



International Observation Mission of the Committee on International Control over the Situation with Human Rights in Belarus

Analytical Review No.1-1
**“Interference in the work of the human rights
organizations and initiatives in Belarus
in December 2010 – January 2011”**

as of January 12th, 2011

This document is a systematic compilation of the facts of interference in the activity of human rights organizations and initiatives in Belarus, based on the UN Declaration “On the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” (“UN Declaration on Human Rights Defenders”) and in line with the European Union Guidelines on Human Rights Defenders - “Ensuring Protection”¹.

Introduction

In this paper we reflect the facts of pressure on human rights defenders and human rights organizations that were among the most vulnerable groups of social activists in the circumstances surrounding the presidential elections in Belarus. As before the elections and during the events of December 19th human rights organizations in Belarus have played a significant role in observing the electoral process and monitoring violations (a special coalition “Human Rights Defenders for Free Elections” was created), and immediately after the elections, they also had to monitor human rights abuses during the rallies and demonstrations, arrests, searches, interrogations and trials.

Termination or weakening of the work of human rights defenders and organizations will create conditions for further government pressure on activists, opposition politicians, other civil society organizations and groups. And this work of defenders with monitoring the situation, collection of evidence, victim assistance and coverage of events from the perspective of human rights violations creates the framework that allows characterizing the actions of the Belarusian authorities as violating international human rights standards and obligations undertaken by Belarus. Pressure on human rights defenders in Belarus does not allow them to perform their job - to monitor violations and assist victims, which creates the possibility for further deterioration of the human rights situation.

Belarus like any other state having regard to the UN and the OSCE, has obligations to respect the universally recognized norms and standards of human rights, particularly concerning human rights defenders as a special group of civil society activists whose activities are aimed at protecting the rights of others. Being members of the Organization for Security and Cooperation in Europe, Belarus has undertaken certain obligations in the human dimension of the OSCE, including those relating to the support of human rights defenders in their efforts to protect and promote human rights.

¹ http://www.consilium.europa.eu/uedocs/cmsUpload/HR_10056.04REV1RU.pdf

As a member of the UN, Belarus is obliged to take into account the provisions of the UN Declaration "On the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" adopted on December 10th, 1998 ("UN Declaration on Human Rights Defenders").

Based on these considerations, we draw attention of the international community to the situation of human rights defenders and human rights organizations in Belarus.

The situation before the elections on December 19th, 2010

In the period immediately preceding the 2010 elections public authority intervention in the activities of a wide range of human rights organizations was of an episodic nature and was intended to control the situation. Most attention of the authorities was directed at the activities of organizations involved in election observation.

So, on **November 30th** at the border crossing "Kamenny Log" on the way from Lithuania, human rights activist **Leonid Sudalenka** was detained², who had 10 copies of instructions for observers. Passengers of the bus on which Sudalenka was traveling, had to wait for more than two hours until the Oshmyany customs officials drew an act of withdrawal of the publications. After the act of withdrawal was given to Sudalenka, customs officials said that after checking the materials for the presence of illegal information instructions would be returned. Yet, there is still no information about their return.

It was not the first case of withdrawal of materials for observers from the representatives of the campaign "Human Rights Defenders for Free Elections" on the Belarusian-Lithuanian border. A week earlier, a similar situation happened with Vladimir Labkovich and Dmitry Solovyov.³

The situation after the elections and demonstration on December 19th, 2010

From the moment of the violent dispersal of the demonstration on Dec. 19, there have been documented cases of obstruction of human rights activity, the detention of human rights defenders, administrative prosecution, searches, summons for interrogation, etc.

19.12.2010

Oleg Gulak, lawyer, leader of the Belarusian Helsinki Committee⁴, an independent human rights organization, which is partner of the Council of Europe and an active participant of the international Helsinki movement. Oleg Gulak is one of the leaders of the campaign "Human Rights Defenders for Free Elections" and a member of the Public Advisory Council under the President's Administration.

On December 19th, 2010 at 00:30 O. Gulak was detained by riot police, despite the fact that he introduced himself and the organization that he represents. The detention took place at the intersection of Independence Avenue and Volodarsky street, a quarter away from the square, where the demonstration took place and had already ended.

That evening, O. Gulak monitored the observance of the right to freedom of assembly during the demonstration, to which the Belarusian Helsinki Committee had the

² <http://charter97.org/ru/news/2010/12/1/34254>

³ <http://ru.democraticbelarus.eu/node/1354>

⁴ <http://www.belhelcom.org/?q=en>

authority under the Charter of the organization. It is important to note, that BHC for more than 10 years monitors all mass demonstrations and the Ministry of Internal Affairs was numerously notified about that.

After his detention, Mr. Gulak was held in the police van for more than 3 hours. Then, he was taken to the Oktyabry sky police station, where once more the police refused to release him, while knowing of his activities. The police officers also refused to release him, despite his status. At 08:00 he was taken to detention center.

On December 20th, 2010 at 11:00 Mr. Gulak was brought to court. In the case materials it was stated that he took part in the unsanctioned demonstration (Article 23.34 of the Code of Administrative Violations "Violation of the procedures for organizing and participating in mass demonstration or picket". Despite the grounds for dismissing the case for absence of corpus delicti, it was sent back to the police for revision. At 19:00 on Dec. 20, 2010 Mr. Gulak was released. The decision on his case is not yet taken.

20.12.2010

Human Rights Centre "Viasna" (Minsk)

The main purpose of the Human Rights Centre "Viasna" is to promote civil society based on respect for human rights, as declared in the Universal Declaration of Human Rights and the Constitution of the Republic of Belarus. In particular the organization was engaged independently in election observation.

On December 20th, 2010 at 03:15 at night unidentified men in civilian clothes entered the office of the organization and detained the employees of the HRC. 10 employees of the organization: Valentin Stefanovich, Vladimir Labkovich, Nasta Loika, Andrew Paluda, Dmitry Solovyov, Sergey Sys, Vladimir Nikolaev, Oleg Zhlutko, Konstantin Starodubets, Vitaly Cherniavsky, were delivered to the First District Police Department of Minsk.

The detainees were examined about their whereabouts on the evening of December 19th, 2010. No transcript of examinations was made.

The incident was reported to the OSCE mission and its head. After the OSCE Office in Minsk intervened, the detainees were released at about 06:00. At the same time officers in civilian clothes were searching the office of the organization, in presence of two members of the organization – director of the Center Ales Belyatsky and Valentina Svyatskaya. During the search all computers were seized, which, according to officers, were necessary "to test" it⁵. After the search and the seizure of the equipment, the work of the HRC "Viasna" was paralyzed.

Around 07:00 am on December 20th, 2010 there was a second attempt⁶ to take over office of the organization. Five unidentified men tried to enter the office of the organization, but employees of the organization did not open the door, due to the fact that the unknowns didn't have a search warrant. Director of the organization, vice-president of the International Federation of Human Rights (FIDH)⁷ Ales Belyatsky came to the office, trying to find out the purpose of their actions. They said they were looking for Vladimir Labkovich, employee of the HRC "Viasna". After Mr. Belyatsky said that Mr. Labkovich was not in the office, the men left.

In total, 15 computers and 5 laptops were taken away from the organization (including their regional representatives), obstructing its activity.

⁵ <http://spring96.org/en/news/39901>

⁶ <http://euroradio.by/en/1434/news/58397/?ILStart=10>

⁷ <http://fidh.org>

Natalia Radina, editor of the human rights information site "Charter '97" (Minsk).

On December 20th, at 04:40 at night the office door of the information site "Charter97.org" was broken down. The journalists managed to report the attack, after which the connection was broken. There worked the site editor assistant Natalia Radina and volunteers who were later taken to the KGB.⁸ Natalia Radina, injured during the dispersal of Dec. 19 demonstration at the Independence Square, was given no medical care, despite bleeding. At the moment, Natalia Radina is under arrest and charged of inciting riot under article 293 of the Criminal Code of the Republic of Belarus.

21.12.2010

Oleg Volchek, human rights defender, lawyer, head of the organizations "Legal Assistance to the population" (Minsk).

On December 21st the search took place in the house of human rights defender who heads the organization "Legal assistance to the population." The search was conducted within the framework of the criminal investigation of the riots, started by Minsk police after the events of December 19th, 2010. Of the four present employees of the KGB, only one name was written into the transcript, but the O. Volchek insisted on recording all those present. According to the results of the search, a laptop and a personal video archive were seized⁹.

24.12.2010

Mikhail Matskevich environmental activist, human rights defender, member of the Center for Legal Transformation (Minsk), participant of the International Youth Human Rights Movement (YHRM).

On December 24th, 2010 at 19:30, he was detained at a peaceful rally of solidarity at the walls of the detention center (Minsk) where citizens were kept, which were arrested during the demonstration on December 19th, 2010. There a spontaneous demonstration took place to support the detainees and no permission from the authorities had been obtained (since the law states to submit requests 2 weeks before the event, which in this case was impossible).

The trial of Mr. Matskevich was held behind closed doors and without any legal representative. The judge did not take into account the specific family circumstances of Mr. Matskevich (the last months of his wife's pregnancy). Mikhail Matskevich was sentenced to 10 days of administrative arrest¹⁰.

Olga Domorad, human rights defender, lawyer, correspondent of the International Youth Human Rights Movement (YHRM).

On December 24th, 2010 at 19:30, she was detained at a peaceful rally of solidarity at the walls of the detention center (Minsk), where citizens were kept, which were arrested during the demonstration on December 19th, 2010.

The trial of Olga Domorad was held behind closed doors, parents and relatives were not allowed to the trial. Olga Domorad's lawyer was not allowed in the courtroom by deception: he claimed to be allowed to participate in the hearings in the court, but he was told that no one knew where and when the trial would take place. Eventually, during the trial Olga was attended only by the lawyer assigned by the state.

The record of the hearings were made with numerous violations: many facts said by Olga Domorad were not included, and the information that was recorded was

⁸ <http://www.charter97.org/ru/news/2010/12/20/34846>

⁹ Interview to a Mission representative

¹⁰ <http://euroradio.by/en/1439/reports/58889/?tpl=208>

distorted. Subsequently, these errors were corrected in the court ruling. Olga Domorad was sentenced to 10 days of administrative arrest.¹¹

28.12.2010

Vladimir Khilmanovich, human rights defender and journalist (Grodno).

On December 28th journalist and human rights defender Vladimir Khilmanovich was examined by the KGB for his involvement in the events that took place on December 19th, 2010.¹²

On January 5th he was again summoned for examining by the KGB.

29.12.2010

Elena Tonkacheva, lawyer, human rights defender, head of the Centre of Legal Transformation¹³ (Minsk).

On Dec. 29, Ms. Tonkacheva was interrogated by KGB agents and signed a formal obligation not to disclose the information on the investigation.

Approximately at 19:30 the same day her apartment was searched, authorized by a warrant¹⁴. Search was formally aligned to the criminal investigation of the riots in the city of Minsk on December 19th, 2010. The search continued until 21:50.

KGB officers seized documents related to her human rights work, in full conformity with the statutory objectives of the organization, as well as SIM cards for her mobile phone with a German number.

29.12.2010

Department of Human Rights Centre "Viasna" in Molodechno (Minsk oblast).

On December 29th the regional office of HRC Viasna in Molodechno was searched. During the search all information storage devices (computers, flash drives, disks) were seized under the pretext of investigating the criminal case of the riot.

03.01.2011

Raisa Mikhailovskaya, human rights defender, head of the Human Rights Centre (Minsk).

On January 3rd human rights defender Raisa Mihailovskaya was summoned for interrogation by the KGB as a witness in the criminal case on the riots, instigated by Minsk police after the events of December 19th, 2010¹⁵.

04.01.2011

Nasta Loika, human rights defender, lawyer of the Human Rights Centre "Viasna" (Minsk), participant of International Youth Human Rights Movement (YHRM).

On January 4th, 2011 at about 12 hours unknown people came to her private house, where Nasta Loika lives with her mother¹⁶. At that time, Ms. Loyko was not present.¹⁷ Nasta's mother refused to open the door to unknown people, who introduced themselves as KGB agents. After that the unknown people left.

At 12:30 the KGB agents came back and called Ms. Loika demanding to come home, threatening otherwise to break the door. After the search of Nasta Loiko's house

¹¹ <http://euroradio.by/en/1438/news/58858>

¹² <http://spring96.org/be/news/40401>

¹³ <http://lawtrend.org/en>

¹⁴ <http://euroradio.by/en/1444/news/59153>

¹⁵ <http://bsd.org/?q=be/node/9298>, <http://belaruspartizan.org> 17:08 03.01.2011

¹⁶ <http://spring96.org/en/news/40394>

¹⁷ <http://euroradio.by/en/1449/news/59332>

leaflets from the archive were confiscated, issued in 2006 by the organization "Young Front", registered in the Czech Republic.

At 16:00 on December 4th, 2011 Nasta Loika was taken to the KGB¹⁸ for questioning as a witness in a criminal case on the riots on December 19th, 2011¹⁹. She signed a formal obligation not to disclose information on investigation.

05.01.2011

Belarusian Helsinki Committee (Minsk).

Belarusian Helsinki Committee – an independent human rights organization, partner of the Council of Europe, an active participant in the international Helsinki movement²⁰.

On December 5th, 2011 at 11.00 a search began in the office of the Belarusian Helsinki Committee, conducted by four KGB agents. They provided a search warrant issued by the Prosecutor of Minsk Nikolai Kulikov, in which it was written that the investigation had information that the office of BHC might have materials related to the riots in Minsk on December 19th. As a result of the search, the server of the organization and 2 computers were seized²¹.

During the search the representatives of the International Observation Mission were present, no serious procedural violations were noted.

Oleg Gulak (Minsk), the head of the Belarusian Helsinki Committee

On January 5th, after the search of the Belarusian Helsinki Committee Mr. Gulak's personal apartment was searched. He says nothing was taken²².

06.01.2011

Leonid Sudalenka, human rights defender from the organization "Law Initiative" (Gomel).

On January 6th human rights activist Leonid Sudalenka was searched. First, a search was conducted in the office of his organization in the city of Gomel, then the KGB searched his home.

¹⁸ <http://euroradio.by/en/1449/news/59349>

¹⁹ <http://spring96.org/en/news/40428>

²⁰ <http://belhelcom.org/?q=en/about>

²¹ <http://spring96.org/en/news/40426>

²² <http://euroradio.by/en/1450/news/59412>

Conclusions

It must be emphasized that the nature of intervention in the work of human rights activists differs significantly in the periods immediately before and after the last elections of December 19th. In the pre-election period the authorities' attention was focused mainly on the activities of organizations involved in independent monitoring of elections. In the period after the election the nature of intervention has changed, there appeared a threat to personal security; and also obstructions to the work of human rights organizations were created. Searches and seizures have affected a significant part of the human rights community in the country, including those who were not connected to the election process.

The facts of interference in the work of human rights organizations were identified not only in Minsk, but in other regions. In fact, we can talk about interference in the work of most human rights organizations and initiatives operating in the Republic of Belarus. In this review, there are cases of pressure on the representatives of eight organizations. In general, there are around 11 most sustainable and influential human rights organizations, operating on the national level and several regional initiatives of this kind.

Searches and seizures of the computer equipment, digital media, as well as the documents were not only in the offices of organizations, but also at homes of the most famous and influential human rights defenders. Total number of seized devices amounts to 30 computers, as well as plenty of information storage devices.

In general, interfering with the work of human rights organizations and initiatives in the post-election period, the authorities tried to observe formal procedures and were justifying their actions on two grounds:

- 1) Persecution of individuals for participation in the demonstration of December 19th (violation of Article 23.34 of the Code of Administrative Violations "Violation of the procedures for organizing and participating in mass demonstration or picket") – applying this article on all who were present at the square, including observers and journalists.

- 2) The investigation of criminal cases on alleged mass riots under Article 293 of the Criminal Code.

Conducting searches and examinations, authorities have not always indicated under investigation of which concrete criminal case their actions took place. In none of the registered instances even in the cases of search warrants and summons the procedural status of the involved individuals were indicated.

As a positive trend, one can note that outside human rights observers (local independent lawyers, representatives of the International Observation Mission) were allowed to be present during particular investigations and representatives of the OSCE were informed.

In the majority of cases, measures taken on human rights defenders were excessive in character and were directly related to their public activity and the fact that they were known to the authorities, not with the substantive grounds to suspect them in criminal activities. Obstructing the work of human rights organizations had a negative impact on the ability to provide legal assistance to victims of a disproportionate use of force by authorities on December 19th and during the subsequent investigation. In addition, as a result of techniques seizure and engaging of human rights defenders into solving their own problems, ordinary citizens of the target audiences of the organizations were unable to get access to their assistance.

Recommendations

To human rights community in other countries:

- to express support to human rights organizations in Belarus by sending letters of support to the organizations and individual human rights defenders as well as by addressing the government of Belarus, explaining the role and importance of human rights organizations for the country and insisting that they refrain from pressure and persecution against them;
- to join the Committee on International Control over the Human Rights Situation in Belarus, support the work of the International Observation Mission, including by direct presence in Minsk, as well as by other ways to assist human rights organizations in Belarus in the current situation.

To the authorities of the Republic of Belarus:

- to take steps to stop the interference into the legitimate work of human rights organizations and initiatives in the Republic of Belarus;
- to guarantee the freedom to operate to the civil society organizations, including decriminalization of participation in the activities of unregistered organizations, facilitating the procedures of registering NGOs, etc.;
- to adopt national action plans on human rights, developing the strategy and measures to protect human rights defenders and support their activities.

To the law enforcement bodies of the Republic of Belarus:

- to refrain from obstructing the work of human rights organizations and initiatives in conducting investigations on the events of December 19th, 2010;
- to cease using investigation activities as a means of pressure and intimidation of human rights defenders and organizations;
- to refrain from carrying out investigation activities at night. If such practices are unavoidable, to instruct the law enforcement agents to ensure that even at night they observe procedural regulations, in particular, the requirement to introduce themselves, to obtain all the necessary sanctions, to justify their actions, to allow lawyers to participate in the process, etc.;
- to conduct an open and transparent investigation into all cases of abuse of authority or negligent performance of official duties by members of the government; to bring all the offenders to disciplinary and criminal liability;
- to take steps to return all the equipment seized from human rights organizations and initiatives immediately upon completion of the investigation.

To the UN Special Rapporteur on the situation of human rights defenders:

- to address the public authorities of the Republic of Belarus by urgent appeals and allegations on specific cases of persecution of human rights defenders in the country;
- to request official permission for country visit to Belarus to study the situation in the country after the elections on December 19th, 2010.

To the OSCE Focal point for human rights defenders and national human rights institutions:

- to initiate public statements and appeals to the authorities of Belarus by the OSCE structures and institutions in relation to the systemic persecution of human rights defenders in the country;

– to constantly monitor the situation of human rights defenders, to respond to incidents of persecution by urgent statements, and to organize the presence of the OSCE representatives at the trials against human rights defenders;

– to appeal to the OSCE participating States with a proposal to pay special attention to the protection of human rights defenders in Belarus at the meetings of the OSCE Permanent Council.

To the EU missions in Belarus:

– to intensify efforts to observe the European Union Guidelines on Human Rights Defenders;

– to strengthen public contacts with human rights defenders, by arranging public meetings and visits to the offices of human rights organizations of the senior EU officials, as well as other political figures from the EU bodies and the EU missions;

– to review the local implementation strategy of protecting human rights defenders according to the changed context, involving in this process national and international human rights organizations working in Belarus;

– to send representatives to attend and observe the trials of human rights defenders;

– to make demarches and public statements in cases of imminent and serious danger to human rights defenders.