



INTER-PARLIAMENTARY UNION

CHEMIN DU POMMIER 5
1218 LE GRAND-SACONNEX / GENEVA (SWITZERLAND)

TELEPHONE + 41 22 - 919 41 50 - FAX + 41 22 - 919 41 60 - E-MAIL postbox@mail.ipu.org

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COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

REPORT OF THE COMMITTEE'S DELEGATION ON ITS MISSION TO BELARUS

19 - 24 NOVEMBER 1999

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**REPORT ON THE MISSION TO BELARUS CONCERNING THE CASE OF
MR. VICTOR GONCHAR, MR. VLADIMIR KOUDINOV, MR. ANDREI KLIMOV, MR. VALERY
SHCHUKIN, MR. SEMEN DOMASH, MR. MECHESLAV GRYB, MR. PAVEL ZNAVETS,
MR. ALEXANDER DOBROVOLSKY, MR. STANISLAS BOGDANKEVICH, MR. ANATOLY LEBEDKO,
MR. SEMEN SHARETSKY
AND MS. LUDMILA GRYAZNOVA**

19 to 24 November 1999

A. MANDATE AND PREPARATION OF THE MISSION

In September 1998 and February 1999, respectively, the above-mentioned cases were referred to the Committee on the Human Rights of Parliamentarians, which declared them admissible.

The persons concerned are all members of the Supreme Soviet of the Thirteenth Convocation who do not recognise the 1996 referendum and its results and who signed the impeachment petition against President Lukashenko. It is alleged that, owing to their opposition to President Lukashenko, they have become the target of politically motivated legal proceedings, arbitrary arrest and detention, and undue interference with their right to freedom of expression and of peaceful assembly.

Having received the comments of the authorities together with relevant information regarding the allegations in question, the Committee noted a major discrepancy between the views and facts presented by the sources, on the one hand, and the authorities, on the other. It therefore felt that an on-site mission was the only way of assembling the information needed to gain a better insight into the situation. At the hearing held at the Committee's 84th session in February 1999, the Belarus delegation stated that such a mission would be welcome and the Committee therefore went ahead with the preparations.

It designated Mr. François Borel, titular member, and Mr. Branislav Milinkovic, a human rights expert, as members of its delegation, which was to be accompanied by the Committee Secretary, Ms. Ingeborg Schwarz. The mission was first scheduled to take place from 23 to 28 June 1999 but was cancelled at the last minute by the authorities. The dates 6 to 10 September were then proposed but proved to be inconvenient for the authorities.

At its 87th session held in conjunction with the 102nd Conference of the Inter-Parliamentary Union (Berlin, 10 to 15 October 1999), the Belarus delegation reaffirmed that a mission would be welcome. At that session, the Committee was informed of the disappearance of Mr. Gonchar. It decided to submit his case together with those of Mr. Koudinov, who had been sentenced to seven years imprisonment in the meantime, Mr. Klimov and Mr. Shchukin to the Council of the Inter-Parliamentary Union in view of the particularly serious allegations involved. In the resolution it adopted on the case in Berlin, the Council entrusted the Committee with the mission, expressing the hope that it could take place in the near future. At the same session, the Committee adopted a confidential decision regarding the case of Mr. Bogdankevitch, Mr. Dobrovolsky, Mr. Gryb, Mr. Lebedko, Mr. Sharetsky, Mr. Znavets and Mr. Domash, stating that their cases would be included in the mission's mandate.

Pursuant to the mandate established by the IPU Council and the Committee, the mission's task was to gather information on the situation of the deputies concerned from the competent parliamentary, governmental and judicial authorities and from the deputies themselves, including Mr. Koudinov and Mr. Klimov in prison, their families and lawyers, relevant human rights organisations and any other source deemed capable of providing relevant information.

The authorities having agreed to the proposed dates, namely 19 to 24 November 1999, the mission finally went ahead.

B. PROGRAMME OF THE MISSION

General remarks

On the occasion of the 102nd Conference of the Inter-Parliamentary Union (October 1999), the authorities forwarded a preliminary version of the mission programme, which provided for all requested meetings with the authorities except those with President Lukashenko and the Minister for Foreign Affairs. The parliamentary authorities pledged to do their best to arrange both meetings. However, it proved impossible to schedule a meeting with President Lukashenko.

With regard to the MPs concerned, the initially scheduled meetings with Mr. Bogdankevitch and Mr. Lebedko, had to be cancelled in the end due to an unforeseen meeting with the authorities. Mr. Sharetsky, for his part, has left the country and currently resides in Lithuania. As the case of Ms. Ludmila Gryaznova was referred to the Committee during the mission, the delegation conducted preliminary investigations into the case.

The delegation wishes to express its gratitude for the support and assistance of the Parliament of Belarus on which it was able to rely throughout the mission. It is particularly grateful to Mr. Glukhovsky and Mr. Kozyr for their assistance throughout its stay in Minsk.

The delegation is gratified that it was able to see almost all the officials it had requested to meet. However, it regrets the fact that it was not received by the President or any member of his staff and was thus unable to hear his views on certain issues involving presidential administration. The delegation particularly appreciated the arrangements made for a meeting in prison with Mr. Koudinov and Mr. Klimov in the absence of witnesses and the opportunity it was given to visit the prison facilities.

Programme of meetings

The delegation met with the following persons and representatives of the following organisations:

Authorities

- Government

- Mr. G. Vorontsov, Minister of Justice
- Mr. Y. Sivakov, Minister of the Interior
- Mr. L. Glukhovsky, MP, Deputy Minister of the Interior, Chief of the Investigative Committee of the Ministry of the Interior
- Mr. V. Gerasimovich, Deputy Minister for Foreign Affairs

- Judiciary

- Mr. O. Bozhelko, Prosecutor General of the Republic
- Mr. P. Muklashevich, Vice-President of the Supreme Court
- Mr. V. N. Ptashnik, Deputy Chairman of the Collegium on Criminal Cases

- Prison Administration

- Mr. S.I. Kadushkin, Head of the Committee on the Execution of Sentences, Ministry of Internal Affairs, and Head of the State Committee for Penitentiary Facilities

- Academic authorities

- Mr. A. Kozulin, Chancellor of Belarus State University
- Mr. R. Korseko, Chancellor of Belarus Economic University

- Parliamentary authorities

Council of the Republic of the National Assembly:

- Mr. P. Shipuk, Chairman of the Council
- Ms. I. Drobyshevskaya, Chairperson, Standing Committee for Social Affairs

House of Representatives of the National Assembly:

- Mr. A. Malofeyev, Chairman of the House of Representatives
- Mr. L.V. Glukhovsky, member of the Standing Committee on Legislation, Deputy Minister of Internal Affairs
- Mr. A. Kozyr, Chairman, Standing Committee for International Affairs and Relations with the Commonwealth of Independent States; Mr. A.F. Shpilevsky, Vice-Chairman of the Committee and Mr. A.S. Kamai, member of the Committee;
- Mr. Y.A. Kulakovsky, Chairman, Standing Committee on Human Rights and National Relations
- Mr. S.B. Livshits, Chairman, Standing Committee on Economic Questions

- *Sources and MPs concerned*

- Mr. Dobrovolsky
- Mr. Domash
- Mr. Gonchar's wife and Mr. Gonchar's assistant
- Ms. Gryaznova
- Mr. Gryb
- Mr. Klimov
- Mr. Klimov's wife and mother
- Mr. Koudinov
- Mr. Koudinov's wife
- Mr. Shchukin
- Mr. Znavets

- Representatives of Charter 97, "Viasna-96" and the Belarus Helsinki Committee - Minsk Branch
- Representatives of the Belarusian Association of Journalists.

Representatives of international organisations and foreign embassies

- Organisation for Security and Cooperation in Europe (OSCE): Mr. Wieck, Ambassador, Head of the OSCE Advisory and Monitoring Group, Belarus, and Mr. Rivollier, counsellor

- Mr. Lavroff, Acting Chargé d'affaires, French Embassy
- Mr. Kolb, German Embassy
- Mr. Goumas, Ambassador of Greece
- Mr. Kelly, Ambassador of the United Kingdom
- Mr. Speckhard, Ambassador of the United States of America

C. POLITICAL BACKGROUND

With the break-up of the Soviet Union, the Belarus Supreme Soviet declared sovereignty on 27 July 1990 and Belarus became an independent State on 26 August 1991. A Constitution providing for parliamentary democracy and political pluralism was adopted in March 1994. Presidential and parliamentary elections were held in 1994 and 1995 respectively. After the landslide election victory in July 1994 of President A. Lukashenko, international observers noted a decline in parliamentary power in tandem with a steady strengthening of the Executive Branch. The increasing practice of governing by presidential decree, with some decrees being declared unconstitutional by the Constitutional Court, met with opposition from members of the Supreme Soviet of the Thirteenth Convocation. The opposition to President Lukashenko's policies culminated when the authorities decided to hold a referendum providing for a broadening of presidential power and extension of President Lukashenko's term of office until the year 2001. An impeachment procedure was initiated but eventually failed to obtain the number of signatures needed as some of the MPs who had initially signed, withdrew their signatures. In November 1996, the 1994 Constitution was amended as proposed in the referendum despite a Constitutional Court ruling that the results of referenda are not binding. According to the amendment, the Supreme Soviet was transformed into a bicameral parliament, consisting of a House of Representatives made up of 110 deputies and a Council of the Republic representing the regions. The members of the House of Representatives were chosen from among the 199¹ members of the Supreme Soviet of the Thirteenth Convocation. The majority of those who signed the impeachment petition refused to join the new Parliament and continue to consider the Supreme Soviet of the thirteenth legislature as the only legitimate Parliament.

The serious doubts by the opposition as to the legitimacy and legality of the procedures applied in connection with the holding of the referendum and the constitution of the new Parliament, the National Assembly, have cast a shadow over the political situation in the country ever since. At the international level, the new Parliament has not been recognised by the Parliamentary Assembly of the Council of Europe and of the OSCE.

The opposition has been faced with mounting difficulties, particularly since its attempt to organise presidential elections which, according to the 1994 Constitution, were due to be held in May 1999. Several leading opposition figures have since been arrested or have disappeared: the opposition presidential

¹ According to the Constitution of 1994, the Supreme Soviet was composed of 260 members. However, at the 1995 elections, only 199 seats were filled.

candidate, Mr. Mikhail Chigir, a former Prime Minister, was arrested on 31 March 1999 and accused of "embezzlement". International observers unanimously agree that his arrest and detention are entirely politically motivated. On 7 May 1999, Mr. Yuri Zakharenko, a former Minister of the Interior and a member of the opposition United Civic Party's National Council, disappeared under obscure circumstances. On 16 September 1999, Mr. Victor Gonchar disappeared (see under F II).

Finally, it should be noted that, under the auspices of the OSCE which established an Advisory and Monitoring Group in Minsk, the opposition and the Government have embarked on a process of negotiation, particularly in view of the legislative elections scheduled for 2000. International observers hope that the negotiations will lead to the creation of conditions conducive to the holding of free and fair elections.

D. RELEVANT NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS OF THE REPUBLIC OF BELARUS

1. International obligations

Belarus has accepted a wide range of international obligations in the field of human rights. It has, in particular, ratified the International Covenant on Civil and Political Rights (ICCPR), including its First Optional Protocol.

As a State participating in the Organisation for Security and Cooperation in Europe(OSCE), Belarus has accepted additional international human rights commitments such as the 1975 Helsinki Final Act and the Documents of the Copenhagen (1990) and Moscow (1991) Meetings of the Conference on the Human Dimension of the CSCE.

2. Recommendations made by the Human Rights Committee established under the International Covenant on Civil and Political Rights (ICCPR)

On considering the fourth periodic report of Belarus submitted under the ICCPR in November 1997, the Human Rights Committee made, *inter alia*, the following recommendations:

1. Expressing concern about numerous allegations of ill-treatment by law enforcement officials, the Committee recommended that steps be taken to ensure that all allegations of ill-treatment and unlawful use of weapons by security and police officials be promptly and impartially investigated by an independent body, that the perpetrators be prosecuted and punished and that the victim be compensated.
2. Expressing concern that pre-trial detention may last up to 18 months and that the competence to decide upon the continuance of pre-trial detention lies with the Procurator and not the judge, the Committee recommended that the laws and regulations relating to pre-trial detention be reviewed as a matter of priority so as to comply with the requirements of Article 9 of the Covenant
3. Expressing concern at the procedures relating to the tenure, disciplining and dismissal of judges as well as the licensing of lawyers by the Ministry of Justice, the Committee urged Belarus to take all appropriate measures to ensure that judges and lawyers are independent of any political or other external pressure.
4. Expressing concern at reports of arbitrary infringements of the rights to privacy (wire tapping, house searches), the Committee recommended that the competence to decide upon requests for and the legality of investigative activities be transferred from the Prosecutor General to the courts.
5. Expressing concern at the severe restrictions on the right to freedom of assembly as laid particularly in presidential Decree N° 5 of March 1997 (see below), the Committee recommended that the right of peaceful assembly be fully protected and guaranteed in law and practice and that Decree N° 5 be repealed or modified so as to be in compliance with Article 21 of the Covenant.
6. Expressing concern at the lack of publicity in regard to the availability of the procedure under the ICCPR Optional Protocol, the Committee recommended that information on the individual communications procedure under the Optional Protocol be disseminated among the public at large, in particular prisoners and members of the legal profession.

3. National law

Section II of the Constitution contains an extensive human rights catalogue which, in Article 21, stipulates that the State shall guarantee the rights and liberties of its citizens enshrined in the Constitution and "*specified in the State's international obligations*". Article 22 guarantees equality before the law and

Article 23 (2) specifies that "*no one may enjoy advantages and privileges that are contrary to the law*". Article 25 prohibits arbitrary arrest and detention and guarantees the right to judicial review of the legality of arrest and detention. Para. 3 prohibits torture and ill-treatment. Article 26 contains the principle of presumption of innocence, Article 27 prohibits self-incrimination and stipulates that "*evidence obtained in violation of the law shall have no legal force*". Articles 28 and 29 guarantee the right to privacy and Article 35 guarantees the "*freedom to hold assemblies, rallies, street marches, demonstrations and pickets that do not disturb law and order or violate the rights of other citizens*".

According to Presidential Decree N° 5 of March 1997 which became law in December 1997, applications for permits to hold demonstrations must be submitted 15 days prior to the demonstration; at least 5 days before the event, the authorities must report their decision; until they do so, no public announcement of a demonstration may be made. Moreover, the use of posters, banners or flags that "*insult the honour and dignity of officials of State organs*" or which are aimed at "*damaging the State and public order and the rights and legal interests of citizens*" are banned.

E. BRIEF SUMMARY OF THE CASES BASED ON THE MATERIAL AVAILABLE TO THE MISSION PRIOR TO ITS DEPARTURE

1. Mr. **Gonchar**, Deputy Chairman of the Thirteenth Supreme Soviet, sentenced to 10 days' administrative detention in March 1999, disappeared on 16 September 1999.
2. Mr. **Koudinov** was found guilty under Article 15 (2)² and 170 (2)³ of the Criminal Code of repeatedly offering bribes to highway police officials and was sentenced in August 1997 to seven years' imprisonment and confiscation of his property. The sentence was confirmed on appeal. The sources allege that his prosecution is politically motivated and that the relevant judicial proceedings have been marred by irregularities.
3. Mr. **Klimov** was arrested on 11 February 1998 and accused of embezzlement and business irregularities under Articles 91 (4)⁴, 151 (2)⁵, 171⁶ and 150 (2)⁷ of the Belarus Criminal Code. His trial began in August 1999. The sources allege that his prosecution is politically motivated and that he was ill-treated in detention.
4. Mr. **Shchukin** has repeatedly been sentenced to fines and administrative detention. He has reportedly been ill-treated several times while in custody.
5. Mr. **Domash** has been at risk for some time of being expelled from the house he purchased lawfully in 1994, reportedly on the order of President Lukashenko,.
6. Mr. **Bogdankevitch** has reportedly been denied permission to resume his professorship at Belarus Economic University and is said to be prevented from publishing his books in Belarus. He was reportedly also found guilty of unauthorised picketing of several buildings and heavily fined.
7. Mr. **Gryb**, Mr. **Dobrovolsky**, Mr. **Lebedko**, and Mr. **Znavets** were all fined. Mr. Znavets and Mr. Lebedko were also detained for participating in unauthorised demonstrations or unauthorised picketing. **Mr. Sharetsky**, Speaker of the Thirteenth Supreme Soviet, whom the opposition considers acting

² Article 15 (2,3) reads as follows: "*Attempting to commit a crime is defined as deliberate action directly aimed at committing a crime, if thereby the crime has not been completed for reasons not depending on the will of the perpetrator. The punishment for preparing to commit a crime and for attempting to commit a crime shall be set by the law punishing the given crime. In deciding on the punishment, the court shall take into account the nature and degree of danger to society of the acts committed by the perpetrator, the degree of completion of the criminal intent and the reasons for which the crime was not completed.*"

³ Article 170(2) reads as follows: "*...Giving a bribe on more than one occasion or by a person who was previously convicted of bribery shall be punished by imprisonment for a period from 7 to 15 years with or without confiscation of property ...*".

⁴ Article 91(4) reads as follows: "*Appropriation or embezzlement of property entrusted to the guilty party or which was in his possession, as well as taking possession of property by means of abuse by an official of his/her official position ... shall be punished by imprisonment for a period of 2 to 7 years with or without confiscation of property or by corrective labour for a period on 1 to 2 years with or without confiscation of property and with or without loss of the right to hold certain offices or to engage in certain activities for a period stretching from 2 to 5 years...*".

⁵ Article 151(2) reads as follows: "*Entrepreneurial activity conducted without State registration or without special license, if such acts are committed within one year after the imposition of an administrative penalty for the same offence, or involving the acquisition of income in large amounts shall be punished by imprisonment for a period of up to 3 years or by loss of the right to hold certain offices or to engage in certain activities for a period of up to 5 years, or by a fine...*".

⁶ Article 171 punishes concealment of or refusal to present official documents with a fine with loss of the right to hold certain offices or to engage in certain activities.

⁷ Article 150 punishes fraudulent obtention of credit or subsidies with imprisonment for a period of up to two years, or by corrective labour for the same period with loss of the right to hold certain offices or to engage in certain activities, or by a fine.

President of the Republic since the expiry on 21 July 1999, in accordance with the 1994 Constitution, of President Lukashenko's mandate, went into exile and is currently residing in Lithuania.

F. INFORMATION GATHERED

I. General points raised

During the discussions, the authorities and the sources provided information on legal points and issues they considered to be of interest to the delegation. A summary thereof is given below.

1. Independence of the judiciary

1.1. The authorities stressed that the Belarus judiciary was independent, as all matters pertaining to it were decided by a college of judges elected by their peers. The President of the Republic appointed the judges on the proposal of the college and had so far never rejected a proposal. Moreover, as the delegation was told at the Supreme Court, the appointment of judges by the President precluded undue influence from pressure groups at the local level.

1.2. In this connection, the authorities repeatedly stated that there were no political prisoners in Belarus. Only three of those opposed to President Lukashenko had been prosecuted because, as the authorities put it, "*they were thieves*". The Chairman of the House of Representatives stated that of the 40 who had signed the impeachment petition against President Lukashenko, many were members of the House of Representatives and had in the meantime been appointed to important posts: Mr. Novikov was now working as Counsellor at the Belarus embassy in Moldova and Mr. Kravchenko was Ambassador to Japan. It should be noted that, according to the opposition, only four MPs who signed the impeachment petition are members of the House of Representatives, namely Mr. Komyak, Mr. Lozovik, Mr. Khrol and Mr. Kruguvoy, the latter reportedly having gone into exile in the meantime.

2 Judicial procedures

2.1. The authorities expressed regret on several occasions that the penal system inherited from the former Soviet Union was an accusatory system. However, the new Code of Criminal Procedure being debated by Parliament remedied the situation as it introduced standards compatible with Belarus' international obligations in the field of human rights. Thus, the judiciary would enjoy wider powers, particularly as regards monitoring the Prosecutor General's decisions and acts.

2.2. The delegation understood that under the current legislation, a suspect may be detained for up to three days without a prosecutor's order. The Prosecutor may then order pre-trial detention. Since 1996, appeals against such decisions may be filed with the competent court. According to the information supplied by the Supreme Court, 1,305 appeals against pre-trial detention orders were registered in 1998 and 8% were successful, that is to say the complainants were released. In the first half of 1999, 506 appeals were registered, of which 10% were successful. Pre-trial detention, the delegation was told by the prison authorities, is ordered only in serious cases, that is to say in about 30% of all cases. However, the new legislation would bring about a considerable reduction in the number of detainees. Moreover, the Deputy Minister of the Interior referred to a Constitutional Court ruling, according to which pre-trial detention may not in any case exceed 18 months.

2.3. With regard to search warrants, authorisation is given by the Prosecutor General during the pre-trial phase. Once the trial begins, a search may be ordered by the judge.

2.4. Defendants are entitled to use the services of a lawyer or a public defender. In May 1997, a Presidential Decree on the Activities of Lawyers and Notaries abolished private legal practice and authorised the Ministry of Justice to issue licences to lawyers. The delegation was informed by the Minister of Justice that he issues licences exclusively on the proposal of the Bar Collegium, a body consisting of 24 lawyers elected by their peers which considers all aspects pertaining to the legal profession. Public defenders are persons with some legal experience, very often relatives of the defendants. The delegation was unable to establish the exact scope of their rights; from the information supplied by the authorities and human rights NGO's it appears that they enjoy fewer procedural rights: for example, they are not given access to the file before the trial. Their right to visit defendants during the trial, however, appears to be the same as for a lawyer. Moreover, a judge may refuse to accept a public defender and this happens, as the Minister of Justice told the delegation, in 30% of cases.

2.5. Offences against public order are judged either under administrative law or under criminal law. The delegation was told by the authorities that the judge has full discretion to decide whether to apply the Administrative Code or the Penal Code and is usually guided by the seriousness of the offence and the criminal record of the offender. An administrative sentence cannot be challenged in an appellate court and is expunged after one year if the offence is not repeated.

3. Prison system

The Head of the State Committee for Penitentiary Facilities informed the delegation about the different types of prisons currently existing in Belarus (ordinary prisons, prison labour camps, pre-trial detention facilities, educational correctional facilities for young offenders) and the different types (open and closed) of prison regimes. He stressed that the relevant legislation sought to avoid prison sentences as far as possible and that the authorities aimed at detaining as few convicts as possible in closed prisons. Every effort was made to adjust prison conditions to European standards and to change from punitive to correctional sanctions. In September 1999, the newly appointed Minister of the Interior had inspected all detention facilities and spoken to prisoners and detainees. As a result, he proposed certain improvements which will be considered by the Council of Ministers in the near future. Moreover, the new draft Penal Code which has had its first reading in Parliament, would ensure compliance with relevant United Nations standards. For the time being, however, the system had to cope with the following major difficulties:

- (a) Overcrowding: the prison population is 25% higher than it should be; only 10,000 square metres are available for 75,000 prisoners;
- (b) Shortage of employment facilities for prisoners: only about 65% of prisoners are currently employed, such work being financed from public funds. The Government attempts, through tax incentives, to encourage private business to invest in prison factories. Prisoners are paid a salary which they often use to support their families.

4. Freedom of assembly - hierarchy of legal norms (law and presidential decrees)

4.1. The opposition informed the delegation of a recent presidential decree which entitles municipalities to require the organisers of demonstrations and marches to cover the cost of maintaining public order. Thus recently, the organisers of a march had had to pay US\$ 1,500.

4.2. In this connection, the delegation wished to ascertain the legal status of presidential decrees. The Deputy Minister for Foreign Affairs insisted that presidential decrees were carefully prepared by the competent legal staff of the presidential administration which ensured compliance with constitutional law. The parliamentary authorities further stated that presidential decrees were essentially temporary measures and subject to consideration by Parliament, which had the power to reject them. In the event of a conflict between a decree and a law, the latter prevailed. The opposition stated in this connection that to date, Parliament had never revoked a presidential decree.

4.3. With regard to the decree referred to under 4.1., the Deputy Minister for Foreign Affairs stated that such a decree could not exist and was absurd. Security for demonstrations and marches was provided free of charge by the competent law enforcement bodies. There might have been some confusion with the provisions regarding public entertainment: organisers of such events may request militiamen to maintain order and are then required to cover the costs incurred.

4.4. In response to questions regarding freedom of assembly, the delegation was informed, both by the authorities and the opposition and even shown a video by the authorities of the unauthorised march of 17 October 1999 which led to clashes between participants in the march and the police. Several MPs concerned either organised or participated in the march and were arrested or sentenced to fines. In that connection, the delegation was also told by the opposition that demonstrations or pickets were often authorised far from the city centre, where the absence of onlookers defeated the purpose of the event.

5. Elections

5.1. The parliamentary authorities briefed the delegation on preparations for the elections to be held later in 2000. Parliament has worked for six months on a draft Electoral Code which recently passed its first reading. Remarks and suggestions by the OSCE and the Council of Europe had been included in the draft since the authorities were bent on adopting a Code in full conformity with OSCE and European standards. The draft Electoral Code will now proceed to the second reading. The delegation was told by the Chairman of the Council of the Republic that the draft had been forwarded to the opposition for comment. He deplored the fact that no comments had been received. As regards access to the media, the

delegation was told that progress had already been made. Importance was attached to access to the mass media, but the relevant discussions with the opposition should be held in a spirit of dialogue. According to the Chairman of the Council of the Republic, the opposition often harshly criticised the Government without the latter being given the floor for a rebuttal. He also stated that he had offered to meet the opposition; unfortunately, that offer had so far not been accepted. The parliamentary authorities stressed that the elections, including the presidential elections to be held in 2001, would definitively resolve the legitimacy issue and all related problems.

5.2. With regard to the right to stand for election, the delegation was told by the parliamentary authorities that any person sentenced under either the Administrative or the Penal Code was at present disqualified from standing for election for one year after the imposition of the sentence.

6. Establishment of an Ombudsman

The parliamentary authorities and the Deputy Minister for Foreign Affairs informed the delegation that Parliament was currently working on the establishment of an Ombudsman institution thus following-up on a recommendation of the United Nations Human Rights Committee. When asked about the follow-up given to the Committee's recommendations in general, the Deputy Minister for Foreign Affairs stated that he was confident that these recommendations would be put in practice by the time of the elections. However, the delegation noted that most of the authorities did not seem to be aware of the United Nations Committee's recommendations.

II. The case of Mr. Victor Gonchar

1. Mr. Gonchar's situation prior to his disappearance of 16 September 1996

In March 1999, Mr. Victor Gonchar, Vice Chairman of the Thirteenth Supreme Soviet and Chairman of the Thirteenth Supreme Soviet Electoral Committee that attempted to organise presidential elections in May 1999, was sentenced to 10 days' administrative detention for holding an unauthorised meeting in connection with the organisation of the elections. Several sources affirmed that during his detention he was severely ill-treated, released far from his home and thrown into a pile of snow. He was subsequently charged with illegally claiming public office.

2. Details regarding Mr. Gonchar's disappearance provided by opposition sources and Mr. Gonchar's wife

2.1. On 16 September 1999, Mr. Gonchar went to a public bathhouse with Mr. Krasovsky, an acquaintance who had been his student three years earlier. Mr. Krasovsky, a bank employee, had previously been detained for one week for defaulting on payment and Mr. Gonchar met him at his request. Both were kidnapped upon leaving the bathhouse at around 11 p.m. and are since reported disappeared. The only traces left on the spot were glass splinters, blood stains, a damaged tree struck by an automobile and tyre skid marks.

2.2. A link was made between Mr. Gonchar's kidnapping and the planned holding, on 19 September 1999, of a meeting of the Thirteenth Supreme Soviet in which 60 members of the House of Representatives were supposed to participate. Ms. Gonchar also established a link to a speech that President Lukashenko had delivered on 16 September 1999 to law enforcement agencies stating that he would shortly reveal the funding sources of the opposition. He was supposedly hinting at Mr. Gonchar who was in a position to obtain such funds.

2.3. Ms. Gonchar pointed out that, on the day of the disappearance, due to the terrorist bomb attacks in Moscow, special security measures had been adopted and militiamen were stationed every 200 metres so that it would have been very difficult for a damaged car to pass unnoticed and uncontrolled. Moreover, since the beginning of the year, Mr. Gonchar and herself had been under close surveillance and followed constantly by cars belonging to the presidential administration; they had also received threatening telephone calls. Ms. Gonchar further stated that one of the investigators, Mr. Novikov, told her that in 50 years, when the KGB files were disclosed, she would find out who were the perpetrators; the investigators knew what was going on but nothing could be done under the present circumstances. The investigator also told her that the authorities would create the "*illusion of an investigation*" for her.

2.4. Ms. Gonchar reported that it was not the first attempt on Mr. Gonchar's life. In addition to a suspicious road accident in 1994, she described what she views as an assassination attempt in 1996 when

her husband was shot at while driving in a car. Militiamen were charged but, although Mr. Gonchar's Secretary had been injured, the authorities concluded that Mr. Gonchar and his Secretary were not to be considered an injured party and the case was closed.

2.5. Finally, Ms. Gonchar stated that she continued to receive threats - telephone calls from people threatening to come to her apartment and beat her up, or suspicious-looking persons ringing the doorbell and running away when asked to identify themselves. Her building was constantly under surveillance: two cars were constantly on duty, observing not only Ms. Gonchar but also all her visitors, who were systematically tailed for several hours. On 1 October 1999, she had complained about this to the Chairman of the Committee for State Security (KGB) but apparently no investigations have been conducted.

3. Information on Mr. Gonchar's disappearance provided by the Minister of the Interior

3.1. According to the Minister of the Interior, the case of Mr. Gonchar must be seen in the context of the disappearance of Ms. Vinnikova (former chairperson of the National Bank of the Republic of Belarus) and Mr. Zakharenko (former Minister of the Interior). The cases were of great concern to him and, as a newly appointed Minister, it was a matter of personal prestige for him to establish the truth in this very complex case. Apart from the glass splinters and blood stains which, it had since been established, were from Mr. Gonchar, there was no other reliable evidence: no trace of Mr. Krasovksy's jeep had been found and no trace of the car crossing the border. Reports that Mr. Gonchar had been seen in a neighbouring country had proved false. On receipt of the complaint regarding Mr. Gonchar's disappearance, the missing persons investigation procedure had been instituted (according to the Minister, there were about 2,500 missing persons in Belarus; 70% of such cases were solved); having obtained no tangible result, he had now been authorised by the Prosecutor General to proceed on the basis of a presumption of disappearance and murder, which allowed for a broader investigation, including, for example, the interrogation of Mr. Gonchar's relatives. The investigation was being carried out, under the supervision of the Committee for State Security, by the Prosecutor General's Office and the Ministry of Interior in cooperation with Interpol. Each version of Mr. Gonchar's disappearance was being investigated by different teams and a written report was sent each week to the President of the Republic on the work done and the results achieved. He was confident that the case would be solved.

3.2. The Minister expressed concern at the attitude of the Public Committee, a private group established on the initiative of Mr. Savitchev and Mr. Terenya, both deputies of the Thirteenth Supreme Soviet, to monitor investigations into cases of disappearance of political opponents: instead of cooperating with his Ministry and getting in touch with him personally, the group preferred to deal with international bodies.

III. The case of Mr. Vladimir Koudinov

1. Mr. Koudinov's professional and political career

In the early 1990s, Mr. Koudinov, 40 years old and the father of two daughters, set up an agribusiness firm (meat and other products) which became a leading enterprise in that field in Belarus. In 1994, he started publishing his own newspaper. In 1995, he was elected to the Thirteenth Supreme Soviet and obtained the highest percentage of votes in his region. Mr. Koudinov was one of the most active deputies in the impeachment proceedings against President Lukashenko. According to Mr. Koudinov and his wife, problems began with Mr. Koudinov's election. At that time, an inspection of his business was ordered and more than 100 officers of the State Control Service investigated his business for three days, confiscating documents and holding them for a month; his bank account was frozen, bringing his firm to the verge of bankruptcy. No breach of tax legislation or other legal provisions was, however, found. Although his firm was "half dead", it continued to be regularly investigated "*in an effort to detect some criminal act*". When that proved to be unsuccessful, the authorities attempted to "*set a trap*."

2. Judicial case

2.1. Facts as established by the Court

In the judgment it handed down on 4 August 1997, the Court of Borisov district found that, on the morning of 4 February 1997, Mr. Koudinov had attempted to give a bribe of US\$ 500 to highway militia station chief Major Aniskevitch in exchange for the release of a lorry belonging to a firm (OOO TPF Ivatsevitchi) of which Mr. Koudinov is the director. The lorry, which was transporting 7,346 kg of beef to Russia, had been detained late in the evening of 3 February by Highway Patrol Inspector Vinitisky and the

officer on duty, Mr. Ulyanovich, had found that the documents were not in order. As the lorry was not released, Mr. Koudinov attempted again, between 11 a.m. and 12.30 p.m., to bribe not only Major Aniskevitch but also Senior Inspector Chernuko of the Highway Patrol Service. Mr. Koudinov's attempt to commit an offence was foiled as both Mr. Aniskevitch and Mr. Chernuko refused the bribe and he was arrested while making the offer. The main evidence in support of the Court's findings consists of the testimony of the officers concerned, tape recordings of conversations between Mr. Koudinov and Mr. Aniskevitch and between him and Mr. Chernuko, five one-hundred US dollar notes taken from Mr. Aniskevitch's desk and twenty-seven one-hundred US dollar notes seized from Mr. Koudinov: the serial numbers of the latter notes followed those of the notes taken from Mr. Aniskevitch.

2.2. Information provided by Ms. Koudinov regarding the circumstances of the arrest of her husband

Mr. Koudinov had two big refrigerator lorries left which he leased to other persons to deliver meat. On 4 February 1997, at 1 a.m., he received a telephone call from the driver of one of the trucks who had been stopped by traffic police. They both drove to the police station, where the officer on duty, Mr. Ulyanovich, told him to talk to the head of the traffic police station, Mr. Aniskevitch. Her husband spoke to him several times and failed to return on the last occasion. Ms. Koudinov was told by the police to go to Barisov police station. She waited in a room there for two or three hours. As all her documents and passport had been confiscated and were only returned the next day, she had to spend the whole night in the car. She did not see her husband for two months and was unaware until then that he had been charged with bribing an official. According to Mr. Koudinov, the truck was stopped because the driver only had Xerox copies of the documents. The vehicle was later returned to the company that had leased it and the transport documents were eventually found to be valid.

2.3. Circumstances of Mr. Koudinov's arrest as described by Mr. Koudinov himself

When Mr. Koudinov was about to leave the police post after hours of tough negotiations, militiamen entered the room and started filming. They first asked Mr., Koudinov what he was doing there and then put the same question to Mr. Aniskevitch. The latter answered that Mr. Koudinov had offered him a five-hundred dollar bribe, withdrew the money from a drawer in his desk and erased the fingerprints.

2.4. Relations between Mr. Ulyanovich and Mr. Koudinov

The court did not believe Mr. Koudinov's claim that he had given US\$ 500 to Mr. Ulyanovich to buy timber, observing that he had come up with that version only at the very end of the trial proceedings. Mr. Koudinov, on the other hand, claimed that he had reported giving the money to Mr. Ulyanovich on 7 February, the third day of his detention. Mr. Ulyanovich was in fact an old acquaintance of Mr. Koudinov and the latter, on meeting him at the traffic police station, had asked for his help in resolving the issue. Mr. Ulyanovich suggested that he talk to his boss, Mr. Aniskevitch. Mr. Koudinov believes that Mr. Ulyanov may have given the US\$ 500 to Mr. Aniskevitch.

2.5. Concerns regarding the gathering of evidence

2.5.1. According to Mr. Koudinov, the record of the seizure of the dollar notes failed to state their serial numbers. The Minsk court only received the record a week later. He expressed concern that the serial numbers had been entered in the record during that week. Moreover, according to Article 294⁸ of the Code of Criminal Procedure, all evidence must be produced before the court and shown to all parties involved, including the defendant and his/her legal counsel. But the banknotes in question had never been produced in court; they had been returned to the bank instead. Moreover, despite the defendant's request, it appears that no expert examination was conducted to check the fingerprints on the dollar notes.

2.5.2. One of the witnesses, Mr. Aniskevitch, was called in to sign the record of his testimony. According to several sources, two months later, the same witness was asked to sign the record again following its amendment.

2.5.3. Different interlocutors of the delegation expressed concern that the tape recordings might have been tampered with. It should be noted in this connection that, according to the Borisov court judgment, the expert stated that two fragments of the recording showed signs of editing and alteration. He added

⁸ Article 294 reads as follows: "Material evidence submitted to the court together with a case, or submitted to a court session, shall be examined by the court and presented to the procurator, public prosecution, attorney, defendant, defence attorney, public defender as well as the victim, civil plaintiff, civil respondent and their representatives. Examination of the material evidence may take place at any time of the judicial investigation either at the initiative of the court or at the request of participants in the judicial proceedings. When necessary, material evidence may be presented to witnesses, an expert or a specialist. Persons to whom material evidence is presented may draw the attention of the court to various circumstances related to the examination ..."

that it was not possible to identify one of the speakers (speaker MZ) conclusively as Mr. Chernuko. The court found that *"the changes were made objectively during the production of the sound recording, that they have nothing to do with the recorded conversation and have no effect on its content. The voice of speaker MZ is recognised by the Court as being that of Chernuko"*.

2.6. Concerns regarding the credibility of witnesses

2.6.1. Mr. Koudinov stated that Mr. Aniskevitch, Chief of the Barisov traffic police station, to whom he allegedly offered a bribe of US\$ 500, had formerly been the Head of the Investigation Department of Barisov district. On being found guilty of causing a road accident while drunk in which a person was severely injured, he was merely disciplined and transferred to the road traffic post. After Mr. Koudinov's trial, he was promoted to the office of Chief of the Barisov district traffic police.

2.6.2. Witness Vinitisky, who detained the truck, had been found guilty of causing a road accident while drunk in which a child was killed. Prior to Mr. Koudinov's trial, he had been held in pre-trial detention. While in custody, he reportedly told all and sundry that the case against Mr. Koudinov was fabricated. Witnesses are reportedly ready to confirm this. Mr. Vinitisky was sentenced to a five-year suspended prison term.

2.6.3. When questioned by the delegation, the Minister of the Interior replied that the foregoing information was subjective. The delegation should respect his time and office and move on to more serious questions. He could organise a working session with the people who were directly dealing with the matter.

2.7. Allegation that the Prosecutor General entered the courtroom during its deliberations

According to Ms. Koudinov, ten witnesses testified that the Prosecutor General had entered the courtroom during the deliberations on the case, an incident that could warrant a retrial. At the Supreme Court, the delegation was told that the Ministry of Justice had investigated the allegations and found them to be false. The Minister of Justice stated that he was unaware of that particular case. According to the standard procedure in such cases, the Ministry questioned assistants, clerks, lawyers and communicated its finding to the body that ordered the investigation which, in the case in point, would have been the Supreme Court. The Minister offered to transmit the relevant documents. By the time of its departure, the delegation had not received these documents

2.8. Appeal to the United Nations Human Rights Committee

Mr. Koudinov has brought his case before the United Nations Human Rights Committee. The case is at present under examination.

3. Mr. Koudinov's conditions of detention

3.1. Opposition sources told the delegation that after his arrest, Mr. Koudinov was held for seven days in a lock-up where he was allegedly stripped naked. Inmates were reportedly incited to harass him.

3.2. Mr. Koudinov is currently held at the UZH 15/1 strict-regime corrective labour colony in Minsk. The prison currently houses more than 3,000 inmates. Mr. Koudinov is held in a room measuring about 150 square metres together with over 100 other prisoners. There is nothing in the room apart from three-story bunk beds and some storage space. The daily prison routine is as follows: wake-up call at 6 a.m., physical exercise at 6.15 a.m.; breakfast in shifts from 7 to 7.30 a.m.; work/educational training or private time from 7.30 a.m. to noon; lunch from 12.30 to 2 p.m.; work or private time from 2 to 4 p.m.; dinner from 4 to 5.40 p.m.; private time from 5.40 to 6.20 p.m.; checks from 6.20 to 6.45 p.m.; TV or private time from 6.45 to 10 p.m.; lights out at 10 p.m.

3.3. Mr. Koudinov told the delegation that his health was now satisfactory. He does not eat the prison meals and prefers to take only bouillon. According to his wife, he has lost 40 kg while in prison. The visiting regulations for high-security prisons apply to Mr. Koudinov, i.e. he may receive four visits per year from his family: two long visits, each lasting up to three days, and two short visits, each lasting up to four hours. During such visits, he is separated by a glass wall from his wife and children. More meetings may be permitted by the head of the prison. Lawyers visits are unrestricted. Mr. Koudinov meets his lawyer once every three months. There are unlimited visiting rights for priests and "public figures". Prisoners may receive four parcels per year of eight kilograms each. There is also a small shop in the prison. All inmates have access to medical care and to the prison hospital which has 310 beds. Prisoners may write and

receive letters without restriction and may also subscribe to newspapers. The prison itself subscribes to newspapers and there is a prison library.

3.4 While in prison, Mr. Koudinov has been subjected to disciplinary punishment (isolation ward) several times: the authorities stated first that this occurred eight times, later they said, five times. The delegation understood that the punishment was inflicted for the following reasons:

- (a) Mr. Koudinov wore his own coat instead of that supplied by the prison. The Prosecutor General cancelled the punishment. Mr. Koudinov attributes the punishment to the complaint he submitted to the United Nations Human Rights Committee.
- (b) On 20 September 1998, he refused to carry out an extraordinary assignment, namely to clean the administrative area, and spent ten days in the isolation ward as punishment.
- (c) He tried to send information outside through his daughter. The information in question was, according to Mr. Koudinov, a letter addressed to the Belarus youth.
- (d) On 3 February 1999, he refused to obey an order to do extra work assigned as punishment for leaving a certain area without permission. He was deprived of one long meeting with his family. According to Mr. Koudinov, he was punished because of a letter his wife had written to the newspaper *Narodnaya Volya*.
- (e) On 5 May 1999 he was given a warning for being absent from the dining-room.

According to Mr. Koudinov, he was also required on one occasion to sweep the yard alone while the others prisoners looked on.

3.5. Mr. Koudinov apparently worked for some time in the prison industrial complex but was released from work duties for health reasons. He has not been given an administrative job. According to Mr. Koudinov, the salary prisoners receive is just enough to buy a packet of tea at the end of the month. While he can write letters, the delays are often very long.

4. Possibility of release or a reduction of Mr. Koudinov's sentence

4.1. Amnesty

Parliament may adopt amnesty laws pursuant to Article 97 of the Constitution. The delegation was told by the authorities that such laws are usually linked to important dates (for example V-day) and introduced by the Government. They normally benefit women, old or sick people and are granted only for minor offences. On 9 May 1999, Mr. Koudinov's prison term was reduced by one year by virtue of such an amnesty. He is therefore due for release in 2003. According to the Deputy Minister of the Interior, Mr. Glukhovsky, Parliament is currently working on a new amnesty law that would cover bribery. He affirmed that he would personally be in favour of such an amnesty.

4.2. Release for good behaviour

The Committee on Penitentiary Facilities for Prisoners may initiate a request for release for good behaviour once a convicted person has served two-thirds of his sentence. In Mr. Koudinov's case, this would mean release on 5 August 2001. At the Supreme Court, the delegation was told that Mr. Koudinov was entitled to appeal to the Supreme Court, whose President could reduce the prison sentence.

4.3. Adoption of the new Penal Code

The authorities stated repeatedly that giving and taking bribes was viewed as a serious offence and punished accordingly with prison terms ranging from 7 to 15 years. However, the new Penal Code being debated in Parliament provides for shorter prison sentences for bribery offences. Once the new Code is adopted, Mr. Koudinov's sentence could be reduced accordingly.

4.4. Presidential pardon

The President of the Republic may grant a pardon in individual cases.

5. Possibility of a review of Mr. Koudinov's trial

The delegation was unable to obtain concrete information regarding the possibility of a review of Mr. Koudinov's trial. On the whole, the sources considered that a review would not be accepted by the courts.

6. Situation of Mr. Koudinov's family

Ms. Koudinov cannot find employment - she claims that people are afraid to hire her. Ms. Koudinov and her mother have been attacked by unknown men and warned to stop trying to secure Mr. Koudinov's release.

IV. The case of Mr. Andrei Klimov

1. Professional and political career

1.1. Mr. Klimov is 34 years old, married with three young children. He worked as a fireman and studied law but failed to complete his studies. In 1991, he took steps to set up a civil engineering company. He also established his own bank and published a newspaper.

1.2. In 1995 he was elected a member of the Supreme Soviet of the Thirteenth Legislature and played an active role in the parliamentary committee set up on 29 January 1997 to investigate constitutional breaches by President Lukashenko. He was also one of the initiators of the impeachment procedure in November 1996. The delegation was told by his family that problems began after the 1996 referendum. First his newspaper and then his bank and civil engineering company were driven into bankruptcy.

1.3. Mr. Klimov told the delegation that, in 1997, militiamen acting on the orders of Mr. Sheiman, Head of the State Control Committee, searched his office and bank, reportedly without a search warrant, and confiscated documents, including all bank accounts. Moreover, troops of the Ministry of the Interior equipped with machine guns reportedly surrounded his bank during the search. According to Mr. Klimov, he personally went several times to the Centre for the Investigation of Serious Criminal Acts, where he photocopied the confiscated documents and helped the investigators find their way through the piles of papers.

2. Mr. Klimov's arrest and search of his apartment

2.1. On 11 February 1998, Mr. Klimov was arrested together with his wife by plainclothes policemen, reportedly without the necessary authorisation of the Prosecutor General. The delegation was told that his arrest was intended to prevent the mailing of letters prepared by Mr. Klimov to representatives of the regional districts (*oblasts*) warning them not to execute President Lukashenko's orders as they were unconstitutional. Mr. Klimov's file reportedly included a copy of the said letter. Ms. Klimov claims to have been left alone at the police station for six hours without any explanation. She was then taken to her family's apartment, which was searched. In addition to all documents regarding the impeachment committee, the television set and a tape recorder were confiscated and both are reportedly still in the investigator's office. It appears that no search warrant was issued. Moreover, she affirmed, a set of keys to her and Mr. Klimov's mother's flat was taken away and has not been returned to date. On 18 September 1998, seven months after the arrest and first search, a second search was reportedly conducted and the apartment sealed so that Ms. Klimov and her children were prevented from entering it for two weeks. Opposition sources believe that the sealing of the apartment was an act of revenge for a picket organised on 17 September 1998 calling for Mr. Klimov's release.

2.2. According to the Prosecutor General, his office carefully and thoroughly supervises the activities of investigators, which are recorded in detail; complaints are duly registered; no irregularities were found in the Klimov case. Searches can be conducted only with the authorisation of the Prosecutor General; only in exceptional cases, for example when there is risk of destruction of important evidence, may they be conducted without such authorization. In such cases, the investigator must immediately explain to the Prosecutor General why the search had to be carried out without prior authorisation. Two witnesses must be present during the search and a copy of the list of seized objects presented to the person whose premises are being searched. A search is systematically conducted in cases of embezzlement. In the Klimov case, no keys were taken. Keys are only taken if a person lives alone and valuable items are left in the apartment. In such cases, a guardian may be appointed to look after the flat. An apartment or house in which people are living is never sealed. However, Mr. Klimov has many apartments; only an apartment in which he or his wife are not resident could have been sealed. However, the Prosecutor General was not aware of the relevant particulars of Mr. Klimov's case.

3. Pre-trial detention

On 13 February 1998, the investigator decided to place Mr. Klimov in pre-trial detention on the grounds that "*he [had] committed a serious crime and [might] abscond, dodging the investigation and trial and preventing the facts from being established...*". Mr. Klimov's repeated appeals against this decision

were turned down by the court and he was held in pre-trial detention for almost 18 months, i.e. until his trial began in July 1999.

4. Charges brought against Mr. Klimov

4.1. Mr. Klimov is charged with: (i) organising the systematic theft of public funds by deliberately overestimating the volume of construction work (brickwork) that his firm was carrying out under contract for the Minsk City Executive Committee and the cost of the construction materials; (ii) organising construction work without a licence; and (iii) fraudulently obtaining a bank loan. According to several sources, his case is unique and unprecedented in the history of construction firms in Belarus.

4.2. Mr. Klimov and his mother, who acts as his public defender, stated that: (i) the contract in question was not based on the number of brick lines to be laid but on completion of the building; the indictment was issued before the final audit and Klimov's company used its own money to continue the construction work so that the Minsk City Executive Committee actually owed money to the company; the costs incurred did not exceed the estimates; (ii) the work for which a licence was necessary had been sub-contracted to a company with a valid licence; and (iii) he was the sole owner of the bank from which he obtained the loan, which had in any case been repaid.

4.3. Ms. Klimov and Mr. Klimov's mother referred to Presidential Decree N° 14 of 4 August 1997, according to which "*overstating the value of construction installations and repair work paid for by appropriations from the budget and extra-budgetary funds by making additions, using incorrect prices, inflating coefficients and other measures shall be punishable by a fine equal to the excess sum, payable in equal shares by the contractor and client, and by reimbursement of the sum to the appropriate budget by the contractor*". In their view, the alleged facts would come under this Decree rather than under the Penal Code.

5. Conduct of the proceedings and possibility of a release pending trial

5.1. With regard to the conduct of the proceedings, the delegation was told that the judge has shouted at witnesses and allowed the Prosecutor General to interfere with them and to interrupt Mr. Klimov and his lawyers. Trial observers from NGOs and the OSCE Monitoring Group attend the proceedings from time to time. The Deputy Minister for Foreign Affairs told the delegation that access to the trial was completely open.

5.2. According to the authorities and Mr. Klimov, a trial hearing was scheduled for the day after the delegation's departure, at which the judge was expected to decide whether a new expertise should be conducted. According to the information provided, the judge may at any time decide to release Mr. Klimov, on the undertaking that he remains in the city or the country. The delegation understood that there was no possibility of a release on bail.

6. Presumption of guilt?

Two statements seem to indicate that the authorities are already convinced of Mr. Klimov's guilt: when asked about Mr. Klimov's trial, the Minister of the Interior stated to the delegation that his acquittal would mean that the investigators had not done their job properly and that he would have to take appropriate steps. At the meeting with members of the House of Representatives, the Chairman of the Committee on Economic Affairs and President of the Union of Belarus Businessmen stated openly that Mr. Klimov's behaviour was unacceptable and that he fully supported the indictment.

7. Conditions of detention

7.1. The delegation met Mr. Klimov in a room that usually serves as an investigator's office. Owing to time constraints, it had to decline an offer of the authorities to show it Mr. Klimov's cell and has therefore no visual knowledge of his conditions of detention.

7.2. The delegation was told by several opposition sources that, during the first two and a half months of his detention, Mr. Klimov was held together with five other detainees in a six-metre cell with only one bunk bed so that detainees had to take turns to sleep. Water was reportedly supplied for only two hours at night and the electric light was kept on for 24 hours a day. During that period, Mr. Klimov's state of health is said to have worsened considerably so that he had to be transferred to hospital, where he lost consciousness. A petition from Mr. Klimov for a medical examination was reportedly turned down in July 1998 but finally granted in December 1998. It may be noted in this connection that the delegation had an

expert medical opinion dated February 1999 on file, according to which Mr. Klimov was suffering from chronic tonsillitis and related myocardial dystrophy. There were also signs of a cystose-adhesive process in the cerebral membranes, illnesses which, in the view of the medical experts, did not constitute an obstacle to keeping Mr. Klimov in detention. Moreover, according to Ms. Klimov and Mr. Klimov's mother, they had been prohibited from bringing him food because the investigator (Major Barienkov) believed it would disrupt the investigation. They said that he ejected them both from his office when they queried that argument. The Prosecutor General, on the other hand, stated that there were no restrictions on food.

7.3. Mr. Klimov's family believes that the intervention of outside institutions led to a change in Mr. Klimov's conditions of detention, which Mr. Klimov now describes as bearable. He is held in a cell together with three other inmates, one of whom was convicted at first instance. They each have a bed. Mr. Klimov needs constant medication, which is provided by his family. He suffers from a lack of fresh air and movement and a lack of communication. Permission for family visits is at the discretion of the competent authorities, i.e. the investigator during the pre-trial phase and now the judge. Mr. Klimov may now see his wife and three children once a month for 30 to 40 minutes; such meetings take place behind a glass wall and they converse by interphone. There are no restrictions on meetings with his lawyers. He may watch television and has access to newspapers. He may not, however, write letters.

8. Situation of Mr. Klimov's family

Mr. Klimov's family has no income, his company and bank having gone bankrupt. Ms. Klimov is selling her belongings and receives some support from international organisations.

V. The case of Mr. Valery Shchukin

1. Information provided by Mr. Shchukin and other sources

1.1. Mr. Valery Shchukin, Secretary of the Thirteenth Supreme Soviet Committee on National Security, Defence and Law Enforcement, a former officer of the USSR Navy and an outspoken critic of President Lukashenko's policies, currently works as a journalist, as he told the delegation. Mr. Shchukin claims that, on account of his political, parliamentary and journalistic activity, he was sentenced in 1997, 1998 and 1999 to administrative fines totalling US\$ 3,725 and administrative detention totalling 68 days, of which he served 61, and that he was committed to pre-trial detention for 129 days, of which he served 74 days. He affirms further that he was arrested several times without having received a summons from the militia under the pretext of having committed an offence the previous day. Thus, he says he was arrested while walking on the street or working in his office and once he was even dragged out of his bed. A detailed account of the fines, arrests and detention is annexed to the report

1.2. Mr. Shchukin is currently under investigation on charges of "creating mass disturbances" in connection with the "Freedom March" organised by the opposition on 17 October 1999. He was first detained from 19 October to 1 November 1999 and then released on the undertaking that he would not leave the city of Minsk.

1.3. Moreover, Mr. Shchukin affirms to have suffered severe ill-treatment on five occasions in the Central, Leninsky and Sovietsky militia stations of Minsk, as a result of which he had to be hospitalised twice on account of brain injuries (April 1997 and December 1998). On his most recent arrest on 19 October 1999, militiamen, he told the delegation, kicked him so severely in the legs that he still has difficulty bending; he was thrown into a 1.5 metre cell where he had to stand barefoot on the cement floor; his watch was removed and he was kept in complete darkness for several hours. In June 1999, he was thrown into a cell full of criminals who were encouraged to beat him up. In December 1998, militiamen dragged him along and banged his head against the windows of their car, the latter being confirmed to the delegation by persons having witnessed this scene. In April 1997 he says, he was beaten unconscious. In the latter case, investigations were conducted for a year but remained without issue despite the existence of photos and witnesses. In the other cases, Mr. Shchukin's complaints have gone unanswered. The Prosecutor General reportedly even warned him not to make false accusations.

2. Information provided by the authorities

The authorities claimed that Mr. Shchukin had been fined and detained on account of his participation in unauthorised demonstrations and his provocative behaviour to the police. The Prosecutor General stated that his conduct was unprecedented and included grabbing militiamen by their uniforms. No country would tolerate such behaviour. As for the complaints about police misconduct, it was the general

practice to conduct investigations to establish the facts. The delegation was, however, unable to obtain details regarding the conduct and result of the investigations concerning Mr. Shchukin's complaints.

VI. The case of Mr. Semen Domash

1. Information gathered from Mr. Domash and relevant documents

1.1. Mr. Domash, elected to the Thirteenth Supreme Soviet in 1995 and former Chairman of the Grodno Oblast Council of People's Deputies, reported to the delegation that attempts have been made to evict him from the house he bought in 1994 and in which he is currently living with his own family and that of his son. He affirms that the relevant proceedings are politically motivated and have been brought against him by order of President Lukashenko because of his opposition to the latter's policies. Thus, at the time of the dissolution of the Thirteenth Supreme Soviet, Mr. Domash set up a Coordinating Council of the opposition in Grodno Oblast, the so-called "*Grodno Initiative*" which is still functioning. More particularly, at a meeting on 22 March 1997, Mr. Domash made a much-remarked speech in which he heavily criticised President Lukashenko's politics. On 3 June 1997, President Lukashenko instructed the Head of the State Control Committee "*to ensure that the State property was returned to him by 1 August 1997 and to report on implementation*".

1.2. The delegation gathered from the documents it was given on the case that, in order to comply with a governmental decision to provide protection for the chairmen of the Oblast Council of People's Deputies, also at their places of residence, officials of the Grodno Oblast Executive Committee offered Mr. Domash a State-owned house in 1994 in exchange for the privatised apartment he was living in. The conditions of sale of the house were laid down in a contract dated 12 March 1994. The Chairman of the State Control Committee concluded that the transaction should be declared invalid in court, as the required consent of the Ministry for the Management of State Property and Privatisation had not been given until after the signing of the contract, i.e. on 8 June 1994.

1.3. In the light of the State Control Committee's report stating that the house had been illegally "transferred" to Mr. Domash, the regional prosecutor appealed to the court to declare the "transfer" invalid. On 14 August 1997, Leninski district court indeed declared the purchase documents invalid and ordered Mr. Domash to transfer the house. No reference to compensation was made although Mr. Domash had carried out extensive repair work in the meantime. Appeals against the decision, including, according to Mr. Domash, to the Supreme Court, were turned down. Shortly before the mission's arrival, Mr. Domash had been informed by the Mayor that he would be definitely evicted in December 1999. Moreover, a letter from Mr. Domash to President Lukashenko was reportedly returned to him by the Prosecutor General's office with the remark that it would be considered only on payment of a fee.

2. Position of the authorities

2.1. At its meeting with the Prosecutor General, the delegation was informed that, according to the court to which the dispute had been referred, the house did not belong to Mr. Domash. While it was true that Mr. Domash had bought the house, he had done so without the necessary authorisation. Moreover, the price he had paid was far too low. In fact, if the authorities had applied the law strictly, Mr. Domash should have been taken into custody.

2.2. At the Supreme Court, the delegation was briefed on the "Privatisation Act" adopted in early 1992 which provided for symbolic purchase prices. Fifty per cent of the population had bought the State property they were living in. Under the new Civil Code that entered into force in July 1999, citizens enjoyed more extensive property purchase rights. The Vice-President of the Court and his colleague stated that they were unaware of Mr. Domash's case.

VII. The case of Mr. Mecheslav Gryb

Mr. Gryb, 61 years old and a lawyer by profession, was Chairman of the Twelfth Supreme Soviet and a member of the Presidium of the Thirteenth Supreme Soviet. In his meeting with the delegation, he affirmed that because of his opposition to President Lukashenko, he was expelled from the Belarus Bar and had his pension rights arbitrarily curtailed.

1. Expulsion from the Belarus Bar

1.1. After the dissolution of the Thirteenth Supreme Soviet, Mr. Gryb was employed as a lawyer by the Minsk City Bar Association. Following a presidential decree of May 1997 abolishing private law firms, Mr. Gryb was required to re-sit the lawyers' examination and did so successfully.

1.2. On 20 March 1997, he was fined 20 million Belarusian roubles (roughly US\$ 800) for participating in a march organised on the third anniversary of the 1994 Constitution (Constitution Day), which Mr. Gryb had signed on 15 March 1994 as Chairman of the Supreme Soviet. The delegation was told that the march had been authorised by the competent authorities of Minsk City on condition that participants kept off the street. However, owing to the large number of marchers, Mr. Gryb and many others were forced off the pavement onto the street. This eventuality had reportedly been discussed with Mr. Tarletsky, the Head of the Main Administration of Internal Affairs of Minsk City.

1.3. Subsequently, by Order N° 91 of 30 July 1997, the Minister of Justice withdrew Mr. Gryb's lawyer's licence on the grounds that he had violated professional ethics by participating in an unauthorised march. In this connection, the Minister of Justice stated that, in matters relating to the issue or withdrawal of lawyers' licences, he may act only on the initiative and recommendation of the Bar Collegium, a body made up of the 24 chairmen of the regional bar collegia. In the case in point, in accordance with the established procedure, he had refused to issue the licence at the request of the Collegium, which considered that participating in an unauthorised meeting constituted a violation of the Code of Ethics of the Bar. Mr. Gryb's appeal against the decision was turned down by the competent courts. It is not clear whether Mr. Gryb took his case to the Supreme Court: while he claims that the Supreme Court rejected his appeal, ruling that there were no grounds to overturn the decision of the lower courts, the Supreme Court denies any involvement in the case. It appears that the Bar Collegium only rarely recommends the withdrawal of a licence and usually issues a warning to a lawyer whom it considers to be in breach of its ethics or legal norms. According to the Minister of Justice, only five licences have been withdrawn in the past two years. Mr. Gryb's case is thus somewhat exceptional.

2. Mr. Gryb's pension rights

2.1. As former Chairman of the Supreme Soviet, Mr. Gryb is legally entitled to a pension equivalent to 75% of the salary of the Chairman of the Supreme Soviet. He claims that, in violation of the law, the pension has not been indexed since 1996. As a result, it currently amounts to 3,190,000 Belarusian roubles (roughly US\$ 124). Apparently Mr. Gryb was also unable to obtain from the House of Representatives a paper indicating the salary of the Chairman of the House that is needed to calculate his pension. According to the parliamentary authorities, however, such a paper is easy to obtain. The Chairman of the House of Representatives further stated that Mr. Gryb received a pension as Lieutenant-General which exceeded his pension as a former MP.

2.2. It is also alleged that none of the specific legal rights conferred on former Speakers has been granted to Mr. Gryb or any other former Chairman of the Supreme Soviet who publicly disagrees with President Lukashenko (Mr. Shushkevitch, Mr. Sharetsky and Mr. Tarazevich). His name has also been removed from the medical register of the Main Administration of Medical-Prophylactic and Sanatorium-Resort Institutions of the presidential administration. In this connection, the delegation was informed that President Lukashenko, in his Decree N° 655 of 29 December 1997, granted former Speakers N.I. Dementei and I.E. Poliakov a pension equivalent to 75% of the salary of the Prime Minister of the Republic of Belarus and ordered special medical and sanatorium-resort care for the Speakers and their wives.

2.3. In September 1998, Mr. Gryb submitted a written application regarding the pension issue to the Council of Ministers. In October 1999, i.e. 13 months later, he received a negative reply, because, as Mr. Gryb stated, he had not enclosed personal references from the Chamber of Representatives. The delegation was unable to clarify this issue.

VIII. The case of Mr. Pavel Znavets

1. Mr. Znavets, elected in 1995, told the delegation that he was a lecturer in the Law Faculty of Belarus State University until his dismissal, following a denunciation by one of his students. He says that he may not resume his work as a lecturer. The Chancellor of Belarus State University first confirmed that the University is legally required to reinstate staff who were compelled to resign on assuming electoral office. A written application to that effect must be made either to the Chancellor of the University or to the dean of

the relevant faculty. According to the Chancellor, Mr. Znavets has never officially applied to the University for reinstatement.

2. Mr. Znavets was sentenced on several occasions to 15 days of administrative detention. In one case, in March 1997, he was sentenced for having participated in an unauthorised demonstration although he was in Germany at the time, a fact borne out by the Vice-President of the Social Democratic Party in Schleswig-Holstein. While in custody, he was reportedly held together with 20 other persons in a small cell with no air and no room to sit down. Food was provided "every other day" and he was not allowed outdoors.

3. His latest arrest, on 1 June 1999, was reportedly due to a speech he made in April 1999 at a rally for a "Nuclear-free Belarus". He says that he is currently barred from leaving the country. In this connection, the delegation was given an undated document issued by the Oktyabrsky District Administration of Internal Affairs, which indeed bans him from leaving the country "*until the end of the criminal proceedings*". Mr. Znavets affirms that he has not been informed of the charges held against him. In this connection, the Prosecutor General stated that no proceedings were pending against Mr. Znavets. The delegation was unable to clarify this contradiction.

4. Mr. Znavets affirms, moreover, that he is the victim of ongoing intimidation, particularly threatening telephone calls. He complained - reportedly unsuccessfully - about this to the competent authorities (Mr. Kuprianov). The delegation is unaware whether investigations have been or are being carried out in this connection.

IX. The case of Mr. Alexander Dobrovolsky

In July 1998, Mr. Dobrovolsky was fined approximately US\$ 200 for organising a protest against the arrest and detention of Mr. Klimov and Mr. Koudinov. Mr. Dobrovolsky is unable to obtain employment. Opposition sources believe that this is due to his opposition to President Lukashenko.

X. The case of Mr. Stanislav Bogdankevitch

1. According to the information available to the delegation prior to its departure, for ten years, Mr. Bogdankevitch held a post of professor and head of the "Monetary Circulation and Credit Branch" at Belarus Economic University. He resigned on being appointed President of the Belarus National Bank. At the beginning of the 1997/1998 academic year, he reportedly reapplied for a professorship at the University. However, his application, which was apparently supported by the Dean of the Faculty in question, was rejected without explanation. In a private conversation with colleagues, Mr. Bogdankevitch was reportedly informed of an order by the authorities not to employ him under any circumstances and told that he should ask for permission from the presidential administration if he wished to work at the University. It was further alleged that Mr. Bogdankevitch may no longer publish his academic writings in Belarus.

2. The delegation was told by the Chancellor of Belarus Economic University that Mr. Bogdankevitch has not applied, either in writing or orally, for the vacancy in question. Had he done so, he would certainly have been appointed in the light of his qualifications, experience and international reputation. If he wanted to return to the University, Mr. Bogdankevitch simply had to put in an application. The Chancellor further stated that Mr. Bogdankevitch was a member of the University Council dealing with certain matters relating to postgraduate students. He had recently declined an offer to assume responsibility for all such matters. Moreover, Mr. Bogdankevitch's wife was working at the University. With regard to the alleged publishing ban, the Chancellors of both Belarus Economic University and Belarus State University claimed that there was nothing whatsoever to prevent Mr. Bogdankevitch from publishing his writings. His books were available at the University library and were even used as student textbooks.

3. As the delegation did not meet Mr. Bogdankevitch, it was unable to gather his observations in this connection.

XI. The case of Mr. Anatoly Lebedko

Although the delegation was unable to meet Mr. Lebedko personally, it was informed by opposition sources that, in late October 1999, Mr. Lebedko had served 10 days administrative detention having been found guilty of organizing with others the 17 October 1999 march. This information was confirmed by the authorities.

XII. The case of Ms. Ludmila Gryaznova

1. The case of Ms. Ludmila Gryaznova, a member of the Thirteenth Supreme Soviet, was referred by her to the Committee during its mission. Deeming the case *prima facie* admissible, the delegation conducted the preliminary investigation regarding it.

2. Ms. Gryaznova informed the delegation that she had been sentenced four times, in 1997, 1998 and 1999, to heavy fines for participating in or organising unauthorised demonstrations or pickets. As one of the organisers of the March on 17 October 1999, she was fined approximately US\$ 800. Three hours after the march, militiamen came to her house on the pretext of checking whether foreigners were staying with her without a valid permit. One hour later, a different set of militiamen turned up and escorted her to the police station, where a statement regarding her participation in the Freedom March was drawn up. Subsequently, at around midnight, she told the delegation, militiamen searched her house, without a search warrant and compiled a list of her belongings.

3. Ms. Gryaznova has been called as a witness in the criminal case brought against Mr. Statkevitch, leader of the Social Democratic Party, and others in connection with the organisation of the 17 October 1999 march.

4. Before Ms. Gryaznova's election to the Thirteenth Supreme Soviet, she was a lecturer at Belarus State University. She was legally entitled to reinstatement in her post. However, according to her, the University officials refused to sign her application, stating that it was not within their purview. According to the Chancellor of Belarus State University, no application for reinstatement has been received from Ms. Gryaznova who, he confirmed, is indeed entitled to reinstatement in accordance with the law.

G. REMARKS OF THE DELEGATION

General remarks

1. The delegation is pleased to note the authorities' stated commitment to human rights and their reference to the relevant human rights obligations under national and international law. It is also pleased to note that efforts are being made to bring current legislation into conformity with European and international human rights norms and standards. In this connection, it notes in particular that decisions by the Prosecutor on arrest and detention are now subject to judicial control.

The delegation notes with concern, however, that the norms of criminal procedure currently in force still give wide discretionary powers to State prosecution and law enforcement personnel, whose decisions are largely beyond judicial control. No action has been taken to date on the United Nations Human Rights Committee's recommendations in that regard. Moreover, beyond that, the delegation is concerned at the many allegations of decisions by State prosecution officials taken in violation of existing procedures, particularly as regards the search of private premises, and urges the authorities to remedy the situation by taking appropriate legal action in accordance with their international human rights obligations.

2. Alleged infringements of the right to freedom of assembly form the basis of several cases considered by the mission. The delegation expresses deep concern at the fact that, in a domain that is crucial to parliamentary democracy, no heed has been taken of the relevant recommendations of the Human Rights Committee. On the contrary, the recent Presidential Decree referred to under I/5.1. seems to indicate that the law pertaining to freedom of assembly has been made more stringent. The delegation firmly believes that, in the context of the negotiation process under way and the preparations for free and fair elections, strict compliance with and respect for the right to freedom of assembly are essential.

3. The delegation notes with deep concern the many corroborative allegations regarding ill-treatment of arrested and detained persons by law enforcement officers. Not a single case of alleged ill-treatment brought to its attention seems to have given rise to serious investigations with tangible results. It therefore remains unconvinced by the authorities' assurances that such complaints are systematically investigated. Clearly, the non-violent expression of political opinions, even in the context of unauthorised demonstrations, in no way justifies violent action by the police force. Any allegation of ill-treatment or torture must be investigated through independent and impartial procedures.

Likewise, the delegation is concerned that complaints regarding threats or intimidation may not be investigated with the necessary diligence and efficiency, so that the perpetrators of such criminal acts are assured of impunity.

4. The delegation also expresses concern at the many instances of imposition of administrative detention, particularly as the decisions of the court in such cases may not be challenged before an appellate court.

5. The delegation expresses deep concern at the fact that the members of the Thirteenth Supreme Soviet who were convicted, i.e. all members whose cases are before the Committee except for Mr. Domash, are currently barred from standing for election. While it acknowledges that persons may be excluded from the electoral process as a result of a conviction under criminal law, it insists that it is therefore all the more important that such a conviction be the outcome of procedures in full compliance with national law and the State's international human rights obligations. In view of the doubts raised with regard to the procedures in question, it urges Parliament to ensure that the MPs concerned are not excluded from the forthcoming electoral process.

Remarks pertaining to individual cases

1. With regard to the case of Mr. Gonchar, the delegation, noting with concern that the investigation has hitherto proved fruitless, insists on the State's duty to make every effort to shed light on Mr. Gonchar's fate. The delegation also urges the authorities to investigate the threats and acts of intimidation reported by Ms. Gonchar and to provide her with the necessary protection.

2. With regard to the case of Mr. Koudinov, while the delegation is unable to ascertain whether it is a matter of bribery, provocation with a view to elicit a bribe or fabrication of criminal acts, it has no option but to express deep concern at the serious procedural irregularities noted under F. II, including the alleged breach of the confidentiality of the court's consulting room which does not seem to have been investigated with the requisite diligence. These irregularities seem to indicate that Mr. Koudinov's right to a fair trial was not respected. It considers that the allegation – to which the Minister of the Interior unfortunately declined to respond – that two witnesses received "preferential treatment" after the sentencing of Mr. Koudinov lends credence to the allegation of a fabricated case. While noting that the case is pending before the United Nations Human Rights Committee, the delegation believes that all possibilities of a review of Mr. Koudinov's trial should be explored. It also invites the authorities to cooperate fully and openly with the Committee, particularly as Mr. Koudinov's case is the first individual case in Belarus which has been referred to it. Moreover, although the sentence imposed on Mr. Koudinov is consistent with national legislation, it is extremely severe compared with corresponding legislation in other European countries. The delegation therefore notes with satisfaction that the new Penal Code provides for milder sentences. Lastly, the delegation earnestly hopes that Mr. Koudinov may benefit from an amnesty in the near future and be released.

3. With regard to the case of Mr. Klimov, the delegation has some difficulty in understanding the criminal nature of the charges against him in the light of the indictment and available information: preferring a charge of overestimation of the cost of construction work before completion of the project and the final audit seems somewhat illogical. The delegation is particularly concerned at the apparent prejudgment of guilt in the case and stresses that the presumption of innocence is an essential principle of fair trial. The delegation urges the authorities to ensure that Mr. Klimov enjoys all guarantees of due process and a fair trial.

Mr. Klimov has been held in custody on the grounds that he might abscond and prevent the investigators from establishing the facts of the case. As all available evidence is now in the court's possession and there is henceforth no valid reason to keep him in detention, the delegation strongly urges the competent authorities to release Mr. Klimov immediately.

The delegation further trusts that the Prosecutor General's office will, as promised, ascertain whether keys to Ms. Klimov's apartment were seized and ensure that they are returned together with any other objects confiscated or removed during the searches of the apartment without sufficient legal justification.

4. As regards the conditions of detention of Mr. Koudinov and Mr. Klimov, the delegation is aware of the serious problems that exist in Belarus, particularly as regards overcrowding, and notes with appreciation that every effort is being made to improve the situation. However, failure to respect certain minimum requirements, such as providing prisoners with separate bedding, fresh air and sufficient drinking water, and allowing regular contacts, through correspondence or visits, with their family and reputable friends, may constitute inhuman or degrading treatment under the terms of Article 10 of the ICCPR. In this regard, the delegation wishes to draw the attention of the authorities to the United Nations Standard Minimum Rules for the Treatment of Prisoners, which also provide for disciplinary measures to be taken only in

accordance with the relevant law or regulations to be established to that end by the competent administrative authority.

5. With regard to the case of Mr. Domash, the delegation considers, in the light of the material at its disposal, that the invalidation of the purchase of his house is legally untenable and politically motivated. It urges the competent authorities to make every effort to ensure that the situation is remedied and to prevent similar arbitrary decisions from being taken in the future.

6. With regard to the case of Mr. Gryb, the delegation notes with concern, in the light of relevant international and even national practice, that his lawyer's licence was withdrawn on account of an administrative fine. It fears that this decision amounts to arbitrary denial of his right to exercise a profession and urges the authorities to reconsider the decision. Moreover, the delegation fails to understand the legal provisions regarding pensions and notes with concern that individuals may be singled out, on the basis of their loyalty to the President, for preferential treatment. It fears that such measures disregard the principle of equality before the law.

7. Finally, the delegation is troubled to note that the majority of the MPs concerned have lost their jobs or are unable to find new ones as a result of which the families of Mr. Koudinov and Mr. Klimov have been virtually left with no financial resources. In this connection, it notes that the academic authorities confirmed that academic staff who have taken up an electoral office are legally entitled to reinstatement once their mandate expires. The delegation therefore trusts that the persons concerned will be reinstated if they so wish.

Annex

INFORMATION NOTE REGARDING THE SITUATION OF MR. VALERY SHCHUKIN

prepared on the basis of information supplied by Mr. Shchukin, member of the Thirteenth Supreme Soviet, regarding administrative and judicial procedures brought against him since November 1996

I. Administrative fines imposed on Mr. Shchukin:

1.	13.05.97	Central court of Minsk (judge A. Bragin)	22.5 mln rub.	(\$ 847)
2.	30.05.97	Oktyabrsky court of Minsk (judge M. Rishtovskaya)	1.0 mln rub.	(\$ 38)
3.	14.07.97	Central court of Minsk (judge T. Zlobich)	23.0 mln rub.	(\$ 852)
4.	24.09.97	Leninsky court of Minsk (judge T. Zhulkovskaya)	30.0 mln rub.	(\$ 1.092)
5.	22.12.97	Sovietsky court of Minsk (judge T. Tomanov)	0.4 mln rub.	(\$ 13)
6.	23.01.98	Central court of Minsk (judge A. Borisenok)	1.5 mln rub.	(\$ 49)
7.	03.07.98	Moskovsky court of Minsk (judge Zh. Levitskaya)	5.0 mln rub.	(\$ 138)
8.	29.01.99	Central court of Minsk (judge A. Borisenok)	75.0 mln rub.	(\$ 701)

Total

For the three years, as of 20 November 1999, the fines imposed by presidential courts totaled:
158.4 mln rub. **(\$ 3,725)**

of which:

-	for 1997	76.9 mln rub.	(\$ 2,842)
-	for 1998	6.5 mln rub.	(\$ 182)
-	for 1999	75.0 mln rub.	(\$ 701)

II. Administrative arrest imposed on him:

1.	29.12.97	Central court of Minsk (judge A. Borisenok)	10 days
2.	15.06.98	Central court of Minsk (judge A. Borisenok)	10 days
3.	07.12.98	Partizansky court of Minsk (judge N. Trubnikov)	15 days
4.	11.01.99	Sovietsky court of Minsk (judge A. Goncharik)	10 days
5.	16.02.99	Central court of Minsk (judge A. Borisenok)	3 days
6.	02.04.99	Sovietsky court of Minsk (judge I. Sheiko)	5 days
7.	22.07.99	Leninsky court of Minsk (judge D. Zhdanok) of which actually spent behind bars: eight.	15 days

Total

For the three years, as of 20 November 1999, the sentences imposed by presidential courts totaled:
68 days of arrest

of which:

-	for 1997	10 days
-	for 1998	25 days
-	for 1999	33 days
	Total spent in prison:	61 days

III. Arrests under the Code of Penal Procedure:

19.10.99 - public prosecutor's office of Minsk (deputy prosecutor L. Litviniuk)
-- **2 months** (61 days) of arrest

Actually spent in investigative detention as of 20 November 1999	13 days
Total time of declared arrest	129 days
Time actually spent under arrest	74 days

IV. Official prosecutor's warnings:

18.03.99 – warning issued by the public prosecutor's office of the Republic of Belarus (senior prosecutor of the department for supervision of investigation of criminal cases and enforcement of laws to combat organized crime and corruption A. Lazuto).

V. Total number of instances of administrative or criminal procedures

Over three years, Mr. Shchukin was subjected to administrative, and criminal prosecution, **17 times**
reportedly for political, parliamentary and journalistic activity

of which:

- in 1997 **6 times**
- in 1998 **4 times**
- in 1999 **7 times**

A. OBSERVATIONS SUPPLIED BY THE AUTHORITIES

I. Observations supplied by the Secretary General of the Council of the Republic of the National Assembly and Secretary General of the Inter-Parliamentary Group of Belarus in a letter addressed to the Secretary General of the IPU (17 January 2000)

On behalf of the Belarus National Group I'd like to express our appreciation to the IPU authorities for the Committee on the Human Rights of Parliamentarians delegation's report on the situation in Belarus. The visit took place from 19 to 24 November 1999. It is obvious that the mission has carried out enormous work holding numerous meetings with heads of ministries and institutions of the Republic, as well as with various organisations and individuals.

The Parliament of the Republic has carefully studied the report and would like to make comments and observations as follows:

The report refers to Mr. Bogdankevich and Mr. Lebedko as deputies, whereas in accordance with the Republic's Law "On Interpreting Part 1 of Article 143 of the Country's Constitution" the mandate of those deputies of the Supreme Council of the Thirteenth Convocation who refused to join the House of Representatives of the National Assembly of the Republic is to be considered terminated on the day of coming into force of the Republic's Law "On the Termination of the Mandate of the Supreme Council of the Republic of Belarus of the Thirteenth Convocation", i.e. on 27 November 1996. Moreover, in the Supreme Council of the Thirteenth Convocation Mr. V. Gonchar did not hold the position of a vice-Speaker, which is also mentioned in the report.

We also cannot accept the authors' of the report mentioning that the results of the referendum of 24 November 1996 should not be considered as binding. The issue of amending the Constitution was moved for the referendum by the President of the country and its results were supposed to be binding. The final version of the resolution by the Supreme Council on holding the referendum did not contain any reference as to the nature of the referendum. So, the nature of the referendum was defined by its initiator who said its results must be binding. With this in mind, the questions related to the adoption of the amended Constitution were consequently formulated.

Further, we believe that the term "exile" has been wrongly used in relation to Mr. Sharetsky's stay in Lithuania. As you would know, Mr. Sharetsky has never been tried on criminal charges, besides the Penal Code currently in force in Belarus does not provide for such a punishment as exile.

The report authors are concerned about preserving the principle of independence of judiciary in Belarus. With regard to this we can state that according to the Republic's Constitution judicial power in the Republic is vested with courts. In administering justice courts are independent and are governed in their activities solely by the law. Any interference with the courts' administration of justice is inadmissible and shall be punished by law. Independence of judges is secured through the legal procedures of electing, appointing and dismissing them, through their immunity, legal procedure of administering justice, confidentiality of court premises when a decision is being taken and inadmissibility of disclosing whatever was said during deliberations, liability for neglect of court or interference in tackling particular cases, creation of the necessary material and technical support of courts as well as material and social support of judges, which would correspond to their high status. Putting pressure on a judge with the aim of hampering his (her) comprehensive, full and impartial consideration of a particular case or making him (her) bring out an unlawful solution, verdict, ruling or resolution shall be punished by law in accordance with the country's legislation (part 1, Article 64 of the Law "On Court Procedures and the Status of Judges of the Republic of Belarus"). Moreover, the new 1999 Penal Code of the Republic of Belarus provides for a more severe punishment in cases of insulting judges, threats towards court, interference in court proceedings. Violent attitude towards a judge is also to be punished by law.

Furthermore, as concerns the breach of Article 9 of the International Covenant on Civil and Political Rights, we should stress that under the new Criminal Proceedings Code of the Republic of Belarus, arrest as a prevention measure is to be applied only in relation to persons suspected or accused of committing a crime, which entails a punishment of at least two years in prison. In all cases requiring the issue of an arrest warrant the attorney must personally look into the case and if necessary interrogate the suspect or the accused, which is a must in dealing with minors (Article 126). Anyone who has been deprived of freedom as a result of detention or arrest may complain to court if the term of detention (arrest) has been

prolonged. A relevant procedure of checking the legality of prosecution activities has been provided for (Articles 143, 144).

The report raises the issue of electoral campaigning in Belarus. In accordance with the Republic's Constitution persons who have been certified by court as unable to function or those who are in prison by a court's verdict, may not participate in an election. Those who are held under arrest in accordance with the legally established procedure may not participate in an election either. The upcoming Electoral Code of the Republic which is going through the second reading in the House of Representatives does not any longer contain restrictions to run for President and for the Parliament for persons who have been punished in an administrative way following a court's ruling.

Among minor mistakes in the report we would like to mention the one concerning the membership of the National Assembly House of Representatives, which, in conformity with Article 91 of the Constitution, should be 110 but not 101. The report states that the authorities of the Republic, the leaders of the National Assembly have spared no effort to ease the task of the delegation. This obviously is indicative of the fact that the Belarusian authorities are willing to clarify the situation with the cases for which the Committee has been seized as soon as possible and are ready for an open dialogue and cooperation.

The Belarusian side stresses with satisfaction that in the General Remarks the delegation commends the authorities' commitment to human rights principles and to the relevant human rights obligations under national and international law.

At the same time, we feel that several points in the report need clarification. Thus, in the Political Background it is stated that "*the authorities decided to hold a referendum providing for a broadening of presidential power and extension of President Lukashenko's term of office until the year 2001*". The Committee mission has already received explanations on this matter, including relevant documentation materials. We are sorry to state that the reasoning that we have provided has not been addressed in a more attentive manner. The section International Obligations also requires clarification. The Republic of Belarus strictly abides by all the international obligations related to democracy and human rights protection.

Belarus has submitted numerous regular reports related to the fulfillment of its international human rights obligations within United Nations framework. Among them are 4 reports in the context of the International Covenant on Civil and Political Rights, 3 reports in the context of the International Covenant on Economic, Social and Cultural Rights, 15 reports in the context of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1 report in the context of the Convention on the Rights of the Child, 3 reports within the framework of the International Convention on the Elimination of All Forms of Discrimination against Women.

The above is evidence to the fact that the national human rights legislation is in line with the international obligations of our country. Moreover, competent state agencies believe, not without reason, that in no part is the Belarusian national legislation in conflict with the relevant international commitments to which Belarus has adhered.

While working on its national legislation, the authorities of the Republic take a very careful look at and due account of the recommendations offered by international organisations. The Committee mission has been informed of the fact that a new Electoral Code is currently being drafted in the country. The National Assembly is prepared to examine and ideas and proposition related to the Code, including those of the opposition. The National Assembly has initiated a nationwide discussion of the draft Code. The draft has also been sent to the OSCE and the Council of Europe for legal expertise, as well as to the 28 political parties, including the opposition parties for comments and propositions. However, there have been no suggestions from the opposition side thus far.

We have information from the Venice Commission of the Council of Europe, which is a very high authority on the matter, indicating that the provisions of our draft Electoral Code conform to the fundamental provisions of the relevant international legislation. The Belarusian authorities claim that the 2000 parliamentary elections in the country will be held in a democratic, free and fair manner.

Being aware of the fact that the mission's report will be scrupulously considered by the Committee at its next session on 23 to 27 January 2000, we have placed the document before all state authorities who have had the pleasure to meet with the delegation in Minsk and asked them to give their comments. We have received comments from the Supreme Court, the Ministry of the Interior, the Committee for Execution of Punishments, the Ministry of Justice and the Chancellor of the Belarusian State Economic University.

Enclosed are copies of documents provided by the above institutions. We hope their position will be taken into consideration when the Committee comes to examining the materials at its session in Geneva on 23-27 January 2000.

We also have the pleasure to inform you that the Belarus IPU National Group has decided to send Mr. M. L. Glukhovsky and Mr. V. Chernyshev to Geneva who will stand by during the Committee session for possible comments. The Belarus Ministry for Foreign Affairs is also sending to Geneva Mr. A. Grinkevich. The Belarusian side kindly requests the IPU authorities to render the delegation possible support for obtaining Swiss visas and would appreciate a message confirming the Committee's readiness to give the floor at one of its sittings to Mr. L. Glukhovsky.

II. Observations supplied by Mr. Leonid V. Glukhovsky, MP, Deputy Minister of the Interior of Belarus in a letter of 28 January 2000. These observations are the written version of the observations he made orally at the hearing held on the occasion of the 88th session of the Committee on the Human Rights of Parliamentarians (28 January 2000)

[Translated from Russian]

Further to my remarks in the Committee, I should like to make the following comments and observations regarding the report of the Committee's delegation on its mission to Belarus.

1. It is a matter for regret that during its visit to Minsk the delegation cancelled its previously planned meetings with Bogdankevich and Lebedko. Hopefully, those meetings would have helped the members of the delegation to assure themselves that the accusations brought by them are unfounded.

2. Detailed explanations concerning the subject of holding the 1996 referendum, its nature and its results were provided in our letter N° 10/11 dated 20 January 2000, addressed to Mr. A. Johnsson dated 17 January 2000.

3. Section C - Political background

We again draw the attention of Committee members to the fact that the House of Representatives is made up of 110 deputies and not 101 as stated in the report ⁹. Furthermore, the results of the 1996 referendum and the amendments to the Constitution were supported by more than 150 deputies to the Supreme Soviet of the Thirteenth Convocation.

As a result of the completion of investigative proceedings relating to Mr. Chigir and the referral of his case to the courts, the penalty imposed upon him was changed from detention in custody to signing an undertaking not to leave the country. Mr. Chigir's trial has now begun. It is being held in public. The court has accepted Mr. Chigir's request to admit B. Gyunter as an additional public counsel for the defence. In addition, Mr. Chigir's interests are represented in court by his wife, who is also his defence counsel.

The process of negotiations, or - more precisely - of a broad public dialogue was not initiated by the Advisory and Monitoring Group of OSCE but by the President of the Republic of Belarus, A. G. Lukashenko.

4. Section D (2) Recommendations made by the Human Rights Committee established under the International Covenant on Civil and Political Rights.

Some comments relating to the contents of this section will be found in our letter N° 10/11 of 20 January 2000. Detailed comments are contained in the attached letter N° 10-01/355, dated 12 January 2000, from the Ministry of Justice. (See page 30).

5. Section E

We wish to state again that V. Gonchar was at no time Deputy Chairman of the Thirteenth Supreme Soviet. Explanations concerning the complete inappropriateness of the use of the term "exile" in connection with S. Sharetsky will be found in our letter N° 10/11 of 20 January 2000.

⁹ Translator's note: this comment must concern the Russian text of the report; the English text has the correct figure.

6. Section F

I wish to bring to the attention of Committee members that the number of MPs who signed the impeachment petition against the President and who are members of the House of Representatives is not four but a greater number.

Explanations relating to the contents of section F.2 are to be found in the attached Ministry of Justice letter N° 10-01/355 dated 12 January 2000.

The Criminal Code of the Republic of Belarus has already been adopted by Parliament and enters into force on 1 July 2000.

Systematic work is currently in progress in Belarus to improve the situation with regard to prison overcrowding. Some positive moves can already be observed and I wish to assure Committee members that we will gradually achieve internationally accepted figures in this area.

Once again I wish to point out that it is incorrect to state that the organisers of demonstrations and marches are required to cover the cost of maintaining public order. All this work is performed by the forces of law and order as part of their duties, free of charge. Only the organisers of commercial events designed to provide public amusement or entertainment may, if they so wish, ask for additional security police to be brought in on a paying basis.

The rejection of presidential decrees is practised by Belarusian parliamentarians in cases of necessity, and such cases do occur.

In the new Electoral Code, which was adopted by the House of Representatives on 24 January 2000, all restrictions on the right to stand for election of persons previously sentenced under the Criminal or the Administrative Code have been removed. The only persons who have no right to stand for election are minors, persons who have been declared incapable and those serving a sentence for a criminal act. The Electoral Code takes into account all the remarks and suggestions of the OSCE (except one), and the experts of the Venice Commission of the Council of Europe have recognized it as being in conformity with international standards.

7. Section III - The case of V. Koudinov

The new Criminal Code, as adopted, provides that the maximum penalty for giving a bribe shall be imprisonment for up to 5 years. Since the law has retroactive effect for purposes of mitigation of penalties, V. Koudinov's case will be reviewed after 1 July 2000, i.e. after the Code's entry into force, and his release is not unlikely. The necessary preparatory work is being done by us. At the same time I should like to point out that the law of the Republic of Belarus does not provide immunity from criminal prosecution for persons who participated in the liquidation of the consequences of the accident at the Chernobyl nuclear power station. The secrecy of the courtroom was not infringed during V. Koudinov's trial.

Exhaustive explanatory information on the case of V.Koudinov will be found in the attached documents.

8. Section IV - The case of A. Klimov

Detailed explanatory information on A. Klimov's case is contained in the attached documents. In addition I should like to say that I was present at the meeting of the Committee's delegation with the Prosecutor General and can aver that the Prosecutor was fully informed of the particulars of the case. The allegation that keys to A. Klimov's apartment were removed by the investigating police does not correspond to reality. Neither does the allegation that A. Klimov's case is unique and unprecedented in the history of building firms in Belarus. I wish to point out that approximately 17% of crimes in our country occur in the building industry. A. Klimov had no right to take money out of the bank which bears his name because the money in the bank belonged not only to him but also to the bank's depositors. In such cases, the bank's decision to grant credit cannot be taken by a single individual. The legal definition of the acts committed by A. Klimov is fully consistent with the law of the Republic of Belarus.

The inclusion in the report of a section entitled "Presumption of guilt?" and the contents of this section are perplexing. The whole of Belarusian law and all the practical activities of our law enforcement organs are founded upon the unshakeability of the principle of the presumption of innocence. This is also borne out by the Minister of the Interior's statement to the effect that if A. Klimov is acquitted by the court

and if violations are found to have been committed by officials during the investigation of the criminal case involving him, the officials concerned will be punished in accordance with Belarusian law.

It is particularly perplexing and regrettable that the delegation declined to acquaint itself *in situ* with A. Klimov's conditions of detention. I can assure you that these conditions meet all necessary standards: the cell is large, it contains only three persons, there is a TV set, the press is delivered regularly. A. Klimov regularly receives parcels and has possibilities of meeting his family. He can have an unlimited number of meetings with his wife, as she is his defence counsel. I confirm that, should A. Klimov express a wish to that effect, his mother can become his defence counsel.

Detailed information on the subject of reports which have sprung up alleging that A. Klimov was beaten up in December last by personnel of the pre-trial detention centre is to be found in the attached documents.

9. Section VI - The case of S. Domash

We have brought with us and are placing before the members of the Committee all the documents (attached) confirming the lawfulness of the decision that S. Domash's acquisition of a house was illegal. May I add that S. Domash will be paid full compensation which will allow for indexing. Prior to acquiring the house, S. Domash owned a 4-roomed flat which he subsequently sold. I presume that all these amounts taken together will suffice for the acquisition of a new home if necessary.

10. Section VII - The case of M. Gryb

We have brought with us detailed information (attached) clarifying the particulars of the situation concerning M. Gryb. In addition, I should like to point out the following: no citizen of the Republic of Belarus has the right to receive more than one pension. Mr. Gryb is a Lieutenant-Colonel of the militia and he himself chose to receive a general's pension, which, incidentally, is considerably in excess of the pension he might receive as former President of the Supreme Soviet of the Republic of Belarus. Similarly, Mr. Gryb himself chose to receive medical care at the medical centre of the Ministry of the Interior. Incidentally, I too receive medical services at the same centre.

11. Section VIII - The case of P. Znavets

Detailed information on this case is attached. May I point out that P. Znavets has never applied to Belarus State University for reinstatement.

12. Section X - The case of S. Bogdankevitch, Section XII - The case of L. Gryaznova

Neither S. Bogdankevitch nor L. Gryaznova has submitted an application for reinstatement. The relevant documents are attached. What is more, S. Bogdankevitch is still a member of the University committee on the consideration of post-graduate theses. His wife is still working at the University. Books and articles by S. Bogdanovich are to be found in the University library and students may use them freely.

13. General remarks of the delegation

The above arguments and the contents of the documents we are adducing will, we hope, clarify a number of points in this section. In addition, I wish to report that we are taking active steps to trace V. Gonchar and Yu. Zakharenko. But we are entitled also to expect a corresponding attitude from our international colleagues and partners. We have never before raised this matter officially. It concerns one of the persons who "disappeared", in consequence of which the authorities of the Republic of Belarus were sharply criticized in the West. I refer to the disappearance of T. Vinnikova. You are aware that T. Vinnikova was "found" in Great Britain. It would seem that the West knew that T. Vinnikova had not disappeared at all, yet it criticized and accused us all along. More than that, we addressed official inquiries to Interpol, *inter alia* in respect of T. Vinnikova. Interpol never replied as far as this person was concerned. I take it that these facts speak for themselves and do not require further comment.

In conclusion, I should like to make the following general points.

First of all, let me stress the importance of the Committee delegation's visit to Belarus and the great amount of work done by the members of the delegation. It is evident that the visit has helped to shed light on a number of issues, which will unquestionably facilitate the early determination of the truth and the ending of the consideration of the cases concerned.

You were able to convince yourselves in person of our open and constructive attitude and you saw that all our promises were unconditionally fulfilled. We have nothing to conceal.

We, in turn, are counting on the continuance of honest and objective cooperation with the Committee. We are prepared to continue supplying the Committee with all requisite detailed information - information, I may add, of a documentary nature - on the cases under consideration. We greatly hope that the authors of the complaints will act in accordance with the same principles.

III. Observations supplied by Mr. V.G. Golovanov, first Deputy Minister of Justice of Belarus in a letter dated 12 January 2000

[Translated from Russian]

The Ministry of Justice of the Republic of Belarus, having studied the report of the delegation of the Committee on the Human Rights of Parliamentarians on its mission to Belarus 19 to 24 November 1999, has the honour to present the following information within the scope of its competence.

A. MANDATE AND PREPARATION OF THE MISSION

Under its mandate the mission was to gather information on the deputies, for which purpose meetings were planned with representatives of government and judicial authorities as well as with lawyers. However, no meetings with lawyers took place, as a result of which the mission's information is incomplete.

D. RELEVANT NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS OF THE REPUBLIC OF BELARUS

2. Recommendations made by the Human Rights Committee established under the International Covenant on Civil and Political Rights

ad para. 1:

Article 27 of the Constitution of the Republic of Belarus contains a provision according to which evidence obtained with violation of the law has no legal force. This applies in equal measure to evidence used in the process of any judicial investigation obtained under duress through the use of threats or other unlawful acts on the part of the person carrying out the interrogation or preliminary investigation, for which criminal responsibility is incurred under Article 175 of the Criminal Code in force. According to the second part of the said article of the Criminal Code, such acts, if accompanied by the use of force or by acts degrading to the person being interrogated, are punishable by three to ten years' imprisonment.

Under Article 60, Section 2 of the Constitution citizens have the right to claim compensation through the courts for both material and moral injury in cases specified by law. The Civil Code of the Republic of Belarus, which came into force on 1 July 1999, provides that in the event of maiming or other injury to a citizen's health, compensation shall be paid for the loss of earnings (income) which the citizen was receiving or could certainly have received, as well as for any expenses due to injury to health, including cost of medical care, special foods, purchase of medicines, artificial limbs, extraneous care, treatment in a sanatorium or rest home, purchase of special means of transport and retraining for a new profession, if it is established that the victim is in need of these types of assistance and care and is not entitled to receive them free of charge (Art. 954 of the Civil Code).

Furthermore, irrespective of any material damages, the Civil Code provides for compensation for moral injury (physical or mental suffering) caused by acts which violate a citizen's personal non-material rights or which infringe that citizen's right to other non-material benefits, as well as in other cases provided by law (Civil Code Art. 954).

ad para. 3:

The empowerment of the Ministry of Justice to license the activities of lawyers does not violate the principle of the legal profession's independence. With the adoption on 6 July 1998 of amendments and additions to the Legal Profession Act of 15 June 1993, the guarantees relating to the exercise of the legal profession are maintained in Belarusian law. Thus, Article 15 of the said Act, as amended, provides that a

lawyer's activities shall be independent and subject only to the law. It prohibits interfering with a lawyer's professional activities, demanding from him any information covered by professional legal secrecy, and demanding such information from officials and technical personnel of the legal profession's self-management organs and associations. All organs and officials of the Republic of Belarus must acknowledge and observe the secrecy of a lawyer's consultations with his/her client in the exercise of his/her professional duties. Article 17 of the same Act provides that a lawyer shall have the right to provide individuals and legal entities with any legal assistance they may require. In his activities, a lawyer shall comply precisely and unswervingly by the law in force and shall make use of all means and methods provided by law to defend the rights and lawful interests of the individuals or legal entities seeking his/her legal assistance.

Article 2 of the Legal Profession Act of 15 June 1993 provides that the legal profession's most important task shall be to accord skilled legal assistance to individuals and legal entities in the defence of their rights, freedoms and lawful interests.

The power to license the activities of lawyers was granted to the Ministry of Justice by the Legal Profession Act of 15 June 1993 and is maintained in the amended Act of 6 July 1998.

Licences to exercise the legal profession are issued and revoked by the Ministry of Justice subject to certain conditions specified by law. The process takes place with the direct participation of the legal profession's self-management organs and of lawyers forming part of the Qualifications Committee on Matters Pertaining to Lawyers' Activities. The Chairman of the Republic's Bar Collegium, the legal profession's nation-wide self-management organ, is an *ex officio* member of this Committee. Paragraph 16 of the "Decision on the Qualifications Committee" approved by the Minister of Justice of the Republic of Belarus provides that an application by a person wishing to exercise the legal profession in the capacity of barrister must be accompanied by a recommendation from the Bar Collegium that the applicant be admitted to sit the qualifying examination.

As already stated, a licence to exercise the profession of barrister is issued on the basis of the Qualifications Committee's decision for a period of five years. Besides issuing licences, the Committee takes decisions on the cancellation, suspension, extension and renewal of licences and on the issuance of duplicate licences. Such decisions are taken on the basis of information from the presidiums of Bar Collegiums, Government organs or other bodies, statements by Qualifications Committee members, and the results of votes taken in the Committee establishing the *de facto* circumstances of each case, any violations of the law in force or of professional ethics, or other information which proves that the individual concerned cannot exercise the profession of barrister. In this connection we want to point out that the extension of the validity of a licence for a further five years is granted by the Ministry of Justice taking account of the barrister's compliance with the Legal Profession Act as evidenced by an attestation issued by the relevant Bar Collegium (Legal Profession Act of 15 June 1993 as amended and expanded on 5 July 1998, Art.12, section 3).

It will be seen from the above that the established procedure for the licensing of barristers precludes the possibility of the Ministry of Justice exercising its powers alone in a manner irrespective of or contrary to the views of the lawyers' self-management organs. Moreover, the Legal Profession Act provides the right of appeal through the courts against a refusal to grant or extend a licence decided upon by a single individual irrespective of and contrary to the views of organs of the legal profession's self-management organs. The appeal must be lodged within one month of the adoption of the decision (Legal Profession Act, as amended, para. 12).

The independence of Bar Collegiums is guaranteed by a provision included in their statutes to the effect that admission to the bar collegium must be decided upon by the bureau of the bar collegium, which is elected by a general assembly of the collegium's members. In other words, the final decision to licence an individual to exercise the profession of barrister is not taken by the Ministry of Justice but by a collegiate self-management organ of the legal profession.

The direct exercise by a barrister of his/her rights and duties takes place under the aegis of the Bar Collegium of which he/she is a member. As already stated, barristers' activities are subject to the law. The powers of the Ministry of Justice in respect of the Republic-wide Bar Collegium, which consist in providing the College with the necessary technical and information-technical assistance and in organising and facilitating the advance training of lawyers, are of an organizational and methodological nature and do not influence the activities of each barrister in exercising his/her direct rights and duties.

F. INFORMATION GATHERED BY THE DELEGATION

1. General points raised

2. Judicial procedures

ad para. 2.4:

The Qualifications Committee on Matters Pertaining to Lawyers' Activities, which was set up by the Ministry of Justice, has 14 members (representatives of the Prosecutor's Office, the Court, the State Security Commission, the Ministry of the Interior and the legal profession, and legal scholars).

According to Article 49 of the Code of Criminal Procedure of the Republic of Belarus, the following persons may participate as defenders in a criminal case: members of the Bar Collegium, close relatives and legal representatives of the accused, and other persons entitled to exercise the profession of barrister.

The Code of Criminal Procedure now in force allows the participation of public organizations and labour collectives in legal proceedings in criminal cases. Article 249 of the Code sets out the procedure for the participation of representatives of civil society and their rights.

The new Code of Criminal Procedure adopted on 16 July 1999, does not provide for the office of public defender.

III. The case of Mr. V. Koudinov

2. Judicial case

ad para. 2.7:

The statement in the report to the effect that on 4 August 1997 the Prosecutor General entered the room in which the court was adopting its decision, thus violating the confidential nature of the deliberations, and that the incident warranted a retrial, is incorrect.

The Supreme Court received a complaint from V. Koudinov in which one of the arguments in support of his objection to the court's decisions was the allegation that the confidential nature of the judges' deliberations prior to passing the verdict had been violated. At the request of the Supreme Court, the Ministry of Justice conducted a verification of this part of the complaint, for which purpose a visit to the court-house of the Borisov district of Minsk region was carried out on 7 April 1998.

Talks were conducted and statements were taken from the presiding judge in the case, V.V. Shelepen; people's assessors N.N. Gramovich and A.S. Mikhnevich, who had taken part in the consideration of the case; and State Prosecutor Golubovich.

Each of the above persons separately declared that after Koudinov, the accused, had made his closing statement the court immediately retired to the room of deliberations, that is to say, Judge Shelepen's chambers, where the judge immediately locked the door, disconnected the telephone and closed the window.

No one, and that includes State Prosecutor Golubovich, entered the judge's chambers during the deliberations and until the moment when the judges re-entered the courtroom to pronounce the verdict.

In his explanatory statement, State Prosecutor Golubovich said that he did not enter the room of deliberations; however, at the request of the Presiding Judge of the district of Borisov, S.I. Mikulich, he did enter the office adjacent to Judge Shelepen's chambers and was present there during the period when the members of the court were in the room of deliberations. This statement tallies fully with that obtained from Presiding Judge Mikulich.

Thus the verification did not reveal any violation of the secrecy of the room of deliberations.

The results of the Ministry's verification were communicated to the Supreme Court on 8 April 1998.

Articles written by the State Prosecutor stating that he had not infringed the secrecy of the room of deliberations were published in the independent newspapers "Svobodnye Novosti" and "Svoboda".

The question of violation of the secrecy of the courtroom was also investigated in connection with the consideration by the court of the Partisansk district of the city of Minsk on 30 December 1997 of an action brought by Judge Shelepen against the editorial board of the "Svobodnye Novosti" newspaper, I.N. Naboychenko and V.A. Koudinov seeking the court's protection of his honour and dignity.

In ruling in favour of the action, the court declared that information published in the newspaper on 19-26 September 1997 did not correspond to reality and was injurious to the judge's honour, dignity and professional reputation, and sentenced the editorial board and the author of the information to pay compensation for moral injury to Judge Shelepen.

VII. The case of M. Gryb

On 27 May 1996, the Ministry of Justice issued Mr. Mecheslav Ivanovich Gryb licence N° 1238 entitling him to exercise the profession of barrister.

The licence was withdrawn in accordance with para.2 of Presidential Decree "*On measures towards the improvement of the activities of lawyers and notaries in the Republic of Belarus*" of 3 May 1997. M.I. Gryb was asked to sit a qualifying examination to obtain the right to exercise the profession of barrister.

At a meeting of the Qualifications Committee it was found that M. Gryb had failed to give complete answers to the questions put to him.

By decisions dated 20 March 1997 of the court of the Partisansk district of the city of Minsk and of Minsk City court dated 21 May 1997, M.I. Gryb was fined on the basis of paras. 9 and 12(1) of Presidential Decree N° 5 dated 5 March 1997 for participating in an unauthorised march.

As a result of the fact that M.I. Gryb had infringed the law in force and the standards of professional ethics of the legal profession, and in the light of the findings of the Qualifications Committee, M.I. Gryb was refused a licence to exercise the activities of a barrister.

IV. Observations supplied by Mr. I.A. Mironichenko, Vice-Chairman of the Supreme Court of the Republic of Belarus in a letter dated 23 March 2000

The Supreme Court has heard the appeals lodged by S.N. Domash, including the appeal lodged by the Office of the President of the Republic of Belarus.

A review of the case-file has revealed that, in its judgment of 14 August 1997, Grodno (Lenin District) Court declared null and void the contract of sale of 12 March 1994 between S.N. Domash and the Lenin District Executive Committee (Grodno) concerning the property at 38, Lermontov Street, Grodno.

In the appeals, it was claimed that the court judgment was unlawful and should be overturned.

The appeals were not allowed.

Article 47 of the Civil Code of the Republic of Belarus stipulates that unlawful transactions shall be voided.

The case-file shows that the property at issue was purchased by Domash and subsequently transferred to municipal ownership without the consent of the Committee for the Management of State Property reporting to the Belarusian Council of Ministers. The transaction took place in violation of paragraphs 3.2, 24 and 25 of the Provisional Statute on the procedure for the sale and purchase of apartments (houses), ratified by a Council of Ministers Decision of 31 August 1993. Domash acquired the property as a non-residential unit, on a priority basis and without any entitlement to better housing.

In the light of these breaches of the law, the court rightly concluded that the contract of sale in respect of the property at issue was null and void and restored the previously existing situation.

There are no grounds for challenging this judgment.

S.N. Domash has been provided with a copy of the response to his appeal.

V. Observations supplied by Mr. S.V. Kosukha, Deputy Procurator-General of the Republic of Belarus in a letter dated 30 March 2000

For the use of the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union (IPU), the Procurator's Office of the Republic of Belarus hereby transmits the following information:

On 21 May and 23 June 1997, V.A. Shchukin officially notified the Minsk Central District Procurator's Office that, in the night of 15-16 May 1997, militia officers broke into his apartment, beat him and took him to a militia station.

An investigation into this incident revealed that Mr. Shchukin had wilfully ignored a summons to appear in court in connection with proceedings against him for a non-indictable offence. The court therefore ordered that he be compelled to appear, and the order was subsequently enforced by officers of the Minsk Central District Internal Affairs Department. In enforcing the court order, the militia officers did not exceed the powers granted to them under the law. Mr. Shchukin was not beaten and he sustained no injuries, a fact independently confirmed by a forensic medical examination.

Accordingly, on 7 July 1997 the Minsk Central District Procurator's Office declined to institute criminal proceedings in this matter on the basis of article 5, paragraph 2, of the Code of Criminal Procedure of the Republic of Belarus, i.e. lack of evidence that a crime had been committed.

In 1999-2000 Minsk City Procurator's Office investigated an offence involving organization of and attendance at a public meeting in Minsk on 17 October 1999 which constituted a serious public-order violation, as well as being a clear defiance of authority, and resulted in obstruction of the highway and substantial material damage.

The investigation established that on 17 October 1999, following an authorized rally in Peoples' Friendship Park provisionally described as a "March of Freedom", N.V. Statkevich and V.A. Shchukin organized an illegal march towards the city centre along a highway, during which demonstrators committed serious public-order violations and obstructed traffic.

By their actions, those who organized and participated in the illegal march and disturbances on 17 October 1999 caused substantial material damage to the highway, street furniture, the electrically-powered municipal transport system, Ministry of Internal Affairs property, and also attracted liability for the cost of treating injured parties.

Mr. Shchukin was actively involved in these events; consequently he was charged under article 186-3 of the Criminal Code (Organization or active participation in serious collective public-order violations) and held in custody as a preventive measure. On 1 November 1999 this preventive measure was discontinued and he was released into his own custody. Mr. Shchukin and Mr. Statkevich were committed for trial on indictment on 16 March 2000.

Regarding the allegations by Mr. P.K. Znavets that intimidation and threats against him have been ignored by the Minsk Procurator, no communications from Mr. Znavets have reached our offices in the period 1999-2000.

During a press conference on 8 February 2000, the Procurator-General of the Republic of Belarus stated that Mr. Znavets is not the subject of a criminal investigation and there are no restrictions or prohibitions on his leaving the country.

B. OBSERVATIONS SUPPLIED BY THE SOURCES

- Additional remarks on cases involving deputies of the Supreme Soviet of the Republic of Belarus (13th convocation)

Mecheslav Gryb

As a deputy of the Supreme Soviet of the Republic of Belarus (13th convocation) in 1996, and in accordance with the Legal Practitioners Act, I passed the professional examination set by the qualifying commission and obtained a licence to practise law. In 1997 I joined the Minsk City lawyers' association. I have never worked in private practice. Pursuant to the Presidential Decree of May 1997, it was suggested

to me (and approximately 200 other lawyers who had obtained their licences while in the employ of the State, as deputies) that I should re-sit the examination of the qualifying commission appointed by the President in order to obtain a licence to practise. I passed this examination too, despite obstruction by representatives of the authorities.

The Minister of Justice of the Republic of Belarus did not revoke my licence but refused to issue me with a new one when I passed the examination a second time. I have never been cautioned for violating legal ethics, nor have I ever been disciplined in 40 years of working life. Moreover, no one has offered me further employment. All allegations to the contrary by representatives of the authorities are false and untrue.

I have appealed against the decision of the Minister of Justice in Minsk's Moscow District Court and Minsk City Court, and also to the President of the Supreme Court, Mr. Sukalo. All the judicial authorities have unlawfully dismissed my case. On 18 March 1998 Vice-President of the Supreme Court I. Morinenko dismissed my case citing my participation in an illegal rally on 15 March 1997. In fact this rally was authorised by Minsk City Executive Committee.

Mr. Gryb's rights as a pensioner.

Notwithstanding the information submitted to representatives of the IPU Committee by Mr. Malofeev, President of the House of Representatives of the National Assembly, I have still not been provided with a statement of my earnings, which directly affects my pension entitlement. A statement of earnings must be provided to the social security authorities at the claimant's place of residence, but this has not been done.

Mr. Malofeev informed me in a private conversation that the House of Representatives of the National Assembly is not the legal successor of the Supreme Soviet and has no obligations to deputies of the 13th convocation of that body. This remark may be interpreted as an implicit admission that what occurred in 1996 was a *coup d'état*.

The contention that a lieutenant-general's pension is equal to that of the Chairman of the Supreme Soviet is untrue. It is three times less generous.

Moreover, under the laws of the Republic of Belarus, every citizen who is entitled to several categories of pension may freely choose any category of pension at any time.

Stanislav Bogdankevich

In 1997, following the dissolution of the Supreme Soviet, I wrote to Roman Mikhailovich Korseko, rector of the University of Economics, requesting that I be appointed to a professorship in the Faculty of Banking. I had been the head of that faculty before I was elected to the Supreme Soviet. I had a meeting with Mr. Korseko. My application was supported by the dean of faculty, Professor Sergei Semenovitch Tkachuk. Following a lengthy delay during which Mr. Tkachuk made a number of representations to the university authorities, Vice-Principal Sergei Gurko informed me on behalf of the authorities that I could not be employed, citing unknown reasons.

Ludmila Gryaznova

In the winter of 1997 I sent an official request to the Belarusian State University, where I used to work as an assistant professor in the Faculty of Economic Sciences before my election to the Supreme Soviet, asking to be reinstated in my former post. This application was sent to Mr. Leonid Davydenko, head of the Faculty of Economic Sciences, and Mr. Albert Elsukov, dean of the Philosophy and Economics Faculty. But both refused to sign my application, saying that the matter could only be decided by the rector. I then sent an official request to the rector and was subsequently asked to attend an interview. The rector, Mr. A. Kozulin, and the vice-principal, Mr. P. Brigadin, interviewed me in the former's office. My application was lying in front of them on the table. Neither of them wrote anything on my application, but I was informed verbally that the university could not employ me because of the difficult situation in the country.

Vladimir Kudinov

Information supplied by Zoya Kudinova.

Serious violations of the Criminal Code and the Code of Criminal Procedure occurred during the investigation. Similar violations occurred during the trial phase. According to an expert opinion, the sound recording showed signs of having been tampered with and was inadmissible as evidence. Nor was it possible to determine exactly whose voice could be heard on the tape. Furthermore, the person who witnessed Mr. Kudinov's arrest and acted as an official witness testified that he had been summoned to Borisov District Internal Affairs Department to re-sign all the relevant documents and police reports. This is an extremely serious violation which indicates the trumped-up nature of the case. Under the most recent amnesty, all convicted persons involved in the clean-up of the Chernobyl nuclear accident were released from prison, except those sentenced under article 170 (this includes Vladimir Kudinov). The same stipulation appears in the draft of the forthcoming amnesty.

The confidentiality of the judges' deliberations during Mr. Kudinov's trial was violated. No investigation has been carried out into this matter. None of the witnesses of this violation, even the representative of the Belarusian Helsinki Committee, was summoned or questioned. Immediately after the incident they signed statements which were given to the lawyer.

The entry into force of the Criminal Code has been postponed. The authorities were intending to introduce it on 1 July 2000. The start date has now apparently been put back to 1 January 2001.

Semen Domash

Representatives of the Procurator's Office of the Republic of Belarus allege that I purchased a property without proper authorisation; that the purchase price was ridiculously low; and that, under the law, I should be taken into custody.

In reality, however, I purchased the disputed property pursuant to Decision No. 98 of the Grodno City Executive Committee dated 16 February 1994, which was adopted on the basis of applications filed by the Grodno Internal Affairs Administration and the State Security Committee Directorate, explaining the need to rehouse my family in detached accommodation for security purposes after I had been elected Chairman of the Grodno Regional Soviet of Deputies (copies of letters addressed to the Regional Executive Committee and the City Executive Committee are enclosed in the case-file). This decision by the City Executive Committee regarding the purchase by me of the property at issue was authorised by the Prime Minister Mr. V.F. Kebich (see letter from Grodno City Executive Committee to the Council of Ministers of the Republic of Belarus dated 10 February 1994 and its resolution).

The property was built in 1938 and is in need of major repair and rebuilding work. It was acquired by the City of Grodno from the Azot Corporation under a deed of acceptance and transfer of fixed assets (No.7 of 31 January 1994) which was subsequently validated by City Executive Committee Decision No. 101 of 16 February 1994. The property was one of a number of facilities and residential properties mentioned in this document. The transfer was authorised on 29 January 1994 by the State Committee for the Management of State Property and Privatisation, and moreover was subsequently confirmed by the newly-formed Ministry of State Property on 8 June 1994.

In the absence of any other solutions, the City Executive Committee offered to sell me the property on condition that I returned my privatised four-bedroom apartment, where I was living with my family, to municipal ownership. In order to comply with the requirements of the Internal Affairs Administration and the State Security Committee Directorate, I consented. On 12 March 1994 a deed of sale was drawn up between myself and the Lenin District Housing Office (Grodno) on the basis of the aforementioned decision by the City Executive Committee and Lenin District (Grodno) Executive Committee Decision No. 1057 of 11 March 1994.

I sold my privatised well-appointed four-bedroom apartment (built in 1978) back to the municipal housing fund at the current market price.

The sum which I paid for the new property reflected its current value had it been fit for habitation, not its actual value considering the need for major repairs and rebuilding work. The purchase price was almost double what I received for my former apartment. Furthermore, I spent additional, substantial amounts of my own money on repairs and rebuilding work. I carried out much of the work myself with the help of members of my family. I only moved in a few months ago after essential building work had been completed. All these facts are corroborated by documents in the case-file.

At no point in the judicial proceedings, nor in its judgment, did the court ascertain or state that I had breached the law in purchasing the property at issue. Nor did it query the sum I paid for it.

Furthermore, Lenin District Court in Grodno, in executing President Lukashenko's instruction that my home should be returned to State ownership, ignored evidence that the transaction was legally sound and voided the deed of sale; it also failed to take account of the fact that, under article 132 of the Civil Code of the Republic of Belarus, I am a bona fide purchaser and property thus acquired cannot be reclaimed from me. In fact, by its decision, the court unlawfully confiscated the property I acquired and the money I spent on repairs and rebuilding work.

And the statement by the Vice-Chairman of the Supreme Court and his colleagues that "they knew nothing of Mr. Domash's situation" is also untrue.

I have filed a number of complaints with the Supreme Court regarding the district court's unlawful decision that the deed of sale concerning the disputed property was null and void, and concerning the many breaches of civil procedural law committed by the court that heard my case. However, on each occasion I was informed that my appeal has been disallowed (case No. 03-129 dated 18 February 1998 signed by Vice-Chairman of the Supreme Court I.A. Mironichenko; case No. 04-2/82 dated 23 March 1998 signed by Chairman of the Supreme Court V.O. Sukalo; case No.04-2/82 of 19 November 1998 signed by Chief Secretary of the Supreme Court V.V. Pylchenko).

Pavel Znavets

Immediately after my expulsion from the Supreme Soviet, I brought a legal action in Moscow District Court in Minsk claiming that I had been deprived of my right to work as a legitimately elected parliamentarian. The court initially told me that I had to pay stamp duty in order to bring an action, although this is not required by law. But I paid the duty anyway and waited for the case to come to court. However, a month later and without any explanation, my statement of claim and copies thereof were returned to me by post, thus indicating that in December 1996 the courts passed under the direct authority of Mr. Lukashenko and his clique. The document I need to obtain employment - my work record - is being held in the National Archive of the Republic of Belarus.

I have not been paid for about four years and am being officially harassed on Lukashenko's instructions. The rector of Belarus State University is Mr. Lukashenko's protégé, and therefore both legal and moral considerations prevent me from addressing official applications and petitions to people like him. I cannot degrade myself before the stooges of the regime, knowing full well that such appeals serve no purpose and will harm my former colleagues on the teaching staff, etc. Finally, I should add that Lukashenko's eldest son, Viktor, was among the authors of an anonymous letter denouncing me. Lukashenko even boasted of this at a meeting of the Cabinet of Ministers in 1995, as erstwhile Prime Minister M. Chygir will confirm. Even at that stage Lukashenko was flaunting his absolute power in front of his ministers, remarking that he could control even an ordinary teacher at a higher educational establishment.

Andrei Klimov

Information supplied by Tatyana Klimova (Leonovich).

The keys to the apartment where Mr. Klimov and his family lived before he was taken into custody, which is the property of his wife Tatyana Leonovich, were confiscated by senior investigating officer S. Salkov on 11 February 1998 at the time Mr. Klimov was taken into custody; they have still not been returned to the family despite repeated written requests. The seven keys that were confiscated include those to the apartment of Mr. Klimov's mother, Alla Klimova. These too have been retained by the investigating authorities, even though the trial is over. Militia officers are able to enter the premises where Mrs. Klimov lives with her young children. On 18 September 1998, the Klimov family's apartment was sealed by investigating officer M. Aleshkin. Mrs. Klimov and her children were denied access to the premises until 1 October 1998; they were left in the street without warm clothing during a period of cold weather (on 31 September and 1 October 1998 the temperature outdoors was approximately 0° and it was snowing).

On 1 October 1998 a team of investigators led by Salkov broke down the front door of the apartment and entered the premises while the owners were absent. According to them, they conducted a second entirely motiveless search and removed material relating to a Supreme Soviet Commission that was investigating breaches of Belarusian law by Mr. Lukashenko. Mrs. Klimov was not informed of the break-in or the fact that the apartment was to all intents and purposes left wide open. A detailed account of these facts is contained in the correspondence that took place between Mrs. Klimov, the Procurator-General and

the Office of the Procurator of Oktyabr District (Minsk) when she attempted to uphold her rights officially. Unfortunately, her efforts came to nothing. There is documentary proof that this incident occurred, and it beggars belief that representatives of the national procuratorial system should deny that the Klimovs' apartment was sealed between 18 September 1998 and 1 October 1998. The reports prepared by Aleshkin and Salkov, which have been entered into the case-file, constitute sufficient proof that these events actually took place.

The sealed apartment was the Klimov family's sole place of residence. According to Belarusian law, it is prohibited to seal a person's sole place of residence. This was a gross breach of the law, and it is now being denied that the incident ever took place.

There are no facts or circumstances constituting a breach of the law in the Klimov case. Mr. Klimov stands accused of overestimating the amount of construction work and embezzling money. Yet the court refused to ask for an audit, which is essential to determine whether embezzlement occurred. Mr. Klimov's firm invested its own working capital in the construction project. And a failure to set off the various transactions between client and contractor, as required by law, is no basis for an indictment which relies on the conjectures and fabrications of the investigative team. According to accounts submitted by the defence, Minsk City Executive Committee's Capital Construction Authority actually owes Mr. Klimov's firm a substantial sum, precisely for the period referred to in the indictment.

Exaggerated estimates for building work and consequent penalties are the jurisdiction of civil law and are covered by Presidential Decree No. 14. The appropriate penalty is an equal fine for the client and the contractor, not a criminal prosecution which is quite unprecedented in the history of the building trade.

This construction project was subject to a contract specifying an agreed price. The law states that any savings shall accrue to the contractor should he keep within the agreed price. At the time Mr. Klimov was taken into custody, approximately 98 per cent of the work had been completed at 60 per cent of the agreed price. The work carried out by Mr. Klimov's firm had not exceeded the price agreed in the contract. But as things currently stand, it is impossible to claim the savings from the authorities.

At the time Mr. Klimov was taken into custody, the contract had not been completed. The law states that, on completion of a project, the contractor and the client must settle their accounts within 15 days and draw up a document attesting this fact. The crass intervention of the law-enforcement agencies has made such a settlement of accounts impossible. It did not suit the investigation to settle the civil-law side of the case in the proper manner.

But if the parties' accounts have not even been settled, what possible grounds can there be for an accusation of embezzlement? What is more, the accusation hinges on an exaggerated estimate of the construction work, yet Mr. Klimov invested capital belonging to his own firm in the project.

The bank bears Mr. Klimov's name. Moreover, its registered capital, which is secured by his personal assets, is well in excess of the construction loan obtained by his firm in connection with the ill-fated property on Lodochnaya Street.

As usual, the Capital Construction Authority was experiencing financial difficulties; in order not to mothball the project, Mr. Klimov's firm once again invested its own capital, recording the transaction as a loan. It is important to note that this loan was repaid with interest even before Mr. Klimov was taken into custody. There is no need to dwell on this point since even the court acquitted Mr. Klimov on this count, but if someone is still upset about the unpaid loan they should look for the money elsewhere. Investigative Committee Chairman Glukhovskiy states that "Klimov's actions were categorised in full conformity with Belarusian law". So what is one to make of the actions of the investigating authorities which arrested Mr. Klimov and accused him of engaging in commercial activity without a licence when the court subsequently acquitted him on this count as well?

The remarks made by Mr. A. Kutel during a conversation with Mr. Wieck of the Organization for Security and Cooperation in Europe (OSCE) on 14 April 1999 are astonishing: "We arrested Klimov without any evidence. For eight months we had nothing to go on ..." So how do the authorities explain the eight months that Mr. Klimov spent in custody awaiting trial? Mr. Klimov has now been cleared of fraudulently obtaining loans and forging official documents, i.e. the two criminal offences with which he was charged.

The offence of which he stands accused – overestimation of building work – is punishable by a fine, and this sanction only applies to legal persons.

Between 6 May and 10 July 1998 Mr. Klimov was held in conditions equivalent to torture: a cell of 6 cubic metres with one lavatory (which could only be flushed for 90 minutes a day) and one bunk bed, housing five inmates and their personal belongings. Nowhere to sit, even on the floor. No sleep.

As a result, he now suffers from ischaemic heart disease and diabetes at the age of 34. He was formerly in almost perfect health.

The investigation dragged on for 18 months. During this period his wife fought to obtain just seven meetings with him. Subsequently, during the trial, she was allowed to visit him once a month. Mr. Klimov's petition requesting that his wife be allowed to defend him was rejected. This is attested to in the court record. The documents may be consulted.

Regarding the beatings: The day before, Mr. Klimov was removed from the trial. ***(Translator's note: the meaning of this sentence is not clear)***. Without presenting a court order, the law-enforcement authorities resorted to force to bring him to court. He lost consciousness. He had no shoes and was badly beaten. The physician who attended him found that he had "cranial injury, blunt trauma of the abdomen, and injury to his left arm".

As is customary, the national Procurator's Office refused to institute proceedings in respect of these beatings.

Mr. Klimov was housed in the prison hospital and subsequently underwent "treatment" for 10 days on a plank-bed. He was discharged after 32 days with the following diagnosis: "bruised ribcage, traces of neural infection of the brain, ischaemic heart disease, early stages of diabetes". At the time of his discharge, nearly all Klimov's medical indicators were poor. But the judicial proceedings had to be pursued to the bitter end.

Semen Sharetsky

The Chairman of the Supreme Soviet, fearing for his life, is still obliged to remain outside the Republic of Belarus.

Anatoly Lebedko

During a recent peaceful demonstration on 25 March 2000, Mr. Lebedko was taken into custody and beaten by militia officers. While awaiting trial he spent several days in detention.

Valery Shchukin

Mr. Shchukin was taken into custody during a peaceful demonstration in Vitebsk on 25 March 2000. He spent 10 days in prison.

Viktor Gonchar

There is still no information about the disappearance of Mr. Gonchar. His relatives claim that the authorities are doing nothing to establish the facts surrounding his disappearance.

Ludmila Gryaznova

Deputy of the Supreme Soviet