

**The Assault on Human Rights Defenders**  
**in the Russian Federation and Belarus:**  
***Restrictive Legislation and Bad Practices***

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***International Helsinki Federation for Human Rights***  
***(IHF)***

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## *Preface*

The past few years have witnessed increasing pressure on independent human rights defenders in many former socialist countries. The pressure has taken various forms, ranging from bureaucratic difficulties in getting human rights NGOs registered in order to ensure that their activities are legal, to arrests and prosecution under fabricated charges (including espionage), and physical attacks on outspoken activists, among other things. The situation of human rights NGOs has deteriorated dramatically in the Russian Federation and Belarus, becoming increasingly reminiscent of the communist era. The process, if it is not reversed, will have profound negative consequences for human rights, democracy and freedom not only in these countries but also elsewhere in Eastern Europe and Central Asia.

In the face of mounting pressure and harassment, the reactions from foreign governments and international organizations have been clearly insufficient.

This report examines the situation of human rights NGOs in the Russian Federation and Belarus. It deals both with the legal background and practices in the two countries, and provides a series of recommendations on how the situation can be improved.

Much of the information contained in this report was collected by using a questionnaire prepared by the office of the Special Representative of the UN Secretary General on the situation of human rights defenders, which was distributed by the IHF to its member and cooperating committees and partner organizations in the fall of 2005. The information the IHF received was passed on the UN and used for this report with the approval of the UN Special Representative. The content and conclusions of this report are, however, the sole responsibility of the IHF.

The following sections on the Russian Federation and Belarus, and an additional one on Uzbekistan, will be presented to the OSCE Human Dimension Supplementary Meeting on Human Rights Defenders, to be held in Vienna on 30 and 31 March 2006.



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# THE RUSSIAN FEDERATION<sup>1</sup>

## 1. Introduction and Summary

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In his televised address to the nation of 26 May 2004, President Vladimir Putin emphasized the state's commitment to the main goals of "a mature democracy and a developed civil society." Yet, in the same speech he pointed out that for some NGOs operating in Russia "the priority is to receive financing from influential foreign foundations" while other "serve dubious groups and commercial interests," thereby ignoring the most serious violations of basic human rights. He continued: "And this is not surprising: they simply cannot bite the hand that feeds them."

Most human rights NGOs took the president's remarks as a warning especially to those NGOs that receive funding from abroad, and a sign that authorities tend to interpret human rights activities as work aimed at weakening the Russian state. In addition, the president's remarks were also largely regarded as a signal to law enforcement agencies and local authorities to actively monitor and discipline human rights activists.<sup>2</sup>

The address to the nation was a logical continuation of developments since President Putin took office in 2000. Since then, governmental policies towards human rights NGOs have gradually changed: despite many public statements by President Putin stressing the important role of civil society in ensuring the inviolability of democratic freedoms, steps have been taken to gain more control over the activities of human rights organizations and to tie them more closely to state bodies, thereby fading the clear line that must exist between governmental structures and non-governmental human rights activities in order to secure the integrity of independent human rights organizations. These developments began notably in 2001 with the holding of the first meeting between government authorities and NGOs to discuss issues of mutual interest. Although a positive initiative welcomed by human rights NGOs, later discussions have failed to fulfill almost all expectations.

A further step towards bringing NGOs under governmental umbrella was the signing by President Putin in September 2004 of an edict on the support of the human rights movement in Russia, which, although a potentially positive initiative, proved to be but a new tool to impose control over NGO activities.

The trend against independent NGOs continued in January 2006, when the president signed into law a new, restrictive bill on NGOs. Soon after that, Russian authorities moved on to curb independent human rights activities when they implicated 12 prominent human rights organizations, including the Moscow Helsinki Group, in espionage and initiated legal proceedings against one of them with the aim to close it down.

As a result of the 2003 parliamentary elections, liberal forces in the Russian Federation legislature shrank markedly. The new Duma, which overwhelmingly supports the policies of the government and the president, soon moved to adopt legislation that has increased state control over NGOs and

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<sup>1</sup> Unless otherwise noted, based on information from the Moscow Helsinki Group (MHG) to the IHF, October 2005. Part of the information was originally published in the report *Human Rights in the Russian Federation in 2004*, by the MHG, as noted below. See also: Human Rights Watch, *Managing Civil Society: Are NGOs Next?* Briefing Paper, 22 November 2005, at <http://hrw.org/backgrounder/eca/russia1105/>; Human Rights First, *The New Dissidents: Human Rights Defenders and Counterterrorism in Russia*, 2005, at <http://www.humanrightsfirst.org/defenders/pdf/new-dis-russia-021605.pdf>

<sup>2</sup> IHF/Norwegian Helsinki Committee, *The Silencing of Human Rights Defenders in Chechnya and Ingushetia*, September 2004, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3965](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3965).

negatively human rights activities. Most deputies who had served as contact points to human rights defenders in the Duma, and provided support to them, lost their seats.

Especially in the past two years authorities have stepped up pressure against critical human rights organizations. State control over their registration and funding has been intensified, with the apparent aim of encouraging the growth of organizations loyal to them, while restricting the operation of independent NGOs. Both direct and indirect obstacles to human rights work have been imposed, starting from (often arbitrary) application of poorly formulated laws pertaining, for example, to registration, and financing. There has also been direct pressure, including physical threats to human rights defenders, detentions, arrests, searches and even abductions and killings (in the North Caucasus). Shrinking opportunities to receive objective information from the media, and deliberate efforts taken by authorities to severely restrict access to information of legitimate public interest – including access to Chechnya to independent journalists and human rights defenders – have seriously obstructed human rights work and hindered NGOs from efficiently informing the public about their activities.

While regional regulations and practices vary significantly through the 88 regions of the Russian Federation, it is the local authorities – particularly the regional branches of the Ministry of Interior and other security agencies – who create the main problems to practical human rights work. In the absence of genuinely independent courts in many locations, no effective remedy is usually available to targeted NGOs and human rights defenders.

In recent years, the most notorious region has been the North Caucasus but reports of harassment and persecution have also been received from other regions, especially from Krasnodar, Kalmykia, Tatarstan, and some cases from St. Petersburg. The topic clearly off-limits is Chechnya: human rights defenders in Chechnya and the adjacent regions of the North Caucasus and persons who have submitted complaints about human rights abuses in Chechnya to the European Court of Human Rights or who seek justice locally, are the most endangered human rights activists in Europe.

## **2. The Community of Independent Human Rights Defenders**

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The Moscow Helsinki Group database includes approximately 3,000 human rights NGOs throughout the Russian Federation, but only about 300 of them have secured funding for regular operation.

Virtually all active human rights NGOs in Russia work with various horizontal networks that focus, for example, on human rights monitoring, advocacy, youth work, human rights education, and legal counseling, or are specialized in particular areas of human rights. Such nation-wide cooperation has proven efficient, which was demonstrated, for example, in the success of the all-Russia advocacy campaign under the motto “Civil Society against Police State” that managed to hinder the coming into force of a restrictive law on assemblies in 2004 and pushed through substantial amendments to the law before it was finally adopted (see Peaceful Assembly, below).

The most prominent oldest human rights NGOs include the Moscow Helsinki Group and “Memorial.”

The Moscow Helsinki Group is the oldest of Russian human rights organizations still active today and has partner organizations in all 88 Russian regions. It was established in 1976 in Moscow by Professor Yuri Orlov, following the 1975 Conference on the Security and Cooperation in Europe, held in Helsinki, with the purpose of following up the implementation of the human dimension basket of the Helsinki Final Act. The group was, however, met with serious persecution by Soviet authorities, resulting in the arrest, imprisonment and forced exile of many of its members, and winding down of its activities. In 1989, during *perestroika* and the following return of one of its founding members,

Ludmila Alexeyeva, to Russia, the operation of the group was revived. In addition to monitoring activities, the Moscow Helsinki Group is involved in supplying regional human rights organizations with information and legal advice; supporting and defending these organizations in central and local governmental bodies; assisting to form human rights commissions under the head of the executive power of the Russian regions and supporting these commissions.

The Human Rights Center “Memorial” was established in the spring of 1989 after authorities brutally broke up a meeting in Tbilisi, an incident that resulted in many deaths. It began initially as an historical and educational association with a significant part of its work dedicated to protecting human rights. Now “Memorial”’s regional divisions are involved in protecting human rights, specifically in vindicating the rights of former prisoners. “Memorial” concentrates its human rights activities in zones of armed conflicts and on the protection of refugees and victims of discrimination and political persecution. “Memorial” has regional organizations e.g. in Voronezh, Yekaterinburg, Nizhniy Tagil, Novosibirsk, Orel, Ryazan, Tomsk, Kharkov, Chelyabinsk, Syktyvkar, Perm and other towns.<sup>3</sup>

### **3. Positive Developments**

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Positively, educational human rights programs have been recently carried out for public authorities – in the first place to law enforcement agents and judicial professionals – and dialogue has increasingly been initiated between human rights NGOs and authorities, both on federal and regional levels.

In 2001, a Civic Forum was held in Moscow, the first meeting between government authorities and NGOs to discuss issues of mutual interest, including human rights topics. A similar meeting was held two years later in Nizhny Novgorod. The aim of the meetings was to create a basis for continued cooperation between the state and NGOs to promote human rights. However, the first discussions between NGOs and governmental bodies did not generally prove very efficient although in some regions public councils under federal structures of executive power were created (for example, under the Chief Department of Federal Service for Penalty Execution, Migration Service, and the Ministry of Internal Affairs). Some programs for joint actions were also worked out in the social and cultural spheres.

The presidential decree on “Additional State Support to the Human Rights Movement in the Russian Federation,” introduced in September 2004, could also potentially bring about improvements in the field of increased NGO leverage in human rights developments in Russia. It provided for the establishment of an International Human Rights Center in Russia, and the integration of human rights NGOs into the operation of consultative bodies, set up by presidential representatives at the regional level.

Though on the face of it the new decree aims at the consolidation of civil society and respect for human rights, local human rights NGOs are concerned that the decree actually serves as a new tool to put the NGO community under increasing control. Moreover, the very concept of “controlled democracy” as perceived by President Putin is impossible for independent public organizations to fit into, as the Moscow Helsinki Group has stated.<sup>4</sup>

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<sup>3</sup> Human Rights Center Memorial, at <http://www.memo.ru/eng/memhrc/index.shtml>.

<sup>4</sup> Information from the MHG to the IHF, October 2005.



## **4. Remaining Problems and Regression**

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### **4.1 Freedom of Association**

#### Legislation

The 1993 Constitution of the Russian Federation provides for freedom of association and is generally in line with international human rights standards.

The implementation of the right to free association has considerably deteriorated in Russia since 2000. On the federal level, activities of NGOs have been hampered by the adoption in 2000-2002 of new repressive legislation affecting in particular their taxation and on countering extremist activities.

NGO activities are mainly regulated by the RF Civil Code, federal laws “On Non-Profit Organizations” (1996) and “On Charitable Activities” (1995). In 2002, the draft law “On Countering Extremist Activities” was rushed through the parliament and it came into force in July. The law failed to properly define “extremism” and allowed for broad interpretation regarding “legitimate” NGO activities, such as peaceful protests. The lack of strong definition of “extremism” allowed executive and judicial bodies to increase control over organizations which conducted “extremist activities” or whose activities were not approved of by the government. The law established procedures for the closure of such organizations by a court in some cases without prior notification and allowed a prosecutor or the Ministry of Justice to suspend their activities pending the outcome of the court proceedings. The provisions of the counter-extremism law gave rise to serious concern about allowing arbitrary implementation and the Moscow Helsinki Group expressed concern that the law could be used against “undesirable” NGOs. Human rights activists also noted that already existing legislation would have been sufficient to combat violent radicalism – if only properly applied.<sup>5</sup>

While new, modern legislation on NGO activity was necessary, the Law “On Amendments to Some Legal Acts of the Russian Federation” that passed both the Duma and the Federation Council in December 2005 and was signed into law in January took developments in a wrong direction: the law poses a serious threat to NGO activities. Officially introduced as a measure to fight extremism and terrorism by hindering “money-laundering” through NGOs and to “prevent financing of political activities from abroad,” the original bill was rushed through the parliament without prior consultation with human rights NGOs and independent experts. The Russian authorities also insisted that the law is needed to prevent foreign governments and organizations from using NGOs to undermine Russia's security. Both human rights activists and the Russian human rights ombudsman insisted that the draft law was incompatible both with the Russian Constitution and international human rights standards Russia is bound by. Following national and international protests, some changes were made to the law before its adoption, which, however, did not eliminate the basic problems with the law.

The new law tightens state control over NGOs and may seriously hamper NGO activities. The law provides for stricter registration procedures for foreign and domestic NGOs and gives the state the power to close them down. It prescribes that offices of foreign NGOs must inform the government registration office about their projects for the upcoming year, and about the money allotted for every specific project. Officials from the registration office can ban foreign NGOs from implementing projects without “the aim of defending the constitutional system, morals, public health, rights and lawful interest of other people, guaranteeing defense capacity and security of the state.” This means in practice that the law vests Russian government officials with a high level of discretion in deciding

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<sup>5</sup> IHF, *Human Right in the OSCE Region: Europe, Central Asia and North America, Report 2003, Events of 2002*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=1322](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1322).

what projects, or even parts of NGO projects, comply with Russia's national interests. The government's powers, however, are not stipulated by clear legal provisions, and thus leave room for arbitrary interference into the activities of NGOs. Many provisions were found by Council of Europe experts to be "disproportionate."<sup>6</sup>

The IHF especially fears that this law could be used to shut down NGOs working on Chechnya-related issues, many of which are already under serious pressure (see below).

### Practices

In January 2006 a media campaign was launched to implicate 12 well-known Russian NGOs in alleged British espionage in Russia because they had received funding from the British government for activities to promote democratic developments, human rights and the rule of law. Among the NGOs were the Moscow Helsinki Group, Nishnij Novgorod Committee against Torture, the Centre for the Development of Democracy and Human Rights and the Eurasia Foundation. The campaign appeared to be a demonstration by authorities to justify the adoption of the new, restrictive law just weeks earlier. At the end of January, Russian authorities moved to close down one human rights NGO.<sup>7</sup>

- On 28 January 2006 the BBC reported that the Justice Ministry had asked a Moscow court to order that the Russian Human Rights Research Centre be shut down. The move was officially justified as a response to the NGO's failure to register any information about its activities for the last five years.<sup>8</sup>

This latest step marks an escalation in the developments of the past five years, when Russian authorities have imposed increasingly strict control over the registration and funding of human rights NGOs. These developments already gave rise to concerns that the authorities were attempting to encourage the growth of organizations loyal to the authorities, while restricting the operation of independent ones.

Authorities on the local and regional level have already long subjected human rights and other types of NGOs to harassment and pressure. Local departments of the Ministry of Justice have arbitrarily refused to renew registration of a number of NGOs for illegitimate reasons or on the basis of formal pretexts. There are sufficient reasons to believe that regional and local authorities have used the re-registration procedure as an opportunity to eliminate the organizations that have fallen out of their favor. Many denials of re-registration have been accompanied by illegitimate demands to remove the words "human rights protection" from the names and statutes on the grounds that this is required by the state. In some regions, arbitrary demands have been made to some NGOs to change their charters and other documents.

Other forms of pressure on NGOs include paralyzing their work by repeated financial and other checks of their activities, evictions from office premises, etc.

By law, authorities have been able to order a re-registration procedure for an NGO whose activities are under scrutiny by the Ministry of Justice and irregularities are found.

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<sup>6</sup> IHF, "IHF Protests the Smear Campaign against the Moscow Helsinki Group, NGOs Face Prosecution, 25 January 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4178](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4178); BBC, "Russia closer to controlling NGOs," 27 December 2005, at <http://news.bbc.co.uk/2/hi/europe/4562278.stm>; Human Rights Watch, "G8 Must Tackle Putin on Controversial Bill," 28 December 2005.

<sup>7</sup> IHF, "IHF Protests the Smear Campaign against the Moscow Helsinki Group, NGOs Face Prosecution, 25 January 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4178](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4178).

<sup>8</sup> BBC, "Russia 'to close rights group'," 28 January 2006, at <http://news.bbc.co.uk/2/hi/europe/4658026.stm>.

- In 2003, Soldiers' Mothers of St. Petersburg, a leading Russian NGOs defending the rights of conscripts and an opponent of the war in Chechnya, was accused of slander, incitement to desertion and violations of its own statutes. The NGO was forced to amend its statutes twice to get re-registered with the Ministry of Justice. It was also threatened with eviction by St. Petersburg Municipal Property Management Committee (KUGI).<sup>9</sup>
- The RF Ministry of Justice of Kabardino-Balkaria refused registration to the regional branch of the national movement "For Human Rights" for 18 months. The organization was registered only after interference by the Federal Ministry of Justice.<sup>10</sup>
- The operation of NGOs in the Krasnodar region has been endangered. In 2004, the following NGOs were closed down without adequate legal reasons: Vatan (of Meskhetian Turks), New Prospects, and School of Peace. Local authorities put the regional youth organization Creative Union 'Southern Wave' under serious pressure for conducting civil education.<sup>11</sup>
- The Krasnodar Human Right Center, which cooperates with the Moscow Helsinki Group and published with it a joint report on the human rights situation in Krasnodar in 2002, has been under constant harassment by authorities. A local court suspended the center's activities for three years on the grounds that the report had "interfered in the activities of the state's justice agencies" A. Vinogradov, head of the local Ministry of Justice, stated that the law "has not empowered organizations established by the public to assess the activities of state agencies and disseminate relevant information," and that the report's recommendations to the authorities contained "are beyond the competence given to public organizations." Despite the fact that the Federal Supreme Court overruled the suspension decision four times, it took until 2004 to have a local court declare the center's activities legal again.<sup>12</sup> The NGOs troubles were partly related to the law "On Countering Extremist Activities."
- Human rights activists work under constant pressure in the Republic of Tatarstan. Following the publication of the report *The Law and Its Victims: Torture in Tatarstan* by the Kazan Human Rights Center on 2 April 2004, pressure against the organization started: local journalists were forced to limit the report's distribution, the publishing house that printed the report was inspected by the police, the NGOs finances were examined, its staff members and their families were seriously harassed and threatened and a grenade was found on the doorstep of its director. On 25 May, the Ministry of Justice in the Republic of Tatarstan announced the official launch of an investigation concerning the activity of the Kazan Human Rights Center. On 27 May two masked persons forced their way into the organization's office and smashed their computers and other equipment. Local television stations (TNV, GTRC) also showed in their programs negative information about the activities of HRC and biographies of HRC leaders.<sup>13</sup> With help from other NGOs, the Center managed to resume operation and is active again.

<sup>9</sup> FIDH/OMCT, *Russia: Human Rights Defenders Faced with the "Dictatorship of the Law,"* September 2004.

<sup>10</sup> "Leader of the Kabardino-Balkaria Branch of the Movement "For Human Rights" Spoke About the Plans for the Future." IA "Regnum," 12 October 2004, at <http://www.regnum.ru>, cited by the MHG, October 2005.

<sup>11</sup> MHG, *Human Rights in the Russian Federation in 2004*, at <http://www.mhg.ru/>.

<sup>12</sup> MHG, "The Trial On Suspending Activities of the Krasnodar Human Rights Center Completed Its Work," 21 July 2004, see <http://www.mhg.ru>; Novorossiysk Human Rights Committee (V. Karastelev, T. Karasteleva), "Systematic Violations of Human Rights in the Krasnodar Territory Undermines International Authority of Russia," NGOBO "FRODO" IA "Regnum," 1 December 2004, at <http://www.regnum.ru>.

<sup>13</sup> FIDH/OMCT, *Russia: Human Rights Defenders Faced with the "Dictatorship of the Law,"* September 2004, at <http://www.frontlinedefenders.org/news/1284>; MHG, "The Chronicle of Pressure on the Kazan Human Rights Center," 2004.

## 4.2 *Right of Peaceful Assembly*

### Legislation<sup>14</sup>

Article 31 of the Constitution of the Russian Federation guarantees the right of citizens and public associations to hold assemblies, rallies, street marches, demonstrations and pickets in order to protect their political, civil, social, labor, and economic rights and interests. Any public event, such as rallies and pickets, can be banned or dispersed only if they run counter to the Constitution or threaten the public order, security or health of the people.

On 31 March 2004, however, the State Duma adopted in first reading the federal law “On Assemblies, Rallies, Demonstrations, Marches and Pickets,” which severely restricted the basic rights to peaceful assembly. The bill was submitted by the Russian government and had been prepared without any consultation with civil society. The law banned public assemblies in places directly adjacent to the Russian president’s residences, buildings of federal and regional official bodies, as well as diplomatic missions – thereby rendering virtually all public protest assemblies pointless. It obligated the organizers of public events to ensure public order and security during the events, and, although not officially requiring authorization for public events, gave local authorities too much leeway to reject notifications for public assemblies. Further, it prescribed that local authorities were obligated to be present at all public assemblies and were allowed to regulate or terminate them. Moreover, the bill was based on a number of vaguely defined terms, also paving the way to bureaucratic abuse.

The law triggered severe criticism by the political opposition and civil society as unconstitutional and as a sign of increasing pressure from security agencies to better control civil society. A Russia-wide public campaign “Civil Society Against Police State” was launched against the bill. The joint civil society activities forced the authorities to amend the bill so as to ensure that a notification by organizers 10 days prior to a public event at the latest is sufficient to make an event legal, to largely eliminate discretionary powers of authorities to turn down a notification or ban an event, and to lift the ban on mass events in front of most public buildings. Although many of the remaining provisions are regarded as worrisome, the version of the law that was finally adopted on 4 June 2004, was generally regarded as “acceptable.” One of the questionable provisions states that the procedure for submitting notification of assemblies is to be regulated by regional legislation.<sup>15</sup>

### *Practices*<sup>16</sup>

In violation of the above-mentioned provisions, over the last years it has been difficult to organize public events if the issues they intend to promote have been ill-favored by the authorities. In addition, participants of such events have been arrested by the police and charged with committing administrative offenses (e.g. “spreading slanderous leaflets against individual judges”) whenever the originally stated topic of the scheduled peaceful event was changed. Also, regional and local authorities have released an increasing number of regulations designed to place unlawful constraints on the freedom of peaceful assembly.<sup>17</sup>

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<sup>14</sup> Based on “Memorial” (A. Basova, A. Sokolov), “Freedom of Assembly and Association in 2004.”

<sup>15</sup> BPI, “State Duma Adopted the Bill on Assemblies, Rallies, Demonstrations, Marches and Pickets,” 4 June 2004; IHF *Human Right in the OSCE Region: Europe, Central Asia and North America, Report 2005, Events of 2004*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>16</sup> Unless otherwise noted, based on “Memorial” (A. Basova, A. Sokolov), “Freedom of Assembly and Association 2004.”

<sup>17</sup> IHF, *Interventions and Recommendations to the OSCE Human Dimension Implementation Meeting, Warsaw, 6-17 October 2003*.

As feared by human rights defenders, the implementation of the 2004 federal law “On Assemblies, Rallies, Demonstrations, Marches and Pickets” turned out to be problematic in the regions. As soon as the law came into force, local authorities in various regions adopted regulations of their own which in many cases considerably complicated holding public events and provided for unacceptable restrictions. Some of them, for example, prescribe that all organizers of a public event have to appear at the local government agency to have the event authorized, others require notarized signatures for the notifications, and so on. In addition, local authorities often do all in their power to hinder demonstrations, pickets and other protests that are critical of their policies and practices.

- In August 2004, the governor of the Belgorod region issued a provisional statute “for the purpose of more orderly conduct of public events [...] as well as to regulate relations not covered by the Federal Law...” One of the statute’s provisions states that the organizer of a public event is obligated to notify the Belgorod government, the regional department of internal affairs or the local government agency and the appropriate internal affairs agency about the planned event. Further, the organizer must submit the name of the event, its program, location, as well as information on administrative, financial and other support for the event.<sup>18</sup> The governor of Belgorod also publicly expressed his dissatisfaction with the participation of students of the Starooskol Technological Institute in ecological rallies held in Sary Oskol in 2004, and made the director of the institute personally responsible for not preventing the protests and the students’ participation.<sup>19</sup>
- In the Kemerovo region, local authorities have created constant obstacles to the holding of any public events and warned media outlets against covering events not approved of by the authorities.<sup>20</sup>

There have also been a number of cases where participants of peaceful assemblies held in different parts of the Russian Federation have been subjected to excessive use of force by law enforcement authorities. The most serious case so far took place in Elista, the capital of the Republic of Kalmykia, in 2004.

- On 21 September 2004 an authorized demonstration against the president of Kalmykia was held on the central square of Elista. The rally was initiated by the so-called Extraordinary Congress of the People of Kalmykia, which is composed of representatives of the political opposition. In the evening, when the event was already practically over, law enforcement officers began to forcefully disperse participants from the square. According to eyewitness accounts, this was done in a very brutal fashion. Special police troops beat peaceful demonstrators with clubs, shot at them with rubber bullets and threw light-and-noise grenades at them. They also trampled with boots on participants who had fallen on the ground, including elderly people and women. The police operation spread to other parts of the city as troops began chasing participants, leaving the city in a state of chaos until 2 a.m. The central square of Elista was blocked by the police for several days after the rally, and attempts by rally participants to continue their protests in other parts of the city were suppressed by a OMON special police unit. The organizers of the rally subsequently submitted a petition to the Russian State Duma and the prosecutor general stating that at least three people died during the incident and some 400 were ill-treated by law enforcement officers, five of them sustaining life-threatening injuries. A total of 126 people were arrested. The petition also noted that the bodies of two of those declared dead had not been handed over to the relatives

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<sup>18</sup> *Human Rights Report from the Belgorod Region for 2004*, cited by the MHG, October 2005.

<sup>19</sup> *Meridian*, I. Zheleznova, “The Medal Passes By,” No. 44, 3 November 2004, cited by the MHG, October 2005.

<sup>20</sup> *Human Rights Report from the Kemerovo region for 2004*, cited by the MHG, October 2005.

and that no information about people still missing was available.<sup>21</sup> According to the public prosecutor of Kalmykia, the measures undertaken by police and OMON officers were “legitimate and within the confines of the law.”<sup>22</sup>

- On 24-25 September 2005, police used unacceptable measures against participants of the protest called “Anti-Capitalism – 2005,” which took place in the cities of Nizhnii Novgorod, Dzerzhinsk, and Bor (Nizhnii Novgorod region), and partially in the city of Oryel. The rallies had been sanctioned by authorities, yet police moved to arrest their participants and ill-treated many of them. This protest event has been held in the past several years but in 2005 the police for the first time tried to disperse it using excessive force. The 2005 event was held on the initiative of the Russian Communist Youth Union, the Russian Communist Working Party and the National Bolsheviks Party of the RF. Investigations by the Moscow Helsinki Group into the incident established “a system of control and suppression of public and mass actions used by law enforcement agencies and bodies of the local self-government which poses a danger to society, the constitutional basis and security of the Russian state.”

### 4.3 *Freedom of Expression and the Media*

#### Legislation

The legislative basis for the protection of freedom of expression in the Russian Federation is, by and large, compatible with international human rights standards.

#### Practices

In the past couple of years, freedom of expression and the media have been shrinking quickly, with news programs becoming increasingly reminiscent of Soviet-era programs, according to “Memorial.” The process has been especially visible on television, but less so on radio and in newspapers. For human rights defenders, the increasing lack of independent influential media means having few possibilities to have their concerns disseminated and heard. However, in virtually all media two topics are clearly off-limits: criticism of high-ranking political leaders and the publication of ongoing severe human rights abuses in and on Chechnya.<sup>23</sup>

The Reporters Without Borders’ World Press Index 2005 rated the Russian Federation at rank 138 out of 167.<sup>24</sup> Yet, diminishing media freedoms appear not to worry most citizens of the Russian Federation. The results of a survey conducted by ROMIR, a sociological agency, showed that 76% believed that the mass media should be subject to censorship. A mere 19% of those surveyed was against censorship. At the same time, according to the data from another survey, only 9% were inclined to trust the information they receive from the mass media.<sup>25</sup>

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<sup>21</sup> Statement of leaders of public organizations of the Republic of Kalmykia, <http://glazev.ru/print.php?article=269>, cited by MHG, October 2005.

<sup>22</sup> NEWSru.com, “Kalmykian Authorities Dispel Opposition Rally in Elista, 106 People Arrested” (in Russian), 22 September 2004, cited by the MHG, October 2005.

<sup>23</sup> “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>24</sup> A year earlier Russia was at rank 140. Reporters Without Borders, World Press Freedom Index 2004 and 2005, at <http://www.rsf.org/>.

<sup>25</sup> *Vremya Novostei* (V. Dzaguto), “People Are Ready to Take Up Axe,” No. 3, 14 January 2004; *Izvestiya*. “Division of Politics, Division of Humanitarian Problems. Three Fourth of Russians Are in Favour of

The hostage-taking at the Dubrovka theatre in Moscow in October 2002 and the Beslan hostage tragedy in September 2004<sup>26</sup> best demonstrated the attitude of the Russian leadership to free flow of information. Especially during the Beslan incident, authorities not only hindered access to objective information but engaged in a disinformation campaign, to conceal the full scale of the incident and important facts, including the number of victims. They treated state-owned media in a preferential manner, and forced journalists to self-censorship if they wanted to keep their jobs. Many reporters, journalists and human rights defenders were effectively barred from arriving in the region and receiving objective information on what was actually going on. All this was done under the pretext of hindering the media from “facilitating terrorist activities.”<sup>27</sup>

Immediately following the Beslan incident, the national television channels, primarily “Channel One” and “Rossia,” started airing propaganda designed to uncritically justify all actions of law enforcement bodies and special services during the hostage release operation. At the same time, information regarding the actions of human rights organizations and political parties opposing the war in Chechnya were silenced. Following the raid, Russian authorities started to give official information about the incident, but only to the state-owned Russian press.<sup>28</sup> Demands to conduct an independent investigation into the Beslan events were unsuccessful. None of the three investigations that were subsequently launched turned out to be fully independent.

In more general terms, regional and local authorities frequently resort to indirect pressure on media outlets. In particular, they financially support outlets loyal to them, for example, by ordering enterprises and public bodies/officials to subscribe to loyal newspapers and by providing these papers access to printing services under their control, renting them premises, and advertising in them. According to A. Simonov, president of the Glasnost Defence Foundation, the main type of censorship in Russia is the state monopoly over the means of transmission of electronic information and printing houses.<sup>29</sup>

In addition, persecution of journalists engaged in critical reporting has increased in recent years. They are denied access to information and press conferences organized by authorities, threatened, arrested under various pretexts and prosecuted for trumped-up charges, including for violations of the honor and dignity of public officials. Many are intimidated, physically assaulted and even abducted in the most dangerous areas of North Caucasus. “Uncomfortable” newspaper editors and journalists have been dismissed from their jobs under pressure from local authorities.

- Self-censorship by the owner was applied in case of Raf Shakirov, editor-in-chief of the *Izvestia* newspaper, who was dismissed following the release of a 4 September 2004 issue of the newspaper that focused critically on the Beslan incident.

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Censorship,” No. 4, 14 January 2004, cited in “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>26</sup> For details, see IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Reports 2004 and 2005*, at [http://www.ihf-hr.org/cms/cms.php?sec\\_id=46](http://www.ihf-hr.org/cms/cms.php?sec_id=46).

<sup>27</sup> Following the events at the Dubrovka theatre in Moscow, Lubov Sliska, first deputy chairperson of the State Duma, said in an interview to the *Nezavisimaya Gazeta* newspaper that authorities had to “take measures to prevent media from facilitating terrorists’ activities and to that end any means will be justifiable.... Therefore, we should not be afraid of suppressing the freedom of speech or democracy. Any temporary measures may be adopted, if only they stop the onslaught of terrorism.” Cited in “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>28</sup> “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>29</sup> *Izvestiya*, “Division of Politics, Division of Humanitarian Problems. Three Fourth of Russians Are in Favour of Censorship, No. 4, 14 January 2004.

- Ironically, when Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe, visited Khabarovsk in July of 2004, reporters of the opposition *Khabarovskiy Express* newspaper were not invited to a press conference held during his visit. As its editor-in-chief nevertheless turned up at the end of the conference, the State Duma deputy for the Khabarovsk territory immediately defended the decision of the governor not to invite this newspaper.<sup>30</sup>

In a most worrisome trend since 2000, judicial proceedings have been initiated on charges of treason, espionage, divulging state or military secrets, and similar charges, especially against scientists who have published articles inconvenient to Russian authorities. In all of these cases, the Russian Security Service FSB has played a central role. The trials have been dragged out over years and have been riddled with violations of international due process standards, and many of the accused journalists and scientists have received extremely long prison sentences. Typically, the defendants had used in their publications information that had already been published by the media, or they did not even have access to classified information. The alleged “spies” include Grigory Pasko (former submarine captain and military journalist, sentenced to four years in prison), Igor Sutyagin (sentenced to 15 years in a strict regime colony – the longest prison term imposed for high treason in Russia since Soviet times), Valentin Danilov (sentenced to a 14-year prison term, later reduced to 13 years), and Valentin Moiseyev (a diplomat, sentenced to a 12-year term in a colony with a strict regime, later reduced to 4.5 years).<sup>31</sup>

#### **4.4 Financial Restrictions**

##### Legislation

Until 2006, article 251 of the Tax Code of the Russian Federation stated that funds received by human rights organizations as grants for performing humanitarian and human rights activity were regarded as equivalent to income of commercial organizations, and were therefore subject to taxes. In practice, organizations had to pay 24% of this “profit” in taxes. Positively, this provision was lifted on 1 January 2006 as amendments to the Tax Code came into force.

However, the law “On Amendments to Some Legal Acts of the Russian Federation” adopted in the State Duma in December 2005 will likely increase state control over their financing in an unacceptable manner and severely limit foreign funding to human rights NGOs operating in Russia (see Association, above).

The Federal Law “On Charitable Activities” (No. 58666-4) provides a very limited list of activities considered charitable. As many civil society and human rights organizations’ activity does not correspond to this list, they are not eligible for tax-exempt donations. By law, regional authorities also have the right to control the use of foreign funding of projects.<sup>32</sup>

##### Practices

Russian authorities used Article 251 of the Tax Code of the Russian Federation to put pressure on the Russian-Chechen Friendship Society (RCFS).

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<sup>30</sup> Report on the situation with human rights in the Khabarovsk territory, 2004, cited by the MHG, October 2005.

<sup>31</sup> For details, see IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Reports 2000-2005*, at [www.ihf-hr.org](http://www.ihf-hr.org).

<sup>32</sup> IHF, *Interventions and Recommendations to the OSCE Human Dimension Implementation Meeting, Warsaw, 6-17 October 2003*.



- Just before the presidential elections in Russia, on 11 March 2004, representatives of the department investigating financial crimes at the Nizhny Novgorod Region (OBEP) seized the 5,000 circulation of the RCFS newspaper *Pravozaschita*, allegedly because of financial irregularities in the operation of the printing house "Riyad-Balakhna." On court decision the newspaper was returned to the editors more than a month later, i.e. after the presidential elections. Since 2002 the RCFS and *Pravozaschita* have been inspected three times by the fiscal police, two times by the Ministry of Justice and once by the Mass Media Ministry. In August 2005, the Tax Inspection of Nizhny Novgorod brought charges against the RCFS for the failure to pay taxes for what the authorities regarded as their income (money left at year's end on their bank accounts for the implementation of projects were treated as it would be their profit) and sought a fine of over a million roubles (about 28,200 EUR). In early September, its co-chair was charged with tax evasion. (See also the section on North Caucasus below)

For most NGOs, insecure financing is the main problem in their work. Nearly all active Russian human rights organizations are dependent on foreign funding. Therefore, the implication by President Putin in his 2004 address to the nation that many foreign-funded NGOs are dubious and serve their own interest rendered these organizations increasingly vulnerable. Moreover, with increased measures taken against entrepreneurs critical of President Putin's policies, who used to sponsor civil society, the human rights community experienced another clash to their financial stability.

Moreover, the receipt of financial support by some associations from Russian businessmen has been taken as a pretext to discredit these organizations to questioning their "true motives" and to label their activities political.

- In November 2003, tax police conducted an audit of the Open Russia Foundation, founded by the former CEO of Yukos, Mikhail Khodorkovsky, which supports various civic initiatives.

#### **4.5 Direct Attacks on Human Rights Defenders**

While indirect attacks on human rights NGOs with the aim of closing them down or forcing them to wind down their activities have been reported from various regions (see the section on association, above), direct violent attacks on individual human rights defenders or NGO offices have mainly concentrated on cases that are in one way or another linked to the conflict in Chechnya and the neighboring regions. Only a few other cases have been reported in the past couple of years.

- In November 2003, the Soros Foundation's Open Society Institute came under attack. Masked men in camouflage raided the organization's office and seized computers and documents. Officially, the raid was linked to a private business disagreement, but suspicions remained that government pressure was the actual reason.<sup>33</sup>
- On 24 June 2004, Nikolai Girenko, professor of ethnology, a well-known activist and an expert on minority rights, racism and xenophobia in today's Russia, was killed in his home in St. Petersburg. His academic colleagues and fellow human rights defenders believe that his murder was connected with his human rights activity, in particular in light of his anti-racism campaigning and work on the "skinhead" movement. According to reports, Nikolai Girenko and many of the academics working alongside him on research into racism regularly received threats.<sup>34</sup>

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<sup>33</sup> *Moscow Times*, "Soros Institute: Politics behind Raid?" 12 November 2003.

<sup>34</sup> Amnesty International, "Russian Federation: Brutal Killing of Human Rights Defender Nikolai Girenko," 22 June 2004.

### North Caucasus<sup>35</sup>

Of all human rights defenders in the Russian Federation, those working in the North Caucasus - and those living elsewhere but dealing with issues related to Chechnya – are the most endangered. At the same time, already since 2001 there have been a consistent pattern of harassment of individuals who have filed applications to the European Court of Human Rights about abuses in Chechnya or who have been seeking justice before Russian courts. While most attacks in the North Caucasus have taken place in Chechnya, such practices have increasingly spilled over to the neighboring republic of Ingushetia. Some of the victims have been foreigners or individuals from other parts of the Russian Federation, but most of them are locals.

Humanitarian workers and journalists were targeted in Chechnya and Ingushetia in the inter-war period (i.e., from the fall of 1996 to the fall of 1999) when a number of high profile abduction cases and killings took place. However, persecution of human rights intensified with the start of the second Chechen war in 1999, and since then local activists have been the main targets.<sup>36</sup>

In some cases the perpetrators have remained unidentified, while in a few cases Chechen criminal or insurgent groups are believed to be behind attacks. However, in the majority of the cases local or federal authorities are believed to be involved.

Three factors have recently contributed to the worsening situation for human rights defenders in Chechnya and Ingushetia: First, after the late President Akhmat Kadyrov had established powerful and brutal local security organs in Chechnya, which subsequently – with the consent and support of the federal center - were more and more expanded (“chechenization”), today these security organs are increasingly threatening the local human rights defenders community. Whereas previously mainly federal forces persecuted activists, now Chechen security forces are the ones that resort to abuses. Second, the abusive patterns have spread more and more to the neighboring Ingushetia and Dagestan as well as the nearby North Ossetia and Kabardino Balkaria, which were previously considered relatively safe havens. After Ruslan Aushev stepped down as the president of Ingushetia in 2002, the human rights and security situation has worsened significantly in Ingushetia, especially with efforts to force Chechen IDPs to return to Chechnya. Moreover, following the large-scale attacks by armed insurgents in Ingushetia in June 2004, leaving about one hundred people killed, the authorities have increasingly targeted also local human rights defenders.<sup>37</sup>

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<sup>35</sup> IHF and the Norwegian Helsinki Committee, *The Silencing of Human Rights Defenders in Chechnya and Ingushetia*, September 2004.

<sup>36</sup> While 67 counts of abuse against defenders were reported in the first years after the second war started, 74 counts of abuse were listed in the 18 months from January 2003 through July 2004. Until the fall of 2004, 13 human rights defenders had been killed, 6 “disappeared,” 4 abducted, 19 tortured or ill-treated, and 19 detained illegally while 69 counts of harassment or threats were reported. While the IHF has no statistics about abuses against human rights defenders after July 2004, it commented on a number of individual cases, where defenders “disappeared”, or were either – unofficially or officially – detained, in some cases tortured, subjected to administrative and criminal persecuted or became objects of slander campaigns in the media or even of direct threats via leaflets in their neighborhoods or telephone calls. Among the victims were: Murad Muradov, Makhmut Magomadov, Osman Boliev, Stas Dmitrievsky, Oksana Chelysheva, Ruslan Badalov, Arsen Sakalov, Larisa Temirsultanova, Khadizhat Yusupova and Laziz Vagaev.

<sup>37</sup> Examples for this are the Chechen Committee for National Salvation, which has faced increasing legal harassment for allegedly having published “extremist” press releases (legal proceedings since August 2004); the Council of NGOs, whose office was stormed by masked FSB gunmen, who ordered all men to get down on the floor, photographed all documents, cut off the telephone line and confiscated two computers (in January 2005); and the beating up of Laziz Vagaev (in August 2004).

Third, after the 2003 election, most influential deputies of the state Duma who had provided support to human rights defenders lost their mandates, local activists enjoy little support in Moscow.

The Russian-Chechen Friendship Society (RCFS), an NGO based in Nizhny Novgorod and Chechnya/Ingushetia, has been one of the main targets of persecution. It works with humanitarian issues and maintains a network of “human rights correspondents” whose information is published on a website and in a newspaper. Four RCFS associates have been killed during the second Chechen war and numerous others have been harassed, arrested, abducted, and threatened. RCFS offices in various towns have been raided and inspected by various authorities on varying grounds, all of which seem to be clear attempts to harass the RCFS.

The long list of acts of persecution of RCFS members includes, for example, the following cases: In October 2000 Ruslan Akhmatov was killed near Karabulak, Ingushetia, a day after the police had searched the local RCFS offices without a legal warrant, confiscated office equipment and detained the RCFS leader Imran Ezhiev. A year later, in December 2001, Luiza Betergirieva died at a roadblock outside the town of Argun in Chechnya as soldiers opened fire at her car. Less than a week later, Imran Ezhiev’s brother, Akhmad Ezhiev, an RCFS volunteer, was killed in his family’s house in the village of Serzhen-Yurt, Chechnya, by a group of masked servicemen. In January 2004, Aslan Davletukaev, an RCFS correspondent, was detained by federal forces at his home in the village of Avtury, Chechnya. His mutilated body that bore signs of torture was found near Gudermes on 17 January 2004. Criminal cases were opened in connection with all the killings, but the perpetrators remained “unidentified” despite a number of witnesses to the cases.

The head of the RCFS’s branch in Chechnya/Ingushetia, Imran Ezhiev, has been detained and maltreated on a number of occasions and abducted by local security and police officers, as well as by federal forces and unidentified armed persons.

On 14 March 2005, threatening leaflets were distributed in the neighborhood of RCFS editor Oksana Chelysheva in NizhnyNovgorod, revealing her home address, labeling her a traitor, and linking her to “terrorist activities” carried out by Chechen fighters. Similar leaflets were again distributed on 9 September 2005, this time in the house of the RCFS chair, Stanislav Dmitrievsky, threatening him and Chelysheva. Additionally, on 28 November 2005, unknown persons broke into the flat of the family of Dmitrievsky.

On 3 February 2006, a court imposed a two-year suspended sentence and a four-year probationary period on Stanislav Dmitrivsky for “inciting hatred or enmity on the basis of ethnicity and religion” (under article 282 of the Criminal Code) for publishing articles written by the late Chechen separatist leader Aslan Maskhadov and his envoy, Akhmed Zakayev. The articles called for a peaceful resolution of the Chechen conflict. During this four-year period, Stanislav Dmitrievskii will have to inform the authorities as to any change of residence or travel plans, and will have to report regularly to the local authorities. Any violation of these conditions or a further criminal conviction could result in him being imprisoned for two years.<sup>38</sup> Dmitrivsky trial appeared to be politically motivated.<sup>39</sup> Before this trial, FSB had tried to prosecute him for “calling for extremist activities in the mass-media” (under article 280 of the Criminal Code), but it the proceedings had to be terminated due to lack of components of

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<sup>38</sup> Amnesty International, “Russian Federation: Amnesty International calls for guilty verdict against Stanislav Dmitrievskii to be overturned,” 3 February 2006.

<sup>39</sup> IHF, “A Fair Trial for Stas Dmitrievsky?” 2 February 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4187](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4187). See also IHF, “Legal Harassment Against the Russian-Chechen Friendship Society - An Update,” 29 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4163](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4163), and “The ‘Russian-Chechen Friendship Society’ is Under Severe Risk of being Destroyed by Russian Authorities. Its Director Stas Dimitrievsky Faces a Prison Term,” 2 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4144](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4144).

crime. Bill Bowring, a British lawyer who was supposed to monitor the trial in November 2005 on behalf of the Bar Human Rights Committee of England and Wales (BHRC), was stopped at the Moscow airport by FSB officials and denied access to the Russian Federation.<sup>40</sup>

Members of other human rights NGOs have also been targeted, including those of “Memorial.” On several occasions they have been intimidated, threatened to be killed, followed by cars, or “warned” that they are wanted by the security services or are in danger of disappearing.

Other cases include the March 2003 “disappearance” of Sulumbek Tashtamirov, head of a local human rights NGO called Sintar, from Ingush police detention.

- In August 2004, the Prosecutor’s Office in Ingushetia filed proceedings against the Chechen Committee for National Salvation (ChCNS),<sup>41</sup> to suspend the organization’s activities. The alleged basis for this were 12 press releases that were said to be “extremist” in content and whose publication allegedly had violated article 280 of Russia’s Criminal Code, which prohibits “public calls to carry out extremist activity.”<sup>42</sup> The Independent Council of Legal Experts, a leading legal NGO in Moscow, conducted an analysis of the press releases and concluded that they did not violate the relevant provision of the Criminal Code and fell within the scope of speech protected by the Russian constitution and the ECHR. On 25 October, the Nazran District Court ruled that the ChCNS publications in question did not have any “extremist” content. However, the prosecutor appealed the decision and, on 10 February 2005. The Ingush Supreme Court, however, rejected it and remitted the case to the Nazran District Court for a new hearing. Court proceedings resumed in May 2005 and are ongoing as of this writing.
- On 20 January 2005, Makhmut Magomadov was kidnapped by a group of camouflaged gunmen in Grozny, held for several weeks, severely tortured, and then released on 13 February 2005, after many human rights groups had launched a campaign on his behalf. According to eyewitnesses, the armed men belonged to the pro-Russian Chechen armed forces, the so-called *kadyrovtsy*. Magomadov was apparently targeted due to his work in compiling applications from the victims of human rights abuses for submission to the ECtHR. Until December 2004, he had worked as an expert in the IHF project on “Legal Protection of Individual Rights in the Russian Federation,” aimed a training Russian lawyers and human rights activists in the use of international law. At the time of his detention, he was working on over 30 cases, mainly concerning 'disappearances', torture and ill-treatment, and extra-judicial executions committed by Russian security forces.<sup>43</sup>

Most recently, a human rights defender in Dagestan was detained:

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<sup>40</sup> For details, see IHF, “British Lawyer Barred From Entering Russia to Monitor Trial of the Russian-Chechen Friendship Society in Nizhny Novgorod,” 15 November 2005, [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4152](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4152).

<sup>41</sup> The Chechen Committee for National Salvation, with its head Ruslan Badalov, has reported extensively on abuses by Russian troops against Chechens during the conflict.

<sup>42</sup> Article 280 of the Criminal Code states: “1. Public calls to carry out extremist activity are punishable by a fine of up to 300,000 rubles or the salary or other income of the guilty party for a period of up to 2 years, arrest for a period of 4 to 6 months or imprisonment for up to 3 years. 2. Acts carried out with the use of the mass media are punishable by imprisonment for up to 5 years with the suspension of the right to hold certain offices or carry out certain activities for up to 3 years.” See: Human Rights First, “Russian Counter-Terror Law Threatens Chechen Human Rights Group”, 22 September 2004, [http://humanrightsfirst.org/defenders/hrd\\_russia/alert092204\\_terror\\_law.htm](http://humanrightsfirst.org/defenders/hrd_russia/alert092204_terror_law.htm)

<sup>43</sup> IHF, “Chechen Human Rights Lawyer Still Missing,” 1 February 2005, and “Abducted Chechen Human Rights Lawyer Makhmut Magomadov Reappears,” 13 February 2005, at <http://www.ihf-hr.org>.

- Osman Boliev, a member of the “Romashka” human rights NGO in Dagestan, was detained on 15 November 2005 at his home in Khasav-Yurt, officially on suspicion that the car he claim he owned was actually stolen. According to information available at the time of writing, he was tortured and granted access to a lawyer only two days later. On the day he was arrested, a grenade was allegedly planted in his coat pocket, on the basis of which charges were brought against him under article 222 (1) of the Russian Criminal Code (“unlawful possession of weapons”). Boliev was then transferred to the pre-trial detention facility (SIZO) N5/3 in Khasav-Yurt. Soon after that the official mass media claimed that Boliev was detained as an “insurgent.” The IHF believes that the charges against Boliev are fabricated. “Romashka” has initiated litigation in the case of Israilov, who was kidnapped by the Khasav-Yurt GOVD on 19 October 2004. Boliev prepared and sent this case to the ECtHR.<sup>44</sup>

Moreover, NGOs and individuals dealing with the Chechnya issue outside the North Caucasus have also been targeted:

- On 23 February 2004, police detained Lev Ponomaryov, executive director of the Movement for Human Rights, and Nikolai Khramov of the Transnational Radical Party, as well as approximately eleven other persons during a meeting held in central Moscow to oppose the conflict in Chechnya and to commemorate the anniversary of the mass deportation of the Chechen people from Chechnya to Kazakhstan. Ponomarev and Khramov were later fined for organizing the event.
- On 16 April 2004, the Moscow lawyer Stanislav Markelov was attacked in the metro by a group of young men who beat him and left him unconscious in the wagon. His money was not stolen but his lawyer’s card and some of the case files were taken from his bag. Markelov has been involved in a number of high profile court cases dealing with abuses in Chechnya. The local Department of the Internal Affairs refused to register his complaint about the incident and the perpetrators remained at large.
- The Moscow-based journalist Anna Politkovskaya has worked with the Chechnya crisis since 1999 and written many articles critical of the official Russian policies regarding Chechnya. As a result, she has been threatened and harassed on several occasions because: she has been detained and interrogated by the federal forces, she has received threatening e-mails and her editor has been summoned to the military intelligence for questioning and threatened. While in Chechnya, Politkovskaya has been brought two times to the house of Ramzan Kadyrov where Kadyrov verbally harassed and threatened her.<sup>45</sup>

Community leaders in Chechnya and heads of IDP camps in Ingushetia have also faced persecution for speaking out and cooperating with human rights defenders.

- On 29 January 2004, Natalya S. (not her real name), a resident of the Satsita tent camp in Ingushetia, met a delegation from the Presidential Human Rights Commission and claimed that pressure was exerted by the Chechen Committee for the Return of Refugees and the local heads of administration on the IDPs in order to force them back to Chechnya. Afterwards, she was threatened by the camp leadership but refused to return to Chechnya. Then the police detained her husband for allegedly having assaulted a high-ranking city official and he was released only after Natalya S. had signed an application to return to Chechnya. The husband claimed that he had been beaten while in custody.

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<sup>44</sup> IHF, “Dagestan: Open Letter Regarding the Unlawful Detention and Fabrication of a Criminal Case Against Human Rights Lawyer Osman Boliev,” 5 December 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4165](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4165).

<sup>45</sup> See *Novaya Gazeta*, No. 43, 21 June 2004, cited by HMG, October 2005.

Given the reign of impunity and violence currently in place in Chechnya and Ingushetia, few people dare to file complaints about abuses by federal or local servicemen because a complaint will hardly produce any results but will only lead to reprisals against the complainants. The only possibility to submit complaints is to file them with the European Court of Human Rights (ECtHR) – an act that often turns out to be life-threatening.

- On 21 May 2003 Zura Bitieva, an ECtHR applicant, was killed along with her husband Ramzan Iduev, her son and her brother, according to witnesses by a group of masked federal soldiers. A year-old child was left alive but with its mouth taped over. Zura Bitieva was a well-known anti-war activist who had spent one month at an infamous federal detention facility in Chernokozovo. She had submitted an application to the ECtHR relating to torture and maltreatment she suffered there.
- On 2 April 2005, armed and camouflaged men speaking unaccented Russian abducted Said-Khusein Elmurzaev and his son Suleiman Elmurzaev from their houses in the village of Duba-Yurt. On 8 May 2005, the dead body of Said-Khusein Elmurzaev was found in the Sunzha River near the village Ilyinska (Grozneskiy District). Elmurzaev had filed an application with the ECtHR after the body of his son, Idris, was found on 9 April 2004 at the outskirts of the Serzhen-Yurt among eight other mutilated bodies.<sup>46</sup>
- In the night from 29 to 30 December 2005, Mekhti Mukhaev, an ECtHR applicant, was illegally detained. A criminal case was fabricated against him basing on a confession obtained by torture. On 14 and 16 January 2005, Russian federal forces conducted a mop-up operation in the mountain village Zumsoj (Itum-Kale district), as a result of which four local residents were put on helicopters and taken away: Shirvani Nasipov, Magomed-Emin Ibishev, Vakha Mukhaev and his 16-year-old son Atabi Mukhaev. The four men remained “disappeared.” In August 2005, their relatives, with legal assistance from “Memorial,” filed an application to the ECtHR, which has already been registered and will be processed with priority according to article 41 of the court.

Also Chechen families living abroad, who have submitted application to the ECtHR have received threats against them or their families remaining in the Russian Federation.

## **5. Conclusions and Recommendations**

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The government of the Russian Federation has clearly failed to protect human rights defenders working on its territory, in violation of article 12.2. of the Declaration on Human Rights Defenders. What is more, in many cases, Russian officials of various level of government, including the federal, have been either directly involved in abuses against human rights defenders or condoned such abuses. In addition, courts of the Russian Federation have largely failed to fulfill their duty as an independent branch of power to protect individuals against abuses by the federal, regional and local authorities.

As regards Chechnya and the adjacent regions, it is clear that human rights defenders are increasingly at risk. It is also clear that state agents are responsible for most of the attacks on human rights defenders in that region.

The international community has failed to adequately address the Russian Federation about persecution of human rights defenders. Its response to the human rights crisis in Chechnya has been

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<sup>46</sup> Memorial, 25 May 2005.

generally oblique and inadequate, and it has allowed the Russian government to remove human rights abuses in Chechnya from the international agenda.

The IHF therefore recommends that *the government of the Russian Federation should take prompt measures to stop the persecution of human rights NGOs and individuals activists, especially those dealing with the crisis in Chechnya. To this end, it should*

1. Take steps to reform federal legislation on registration and taxation of NGOs with the view of amending all provisions that provide for discretionary powers to authorities to restrict the freedom of association and the activities of human rights NGOs. The law “On Amendments to Some Legal Acts of the Russian Federation” published on 17 January 2006 and coming into force in three months’ time should be revoked as it violates international freedom of association standards;
2. End and publicly condemn arbitrary administrative and legal measures targeting human rights NGOs, as well as physical and verbal harassment and intimidation of their members, and ensure that all alleged abuses are thoroughly investigated by independent bodies, the results published, and adequately remedied;
3. Insist that regional and local authorities abide by the federal laws that guarantee the right to peaceful association, and freedom of expression and the media, in line with the Constitution of the Russian Federation and international human rights standards, and take efficient measures against those authorities who fail to do so;
4. Refrain from interfering with the legitimate activities of all NGOs and media outlets;
5. Develop and implement a task-oriented and effective program on federal, regional and local levels to make use of the potential and intellectual resources of independent human rights NGOs for the purpose of reforming human rights related legislation and providing constitutional human rights guarantees;
6. Publicly express support for the work of human rights NGOs and stress the importance of their work in any democratic society;
7. Conduct effective investigations into all cases of alleged use of excessive force by the police and other security bodies against participants of rallies and other public assemblies, and prosecute all security agents who have resorted to abuses;
8. Guarantee journalists, human rights activists and other individuals free access to information of legitimate public interest, including free access to the territory of Chechnya;
9. Start a meaningful cooperation with the Council of Europe, UN treaty bodies and special mechanisms, including the immediate issuing of an invitation to the Special Representative of the UN Secretary General on the situation of human rights defenders.

*In addition, with regard to the North Caucasus, the government of the Russian Federation should:*

10. End and publicly condemn harassment of victims of human rights abuses who speak out on their fate or seek justice; guarantee the security of witnesses and applicants to the European Court of Human Rights; ensure that all alleged abuses are thoroughly investigated by independent bodies – and the results published – and adequately remedied;

11. Renew the mandate of the Organization for Security and Cooperation in Europe (OSCE) Assistance Group to Chechnya, with an added emphasis on the monitoring human rights and protection of defenders.

*The Chechen armed opposition groups should:*

12. Respect all provisions of the four Geneva Conventions.

*The UN, OSCE, Council of Europe and the EU should:*

13. Demand that the Russian Federation fulfills its obligations under international law to protect human rights defenders;
14. Consider means of protecting persecuted local defenders, including special measures of temporary resettlement in emergency cases, as per the newly issued EU Guidelines on Human Rights Defenders;
15. Take immediate measures to protect ECtHR applicants, including early warning and rapid response in emergency cases concerning persecution of witnesses and temporary resettlement in emergency cases;
16. Collect, in a systematic fashion, information about violations of human rights and humanitarian law, including attacks on human rights defenders, for a future process aimed at restoring accountability in Chechnya, as demanded by the Parliamentary Assembly of the Council of Europe's Resolution 1323 (2003);
17. Establish a mechanism, for instance in the Office for Democratic Institutions and Human Rights (ODIHR), for early warning and rapid response in emergency cases concerning persecution of human rights defenders.
18. Remind the Russian Federation of the need to re-establish the OSCE Advisory Group to Chechnya with a strengthened mandate concerning the monitoring of the human rights situation, including cooperation with, and protection of, the local human rights defenders.
19. Encourage the Russian government to issue a standing invitation to the U.N. Special Representative for Human Rights Defenders.
20. Express strong support for the human rights work of independent NGOs in Russia, and make clear in bilateral relations with Russia that a crackdown on human rights work will have serious repercussions for Russian relations with other governments;
21. Repeatedly emphasize the importance of a strong and independent civil society for the proper functioning of a democratic state, and encourage the government to promote the development of civil society;
22. Express deep concern about the crackdown on NGOs that work on human rights in the context of the Chechnya conflict, and urge the Russian government to end this crackdown;
23. Continue to support financially and otherwise the work of civil society groups in Russia;



24. Insist on independent investigation by independent bodies into all alleged unacceptable interference in NGO activities and harassment and intimidation of human rights defenders and persons who have filed applications with the European Court of Human Rights;

## **BELARUS<sup>47</sup>**

### **1. Introduction and Summary**

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Belarus remains the worst country in Europe in terms of respect for the rule of law, democracy and human rights. The government imposes excessive restrictions on the freedom of expression, association and the media, and violates the right to peaceful assembly. Fair trial standards are repeatedly violated by the courts and the unsolved “disappearances” of the past remain uninvestigated. President Aliaksandr Lukashenka keeps the country in a tight, authoritarian grip. The next presidential election is due in March 2006 but the short pre-election campaign only adds to the myriad of reasons why objective monitoring by civil society is especially necessary in order to assess compliance with international standards.

All the above-mentioned problems make it clear that Belarus needs a strong local human rights defenders community to monitor and respond to current human rights problems and the lack of basic democratic protections. In reality, however, both the legislation in force and, in particular, the established practices seriously affect the whole Belarusian civil society and have led not only to a wave of threats but also to practical liquidation of NGOs, including human rights groups. In addition, individual human rights activists are subjected to harassment as well as both administrative and criminal prosecution under various pretexts solely for their activities protected by international human rights law.

While legal restrictions have made it difficult to form NGOs, they make it extremely easy for the authorities to restrict or suspend their activities. The Republican Commission on Registration decides on the “expediency” of the formation of an NGO. Closing public organizations or suspending their activities under a court ruling, as a result of a lawsuit initiated by the Ministry of Justice, has been common practice in 2000-2005. Others have had to wind down their activities, fearing reprisals, and many typical human rights work is prohibited under law. It is, for example, impossible for Belarusian human rights NGOs to offer legal counsel in courts to people who believe that their basic human rights have been violated (unless they are the NGO’s members), which excludes a basic form of human rights activity from the NGOs’ mandates.

The situation of the Belarusian Helsinki Committee (BHC) – which remains the only legally registered independent human rights NGO that can still operate nation-wide – escalated dramatically at the end of 2005 bringing the BHC to the brink of closure on account of unjustified charges.

Belarusian human rights NGOs would need urgent support from abroad, but the official list of activities ineligible for foreign funding includes activities such as different forms of educational and political work targeting the public. Moreover, all projects funded from foreign sources must be registered with Belarusian authorities – and, as a rule, such permission is not granted to an independent human rights NGO.

The recently adopted amendments to the Belarusian Criminal Code and the Code of Criminal Procedure regarding “actions aimed against a person and public security” further curtail the already narrow space left for criticism in Belarus ahead of the March 2006 presidential elections. The new law adds new articles to the Criminal Code, increasing penalties for participation in civil society actions

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<sup>47</sup> Unless otherwise noted, based on information from Dzmitry Markusheuski, press secretary of the Belarusian Helsinki Committee, January 2006.

and demonstrations, provides for increased harassment of civil society activists, and further limits the space left for independent voices to make opinions heard.<sup>48</sup>

In the past few years, the Belarusian government's cooperation with the UN special procedures under the UN Commission on Human Rights has been minimal. In 2001, the government invited to Belarus the Special Rapporteur on the independence of judges and lawyers,<sup>49</sup> and in 2004, the Working Group on Arbitrary Detention.<sup>50</sup> The reports issued by the UN rapporteurs were very critical virtually in all aspects under scrutiny, and the government played down the findings as politically motivated.

The government has not responded to two resolutions of the UN Commission on Human Rights, most recently in April 2005 expressing concern that Belarusian officials had been implicated in the disappearances and/or summary execution of three political opponents in 1999 and a journalist in 2000 and in the continuing investigatory cover-up.<sup>51</sup> In December 2004 the authorities turned down the request of the United Nations Special Rapporteur on the situation of human rights in Belarus, Adrian Severin, to visit the country and, as of late 2005, had failed to reply to his second request. As a result, the Special Rapporteur's 2004 report to the UN Commission on Human Rights<sup>52</sup> was based on information gathered during a fact-finding mission to neighbouring countries where he met with Belarusian members of civil society, including human rights organizations, the media, free trade unions and lawyers. The report led to the extension of the Special Rapporteur's mandate on Belarus by another year by resolution 2005/32. Again, the Belarusian government claimed that the UN comments and reports were "politically motivated."

In 2005, the Special Rapporteur made an effort to organize a round table on the situation of human rights in Belarus in Minsk, with participation of the government, political parties, civil society organizations, human rights defenders, and international observers. However, after receiving no reaction from the Belarusian government, and given time constraints in order to be able to finalize a report for the 2006 session of the UN Commission on Human Rights, he decided to accept the invitation of the government of Latvia and organize the round table on Belarus in that country. In November 2005, the Special Rapporteur visited Warsaw to study the situation regarding the Polish ethnic minority in Belarus.<sup>53</sup>

## **2. The Community of Independent Human Rights Defenders**

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Officially, the total number of NGOs in Belarus was 2,259 as per January 2005. While there are about a dozen local human rights NGOs in Belarus, only very few are strong enough to be able to carry out activities nation-wide; as of the end of 2005, the only legally registered human rights organization that still carried out activities nation-wide was the Belarusian Helsinki Committee, but it, too, was facing

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<sup>48</sup> IHF/Belarusian Helsinki Committee (BHC), "Criminal Prosecution for 'Discrediting the Republic of Belarus'," 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>49</sup> See the report on his mission to Belarus: *Civil and Political Rights, Including Questions of: Independence of the Judiciary, Administration of Justice, Impunity, Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, submitted in accordance with Commission resolution 2000/42*, E/CN.4/2001/65/Add.1, 8 February 2001, at <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/571f50b9b848e6e8c1256a2300526b5c?Opendocument>.

<sup>50</sup> See the report on its mission to Belarus: *Civil and Political Rights, Including the Question of Torture and Detention, Report of the Working Group on Arbitrary Detention, Addendum, Mission to Belarus*, E/CN.4/2005/6/Add.3, 25 November 2004, at <http://daccessdds.un.org/doc/UNDOC/GEN/G04/166/25/PDF/G0416625.pdf?OpenElement>.

<sup>51</sup> E/CN.4/2005/L.32

<sup>52</sup> E/CN.4/2005/35

<sup>53</sup> The visit to Warsaw was reported, for example, by Charter 97, 23 November 2005, at <http://www.charter97.org/eng/news/2005/11/23/travel>.

the imminent threat of closure (see below). Several other NGOs have been stripped of their legal status in recent years.

There are numerous “government-organized NGOs” that are officially called independent but in fact only serve government purposes. For example, the Belarusian Republican Youth Union (BRSM) is formally an NGO but openly serves government objectives and is funded from the state budget. Membership in it is compulsory to pupils and students. BRSM members enjoy discounts at some state-run companies and, reportedly, preferences in entrance to universities. It is claimed to have more than 250,000 members.

An independent national human rights group is the Belarusian Helsinki Committee (BHC), which was founded in 1995 and registered with the Ministry of Justice. It has 13 regional branches and representatives in 70 additional smaller towns. The BHC is still able to carry out its activities, but, its operation is seriously threatened as a result of yearlong harassment by authorities, which has escalated in the run-up of the March 2006 presidential election.

The BHC works on a wide spectrum of human rights covered by the Helsinki Final Act and other OSCE documents as well as other international instruments. It advocates human rights both with national authorities and at the international level. Its main activities include rendering legal assistance to victims of human rights abuses; investigating and monitoring human rights violations in Belarus; informing the public and the international community about ongoing developments; providing training on human rights and democratic institutions; and reviewing legislation and its implementation from human rights perspective and making recommendations for legal improvements. The BHC publishes a magazine entitled *Chalavek* (The Human), cooperates with the independent media, and prepares shadow reports to intergovernmental organizations.<sup>54</sup> It is a member of the IHF since 1996.

Another large human rights organization that works throughout the country is the Human Rights Centre “Viasna” (Spring), which, however, lost its legal status in October 2003 (see below). This NGO has its origins in the 1996 mass rallies of the political opposition; “Viasna” was set up to assist those arrested during the demonstrations and to support their families. “Viasna” has its main office in Minsk and it operates regional groups in most Belarusian cities. Its total membership counts about 200 people. Since March 2004, “Viasna” has been affiliated with the International Federation of Human Rights (FIDH). It publishes a bulletin called *Prava na Volyu* (The Right to Freedom) and an annual chronicle entitled “Review of the Human Rights Situation in Belarus,” and disseminates information through its website. It organizes lectures and seminars on human rights issues for a wide scale of target groups, provides legal assistance and monitors trials, observes elections, among other things.

In addition to the above-mentioned two organizations, there are a number of NGOs that are specialized in specific issues or are based on professional affiliation. For example, the Belarusian Association of Journalists (BAJ) was set up in 1995 and operates as an NGO in the field of media freedom, including freedom of expression, the right to freely receive and disseminate information and access to information, and promotes professional standards of journalism. BAJ has members in over 160 independent and state-owned media outlets, and it has offices in all six provinces of the country. It also trains media professionals and provides legal counsel to journalists. BAJ cooperates closely with various foreign human rights and professional organizations and publishes annual analysis on recent tendencies and developments in the field of media right in Belarus. It has been a member of the International Federation of Journalists (IFJ) since 1997 and of Reporters without Borders (RSF) since 2003.

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<sup>54</sup> See, for example, the BHC report to the 65<sup>th</sup> session of the Committee on the Elimination of Racial Discrimination that discussed Belarus’ fifteenth to seventeenth periodic reports (CERD/C/431/Add.9), August 2004, at [http://bhc.unibel.by/arhiv/BelarusHC\\_report\\_CERD.doc](http://bhc.unibel.by/arhiv/BelarusHC_report_CERD.doc).

The “Frantsishak Skaryna Belarusian Language Fellowship” was set up in 1989 to promote the status of the Belarusian language and education in that language as well as the protection of linguistic rights in general. It has about 8,000 members and had, until recently, branches in 76 locations in Belarus and abroad. The organization monitors implementation of linguistic rights and publishes and distributes books in and on Belarusian language and culture. It also publishes the weekly newspaper *Nasha Slova*. In the 1990s, it participated in the drafting of legislation concerning the use and status of languages.

### **3. Positive Developments**

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One of the few, formally and potentially positive improvements was the introduction of human rights courses to the curricula of secondary schools and institutions of higher education about ten years ago. In practice, however, the courses have turned out to consist only of teaching of articles of the Universal Declaration for Human Rights and other instruments without any practical guidance and critical monitoring on how they are implemented in Belarus. Human rights groups consider such training insufficient and inappropriate and try to organize alternative human rights schools, but face obstruction from the authorities.

### **4. Remaining Problems and Regression**

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#### **4.1 Freedom of Association**

##### Legislation

The constitution of Belarus vows freedom of association, yet, other legal regulations and especially discriminatory practices have seriously limited this freedom. Under the law “On Public Associations”, all NGOs need to register with the Ministry of Justice in order to operate legally – any activity of non-registered civic groups is prohibited under threat of fine or imprisonment.

The basic problem with Belarusian legal regulations is that not only laws but also various instructions issued by ministries and state departments are also interpreted to have the force of law, and they are frequently incompatible with legal acts. What is more, they allow for broad discretion by authorities who implement them.

The law "On Public Associations" was adopted in July 2005 and came into force in October. The law compiled into one law all decrees and regulations affecting public associations that have been issued in recent years by the president or the Ministry of Justice, as well as the relevant Civil Code provisions. I also established new requirements for registration and made it easier for authorities to suspend the activities of NGOs and political parties. For example, an NGO or a political party can be closed down because of a single violation of legislation on the organization of public events or the use of foreign financial aid.<sup>55</sup>

The new law restricts free association in several ways: It prescribes that public associations have the right to implement the activities aimed at achieving the goals set forth by its statutes, rendering illegal all activities not specifically listed in their statutes and making them punishable. In addition, the law states that the rights listed in it are a “model” but not “all-embracing,” thus allowing for a wide leeway for interpretation by the executive. The new law also toughens the procedure of official registration of

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<sup>55</sup> Belarusian Helsinki Committee (Dzmitry Markusheuski), “Note on the Situation of Human Rights in Belarus,” July 2005.

NGOs, including human rights groups. It prohibits the use of words “Belarus,” “Republic of Belarus,” “national,” and “people” in the name of an NGO without special permit of the president of Belarus. The statutes of an NGO must include a description of its governing bodies, and a detailed presentation of the organization of its regional structures. An NGO must also draw up a circumstantial list of its members.

The law also prescribes registration of all symbols of a public association, including its logo, badge, hymn, neckwear, etc. An additional, arbitrary hurdle that impedes legal registration is, for example, a requirement that a public organization must have a “legal address,” i.e., an office in an administrative building. However, such buildings in Belarus are state-owned and are usually not rented to independent organizations.

In addition, Presidential Decree No. 302, which was passed on 1 July 2005 and came into force on 1 December 2005, created further prohibitions against the activities of charitable foundations. The decree introduced new procedures for the establishment, registration, reorganization and closure. The decree was also aimed at hindering the directors of dissolved NGOs from creating a foundation, thus preventing organisations from giving any legal framework to their activities.<sup>56</sup>

The Republican Commission on Registration decides on the “expediency” of the formation of an NGO. Its members are appointed by the president and they represent the Ministries of Interior and Justice and the State Security Committee (equivalent to the KGB). The applicants must undergo arbitrary checks and an application can be rejected without stating any legal reason. In addition, registration fees for NGOs are considerable by Belarusian standards: EUR 285. Under the new law, a court can suspend NGO activities for up to six months for violating the law or its own charter after issuing one warning. Moreover, a single violation of legislation on mass events and/or infraction of the regulation on receiving foreign aid can lead to the closure of an NGO.

Adding to the already serious restrictions to associations and civil society activities, in late 2005, the Belarusian parliament passed amendments to the Belarusian Criminal Code and the Code of Criminal Procedure, increasing penalties for “actions aimed against a person and public security.” This bill was submitted to the parliament marked “urgent” only two days before the reading by President Alyaksandr Lukashenka and it came into force on 1 January 2006. The new vaguely worded amendments pave the way to broad discretionary powers for authorities to interpret legitimate human rights activities as illegal attempts to discredit or harm the Belarusian state.<sup>57</sup>

New Article 193-1 Belarusian Criminal Code on “Illegal Organization of Activities of a Public Association, Foundation or Participation in Their Activities” states that organizing activities or participating in activities of organizations or foundations whose liquidation or suspension has been decided by Belarusian courts, are to be punished by a fine or arrest up to six months, or by imprisonment of up to two years.<sup>58</sup>

### Practices

Closing public organizations or suspending their activities under a court ruling, as a result of a lawsuit initiated by the Ministry of Justice, has been common practice in 2000–2005. It has been estimated

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<sup>56</sup> International Federation of Human Rights (FIDH)/ World Organisation against Torture (OMCT), “Contribution of the Observatory on Freedom of Assembly and Association, OSCE Human Dimension Implementation Meeting, 22 September 2005, at [http://www.fidh.org/article.php3?id\\_article=2682](http://www.fidh.org/article.php3?id_article=2682).

<sup>57</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>58</sup> Ibid.

that more than 60 human rights groups have been closed down since 2000 for reasons not acceptable under international standards on the right to freedom of association. At the same time, the government has set up so-called “state public organizations” that are officially regarded as independent but in fact under strict state control, such as the BRSM mentioned above.

In 2003, courts issued 810 written warnings to NGOs and 51 NGOs were shut down, all at the initiative of the Ministry of Justice. Almost all of them dealt with human rights issues as part of their mandate. In addition, 78 NGOs closed down of their own accord in 2003 because they wanted to avoid further problems with authorities.

In 2004, a total of 334 NGOs were subjected to investigations by the Ministry of Justice for alleged non-compliance of their activities with Belarusian legislation and/or their own statutes, and 264 were reprimanded. Fifteen national and international, and 23 local NGOs were shut down, usually for what authorities termed a violation of their own membership procedures and member registration, for the failure to inform the authorities promptly about the changes in the official titles of the leaders, or to have a “legal address,” and similar reasons. Sixty-nine NGOs decided to close down themselves in 2004. Local monitors were not aware of a single case in which a court would have rejected a claim by the Ministry of Justice to shut down an NGO, a fact that casts a deep shadow also over the independence of the Belarusian judiciary and their respect of international human rights standards.

For example, the Independent Association for Legal Researches, the Centre of Constitutionalism and Comparative Legal Researches, Human Rights Centre "Viasna" (see section on the Independent Human Rights Community, above), public association “Legal Assistance to the Population” and others were closed down in 2002–2005.

- On 8 February 2005, the Supreme Court of Belarus, acting upon a case filed by the Ministry of Justice, liquidated the Public Association "Belarusian Women's Movement “Revival of Homeland.”
- On 14 April 2005, the Supreme Court closed down the largest sociological institute, the public association “Independent Institute for Socio-Economic Studies.”
- On 16 February 2005, the Ministry of Justice issued a written warning to the republican public association “Frantsishak Skaryna Belarusian Language Fellowship" (TBM). The Ministry of Justice motivated its claim saying that some TBM structures used residential premises for registering their legal addresses and have thus violated the provisions of the Housing Code of the Republic of Belarus.

The BHC, as the largest nation-wide human rights organization, has been a main target of official harassment. In addition to charges brought against it on the basis of foreign funding and other financial reasons, which brought the BHC to the edge of closure as of December 2005 (see section on Financial Restrictions, below), also other measures have been taken in the course of recent years with the aim of closing it down for other reasons.

- On 16 September 2004, the Ministry of Justice filed a case with the Supreme Court for the closure of the BHC after the BHC had publicly voiced its doubt about the legality of the October referendum (which was aimed at lifting all limitations on the tenure of the President Lukashenka) and appealed to the Constitutional Court the presidential decree on calling the referendum. The BHC was not informed about the exact charges it faced. The Supreme Court, however, returned the case to the ministry without consideration.

In January 2005, the Ministry of Justice issued an official reprimand to the BHC for allegedly having breached its own charter when dealing with membership issues of its Homel branch and when sending as observers to polling stations people who were not BHC members during the 2004 parliamentary elections and referendum.<sup>59</sup> In addition, the ministry claimed that the Brest branch had not had a “legal address” since November 2001. Should the BHC receive another similar reprimand within a year, the ministry can ask a court to close it down. In response to this reprimand and in order to avoid its own liquidation, the BHC had to shut down its regional offices as legal entities but continues its activities in the regions through its representatives.

## **4.2 Right of Peaceful Assembly**

### Legislation

By law, it is only possible to hold peaceful assemblies and demonstrations if permitted by authorities, and organizers have to cover the costs for “providing for public order.”

The November 2005 draft amendments to the Criminal Code were accompanied by a regulation according to which “education or other forms of preparation” for mass riots, or financing such actions, are to be punished by arrest of up to six months or imprisonment of up to three years. On the basis of the new article 342, training or other preparation of people for participation in group actions, which grossly violate the public order, as well as any support of such activities, can lead to imprisonment of up to two years.<sup>60</sup>

### Practices

Opposition rallies are as a rule not sanctioned and – if they are held at all – are dispersed by the police. Many participants are usually beaten, arrested and fined. Authorities often move even sanctioned demonstrations to suburban areas or they ban them outright.

- On 21 July 2004, during a mass demonstration of thousands of people to mark the end of Lukashenka's tenure according to the 1994 Belarusian Constitution, riot police hindered regional activists from participating in the rally. Busses carrying members of regional branches of political parties were stopped on their way to Minsk. More than 60 demonstrators were arrested, some 20 people were forcibly banished from Minsk, 26 spent a night in detention and over 20 activists were sentenced to administrative detention of up to 15 days or fined.<sup>61</sup>
- A peaceful assembly on the Freedom Day, 25 March 2005, was dispersed by the police and 25 participants were punished with administrative arrests and fines.
- On 26 April 2005, riot squad police violently dispersed the regular “Chernobyl Way” action. Dozens of detained demonstrators were accused of violating the regulations on the organization and holding of mass actions. As a rule the arrestees were kept in cold and wet cells, 6-12 persons in each one.

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<sup>59</sup> The Ministry of Justice has used the interpretation of article 13 of the Electoral Code so as to allow only officials members of NGOs to observe the elections, not other people selected by the NGO for this purpose.

<sup>60</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>61</sup> IHF, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).



### 4.3 *Freedom of Expression and the Media*

#### Legislation

Freedom of expression and the media is guaranteed by the Constitution and the Law on the Media, but numerous legal regulations and especially illegal practices by authorities impose serious restrictions on them. In a similar vein, the Law on the Media provides for access to information of public interest and importance, yet, the law is not implemented in practice. Instead, the authorities have invented new terms for the classification of information, including state secrets, internal instructions, information for service use only, etc.

The Law on the Media provides that a court can close down a media outlet after the Ministry of Information has issued two warnings to it for “violations of the law.” Moreover, the ministry is able to suspend the operation of an outlet without a court decision for other poorly defined reasons.

Criminal defamation provisions are yet an additional threat to reporting on abuses of power and other misconduct by public officials. Article 367 of the Criminal Code states that defaming the president may be punished by deprivation of liberty for up to five years, and article 368 of the code envisages a fine or up to three years of imprisonment for insulting the president.

Amendments to the Criminal Code proposed by the president, which came into force on 1 January 2006, provide for additional restrictions on free expression. A new article was added to the Criminal Code, on “Discrediting the Republic of Belarus.” “Discrediting” in this context means “fraudulent representation of political, economic, social, military or international situation of the Republic of Belarus, the legal status of the citizens of the Republic of Belarus or its government agencies.” Such actions shall be punished by detention for up to six months or imprisonment of up to two years. The punishment for acts of “public appeals for seizure of power or forcible change of the constitutional system” was increased to range from six months of arrest up to three years of imprisonment. Calls addressed to foreign states to perform actions damaging the external security of Belarus, its sovereignty and territorial integrity, as well as dissemination of materials containing such appeals, shall be punished by arrest of between six month and three years. If such calls are disseminated by the mass media, the punishment will be harsher: deprivation of liberty for up to five years.<sup>62</sup>

#### Practices<sup>63</sup>

While the constitution and other laws formally guarantee freedom of expression, in practice, members of the political opposition and other openly critical public figures, including human rights defenders, have been harassed, charged and detained for questionable reasons. Independent media outlets suffer under increasing criminal, administrative and economic pressure. Generally, mainstream media outlets do not deal with human rights issues: only small, independent newsletters and papers published by NGOs deal with issues related to human rights and democracy. All mainstream media practice self-censorship so as not to face repercussions, such as defamation charges for legitimate criticism.

In 2004-2005, the Ministry of Information punished a number of media outlets after their critical reporting: *Novaja Hazerta Smarhoni*, *Navinki*, *Zgoda*, *Vremya*, *Predprinimatelskaya Gazeta*, *Vecherni Stolin*, *Regionalnaya Gazeta*, *Narodny Predprinimatel*, *Regionalnye Vedomosti*, and *Birzha Informacii* were temporary suspended.

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<sup>62</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>63</sup> Based on the *Annual Report 2005* of the Belarusian Helsinki Committee

- On 24 March 2005 police and unidentified people in plain clothes broke into the privately owned editorial office of the newspaper *Zgoda*, searched the premises and confiscated computer equipment without any legitimate reason. During the three-hour search, 17 graphic images earlier published in the *Zgoda* were taken off the walls and four computers were confiscated. The offices were sealed off, paralysing the journalists' work and the next issue of *Zgoda* could not be published.

In addition, fearing problems from the authorities, printing houses frequently refuse to print independent newspapers and magazines or censor them under various pretexts. Likewise, shops and supermarkets refuse to sell independent newspapers and magazines because they want to avoid problems with authorities. In September 2005, the state media distribution monopoly "BelSayuzDruk" ordered newspaper stands to stop selling independent newspapers such as *Narodnaya Volya* (People's Will) and *Nasha Niva*. Another state monopoly, "BelPoshta," refuses to disseminate the independent newspapers by subscription.

Since October 2005, the European Union is paying the German radio channel Deutsche Welle to broadcast into the country to ensure the dissemination of independent information.<sup>64</sup>

Access to information of legitimate public importance or interest is blocked under various pretexts and vaguely worded regulations on "classified information," thereby also hindering the dissemination of information on human rights issues and acting upon human rights concerns. Independent media outlets are, as a rule, not allowed to attend official events such as press conferences of public authorities and "public" hearings that are open to the state-run media.

- For example, local administrations and courts refuse to give any information to the correspondents of *Narodnaya Volya*, *Belorusskaya Gazeta*, *Den'*, *Mestnaya Gazeta*, *Hancavitski Chas*, and other independent papers.
- In 2004-2005, leaders of several public organisations – including Ales Bialiatski, Iryna Zhyhar, Siarhej Matskevich and others – were "invited" to the prosecutor's office to be questioned about the publication called *Assembly*, a bulletin of civil society activists. One of its editions was confiscated in 2004. In addition, several activists whose organisations focus on politics were summoned to the prosecutor's office and the KGB.
- In April 2005, the Aktsiabrski District C in Minsk partially satisfied the suit brought by a US citizen, Alexander Mar, against Iryna Khalip, the deputy editor-in-chief of *Belorusskaya Delovaya Gazeta*, and the private Unitarian enterprise *Marat*. Iryna Khalip was ordered to pay 10 million Belarusian rubles (EUR 4,000) to Alexander Mar in compensation, and *Marat* 50 million rubles (about EUR 21,000). During the trial the judge did not admit a single petition of the defense. The journalist had criticized Alexander Mar for his interview with President Lukashenka and the suit was reportedly inspired by Belarusian authorities.
- In early August 2005, an article entitled "Time to Dispose of Rake" was published by the *Novaya Gazeta* with a question: "Will a revolution take place in Belarus?" The article's author, Iryna Khalip, analyzed the situation in Belarus in the run-up to the presidential campaign. Khalip concluded that the Belarusian government would be changed as a result of a street revolution. She was soon summoned to the constitutional rights department of the Prosecutor General's Office, where she was reprimanded for "a call for the destabilization of

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<sup>64</sup> *New York Times*, 18 October 2005.

the public order and to change the constitutional regime of the Republic of Belarus using illegal methods.”

While no one has been imprisoned under the defamation provision of the Criminal Code in the past three years, their sole existence has a chilling effect on reporting on sensitive issues. Criticism of the authorities is often interpreted to equal to insult, which, under article 369 of the Criminal Code, entails a fine, correctional labour, or deprivation of liberty for up to three years.

- The latest cases of journalists serving sentences of deprivation of liberty were Mikola Markevich, editor-in-chief of *Pahonia*, and its correspondent Pavel Mazheika, who in 2002 finished their terms of two and a half years and two years (respectively, later reduced by one year) for “slandering” the president. The paper had harshly criticized Lukashenka’s regime.
- In 2004-2005, the editorial boards and correspondents of the *Belorusskaya Delovaya Gazeta*, *Narodnaya Volya*, *Mestnaya Gazeta*, *Den’*, *Gazeta dla Vas* were reprimanded and fined for allegedly insulting Belarusian authorities.

Members of the political opposition and other critical public figures were constantly targeted, harassed and risked detention on fabricated or questionable charges.<sup>65</sup>

- Mikhail Marynich, former minister, Member of Parliament, ambassador, and presidential candidate was taken into investigative custody of the State Security Committee (KGB) on 26 April 2004 and remained there as of early 2006, most recently in prison hospital. Marynich was first charged under article 295(2) of the Criminal Code (illegal actions with firearms, ammunition and explosives), and later with additional criminal offences: theft or damage of documents, stamps, and seals (article 377.2) and larceny committed with abuse of power by an organized group or at an especially high rate (article 210.4). On 25 August 2004, the UN Working Group on Arbitrary Detentions was denied access to Marynich. While a court dismissed the first charge, on 30 December 2004, it sentenced Marynich to five years of imprisonment with confiscation of property for alleged larceny. The BHC believes that the charges were fabricated and the real reason for Marynich’s detention appears to be his opposition activities.<sup>66</sup>
- On 15 May 2005, Siarhieï Skrabets, former deputy of the parliament, leader of the Republic faction in the parliament, and member of the BHC Council, was arrested in Minsk and taken to Brest to investigative custody. Some hours later police searched his and his parents’ flats. The Brest City Prosecutor’s Office charged him with making preparations for giving a bribe. Skrabets went on hunger strike. On 27 December, an initiative group was formed, nominating Skrabets as a presidential candidate. The group was registered by the Republican Commission on Elections and Referenda. On 16 January 2006 the Supreme Court of Belarus opened hearings in a criminal case against him. The BHC considers that Siarhieï Skrabets is persecuted for his public and political activity.

### The Internet

Access to the Internet is limited and it is provided only by *Beltelecom*, a state monopoly.

Internet sites that publish information on human rights and about the activities of independent democratic organizations are sometimes blocked. For example, the websites sites of the United Civil

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<sup>65</sup> IHF, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>66</sup> Ibid.

Party (<http://www.ucpb.org>), the BPF Party (<http://pbpf.org>), and Young Front (<http://mfront.net>) have been blocked. The BHC website was blocked during the September 2001 presidential elections. On 26 September 2005, the website of an independent trade union movement at [www.praca-by.info](http://www.praca-by.info) could no longer be accessed.

The Minsk City Administration has reportedly issued an instruction to order Internet café staff to require identification from visitors and to keep track of people's surfing on the Internet.

#### **4.4 Financial Restrictions**

##### *Legislation*

Presidential Decree No. 24 of 28 November 2003 "On the Reception and Use of Foreign Gratuitous Help" increased control by authorities over foreign financial help for NGOs and political parties, restricted its use, and prescribed tougher sanctions against "wrongdoers." The list of activities ineligible for foreign funding includes typical NGO activities such as different forms of educational and political work targeting the public. All projects funded from foreign sources must be registered with Belarusian authorities. As a result, it is virtually impossible for a domestic NGO to use foreign financial aid without a special permit from the Department on Humanitarian Affairs at the presidential administration. Such permits, however, are subject to total discretion by the administration.

For violations of the decree, NGOs, political parties, funds, and foreign organizations' offices in Belarus can be liquidated and foreign citizens deported. Similar provisions were introduced to the new law "On Public Associations," which came into force in October 2005.

##### Practices

The interpretation of legal regulations concerning foreign funding has been a core problem in legal proceedings against the BHC that have already stretched over several years.

From August 2003 through January 2004, the Inspectorate of the Ministry for Taxes and Collections of the Maskouski District of Minsk audited all the BHC's financial records since its foundation in 1995. While the audit confirmed that the BHC had used the funds adequately, the inspectorate nevertheless ordered the BHC to pay 155 million Belarusian rubles (approximately EUR 63,200) in allegedly unpaid taxes and penalties on grants received from the European Union TACIS Programme. The tax officials invoked paragraph 1.2 of the Presidential Decree 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 an international agreement applicable under the Memorandum on Financing of 10 May 1994, under which technical assistance is exempted from taxes and customs duties. The Department for Financial Investigations of the Committee of State Control brought tax evasion charges against BHC officials in connection with the case.

On 23 June 2004, the Economic Court of Minsk cleared the BHC of charges of tax evasion, and as did a second instance court. Also the Supreme Economic Court (SEC) rejected the appeal of the inspectorate, thus confirming the legality of the BHC actions. Yet, the Department of Financial Investigations continued a criminal case against Pratsko and Rutkevich, carrying the maximum sentence of seven years in prison and confiscation of property. In December 2004, the investigator closed the case due to lack of crime. The tax authorities lost a series of appeals against the final ruling. However, the Supreme Economic Court (SEC) First Deputy Chair Eugene Smirnou contested this ruling in late 2005, prompting a rehearing of the case by the SEC Presidium, and obtained the

reinstatement of the sanctions against the BHC.<sup>67</sup> On 20 December 2005, the SEC reversed its earlier ruling and reinstated enormous sanctions against the BHC.

The SEC ruling is obviously politically motivated and aimed at creating obstacles to BHC efforts to monitor the ongoing presidential campaign and other issues, and paves the way for closing down the last remaining human rights organization that has been active nation-wide. Moreover the new SEC ruling opens opportunities for the criminal prosecution of BHC officials who may face up to seven years in prison and confiscation of property.<sup>68</sup>

Given the almost non-existent opportunities for raising funds for NGO activities in Belarus, and even less getting money from public sources, the legal provisions regulating financial support from abroad constitute a major hurdle for the operation of independent NGOs in Belarus.

Due to provisions of the Presidential Decree No. 24 (see above), which make foreign funding of many forms of NGO activities dependent on a permit from presidential administration, most typical human rights projects cannot be legally based on foreign money, including projects aimed at raising public awareness and training activists. In practice, the presidential administration does not warrant such projects: it either turns them down or fails to deal with them.

In addition, all programs and projects involving foreign technical aid must be subject to registration in the Ministry of Economy. This includes, for example, funding for computers and all other office equipment. Should such programs of international technical aid be approved, they are subject to considerable tax and customs concessions. In practice, a human rights NGO critical of government practices can impossibly get such approval.

#### **4.5 Direct Attacks on Human Rights Defenders**

- On 16 September 2004, Hary Pahaniaila, an attorney and vice-president of the BHC, and Tasyana Reviaka, a member of “Viasna,” were arrested by unidentified persons in plain clothes for handing over to the Prosecutor's Office the report by a special rapporteur of the Parliamentary Assembly of the Council of Europe on violent disappearances of politicians and a journalist in Belarus, and a resolution of the UN Commission on Human Rights on the situation in Belarus. The activists were accused of violating article 172 (3) of the Code of Administrative Offences, which states that “dissemination of printed editions, produced through breaching the established order and having no publisher’s imprint, the contents of which is directed at causing damage to the state and social order, rights and legitimate interests of citizens.” The offence carries a fine at a rate of five minimum monthly wages and the confiscation of the “illegal” publications. Tasyana Reviaka was fined; Hary Pahaniaila avoided the fine thanks to procedural errors by the authorities.
- In October 2004, Hary Pahaniaila was charged with slandering President Lukashenka. The prosecution based the charges on an interview that Pahaniaila gave to the Swedish TV4 channel, a videotaped version of which was confiscated by the customs when the TV4 journalist left the country. In the interview Pahaniaila described the due process violations that have characterised the investigations into the cases of “disappearances” that he was working on and named suspects. In February 2005, the investigator dropped all charges but the

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<sup>67</sup> IHF/BHC, “Supreme Economic Court reinstates enormous penalties against the Belarusian Helsinki Committee. Human rights group may be forced to close; leaders may face criminal charges,” 22 December 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4169](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4169).

<sup>68</sup> Ibid.

investigation was renewed later over Pahaniaila's protest because the investigator's decision did not clear him of guilt; Pahaniaila insists that either he or the named suspects for the "disappearances" must be punished. If found guilty, Pahaniaila could have been sentenced to up to five years in prison.

While many of the cases of harassment and persecution in Belarus draw on indirect persecution, such as legal prosecution of NGOs and their members, in the past few years there have also been direct physical attacks on individuals, particularly political opposition activists and other well-known public figures. Such cases are officially treated as "normal" criminal acts and the perpetrators are, as a rule, not found and brought to justice.

In 2002-2005, well-known public figures and intellectuals were increasingly subjected to beatings by "unidentified individuals" who, as a rule, were never caught. The victims included Professor Adam Maldzis; Yury Khaschavatski and Valery Mazynski, producers; Yauhen Kryzhanouski and Victor Charnabayeu, actors; Radzim Haretski and Yauhen Babosau, academicians; Uladzimir Kolas, director of the recently closed National Humanitarian Lyceum; Siarhey Zakonnikau, a poet; Aleh Volchak, head of the recently closed "Legal Aid to Population"; and Valery Fralow, member of parliament.

## **5. Recommendations**

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The IHF gives the following recommendations:

*The Government of Belarus should:*

- 1) Reform its legislation so as to ensure that it is in line with the UN Declaration on Human Rights Defenders and international human rights treaties Belarus is party to. The laws should be drafted on the basis of non-discrimination and should be enforced in a transparent manner. New laws should be created in cooperation with local civil society groups and international experts;
- 2) Withdraw all legal proceedings it has initiated to limit legitimate human rights activities and order all public authorities to refrain from measures to restrict such activities. As the first step to this end, the government should drop all legal cases against the Belarusian Helsinki Committee and its members it has launched under legal provisions that violate international standards for the freedom of expression, association and assembly;
- 3) Publicly express its support to human rights NGOs and declare their work as an essential part of Belarus' efforts to promote democracy.

*The Belarusian Parliament should:*

- 4) Abrogate the amendments to the Belarusian Criminal Code and the Code of Criminal Procedure regarding "actions aimed against a person and public security" and renounce any plans to further reduce the narrow space left for criticism in Belarus ahead of the presidential elections of 2006.

*The International Community should:*

- 5) Do all in its power to avoid any isolation of Belarus and too keep it on its human rights agenda;
- 6) Develop programs aimed at providing moral and financial support to civil society in Belarus and opportunities for international cooperation in the field of human rights;
- 7) *The United Nations* should extend the mandate of the UN Special Rapporteur on Belarus and make it clear to the Belarusian government that its full cooperation is expected in all issues raised by the UN;
- 8) *The European Union should* consider the adoption of diplomatic and economic sanctions against Belarus. At the same time, it should change its regulation on compulsory registration with Belarusian authorities of all EU-funded projects carried out in Belarus as unrealistic, contra-productive and as a hindrance to human rights work in that country.