson of Spring-96, Ales Byalytski. In the regions of Belarus Spring-96 documented detentions of five human rights defenders in the town of Bierastsie, two in Borisov, including the chairperson of the town's branch of Spring-96, four people in Vitebsk, while four student demonstrators were detained the previous evening in Grodno.

(B) Day of Freedom Detentions 2000 and 2001

In both 2000 and 2001 Amnesty International expressed concern about the detention of peaceful demonstrators during the unsanctioned Day of Freedom demonstrations which took place on 25 March each year. The demonstrations were staged to coincide with anniversary of the creation of the first Republic of Belarus in 1918 and to protest against President Lukashenka. Amnesty International learned of the arrest of around 15 peaceful demonstrators in Minsk on 25 March 2001. Several thousand demonstrators reportedly marched peacefully through Minsk towards Freedom Square where many of the arrests were made. A number of detainees and eye-witnesses alleged that police used excessive force in effecting the arrests and ill-treated detainees. Among the 15 people detained were the chairperson of the human rights organization, Spring-96, Ales Byalytski, a member of the dissolved 13th Supreme Soviet and leading member of the human rights organization Charter-97, Ludmilla Gryaznova and chairperson of the Belarusian Popular Front, Vincuk Viačorka. Most of the detainees were charged under Articles 167 (1) or 167 (2) of the Belarusian Code for organizing or participating in an unsanctioned demonstration. While most of the detainees escaped imprisonment with a fine, several others

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including 20-year-old Dmitry Chubarenka, Spring-96's Ales Byalytski and Vincuk Viačorka were subsequently sentenced to between 10 - 15 day terms of imprisonment. Amnesty International considered them to be prisoners of conscience.

During the Day of Freedom demonstration in 2000, 400 - 500 demonstrators were reportedly detained for several hours by the police, who were patrolling the centre of Minsk in large numbers. While around 200 detainees were reportedly held in a city sports hall, others were held at various police stations and detention centres. There were reports that police officers used significant amounts of force to detain some protestors. At least 30 Belarusian and foreign journalists covering the demonstration and a number of well-known human rights defenders were among the detainees, including Tatyana Protsko from the Belarusian Helsinki Committee, Oleg Volchek from the legal advice centre Legal Assistance to the Population and Valyantsin Stefanovich and several of his colleagues from Spring-96. A number of the organizers and participants were fined or sentenced to periods in detention.

(C) Detention of Zubr Youth Activists

Zubr²⁵ is a non-registered pro-democracy and human rights organization formed in February 2001 and comprised from predominantly young Belarusians. At an inaugural meeting, held in a park in Minsk on 13 February 2001, the aims of the organization were described as follows: "Belarus has become an authoritarian police state where human rights are routinely violated and freedom of assembly, association and information blatantly disregarded. Political opponents are either exiled, imprisoned or made to disappear. The regime wants to eliminate the love for the native language and the centuries-old national symbols from the hearts of Belarusians. The organization has chosen "Zubr" as a symbol of power derived from nature, and will base its activities on non-violent resistance to dictatorship".²⁶ Although a central core of Zubr's members are based in Minsk, the organization reportedly has members across Belarus.

In its short life, Zubr has organized a number of relatively high-profile events to bring human rights violations to the public's attention, and which have resulted in its members being detained. On 5 March 2001 over 100 Zubr members reportedly held an action in Minsk and other cities to highlight the spate of possible "disappearances" in the country. They lined the main high street in Minsk, Skaryna Prospect, holding pictures and placards of the four men who "disappeared" in 1999 - 2000: former Minister of the Interior, Yury Zakharenko, the Deputy Speaker of the dissolved 13th Supreme Soviet, Viktor Gonchar and his companion, Anatoly Krasovsky, and the

²⁵The word "zubr" translates into English as "bison".

²⁶Quoted in the newspaper *Nasha Svaboda* 14 February 2001.

Russian Public Television camera-man, Dmitry Zavadsky. Three Zubr activists were detained in a similar action on the same day outside the Presidential Administration Building in Minsk. On 6 March two of the three youths, Andrei Petrov and Dmitry Abramovich, were fined 20 minimum monthly salaries, around 100 dollars, by Leninsky District Court in Minsk, while the third youth, a resident of Borisov, Anton Telezhnikov, was sentenced to 15 days in prison for participation in an unsanctioned action under Article 167 (2) of the Belarusian Criminal Code. Upon being released from Okrestina detention centre in Minsk he stated that he had been held with 18 other prisoners in a cell originally designed for around 10 - 12 inmates.

In relation to the "disappearances", referred to above, in the early hours of the 5 April 2001 four other Zubr activists, Aleksey Shidlovsky, Timofey Dranchuk, Dmitry Drapochko and Ales Apranich were arrested in Minsk, allegedly for spray-painting on the wall of a factory: "Where is Gonchar? Where is Zavadsky? Where is Zakharenko?". The four youths were allegedly not given prompt access to a lawyer or allowed to inform their families of their whereabouts until the afternoon of 5 April. The youths are reportedly currently facing charges under Article 341 of the Belarusian Criminal Code for allegedly defacing a building with graffiti.

Most recently, on the evening of 21 April 2001, 33 people were reportedly detained in Gorky Park in Minsk after the organization staged an event called 'Ultimate Diagnosis' which purportedly poked fun at President Lukashenka and rumours questioning his mental stability. Significant numbers of the OMON and Speznatz special police units and other police officers are alleged to have dispersed the gathering of more than a thousand young people present at the event in Gorky Park, stating that the event was unsanctioned. A number of the detainees alleged that they were ill-treated by police officers, who kicked and punched them and struck them with batons. One police officer allegedly knocked one detainee, Katharina Shaban, unconscious by punching her in the face at Partisanzky police station in Minsk. She was reportedly taken to hospital after her release from custody in the early hours of the next morning, suffering from concussion. The majority of the detainees were taken to Okrestina detention centre in Minsk where conditions of detention have been the subject of repeated criticism (see below). Fourteen activists remained at Okrestina until they were brought before a court on 25 April, when they received three-day terms of imprisonment. Having remained in Okrestina detention centre since 21 April they were allowed to go free. The remaining detainees were released but were summoned to court on the same date when the majority of them were fined. Amnesty International learned that several weeks later, on 21 May, one of the participants, Valery Zherbin, was sentenced to 10 days' imprisonment for his participation in the event. The organization considered him - as well as the other detainees - to be prisoners of conscience.

Amnesty International has repeatedly expressed concern about the arbitrary detention of young people in Belarus, some of them minors. On the evening of 12 November 2000 police officers reportedly arrested around 100 young protestors, many of them reportedly minors, during peaceful but unsanctioned pro-democracy demonstrations in the capital, Minsk, and in towns in the regions, such as Grodno, Mogilov, Baranovichi and Orsha. The organization received allegations that a number of the demonstrators were punched and kicked by police officers and repeatedly hit with truncheons as they were forced onto police buses. While a number of minors among the demonstrators were shortly released, other youth demonstrators were detained for longer periods of time and were later charged. Most demonstrators received official warnings or fines.

Amnesty International has also expressed concern that conditions in detention centres which have been used to house detained human rights defenders fall well below international minimum standards and amount to cruel, degrading or inhuman treatment. Human rights defenders have complained of being poorly fed and of being housed in poorly heated and insufficiently ventilated conditions in overcrowded cells. In some instances detained human rights defenders have alleged that they have been placed in cells with other sick detainees and prisoners, suffering from highly contagious illnesses such as tuberculosis, while others have complained that they were singled out by guards for particularly harsh treatment.

(D) Examples of Cruel, Inhuman and Degrading Conditions of Detention of Human Rights Defenders

From 14 February - 20 March 2000 the human rights defender Ales Abramovich spent 35 days in detention for staging three peaceful pickets in the town of Borisov, north-east of Minsk. He is both a member of the Belarusian Helsinki Committee and the Belarusian Social Democratic Party. Fifteen days of the 35-day sentence related to a peaceful protest action which took place on 16 January 2000 on Borisov's central square, during which Ales Abramovich and other protestors reportedly held posters bearing slogans such as "Zakharenko, Gonchar ... who is next?", "Hands of Chigir"²⁷ and "Down with Dictatorship!". Consequently, police officers detained Ales Abramovich and two other protestors, who were also sentenced to terms of imprisonment. After being released Ales Abramovich informed the human rights organization, Spring-96, that while being held in a prison in Borisov: "The guards repeatedly placed people with the open stage of tuberculosis into my cell, though its strictly forbidden by sanitary norms. The prisoners warned the police about their illness before being taken into the cell.... During my arrest there were anti-sanitary

²⁷"Hands off Chigir" relates to the opposition leader Mikhail Chigir who spent 6 months in pre-trial detention in 1999 on criminal charges relating to a position he held as head of a bank before coming Prime Minister in 1994. The charges were widely believed to be politically motivated and Amnesty International considered him to be a prisoner of conscience. At the time of the picket Mikhail Chigir's trial was still pending.

conditions in the cell: humid, stuffy air, bed bugs and lice".²⁸

On 30 March 2000 the deputy chairman of the Belarusian Popular Front Vyacheslav Sivchik received a 10-day prison sentence for his part in organizing the Day of Freedom demonstration several days previously on 25 March (see above). After his release from the Okrestina detention centre he reportedly stated in an interview with the independent newspaper *Nasha Svaboda* on 11 April: "During my ten-day term, the guards transferred me to a different cell five times to make it harder for me to adjust to life in jail. Two days before my release, I was placed in a cell with a broken window. Given the unseasonably cold weather, it was a true punishment cell. The guard told me later that all political prisoners are 'tested' in such cells. Some of my fellow inmates suffered from a severe form of tuberculosis, but they were not kept separately from others. On April 7, the last day of my term, the guards spread a disinfectant all over the cell without letting us out first".²⁹

Valery Schukin is a member of the dissolved parliament, a leading human rights activist and journalist for the independent newspaper *Narodnaya Volya* (see below). He has been arrested on numerous occasions and has served multiple prison sentences for his opposition activities. Among the various detention centres and prisons in which he has been detained, he has described conditions in the Minsk Special Detention and Distribution Centre. According to Valery Schukin "Hygienic conditions were disastrous. There were mice in the cells and all the inmates had to use the same cup to drink water, a fact which facilitated the spread of diseases. The lavatory pan, the washbasin and the drinking water tap connected to form a single structure, and everyone using the lavatory had to do it in plain sight of other inmates. There was no toilet paper or soap and the detainees were not allowed to use their own toiletries or change clothes. Parcels brought for inmates by relatives were accepted very seldom. Cells were heavily overcrowded and without ventilation. Detainees were not allowed to have TV sets, radios, make phone calls, write, draw, read, play any kinds of games or study".³⁰

2. Police Ill-treatment and Concerns for Personal Security

The rights to protection from ill-treatment and torture, and to redress in instances when an individual's rights are violated, are guaranteed in a number of international treaties, to which Belarus is a state party, as well as the Declaration on Human Rights Defenders. Article 9 (1) of the Declaration categorically states that: "... everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights". In direct contrast to the provisions contained in Article 9 (1), human rights defenders in Belarus - like their fellow citizens - have little effective recourse if they have suffered ill-treatment or threats thereof at the hands of the police or security services. In

²⁸Review-Chronicle of human rights violations in Belarus 2000, published by Human Rights Centre, Viasna, Minsk 2001, p. 52.

²⁹*Nasha Svaboda* 11 April 2000.

³⁰Extract from International Helsinki Federation for Human Rights Annual Report 1999, p.6. Amnesty International 8 August 2001 AI Index: EUR 49/005/2001

Amnesty International's experience in recent years, judicial investigations opened in cases of alleged police ill-treatment have been grossly inadequate. In the rare instances that investigations have been initiated they have lacked impartiality and thoroughness. Amnesty International knows of very few judicial investigations into allegations of ill-treatment which have resulted in the prosecution of police officers.

The existence of police impunity in Belarus has been well documented by Amnesty International.³¹ The organization's concerns have also been echoed by a number of treaty bodies. Most recently, in November 2000, the Committee against Torture expressed concern about the "... pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators".³² The Inter-Parliamentary Union similarly expressed concern in a May 2000 report about "... the many corroborative allegations regarding ill-treatment of arrested and detained persons by law enforcement officers. Not a single case of alleged ill-treatment brought to its attention seems to have given rise to serious investigations with tangible results. It therefore remains unconvinced by the authorities' assurances that such complaints are systematically investigated ... Likewise, the delegation is concerned that complaints regarding threats or intimidation may not be investigated with the necessary diligence and efficiency, so that the perpetrators of such criminal acts are assured of impunity".³³

(A) Alleged Threats made against Sergei Obodovsky

The chairperson of the Mogilov Human Rights Centre, Sergei Obodovsky, maintained that he received anonymous telephone threats in relation to a complaint he lodged against the police on behalf of a unemployed man in 2000. The man had alleged that he was approached by police officers who allegedly forced him and six other men to work for them free-of-charge, clearing up the yard of a police station, on the threat that if they refused they would spend 15 days in detention. The man reportedly attended one of the Mogilov Human Rights Centre's free legal advice sessions and an official complaint was lodged against the police officers with the local prosecutor's office. Sergei Obodovsky stated that shortly afterwards he received an anonymous telephone call, which he suspected to be from one of the police officers against whom he had lodged the complaint, threatening: "Obodovsky, you bastard, putting your hands on known people will end up in you spitting blood". He also stated that he believes that his family have been deliberately targeted by the

³¹See *Belarus: Dissent and Impunity*, June 2000, AI Index: EUR 49/14/00 and *Belarus: Briefing for the UN Committee against Torture*, April 2001, AI Index: 49/002/2001.

³²UN Doc. CAT/C/XXV/Concl.2/Rev.1, 20 November 2000, - paragraph 6e.

³³Inter-Parliamentary Union, Committee on the Human Rights of Parliamentarians, Report of the Committee's Delegation on its Mission to Belarus 19 - 24 November 1999, CL/166/16(c) - R.2 April-May 2000 - p.21.

Mogilov authorities in order to punish him for his human rights activities. At the time of the Amnesty International's visit the prosecutor's office had yet to reply to Sergei Obodovsky's complaint on behalf of his client.

Arrests and related police ill-treatment of opponents of the government have been far from uncommon. Among the persons arrested during peaceful anti-government, pro-democracy demonstrations throughout the country have been members of various political parties, trade unions, youth groups and human rights organizations and initiatives, such as Charter-97, Spring-96 and the Belarusian Helsinki Committee for example. The following example of one of Belarus' most prominent human rights defenders, Oleg Volchek, who was beaten by police officers in July 1999, illustrates the formidable obstacles even the most legally qualified complainant faces bringing perpetrators of human rights violations to justice. The chances of bringing to justice police officers involved in ill-treating lesser known human rights defenders are rare. The case also illustrates the wide gap between law and practice in Belarus regarding the obligation to conduct prompt and impartial investigations into allegations of police ill-treatment:

(B) The Alleged Ill-treatment of Oleg Volchek

Oleg Volchek is a lawyer, chairperson of Legal Assistance to the Population and the chairperson of the non-governmental committee which has demanded an independent investigation into the possible "disappearances" of Yury Zakharenko, Viktor Gonchar, Anatoly Krasovsky and Dmitry Zavadsky. Amnesty International believes that the 33-year-old lawyer was deliberately targeted for punishment by the Belarusian authorities for working on behalf of the "disappeared" men and because of his high profile role as a human rights defender.

After a pro-democracy demonstration on 21 July 1999 dispersed, Oleg Volchek and his companions were arrested on Moskovskaya Street in Minsk and taken to the Moskovsky District Department of Internal Affairs. Oleg Volchek alleged that he was repeatedly punched and kicked about the body and head there by three police officers. He has also stated that the police officers laughed while they punched and kicked him and that afterwards they refused him access to a doctor. Oleg Volchek and his companions were reportedly not released until the next day. Although he has made a number of complaints to the authorities about his alleged ill-treatment, the authorities have yet to investigate his allegations.

In contrast, apparently as a result of his complaint Oleg Volchek was charged under Article 201 (2) of the Belarusian Criminal Code with "malicious hooliganism". If convicted, he risked a sentence of several years imprisonment. Amnesty International learned that the charges against him were finally dropped in late November 1999, reportedly due to a lack of evidence. In March 2000 Oleg Volchek

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informed a representative from Amnesty International that he thought it very unlikely that he would receive any form of redress for his ill-treatment and loss of liberty, since the prosecuting authorities had refused to consider his complaint. Nearly a year later, in February 2001 he informed an Amnesty International delegation, that throughout the year 2000, the prosecuting authorities had repeatedly refused to bring charges against the police officers alleged to have been responsible for his ill-treatment. By failing to initiate a prompt and impartial investigation into Oleg Volchek's allegations of ill-treatment Amnesty International considers that the Belarusian authorities failed to protect him as a human rights defender and bring those responsible of ill-treating him to justice. Like a number of other prominent human defenders and opposition leaders, Oleg Volchek now takes particular care about his personal safety. In February 2001 he told representatives from Amnesty International that he purchased a mobile phone especially for this purpose.

(C) Ill-treatment of Protestors against Possible "Disappearances"

Amnesty International has received a number of allegations of police ill-treatment of people who were detained peacefully protesting against the possible "disappearances" of members of the opposition in the past two years. Most recently, in the morning of 18 May 2001, police officers reportedly detained approximately 30 protestors outside the Palace of the Republic building in Minsk. The protestors - who belonged to the Belarusian Conservative Christian Party - reportedly carried posters of the four men who have apparently "disappeared". Other protestors reportedly held placards and distributed leaflets contesting Belarus proposed union with Russia. Plain-clothes police officers are alleged to have used force to disperse the peaceful protestors and ill-treated a number of them, resulting in one man, Vladimir Yukho, suffering a broken arm and another man reportedly experienced severe heart problems. In the aftermath of the incident the Belarusian human rights organizations Centre for Human Rights and Spring-96 made a statement demanding an investigation into allegations that plain-clothes police officers both ill-treated peaceful demonstrators and verbally abused and threatened people who demanded to see their identity cards.

Throughout the day and evening plain-clothes police officers reportedly detained other peaceful protestors from the Youth Front of the Belarusian Popular Front and the United Civic Party. Both groups of protestors lined Minsk's main thoroughfare, Prospect Frantsysk Skaryna, at different times of the day holding placards of the missing opposition figures, Yury Zakharenko and Viktor Gonchar, as well as the missing Russian Public Television cameraman, Dmitry Zavadsky, and Viktor Gonchar's companion, Anatoly Krasovsky. The plainclothes police officers reportedly detained around a dozen protestors, seven of them youths, one of whom was allegedly seriously beaten.

(D) The Use of Excessive Force against Valery Schukin

On 17 April 2001 the freelance journalist and human rights activist, Valery Schukin, was sentenced to an aggregate total of three months' imprisonment and fined 30 minimal wages relating to two alleged violations of the law by Minsk City Court. The first related to his role as a leader in October 1999's Freedom March, while the second related to an incident which allegedly occurred on 16 January 2001. Officials had refused Valery Schukin access to a press conference being presented by the Minister of the Interior, Vladimir Naumov, in Minsk on the grounds that it was open only to state journalists. A struggle reportedly ensued between the human rights activist and guards policing access to the conference, resulting in a glass door being broken and the guards violently forcing Valery Schukin to the ground. During the struggle Valery Schukin's leg suffered a deep cut, requiring his temporary hospitalization. He was reportedly charged on 19 January 2001 and convicted three months for alleged hooliganism in connection with this incident. Valery Schukin's appeal of the conviction failed on 27 April 2001. His three month sentence began on 12 June 2001 at Okrestina detention centre in Minsk. However, Amnesty International learned that Valery Schukin was transferred to Zhodino prison in early July 2001 where prison guards allegedly forcibly shaved off his beard using a blunt razor. According to reports, conditions of detention in Zhodino prison are among the worst in the country and there have been repeated allegations that prison guards have ill-treated prisoners. Valery Schukin, who is also a member of the dissolved parliament, the 13th Supreme Soviet, has been arrested on numerous occasions and has served multiple prison sentences for his peaceful opposition activities. He has alleged that he has been subjected to ill-treatment by police officers on several occasions while in police detention.

3. Police Raids and Confiscations

Amnesty International received a number of reports that various NGOs have been raided in the past by the police who subsequently confiscated equipment and printed materials. Human rights organizations have also been among NGOs to be subjected to such raids. The Minsk offices of the human rights organization Spring-96 were raided on 4 October 1999 by around 10 police officers. The police raid took place two weeks before the large-scale pro-democracy Freedom March demonstration. Police officers confiscated two computers, two printers and copies of their human rights journal *Right to Freedom* on the grounds that the organization did not possess the necessary authorization to print on the premises. At the time members of Spring-96 were in discussion with some of the parents of the 53 children who died during the Nemiga underground station stampede on 30 May 1999. The police officers reportedly recorded the personal details of all the people in the offices at the time, including the parents. The police raid reportedly lasted for around four hours. On 18 November 1999 the chairperson of Spring-96, Ales Byalytski, was detained and kept

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in custody for one day after demanding from officials that the organization's confiscated equipment be returned. The equipment was returned to the organization after a delay of around two months. More recently, on 16 March 2001 police officers reportedly conducted a raid on the offices of Spring-96 in the town of Borisov, north-east of Minsk. Police officers reportedly justified the raid on the basis that people in a neighbouring building had complained about noise.

In 1999, a number of other NGOs experienced similar raids. On the evening of 19 August 1999 police officers reportedly burst into the offices of the Belarusian Free Trade Union in Minsk on the pretext that an explosive device had been placed in the organization's offices. Although no explosive device was ever found, the police offices allegedly confiscated around 30 000 leaflets calling on people to take part in the pro-democracy Freedom March demonstration planned for October that year. Earlier, on 1 April 1999, a group of police officers raided the offices of an NGO, called Civil Initiatives in Gomel, on the suspicion of there being drugs and weapons present on the premises. In the same year a handful of offices of newspapers were searched by police officers.

4. Suspicious Break-ins

Throughout the period 1999 - 2001 the offices of a number of Belarus' most well known human rights organizations were broken into, resulting in the loss of valuable office equipment and sensitive documents. In May 2000 two offices were hit in quick succession, giving the impression that a possible concerted campaign was being waged against the human rights community. A number of human rights defenders, with whom Amnesty International has spoken, have stated that, although they cannot rule out the possibility that their offices merely fell victim to opportunistic thieves, considering the pattern of break-ins they deemed it unlikely. A number of the effected individuals have expressed concern that the subsequent police investigations into the break-ins were at best half-hearted and in only one single case has any headway reportedly been made in determining who was responsible.

The Minsk offices of the Belarusian Helsinki Committee was the first of the human rights organizations to suffer losses through a break-in. The organization reportedly lost a significant amount of valuable information on three computers on 17 December 1999. The organization had reportedly previously been burgled in Spring 1996. In March 2001 Aleh Gulak informed Amnesty International that no progress had been made in the police investigation. Approximately four weeks after Amnesty International's visit during the night of 28-29 March 2001, the offices were reportedly burgled again. According to a news report about the incident, thieves ignored expensive office equipment but instead stole the organization's database on election monitoring and human rights violations covering a five-year period. On 10
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July 2001 the Belarusian Helsinki Committee reportedly suffered a further break-in with the loss of two computers, holding information about the organization's activities relating to the 2001 presidential election.

The Minsk offices of the human rights organization Legal Assistance to the Population was burgled on 20 May 2000. The organization lost three computers, a printer and a fax. A significant amount of information relating to human rights violations in the country was lost with the information technology. Raisa Mikhailovskaya, a leading member of the organization, informed Amnesty International that the investigation into the burglary was terminated as no suspects were found. A week later on 27 May 2000 the offices of the Centre for Human Rights, based in Minsk, were burgled resulting in the loss of \$5000 worth of equipment, including two computers, a printer, photocopier and other office equipment. Like the Belarusian Helsinki Committee and Legal Assistance to the Population, the organization lost valuable human rights data stored on the hard disks of the computers. The president of the organization, Vera Stremkovskaya, informed Amnesty International of the view that the burglaries may have been deliberately staged "to put pressure on human rights organizations". In year 2000 several other NGOs were also burgled. As a result of the spate of break-ins Valyantsin Stefanovich from Spring-96 informed Amnesty International that the organization now ensured that someone was present in its offices around the clock.

In only one instance known to Amnesty International have the Belarusian authorities reportedly apprehend those responsible for breaking into the offices of a human rights organization. On 27 January 2001 the Brest based resource centre Vezha was burgled, resulting in the loss of seven computers, fax, scanner, printer and auditing information. In addition, valuable data on the hard discs of the stolen computers was lost. In a show of solidarity other Belarusian human rights organizations donated electronic equipment to compensate for the losses and to enable Vezha to carry on its work. Amnesty International was informed that on 3 April 2001 several men in Brest were apprehended for the alleged break-in.

5. Threats of and Loss of Employment

In the course of the past couple of years Amnesty International has been informed of several people who have lost their jobs as a result of their involvement in human rights and pro-democracy activities. In a country where economic conditions are among the worst in Europe and a large swathe of economic activity still remains in the state sphere loss of employment has serious economic consequences for people made redundant (see also Threats to the Professional Autonomy of Lawyers below).

The director of Brest Association of People with Impaired Hearing was made redundant for reportedly allowing the venue to be used to host a voters' meeting on 3 February 2001 during which the opposition figure Syamon Domash spoke. According to the Belarusian human rights initiative Charter-97, Brest City Council accused Leakadia Vlasuk of assisting the opposition to violate public order and, as a result, ordered the association to terminate her employment after she reportedly refused to 'voluntarily' resign. Amnesty International does not know whether the former director has managed to find new employment.

A year previously, on 20 January 2000, a member of the human rights organization Spring-96, Ales Sarnatski, was reportedly forced to 'voluntarily' resign his position at an engineering plant in Minsk. According to Spring-96, upon arriving at work on the morning of 20 January he was reportedly approached by a plant foreman who informed him that a number of police officers were waiting for him. A police officer in charge allegedly ordered Ales Sarnatski, without explanation, to show him the contents of his personal work locker, in which an anti-presidential placard was found. The police officers reportedly arrested him, took him to Moskovsky Department of Internal Affairs in Minsk and released him without charge two hours later. It was reported that, after returning to his place of work, the deputy director of the plant insisted that he resigned.

In the city of Mogilov two leading members of the Mogilov Centre for Human Rights, Sergei Obodovsky and Andrei Kurakov, both claimed to have lost their jobs in the state administration as a result of their human rights activities. The men, both of whom, are trained lawyers, have been able to secure an income working privately. In contrast, the following case of the human rights activist, Galina Artemenko from Gomel, clearly shows the economic hardship which unemployment can lead to in Belarus.

(A) The Case of Galina Artemenko

Galina Artemenko is a human rights activist from the south-east city of Gomel, which lies adjacent to the Ukrainian border. She is married to a leading human rights and pro-democracy activist, 58-year-old Yevgeny Murashko, who was both the chairperson of his local Belarusian Helsinki Committee and former Amnesty International prisoner of conscience. Yevgeny Murashko, who was facing a one-year prison sentence for his pro-democracy and human rights activities, left Belarus for Germany in 2000 where he successfully obtained asylum in early April 2001. Galina Artemenko remained in Gomel with her family and has reportedly suffered considerable financial hardship after losing her job at the mayor's office in Gomel 'on health grounds' in 1999. She informed Amnesty International in February 2001 that she believed she would have been sacked had she not retired on health grounds due to her and Yevgeny Murashko's pro-democracy and human rights activities. She

stated that, before applying for political asylum in Germany, her husband had not worked since 1995 after losing his employment.

Galina Artemenko

informed Amnesty International that she must now support her two adopted teenage sons and her elderly mother on her monthly social security benefit which is equivalent to \$6.5 in addition to \$9 a month which she receives from her daughter-in-law. She stated that the authorities responsible for social security had threatened to stop paying her social security benefit after the middle-aged woman had reportedly refused employment cutting wood. Galina Artemenko's sons, who are 25 and 27 and without a stable income, are also unable to help her. As a result of their financial predicament, the family have begun to sell items of personal property. Her older son and his wife were reportedly detained twice for selling property on the street without the necessary permits and were subsequently fined. They have been unable to pay the fines and Galina Artemenko fears that the Gomel authorities may decide to confiscate family property in lieu of the fines. She believes that the family have been deliberately targeted by the Gomel authorities for her and Yevgeny Murashko's activities.

6. Threats to the Professional Autonomy of Lawyers

"Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics".

Article 11 of the Declaration on Human Rights Defenders

Amnesty International is concerned about the lack of respect of the above principle
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set out in the Declaration on Human Rights Defenders. Since the implementation of legislation in May 1997 lawyers have been subjected to significant political pressure and their freedom to practise their profession according to international standards has been gravely restricted. On 3 May 1997 President Lukashenka issued Decree No. 12 "On Several Measures on Improving the Practice of Lawyers and Notaries in the Republic of Belarus". The decree introduced severe restrictions on the independence of lawyers from the executive power by appointing the Ministry of Justice in charge of licencing lawyers and by introducing mandatory membership of all lawyers in a centralized body, the Collegium of Advocates, whose activities are controlled by the Ministry of Justice. A lawyer from the Centre for Human Rights in Minsk recently informed Amnesty International: "Everything is linked. The courts, the Ministry of Justice and the Collegium of Advocates are all linked". Lawyers can reportedly be expelled from this state-controlled body after two official warnings for which no objective proof is reportedly required. Subsequently, expelled lawyers are unable to practice their profession.

The obligation of lawyers to belong to the state-controlled Collegium of Advocates directly contravenes international standards, including Article 23 of the UN Basic Principles on the Role of Lawyers, which states: "Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference". Lawyers in Belarus are not only unable to form and join self-governing professional associations but are prohibited from practising their profession if they do not join the state-controlled Collegium of Advocates or are expelled from it.

In addition, it is also relevant to note Article 16 (c) of the UN Basic Principles on the Role of Lawyers, which states: "Governments shall ensure that lawyers: shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics". Amnesty International has learned of a number of instances in which these basic principles have been disregarded.

Shortly after the implementation of the 1997 decree, the Human Rights Committee expressed concern about its effect. During the Committee's examination of Belarus' fourth periodic report of its implementation of its obligations under the ICCPR in November 1997, the Committee stressed: "... that the independence of the judiciary and the legal profession is essential for a sound administration of justice and for the maintenance of democracy and the rule of law. The Committee urges the State party to take all appropriate measures, including review of the Constitution and the laws, in order to ensure that judges and lawyers are independent of any political

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or other external pressure".³⁴ The government, however, to date has not heeded the recommendations of this international expert body.

More recently, in 2000 - 2001, both the Committee against Torture and UN Special Rapporteur on the independence of judges and lawyers expressed concern about the lack of professional autonomy of lawyers in Belarus. During its examination of Belarus' implementation of its obligations under the Convention against Torture in November 2000, the Committee against Torture also expressed concern about the lack of independence of the judiciary and the legal restrictions placed on lawyers which have put their professional independence into question. It recommended that "[m]easures be taken, including the review of the Constitution, laws and decrees, to establish and ensure the independence of the judiciary and lawyers in the performance of their duties, in conformity with international standards".³⁵ The UN Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, visited Belarus from 12 - 17 June 2000 in order to examine the state of the independence of the judiciary and the legal profession in the country. In a subsequent report relating to the visit he stated: "... there is excessive executive control of the legal profession, particularly by the Ministry of Justice. Such control undermines the core values of an independent legal profession and the Basic Principles on the Role of Lawyers. Such control leads to abuses, resulting in allegations of harassment, intimidation and interference by the executive".³⁶

In recent years Amnesty International has been informed of a number of lawyers who have not been allowed to practise as lawyers because they were expelled from the Collegium of Advocates for so called "violation of the professional ethics". The human rights lawyer, Nadezhda Dudareva, was disbarred from the Collegium of Advocates in 1998 for an alleged breach of the legal profession's code of conduct and reportedly for failing to appear by a commission regulating the profession, the Qualification Commission. A criminal case was also opened against her in October 1997 on charges of "defamation of judges". She informed a representative from Amnesty International in March 2000 that she had practised law for most of her adult life, loves her profession and really would like to obtain her licence back and start practising again. Similarly, the President of the Belarusian Helsinki Committee and prominent human rights defender, Gary Pogonyailo, was expelled from the Collegium of Advocates in March 1998 and as a result he has been unable to represent his clients in the Belarusian courts. Gary Pogonyailo had previously defended a number of high profile clients including the former chairperson of the Belarusian National Bank, Tamara Vinnikova, and the Russian Public Television journalists, Pavel Sheremet,

34UN Doc. CCPR/C/79/Add.86 (1997) - paragraph 14.

35UN Doc. CAT/C/XXV/Concl.2/Rev.1, 20 November 2000 - paragraph 7d.

36UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - page 5.

Dmitry Zavadsky and Yaroslav Ovchinnikov. He was reportedly disbarred immediately after defending the latter three journalists.³⁷ As a result of having his license withdrawn, although he has been able to advise victims of alleged human rights violations in the role of a "public defender", he has been prevented from representing them as a lawyer in court. In the mission report of the UN Special Rapporteur on the independence of judges and lawyers, recommended: "Lawyers who were disbarred for upholding the rights of their clients and/or human rights generally should have their cases reviewed and be reinstated to the practise of the legal profession".³⁸ The Belarusian authorities have taken no action to implement this recommendation.

If a lawyer is expelled from the Collegium of Advocates he faces considerable financial consequence. Lawyers who have been deprived of their license to practice their profession must find an alternative means to earn a living. Moreover, as economic conditions in the country have drastically deteriorated since the collapse of the Soviet Union and the failure to undertake economic reform, finding an alternative source of income commensurate with one's former salary can prove very difficult. A member of the Centre for Human Rights in Minsk informed Amnesty International in February 2001 that lawyers are seriously afraid of losing their employment. Amnesty International was also informed by a leading member of the Belarusian Helsinki Committee in Minsk, when asked about expulsions from the Collegium of Advocates, stated: "They [lawyers] don't do anything to lose their licence". During the research mission several other lawyers made similar statements.

Vera Stremkovskaya, who is one of Belarus' leading human rights lawyers, appears to have been deliberately singled out by the authorities for her human rights activities. Her case reveals the risks a lawyer can face if their activities are at odds with the perceived interests of the government.

(A) Threats of Expulsion of Vera Stremkovskaya

Since 1999 the Belarusian human rights lawyer, Vera Stremkovskaya, came under increasing pressure to cease her human rights activities. She is a leading human rights lawyer in Belarus and has acted as a defence counsel in a number of high-profile cases, such as that of 75-year-old Vasiliy Starovoitov, whom Amnesty International adopted as a prisoner of conscience. She is also currently the director of the Centre for Human Rights, which is a non-governmental association of lawyers, formed in 1998, who are engaged in the defence of civil rights. For her work Vera Stremkovskaya received a number of prestigious international human rights awards in 1999 including the International Human Rights Award given by the American Bar

³⁷UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 80.

³⁸UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 123 (c).

Association's Litigation Section and an award from the German Association of Judges (*Deutscher Richterbund*).

For her human rights activities she has become an object of considerable state attention. She has been repeatedly threatened with expulsion from the Collegium of Advocates. During a two-day human rights conference held in Minsk in March 2000, Vera Stremkovskaya informed the participants, including a delegation from Amnesty International that the Collegium of Advocates has continued to exert pressure on her for alleged violations of regulations which govern the legal profession in Belarus. She reportedly received another warning in March 2000 for alleged violations of professional ethics. Amnesty International has expressed concern on numerous occasions that this state-controlled body has attempted to disbar her and prevent her from practising as a lawyer.

Three different criminal cases have also been brought against her since December 1998, all three of which have been dropped. All three cases have been formulated on the basis that she had defamed public officials. In her most recent case Vera Stremkovskaya was charged under Article 128 (2) of the Belarusian Criminal Code for slandering a public official during the court hearing of Vasiliy Starovoitov in May 1999. The head of the team investigating the criminal case against Vasiliy Starovoitov claimed that Vera Stremkovskaya defamed him by asking the court what had happened to a number of her client's personal belongings which were confiscated during the search of the Starovoitov family home. Among the items missing were a gold necklace, a large number of military medals and 40 bottles of cognac. Vera Stremkovskaya believed that her question was legitimate, since she was representing the interests of client. If she had been found guilty of defamation she could have been sentenced up to five years in prison.

Amnesty International learned that these charges against Vera Stremkovskaya were dropped at the end of December 1999. However, Vera Stremkovskaya informed an Amnesty International delegation in Minsk in February 2001 that the charge of defamation which had been brought against her by the head of the team investigating the criminal case against Vasiliy Starovoitov had reemerged as a private law suit against her. The investigator reportedly sought the equivalent of \$20,000 in damages which could have financially crippled her and seriously effect her work as a human rights defender. However, on 20 June 2001 a Minsk court convicted her of libel, fining her a smaller sum equivalent to \$500. Amnesty International was informed that she immediately filed an appeal against the conviction at Minsk City Court. The organization is concerned that she continues to be targeted by the authorities purely on account of her human rights work.

7. Other Forms of Harassment

Human rights defenders in Belarus have informed Amnesty International about other forms of harassment, such as the temporary suspension of essential services to their offices and the surveillance of correspondence to which they have been subjected. Certain human rights organizations have also complained about coming under unusually close scrutiny from the tax authorities. Such acts are part of the broad picture of harassment and intimidation faced by human rights defenders in Belarus.

A number of human rights defenders have complained about repeated disruptions to the various services municipal services supplied to the offices of their organizations. Amnesty International was informed that it has not been unusual for telephone or electricity services to be cut without notice and without apparent explanation. The Mogilov Human Rights Centre has reportedly suffered repeated telephone disconnections, sometimes for four or five days on end. Its chairperson, Sergei Obodovsky, and his colleague, Andrei Kurakov, informed Amnesty International at the end of February 2001 that the previous week the phone had not been working for most of the week. The telephone resumed working but only for a short time before there was another problem. Andrei Kurakov stated that he had called the telephone company in order to inquire about the reason for the disruption. He stated: "The authorities always find a new excuse". The use of a functioning telephone and fax is obviously very important for the human rights organization which defends people throughout the Mogilov region. Moreover, the main fax and telephone is situated at a regional resource centre, Circle of Friends, which provides resources to a number of other NGOs which also rely on functioning communications for their work.

Similarly, a 22-year-old member of the Belarusian Helsinki Committee informed Amnesty International that in the run up to a large-scale pro-democracy demonstration on 21 July 1999 during which he was a Belarusian Helsinki Committee organizer his home telephone was cut-off for several days and reconnected only after the demonstration on 23 July. The telephone exchange reportedly informed him that there were no faults at their end. The national headquarters of the Belarusian Helsinki Committee has also reportedly experienced intermittent power cuts.

A number of human rights defenders expressed concern about possible violations of their right to privacy, particularly the surveillance of their correspondence and possibly their telephone calls. One leading defender told Amnesty International that "Everyone believes they are potentially under surveillance but no one knows for sure". Vera Stremkovskaya, for example, has complained about her post arriving non-intact, covered in brown sticky-tape, AI Index: EUR 49/005/2001 Amnesty International 8 August 2001

suggesting that it had been tampered with. She has stated that virtually all of her foreign post arrives in this form. While few human rights defender admitted that they were aware of being physically followed by the security services, they did not rule out this possibility altogether. A number of people stated that high profile opposition political figures and their families are thought to be actively surveyed by the state authorities, including the KGB.

Human rights organizations, like all public associations in Belarus, are obliged to follow certain financial reporting requirements. While it is not uncommon for the organizations of civil society to be periodically scrutinized by the relevant authorities in any society, the unusual frequency and extent to which certain human rights organizations - as well as other NGOs and independent newspapers - have been subjected to financial auditing by the Belarusian authorities gives reason for concern and may amount to a pattern of deliberate harassment. While such complaints appear to have diminished at the present time, in past years certain organizations were subjected to very close scrutiny.

The President of the Belarusian Association of Women Lawyers, Galina Drebezova, who is based in the western city of Brest, informed Amnesty International that her organization had come under particular scrutiny around 1998. At the time the human rights organization was reportedly receiving a number of foreign grants for the purposes of human rights promotion. She informed Amnesty International that, although her organization was subjected to a tax audit lasting around five months, the tax authorities found an inconsistency equivalent to only \$4. However, in the interim she and her organization were forced to expend considerable energy and time producing and explaining the relevant documents and figures. In addition to her human rights defence and promotion work, Galina Drebezova also undertakes some commercial legal activity in order to earn a decent living salary. She stated that at the time of the tax audit of her human rights organization the tax authorities began to show an interest in her clients. The Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, has also commented on the close financial scrutiny which Galina Drebezova came under in the period 1998 - 1999.³⁹

The Belarusian Association of Women Lawyers is not the only human rights organization which has been forced to open its accounts to external authorities. In the recent past the Belarusian Helsinki Committee has been subjected to time consuming tax audits. In the year 2000 the organization believed it was deliberately targeted by the tax authorities who requested access to their accounts. The Belarusian Helsinki Committee reportedly receives a certain amount of international funding from the

³⁹UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 22.
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Eurasia Fund which is reportedly paid in dollars but converted into Belarusian roubles. The organization stated that, due to the interval between the conversion, a disparity occurred in the amount of money deducted in taxation - reportedly approximately \$300 - , resulting in court action being brought against the organization. The Belarusian Helsinki Committee has stated that the oversight was accidental and no profit-making motive lay behind it.

In the light of the possibility that human rights organizations - as well as other NGOs, trade unions and political parties in Belarusian society - may come under close scrutiny, most of the human rights defenders with whom Amnesty International spoke stated that they made great efforts to ensure that their financial books were in order.

III. Promoting Human Rights in Belarus

"Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes".

Article 18 (2) of the Declaration on Human Rights Defenders

The Declaration on Human Rights Defenders defines a clear role for NGOs in the defence and promotion of human rights. In addition to Article 18 (2), Articles 6(a), 6 (c) and 7 of the Declaration underscore the rights of people to obtain, discuss and disseminate human rights issues. However, in Belarus tangible barriers exist which restrict the role of human rights defenders in these respects. Individual human rights defenders highlighted a number of factors which significantly restrict their ability to defend and promote human rights in the country, including: (1) shortage of venues to hold human rights seminars; (2) shortage of funds; (3) unwillingness of the Belarusian authorities to cooperate with civil society and (4) restrictions on the freedom of the media. Consequently, human rights defenders repeatedly expressed concern about the low level of human rights education both among their contemporaries and in society as a whole. Amnesty International was informed that, apart from the difficulties of enforcing one's rights, many Belarusian citizens simply did not know their rights in the first place and those who were aware of them were often reluctant to complain for fear of reprisals.

1. A Shortage of Venues

"In Brest it is more of a problem to find premises than money".

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This statement was made Galina Drebezova, the President of the Belarusian Association of Women Lawyers, in relation to the difficulties she has faced finding venues to hold human rights events. While in Minsk there are greater possibilities to secure the use of rooms and halls for the purpose of holding seminars or legal consultations, in the regions of the country securing venues for such activities is infinitely more difficult due to the refusal of local authorities to allow state-owned property to be used for these purposes. Moreover, in a country where a great deal of property remains in state hands, finding private venues, especially outside of the capital, Minsk is not easy (see *Securing a Legal Address*). Furthermore, the shortfall of affordable, private venues and premises and the acute unwillingness of the authorities to lease state property to human rights organizations inevitably negatively affects their ability to render legal advice to individual citizens seeking redress for violations of their rights. The experiences of Galina Drebezova highlighted below are not exceptional in the regions of Belarus.

(A) Promoting Human Rights in and around Brest: The Belarusian Association of Women Lawyers

The Belarusian Association of Women Lawyers, whose head office is based in Brest on the Belarusian-Polish border, was founded in 1994. The association reportedly has just under three hundred members. Two of the main functions of the Belarusian Association of Women Lawyers are to offer free legal advice to the population and to promote human rights education. The organization offers free legal advice by holding legal surgeries for people in Brest and in the various towns and villages outside of the regional capital. The organization's human rights activities include producing and disseminating written material to inform people of their rights on a range of issues and organizing seminars and meetings for human rights defenders in order to enhance and support their work on behalf of others.

The unwillingness of the local authorities to allow the Belarusian Association of Women Lawyers to use municipally owned property for the purposes of seminars and other human rights events is a major recurring problem which frustrates their work. Galina Drebezova informed Amnesty International of her past experiences touring Belarus' regions, visiting schools and factories. She stated: "Ninety per cent of school and factory directors support our work but the local authorities refuse to allow it to take place". For example, in 2000 a human rights seminar had been organized to take place in a school in a small town. However, when Galina Drebezova and her colleagues arrived at the school the director of the school reportedly informed them that the local authorities had found out about the seminar and the police had been informed. Nevertheless, the director of the school told Galina Drebezova and her colleagues to hurriedly stage a thirty minute seminar, which they did. The police reportedly arrived shortly after the seminar had finished inquiring

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what was going on, Galina Drebezova replied: "It was a human rights seminar but now it's over!".

In February 2000 she and her colleagues were due to hold a human rights discussion at a dairy product factory in the town of Pruzhany. The discussion had previously been agreed upon with the factory director and posters had reportedly been put up around the plant, informing the employees. However, the local authorities reportedly put pressure on the factory director who withdrew his permission at the last minute, stating that because he was in Brest and not in Pruzhany the event could not be held. Some employees who had already arrived at the venue, reportedly refused to leave, with the result that the seminar was held against the wishes of the local authorities.

The organization has been less successful on other occasions. Galina Drebezova informed Amnesty International that the refusal of the Brest city authorities to allow the organization visit schools or use municipal property to stage human rights events has, in recent times, prevented the organization from staging a series of human rights seminars for school children and women leaders in the city. The Brest authorities reportedly based their refusal on the fact that "there are no human rights violations in Brest". Later in year 2000 a hospital became an unofficial venue for a human rights event in the town of Kamenets, after permission to use the original venue, a school, was withdrawn at the last moment. According to Galina Drebezova, this pattern of events is far from unusual and it is considered as a deliberate attempt by the authorities to hamper the work of human rights promotion.

The Belarusian Association of Women Lawyers have reportedly had similar experiences in relation to the free legal consultations they have organized in the regions. On several occasions the association's members have travelled through the region in a mini-bus, stopping at villages and small towns to offer legal advice. While the leaders of some communities are reportedly only too happy to receive such services, others have asked the lawyers to move on elsewhere.

During its visit to Belarus in February/March 2001 a delegation from Amnesty International attended a one-day human rights seminar held in the city of Vitebsk, on the northern Belarusian-Russian border. The human rights seminar was organized by the Legal Assistance to the Population in conjunction with the Organization for Security and Cooperation in Europe. The main aim of the seminar was to raise the overall human rights awareness of human rights defenders in this region of Belarus and it was one of a series of nationwide seminars being organized by Legal Assistance to the Population. The seminar was held in the premises owned by an independent trade union organization because it was anticipated based on other experiences that permission would be refused by the authorities to hold the seminar

in municipally owned property. The chairperson of the Legal Assistance to the Population, Oleg Volchek, explained that the issue of finding a suitable venue was a recurring problem they faced when organizing seminars outside of Minsk.

2. A Shortage of and Restrictions on Funding

"Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration".

Article 13 of the Declaration on Human Rights Defenders

The problem of funding is a common problem for most human rights organizations in Belarus. None of the human rights organizations Amnesty International met received any form of financial support from the Belarusian authorities. The majority of social associations which receive state funding are reportedly those which promote the government's ideological line. Instead, human rights organizations relied on voluntary contributions of time and money from members and occasional foreign grants. The regional affiliates of nationally registered human rights organizations and local human rights organizations based in the regions are often in a much worse financial state than Minsk based organizations. For many of these human rights organizations there are few possibilities to generate income, especially since the services they offer are largely free-of-charge. In addition, in the light of the desperate overall economic conditions in the country and the possible state scrutiny which fund-raising might draw, there are only limited fund-raising possibilities open to human rights organizations. Money is required to cover basic expenditure such as office rent, office equipment such as computers, printers and copiers, and the related costs of running an office as well as the costs of printing public information and staging events, such as human rights seminars, conferences and round-table discussions. As highlighted above, some regionally based human rights organizations operate informally and are not registered with the local justice authorities. Other organizations, while officially registered, operate out of non-registered addresses where rents are cheaper and as a consequence they are unable to widely advertize their activities.

In addition, on 14 March 2001 President Lukashenka issued the decree "Several Measures on Improving Distribution and Use of Foreign Humanitarian Aid" which effectively prohibited the use of foreign funding for pro-democracy purposes. The March 2001 Decree reportedly prevents foreign monetary and non-monetary aid given to NGOs and political parties from being used for a broad range of activities, including the organization and monitoring of elections and various protest actions, such as demonstrations, rallies, pickets, strikes and referenda, as well as the

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preparation and dissemination of information which has deemed to be subversive by the authorities. NGOs which violate the March 2001 Decree will reportedly face fines, confiscation of the aid and even legal dissolution. Reports anticipate that a number of state organs will be responsible for monitoring the use of foreign aid including the newly founded Presidential Department for Humanitarian Aid, which must approve all forms of foreign aid, the Ministry of the Interior, the State Committee for Financial Investigations as well as various taxation and customs committees.⁴⁰

In future, NGOs will run the risk of incurring fines and closure if they violate this broadly-sweeping legislation. By placing such restrictions on the right to receive and utilize such assistance, the March 2001 Decree appears to blatantly violate several articles of the Declaration on Human Rights Defenders, including Article 13 cited at the start of this section. Moreover, like the legal requirement of NGO registration and existence of a system of official warnings, the March 2001 Decree unacceptably intrudes on the peaceful activities of the organizations of civil society.

3. The Unwillingness of the Belarusian Authorities to Collaborate in Human Rights Education Activities with Civil Society

A further problem faced by human rights defenders in Belarus is the frequent refusal of the state authorities to collaborate with them in joint activities. There exists a recognition among human rights defenders that levels of human rights education and awareness have to be improved throughout Belarusian society, including state employees. However, there appears to be very little cooperation between state officials and human rights organizations. A leading member of the Belarusian Helsinki Committee, Aleh Gulak, expressed his frustration to an Amnesty International delegation about this state of affairs. He informed the organization of a number of human rights events he had planned for mid-ranking officials which eventually collapsed due to the unwillingness of the authorities to allow state employees to take part. He stressed that, although a significant number of officials

⁴⁰Radio Free Europe/Radio Liberty 3/10 20 March 2001.

had been keen to take part in certain events, their superiors had refused them permission, resulting in their withdrawal. For example, the Belarusian Helsinki Committee had reportedly secured foreign financial support for two-part seminar on good governance, the first part was to be held at the end of September 2000 in Minsk, the second in Sweden at a later date. It was envisaged that various state officials would participate in both sessions. Two or three weeks before the seminar was due to take place a leading state official refused permission for state officials to take part in the seminar, reportedly until after the parliamentary elections of October 2000 had taken place. However, since the elections there has been no contact between the state official and the Belarusian Helsinki Committee. An international conference on elections organized in December 2000 in Minsk met a similar fate when the authorities declined to participate. During its visits to Belarus in 2000 - 2001 Amnesty International met representatives from a significant number of human rights organizations and is not aware of any other human rights organizations with which the Belarusian authorities are cooperating in any meaningful way. On the contrary, - as was previously stated - state authorities appear to have embarked upon a deliberate strategy to frustrate work of domestic human rights organizations in promoting and defending human rights.

4. Restrictions on the Freedom of the Media

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 an available tool to improve the generally low levels of human rights awareness and education in the wider population or fuel wider debate. On the contrary, 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 but also in keeping the nascent independent press in check through a campaign of harassment and intimidation. Various international human rights mechanisms and non-government organizations which defend and promote press freedom, including the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Article 19 and the Committee to Protect Journalists have been particularly critical of the authorities stifling press freedom in Belarus. A system of official warnings, administered by the State Press Committee, has been employed to threaten the vestiges of an independent press into submission. Commenting on the system of warnings the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression stated: "The Special Rapporteur finds that broad discretionary power is left to the authorities, for instance in issuing warnings, and he fears their arbitrary exercise, resulting in an inhibition on the necessary freedom of the press".⁴¹ In recent years a large part of the independent

⁴¹UN Doc E/CN.4/1998/40/Add.1, 19 December 1997 - final observation 4.
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press have received official warnings for alleged violation of the Press Law.

Enhanced scrutiny by the tax authorities of independent media companies and prosecution of criminal libel cases have also been used to threaten and silence outspoken independent newspapers, a number of which resulted in their eventual closure. For example, in September 1999 the independent newspapers *Naviny* closed after losing a costly libel case against Viktor Sheyman, the then head of the State Security Council. There have been a number of instances when the police have conducted searches of the offices of newspapers and have confiscated materials, including editions of newspapers, expounding pro-democracy and human rights opinions. Such confiscations have reportedly also been undertaken on the street from individuals distributing them. There have been frequent reports in recent years of actual harassment of individual journalists, including their apparently arbitrary detention.

The state apparatus has also been used to hinder the expansion of the independent press⁴² by denying independent newspapers access to certain state printing houses and by periodically seizing independent printing houses in order to frustrate production. Belpochta, the state-owned post office which distributes newspapers, charges independent newspapers significantly higher tariffs for distribution, consequently raising the costs of the newspapers, resulting in making them discernibly more expensive than the state-owned newspapers. The independent press has also complained about its lack of access to official state information. Article 19, an international NGO which works on issues effecting freedom of expression, recently commented: "Denying non-state media access to official information and press conferences is now common practice in Belarus".⁴³

Access to the electronic media has been even more problematic. In relation to the absence of plurality in the media the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Abid Hussain, expressed particular concern "... at the government monopoly and control over the national radio and television broadcast system as well as the large-circulation daily newspapers, in particular the biased coverage of the opposition and the limited access of opposition politicians to State television, especially during elections and referenda or other important political events".⁴⁴ It is reported that the state television channels have been used to regularly depict Belarus' opposition and leading opposition figures in very negative terms.

⁴²See Article 19 - Belarus: The Mechanics of Repression, Obstacles to Free and Fair Elections, May 2001 - pages 29 - 30.

⁴³Article 19 - A digest of violations of freedom of expression and related incidents in Belarus 2000 - 2001, 24 April 2001.

⁴⁴UN Doc. E/CN.4/1998/40/Add.1, 19 December 1997 - concluding observation 8.
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Throughout the first half of 2001 concern was expressed about the draft law, Law on Information Security, which was being considered by various state bodies at the time.

Concern was expressed that, if the legislation was adopted in its existing draft form, it would confer on the Belarusian authorities a range of powers by which to censor the media and further stifle media freedom. In a press statement on the law the international NGO Article 19 concluded in January 2001: "The proposed Draft Law of the Republic of Belarus "On Information Security" is a blatant attempt to silence the remaining oppositional voices in the country. It would represent a further regressive step in the campaign for greater freedom of information, by severely limiting the activities of the media, and further perpetuating the process of shutting out any views which do not correspond with the those of the executive powers".⁴⁵ At the time of publication no new information had been received about the proposed law.

Under the combined circumstances of shortfalls in venues and funding, an apparent unwillingness on the part of the authorities to cooperate with human rights organizations and the restrictions on a free media - notwithstanding the other factors highlighted in the course of this report - it should come as no surprise that human rights defenders face considerable obstacles promoting human rights. Their combined effect has been to practically paralyse the right of free expression. Paradoxically, according to a number of international treaties and declarations, including the Convention against Torture, ICCPR and the Declaration on Human Rights Defenders the state has a responsibility to promote human rights both among state officials as well as in wider society.

Conclusions and Recommendations:

Throughout this report the wide gap between the principles set out in the Declaration on Human Rights Defenders and the everyday treatment of human rights defenders by the Belarusian authorities has been clearly visible. In contravention of the Declaration - as well as in violation of other international human rights treaties such as the ICCPR and the Convention against Torture - it appears that the Belarusian authorities have deliberately created obstacles and placed constraints on the rights of human rights defenders to freedom of association and assembly and to receive and impart information about human rights, significantly hampering human rights defence and promotion in the country. The bureaucratic systems of registration and regulation through warnings, seemingly issued for the most spurious of reasons, the refusal of the authorities to cooperate with human rights defenders, grant their organizations

⁴⁵Article 19 Press Release 25 January 2001.

office space or allow them access to adequate funding and the media appear to amount to a pattern of deliberate obstruction. Simultaneously, the right to protection as set out in the Declaration on Human Rights Defenders has been repeatedly contravened, whereby human rights defenders have been arbitrarily deprived of their liberty, been subjected to police ill-treatment and threats thereof, had their offices raided by the police or suspiciously broken into with the loss of valuable equipment, data and materials.

Amnesty International therefore urges the Belarusian authorities to take immediate measures to bridge this gap between the theory of the Declaration on Human Rights Defenders and their actual treatment in practice. To this end Amnesty International recommends the following:

- ↯ Authorities at all levels of government should explicitly and publicly commit themselves to promoting respect for human rights, and to the protection of human rights defenders. They should ensure that the principles contained in the Declaration on Human Rights Defenders are fully incorporated into national law and mechanisms for the protection of human rights and are implemented.
- ↯ Ensure that in the interest of fulfilling obligations contained in international human rights law, officials at every level of the state, including lower-ranking officials, collaborate with and facilitate the work of members of non-governmental human rights organizations.
- ↯ Ensure exhaustive and impartial investigations are conducted into alleged violations of human rights defenders and that those responsible are brought to justice. The results of such investigations should be made public.
- ↯ Members of the police or security services being under investigation for human rights violations should be immediately suspended from active service until investigations have concluded.
- ↯ Take effective action to sanction state officials who abuse the criminal process to the detriment of members of human rights and social organizations with the intention of harassing them or curtailing their legitimate activities for the defence of human rights and fundamental freedoms.
- ↯ Take immediate steps to its fulfill international treaty obligations and in particular take immediate and effective measures to implement the following recommendations of treaty bodies and UN special mechanisms:

- **Committee against Torture** recommendations:

"Urgent and effective steps [should] be taken to establish a fully independent complaints mechanism, to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of alleged perpetrators".⁴⁶

"The State Party [should] consider establishing an independent and impartial governmental and non-governmental national human rights commission with effective powers to, inter alia, promote human rights and investigate all complaints of human rights violations, in particular those pertaining to the implementation of the Convention".⁴⁷

- **Human Rights Committee** recommendations:

"The Committee urges the State party to take all necessary measures, legislative as well as administrative, in order to remove ... restrictions on freedom of expression, which are incompatible with its obligations under article 19 of the Covenant, as a matter of priority".⁴⁸

"The Committee recommends that the right of peaceful assembly be fully protected and guaranteed in Belarus in law and in practice and that limitations thereon be strictly in compliance with article 21 of the Covenant".⁴⁹

"The Committee, reiterating that the free functioning of non-governmental organizations is essential for protection of human rights and dissemination of information in regard to human rights among the people, recommends that laws, regulations and administrative practices relating to their registration and activities be reviewed without delay in order that their establishment and free operation may be facilitated in accordance with article 22 of the Covenant".⁵⁰

- **Special Rapporteur on the independence of judges and lawyers** recommendations:

"The Government must establish by law an independent judicial council for the selection, promotion and disciplining of judges, in order to conform with

46UN Doc. CAT/C/XXV/Concl.2/Rev.1, 20 November 2000 - paragraph 7b.

47UN Doc. CAT/C/XXV/Concl.2/Rev.1, 20 November 2000 - paragraph 7c.

48UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 17.

49UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 18.

50UN Doc. CCPR/C/79/Add.86, 19 November 1997 - paragraph 19.

principle 10 of the Basic Principle of the Basic Principles of the Independence of the Judiciary ...".⁵¹

"The Government must enable lawyers to form self-governing associations and refrain from excessive control of the profession"⁵²

"Lawyers must be allowed to practise their profession without any harassment, intimidation, hindrance or improper interference from the Government or any other quarter. In this regard, the Government should take note of its obligations under principles, 16, 17 and 18 of the Basic Principles of the Role of Lawyers".⁵³

"Lawyers who were disbarred for upholding the rights of their clients and/or human rights generally should have their cases reviewed and be reinstated to the practise of the legal profession".⁵⁴

51UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 121 (a).

52UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 123 (a).

53UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 123 (b).

54UN Doc. E/CN.4/2001/65/Add.1, 8 February 2001 - paragraph 123 (c).