

RESPECT FOR HUMAN RIGHTS IN BELARUS

(1 July – 1 October 2011)

Summary

Freedom of the Media

- Hrodna journalist Pochobut found guilty of libeling the President;
- blogger Eugene Lipkovich faces criminal charges for “violation of the state symbols”;
- Ministry of Information withdrew closure lawsuits against the newspapers “Narodnaya Volya” and “Nasha Niva” and instituted administrative proceedings;
- use of force against journalists covering protest actions;
- closure of files against www.Charter97.org website editor Natalia Radzina;
- pardon of Atroshchankau, a journalist and press secretary of A. Sannikov;
- “BAJ” members D. Bondarenko and P. Sevyarynets continue to serve their sentences.

Freedom of association

- detention and criminal proceedings vs the Head of the Human Rights Centre “Viasna” Ales Bialiatsky;
- pressure on the human rights organization “Belarusian Helsinki Committee”;
- entry ban to Belarus on representatives of foreign human rights organizations;
- Ministry of Justice continued practicing arbitrary registration of NGOs;
- planned changes of the legislation on non-governmental organizations;
- negotiations on the revival of the Public Advisory Council of the Presidential Administration;
- pressure on political parties and criminal proceedings against members of the BPF;
- potential transformation of quango “Belaya Rus” into a political party.

Freedom of assembly

- continuation of the “Social networks revolution” campaign (on 3, 6, 13, 20 and 27 July 2011);
- submission of a Draft Law “Amendments to the Law “On Mass Events in Belarus”” to the House of Representatives;
- drivers protest against high fuel prices: “Stop petrol” campaign (on 21 July and 22 August 2011);
- information campaigns and pickets in support of Ales Bialiatski (as of 4 August 2011);
- attempts to stage pickets in support of Nikita Likhovid and Dmytry Dashkevich (on 1 and 2 August 2011).

Administration of justice

- accusatory nature of the administrative procedure;
- violation of the principle of the independence of the judiciary;
- violation of the principle of universal, comprehensive and objective examination of the merits of a case;
- violation of the territorial jurisdiction principle;
- violation of the principle of adversarial nature of proceedings and equality of arms;
- violation of defense lawyers’ rights.

Monitoring, issue No 2

Summary

The main purpose of this monitoring is to identify the medium-term trends regarding the human rights situation in Belarus. The monitoring is a result of cooperation between Belarusian human rights organizations: Belarusian Helsinki Committee (BHC), Belarusian Association of Journalists (BAJ), Assembly of Democratic NGOs of Belarus, Centre for Legal Transformation (CLT), Human Rights Centre “Viasna”, and Committee for the Protection of the Repressed “Solidarnost”.

The following trends in the field of human rights in Belarus represent the aftermath of the latest Presidential elections of 19 December 2011 against the background of unfolding economic crisis in the country.

As compared with April - June 2011, in July - September the human rights situation in the country remained alarming. Regardless of the fact that the President signed a number of pardon decrees concerning participants of the events on 19 December 2011 (a total of 24 prisoners had been released) and closed files against six defendants on charges of mass disorder, 7 were still in prison, including three former Presidential candidates, and 12 were serving sentences without detention.

This period was particularly harsh for the human rights defenders, due to the detention of the Head of one of the major human rights organizations in the country - Human Rights Center “Viasna” - Ales Bialiatski, and pressure applied on other members of the organization. The reason behind the attack on “Viasna” is linked to its activities, namely, the provision of pecuniary aid to the victims of political repression and their families. This was a unique function of “Viasna” within the human rights defenders’ community. Simultaneously, another oldest human rights organization, the “Belarusian Helsinki Committee”, has been harassed by the authorities. These events gained significant international response and within the country were perceived as a straight forward intimidation of the civil society.

The situation with freedom of the media in Belarus during the reporting period remained critical. Two major independent newspapers “Narodnaya Volya” and “Nasha Niva” faced the threat of closure, Hrodna journalist Andrei Pochobut was sentenced for libeling of the President of the Republic of Belarus, journalists, convicted in connection with the aftermath of the Presidential elections in 2010 continued to serve their sentences. A particular concern during this period raised the illegal actions of the security forces, i.e. the use of force and detentions of journalists covering protests all over the county. By the end of July the most negative developments have been suspended. However, the situation with freedom of expression remains menacing and ambiguous. The Belarusian authorities continue implementing the policy of the hard pursuit for freedom of expression, regardless of some concessions made vis-à-vis cases of great public outcry.

Human rights defenders report about significant increase in the pressure on political parties compared with the previous reporting period. The Belarusian Popular Front party was evicted from their premises in July and three of its members faced criminal charges. The Social Democratic Party “Hramada” and the Brest branch of the Fair World Left Party experience serious problems with registration: they cannot register due to inability to find a legal address. The authorities also continued creating obstacles for the activities of non-governmental organizations with arbitrary denials of registration.

The situation with freedom of assembly in July – September 2011 was relatively “calm” with mass protests being put on “hold” due to holidays, vacations, etc. Nevertheless, the previous trend has not been negated completely: there were a number of peaceful protests, causing a corresponding reaction from the authorities. During July arrests the authorities used brute physical force and unjustified violence against protesters and most of the detainees faced administrative charges.

Monitoring, issue No 2

Trials against the participants of the “silent” protest actions, according to human rights defenders, were pre-conceived and explicitly accusatory by nature. Administrative judges were handing down sentences for actions the defendants have not committed. In September the accused of committing a terrorist attack in the Minsk metro on 11 April 2011 and a number of explosions in Vitebsk and Minsk in 2000-2008 went on trial. One of the defendants faces the death penalty.

In August, the authorities made an attempt to change the legal framework and submitted a Draft Law “On the amendments to the Law “On Mass Events in Belarus”” to the House of Representatives in order to justify their actions *post factum*.

All in all, the period from July to September 2011 was a period of temporary economic stabilization, mainly due to the vacation period. By September the authorities started implementing anti-crisis measures in order to prevent the projected growth of protest moods, in particular, bearing in mind the upcoming parliamentary elections in 2012. Therefore, in the future one should expect the rules of holding of mass gatherings becoming tighter and as a result, harsh repressions for potential unauthorized protests.

Freedom of the Media

The situation with freedom of the media Belarus during the reporting period remained critical. Two major independent newspapers “Narodnaya Volya” and “Nasha Niva” faced the threat of closure, Hrodna journalist Andrei Pochobut was sentenced for defamation of the President of the Republic of Belarus, journalists, convicted in connection with the aftermath of the Presidential elections in 2010 continued to serve their sentences (on 14 September a journalist and spokesman of a Presidential candidate Andrei Sannikov Aliaksandr Atroshchankau was granted pardon by the President, however, he remained under police surveillance). A particular concern during this period raised the illegal actions of the security forces, i.e. the use of force and detentions of journalists covering protests all over the county.

By the end of July the most negative developments have been suspended. However, the situation with freedom of expression remains menacing and ambiguous. The Belarusian authorities continue implementing the policy of the hard pursuit for freedom of expression, regardless of some concessions made vis-à-vis cases of great public outcry.

The main developments during this period are as follows:

- Hrodna journalist Pochobut found guilty of libeling the President;
- blogger Eugene Lipkovich faces criminal charges for “violation of the state symbols”;
- Ministry of Information withdrew closure lawsuits against the newspapers “Narodnaya Volya” and “Nasha Niva” and instituted administrative proceedings;
- use of force against journalists covering protest actions;
- closure of files against www.Charter97.org website editor Natalia Radzina;
- pardon of Atroshchankau, a journalist and press secretary of A. Sannikov;
- “BAJ” members D. Bondarenko and P. Sevyarynets continue to serve their sentences.

A trial against Hrodna journalist Andrei Pochobut accused of libeling and insulting the President (Articles 367, 368 of the Criminal Code) ended on 5 July. The prosecution considered critical materials published by the journalist in the pages of Polish “Gazeta Wyborcza”, on the website www.belaruspartisan.org and in his blog Pochobut.livejournal.com in 2010 – 2011 as libelous and defaming. Pochobut was detained in April 2011. Hearing of the Pochobut case was held behind the closed doors. On 5 July the Leninsky

Monitoring, issue No 2

district court of Hrodna found the journalist guilty of libeling the President and sentenced him to three years of imprisonment with suspension of punishment for 2 years. Charges of insulting the President have been dropped. The journalist was released from custody in the courtroom. Nevertheless, Andrey Pochobut remains under threat of a real prison term if the authorities consider he violated the Belarusian law.

In late June a criminal case was filed against a blogger Evgeny Lipkovich, he was charged under Article 370 of the Criminal Code (“violation of the state symbols”). The criminal proceedings were initiated for Photoshop illustrations posted in the Lipkovich’s blog lipkovich.livejournal.com. On 28 July his apartment was searched and his computer was seized. Lipkovich signed a confidentiality paper about the secrecy of investigation therefore further details of the case remained closed to the public.

On 12 and 13 July the Ministry of Information withdrew the closure suits against the newspapers “Narodnaya Volya” and “Nasha Niva” respectively. It came as a result of pressure on the Belarusian authorities by the Belarusian and international community and international organizations. Simultaneously with withdrawal of the closure suits the Ministry of Information initiated administrative proceedings against the newspapers. As a result, in late July both newspapers were fined with Br 14 million each (about Euro 2,000 at the National Bank exchange rate) for violation of Part 3 of Article 22.9 of the Administrative Code. This article of the Administrative Code establishes liability for a second warning issued to a media within a year by the Ministry of Information. It was the first time the Article was ever applied.

During the “silent” protest actions, which took place last summer, the pressure on the media and journalists has increased dramatically. Representatives of the law enforcement agencies prevented journalists from performing their duties. Journalists were detained and faced administrative charges. All in all, at least 95 journalists have been detained all over the country during the “silent” protest actions organized via social networks last summer. During arrests the authorities used force: sometimes journalists had been beaten up and their professional equipment had been damaged. 22 journalists faced administrative charges: most of them (13 persons) were sentenced to administrative arrest, while the rest had to pay fines. On 3 and 6 July the actions of the authorities were the harshest: 20 and 28 journalists have been detained respectively. The journalist community has used all means available to bring down the violence against the media representatives. As a result, the Prosecutor General of the Republic of Belarus recognized the violation of journalists' rights and called upon the police to comply with the laws “On the Media” and “On Internal Affairs Authority”. The wave of violence against journalists started fading away.

On 23 August criminal charges of “mass disorder” under Article 293 of the Criminal Code have been dropped with regard to the editor of www.charter97.org website Natalia Radzina. At that moment Radzina was in Lithuania, where she was later granted a political asylum. Ms. Radzina perceived skeptically the news about the closure of files and did not exclude the possibility of criminal charges under Article 342 to be initiated against her, as it was the case with other participants of the events of 19 December 2010 (Article 342 of the Criminal Code envisages liability for “Organization and preparation of activities that grossly violate public order or active participation in such activities”).

On 14 September 2011 the President signed a decree to pardon 11 political prisoners convicted in the aftermath of the events of 19 December 2010. Among them was Alexander Atroshchankau, a journalist and press secretary of a former Presidential candidate Alexander Sannikov. Other journalists and members of the NGO “Belarusian Association of Journalists”, convicted after the Presidential elections in 2010, continue serving their sentences, *inter alia* Dmitry Bondarenko in prison and Pavel Sevryarynets in a form of restraint. In August Dmitry Bondarenko underwent a major surgery on the spine, however soon

Monitoring, issue No 2

after that he was transferred back to prison. In mid-September it was reported that, regardless of the fact that Mr. Bondarenko was entitled to a mitigation of sentence in connection with having served one third of the term, regardless of the state of his health and numerous public petitions calling upon his release, his request for mitigation of the sentence has been declined.

Freedom of association

During the reporting period the major event in the field of freedom of association was the arrest and criminal charges brought against the Head of the Human Rights Centre “Viasna” Ales Bialiatsky. Human rights defenders perceived the persecution of “Viasna” members as an authorization of the attack on the third sector as a whole and human rights advocates in particular. Also a significant increase of the pressure on political parties, as compared with the previous reporting period, has been noted. The Belarusian Popular Front party was evicted from their premises in July and three of its members faced criminal charges. The Social Democratic Party “Hramada” and the Brest branch of the Fair World Left Party experience serious problems with registration: they cannot register due to inability to find a legal address. The authorities also continued creating obstacles for the activities of non-governmental organizations with arbitrary denials of registration.

The most significant events in the area of activities of NGOs were as follows:

- detention and criminal proceedings vs the Head of the Human Rights Centre “Viasna” Ales Bialiatsky;
- pressure on the human rights organization “Belarusian Helsinki Committee”;
- entry ban to Belarus on representatives of foreign human rights organizations;
- Ministry of Justice continued practicing arbitrary registration of NGOs;
- planned changes of the legislation on non-governmental organizations;
- negotiations on the revival of the Public Advisory Council of the Presidential Administration;
- pressure on political parties and criminal proceedings against members of the BPF;
- potential transformation of quango “Belaya Rus” into a political party.

On 4 July the Head of the Human Rights Centre “Viasna” Ales Bialiatsky was detained and offices of “Viasna” were searched. On 12 August Bialiatski was charged with tax evasion under paragraph 2 of Article 243 of the Criminal Code and put under arrest. These events gained significant international response and within the country were perceived as a straight forward intimidation of the civil society.

The reason behind the attack on “Viasna” is linked to its activities, namely the provision of pecuniary aid to the victims of political repression and their families. This was a unique function of “Viasna” within the human rights defenders’ community.

Grounds for arrest, i.e. the use of private bank accounts in the EU countries for the HR Centre’s needs, have been psychologically very disturbing for many NGOs, due to the fact that such practice has been widely spread among Belarusian NGOs.

The scandalous arrest of Bialiatsky has implications for domestic and foreign policy, with the latter being dominant as they influenced the relations between different political players, *inter alia*, inside Belarus. Those who called for tough position of the EU with regard to Lukashenka used the situation to discredit their opponents, namely, Lithuania. On the other hand, the Polish component of the scandal questioned the credibility of Poland as a leader in the development of a joint Euro-Atlantic position vis-à-vis Belarus.

Monitoring, issue No 2

Within a month the initial mild accusations of Lithuania of “betraying the allies” became the dominant attitude in the media and analysis with regard to Bialiatsky case.

Inside Belarus the reaction to the arrest of Bialiatsky was traditional and widespread. Concerns about Bialiatsky’s arrest have been voiced by almost all important social and political groups. Human rights organizations perceived the pressure on “Viasna” (apart from Bialiatsky’s bank accounts, Belarus received information about the accounts of other members of “Viasna”) as an authorization of the attack on the civil society as a whole. Civil society representatives believe this action was also meant to intimidate other NGOs. The reason behind such aggressive attack of the authorities on the human rights defenders is probably the authority of their opinions and views about the human rights situation in Belarus for European politicians, as well as the volumes of funds invested by the West into human rights protection at the moment and in the nearest future (mostly for implementation of *watchdog* projects and providing assistance to political prisoners, which is perceived by the authorities as funding of the opposition).

Simultaneously, another oldest human rights organization, the “Belarusian Helsinki Committee”, has been harassed by the authorities. On 3 August the Ministry of Justice has requested explanations from the “Belarusian Helsinki Committee” concerning its statements about the independence of the Bar, then the Ministry has publicly denied allegations of human rights defenders about stripping of a Bar license of a number of lawyers. On 28 July the Supreme Court dismissed the appeal of the “Belarusian Helsinki Committee” against the second warning (this year) issued to the organization by the Ministry of Justice.

The entry ban to Belarus for representatives of foreign human rights organizations has been extended to include the citizens of countries with a visa-free regime with Belarus. On 27 August a Russian human rights activist Yury Dzibladze, a member of the Board on Civil Society and Human Rights of the President of the Russian Federation, was denied entry to Belarus at the Belarusian-Lithuanian border as an “undesirable person”.

In July and August hearings of the appeal against a written warning about criminal liability for activities on behalf of the unregistered organization (Article 193-1 of the Criminal Code) issued to the Head of the Human Rights Centre “Viasna” Bialiatsky resumed. Due to the arrest of Bialiatsky he could not be present during the trial and the court refused to order his delivery to the courtroom.

The Ministry of Justice reports, since the beginning of 2011 55 non-profit organizations have been registered, namely 6 republican, 1 international and 48 local organizations. The Justice Ministry has also registered 11 new foundations (1 international, 1 national and 9 local), one trade union and one association.

During the reporting period 25 non-profit organizations have been registered: 24 local and one international (International public association “Union of Communists”), 16 of them active in the field of sports. Justice authorities also have registered two funds: Local Fund “Youth Health Center” and Local Fund “Gomel League of Sports Poker”.

However, the issue of arbitrary denials of registration to NGOs remains topical. On 23 August “Tell the Truth!” public association has been denied registration, in fact, it was their second attempt to register. On 8 August the Supreme Court upheld the registration denial to a Slonim-based NGO “Golden Lion” dealing with cultural and educational issues (also their second attempt to register).

The Belarusian legislation on NGOs is repressive by nature and during the reporting period has not undergone significant changes. However, on 1st September 2011 the Education Code of the Republic of

Monitoring, issue No 2

Belarus entered into force, which could seriously interfere with the activities of NGOs working in the sphere of training and education. The Code divides supplementary educational programmes for adults into training courses (lectures, seminars, workshops, trainings, officer training and other types of training courses), and courses improving capabilities and abilities, etc. Traditionally non-profit organizations (public associations, foundations, associations, other than educational institutions and agencies) have been actively involved in these activities. However the Education Code does not list NGOs among those eligible to implement such supplementary educational programmes.

Also there are reasons to believe that the legislation concerning non-governmental organizations might soon be amended. On 11 July Justice Minister Golovanov said, a concept of “socially significant public associations” needed to be introduced, as well as, criteria for obtaining of such status and mechanism of acquiring benefits by these associations needed to be elaborated.

A meeting of the initiative group of the Public Advisory Council under the auspices of the President of Belarus took place to discuss further prospects of the PAC and its reform. In particular, participants discussed the possibility of reform of the PAC and establishment of a human rights sub-committee within it with the participation of representatives of NGOs and public figures. It could be a coincidence however soon after the meeting the President announced a possibility of a public dialogue inside the country.

With regard to freedom of association the pressure on political parties continued. On 25 July, following seven months of litigations the Belarusian People’s Front party (BPF) has been evicted from its premises, which they had occupied since 1992 and moved to a less comfortable accommodation. In July the BPF has exhausted all legal remedies and the eviction decision was confirmed by the Supreme Economic Court. The Social Democratic Party “Hramada” faces serious challenges with the preservation of its status of a registered party. On 24 August the Ministry of Justice has recognized as non-legitimate the following Congress of the Social Democratic Party “Hramada”, thereby putting the party on the brink of existence. The Brest branch of the Fair World Left Party could not register due to the lack of legal address (the local executive and administrative authorities refused to approve the location of the party branch in a private house).

On 25 August criminal proceedings were initiated against three members of the BPF (Ales Kalita, Sergei Semeniuk, Max Hubarevich), they were accused of beating a security guard of the new Party office. This issue raises particular concern bearing in mind that a similar scheme of a provocation has been used in the case of the Young Front leader Dmitry Dashkevich. Leaders of the BPF believe this provocation intended to create grounds for eviction of the party from the new premises, in the beginning of September, the owner of the new office has already announced his intention to terminate the lease agreement. In the meanwhile, the registration of the amendments of the Charters of the BPF and the Social Democratic Party “Hramada” associated with the change of their legal addresses, has been suspended by the Ministry of Justice.

Simultaneously with the increased pressure on the political parties, a quango “Belaya Rus” announced that it requested to be transformed into a political party. During a meeting of the Mogilev Council of the Republican public organization “Belaya Rus” on 29 August, a request of the Shklov regional organization of “Belaya Rus” about transformation of this organization into a political Party of People’s Unity “Belaya Rus” has been upheld.

Freedom of assembly

Monitoring, issue No 2

The situation with the freedom of assembly in July – September 2011 was relatively “calm” with mass protests being put on “hold” due to season of holidays, vacations, etc. Nevertheless, the earlier trend has not been negated completely: there were a number of peaceful protests, causing a corresponding reaction from the authorities. During July arrests the authorities used brute physical force and unjustified violence against protesters and most of the detainees faced administrative charges.

The most significant events from July to September were as follows:

- continuation of the “Social networks revolution” campaign (on 3, 6, 13, 20 and 27 July 2011);
- submission of a Draft Law “Amendments to the Law “On Mass Events in Belarus”” to the House of Representatives;
- drivers protest against high fuel prices: “Stop petrol” campaign (on 21 July and 22 August 2011);
- information campaigns and pickets in support of Ales Bialiatski (as of 4 August 2011);
- attempts to stage pickets in support of Nikita Likhovid and Dmitry Dashkevich (on 1 and 2 August 2011).

“Silent” protest actions, gathering its participants in the most crowded places of the Belarusian cities, have continued every Wednesday in July, as well as on Sunday, 3 July, the official Independence Day, the day of a traditional military parade and a number of festivals organized by the authorities for the population. On 3 July, protests took place in Minsk and all oblast centers of Belarus, as well as in regional centers: Bobruisk, Vileyka, Salihorsk Slutsk Zhlobin, Baranovichi, Smolevichi. The protest actions have been dispersed by the police and plainclothes men, all in all, over 310 people have been detained all over the country, of which 160 in the city of Minsk. While detaining the protesters the police used brute physical force and unjustified violence, and during the detention at the Railway Square in Minsk tear gas has been used against the protesters. Detentions were followed by administrative charges and trials with majority of sentences envisaging 5 to 15 days of administrative arrest.

The “silent” protest action that took place on 6 July was not on essence different from the 3 July protest: there were about the same number of participants and detainees. About 190 people were detained in Minsk and 220 in the regions. Moreover, as counter-measures to the following challenge of the “Social networks revolution” the authorities tried to prevent people’s gathering in the main squares by blocking sites of actions as soon as they were announced via the Internet. The organizers of the “Social networks revolution” reacted immediately and decided to alter the format of the actions: participants were requested to gather in any crowded place in a city rather than in the main squares, for instance, in the markets on 27 July. The protest action of 27 July was the last one of the kind and gathered the least number of participants: the organizers decided to put the “Social networks revolution” on hold for a while.

As a consequence of the “silent” protest actions taking place all over the country, on 20 July the Council of Ministers submitted a Draft Law “On amendments to the Law of the Republic of Belarus “On Mass Events”” to the House of Representatives. Therefore the existing Law “On Mass Events in the Republic of Belarus” might be amended with additional clause envisaging liability for the unauthorized “inaction” in a public place. In particular, the developers proposed to amend the term “picketing” so that its organization required the approval of the municipal authorities¹. Amendments to the Law “On Mass

¹ “Picketing is a joint mass presence of people in an appointed public place, including an open-air place, at an appointed time for doing a certain action or inaction, which is organized, among other methods, through the World Wide Web and other information networks for a public expression of political and public sentiments or protest.”

Monitoring, issue No 2

Events” provoked a lot of criticism domestically, as well as by the international organizations. In particular, the OSCE/ODIHR and a human right organization “Amnesty International” have expressed their concern and urged the Belarusian parliamentarians not to approve the amendments. The Draft Law is likely to be considered during the autumn session of the House of Representatives.

Another protest action within the “Stop petrol” campaign took place on 21 July. Its organizers, drivers, planned to protest on the main avenue of Minsk against the following rise of the fuel prices. However, the traffic police had closed the main avenue for traffic, therefore the action spread out to adjacent streets. As a result, at least 4 were detained and taken to the Central police station, where they were fined for improper parking and released. One more protest action within the “Stop petrol” campaign was held in Minsk on 22 August. Drivers stopped with warning alarm on in the intersection of the Independence Avenue and the Masherov Avenue and simulated a car breakdown. Only one participant of the protest action was detained and fined for “petty hooliganism” under Article 17.1 of the Administrative Code. It proved to be the son of a prominent human rights activist Ales Bialiatski, Adam-Dominique. The following “Stop petrol” action had been scheduled for 14 September however it did not take place. The organizers said, mainly due to fatigue and apathy of its potential participants.

The arrest of the Head of the Human Rights Centre “Viasna” Ales Bialiatski on 4 August provoked a wave of protests. Applications requesting to hold pickets in support of the prominent human rights defender have been submitted to local authorities of at least 17 Belarusian cities. Organizers planned to hold the majority of the pickets on 22 August however the local authorities denied the permission to all of them. The authorities quoted various reasons for denial, *inter alia*, the usual ones, i.e. unavailability of the requested sites for staging pickets due to formal sports or other events scheduled to be held there. For instance, Baranovichi City Council has not granted a single permission to stage a picket in support of Bialiatski at a site, which had been particularly defined for these purposes by the decision of the Executive Committee of 16 June 2009 No 1497. Moreover, the local authorities explained, that “a picket in support of Ales Bialiatski could be regarded as propaganda of activities of an unregistered public organization, which contravened the Law of the Republic of Belarus”. Vitebsk authorities also have negatively responded to the request of human rights defenders to stage a picket in support of A. Bialiatski in a place officially designated for public events, i.e. in the Park of Culture and Recreation of a Railwayman. The formal reason for the refusal was the failure of picket organizers to comply with provisions of the Vitebsk City Executive Committee decision No 881 of 10 July 2009, which stipulated, that prior to applying for holding a mass event, the organizers needed to sign contracts with the police, medical service, municipal services and make advance payments for their services linked to the event. Identical grounds have been used by the Gomel executive authorities vis-à-vis the request of the local human rights activists, to prohibit organization of a picket in support of A. Bialiatski in one of the most crowded places of the city. Gomel human rights defenders plan to appeal this decision to the Gomel Regional Court. Activists from Svisloch (Hrodna region) and Berioza (Brest region) also failed to receive permissions to stage pickets in support of A. Bialiaty.

Quoting similar reasons, the local authorities of a number of Belarusian towns have rejected appeals of human rights activists to stage pickets in support of other political prisoners, in particular, Nikita Likhovid. For instance, on 1 August such rejection was received from the Mozyr authorities (Mogilev region), on 2 August from the Novopolotsk authorities (Vitebsk region). Moreover, the Novopolotsk authorities had to justify their rejection and issued a resolution No 689 of 22 July 2011 that excluded the area near the city Palace of Culture from the list of places designated for holding of public events. Realizing that it would be impossible to obtain the official permission to stage a picket, representatives of

Monitoring, issue No 2

NGOs and human rights defenders staged a picket in support of Dmitry Dashkevich on 2 August near the building of the prison in Gorki, where Dashkevich served his sentence. The picket was dispersed, 14 participants were detained and sentenced to administrative arrests.

Facing such bans and prosecution by the authorities, human rights activists held a number of unauthorized information campaigns envisaging to draw public attention to the fate of the Head of “Viasna” and other political prisoners. All of the above proves that during the reporting period the right of citizens for freedom of assembly has been completely ignored by the authorities, which is, unfortunately, not a new trend at all.

Administration of justice

Trials against the participants of the “silent” protest actions in July 2011, according to human rights defenders, were pre-conceived and explicitly accusatory by nature. Administrative judges were handing down sentences for actions the defendants have not committed. In September the accused of committing a terrorist attack in the Minsk metro on 11 April 2011 and a number of explosions in Vitebsk and Minsk in 2000-2008 went on trial. One of the defendants faces the death penalty.

The following violations of the area of administration of justice have been observed:

- accusatory nature of the administrative procedure;
- violation of the principle of the independence of the judiciary;
- violation of the principle of universal, comprehensive and objective examination of the merits of a case;
- violation of the territorial jurisdiction principle;
- violation of the principle of adversarial nature of proceedings and equality of arms;
- violation of defense lawyers’ rights.

As a rule, judges did not take into account the evidence provided by witnesses or the arguments of the defense while rendering decisions in cases of participants of “silent” protest actions. Decisions were based on the police reports, which constituted a flagrant violation of the principle of equality of arms in the administrative proceedings. All participants of “silent” protests have been charged with and sentenced to administrative arrests and fines for “petty hooliganism”, Article 17.1 of the Administrative Code, for “violation of the order of organization or holding of mass events or picketing”, Article 23.4 of the Administrative Code, for “disobedience to lawful orders of a police officer on duty”, Article 23.4 of the Administrative Code. For instance, an activist detained in Smolevichi on July 3 in the city center, was sentenced to a fine of 20 basic values (over USD 100 at the NBB exchange rate) for violation of Article 17.1 of the Administrative Code, “petty hooliganism”, for allegedly drinking alcohol in a public place. However the examination he had been forced to go through found no trace of alcohol in his blood. Therefore the judiciary in Belarus *de facto* continues performing a repressive function, rendering obviously unjust and politically motivated decisions against social activists. A sentence to a human rights activist Anatoly Poplavnoy, who had been sentenced to 15 days of administrative arrest for allegedly “using the obscene language” by a court of the Central District of Gomel, had been repealed by the Gomel District court on 10 August. It was a rare exception that proved the general rule.

Administrative trials against participants of pickets in support of Dmitry Dashkevich held on 2 August in Gorki require particular attention. These trials were virtually closed to the public due to the fact that

Monitoring, issue No 2

information about the place of trials of 10 out of 14 detainees had not been disclosed and trials took place in the nearby district center Dribin, not in Gorki where everyone had been expecting. Therefore the citizens' right to receive accurate and timely information, as well as the right to observe open trials has been violated. Both rights are guaranteed by articles 34 and 114 of the Constitution of the Republic of Belarus respectively.

On 9 August the case of the last of the accused of participation in "mass disorder" on 19 December 2010 was filed to the court. Svyatoslav Baranovich as of 15 June was held in custody in a detention centre No 1 on Volodarsky street in Minsk. The trial started on 29 August in the Moskovsky district court of Minsk. A break in the hearings has been announced almost immediately until 28 September and the defendant has been released on his own recognizance.

On 15 September a trial against Dmitry Konovalov and Vladislav Kovalev accused of committing of a terrorist act in the Minsk metro on 11 April 2011 and several other bombings at different times started in Minsk. During the hearings the defendant Konovalov pleaded partially guilty, and the defendant Kovalev said that the prejudicial evidence had been acquired under psychological pressure by the investigation. Moreover, during the trial Kovalev said that he had doubts the blast had been carried out by Konovalov. In the meanwhile, the mother of Vladislav Kovalev appealed to the population of Belarus via Internet with a request on behalf of several victims of the attack and on her own behalf to create initiative groups to collect signatures for a referendum to abolish the death penalty in Belarus. Also, on the day the hearing started one of the victims present in the courtroom addressed the court with a request to adjourn the hearing until the abolition of the death penalty.

During the reporting period defense lawyers continued experiencing serious pressure from the Ministry of Justice. The latter decided to launch an extraordinary re-certification of all lawyers of the Bar. Re-certification, launched in July resulted *inter alia* in the decision of the Qualification Commission for The Lawyers of the Bar of the Ministry of Justice of 16 August 2011 to strip a lawyer Tamara Sidorenko of the Bar license. Mrs. Sidorenko was a defense lawyer of Uladzimir Nyaklyaeu, a former presidential candidate who faced criminal charges following the 19 December events. She became the seventh lawyer, who was stripped of the license of the Bar in 2011. Therefore experts who believed the real purpose of the re-qualification had been to eliminate the most active and independent lawyers from the Bar, were proved right. Human rights activists believe the lawyers' rights have been significantly violated and they have been made *de facto* completely dependent on the executive.