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Belarus' Civic Sector

1. Civic sector evolution

A good start. Belarus' community of non-governmental organizations went through several stages of development. The NGO community was vigorously growing in the early and mid 1990s with registered NGOs increasing in number from 24 in 1990 to nearly 1,000 by the end of 1995¹. Civic society thrived both in terms of organization numbers and their diversity. For instance, in 1993 a city could have just one or two independent civic organizations (mostly chapters of the Belarusian Popular Front (BPF) and the Francišak Skaryna Belarusian Language Society), whereas two or three years later there were about a dozen local NGOs, chapters of national civic organizations and local environmental, youth, history and social groups operating in the same area. At the beginning of that period NGOs were largely integrated into a broader national movement for democracy and independence of Belarus, while later the sector became more depoliticized and more similar to

the standard civic sector characteristic of a classic pluralistic society. A relatively free atmosphere in society was essential for the sector's growth. Even organizations established during the Soviet era were functioning independently of the government at the time.

Politicization and the beginning of confrontation. As the country was sliding toward authoritarianism, NGOs found it more and more difficult to perform their classic functions. The concentration of power in the executive and the president's effort to build an authoritarian system triggered the politicization of the civic sector and prompted many NGOs to side with the political opposition. This new period in civic society evolution began after constitutional referenda held in 1995 and 1996. NGOs could no longer stay out of politics. Many pro-democracy civic organizations cropped up at the start of that period. NGOs started to cooperate more closely with foreign donors and democracy promotion resource cen-

tres significantly increased their influence. Organizations expanded their networks, changed specialization and grew in number. The country had as many as 2,191 NGOs (1,061 national and international groups and 1,130 local NGOs) on 1 April 1998². The number does not include trade unions and political parties. Apart from the registered NGOs, there were many advocacy groups not registered with the authorities. Two major umbrella organizations — the Assembly of Pro-Democracy NGOs of Belarus and the Belarusian Association of Resource Centres — emerged at the time.

NGO politicization irked the authorities and they took various efforts to weaken the civic sector. In 1999, the government required all NGOs to re-register in a bid to purge the sector of the most influential pro-democracy groups. This second re-registration campaign dealt the sector a more severe blow than the first re-registration drive conducted in 1994 and 1995. A total of 1,537 NGOs, 63.2 percent of the total number,

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¹ В. Чернов. Третий сектор в Беларуси: проблемы становления и развития. — Минск–Гомель, 2004. С. 3.

² Т. Кузьменкова. Третий сектор Беларуси: проблемы становления и развития. — Минск, 2004. С. 10.

applied for re-registration. Only 1,326 NGOs were re-registered in 1999, while some big and influential organizations lost their “legal entity” status³.

The government moved to limit the flow of foreign financial assistance to NGOs — in 2001 the president by his Decree N8 required NGOs to obtain permission from the authorities for every single foreign grant.

At that time, the regulatory authority did not exercise tight control over the sector and government agencies in general respected the law when dealing with NGOs.

Unregistered groups did not have big problems with the authorities, although the government had passed legislation stipulating punishment for involvement in unregistered organizations. Relations between the government and NGOs were tense before 2003, but it was not yet a state of war — some joint projects, co-operation and communication between the two sides were still possible, while some NGOs had close ties with government agencies. The “cold peace” and the limited persecution made it possible for NGOs to play a key role during the 2001 presidential election.

NGOs were actively involved in the 2001 presidential election. Some NGOs functioned as part of the political opposition system and were an equal partner to political parties. Membership of the Assembly of Pro-Democracy NGOs in the Coordinating Rada (Council) of Pro-Democracy Forces, involvement of NGOs affiliated with the Belarusian Association of Resource Centres in politics, the increasing influence of the Khartyya-97 human rights group, and an agreement outlining mutual commitments of a common opposition presidential candidate and a broad-based civic coalition — all these facts testified to the lack of a fundamental difference in functions of pro-democracy NGOs and political parties.

Most of the emerging pro-democracy NGOs and the Coordinating Rada “Regional Belarus” backed Siamion Domaś’s presidential bid.

In the run-up to the 2001 presidential election pro-democracy NGOs focused on the following objectives:

- establishing an independent election observation network;
- encouraging voters, especially youths, to vote on the main polling day by conducting a mobilization campaign called “Vybiraj!” [Choose];
- conducting a negative campaign against Alaksandr Łukašenka
- involving the use of various satirical means.

Fundamental policy changes. The opposition heavily relied on the civic sector during its 2001 presidential campaign, while on the other hand that campaign gave an impetus to the development of civic society. Despite an all-out effort to mobilize civic society, the pro-democracy NGOs and opposition groups failed to achieve the goal of bringing about democratic changes. The government mechanically continued to maintain relations with NGOs from late 2001 to early 2003, but it was clear that the authoritarian dictatorship established in Belarus by the time was determined to stifle the pro-democracy NGO community. In 2003 through 2005 the government conducted a large-scale campaign to close down pro-democracy NGOs. In 2005 it rushed new laws governing NGOs and charities though the National Assembly, ordered the re-registration of charities, required NGOs to alter their charters and register the new versions with the Ministry of Justice. The Belarusian leader issued new acts limiting opportunities for raising funds in the country and purposes on which funds could be spent. The government also imposed restrictions on technical assistance from the United Nations Organization and the European Union, foreign-funded seminars, projects and foreign humanitarian aid, and introduced a harsher punishment for failure to comply with the new rules. It established a legal framework for so-called “state civic organizations” and launched a campaign to “nationalize” civic socie-

ty. The few remaining human rights organizations were stripped of the right to represent interests of non-members in court. The authorities stepped up intimidation of unregistered groups by imposing fines and jail sentences of up to 15 days on those suspected of involvement. At the end of 2005, in the lead-up to the March 2006 presidential election, the government introduced a new law criminalizing membership of unregistered organizations.

Third generation: underground activists. After the crackdown on civic society in 2003 through 2005, it was clear that the third sector would never be able to function as freely as during the 2001 presidential election. Then, Belarus’ civic society was a well-structured network involving dozens of legal organizations capable of conducting nationwide campaigns. In the run-up to the 2006 presidential election, civic society represented a weak network of organizations and initiatives divided by political interests, partly depoliticized under threat of persecution or subordinate to other political forces. Since many civic campaigns had to be conducted underground, activists risked arrest, jailing and harassment.

Thus, in the period from 2003 to 2005 Belarus saw the formation of a new model of civic society characterized by a shift from legal activities to the underground operation of NGOs under the authoritarian regime. The next chapter describes how this model functions.

2. Government’s effort to discourage NGOs from involvement in politics

The ruling regime seeks to control civil society and neutralize potentially dangerous sources of dissent. The Łukašenka government has always raised the level of intimidation ahead of big political campaigns. Naturally, persecution and closures of NGOs were often aimed at achieving short-term objectives such as to outlaw groups that could potentially

³ Ibid, P. 11.

influence the political process. In general, all these efforts had one main goal — to eradicate dissent that may spread throughout society like a virus. When fighting NGOs the government combats dissent that spreads through these organizations.

Persecution intensity. The level of persecution changed during various periods — it was usually higher before big political campaigns such as elections and referenda. Authorities used lawsuits and various legal pretexts to close down NGOs, and passed new discriminatory laws. Belarus has more restrictive laws governing NGOs than other former Soviet republics, including the Central Asian nations. In that period, the authorities resorted to various tools to split political parties and movements, complicate their work and prevent them from forming coalitions with NGOs.

During the second phase, which included the political campaign, the authorities resorted to methods that were not based on legal decisions. They intimidated NGOs by searching their offices, seizing computers, equipment, leaflets

and newspapers, and arresting and jailing civic activists. The authorities had no time for passing legal acts to justify their methods. They acted swiftly without any regard for the law.

When a political campaign was over, the authorities took revenge on the most active opposition players by victimizing opposition activists and closing organizations that functioned as opposition centres. Step by step authorities adopted restrictive laws to establish the legal framework to justify persecution.

The authorities repeated the same cycle during every political campaign.

A war against civic society. After the 2001 presidential election the authorities shut down the Association of Belarusian Students, the Youth Information Centre and the Brest-based Vieža centre for support of local initiatives. The government also purged the Federation of Trade Unions of Belarus of critical leaders and installed a new, loyal leadership.

It enacted a new religion law designed to eliminate dissent and prevent the opposition from winning over reli-

gious communities. The law enabled the government to sign a cooperation accord with the Belarusian Exarchate of the Russian Orthodox Church in 2003⁴.

A new phase in the persecution of NGOs began after a seminar on the government's ideology held at the Presidential Administration in April 2003. During that seminar, the president ordered measures that later helped him extend his rule through the 2004 referendum and 2006 presidential election⁵.

Less than a month after the seminar, in April 2003, the Ministry of Justice brought closure suits against the Hrodna-based association Ratusha, the Varuta regional development agency, the Homiel-based organization Civic Initiatives, and the Youth Christian Social Union. The lawsuits marked the beginning of a large-scale campaign that resulted in

⁴ Read more on sociopolitical circumstances surrounding the adoption of the new religion law in the following publication: «Белая книга. Материалы по проекту закона «О свободе совести и религиозных организациях»/ Сост. и ред. Я. Басин. — Мн.: Гражданская инициатива «За свободное вероисповедание», 2002. — 244 с. The new religion law significantly worsened the legal position of religious organizations, as indicated in the work entitled «Белая книга. Материалы мониторинга религиозной ситуации в Беларуси (август 2002 — декабрь 2003 гг.)»/ Сост. и ред. Я. Басин. — Мн.: Гражданская инициатива «За свободное вероисповедание», 2004. — 370 с.

⁵ Some of the specific orders that Lukashenka gave at that seminar can be found in the booklet entitled «О состоянии идеологической работы и мерах по её совершенствованию. Материалы постоянно действующего семинара руководящих работников республиканских и местных государственных органов» (под ред. Пролесковский О.В., Корендо И.А., Петкевич Н.В., Скобелев Э.М., и др., Мн.: Администрация Президента, Академия управления при Президенте, 2003, — 192 с.). The booklet contains so-called Protocol No 15 of Directives of the President of the Republic of Belarus dated 14 April 2003 outlining measures to be taken to carry out decisions made at the seminar, which was held on March 27 and 28, 2003. The authorities took more drastic measures against NGOs than those included in the protocol. Many of Lukashenka's directives were not made public, and some were edited for the booklet to avoid a controversy. The president often issued verbal orders that were carried out with the same diligence as written ones.



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KGB officers are searching the office of the ISEPS polling institute which was closed down by the authorities.

the closure of several dozen pro-democracy NGOs⁶.

The government outlawed 51 NGOs from April 2003 to the end of that year. Seventy-eight NGOs were forced to close down "on recommendation of justice departments". In 2003 authorities inspected several hundred NGOs and issued 810 warnings that could lead to the closure of NGOs in question. The number of warnings had risen from 121 in 2002. In 2004, the authorities had courts outlaw 38 NGOs and 68 were forced to shut down themselves. 2005 saw 68 NGOs outlawed and 43 closed down "on recommendation of justice departments". The authorities often failed to follow correct legal procedures, closing down organizations for one minor irregularity without official warnings required by the law. Not a single closed NGO won an appeal.

In all, the government shut down 157 NGOs from 2003 to 2005 and 190 others closed "on recommendations of justice departments". As many as 347 NGOs, including active and prominent youth, human rights, social and cultural organizations, were struck off the government's register in these three years. A huge segment of civic society had to go underground.

The authorities targeted groups that had been involved in election campaigns, election observation, those linked to political parties, groups that played a key role in building local civic communities and human rights organizations. In short, they targeted NGOs that could play active roles in the next election. In 2004, the authorities closed down think tanks that offered Belarusians alternative views on the country's development. The major NGOs outlawed at that peri-

od included the Association for Legal Assistance to the Population, the Viasna human rights centre, Women's Response and the Łuckievič Foundation in 2003; the Belarusian Association of Young Politicians, the New Group youth association, the Centre of Constitutionalism and Comparative Legal Studies, the Independent Society of Legal Studies and the International Institute of Political Studies in 2004; the Belarusian Union of Youth and Children's Organizations "Rada", the Social Technologies think tank, the Rebirth of the Fatherland women's movement, the Independent Institute of Social, Economic and Political Studies, the Union of Belarusian Scouts, Usiasław Čaradziej, and the Higher Belarusian School Society in 2005. The authorities also closed dummy organizations like, for instance the Association of Young Entrepreneurs, that the opposition could use in contingencies. Clearly, legal grounds for closure did not matter as both the Ministry of Justice, which brought those cases, and judges who ruled against NGOs were under orders from the Presidential Administration. Orchestrated by the Presidential Administration and its "ideology vertical", the campaign would not be possible without silent approval of the Prosecutor General's Office.

It was accompanied by other efforts to exert pressure on and intimidate civic society. In 2003, the Ministry of Justice directed the NGOs to submit annual reports on activities and membership. In 2005, the requirement was included in a new version of the law governing NGOs along with the new punishment — suspension for the period of up to six months.

Impossible to register a new NGO.

The authorities registered 310 NGOs in the same period — 94 in 2003, 155 in 2004 and 61 in 2005. An overwhelming majority of the newly registered organizations either engaged in sports or were established on the government's initiative. Justice departments routinely rejected applications from independent NGOs. In 2005, for instance, only a

handful of 1,284 applicants were granted official registration.

Registration procedures are very complicated and make it difficult for new NGOs to register in place of the closed ones. In addition to the tight paperwork requirements on the part of registering authorities — the Ministry of Justice and the regional justice departments — applications are rejected on political grounds. Political selection is performed by the Commission on Registration (Re-registration) of Associations led by Aleh Pralaskouski, chief ideology officer of the Łukašenka regime. The commission identifies organizations that may engage in politics in the future and pose a threat to the regime.

Why does the dictatorship not like NGOs? It is necessary to find out how the authorities assess the danger allegedly posed by Belarus' civic society. The authorities seek to root out endogenous dissent. Manifestations of dissent in the form of pro-democracy NGOs are not very dangerous as it is easier for the government to control and restrain dissidents acting in the framework of registered organizations. This is why the authorities still tolerate civic society organizations as long as they do not have a significant impact on public sentiments. The existence of a limited number of legal NGOs opposed to the political regime creates the illusion of a pluralistic society. However the authorities closely monitor the situation to make sure that the influence of NGOs and political parties does not increase and break out of the public discontent concealment and institutionalization limits. This is why time and again the authorities make an effort to limit the interaction of NGOs with the general public, persistently restrict the pro-democracy ghetto and outlaw some of its segments.

The authorities see a great danger in organizations capable of organizing election observation. This is the main reason for the ongoing crackdown on youth and human rights groups, regional resource centres and organizations that played active roles during elections.

⁶ Details and legal assessments of that campaign can be found in the following reports: «Агляд-хроніка парушэнняў правоў чалавека ў Беларусі. 2003 год». — Мн.: Праваабарончы цэнтр «Вясна», 2004, — 264 с.; «Сьведчанні перасьледу беларускіх няўрадавых арганізацый» — Мн.: Калектыўная абарона няўрадавых арганізацый Беларусі, 2004, — 92 с.; «Агляд-хроніка парушэнняў правоў чалавека ў Беларусі. 2004 год». — Мн.: Праваабарончы цэнтр «Вясна», 2005, — 376 с.

Lawsuits against NGOs were accompanied by attempts to stop the flow of money that fuelled what government officials described as the opposition's "information war" against the authorities.

Cutting off NGO funding. The NGOs have limited opportunities for attracting funds from Belarusian non-state sources because of the government's hostile attitude to the non-state sector, while meaningful or legal financial assistance from Belarusian businesses has been out of the question since 1999. The government's first step to prevent money flows to NGOs was the adoption of Presidential Decree N8 in March 2001 outlining the procedure of receiving and using gratuitous foreign aid⁷. The act made it much more difficult for NGOs to obtain foreign grants.

Most pro-democracy organizations refused to comply with the new rules. Many NGOs had their property and equipment seized and some activists were charged with minor "administrative" offences for violating the decree between 2001 and 2005.

The president repeatedly criticized the opposition for reliance on foreign funding, urging the Committee for State Security (KGB) to do more to stop the inflow of foreign cash, including from Russia. Government-controlled media highlighted alleged financial scandals involving the opposition in 2001 and 2002. Later, state TV stations attacked the opposition for using foreign cash for financing election campaigns. Accusations of foreign funding became part of virtually all television shows designed to smear the opposition leadership.

Despite this, opposition and non-governmental organizations continued to receive grants illegally. That prompted the Belarusian leader to issue another decree in late 2003 establishing a mechanism to enforce Decree N8 and introducing a more severe punishment for failure to comply⁸. The new decree

provides for the unconditional closure of NGOs and political parties and the deportation of foreigners involved in illegal financing of opposition and non-governmental organizations.

The latter measure has been widely used. The authorities expanded the blacklist of foreigners unwelcome in Belarus and the number of deportations rose dramatically in 2003 compared to the previous year. The authorities also closed down offices of some foreign and international organizations. After a smear campaign in state-controlled media, in 2003 the authorities closed the local offices of US organizations IREX/Promedia and Internews Network that promoted media development. In 2004, the government shut down the local office of Counterpart, a US organization that assisted the development of local civic communities.

At the beginning of 2004, the authorities brought tax evasion charges against organizations that received grants under the European Union's TACIS program approved by the Belarusian government. The Belarusian Helsinki Committee (BHC), the Belarusian Union of Youth and Children's Associations "Rada" and Slonim-based Will to Development were charged with failure to pay taxes on grants provided for projects that were exempted from all taxes under an international agreement signed by the Belarusian government. Although judges dismissed the charges, some observers noted that the authorities backed down only after the European Commission threatened to suspend a EUR 16-million border infrastructure development program and other projects involving Belarusian government agencies. Later, the authorities took the case to the Supreme Economic Court, which upheld the tax evasion charges against the BHC. The accusations against the Belarusian Union of Youth and Children's Associations "Rada" were dropped only after the closure of the organization.

Government-controlled quasi-civic society. The effort to suppress independent and pro-opposition NGOs was accompanied by the establishment of

phony NGOs controlled by the government. The process includes opening the so-called "state civic organizations" designed to rally Belarusians for attaining government-set objectives⁹. To replace the acting and closed NGOs the government set up their pseudo-non-governmental copies. In 2002 and 2003, in an effort to prevent unrest involving small business owners, the authorities orchestrated the establishment of associations of market vendors controlled by executive authorities. Later, the authorities founded a pro-presidential Union of Writers to confront an independent Union of Writers critical of the government. The authorities also nationalized some associations. The process began with the election of Alaksandr Łukašenka as president of the National Olympic Committee. Government officials were appointed to the top positions in sports associations and federations that had previously been independent. The government established control over the Federation of Trade Unions of Belarus and intervened to install an authorities-friendly leader to the Union of Poles of Belarus in 2005.

Apart from these organizations, the government supported and funded some associations left after the collapse of the Soviet Union, including the Belarusian National Youth Union resurrected in 2002 as an ideological and functional successor to the Leninist Young Communist League, a Soviet-era youth organization also known as Komsomol. These organizations function as government agencies in the non-governmental sector. Students and employees are often forced to join. Shortly before the 2004 elections and referendum, the authorities united pseudo-non-governmental organizations under the umbrella of the government-sponsored National Council of the Leaders of Political Parties and Civic Organizations. Similar umbrella organizations were formed in the re-

⁷ Советская Белоруссия, 15 March 2001, № 72-73.

⁸ Дэкрэт прэзідэнта №24 ад 28 лістапада 2003 года «Аб атрыманні і выкарыстанні замежнай бязвыплатнай дапамогі»/ "Советская Белоруссия", 2 декабря 2003 года, № 225.

⁹ Указ прэзідэнта ад 30 чэрвеня 2003 г. №335 «Аб рэспубліканскіх дзяржаўна-грамадзкіх аб'яднаннях» Національний реєстр правових актів Республіки Беларусь, 2003 г., № 86, 1/4820. The edict acknowledged the existence of "state civic organizations."

gions. The authorities established an umbrella youth association representing organizations like the Belarusian National Youth Union (BRSM). The government-sponsored umbrella organizations attract grass-root civic initiatives, for instance emerging local history and backpacking groups that would have been natural partners to the pro-democracy NGOs, are more likely to function under the umbrella of the BRSM. Pro-government organizations conducted a large-scale campaign called "For Belarus!" from 2004 to 2006 in support of Belarusian leader Alaksandr Łukašenka. The campaign was similar to civic mobilization campaigns characteristic of "colour revolutions." The Central Election Commission said the campaign "For Belarus!" was aimed to stir up political activity and generate interest in the election campaign, which was underway in the country¹⁰.

Before the 2006 presidential election, pro-government organizations took pop musicians on a six-week tour of Belarus in the framework of the "For Belarus!" campaign. Eight concerts were played in regional centres and Minsk, and more dates were arranged in district centres. During the politically-charged gigs, pop stars urged fans "to make the right choice" and vote "for Belarus". Some performers called on the audience to support Lukashenka.

During his 2001 reelection campaign, Łukašenka used the slogan "For Strong and Prosperous Belarus!" The slogan "For Belarus!" was adopted before the 2004 referendum that removed a two-term limit on the presidents.

In addition to various means of intimidation creatively and widely used by the Łukašenka regime and the propaganda of a government ideology, the authorities attempted to arrange civic activity according to their plan in order to keep popular discontent in check. In spite of harassment and intimidation, independent civic organizations proved dangerous during protests held in downtown Minsk in March 2006 against Łukašenka's reelection for a third presidential term.

¹⁰ <http://elections.belapan.com/president2006/bel/article.php?show=1558&rubrica=76>

Obviously, the authorities would like to create a controllable civic society, as Aleh Pralaskouski, ideology chief in the Łukašenka government, admitted in his statement on the formation of a corporate state in Belarus¹¹. The Belarusian president expressed the idea in his address to the National Assembly¹². He talked about civic society issues for about 30 minutes.

It is not yet clear what tactics the authorities will employ to achieve their goal. Łukašenka said that a pro-presidential movement or a pro-presidential party should not be formed by the authorities but emerge from grassroots. Naturally, various groups within the Łukašenka government would like to take the initiative — officials would like to build themselves an organization as powerful and influential as the BRSM led by Michail Arda or the FTUB led by Leanid Kozik. As time went by, pro-organizations would play a greater political role. For instance, the Honar association of veterans of the interior ministry's elite units deployed more than a hundred well-equipped plainclothes fighters to the square during opposition protests held on March 19 and 20, 2006. The regime can use loyal associations for its ends, including to fight the opposition (the notorious Col. Dźmitry Pauličenka, commander of an elite police unit, is deputy chairman of Honar). Other associations may come in handy in suppressing dissent.

Łukašenka's recent statements shed some light on a strategy that the regime may employ to respond to what it perceives as a threat. The regime does not consider political parties, traditional NGOs or new civic groups a big threat unless these forces rally round one strategy or one action plan.

Have the authorities succeeded in their large-scale effort to intimidate civic activists? Have they secured a victory over civic society? The authorities have enjoyed a limited success so

¹¹ He made the statement during the Tough Talk show broadcast by Belarusian Television on March 30, 2006.

¹² <http://president.gov.by/press29486.html>

far. Outlawed NGOs continue to operate underground. Some NGOs continue to function legally. The regime leader seems to be making the same mistake as all other dictators — he does not fight the phenomenon but fights its manifestations, he does not fight the sources of dissent but manifestations of dissent. Dictatorship always deals with consequences, not causes, thus accelerating its own fall.

3. Criminal prosecution is a threat to NGOs

Realizing that formal closures do not stop NGOs from engaging in social and political activity, the authorities reflected on tougher action against civic society.

President Łukašenka issued Decree N2 on 26 January 1999 to ban non-registered civic and religious groups¹³. Belarus was the first former Soviet republic to impose the ban; Turkmenistan and other Central Asian countries followed suit. Involvement in unregistered groups was declared an offence punishable by a short jail sentence or a fine under the Administrative Offences Code. The decree targeted opposition groups and was used mainly during elections. It saw a limited use in 2001 against opposition campaigners from the youth organizations Malady Front and Zubr. The decree was not employed in 2002 because of the lack of serious political developments. It was resurrected in 2003. More than 20 activists of Zubr, Malady Front, Charter-97 and the Five Plus opposition coalition were punished under the decree in the run-up to the 2004 parliamentary election and referendum. But the measure proved ineffective and insufficient because civic activists were ready to risk spending 15 days in jail for

¹³ Дэкрэт прэзідэнта ад 26 студзеня 1999 года №2 «Аб некаторых мерах па ўпарадкаванні дзейнасці палітычных партыяў, прафесійных саюзаў і іншых грамадзкіх аб'яднанняў»/Собрание декретов, указов Президента и постановлений Правительства Республики Беларусь, 1999 г., № 4, с. 74.

their cause. The authorities began thinking of tougher measures.

Sucharenka-proposed changes to the Criminal Code. In November 2005, President Łukašenka submitted to parliament landmark changes to the Criminal Code that criminalized some manifestations of civic and political activity. The House of Representatives of the Belarusian National Assembly gave its preliminary approval to the bill on November 25 and passed it on December 2. The amendments to the Criminal Code and the Criminal Procedure Code introduced a harsher punishment for “actions against human and public security”. The bill marked by Łukašenka as “urgent” drew severe criticism from the Belarusian public and the international community. Even some members of the pro-Łukašenka House of Representatives expressed concern about the proposed tough measures, but the Presidential Administration and the Committee for State Security (KGB), which drafted the legislation, pushed the bill through the National Assembly. The House of Representatives voted 94 to one to approve the bill in its first reading and 97 to four to pass the amendments. The Council of the Republic, the upper chamber, approved the bill unanimously. Łukašenka signed the amendments into law in January 2006 shortly before the start of the presidential election campaign stage.

The bill is often referred to as Sucharenka’s law, named after KGB Chief Ściapan Sucharenka who introduced it in parliament. The KGB chief said that the law was aimed to quell the tide of protests that the opposition planned to stage during the presidential election. “Leaders of the politicized opposition parties consciously provide false information on the political procedures in Belarus,” Sucharenka told members of the House of Representatives. “The aim of such declarations is to force western political communities to inflict sanctions on Belarus. Destructive forces want to use the campaign to take over power and change the constitutional regime by organizing a revolution as in



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Members of the Belarusian Union of Writers leave the office confiscated by the Presidential Administration.

Georgia in 2003, Ukraine in 2004 and Kyrgyzstan in 2005¹⁴.”

Sucharenka claimed that the opposition were operating several camps in Belarus to train rebels for the forthcoming protests and cause “mass disorder” during the presidential election. He alleged that the camps were located in the Krupki and Vilejka districts but the allegations were never substantiated with any credible evidence. He said that similar training camps were set up abroad as part of preparations for a “colour revolution” in Belarus. The KGB chief noted that Belarus had to deal with “a whole industry designed for training so-called colour revolution fighters.” He accused the United States of using funds of international and foreign non-governmental organizations to form and train special groups for staging street protests in Belarus. Sucharenka said that non-registered opposition groups Malady Front and Zubr were expected to play leading roles in the protests. However he stressed that the main threat to national security came not from the opposition, which he said

was fragmented and did not enjoy popular support, but from the West, which had been stepping up pressure¹⁵.

A booklet was distributed among lawmakers during discussions of the bill to explain the need for tough measures against “colour revolution fighters.” It listed more than 30 foreign and international NGOs allegedly involved in subversive political activity against the Belarusian regime such as the National Endowment for Democracy, the National Democratic Institute, the International Republican Institute, the Poland-based East European Democratic Centre, the Stefan Batory Foundation, the Polish-American Institute for Democracy in Eastern Europe, the Pontis Foundation.

Criminal NGOs. Several new articles were added to the Criminal Code. Article 193-1 carries a fine, an arrest sentence of up to six months or a prison sentence of up to two years for running or participating in activities of an organization suspended or closed down by court. Under conditions where most NGOs operate without official registration and it is almost impossible to regis-

¹⁴ Corinne Deloy. Belarus: Election Presidentielle du 19 mars 2006. <http://www.robert-schuman.eu/oee.php?num=277>

¹⁵ <http://www.spring96.org/viewn.php?id=3237&pagelang=by>

ter an NGO with the authorities, thousands of Belarusians automatically became criminals. Individuals who quit unregistered organizations and report their decision to the law enforcement agencies are not held accountable under the law unless they have committed another crime. A clause added to Article 193 stipulates punishment by an arrest sentence of up to six months or a prison sentence of up to three years for setting up an unregistered civic or religious organization deemed to “infringe on personality, rights or duties of individuals”.

Protest conspiracy. Article 293 was complemented with a paragraph that carries an arrest sentence of up to six months or a prison sentence of up to three years for “training or otherwise preparing individuals to take part in mass disorder” or for financing such training. Since Article 293 Paragraph 1 specified punishment for “the organization of mass disorder” before, the new clause actually criminalized actions that are not disorderly and do not disturb public peace. It punishes intentions, not even attempts, to cause mass disorder. The article can be used against any education or training effort that the KGB considers a potential future threat to the authoritarian regime in Belarus. Vague definitions like “training or otherwise preparing” or “financing or other material support” allow for various interpretations that can be used to persecute activists without the need to obtain evidence of their involvement in any crime.

A new clause added to Article 342 carries an arrest sentence of up to six months or a prison sentence of up to two years for training or other preparation of persons for participation in group disorderly actions (disobeying legal orders of representatives of the authorities, disrupting road traffic or the operation of enterprises, establishments or organizations) or financing or providing other material support for such activities. The new clause goes together with the abovementioned new clause from Article 293 and allows the authorities to prosecute activists involved in civic education. It may be used to punish for polit-

ical and civic actions that have nothing to do with mass disorder — non-violent resistance campaigns, strikes, flash-mob protests and demonstrations that incidentally block road traffic.

Criminal calls for overthrowing the government and discrediting Belarus.

The new version of the Criminal Code provides for a harsher punishment for public calls to overthrow the government or use violence to change the constitutional system (Article 361). The offence is punishable by an arrest sentence of up to six months or a prison sentence of up to three years. The new version expands the range of punishable actions and illegal means that may be used to diffuse the calls: “Public calls to seize state power or use violence to change the constitutional system, or to betray the state, or to commit an act of terrorism, a subversive act, or take other actions that may damage the external security of the Republic of Belarus, its sovereignty, territorial integrity, national security and defense capability, or the distribution of materials that contain such calls.” Paragraph 2 of the same article specifies punishment for calls addressed to foreign states or foreign or international organizations: calls and appeals to foreign countries, foreign or international organizations to take action that may damage the external security of Belarus, its sovereignty and territorial integrity, and the distribution of materials containing such appeals are punishable by an arrest sentence of up to six months or by a prison sentence of up to three years (appeals disseminated through the media are punishable by a prison sentence of two to five years). Obviously, the vague definitions of possible criminal acts that stop short of specifying methods of committing a crime make it easy for the authorities to turn the article into a tool to restrict media freedom and persecute political opponents. In fact, any manifestation of discontent with the regime and an appeal for change may be interpreted as a crime.

New Article 369-1 makes it a crime to discredit the Republic of Belarus. Discrediting is defined as “providing a

foreign state, a foreign or international organization with knowingly false information about the political, economic, social, military or international position of the Republic of Belarus and the legal status of citizens of the Republic of Belarus or its government agencies.” The offence is punishable by an arrest sentence of up to six months or a prison sentence of up to two years. Since the Criminal Code has a defamation article, Article 369-1 was clearly introduced as a tool against political opponents. Article 369-1 is a classic piece of politically motivated criminal legislation.

Its introduction was an unprecedented move in Belarus' lawmaking practice as it contravenes some principles of territorial applicability of criminal legislation. The same is true for a new clause added to Article 383 concerning the unauthorized use of someone else's title or authority. It describes the offence as follows, “The willful unauthorized use of the title or authority of an official as a pretext for participation in negotiations or other meetings with representatives of foreign states, foreign or international organizations or sessions of international organizations.” The clause allows the authorities to punish Belarusians and foreigners for actions taken abroad even if those actions were absolutely legal under the other country's law.

The new version of the Criminal Procedure Code, which was enacted at the same time as the new Criminal Code, allows the law enforcement agencies to detain terrorism and “malicious hooliganism” suspects for up to 10 days, whereas under the previous version suspects could be held in custody no longer than three days without formal charges and a “preventive detention” warrant issued by a judge.

Human rights groups in Belarus protested the introduction of political articles into the criminal law. “I was shocked by the cynical way it has been done. The authorities did not even try to conceal the fact that all the measures were linked to the forthcoming presi-

dential election,” said Aleh Hulak of the Belarusian Helsinki Committee¹⁶.

Belarus’ secret service succeeded in its effort to have the government enact the law legalizing political oppression and criminal prosecution of human rights defenders and opponents of the regime. The amendments gave the law enforcement agencies a free hand to crack down on the opposition. Most observers said the main purpose of the draconian criminal articles was to intimidate groups independent of the government before the presidential election. One purpose was to intimidate; another purpose was to paralyze political and non-governmental organizations by bringing criminal charges against activists; and the third purpose was to deepen the isolation of the Belarusian public from alternative sources of information.

The KGB began to use new laws immediately after they took effect. In February 2006, KGB agents arrested members of a group called Partnership, which was working to establish an election observation network. Later, the agency opened criminal cases against activists of Malady Front and Hart, a Homiel-based youth centre.

4. NGOs, society and public opinion¹⁷

Attitudes toward non-governmental organizations: Keeping a low profile, but having some potential. The pro-government propaganda paints a negative picture of any activity uncontrolled by the government.

As many as 69.4 percent of respondents were not aware of any civic (NGO) activity in their area. The awareness level was higher, 39.2 percent, in the Homiel region, while in Minsk only 16.3

percent had heard of some NGO activity. The poll suggests that NGOs were underrepresented in local communities.

Civic campaigns conducted before the presidential election also reached a small number of people. In a poll conducted in the run-up to the election, respondents were asked whether they had heard anything about activities/campaigns of non-governmental organizations or civic groups in that period. Only 11 percent of respondents said “Yes”, while 78 percent said they were not aware of any activities/campaigns of NGOs or civic groups.

On the other hand, 46.5 percent of respondents said civic society helps improve the quality of life in their communities, but the fact that 36.2 percent failed to answer the question proves that people know little about NGOs and most

have difficulty describing what they do. Nevertheless, an overwhelming majority of respondents were positive about activities of civic society — 92.3 percent know what civic society is and consider it useful. Despite the official propaganda, only one third said that NGOs fulfill orders of those who pay, 22.6 percent said that under present-day conditions in Belarus NGOs are not in a position to address local issues, and approximately the same number of respondents said that the NGOs’ priority should be to improve life quality.

Are you aware of any activities of civic society (NGOs) in your area?	%
Yes	26,5
No	69,4
No answer / difficult to answer	4,1

Do you know what a non-governmental organization is?

	N	%
Yes	929	61,3
No	364	24,0
Difficult to answer	224	14,8

In your opinion, a non-governmental organization is:

	N	%
A voluntary association of people who come together to tackle problems facing a group, local community or whole society	996	65,7
Organizations designed to help the government to deal with education, recreation and social matters	622	41,0
Associations of people with similar interests or of people who would like to pass time together	487	32,1
Organizations funded from abroad to destabilize society	147	9,7
Difficult to answer	26	1,7

Have you ever taken part in any campaign conducted by non-governmental organizations?

	N	%
Yes	363	23,9
No	1015	66,9
Difficult to answer	138	9,1

Have you participated in any event organized by non-governmental organizations within the last 12 months?

	N	%
Yes	139	9,1
No	1278	84,3
Difficult to answer	100	6,6

¹⁶ Наша Ніва, 28.04.2006, № 16.

¹⁷ This section is based on Belarus Civil Society Baseline Survey conducted at the request of Westminster Foundation for Democracy in 2005, and on the report entitled “Грамадзкія аб’яднанні: іх роля ў сучасным беларускім грамадстве” (Менск, верасень 2005) based on a national poll conducted in June 2005.

Obviously, non-governmental organizations have a considerable potential, but they need to make people aware of their work.

Democratic ghetto. Belarus has more than 4,000 NGOs with about half operating underground without official registration, according to the Assembly of Pro-Democracy NGOs of Belarus. As of 1 January 2006, 17 political parties, 41 trade unions, 2,247 associations (239 international, 724 national and 1,284 local) and 16 umbrella organizations were registered with the Ministry of Justice. Also registered with the ministry were 996 chapters of political parties (44 regional, 399 district and city and 553 grass-root cells), 21,992 trade union cells and branches (107 regional, 1,355 district and city, 20,449 grass-root cells and 81 merged branches) and 10,046 branches of associations (488 regional, 3,395 district and city, and 6,203 other branches).

Civic society opinion polls suggest that just 10 percent of these organizations play a role in the democratization of Belarus. Civic society leaders believe that Belarusian NGOs that do nothing to defend their rights or express their political position do not play a significant role in enhancing civic society and do not contribute to the establishment of democracy in the country.

Most Belarusians have a vague idea of the objectives and activities of NGOs. Numbers of those involved in civic campaigns increase dramatically during elections, but still new NGO members fail to reach beyond the so-called democratic ghetto. Moreover, some foreign donors discouraged NGO activists from working together with their Belarusian counterparts, suggesting that they rely only on support from the international community. Despite persecution, many representatives of local communities take active part in NGOs, especially if these organizations advance their interests. That was confirmed by opinion polls. NGOs working in partnership with other non-governmental organizations can successfully address issues



Julija Daraškevič

Zmicer Daškevič was sentenced two years in prison for leading pro-democratic youth organization Young Front.

without help from the authorities. The population has the greatest confidence in local initiatives, advocacy groups and local communities. NGOs can use such initiatives to influence political decisions, but they should give priority to setting a political agenda, not to tackling local problems.

Politicization as the main goal.

Most civic society leaders are skeptical about the future, expecting the current authorities to continue the onslaught on NGOs. In their opinion, the use of new (human and technical) resources and further politicization of spontaneous civic activity are crucial for success.

The greatest advantage of pro-democracy NGOs may turn out to be their major problem — excessive focus on national political objectives makes it much more difficult for most pro-democracy NGOs to carry out smaller-scale (local) projects. Most representatives of civic society see politics as the main driving force of social change. In their opinion, any other form of social activity cannot significantly influence the situation in the country.

Still, civic society leaders regard environmental campaigns (including those

dealing with the Chornobyl aftermath), youth groups (representing the most vehement opponents of the regime), cultural, educational, human rights, consumer rights projects and charities as promising and potentially effective forms of civic activity.