

BELARUS

The 1996 Constitution of Belarus, which was adopted by unconstitutional means, remains in force. The President has excessive power and continues to rule the country by presidential decree. The independence of the judiciary is seriously threatened by the poor conditions of service and the influence of the President on the appointment and dismissal of judges. Individual lawyers face improper influence and harassment. President Lukashenko won the presidential elections on 9 September 2001, thereby securing another five year term, in a process clearly flawed.

After the collapse of the Soviet Union, Belarus declared its independence on 25 August 1991, and later joined the Commonwealth of Independent States (CIS). In March 1994, the Supreme Soviet adopted a new Constitution that provided for a democratic form of government and a directly elected president as head of Government and State. On 10 July 1994 Alexander Lukashenko was elected as the first president of Belarus for a term of five years. The members of the 13th Supreme Soviet (parliament) were elected in 1995.

The 1994 Constitution was amended on 24 November 1996 in a referendum, that was marked by substantial irregularities in procedure. The referendum had been called by the President after the Supreme Soviet refused to pass the extensive constitutional changes suggested by President Lukashenko. This referendum was held despite a ruling by the Constitutional Court on 4 November 1996 that the Constitution could not be amended in this way. President Lukashenko annulled the ruling by decree and the then-Prime Minister, Mikhail Chigir, resigned in protest. The current political system is therefore based on a Constitution that was adopted by unconstitutional means.

As a result of the 1996 referendum the President of Belarus has greatly expanded powers and Mr. Lukashenko's term as President was extended for 2 years as from July 1999. The last presidential elections were held on 9 September 2001. The country's official Central Electoral Commission announced that Alexander Lukashenko had won 75,6 per cent of the vote, whereas his main opponent Vladimir Goncharik, who was the candidate of a broad coalition of opposition parties, only won 15,4 per cent of the vote. There were numerous allegations of manipulation and vote-rigging and hundreds protested in Minsk against this landslide victory.

The Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Troika composed of the OSCE Parliamentary Assembly (OSCE/PA), the Parliamentary Assembly of the Council of Europe, and the European Parliament sent a joint International Limited Election Observation Mission (ILEOM) to the presidential elections. In its Preliminary Conclusions the ILEOM stated that "(t)here were fundamental flaws in the electoral process, some of which are specific to the political situation in Belarus...". Among the flaws enumerated were a legislative framework that fails to ensure the independence of election administration bodies, the integrity of the voting results tabulation process, lack of free and fair campaign conditions, and excessive restrictions imposed upon campaigning and observers. In addition, the process was marked by intimidation directed against opposition activists, domestic observation organisations, opposition and independent media, and a smear campaign against international observers. The ILEOM concluded that "(t)he 2001 presidential election process failed to meet the OSCE commitments for democratic elections...".

Chapter 3 of the new Constitution of Belarus gives the President extensive powers. The powers listed in Article 84 include, inter alia, to determine the structure of the Government of the Republic of Belarus; to appoint and dismiss the deputy Prime ministers and ministers; to take decisions on the resignation of the Government; to appoint and dismiss judges at all levels (see below); to appoint the leading officials of bodies of state administration; to abolish acts of the Government; to exercise supervision directly or through specially formed bodies of observance of laws by local organs of administration or self-government; and to suspend decisions of local councils of deputies. In addition, Article 85 of the Constitution gives the President the authority to issue mandatory decrees and orders in certain instances as determined by the Constitution.

Article 101 of the Constitution stipulates that the Parliament may adopt a law delegating legislative powers in a wide range of areas to the President. It also provides that in instances of necessity, the President may temporarily pass decrees which have the power of law. These decrees are then submitted within three days to the Parliament and become valid if they are not rejected by a majority of two thirds of votes of both chambers in their full composition. President Lukashenko has interpreted this provision broadly and has ruled by decree ever since he became President.

On 18 February 2000 President Lukashenko dismissed the Prime Minister, Syargey Ling, and nominated Uladzimir Yaarmoshyn. The House of Representatives approved the nomination on 14 March 2000. Since the policies of the Government are mainly dictated by the President the change of the Prime Minister was not expected to bring about any significant changes.

The Constitution of Belarus provides for the separation of powers in Article 6. However, in practice, the system of checks and balances among the executive, legislative and judicial powers has been distorted, and now all branches are under the President's effective control.

The opposition called for alternative presidential elections on 16 May 1999, in conformity with the abolished 1994 Constitution. A Central Electoral Commission (ECE) was formed to organise the elections. In the period leading to the alternative elections, several opposition leaders were harassed and arrested and some disappeared. The ECE ruled the election results invalid due to irregularities that were, inter alia, caused by the hostility of the authorities.

As a further result of the 1996 referendum, the Supreme Soviet was dissolved and replaced by a new bicameral legislature. This new parliament was not directly elected. The 110-member lower house was formed out of the membership of the existing Supreme Soviet. The 64-member upper house was created by a combination of presidential appointments for one third of its members and elections for the remaining seats. The Council of the Republic is the upper chamber and the House of Representatives the lower chamber. Several deputies of the Supreme Soviet belonging to opposition parties have refused to accept this new parliament.

In October 2000, the first Parliamentary elections since the 1996 referendum were held. The elections were boycotted by some opposition parties. The first round of voting for the House of Representatives was held on 15 October 2000. Four days later the elections were declared valid in 97 constituencies and invalid in 13 constituencies, where the elections were to be repeated. In the second round of voting on 29 October 2000 run-off elections in 56 of the 97

constituencies were held and declared valid. The turnout for the first round of voting was officially given as 61.08 per cent. The opposition alleged that the turnout had been artificially inflated by altered voter lists. According to the opposition, the turnout was around 45 per cent. For the 110 seats, 562 candidates stood in the elections and only some 50 were members of the opposition. Political opponents had reportedly been barred by technicalities or spoke about repeated harassment by the authorities. The former Prime Minister, Mikhail Chigir, withdrew his candidacy in the second round of voting, alleging that the turnout rates in his constituency in the first round had been manipulated.

The ODIHR Technical Assessment Mission stated that the 15 October 2000 parliamentary elections process in Belarus failed to meet international standards for democratic elections. On 18 March 2001, the repeat elections in the 13 constituencies where the turnout in the second round in October 2000 had fallen below the 25 per cent needed, were held. In 11 constituencies, the vote was only successful in a second round of voting on 1 April 2001.

Despite strong popular opposition, on 8 December 1999 President Lukashenko and the Russian President Boris Yeltsin signed a Treaty on the Creation of a Union State. The treaty commits the two countries to become a confederate state and establishes joint governing bodies. On 25 April 2000 the Council of Ministers of the Union of Russia and Belarus, meeting for the first time, discussed the creation of a common currency and the legal basis for further unification. In April 2001 both houses of the National Assembly ratified an agreement to introduce the Russian rouble as the common currency as of 1 January 2005 and a new common currency from 1 January 2008.

HUMAN RIGHTS BACKGROUND

During the period covered by this report, the Government failed to meet its human rights obligations in respect of a number of basic human rights. Excessive restrictions on the freedom of association, expression, the press, and peaceful assembly continued, and conditions in prisons and detention facilities remained poor, amounting in some instances to cruel, degrading or inhuman treatment. There were also allegations of ill-treatment by the police and numerous human rights abuses by members of the security forces. Fair trial standards were repeatedly violated by courts, which frequently allowed evidence that was obtained through ill-treatment or torture. Upon examination of the third periodic report of Belarus in November 2000, the Committee against Torture expressed concern about: (t)he numerous continuing allegations of torture and other cruel, inhuman and degrading punishment or treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the Government and peaceful demonstrators, and including disappearances, beatings, and other actions in breach of the Convention. ... The pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as failure to prosecute alleged perpetrators, in nonconformity with articles 12 and 13 of the Convention.

The opposition suffered harassment in response to lawful opposition activities. On 25 March 2000, some 20,000 people protested peacefully in an unauthorised demonstration in Minsk. Several hundred people were arrested and detained for several hours, among them journalists and activists from the Belarusian Popular Front, the main opposition movement. Police officers reportedly used unlawful force for the arrest. One year later, on the same date,

demonstrators protested again, calling for fair and free presidential elections in 2001. At least ten activists were arrested. Several detainees and eye-witnesses alleged excessive use of force by the police and the ill-treatment of the detainees. Most of the detainees were charged with organising or participating in an unsanctioned demonstration and were either fined or imprisoned for 10 - 15 days.

There has been no clarification as to the disappearance of the former Interior Minister Yury Zakharenko, the Deputy Speaker of the dissolved Supreme Soviet Viktor Gonchar and his friend Anatoly Krasovsky in 1999, or cameraman Dmitry Zavadsky, disappeared on 7 July 2000. In summer 2001 two former investigators fled Belarus and published a letter alleging that senior state officials had organised a "death squad" that had killed several of the "disappeared". (For details, see the cases of Dmitry Petrushkevich and Oleg Sluchek.)

On 17 March 2000 Andrei Klimov, former member of the dissolved parliament and political opponent of President Lukashenko, was sentenced to six years' imprisonment at a hard labour colony with confiscation of property by a court in Minsk. He had been arrested in 1998 and charged with embezzlement. It was widely believed that his arrest was spurred by the work he had done as the chairman of a committee that investigated violations of the Constitution by the President. Mikhail Chigir, former Prime Minister and now an opposition member, was detained on 30 March 1999 on charges of embezzlement, allegedly for politically motivated reasons. On 19 May 2000 he was convicted by the Minsk City Court of abuse of power and sentenced to three years in prison. Two years of the sentence were suspended. On appeal, the Supreme Court revoked the sentence and sent the case back to the prosecutor for further investigation, thereby avoiding having to acquit him.

Human Rights Defenders

Human rights defenders have suffered harassment and intimidation by the authorities, including arbitrary detention, imprisonment for short terms and ill-treatment. Several human rights defenders who denounced disappearances are the victims of this campaign by the authorities. There have been a number of raids of offices of human rights defenders by the police or suspicious burglaries. Another form of harassment that human rights organisations face is more bureaucratic. Many defenders have been refused the official registration necessary to function lawfully, and have received official warnings, for frivolous reasons, which may result in closure of their offices. The prominent human rights organisation Spring-96, for example, received an official warning from the Ministry of Justice on 18 August 2000 because the letterhead used on its office paper violated official regulations. Reportedly, the typeface used was the wrong size and inverted commas had been omitted. The Centre for Human Rights reportedly received an official warning in August 2000 for using an organisational symbol different to that which they had used at the time of registration.

Arbitrary arrest and pre-trial detention

According to the Criminal Procedure Code, the police may detain a person for 24 hours without a warrant. Within that period, the Prosecutor is notified and should decide within 48 hours on the legality of the detention. A suspect can be held for 10 days without being formally charged. Pre-trial detention can last up to 18 months and the prosecutor, not the judge, has the authority to decide on the continuation of detention, in violation of Article 9

(3) of the International Covenant on Civil and Political Rights, to which Belarus is a state party.

INTERNATIONAL HUMAN RIGHTS MECHANISMS

Mission of the UN Special Rapporteur on the Independence of Judges and Lawyers

The UN Special Rapporteur on the Independence of Judges and Lawyers, Param Cumaraswamy, visited Belarus from 12 to 17 June 2000. In his report, he comments: The Special Rapporteur acknowledges that Belarus is a country in transition and suffers heavily from economic deprivation and the after-effects of the Chernobyl accident. However, the pervasive manner in which executive power has been accumulated and concentrated in the President has turned the system of government from parliamentary democracy to one of authoritarian rule. As a result, the administration of justice, together with all its institutions, namely, the judiciary, the prosecutorial service and the legal profession, are undermined and not perceived as separate and independent. The rule of law is therefore thwarted. ...

Executive control over the judiciary and the manner in which repressive actions are taken against independent judges appear to have produced a sense of indifference among many judges regarding the importance of judicial independence in the system. Many appeared to be content with the flawed appointment, promotional and disciplinary procedures and service conditions. These procedures violate international and regional minimum standards for an independent judiciary.

International obligations

Belarus has ratified the six main United Nations human rights treaties and has acceded to the Optional Protocol to the International Covenant on Civil and Political Rights. These international human rights treaties have supremacy over domestic laws and therefore oblige Belarus to bring its Constitution and all laws into accordance with them. Art. 8 of the Constitution of Belarus stipulates that Belarus recognises the supremacy of the universally acknowledged principles of international law and shall ensure that its laws comply with such principles.

Nevertheless, in his mission report the Special Rapporteur on the Independence of Judges and Lawyers expressed his great concern about the non-compliance of many Belarusian laws with international norms and about the seeming impunity with which these norms are violated.

The Council of Europe

In September 1992 the Council of Europe's Parliamentary Assembly had granted a special guest status to Belarus, which allowed a delegation of seven parliamentarians to attend the assembly sessions in recognition of the country's move towards democracy and respect for human rights. Belarus applied to join the Council of Europe on 12 March 1993. However, due to the increasingly authoritarian rule of President Lukashenko, the Council of Europe's Parliamentary Assembly suspended the observer status of Belarus in January 1997 and

furthermore suspended the application procedure for membership of the Council of Europe in December 1998.

In January 2000 the Parliamentary Assembly of the Council of Europe adopted a critical report on the overall human rights situation in Belarus and expressed its concern that Belarus continued to fall seriously short of Council of Europe standards such as pluralist democracy, the rule of law and respect for human rights, and it decided to continue its suspension of the special guest status and the accession procedure.

After the Parliamentary Troika, composed of members of the European Parliament and the Parliamentary Assemblies of the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE) had visited Belarus in March 2001 it expressed "...its continuing concern about the human rights situation ... and at the lack of progress in investigating the disappearances of political opponents Mr. Zakharenko, Mr. Gonchar and Mr. Krasovsky as well as of the journalist Mr. Zavadsky."

THE JUDICIARY

Chapter 6 of the Constitution of Belarus regulates the court system. Article 109 vests the exercise of the judicial power in the courts and Article 110 stipulates that judges shall be independent and subordinate to law alone and that any interference in the administration of justice is unlawful.

However, in reality, due to excessive executive influence over judges and prosecutors and control of the legal profession, an independent judiciary in Belarus is almost non-existent.

Court Structure

The court system consists of the Constitutional Court and two other court systems, one of general application and one dealing with economic questions. The general court system comprises the District Courts, the Regional Courts (the oblast and Minsk city courts), the Supreme Court and the Military Courts. The economic court system comprises the Higher Economic Court and the oblast and Minsk City Economic Courts.

During 2000 there were approximately 55 Supreme Court judges, 159 judges in the Regional Courts and the Minsk City Court, 678 regular and 185 administrative judges in 154 District Courts. The Higher Economic Court has 20 judges and there are 96 judges at the oblast level. According to the dictates of the Constitution the Constitutional Court consists of 12 judges.

Judges

Article 62 of the Law on the Judicial System and the Status of Judges sets out the requirements for becoming a judge. Any citizen of the Republic of Belarus who has a higher legal education and a good moral reputation, and who is 25 years of age or older, may become a judge.

As a further requirement, potential judges must have at least two years of legal experience or two years of fieldwork and practical study. Supreme Court judges must have at least five

years of experience. The judges of the Regional, Minsk City, and Belarusian Military Courts, however, are required to have at least three years of experience.

Appointment of judges

The procedures for appointment of judges were changed considerably by the 1996 referendum. The main role in this process, is not any longer played by Parliament, but rather by the President of the Republic of Belarus.

Article 84 (8) and (9) of the 1996 Constitution stipulate that the President appoints the Chairperson of the Constitutional Court and the Chairperson and the other judges of the Supreme and Economic Courts. Such appointments must receive the consent of the Council of the Republic, of which one third is appointed by the President himself. The same Article provides in section 10 that the President shall directly appoint six of the 12 Constitutional Court judges and all the other judges of the Republic of Belarus. The remaining six judges of the Constitutional Court are appointed by the Council of the Republic.

The Chairpersons of the Supreme Court and the Higher Economic Court are selected by the (Supreme) Council of the Republic on the submission of the President. The other judges of these courts are chosen by the (Supreme) Council of the Republic. The President appoints the Vice-Chairs of these courts, the Presidents and Vice-Presidents of the District Courts and the oblast Regional Court upon submission by the Minister of Justice and the President of the Supreme Court.

The candidates for all other judges are chosen by the local administration of the Ministry of Justice. They must pass a qualifying examination held by a judges qualification board that consists of representatives of the judiciary and the organs of justice,¹⁶⁰ and must then be recommended for appointment by that board. After the Ministry of Justice approves the recommendation, the final decision is made by the Presidential Administration. Candidates are also subject to clearance by the Security Council of Belarus.

With regard to the appointment of judges the Special Rapporteur stated in his mission report, "(w)hilst appointment by the executive or the legislature is not per se a violation of the independence of the judiciary, the procedure applied must contain appropriate safeguards. During the mission the Special Rapporteur received many allegations that this process lacked transparency and was heavily influenced by political considerations."

Principle 10 of the UN Basic Principles on the Independence of the Judiciary provides, inter alia, that "(a)ny method of judicial selection shall safeguard against judicial appointments for improper motives." In Belarus, the President retains excessive control over the appointment of judges, a condition which fails to guarantee the independence of the candidates. In particular, the influence the President has over the composition of the Constitutional Court necessarily has an adverse impact on the independence of its members.

Security of Tenure

Judges are appointed for an initial period of five years. After that period they are evaluated by the Presidential Administration and are either appointed for life or removed. The local administration of the Ministry of Justice continues to be heavily involved in the evaluation.

Article 116 of the Constitution stipulates that the judges of the Constitutional Court are appointed for a term of 11 years and can serve until they are 70 years old.

According to Article 63 of the Law on the Judicial System and the Status of Judges, judges in all courts may not be removed, and may not be transferred to another position or court without their consent.

Principle 12 of the UN Basic Principles on the Independence of the Judiciary provides that judges shall have guaranteed tenure either until a mandatory retirement age or until the expiry of their term of office. However, the initial period of five years is too short to guarantee an independent judiciary. Judges who fear that they may not be reappointed may be prone to decide in favour of the institution that will have to evaluate their performance, i.e. the executive.

Dismissal of judges

According to Article 111 of the Constitution, the grounds for the dismissal of judges shall be determined by law. Article 84 (11) gives the President the power to dismiss the Chairperson and judges of the Constitutional, Supreme and Economic Courts in the order determined by law and with notification to the Council of the Republic. Article 72 of the Law on the Judicial System and the Status of Judges provides that a judge may be removed from his position when he has committed a "disgraceful act" or deliberately breached the law in a manner that is incompatible with the status of a judge. The removal decision is made by the organ which elects or appoints the judge.

Since the judges of the Supreme Court are appointed by the President, they may also be dismissed by him. The same applies for the six judges of the Constitutional Court, who are directly appointed by the President. This power represents a serious violation of the principle of independence of the judiciary. It has been reported that several judges of the Constitutional Court have already been dismissed because they refused to decide a case pursuant to instruction by the President.

All other judges can be dismissed on any basis determined by law, a provision which also gives the President the potential to manipulate the judiciary through his power to render decrees.

Discipline

Article 73 of the Law on the Judicial System and the Status of Judges provides that the Regulations on Disciplinary Responsibilities of Judges, set out in the Presidential Edict No. 626 of 1997, shall prescribe the grounds and procedures for disciplinary proceedings against judges. Grounds for discipline include, inter alia, breaking the law in the consideration of cases, an occupational misdemeanour, and a failure to observe the work rules.

Condition of Service

The Special Rapporteur reported that the extremely low salary rate is especially a concern for judges at lower levels. According to his report the average level of pay for a judge on the District Court is an estimated US\$ 30 - 45 per month. Judges on the Constitutional Court were reportedly paid US\$ 150 per month. A judge may be paid a bonus of up to 50 per cent of his or her salary every month. The decision regarding bonuses is made by the head of the Ministry of Justice at the oblast level and by the presidents of the respective courts. For higher courts the decision is made by the Presidential Administration. Judges also depend on the local government or the presidential administration for the provision of adequate housing.

Judges are promoted to higher levels by the President according to Presidential Edict No. 35 of 1997. The relevant qualification board holds exams and gives recommendations for the promotion of judges. The promotion to a higher grade entitles a judge to a salary supplement.

State of the Judiciary

Overall, the poor conditions of service for judges pose a threat to the independence of the judiciary of Belarus. Low salaries always entail the risk of corruption. The dependence of judges on the executive for the provision of a monthly bonus, adequate housing, and promotion furthermore increases the danger of judges to be influenced by the executive. This concern is confirmed by the widely reported practise of so called "telephone justice". It is alleged that the executive or local authorities often dictate the outcome of trials they have an interest in.¹⁶⁶ A further example for the existing interference in the judiciary by the President is his blatant disregard for the decision of the Constitutional Court that the Constitution of Belarus could not be amended by referendum.

Lawyers

President Lukashenko issued Decree No. 12 regarding the activities of lawyers and notaries on 3 May 1997, thereby amending the rules governing the legal profession significantly. Every lawyer is obliged to become a member the Collegium of Advocates in order to be allowed to exercise the profession. The Collegium of Advocates is a centralised body, whose activities are controlled by the Ministry of Justice. The Ministry of Justice has the power to make the final decision to grant a license. However, a license is only granted for a period of five years, after which the candidates must apply to the Ministry of Justice for its renewal. Lawyers can reportedly be expelled from the Collegium of Advocates after two official warnings for which no objective proof is required. Expelled lawyers are not allowed to practise their profession and face considerable financial hardships. Lawyers are afraid of losing their employment after a number of lawyers were expelled from the Collegium of Advocates in recent years. (See cases in former editions of Attacks on Justice.)

The Special Rapporteur reports that "(s)everal Advocates whom (he) met during the mission alleged that they had been given warnings by their bar association because they had asserted that their client was not guilty, or had challenged the legality of the court proceedings."

This system constitutes a blatant disrespect by the Government of the independence of lawyers. Principles 16, 17, 18 and 20 of the UN Basic Principles on the Role of Lawyers, inter alia, provide that Governments shall ensure that lawyers are able to perform their professional functions without intimidation, harassment or interference and that they should not be threatened with prosecution or sanctions for any action taken in accordance with their recognised professional duties.

Human rights lawyers also face difficulties in providing legal aid. Article 22 of the Law on Public Associations provides that public associations can only represent and defend the rights and legal interests of their members and not of third parties. This law contravenes the UN Basic Principles on the Role of Lawyers that provides in its principles 2, 3 and 4 that Governments shall ensure efficient procedures and mechanisms for effective and equal access to lawyers and shall furthermore ensure the provision of sufficient funding for legal services to the poor.

Oleg Volchek is a lawyer and the chairperson of Legal Assistance to the Population, a local organisation that offers free legal advice on a wide number of issues to people who do not have the means to afford a lawyer. The organisation has offered legal advice in cases of arrests and ill-treatment by police officers during opposition demonstrations. Mr. Volchek and other human rights lawyers and activists have attempted to register a nationally based organisation that is intended to be named Legal Defence of Citizens. However, the Ministry of Justice refused the necessary registration of the organisation on 2 April 2001 on the grounds that the organisation does not meet the requirements to become a public association. The aims defined in the organisation's statutes to render legal assistance and associated consultations to others in the area of human rights and basic freedoms were contrary to the official definition of the term "legal assistance". The other reason given was that the organisation's activities would be contrary to Article 22 of the Law on Public Associations, which stipulates that public associations may only represent and defend the legal interests of their members and not of third parties. According to Amnesty International, Oleg Volchek intends to appeal this decision to the Supreme Court.

Another such example is the case of the Mogilov Human Rights Centre, that also provides free legal advice to people whose rights have been violated. The organisation reportedly received a warning from the local justice authorities on 29 September 2000 claiming that it had violated the 1994 Law on Public Association because it had defended the right of people who were not members of the organisation. The Centre was ordered to refrain from representing people who are not members or face punitive measures. The organisation intends to appeal this decision to a higher judicial authority.

The Procurator's Office

Section VI. Chapter 7 of the Constitution regulates the office of the Procurator. The Procurator-General is the head of a unified and centralised system of bodies of the Procurator's office and is appointed by the President with the consent of the Council of the Republic. The task of the Procurator-General and of the subordinate public prosecutors is supervision of the implementation of laws, decrees and regulations and supervision of the execution of court verdicts. Furthermore, they carry out preliminary investigation and support state charges in the courts.

There have been numerous allegations concerning the undertaking of, or omission to undertake, prosecutions for apparently political reasons. The case of human rights lawyer Oleg Volchek can serve as one example (see Human Rights Defenders). In his mission report the Special Rapporteur expressed concern over "the prosecution of many leading members of the opposition in situations that connote a political motivation. Under Belarusian election law, those convicted of offences, whether of a substantial or a minor nature, are not permitted to run for public office."

CASES

Vera Stremkovskaya lawyer and President of the Centre for Human Rights in Belarus: Ms. Stremkovskaya is a leading human rights lawyer in Belarus and was the defence counsel in several high-profile cases. As a consequence of her activities she has been repeatedly threatened with expulsion from the Collegium of Advocates. Since December 1998 three criminal cases have been brought against her, all based upon the grounds of defamation of public officials. (for details see former editions of Attacks on Justice). In the most recent case, she had represented her politically unpopular client, Mr. Vasily Staravoitov, and had asked in court on 4 March 1999 about the location of the 40 bottles of cognac which were confiscated from her client's home as evidence. The prosecutor, Mr. Smolencev, filed criminal charges against her for slander in April 1999, alleging that she implied he had taken the bottles. Although the case was dropped in December 1999, Ms. Stremkovskaya found out that the prosecutor had filed a private law suit against her in March 2000 seeking about \$20,000 in damages. On 20 June 2001 the Moscow regional court in Minsk held that Ms. Stremkovskaya had to pay approximately \$500 to Mr. Smolencev. She filed an appeal against the conviction at Minsk City Court.

In another attempt to discredit Ms. Stremkovskaya, the deputy chairman of the Minsk Collegium of Lawyers, Mr. Gambolevsky, and the head of the Pervomaisky district legal consultation bureau, Mr. Kartovitsky, began an investigation of Ms. Stremkovskaya. They demanded information about the cases she was involved in from several courts and interviewed a number of her clients in their offices. As a result, some of her clients have now abandoned her services. They managed to find an order initiating a civil case, which Ms. Stremkovskaya signed before she was paid by the client. Although she explained that the particular case had been ongoing for some time and that the client regularly paid money into the Collegium's account, Mr. Gambolevsky filed a complaint and requested disciplinary action.

Ivan Shpakovsky lawyer and member of the Centre for Human Rights in Belarus: Mr. Shpakovsky has allegedly been persecuted as a result of his human rights work. In 1998 an administrative case was started against Mr. Shpakovsky because he was advertising a job vacancy with a poster that could be seen inside his office. The charges were later dropped. On 25 November 1999 he was reprimanded for an unsanctioned absence from work on 11 and 12 October 1999, although he had been on a trip from 11 to 13 October 1999 to attend a criminal case hearing of one of his clients. He was subsequently fined. He complained against his fine on 25 November 1999. He was not able to attend the scheduled court session to review his complaint and therefore asked for a postponement of the session. The appellate commission did not satisfy his request and opened yet another administrative case against him on 10 April 2000, without familiarising him with the grounds. On 11 July 2000 the Mogilev Central District Court expelled Ivan Shpakovsky from the Collegium of Advocates

on the grounds of his "systematic" violation of the Law on Advocature and Rules of Law Ethics. The appeal to the Central District Court and subsequently to the Mogilev Oblast Regional Court were not successful. The appeal to the Supreme Court of Belarus is currently pending.

Dmitry Petrushkevich and Oleg Sluchek *two former investigators in the Belarusian Prosecutor General's Office*: Mr. Petrushkevich had been involved in the Zavadsky investigation before being dismissed on 29 May 2001. Mr. Petrushkevich and Mr. Sluchek fled the country because they feared for their lives after two otherwise healthy prosecutors involved in the investigation into the disappearance of Dmitry Zavadsky and a witness in the case died earlier in 2001. The two former investigators accused the Lukashenko regime of forming a death squad to murder its political opponents. They claimed that more than 30 people had been killed, including the missing opposition politicians Viktor Hanchar, Yury Zakharanka and Dmitry Zavadsky. They were granted political asylum in the United States in June 2001.