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## 1999 Country Reports on Human Rights Practices

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### BELARUS

Belarus has a government in which nearly all power is concentrated in the hands of the President. Since his election in July 1994 to a 5-year term as the country's first President, Alexandr Lukashenko has consolidated power steadily in the executive branch through authoritarian means. He used a November 1996 referendum to amend the 1994 Constitution in order to broaden his powers and extend his term in office. The President ignored the then-Constitutional Court's ruling that the Constitution could not be amended by referendum. As a result, the current political system is based on the 1996 Constitution, which was adopted in an unconstitutional manner. Most members of the international community criticized the flawed referendum and do not recognize the legitimacy of the 1996 Constitution, legislature, or Alexandr Lukashenko's continuation in office beyond the legal expiration of his term in July. Although the amended Constitution provides for a formal separation of powers, the President dominates all other branches of government. The current acting legislature was not elected directly, but was created out of the remnants of the former Parliament, which Lukashenko disbanded soon after the 1996 referendum. The Constitution limits the legislature to meeting twice per year for no more than a total of 170 days. Presidential decrees made when the legislature is out of session have the force of law, except--in theory--in those cases restricted by the 1996 Constitution. The 1996 Constitution also allows the President to issue decrees having the force of law in circumstances of "specific necessity and urgency," a provision that President Lukashenko has interpreted broadly. The judiciary is not independent.

Law enforcement and internal security responsibilities are shared by the Committee for State Security (KGB) and Ministry of Internal Affairs (MVD), both of which answer directly to the President. Civilian authorities do not maintain effective control of the security forces. Under President Lukashenko's direction, the Presidential Guard--initially created to protect senior officials--continued to act against the President's political enemies with no judicial or legislative oversight. On May 25, the Law on the State Guard officially entered into force. The law, which already had been operative on a de facto basis for a number of years, gives the President the right to subordinate all security bodies

to his personal command. Members of the security forces committed numerous human rights abuses.

The country's political leadership opposes any significant economic reforms and remains committed ideologically to a planned economy. Government officials claimed that the gross domestic product (GDP) grew during the first 6 months of the year by 3 percent, but most independent analysts agree that any growth that has occurred was the result principally of continued massive credits to the debt-ridden state sector. Discriminatory foreign exchange controls have contributed to sharp declines in foreign trade and investment. Both exports and imports continued to fall given the country's growing isolation from world and regional trade flows. Foreign investment fell by 42 percent to \$30 million during the first 6 months of the year. Per capita GDP remained constant at approximately \$1,100, but in reality was probably much lower. Leading exports are trucks, tractors, chemical fertilizers, and fibers. The majority of workers are employed in the state industrial and agricultural sectors. Although the unreliability of official statistics makes it difficult to assess accurately economic conditions, living standards for many segments of society continued to decline. Annual inflation was over 350 percent. Following a doubling by the Government on May 1, average monthly wages stood at approximately \$40 at mid-year. Residents of small towns and rural areas, where incomes are particularly low and wage arrears more prevalent, sustain themselves through unreported economic activity and small gardens.

The Government's human rights record worsened significantly. The Government severely limits the right of citizens to change their government, and the President took severe measures to neutralize a large-scale public campaign initiated by opposition leaders to draw attention to the expiration of his legal term in office on July 20. Well-known political figures disappeared under mysterious circumstances. Security forces continued to beat political opponents and detainees. There were reports of severe hazing in military units during the year. Prison conditions remained poor. Security forces arbitrarily arrested and detained citizens, and the number of apparently politically motivated arrests increased, although most of those arrested soon were released. Prolonged detention and delays in trials were common and also occurred in a number of politically sensitive cases. Although one political prisoner was released, at least one other individual whose conviction human rights groups believe was politically motivated remains incarcerated. The security services infringed on citizens' privacy rights and monitored closely the activities of opposition politicians and other segments of the population. Restrictions on freedom of speech, the press, and peaceful assembly continued, and the Government did not respect freedom of association. The Government continued to impose limits on freedom of religion, and restricted freedom of movement. Government security agents monitored closely human rights monitors and hindered their efforts. Domestic violence and discrimination against women remained significant problems. Societal anti-Semitism persists. Authorities continued to restrict workers' rights to associate freely, organize, and bargain.

## **RESPECT FOR HUMAN RIGHTS**

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

On May 7, former Minister of Internal Affairs Yury Zakharenko disappeared shortly after he told his family in a telephone conversation that he was on his way home. Zakharenko, a close associate of the then-detained former Prime Minister Mikhail Chigir, disappeared after voting began in an opposition presidential election initiative, in which Chigir was one of the principal candidates. Witnesses reported seeing Zakharenko on the evening of his disappearance being pushed by several men into an unmarked car. According to Zakharenko's family, government security officials did little to look for him or inquire into the details of his disappearance. On May 19, Minister of Internal Affairs Yury Sivakov stated publicly that there was "no information" to indicate that a crime had been committed against Zakharenko. An investigation into the disappearance apparently was begun only several months later after another opposition political figure disappeared in mid-September.

On September 16, following a meeting earlier during that day broadcast on state television in which President Lukashenko ordered the chiefs of his security services to crackdown on "opposition scum," 13th Supreme Soviet Deputy Chairman Viktor Gonchar disappeared, along with local business associate Anatoliy Krasovsky. Shortly before his disappearance, Gonchar telephoned his wife to inform her that he was on his way home. Broken glass and blood were discovered later at the site where relatives and friends of the men believe the vehicle in which the two were travelling may have been stopped. A high-profile antigovernment politician, Gonchar was considered an active fund raiser for the opposition. Although government authorities denied any involvement, there is no public evidence of concrete progress by government investigators to resolve the cases.

In mid-December, former National Bank chairwoman Tamara Vinnikova, who disappeared from an apartment where she had been held closely guarded under house arrest since November 1997 (see Section 1.d.), reappeared. Vinnikova apparently was able to escape from her guards and eventually make her way to another country (see Section 1.d.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The 1996 Constitution provides for the inviolability of the person and specifically prohibits torture, as well as cruel, inhuman, or degrading treatment; however, police and prison guards beat detainees and prisoners. Law enforcement and prison officials may use physical force against detainees and prisoners if the latter are violent, have refused to obey the instructions of the prison administration, or have violated "maliciously" the terms of their sentences. However, human rights monitors credibly report that investigators coerce confessions through beatings and psychological pressure. Although such behavior is against the law, the Government seldom, if ever, punishes those who commit such abuses. Guards use force against detainees to coerce confessions as well as during routine activities. Police also beat demonstrators (see Section 2.b.).

On April 2, plainclothes security officials beat opposition activist Halina Kunina following an unsanctioned demonstration in Minsk, during which over 20 persons--including 9 minors--were detained. Kunina reportedly was hospitalized with a concussion

for several days.

On April 25, Omon special forces militia in the city of Grodno used truncheons and tear gas to break up a peaceful demonstration of approximately 40 youths who were staging a march to mark the anniversary of the Chernobyl disaster. Subsequently, nine demonstrators were detained briefly for between 2 to 4 days, including one who required medical attention for a concussion she received during the incident.

On June 11, following a trial closed to the public, press, and international observers, the Supreme Court sentenced Viktor Yancheuski, Anatol Haurylau, and Raman Radzikouski to 11, 5, and 4 years in prison, respectively (Radzikouski later received amnesty) for their alleged roles in the murder of Lukashenko adviser and Mahileu local government official Yauhen Mikalutski. Mikalutski was killed in October 1997 by a radio-controlled car bomb. Independent local analysts speculate the murder was probably connected with the illegal trade of alcohol to Russia. Government authorities claimed that Valery Tkachev, another suspect in the case, committed suicide by hanging himself in a detention facility in December 1997. Relatives of Yancheuski, Haurylau, and Radzikouski claimed that government investigators used physical coercion against the defendants in order to try to get them to confess to a crime that they did not commit. The officers of the Minsk Advisory and Monitoring Group (AMG) of Organization for Security and Cooperation in Europe (OSCE), who were permitted to interview the defendants, found that their statements of beatings while in detention were credible, noted that it was clear that they were under heavy psychological pressure to cooperate, and that they had not been given access to legal counsel.

On July 17, Uladimir Antonaw, a 20-year-old member of the youth branch of the opposition Belarusian Popular Front, was detained by militia officers in Minsk for allegedly writing anti-presidential slogans on public buildings. No charges officially were brought against him, but Antonaw was detained for 5 days. Antonaw claims that militia officers beat him with truncheons and tried to coerce him to confess. The local human rights nongovernmental organization (NGO) Spring '96 confirmed Antonaw's account of the treatment he received while in detention.

Over 70 persons were detained briefly following demonstrations in Minsk and other cities on July 21 and July 27. Government security officials beat some of the detainees (see Section 1.c.).

Following the July 21 demonstration, militia officers in Minsk beat Oleg Volchek, an opposition activist and chairman of a nongovernmental commission investigating the disappearance of former Internal Affairs Minister Yury Zakharenko. Volchek, who was treated and released that evening for the injuries he sustained, later filed an official complaint about the conduct of the militia officers with a local prosecutor's office. Charges of "malicious hooliganism" filed against Volchek for his participation in the demonstration later were dropped; however, government authorities also did not take any disciplinary action against the officers involved in the beating incident.

Pavel Znavets, deputy of the 13th Supreme Soviet, illegally disbanded by Lukashenko after a 1996 referendum (see Section 3) also was detained and beaten following the July 21 demonstration. Militia officers in Minsk reportedly also beat Alyaksey Lapitski, a member of the Frantsysk Skaryna Belarusian Language Society (BLS), whom they

detained for participating in the demonstration. A subsequent medical examination confirmed Lapitski's account of physical abuse. The BLS filed an official complaint with local authorities. There were reports that no disciplinary action was taken against the officers involved in these cases.

On July 27, 21-year-old Yawhen Asinski was detained for allegedly kicking a militia officer during an opposition demonstration commemorating the anniversary of the declaration of Belarusian sovereignty from the Soviet Union (see Section 1.d.). At a news conference held by the human rights NGO Spring '96, following his release on September 6, Asinski claimed that uniformed militia and plainclothes government security officers hit him in the abdomen, kidneys, and back both before and after his arrest. According to Asinski, he was subjected to food and sleep deprivation during his first three days in detention and placed with 18 other prisoners in a cell meant for up to 10 persons. An OSCE observer who later interviewed Asinski found his claims of physical abuse to be credible. Charges of "malicious hooliganism" filed against Asinski remained pending at year's end.

On October 17, uniformed and plainclothes security forces beat demonstrators who were detained following a large antigovernment demonstration in Minsk (see Sections 1.d. and 2.b.). At least 20 of the demonstrators subsequently registered their accounts of physical abuse while in custody with the Minsk-based Independent Association for Legal Assistance to the Population. On October 19, police officers of the Sovietsky District station in Minsk beat 13th Supreme Soviet Deputy and well-known independent journalist Valery Schukin following his detention for participation in the demonstration.

On December 13, 13th Supreme Soviet Deputy Andrei Klimov, who had been held in pretrial detention on politically motivated charges since February 1998 (see Section 1.d.), was beaten severely by prison guards after he refused to attend a court hearing on his case. During the beating, Klimov suffered a concussion and other injuries. Despite the recommendation of examining doctors, Klimov was not permitted immediate hospitalization. On December 23, the Procurator General's office announced that it would not institute criminal proceedings against the officers involved in the incident since they had taken "adequate measures" with regard to Klimov.

The Ministry of Defense announced in 1996 that "dedovshchina," the practice of hazing new recruits, would no longer be tolerated. However, this practice apparently has not abated. According to official data, 48 cases of "dedovshchina" were reported during the first 8 months of the year. During 1998 73 cases were reported.

Prison conditions are poor, and are marked by severe overcrowding, shortages of food and medicine, and the spread of diseases such as tuberculosis, syphilis, and AIDS. Conditions at prison hospitals also are poor, according to human rights monitors. Detainees in pretrial detention facilities also reported poor conditions and denial of medical treatment, which contributed to their declining health while they awaited trial. AMG officers who visited a detention facility in Vitebsk during June noted that in 1 cell 16 female prisoners shared 10 beds, while in another, 14 prisoners between the ages of 14 and 17 shared 8 beds. During an interview with a government newspaper in February, the deputy procurator general acknowledged continued severe prison overcrowding. He stated that detention centers and corrective labor institutions house 150 percent of the authorized number of prisoners, and noted the problem facilitated the spread of contagious diseases. On November 3, Minister

of Internal Affairs Yury Sivakov publicly acknowledged that the country's total prison population remained at over 60,000 persons, and that prison conditions in the country did not meet "basic standards." A government amnesty for lesser offenders that went into effect on January 21 was intended to decrease the total prison population by approximately 8,000 inmates, but it is unclear to what extent it was implemented. Those convicted of alleged "economic crimes," for example, reportedly were granted amnesty and released from prison only after payment of financial restitution.

Male and female prisoners are housed separately. Following an inspection of a correctional facility for women in Gomel on June 22, Minister of Internal Affairs Yury Sivakov noted in an interview with the official press that, although it was intended to house only 1,350 inmates, it currently held 2,800. He commented "here women are not serving time but are suffering, and correctional facility Number 4 is our headache."

Human rights monitors sometimes were granted access to observe prison conditions, although the Government did not honor some requests to meet with individual prisoners. OSCE AMG officers, for example, were permitted to visit former Minister of Agriculture Leonov and State Farm Director Staravoitov (see Section 1.d.) on August 13 and 24, respectively. However, an official AMG request to visit Viktor Gonchar, who was detained on March 1 for 10 days on charges related to his involvement in an opposition presidential initiative, was not granted (see Section 1.b.). The AMG was not given access to Gonchar despite an appeal by the OSCE that he be released and reports that Gonchar was on a potentially health-threatening nonliquid hunger strike (see Section 2.b.). Despite his weakened condition, government security officials released Gonchar upon completion of his sentence by dumping him from a car into a pile of snow near his home. Gonchar subsequently disappeared in September. (see Section 1.b.)

#### d. Arbitrary Arrest, Detention, or Exile

The Government has amended only slightly its Soviet-era law on detention, and during the year, security forces continued to arrest arbitrarily and detain citizens, most often in connection with demonstrations, some of which were not authorized. There continued to be politically motivated arrests, although most of those arrested soon were released. The Criminal Procedure Code provides that police may detain a person suspected of a crime for 24 hours without a warrant, within which time the procurator is notified. The procurator then has 48 hours to review the legality of the detention. If the procurator deems the detention legal, a suspect can be held for a maximum of 10 days without formal charge. However, usually once the decision is made to hold a suspect, a formal charge is made. Once a suspect is charged, a trial must be initiated within 2 months, although in some cases the Procurator General can extend pretrial detention to 18 months to allow for further investigation. Alternatively, a suspect who has been charged can be released on a written pledge not to flee, in which case there is no time limit on the pretrial investigation. The law allows detainees the right to apply to the court (rather than the procurator) to determine the legality of their detentions. However, in practice, suspects' appeals to have their detentions reviewed by the courts frequently are suppressed because detainees are at the mercy of investigators, and detention officials are unwilling to forward the appeals. There is no provision for bail under the current legal code. According to the Belarusian-Helsinki Committee, in late 1998 there were 64,000 persons in detention.

By law detainees may be allowed unlimited access to legal counsel, and, for those who

cannot afford counsel, the court appoints a lawyer. However, investigators routinely fail to inform detainees of their rights and conduct preliminary interrogations without giving detainees an opportunity to consult counsel. The information gained then is used against the defendant in court. Even when appointed by the State, defense attorneys are subordinate to the executive branch of power.

Detainees and lawyers both report restrictions on consultations. Following the arrest of opposition leader and former Prime Minister Mikhail Chigir on March 30, government authorities initially refused his request that his wife, an attorney, officially represent him. However, this decision later was changed to allow Mrs. Chigir to act in this capacity. Chigir was released on November 30, but informed that he still faced trial on charges of negligence and abuse of power. Government authorities have disbarred or threatened to disbar a number of attorneys who have been involved in politically sensitive cases.

Although on August 10 the Ministry of Justice agreed to register the Association for Legal Assistance to the Population (ALAP), an independent organization that provides legal assistance to those who have suffered from police brutality or political persecution, it subjected the organization to a comprehensive "inspection" on October 20, shortly after a large antigovernment demonstration during which the ALAP maintained that a large number of persons were beaten by government security officials. On November 9, the Ministry of Justice suspended the ALAP's license due to such irregularities as alleged violations of the advertising law in its newspaper advertisements. On December 28, the Ministry of Justice informed the ALAP that its license to provide legal services would not be renewed. However, the ALAP maintains that a license is required only to work with business organizations, and intends to continue to try to assist private individuals.

Prominent human rights attorney Vera Stremkovskaya, who was threatened with disbarment by the Ministry of Justice and Minsk Collegium of Advocates in late 1998 for comments she made during a foreign trip that were critical of human rights violations in Belarus, was charged with slander by a local prosecutor's office on April 14. The charge stemmed from comments she made during judicial proceedings in defense of Vasiliy Staravoitov, a state farm director charged with embezzlement. The procurator general's office pursued the case throughout the year and called Stremkovskaya in for official questioning on September 29. However, the charge subsequently was dropped in late December due to lack of evidence. The treatment of Stremkovskaya highlighted the lack of a truly independent bar association and political interference in the legal process (see Section 1.e.).

As in 1998, the Government again held hundreds of political detainees during the year. Most were peaceful participants in antigovernment demonstrations who were held anywhere from several hours to several days (see Section 2.b.). For example, Yawhen Skocha, a deputy chairman of the Belarusian Popular Front (BNF) youth movement, was given a 10-day "administrative" sentence on February 15 for leading an unsanctioned, but peaceful, antigovernment demonstration the previous day in Minsk, following which a total of 15 persons were detained briefly. On June 10, Skocha was given an additional 1-year suspended sentence on a charge related to the demonstration--"organization of a group action in violation of public order."

On May 1, 19 opposition activists, including the chairman of the Belarusian Social Democratic Party (BSDP), were detained briefly for attempting to participate in an official

Labor Day celebratory event in Minsk. Viktor Babayed, the chairman of the Belarusian Congress of Democratic Trade Unions, also was detained briefly.

On July 21, government security officers arrested and briefly detained 53 persons who participated in an unsanctioned, but peaceful, antigovernment demonstration. On July 27, 19 persons were detained for participating in an unsanctioned, but peaceful, demonstration to commemorate Belarus's 1990 declaration of sovereignty from the Soviet Union. BSDP chairman Mikalay Statkevich was detained following the demonstration and given a 10-day prison sentence for organizing the demonstration. However, Yawhen Asinski was held until September 6 (see Section 1.c.).

On October 17, approximately 93 persons were arrested for participating in a large unsanctioned demonstration and protest march. In a series of assembly line-style court judgements, roughly 17 persons were sentenced to prison terms of up to 15 days, and 19 persons were fined. A number of opposition leaders associated with the demonstration, including Mikolai Statkevich and Lyudmila Gryaznova were arrested at their homes on the evening of October 17. A number of other opposition political figures went into hiding to escape wide-ranging roundups conducted by government security officers. Gryaznova subsequently was fined approximately \$500 (300 million rubles) while Statkevich was released on October 31 following the intervention of the chairman of the OSCE parliamentary assembly committee on Belarus.

On October 19, 13th Supreme Soviet Deputy and United Civic Party deputy chairman Anatoliy Lebedko was arrested for his role in the October 17 demonstration. He was given a 10-day sentence even though he did not participate in the protest march that ended in clashes with security officials. Despite backing out from participating in the demonstration and protest march, opposition Youth Front member Yevtgeny Afnagel was given a 15-day sentence. While searching for his father, government security briefly detained the son of independent newspaper editor Pavel Zhuk for questioning.

Unidentified, nonuniformed officials working for the security services regularly apprehend participants in antigovernment demonstrations (see Section 2.b.). There are credible reports that plainclothes security officials sometimes infiltrate antigovernment demonstrations in order to either report on opposition protesters or provoke clashes between demonstrators and police. Security officers on occasion also preemptively have apprehended organizers and individuals considered to be potential participants prior to demonstrations, including those that had been sanctioned by the Government.

Security force officials detained journalists and NGO officials during the year (See Sections 2.b. and 4.).

Following demonstrations, government security officials have held some detainees incommunicado.

In addition to the hundreds of antigovernment protestors, whom authorities held for several hours or days, there were several prominent political detainees whom the Government held for prolonged periods in pretrial detention, some for over a year.

On March 30, opposition leader and former Prime Minister Mikhail Chigir was arrested on charges of alleged financial impropriety and exceeding his authority during his tenure

as a head of a state bank several years previously. Chigir's arrest occurred just prior to a public ceremony to register his participation in an opposition-organized presidential election initiative aimed at drawing attention to the upcoming end of Lukashenko's legal 5-year term in office. It also followed several warnings from government security officials to Chigir that to cease his political activities. He remained in pretrial detention until November, although the procurator's office failed to present any substantive or specific evidence of his alleged crimes. Despite protests from the OSCE and a number of foreign governments Chigir remained in pretrial detention until November 30. Trial proceedings, which government authorities indicated would be followed through, remained pending as of year's end.

In February 1998, police arrested Andrei Klimov, a successful entrepreneur and member of the Parliament that was dissolved in late 1996, on charges of embezzlement and other financial irregularities. Klimov's supporters and some human rights observers believe that his arrest was politically motivated, because Klimov is an outspoken critic of President Lukashenko and had participated in a commission that examined violations of the law and the Constitution by the President. Klimov's period of pretrial detention was extended on several occasions. He was beaten severely by prison guards in December (see Section 1.c.). As of year's end, Klimov remained in detention while his trial, which began on July 22, continued.

Former director of the joint-stock agribusiness (Rassvet) Vasiliy Staravoitov and former Agriculture Minister Vasily Leonov were arrested in late 1997 for allegedly embezzling state credits. Authorities denied appeals for their release on their own recognizance due to age and poor health. The trial of the 75-year-old Staravoitov, which officially began in November 1998, was delayed repeatedly due to his weak physical condition aggravated by poor prison conditions. On May 30, Staravoitov was found guilty and sentenced to forfeiture of property and 2 years (including time already served) in a labor camp. Staravoitov was released on November 11 after completion of his sentence. Domestic human rights groups believe that both Staravoitov and Leonov were arrested to draw attention away from a poor harvest on heavily subsidized state farms. The Government is dedicated to maintaining a Soviet model of agriculture and Rassvet's demonstrated independence in implementing reforms not sanctioned by the Government apparently posed a threat to such efforts. Immediately following Staravoitov's arrest, the Government renationalized his company. The trial of Leonov, which began in Minsk on August 17, was ongoing at year's end. While in detention, Leonov has suffered two heart attacks. Leonov also initiated a hunger strike to protest the initial refusal by prison authorities to provide him with medical supplies brought by his relatives. Former National Bank chairwoman Tamara Vinnikova was arrested in January 1997 on allegations of malfeasance during her previous tenure as head of a state bank. The timing of her arrest, which coincided with her increasingly public challenges to President Lukashenko's economic policies, led observers to suspect a political motive. Due to her failing health, following 10 months in a KGB facility, Vinnikova was allowed to continue her period of pretrial detention under house arrest beginning in November 1997. While under house arrest, her visitors and incoming phone calls were monitored around-the-clock by guards from the Presidential Security Service. On April 8, Vinnikova disappeared. She was apparently able to escape from her guards and eventually make it to another country. Following her reappearance in mid-December, Vinnikova claimed in a radio news interview she went into hiding in order to escape a suspected conspiracy against her life (see Section 1.b.).

Statistics on the current number of persons in pretrial detention and the average length of pretrial detention were not available. As of August 1998, there were approximately 11,000 persons in pretrial detention.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however in practice the judiciary is not independent and largely is unable to act as a check on the executive branch and its agents. Reforms adopted to support the independence of the judiciary in 1995 were not implemented. Without major structural reforms, the independence of the judiciary cannot be realized. The November 1996 constitutional referendum further subordinated the judiciary to the executive branch by giving the President the power to appoint 6 of the 12 members of the Constitutional Court, including the chairman. The remaining six are appointed by the Council of the Republic, which itself is composed of individuals appointed by the President or elected by individuals influenced by the President. The President also appoints the chairmen of the Supreme Court and the Supreme Economic Court. The President also has authority under the Constitution to appoint and dismiss all district and military judges.

The criminal justice system follows the former Soviet model and has three tiers: District courts; regional courts; and the Supreme Court. Several modifications have been made, brought about by the passage of the new Constitution, including direct presidential appointments. The Constitutional Court was established in 1994 to adjudicate serious constitutional issues, but, dependent on the executive branch, it does not challenge presidential initiatives. In addition the Constitutional Court has no means to enforce its decisions.

Judges adjudicate trials; only in capital offense trials in which the defendant pleads not guilty and demands a jury trial do juries determine innocence or guilt. Judges are dependent on the Ministry of Justice for sustaining court infrastructure and on local executive branch officials for providing their personal housing. In addition judges owe their positions to the President. Although the Procurator's Office categorically denies it, there are widespread and credible reports that "telephone justice" (the practice of executive and local authorities dictating to the courts the outcome of trials) continues.

On February 24, Belarusian judge Yury Sushkov announced at a press conference in Germany that he had asked for political asylum from German authorities. Sushkov claimed that KGB officials forced him to sentence two Belarusian customs officers to several years in prison, despite a lack of conclusive evidence of their guilt. He stated that he could no longer, "make dishonest decisions and act against principles of juridical consciousness." On August 5, while on an inspection tour in the Brest oblast in the western part of the country, Lukashenko told local reporters that he personally exercised control over "certain" ongoing judicial cases, including that of former Prime Minister and opposition leader Mikhail Chigir (see Section 1.d.). Lukashenko stated, "I have them under control, I am not going to allow any injustice there myself." On August 30, during a government interagency commission on crime covered by the official media, President Lukashenko reportedly stated, "It is natural for the Head of State to exercise control over one criminal case or another...especially in our country, where the Head of State controls

all the branches of power--legislative, executive, and judicial."

Prosecutors, like the courts, are organized into offices at the district, regional, and republic levels. They are ultimately responsible to, and serve at the pleasure of, the Procurator General who, according to the Constitution, is appointed by the Council of the Republic.

In May 1997, Lukashenko issued presidential decree number 12, "Several Measures on Improving the Practice of Lawyers and Notaries," which, according to international legal experts and human rights monitors, seriously compromised the independence of lawyers from the Government. The decree, which ostensibly was issued in response to allegedly exorbitant attorneys' fees, subordinated all lawyers to the Ministry of Justice, which controls the licensing of lawyers, and placed the bar association under much greater Ministry of Justice control.

During 1997 and 1998, the Government used the decree to strip several lawyers of their licenses, including President Lukashenko's political opponents, such as former Supreme Soviet chairman Mecheslav Gryb, and prominent defense attorneys Garry Pogonyailo and Nadezhda Dudareva. Human rights activist and defense attorney Vera Stremkovskaya was threatened with disbarment following her public criticisms of the Government while on a visit abroad in 1998. She was charged with "slander" in April for comments she made in a court while defending a client. The charge was dropped later in the year (see Section 1.d.).

The Constitution provides for public trials, although exceptions can be made in cases established by law (for example, in cases of rape or on grounds of national security). Defendants have the legal right to attend proceedings, confront witnesses, and present evidence on their own behalf. However, these rights are not always respected in practice. Defendants' legal right to be represented by counsel also is not always respected in practice. While the 1996 Constitution establishes a presumption of innocence, in practice defendants frequently must prove their innocence.

Both defendants and prosecutors have the right of appeal, and most criminal cases are appealed, according to legal sources. In appeals neither defendants nor witnesses appear before the court; the court merely reviews the protocol and other documents from the lower court's trial. Appeals rarely result in reversals of verdicts. In criminal cases, the prosecution has the right to appeal an acquittal for retrial to a higher court on the same charge.

On July 22, according to the OSCE's AMG, the well-known lawyer, journalist, human rights activist, and 13th Supreme Soviet deputy Valeri Shchukin was detained illegally in a court building while attempting to attend the trial of Andrei Klimov (see Section 1.d.). The trial proceedings were open to the public. In front of OSCE observers and acting without any legal basis or written order, militia officers removed Shchukin from the building by force. Shchukin summarily was given a 15-day prison sentence for "petty hooliganism" by a judge who, by way of explanation to one of the OSCE officers, stated that the action was taken because Shchukin was "not normal." Shchukin subsequently was released after serving 7 days of the sentence.

Antigovernment protestors arrested after demonstrations were subjected to assembly line style trials, sometimes without the right to counsel or the opportunity to present evidence or call witnesses.

On February 23, political prisoner and BNF youth front member Aleksei Shidlovskiy was released from prison 2 days prior to the conclusion of one year of an 18-month sentence for "malicious hooliganism with extreme cynicism" in a hard-regime labor camp. The charges stemmed from his alleged spray painting of antipresidential slogans in August 1997. Despite his youth (Shidlovskiy turned 19 while in detention) and the nonviolent nature of the charges, Shidlovskiy was denied release pending trial. During the trial, Shidlovskiy and Vadim Labkovicyh, another teenage defendant in the case, were held in a guarded cage as if they were dangerous criminals. A representative of Human Rights Watch who observed the trial in February 1998 referred to it as an "absurd parody of criminal justice and a grotesque show trial aimed at intimidating young people from expressing their opposition to the current regime." The sentence of Labkovich, who also was held for 6 months in pretrial detention, was suspended and no further action has been taken against him. The prolonged and harsh pretrial detention, the punitive use of what apparently was a relatively minor charge, and the disproportionate nature of the sentences handed down to Shidlovskiy and Labkovich were both excessive and reminiscent of Soviet-era practices (see Section 1.c.).

Vladimir Kudinov was convicted in 1997 and sentenced to 7 years in prison and full confiscation of property for allegedly bribing a police officer. He is considered by many opposition activists and human rights observers to be a victim of political persecution. Prior to his arrest, Kudinov was an active and vocal critic of President Lukashenko. Government authorities first began to harass Kudinov in 1995 during his campaign for a seat in the Supreme Soviet. In 1996 Kudinov signed an impeachment petition against Lukashenko. His conviction and lengthy sentence appear to fit a government pattern of using charges of alleged economic related crimes to silence and intimidate critics. As part of a general presidential amnesty, Kudinov's sentence was reduced by 1 year in January.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection against illegal interference in a citizen's personal life, including invasion of privacy, telephone, and other communications. However, the Government does not respect these rights in practice. Although the inviolability of the home also is provided for by the Constitution, which states that, "no one shall have the right to enter, without legal reason, the dwelling and other legal property of a citizen against such a citizen's will," in practice, government monitoring of residences, telephones, and computers continued unabated. The KGB is widely believed to enter homes without warrants, conduct unauthorized searches, and read mail. Political, human rights, and other NGO's believe that their conversations and correspondence are monitored routinely by the security services. Some opposition figures have reported a reluctance to visit some foreign embassies due to fear of reprisal.

Nearly all opposition political figures assume that the Government monitors their activities and conversations. The Lukashenko Government did nothing to refute these assumptions. Militia officers assigned to stand outside diplomatic missions are known to keep records of visits by political opposition leaders. In addition even government officials do not appear to be exempt from monitoring.

On February 12, militia in Gomel, claiming a bomb threat in the building, conducted an illegal search of the local office of the Belarusian Helsinki Committee, a human rights NGO. No bomb was found, but the militia officers seized 14,000 leaflets concerning the

recently declared opposition presidential election initiative.

On April 26, just short of a month after his arrest on charges of alleged financial impropriety, the office of former Prime Minister Mikhail Chigir was broken into. A computer containing data related to an opposition political campaign in which Chigir was participating was stolen, along with other equipment. Opposition activists allege that, in view of the almost certain continual government surveillance of the office, government security officials likely were behind the incident.

On May 11, government security officers in Minsk used the pretext of a bomb threat to search the offices of the Francisak Skaryna Belarusian Language Society (BLS). The involvement of the BLS in an ongoing opposition presidential election initiative suggests a political motive for the incident.

On May 14, Ministry of Interior officers searched the Minsk office of Irex/Promedia, an international organization involved in the implementation of projects to strengthen independent newspapers, without legal authorization. The local head of the organization, her daughter, and a staff member were questioned by these officers over a period of several hours. The OSCE later protested the incident with government authorities.

On September 11 and October 28, under the pretext of looking for the offices of an independent newspaper that tax inspectors were trying to shut down, police officers attempted to search the headquarters of the opposition United Civic Party in Minsk without a warrant.

The KGB, MVD, and certain border guard detachments have the right to request permission to install wiretaps, but under the law must obtain a prosecutor's permission before installation. The Presidential Guard (or security service) formed in 1995 reportedly conducted surveillance activities of the President's political opponents. There is no judicial or legislative oversight of the Presidential Guard's budget or activities, and the executive branch repeatedly has thwarted attempts to exercise such oversight.

In June the National Assembly revised the administrative offenses code to increase the penalties for those who obstruct KGB officers. For example, a new article prohibits preventing KGB officers from entering the premises of a company, establishment or organization, and for failing to allow audits or checks to be made, as well as for unjustified restriction or refusal to provide information, including access to company information systems and data bases.

In early 1997, the Ministry of Communications renegotiated contracts for supplying telephone service. The new contracts forbid subscribers from using telephone communications for purposes that run counter to state interests and public order. The Ministry has the right to terminate telephone service to those who breach this provision.

Presidential decree number 218, issued in March 1997, prohibits the import and export of printed, audio, and visual information that could "damage" the economic and political interests of the country (see Section 2.a.).

In October security forces searching for his father detained the young son of a newspaper editor (see Section 1.d.).

On November 23, President Lukashenko signed decree number 40, which allowed the Government to nationalize the property of any individual if the President determines that the individual has caused financial damage to the State.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech, as well as the freedom to receive, retain, and disseminate information; however, the Government restricts these rights in practice. The executive branch continued its suppression of freedom of speech. Despite the constitutional provisions, a 1998 government decree limited citizens' right to express their opinions. As part of an overall crackdown on opposition activity, the Government stepped up its campaign of harassment against the independent media. Although the Constitution prohibits a monopoly of mass media, the Government also continued to restrict severely the right to a free press through near-monopolies on the means of production and on national level broadcast media and by denying accreditation of journalists critical of the regime. The Government also kept up economic pressure on the independent media by pressuring advertisers to withdraw advertisements, as well as through fines and other administrative harassment. Employees at some state-run enterprises are discouraged from subscribing to independent newspapers and journals.

In 1996 President Lukashenko signed a decree ordering that all editors in chief of state-supported newspapers would henceforth be official state employees and would become members of the appropriate local level government council. Another decree granted the Ministry of Press the authority to assign graduates of state supported journalism schools to work in state-owned media organizations as a means of payment for their schooling. These decrees remain in effect.

Presidential decree number 5, issued in 1997, prohibits a range of broadly defined activities and limits freedom of expression. For example, the decree prohibits individuals from carrying placards or flags bearing emblems that are not registered officially with the State, as well as "emblems, symbols, and posters whose content is intended to harm the State and public order, rights, and legal interests of the citizens." The decree also bans activities that are "humiliating to the dignity and honor of the executive persons of state bodies."

On March 2, government authorities in the Lenin region of Grodno launched an investigation of the activities of cartoonist Alexsei Surov on suspicion of insulting the honor and dignity of high-ranking government officials. The investigation was opened on the basis of a small booklet of political cartoons about President Lukashenko by Surov. Surov's workplace at the Grodno puppet theater also was searched. A local prosecutor reportedly later decided to close the case.

On October 14, police officers in Minsk detained for 5 hours a 13 year old boy, Roman Shkor, who was handing out leaflets advertising an upcoming opposition demonstration. The leaflets were confiscated.

On November 7, police officers in the town of Borisov briefly detained Alesya Yasyuk, a member of the Belarusian Social Democratic Party (BDSP), after she displayed at a public

event the traditional white-red-white national flag now associated with the opposition.

The Defamation Law makes no distinction between private and public persons for the purposes of lawsuits for defamation of character. A public figure who has been criticized for poor performance in office may ask the public prosecutor to sue the newspaper that printed the criticism. In June 1998, the lower house of the National Assembly approved a bill that stipulated that public insults or libel against the President could be punished by up to 4 years in prison, 2 years in a labor camp, or a large fine. However, there were no reports that anyone has been arrested or charged subsequently for this offense, and the bill apparently was devised principally as a means of intimidation.

In 1997 the Council of Ministers issued a decree that prohibited and restricted the movement of goods across customs borders. The decree specifically prohibited the import and export of printed, audio, and video materials, or other news media containing information that could damage the economic and political interests of the country. Some bulletins affiliated with the opposition published outside of the country appeared to be targeted by the decree, and there were a number of incidents in 1997-98 in which customs officials confiscated opposition materials at the country's borders.

In January 1998, more stringent regulatory provisions, introduced by amendments to the Law on Press and Other Mass Media that were adopted by the Council of the Republic in December 1997, went into effect. The new regulatory provisions grant greater authority to the Government to ban and censor critical reporting. For example the State Committee on the Press was given authority to suspend for 3 months publication of periodicals or newspapers without a court ruling.

In December 1998, new regulations went into effect restricting the distribution of legal information to specially licensed media. The regulations required the independent media that publish legal acts to apply for licenses from a commission under the Ministry of Justice; several independent informational bulletins subsequently were denied licenses.

On December 17, President Lukashenko signed new amendments to the law "On Press and Other Media." The amendments ban the media from disseminating information on behalf of political parties, trade unions, and NGO's that are not registered with the Ministry of Justice.

Independent newspapers are widely available in Minsk, but outside of the capital most towns carry only local newspapers, only some of which are independent. On February 17, the State Committee on the Press officially warned six independent newspapers (Naviny, Narodnaya Volya, Belorusskaya Delovaya Gazeta, Imya, Zhoda, and Pahonya) that they risked closure if they continued to publish information about an opposition presidential election initiative aimed at drawing attention to the approaching end of Lukashenko's 5-year legal presidential term. Mikhail Podgainy, the head of the State Committee on the Press, announced publicly that the newspapers would be shut if they ignored the warning. On May 13, the Supreme Economic Court dismissed appeals filed by the independent newspapers that there were no grounds on which the State Committee on the Press could issue such an official warning.

On May 26, the State Committee on the Press issued its second warning to Naviny after it published an article entitled "Carbuncles of Lawfulness" for which the newspaper was

accused of "inciting social discord and defaming police officers." The Supreme Economic Court upheld the warning on August 26, following an appeal by Naviny. On June 24, the State Committee on the Press issued its second warning to Imya for an article the newspaper published relating to President Lukashenko. Under the December 1997 amendments to the Law on Press and Other Media, newspapers can be banned if two warnings are issued. The Committee to Protect Journalists and Article 19, another international NGO, both sent open letters to the Government expressing concern about the possible closure of independent newspapers.

In addition to warnings from the State Committee on the Press, the judiciary and security services also were used to exert pressure on the independent media. For example on July 26, Judge Nadezhda Chmara, the presiding judge in the trial of former state farm director Staravoitov (see Section 1.d.), won a libel suit against Belorusskaya Delovaya Gazeta. Chmara claimed that the newspaper in one of its articles on the case had accused her indirectly of professional misconduct. Belorusskaya Delovaya Gazeta was ordered to print a retraction and to pay the judge an unprecedented fine of approximately \$6,550 (or 2 billion rubles at the then official rate). The ruling is currently under appeal by the newspaper. The ruling was appealed by the newspaper.

On September 24, the newspaper Naviny lost a libel suit brought against it by National Security Council Chairman Viktor Sheiman for an article that had implied that Sheiman possessed property valued beyond what his official salary could provide. Sheiman apparently was ordered to file the lawsuit during a September 16 meeting with President Lukashenko. The newspaper and one of its reporters were ordered to pay a combined fine of approximately \$30,000 (10 billion rubles at the then official rate). The unprecedented size of the fine forced Naviny, which published its last issue on September 29, into bankruptcy. Newsprint owned by the paper was confiscated by government authorities, and its bank account was frozen. On October 26, tax officials in Minsk inventoried the personal property of Naviny editor Pavel Zhuk. On November 8, a Minsk city court upheld the libel judgement, which had been appealed by Naviny.

On September 30, the Belarusian State Committee on the Press annulled the registration certificates of nine independent newspapers and periodicals, including a successor newspaper to Naviny, on the pretext that they had not submitted documentary approval of their office addresses. The registration certificates later were renewed on November 4.

On March 2, government security officials raided the offices of the independent newspaper Pahonya in Grodno and confiscated material related to the opposition's May 16 presidential election initiative. On April 7, KGB officers detained and questioned Naviny journalist Aleh Hruzdilovich for several hours. Hruzdilovich recently had written an article entitled, "A Secret Plan Against the Opposition," based on a reportedly confidential government document outlining methods to be used to crack down on the opposition.

On July 22, militia officers and government prosecutors searched the offices of Imya, confiscated computer equipment, and briefly detained for questioning chief editor Irina Khalip. A local prosecutor's office in Minsk recently had begun an investigation into a criminal case of libel against the newspaper for an article in which it detailed infighting and high level corruption within the Government. In a letter sent to the Minister of Justice, the Paris-based human rights NGO Reporters Sans Frontieres protested the judicial harassment of Khalip.

Also in July, OSCE Freedom of Media representative Freimunt Duve issued a public statement protesting reported threats by government security officers against Belorusskaya Delovaya Gazeta chief editor Piotr Martsev, whose paper also had published a series of articles detailing government corruption and infighting. On October 4, Duve sent a letter of complaint to the Foreign Minister concerning the Government's "continued attempts to stifle freedom of expression."

On November 4, two independent journalists were barred from attending a government conference on health care issues held at Brest regional executive committee offices. However, state media representatives were permitted to cover the event. A spokesperson for the Brest regional executive committee explained that, in addition to accreditation, journalists were required to have the permission of the executive committee chairman to observe its meetings.

Until government authorities shut it down during 1996, Radio 101.2 had been the sole Belarusian language independent station in the country. The Belarusian Patriotic Union of Youth, a government-subsidized presidential youth organization, was permitted to take control of Radio 101.2.

State-controlled Belarusian television and radio (B-TR) maintains its monopoly as the only nationwide television station. Its news programs regularly featured reporting heavily biased in favor of the Government and refused to provide an outlet for opposing viewpoints. Local, independent television stations operated in some areas, and were relatively unimpeded in reporting on local news. However, some of these stations reported that they were under pressure not to report on national-level issues or were subject to censorship.

Broadcasts into the country from Russian television stations represent the only significant source of independent information from broadcast media and constitute a frequent source of irritation to the Lukashenko Government. However, to transmit their video material to Moscow, Russian stations rely on the B-TR broadcasting facility. According to Russian television crews, authorities sometimes have tried to limit access to this facility, although there were no reports of this occurring during the year.

On May 21, the government newspaper Respublika criticized Belarusian language programs broadcast by a Polish radio station in Warsaw for negative reporting about President Lukashenko.

In March 1998, the presidential administration issued an internal directive entitled "On Strengthening Countermeasures Against Articles in the Opposition Press." The directive specifically lists 10 independent media organizations covered by these provisions, and prohibits government officials from making comments or distributing documents to non-state media. It also forbids state enterprises from advertising in non-state media. Although the directive does not restrict directly independent media or impinge on the right of citizens to receive information, it does restrict government officials in speaking to the independent media and gives further advantages to the state press.

On January 6, Anna Shidlovskaya, a correspondent for the independent news service Belapan and newspaper Belorusskaya Delovaya Gazeta, was prevented from attending an open session of the Gomel executive committee by the head of the committee's

information department. The independent Belarusian Association of Journalists (BAJ) later protested the decision to order Shidlovskaya out of a conference hall 5 minutes before the executive committee was due to meet.

A 1997 Council of Ministers decree nullified the accreditation of all correspondents and required all foreign media correspondents to apply for reaccreditation with the Ministry of Foreign Affairs; the application form for accreditation requested biographic information, as well as a record of the applicant's journalistic activity. Journalists who were residents of Belarus also were required to register with the state tax authorities. The impact of the decree is still unclear, although it does not appear that the Government specifically invoked the decree during 1998 or this year as a tool to exclude certain journalists.

On June 20, the poet Vladimir Neklyayev, who chaired the Belarusian Writers' Union sought asylum in Poland. Neklyayev accused government authorities of disrespect for the Belarusian language, history, and culture and claimed that recent financial inspections of a magazine that he edited were motivated politically.

On August 11, the international NGO Reporters Sans Frontiers described Belarus as an enemy of the Internet. A public statement issued by the organization noted that citizens were not free to explore Internet independently. Although there are several Internet providers in the country they all are state controlled. The Government's state monopoly on Internet service offers high prices, poor quality, and limited service, and allows for the monitoring of practically all e-mail traffic. Although the Government has full control, it does not appear to be cutting off access entirely, and those who do have access appear to be able to contact a full range of unfiltered international web sites.

The Government restricts academic freedom. A sharply critical Human Rights Watch report released in Minsk on July 27 detailed government restrictions on academic freedom. The report noted that the Lukashenko Government had suppressed research on controversial topics, recentralized academic decision making, and maintained a ban on political activity on campuses. At the same time, a "systematic crackdown" on political dissent on campuses had targeted outspoken students and lecturers who were threatened with expulsion, often for their off-campus political activity. The report also asserted that state university authorities issue reprimands and warnings to politically active lecturers, independent historians, and other academics. It stated that university employees who challenge the status quo are told to curtail political activities or change the focus of their academic inquiry. University administrators target research into politically sensitive issues, such as the Belarusian independence movement during the Soviet era, a theme that is seen to challenge the State's policy of integration with Russian and is discouraged actively.

The Government continued to harass students engag