

Belarus¹

IHF FOCUS: elections; freedom of the media; freedom of association; peaceful assembly; judicial system and fair trial; torture, ill-treatment and police misconduct; prisons and detention facilities; death penalty and disappearances; freedom of religion; intolerance, xenophobia, anti-Semitism and hate speech; ethnicity; human rights defenders.

The human rights record in Belarus remained one of the worst in Europe in 2003, with an almost complete absence of democracy and the rule of law. The country suffered not only from economic backwardness and the long-term consequences of the Chernobyl catastrophe but also under the authoritarian regime of President Alexandr Lukashenka in whose hands most power was concentrated. There were almost no state institutions in where officials were elected or appointed in accordance with democratic procedures: most of them were appointed directly by the president or his administration. As a result of the non-observance of the rule of law, the power of officials increased.

The Criminal Code and economic legislation allowed for arbitrary accusations to be made against any person. As a result, intimidation and manipulation of critically minded officials was possible. High officials who had come to power by undemocratic means showed little respect for the law, and retained the conditions, under which the lives of people in Belarus were insecure and unstable. The government appeared to disregard its commitments under the international human rights treaties ratified by the country.

Continued violations of political, social and economic rights created an atmosphere of fear. According to data from the UN High Commissioner for Refugees, in the first nine months of 2003, 2,560 Belarusian citizens (out of the total population of less than ten million people) had asked for political asylum abroad.

The accumulation of economic and political repression added to social problems, which included widespread alcoholism. Contributing to economic, ecological, demographic and moral losses, alcoholism constituted a serious threat to the stability and development of the society.

Among the most serious violations of civil and political rights were assaults on the right to association. Other common human rights abuses were violations of the standards for democratic elections and freedom of expression, restrictions on peaceful assembly and religious freedom, and violations of the right to fair trial. Further, police misconduct, including arbitrary arrest, ill-treatment and torture, continued, and unsolved disappearances in the past remained uninvestigated.

Elections²

The March 2003 local elections in Belarus fell seriously short of international standards on fair and free elections. Belarusian electoral legislation remained partly incompatible with international norms and did not provide effective mechanisms to prevent abuse. Members of electoral commissions at all levels were selected according to their loyalty to the authorities. Opposition candidates were hindered from collecting signatures for their candidatures and many were finally not registered on arguable grounds and without any possibility of filing a complaint. Opposition election campaigns were obstructed, and restrictions on media freedoms and pressure on independent outlets made free dissemination of information impossible. At the same time, local administrative bodies spread propaganda leaflets for their own candidates.

On election day, about 20% of people voted outside polling booths in full view of members of electoral commissions and others. Local authorities, heads of enterprises and others, who had no official

¹ Based on the *Annual Report 2004 (events of 2003)* of the Belarusian Helsinki Committee, prepared by Dzmitry Markusheuski.

² Based on Belarusian Helsinki Committee, *Elections of Members of Local Councils of XXIV Convocation - Results of the National Monitoring*, at <http://bhc.unibe.by>; Belarusian Helsinki Committee, *Bulletin*, 25 November 2003, at <http://bhc.unibe.by>.

assignment in the electoral process, were present at polling stations thus putting pressure on voters. So-called “electoral headquarters” established by local administrations interfered with the work of electoral commissions. Ballots were not secured from copying and in some cases ballot papers were produced manually for voters. The exact number of official ballots was not published. Most complaints about irregularities filed after the elections were ignored.

While almost all candidates violated the rules governing the financing of election campaigns, sanctions were applied only against opposition candidates.

Reports were received of tampering with voters' lists: the number of voters was decreased in those constituencies where candidates supported by the authorities were standing for elections in order to guarantee a 50% turnout, the hurdle for legitimate elections. In contrast, the number of voters was increased where independent candidates were expected to have strong support. Moreover, results of early voting were falsified at least on four occasions.

Observers were not allowed to monitor the formation of electoral commissions, the sealing of ballot boxes, counting of votes or absentee voting. Only NGO members were admitted as observers: no other individuals selected by NGOs were allowed to do that.

A special election campaign was held in Belaazersk (Biaroza rayon, Brest region) in November despite the fact that a competent local council had been elected in March 2003. It appeared that the reason for new elections was the fact that so many seats had been won by independent candidates. As result of pressure by local authorities, two independent candidates withdrew from the elections. Observers reported that in the course of the Belaazersk special elections the principle of equal rights and responsibilities was violated, including equal access to the media and equal responsibility for similar violations during the election campaign.

A number of state-run media outlets published biased materials directed against candidates belonging to the Belarusian Social Democratic Party (Narodnaja Hramada) and the Belarusian People's Front. Moreover, on 17-18 November, during the election campaign in Beloozersk, unknown individuals posted leaflets signed by a "group of voters." The leaflets instigated social division and infringed upon their honor and dignity. The texts of the leaflets resembled the aforementioned articles or were identical to them. Election observers filed complaints about this to the Prosecutor's Office of Biaroza rayon, the KGB department, the Belaazersk town electoral commission and the Central Electoral Commission. As of the end of 2003 it was not known if any measures had been taken to investigate who was behind this campaign.

Freedom of Expression and the Media

State Indoctrination

On 11 September the Ministry of Labor and Welfare introduced a post of “deputy head for ideological work” for all workplaces with more than 300 employees. The official duty of this officer was to propagate the Belarus state ideology and its internal and foreign policy. Local monitors believed that the main aim pursued by this new form of indoctrination was to prevent any form of independent thinking and dissent as well as to prepare a basis for the elections in the fall of 2004.

In addition, on 23 September, the National High School Institute of the Belarus State University started training lecturers for “ideology courses.” Sixty-two faculty members of Minsk and provincial higher education establishments studied the methods and methodology of teaching the principles of the Belarus state ideology. Lectures on state ideology commenced in Belarusian institutes and universities in January 2004, with philosophers, historians, political scientists, sociologists and economists giving lectures for both staff and students. The second stage of training is set to commence in the academic year 2004-2005, targeting teachers of secondary and technical schools.

The Academy of Sciences and the Presidential Academy of Management have reportedly been given over €2 million to develop the state’s ideological program.

Freedom of the Media

Since the September 2001 presidential elections in Belarus, the authorities have exerted intensive administrative, legal and economic pressure on independent media outlets. In 2003, state-run media were the only media subsidized from the state budget. The Presidential Academy of Management named the journalists who qualified to work for the state-run media.

As of May 2003, there were 1,411 periodicals, seven information agencies, 57 TV channels, and 130 radio channels in Belarus. Two thirds of the media were state-owned.

The Criminal Code included a chapter on “Crimes against the Order of Governance.” The code’s article 367 prescribed a prison sentence of up to five years for defamation of the president of Belarus, and article 368 a fine or up to three years imprisonment for insulting him. At least three journalists were convicted in 2001-2002 on criminal charges for having allegedly slandered the president: Mikalai Markevich and Pavel Mazheika of the newspaper *Pahonia* as well as Viktor Ivashkevich of the trade union newspaper *Rabochy* served their terms of internal exile in 2002-2003. As of this writing, other journalists, among them Irina Makavetskaya and Irina Khalip, are under threat of facing the similar charges.

Also criticism of other authorities could be interpreted as an affront on them, a fact that substantially influenced the local election campaign in March 2003. Another powerful form of censorship was the right of authorities to issue warnings to media outlets that criticized them: after two warnings they could be closed down by court. Further, authorities could suspend media outlets without a court decision.

- On 28 May, two leading independent newspapers, *Belorusskaya Delovaya Gazeta (BDG)* and *BDG Confidential*, were suspended for three months for having published the results of an opinion poll. The majority of its respondents opposed President Lukashenka’s use of a government airplane for private purposes. Another cause was the newspaper’s coverage of an open court hearing without approval by a judge. Also, though the paper resumed publishing, printing houses refused to print *BDG* until given special permission from the Ministry of Information. This permit had not been issued by the end of 2003.
- On 4 June director of the Krasnaya Zvezda printing house, Vladimir Telesh, was fired. The Belarus Ministry of Information dismissed him for “default on agreement obligations.” This happened after the printing house had published special editions of the *Echo* and *Solidarity* weeklies, which included *BDG* materials. The newspaper *Echo* was suspended temporarily.

A number of other independent newspapers were also targeted: *Predprinimatelskaya Gazeta* was suspended for publishing *BDG* materials and for changing its official address, *Navinki* for its political satire and, as of the end of 2003, *Narodnaya Volya* and *Vecherni Stoln* were under threat of closure after they had been given warnings.

Under pressure from authorities and out of self-censorship to avoid troubles, publishing houses refused to print the newspapers *Region-Vesti* (Svetlagorsk, Gomel region), *Szag* (Baranavichy, Brest region), *Salidarnasc* (Minsk), and *Novaya Gazeta Smargoni* (Smargon, Hrodna region).

Local authorities stopped new regional media from establishing themselves by refusing “to adjust [their] official address,” which was required by law.

On 7 October, the Ministry of Information abrogated the licenses of the independent newspapers *Belaruskaya Maladzechnaya*, *Nasha Svaboda*, *Holas Pruzhan* and *Rabochy* because these media had not published a single issue during a year.

Pressure from authorities on media outlets reached the extent that even papers published by school pupils were to be put under censorship.

- With support from the Belarusian Helsinki Committee (BHC), school pupils in Mahilew produced a newspaper called *Prismotris* (Look closer). Following the publication of three issues, the

Mahilew Regional Education Department's head, V.S. Bogdanov, suggested that the children submit their articles to him for prior approval. Local authorities had been particularly unhappy about articles which reported beatings of Mahilew special school pupils by schoolmasters, as well as articles about the absence of training aids in schools and poor conditions of roofs in schools in the Slavgorod rayon (Mahilew region). Publication of the newspaper was suspended because pupils refused to give articles for prior censorship.

Several journalists were fired for articles, which were critical of local policies and problems, and distributors of independent papers were punished.

- In Orsha (Vicebsk region), many journalists were dismissed for reporting local problems. For example, the correspondents of *Orshanskaya Gazeta* (Orsha, Vicebsk region), A. Tanchevskaya and O. Shutava, were fired for their reports on juvenile delinquency, alcoholism and other problems in the region. The dismissals were initiated by N. Stahovich, officer of the local Executive Committee. V. Emelianova, chair of local public TV, was dismissed for rejecting censorship, which was demanded by authorities during the local election campaign in March 2003.
- In November, the administration of Krychaw Lyceum threatened to expel students who had distributed local independent newspapers. The director claimed that *Molodezhny Courier* and *Krychavian* were "harmful" and to distribute and read them were "acts of disobedience to state ideology." Three students threatened gave up distribution fearing reprisals.

The only generally available foreign newspapers and magazines were Russian.

Belarusian and Russian TV-channels were free-for-all. Nevertheless, in 2003 Russian TV-channel *Kultura* (Culture) was replaced by Belarusian *LAD*. Some TV programs and movies transmitted from Russia were censored in Belarus. Also, the president made a decision to start a new sports channel on a frequency normally used by the Russian channel *RTR*. The launch of new Belarusian entertainment channels appeared to be aimed at reducing the influence of Russian broadcasting in Belarus and to draw public attention away from current political issues. In a similar vein, on 27 June, the Foreign Ministry cancelled the press accreditation of Pavel Selin, a Russian TV company *NTV* correspondent, as his reports had allegedly given a negative portrayal of the social and political situation in the country and undermined the respect of the authorities. The Council of Ministers decided to suspend the *NTV* representation's activities in Belarus pending official apologies. In early 2004, *NTV* was negotiating to resume its work in Belarus.

Authorities at all levels often refused to provide information on their activities to the public and media and excluded independent or critical journalists from discussions available to others.

- On 28 October, the Russian TV company *NTV* talk-show "Freedom of Speech," dedicated to Belarussian-Russian relations, took place in Minsk with the participation of President Lukashenka. However, the presidential administration excluded from the list of participants twelve journalists representing independent media as well as well-known public and political figures.
- On 19 December, presidential security staff denied entry to the National Assembly to journalists who had permanent accreditation to report on parliamentary sessions. President Lukashenka gave a speech at the National Assembly on that day. The president's press secretary excluded from the list of journalists granted admittance to the parliament Yuri Svirko (US News), Valery Kalinowski (RFE/RL), Yuri Potemkin (BelaPAN), Viktor Martinovich (*Belorusskaya Gazeta*), Natalia Gryb (*Kommersant*), Natalia Sharai (*Vecherni Brest*), Sergei Grits (Associated Press) and Olga Tarasevich (Obozrevatel).

In addition, there was a serious threat that non-governmental Internet sites could be closed down after the Minister of Information, Mikhail Podgayny, equated webmasters of independent news sites with

pornographers.³ Users of Internet cafes were required to present their passports and the cafes' administrations were obliged to monitor surfing of the net by users.

Freedom of Association

In recent years, the Belarusian authorities have expanded their arsenal of regulations and decrees pertaining to civil society. Presidential Decree No. 13, which was issued on 15 April 2003, barred public organizations from representing ordinary citizens in court, and was another attempt to isolate public organizations from the public.⁴ At the same time, on 1 August, President Lukashenka issued a decree on national state-governed "public associations," which would be financially supported by the government and assigned to undertake some tasks of which the state should be in charge, e.g. to indoctrinate state ideology.

In 2003, the liquidations of NGOs, threats against human rights defenders and new governmental regulations amounted to a new orchestrated campaign against civil society. A number of NGOs were closed down for alleged violations of regulations relating to foreign aid and rules on registration. Two official warnings from the Ministry of Justice within one year were enough for the closure of an NGO. Due to innovations in the law, it was also possible to close down political parties and NGOs for one gross violation during a public event.⁵

As of 1 January 2004, 18 political parties, 52 national trade unions and 2,214 other NGOs were registered with the Ministry of Justice. In 2003, Minister of Justice, Viktor Galavanaw, ordered intensified controls on NGO activity. The ministry carried out checks on 81 NGOs, resulting in 810 reprimands, a number six times higher than in 2002. In 2003 courts liquidated 51 public associations on the basis of law suits initiated by the Ministry of Justice.

- The Christian-Social Youth Union was closed for using a private apartment as its office and for mistakes made by the Ministry of Justice during its re-registration in 1999.
- The regional NGO *Civil Initiatives* was shut down for violating the presidential decree on spending foreign aid, for establishing a public resource center as well as a youth club, and for disseminating "propaganda materials."
- The regional public center *Varuta* was closed down for using an "unofficial" name in its papers ("organization" instead of "association").
- The youth initiatives centre *Kontur* had to terminate its activities because it used an office with an address differing from the registered one and for spending foreign aid without a government permit.
- On 8 September, the Minsk City Court ordered the closure of the NGO Legal Assistance to Population because it rendered legal services to citizens without a license and, in addition, had an incorrect official stamp.⁶
- On 28 October, the Human Rights Center *Viasna* was liquidated for defense of citizens in courts and alleged violations during the monitoring of elections.
- In August the BHC received an official reprimand from the Ministry of Justice for using the name of the organization which "does not correspond with that stated in the BHC statutes." The warning was a result of the absence of inverted commas in the name on the letterhead, seal and stamp of the BHC. The NGO was also subjected to other form of harassment. Tax authorities of the Moscow

³ RFE/RL Media Matters, Vol. 3, No. 31, 18 August 2003.

⁴ See also IHF and Belarusian and Norwegian Helsinki Committees, "Stop the Persecution of Civil Society in Belarus," 19 May 2003, at http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=1978

⁵ See also sections on Peaceful Assembly and Human Rights Defenders.

⁶ See IHF and the Belarusian Helsinki Committee, "Another Belarusian Human Rights Organization, Legal Assistance to Population, has been 'Liquidated'," press release, 12 September 2003, at <http://www.ihf-hr.org>.

District in Minsk audited the BHC from August 2003 until January 2004, covering documentation from the foundation of the NGO in 1995. While the audit confirmed that the funds had been used appropriately, it alleged that the BHC had failed to pay taxes amounting to 385 million rubles (about €150,000) from a TACIS program. The tax officials invoked paragraph 1.2 of the Edict of the President No. 8 "On Certain Measures to Improve the Order of Receiving and Usage of Foreign Gratuitous Help" which ordered NGOs to pay taxes for funds received from abroad. Doing so they failed to take into account that TACIS programs in Belarus were regulated by the General Rules, applicable to the Memorandum on Financing of 10 May 1994, under which technical assistance is exempted from taxes and customs duties. On 17 March 2004, an investigator of the Belarus government's Financial Investigation Department brought criminal charges against the BHC.⁷

On 28 November 2003 the president signed Edict No. 24 "On the Reception and Use of Foreign Gratuitous Help." The edict stepped up control over foreign help usage and prescribed tougher sanctions against wrongdoers. The new edict greatly expanded the authorities of the presidential administration in control over foreign financial assistance for NGOs. On the basis of the edict, ineligible activities included different forms of educational and political work targeting the population, including seminars. The list of ineligible activities was open-ended and exceptions to its application were to be approved by the president. For violation of the new edict NGOs, political parties, funds, and foreign organizations representations could be liquidated and foreign citizens deported.

Trade Unions

Trade union activities were complicated by state pressure on their activists and leaders, a virtual ban on strikes and obstacles related to the registration of new trade unions.

No less than 500 founders were needed to establish a national or a regional trade union, and no less than 10% of workers (but at least 10 persons) to found a trade union at an enterprise. These demands seriously limited the possibilities of setting up new trade unions. At the same time, trade unions appeared on a territorial (instead of professional) basis under the aegis of local authorities and were controlled by them. State pressure upon the trade unions turned into open interference in their activities, including attempts to influence their elections at all levels.

Long-term (no less than two months) and complicated conciliatory measures were provided to precede a strike, and an application to strike had to be submitted three months prior to the planned date. President Lukashenka had the right to decide either to allow a strike or suspend it for up to three months on grounds of a threat to national security, public order, public health, and the rights and freedoms of others. Participants of illegal strikes could be dismissed from work on the grounds of absence from work, and trade union activists faced harassment.

Peaceful Assembly

Permission from city authorities was necessary to hold peaceful assemblies and demonstrations. Municipal authorities charged the organizers with additional costs to provide public order, and often moved demonstrations to suburban areas from city centers proposed by organizers, or banned them outright. Participants of unsanctioned assemblies faced police violence, administrative fines and arrest. In addition, authorities threatened to shut down associations holding demonstrations.

In June 2003, amendments were introduced to the laws "On Political Parties" and "On Non-Governmental Associations." They brought legislation into line with Presidential Decree No. 11 of 7 May 2001. This decree provided for liquidation of a party, trade union or other association for a single violation of the legislation regulating mass events, for failing to secure order during mass events if the damages

⁷ For more information, see IHF and BHC, "The Criminal Case Against the Belarus Helsinki Committee Is Politically Motivated and Should Be Dropped," 22 March 2004, at http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=5369.

inflicted amounted to about 17,500 rubles (€6), or if harm was caused to the rights and interests of individuals or state and public order. Only courts were empowered to liquidate political parties and NGOs.

Amendments were also introduced to the law “On Assemblies, Meetings, Rallies, Demonstrations and Pickets.” These alterations adjusted the law to the already mentioned Decree No. 11 and another Edict No. 36 “On Certain Measures to Prevent Emergency at Mass Events” dated 9 September 1999 by restricting the right to assembly. They also vested the organizers of an assembly with more responsibilities.

- On 22 October, the special riot squad OMON dispersed a picket at Kastychnitskaya Square in Minsk. Four women from the town of Bobruisk had sought to meet with President Lukashenka to inform him of violations of their rights. OMON arrested and took Lubow Sankevich and Janina Awsianik to the Central District police station. Police also arrested Yury Grigoriev of the BHC, Rouslan Zgolich, film director, and Valery Kalinowski, RFE/RL correspondent.
- Dozens of activists of the Malady Front (Youth Front) and Zubr movements were detained during the year when participating in the campaign against the third term of Lukashenka’s presidency.

Judicial System and Fair Trial⁸

According to the Minister of Justice Viktor Galavanaw’s report of December, the Belarusian judicial system employed 6,971 people. The system consisted of 154 district and city courts, six regional courts and the Minsk City Court. Additionally, there was the Belarusian Martial Court and six military courts. The numbers of civil and criminal cases under consideration were 163,000 and 48,000, respectively.

The right to appoint judges appertained to the president of Belarus. The Constitution imposed by the 1996 referendum required the president to appoint the chairpersons of the Constitutional Court, Supreme Court and Supreme Economic Court as well as all other judges of the Supreme and Economic Courts, with the consent of the Council of the Republic. The candidates were selected by the president. The vice-chairs of the Supreme and Economic Courts, the presidents and vice-presidents of district and regional courts were appointed by the president upon the submission of the Minister of Justice and the president of the Supreme Court. The president was solely responsible for the appointment of six of the 12 Constitutional Court judges (the rest of them were elected by the Council of the Republic), and all other judges of the Belarusian courts.

The selection of candidates for a judicial placement was undertaken by the local administration of the Ministry of Justice. A candidate then had to pass a qualifying examination held by a judge’s qualification board and be recommended for appointment by that board. If the Ministry of Justice accepted that recommendation, the candidate was referred to the presidential administration, which then made the final decision concerning appointment. At this stage, candidates were also subject to confirmation by the Security Council of the Republic of Belarus.

The administration of justice, together with all its institutions, namely the judiciary, the prosecutorial service and the legal profession, were undermined and not perceived as separate and independent from the executive power.

On 24 November, President Lukashenka signed Order No. 530 that added to the list of punishments, admonition and reprimands imposed on judges. The order also prescribed a warning for inadequate performance of the job, demotion in qualification for the term of up to six months, and dismissal. Earlier on, demotion in qualification could be applied only in the course of qualifying certification and depended on the level of professional knowledge, service, experience, and post: it could not have been used as disciplinary measure. This novelty provided the judicial assembly, which considered disciplinary measures against judges, with manifold possibilities of finding judges guilty. At the same time, the final decisions concerning dismissals of judges continued to be taken by the president.

⁸ Unless otherwise noted, based on the Belarusian Helsinki Committee (Hary Pahaniaila and Aleh Hulak), *The Courts and Human Rights*, 2003.

Courts rarely based their rulings on the Constitution and international covenants, and the decisions of the Constitutional Court were often ignored. While the law provided for a number of alternative punishments, sentencing policies were harsh and courts still chose to hand down prison terms: 32.5% of all sentences were prison terms. Furthermore, for minor administrative offences judges handed down fines in the scale of those for criminal violations, sometimes in the amount of €800 or more, which equaled an average annual salary.

The 1996 referendum deprived citizens of their right to apply to the Constitutional Court. Judges were entitled to address the Constitutional Court where any contradiction with the constitutional norms was revealed in the proceedings. However, no address of this kind was made.

- On 2 October, the Minsk City Court assembly upheld the first instance ruling that the closure of the National State Humanitarian Lyceum was legal. The closure had been ordered by the Council of Ministers for, as teachers stated, using Belarusian as the language of instruction. On 22 August, 24 parents of the lyceum's pupils had filed a complaint against the government's decision. Judge Zhupikova of the Minsk City Court responded that the government's decision could only be appealed to the Constitutional Court. She refused to grant a request to hear the case in the Belarusian language.⁹

The Belarusian Criminal Code provided for severe sentences, and recent amendments concerning bribery made these even harsher. In 2003, it became possible to confiscate almost the whole property of a corrupt public officer regardless of the well being of the person's family. Confinement for bribery stretched from three months to six years (versus three to six months before the amendments) which made a defendant dependent upon the arbitrariness of judges.

The main problem with the changes to the Criminal Code was, however, the expansion of the notion of an "office holder." For example, a teacher taking an exam and a doctor issuing a prescription were considered "officers." Consequently, sweets presented to a doctor could theoretically put him/her to jail for years. Moreover, the code contained a poorly defined article on speculation.

Torture, Ill-Treatment and Police Misconduct¹⁰

Police continued to carry out arbitrary arrests and to ill-treat arrestees. Law enforcement officials resorted to physical and psychological abuse when cracking down on demonstrations, upon arrest, and during the preliminary investigations of criminal cases. Ill-treatment was also common in prisons.

- On 9 January, a member of the youth movement Zubr, Dzianis Chykaleu, was detained in the city of Homel and beaten by militia officers for dissemination of Zubr leaflets. Chykaleu was interrogated in a militia precinct by unknown people in plain clothes and the leaflets were confiscated. He was released three hours later.
- On 20 June, another member of Zubr, Tatsiana Yalovaja, was hospitalized for emergency surgery. She had been detained on 18 June when sitting an exam at school. Yalovaja was placed in a cell of 16 m² with eight other people. She had a fever but the officers refused to call a doctor. One day later, as her condition had deteriorated, a doctor came and diagnosed an inflamed abscess on the bridge of her nose and ordered surgery to save her life. The operation was carried out without an anesthetic.

In 2002-2003, numerous well-known public figures and representatives of intelligentsia were beaten by the police under the pretext that they were looking for criminals. Those beaten included: Professor Adam Maldzis, producer Yuri Haschevatski, stage director Valery Mazynski, actors Yaugen Kryzhanowski and Viktor Chornabaeu, academics Radzim Garetski and Yaugen Babosau, director of the

⁹ See also section on Ethnicity.

¹⁰ See also section on Prisons and Detention Facilities.

National State Humanitarian Lyceum Uladzimir Kolas, and head of the human rights NGO Legal Assistance to Population Aleh Volchak.

Prisons and Detention Facilities

Belarus held fifth place in the world among the countries with the largest number of prisoners in proportion to its population. As of mid-2003, 49,645 persons were imprisoned in Belarus. The high number could largely be attributed to the fact that incarceration was frequently used as punishment even for minor offences. For example, fines amounted to only 2.6% of all sentences, while even in the former USSR they were 16%.

On 8 January 2004, the Belarusian parliament adopted the "Law on Amnesty." On the basis of the law, it would be possible to release some 20,000 prisoners and so decrease the number of prisoners by half.

Conditions in Belarusian prisons, pre-detention and temporary custody facilities were humiliating and endangered the lives of detainees. Typically the space per detainee was less than 1 m², and the cells were dirty and rarely ventilated. The detainees were not given sufficient food and were not able to care for their hygiene properly. Those accused of violating internal rules of a facility were placed in special disciplinary cells, where conditions were even harsher, for example due to low temperatures and concrete floors covered with water. Detainees were also subjected to physical abuse. In some penitentiaries special police troops were allowed to practice hand-to-hand combat on prisoners. There were also instances when detainees were forced to work without pay. Complaints filed by detainees were regularly censored.

According to the Punishments Execution Committee of the Ministry of Internal Affairs, overcrowding was 20.8% above the maximum capacity in correctional colonies; in prisons it was 35.9%; and in pre-trial detention centers 26.8%. About 43% of prisoners and detainees were serving their terms under strict security and 24% under maximum-security regimes.

The spread of tuberculosis was a serious problem: 15% of all prisoners were infected, including those suffering from its most virulent form (about 10%). Moreover, 1,126 prisoners were HIV positive, constituting about 22% of all registered HIV positive cases in the country, 1,286 were drug addicts and 9,907 were chronic alcoholics. However, prisoners did not always receive the medical care or medicines they were in need of, including cases where they suffered from tuberculosis or AIDS. Over 25% of the convicts had mental disorders.

The BHC considered that the solution of overcrowding in prisons should begin with the reform of criminal legislation based on comprehensible democratic principles and commensuration of guilt and punishment. In addition, court practices should change and the dependence of judges on the executive abolished.

Death Penalty and Disappearances

During 2003, four persons were sentenced to death. The Committee on Punishments of the Ministry of Interior refused to provide information on how many death sentences were executed in 2003.

In November, the Belarusian Parliament submitted to the Constitutional Court a request to consider if the practice of death penalty corresponded with the Constitution. The Constitutional Court had not made a decision by February 2004.

Disappearances

While many disappearances in the past few years could be associated with social circumstances or criminal activity, a number of high profile disappearances were considered to be politically motivated. The whereabouts of Yury Zakharka, former minister of interior; Viktor Hanchar, vice-speaker of Belarusian

Parliament (XIII convocation); Anatol Krasowski, a businessman; and Dzmitry Zavadski, Russian public TV operator, remained unknown.

In November, Christos Pourgourides, special rapporteur of the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly (PACE) visited Belarus to look into the high-profile disappearances and prepared a preliminary memorandum on his findings. During the visit, Belarusian officials thwarted Pourgourides's plans to meet two persons presumed to have information concerning the disappearances: Lieutenant Colonel Dzmitry Pavlichenka and investigator Uladzimir Chumachenka. Pourgourides stated that he considered that the official investigations into these disappearances had been cloaked in controversy and lacked transparency, impartiality and any efforts of good-faith to make progress. Pourgourides stated in his draft report that senior Belarus officials may have been involved in the disappearances of the four men, and that steps had been taken "at the highest level of the state" to cover up the truth of the disappearances.¹¹

Freedom of Religion

The Belarusian Constitution provided for freedom of religion and equality of all religious communities in the country, but in practice these principles were violated. The government openly backed and financially supported the Belarusian Exarchate of the Russian Orthodox Church, which many citizens considered an integral part of Belarusian history and culture. Meanwhile, minority religious communities were subject to harassment.

A new law on religion entered into force at the end of 2002. The State Committee for Religious and Ethnic Affairs claimed that the law, which was drafted in consultation with the Russian Orthodox Church, was aimed at protecting citizens from dangerous "sects" and "cults." However, in reality it placed far-reaching restrictions on all religious activity.

According to the preamble of the law, the Russian Orthodox Church played a "determining role" in spiritual, cultural and state developments in Belarus. Catholicism, Lutheranism, Judaism and Islam were depicted as "traditional" religions. As regards other faiths, the law established that only those religions that had existed in the country already before 1982 and had at least 10 member congregations would be officially recognized. Religious groups that were not registered with the authorities were not allowed to collectively practice their faith, while registered groups needed permission to conduct ceremonies and would only be able to hold occasional and small-scale meetings in private homes. By law, all religious literature was subject to censorship prior to import or distribution and foreigners were not allowed to lead religious communities in the country. The law also regulated a broad range of other activities. Many provisions of the law were vaguely formulated and were therefore open to arbitrary implementation.

The implementation of the new law resulted in a drastically worsened situation of minority religious communities. The law required those religious groups that were registered with the authorities to re-register within two years. Some new requirements were imposed by the law. For instance, newly registered religious parishes had to have at least 20 members (the previous law required a minimum of 10 members). The BHC was concerned that smaller religious communities would not have sufficient resources to go through the lengthy and complicated re-registration process, and would instead opt to go underground.

The concordat signed on 13 June between the Belarusian government and the Belarusian Exarchate of the Russian Orthodox Church promoted one faith over all other religions. The authorities refused to register a number of minority religious groups that were considered "non-traditional," including all Orthodox groups that were not subordinated to the Russian Orthodox Church.

- In March 2003 the Minsk City Court rejected a suit by a True Orthodox parish (member of the Crimean Diocese), based in the village of Zabolotie, which had been denied registration by the

¹¹ Council of Europe Parliamentary Assembly, "Belarus disappearances: Assembly report names senior officials who may have been involved and points to cover-up 'at the highest level'," press release, 27 January 2004.

authorities for the second time in May 2002. The motivation for denying the parish registration was that its statute allegedly incited religious hatred, despite the fact that documents provided by the bishop of the Crimean diocese showed that this was not the case. Under a similar pretext, True Orthodox Church parishes in the village of Poddubie and in the city of Minsk were denied registration.

Activities of non-registered religious groups were banned by law. Those groups that were not registered with authorities, as well as some that had been granted registration, often experienced difficulties when they sought to buy or rent premises for worship. Moreover, there were numerous reports of members of minority communities who had been warned, fined or arrested for participating in religious meetings or singing religious songs in public places. The main victims were from small religious groups established in rural areas.

- In May, local evangelist Mikhail Balyk was fined the equivalent of €1 for “allegedly conducting worship services” at premises rented by the Pentecostal Union in the town of Zhaludok.

The state press contributed to spreading negative attitudes toward minority religions by engaging in offensive and prejudiced reporting. The independent press rarely covered the life in general of different religious organizations in the country but chiefly focused on problems relating to religious legislation and relations between the state and confessions. As a result, Belarusian society did not receive sufficient and objective information reflecting religious life of numerous confessions.

The law “On the Press and Other Mass Media” provided for media responsibility for dissemination of information that instigated religious enmity and divisions. However, some state-run media outlets promoted intolerance as they repeatedly disseminated false information about religious organizations.

- The Pentecostal Union won a suit initiated in 2001 against the national TV company and Yevgeny Novikov, author of the program entitled “Human Rights: the World in Perspective.” Novikov had claimed that this community made human sacrifices. The court obliged the defendants to apologize and correct the false information. However, instead of obeying the court ruling, on 21 June, Novikov again slandered Pentecostal believers and Protestants in general on state television. The Prosecutor’s Office and the Ministry of Information remained inactive. On 13 July, thousands of Protestant believers gathered and prayed to stop the perpetual calumny.
- Following Novikov’s program, the parliamentary *Narodnaya Gazeta* published between 2001 and 2003 five articles by Nina Yanovich, again repeating stories of sacrifice, distorting details of the earlier court case, and accusing Protestants of fanatic cult practices. The Protestants filed another suit. The case was pending at the end of 2003.

Ethnicity

The language question remained “political” in Belarus. At the official level, Russian was fiercely promoted. The state media advocated the idea that every Belarusian-speaking person was a “national fascist,” “member of the opposition,” and a politically engaged person in a negative sense. The ratio of Russian to Belarusian programs on state TV and radio was 86% to 14%. TV programs featuring social, economic and political issues of significance to the public were transmitted in Russian. Belarusian was presented solely as a language of ethnography, history and literature.

During the February 2000 census, 74% of all people recorded the Belarusian language as their mother tongue, but only 37% said they spoke Belarusian. Belarusian-speakers were discriminated against in an unprecedented manner: only a small number of them were represented in state administration, law enforcement agencies and in parliament, where they mainly held unimportant posts.

Intolerance, Xenophobia Anti-Semitism and Hate Speech

The BHC reported cases of intolerance and anti-Semitism by the authorities.

- A gas pipeline was led through Kurapaty (Minsk rayon), which is a place of burial for victims of the Stalin repression. Law enforcement officials also used force against defenders of the Kurapaty memorial.
- A monument recently erected in Zelva (Hrodna region) in memory of the Belarusian poetess and victim of repression, Larysa Geniush, was under threat of demolition.
- The book entitled *Waging a Base War*, which instigated hate against Jews, was allowed to be disseminated unimpeded.
- Jewish cemeteries in Mozyr (Homel region) and Hrodna were desecrated as well as remains of the synagogues in the Nemiga and Dimitrov Streets of Minsk.
- A memorial mark placed on 18 November 2003 at Mozyr, at a place of self-immolation of Jews in autumn 1941, was demolished.

Authorities did not denounce such acts and measures were not taken against the perpetrators.

Human Rights Defenders¹²

Belarusian human rights organizations initiated positive developments in legislation and judicial practice, carried out educational programs and monitored human rights developments in the country. The BHC alone gave legal aid to over 2,000 individuals whose basic rights had been violated.

Local human rights organizations faced significant obstacles to their work particularly in the form of a sharpened process of liquidation of civil society's structures and civil initiatives by the ruling regime. In 2003, thirteen NGOs dedicated to the promotion of human rights were closed down on the basis of formal, petty or factitious irregularities. Their liquidation was undoubtedly politically motivated. As of the end of January 2004, cases against another eight organizations were pending in court, and other NGOs had received warnings and were under threat of liquidation. Moreover, individual human rights defenders were persecuted.

- On 11 July, a court in Polatsk (Vitebsk region) issued a ruling evicting Valery Schukin, human rights defender and member of 13th Supreme Soviet. The court stated that Schukin had illegally settled in a hostel. The possible eviction was raised only after he had announced candidacy for the local elections and the parliament. On 29 July, Schukin was forcibly evicted. On 29 August, the court gave him an oral reprimand for alleged "hooliganism" as he slept at the railway station. On 26 November, Valery Schukin was arrested in a building of the Polatsk city administration where he was to see the Minister of Interior Uladzimir Nawmaw. Schukin was accused of "defiance" and "hooliganism." On 27 November, Judge Natalia Abramava ordered Schukin to pay a fine of BYR 165,000 (€62).
- Ihar Maslowski, chairperson of the BHC Brest branch, was not allowed to resume his work at Brest State University. He had lost his job in 2001, clearly due to his human rights activities.
- In November, the ad hoc commission of Brest State University refused to certify a contract for Anatol Levkovich to continue his university career: he had been working for the university for 25 years. Levkovich, Ph.D and BHC member, was on the brink of dismissal as of the end of 2003. Questions that the commission asked him concerned not his profession but his political and public activity.

¹² See also section on Freedom of Association.