

# Are all equal before the law?

*"All are equal before the law and have the right to equal defense... without any discrimination."* Article 22 of the Constitution of the Republic of Belarus

by Viachaslau Bortnik & Svyatoslav Sementsov

## Belarus - The Heart of Europe

*The Republic of Belarus is situated in the center of Europe. The capital is the city of Minsk. Belarus borders on Poland, Lithuania, Latvia, Russia and Ukraine. The territory of Belarus totals 207.6 thousand sq km. It stretches from west to east for 650 km and from north to south for 560 km. In comparison with other European countries, Belarus is slightly smaller than Great Britain and Rumania, 2.2 times as big as*

*Portugal and Hungary and 5 times as big as the Netherlands and Switzerland.*

*Head of state: Alyaksandr Lukashenka*

*Head of government: Sergei Sidorsky*

*Death penalty: retentionist*

*International Criminal Court: not ratified*



*The clampdown on civil society continued. The number of convictions of civil society activists increased as legal changes limiting freedom of association introduced at the end of 2005 came into effect. Opposition activists were subjected to harassment and arbitrarily detained. Mass detentions of peaceful demonstrators took place after presidential elections in March. The government did not adequately protect women against violence in the home. Use of the death penalty continued. No progress was made in investigations into four cases of enforced disappearance.*

*Violations of the rights to freedom of expression and assembly were repeatedly condemned by the international community. The Election Observation Mission of the Organization for Security and Co-operation in Europe criticized the conduct of the presidential elections on 19 March. It found that "arbitrary use of state power and widespread detentions showed a disregard for the basic rights of freedom of assembly, association and expression". In conclusions passed on 10 April, the Council of the European Union (EU) criticized the elections and condemned the violence used by the Belarusian authorities against demonstrators and the arrests of demonstrators and members of the opposition. The EU instituted restrictive measures against 31 officials responsible for violations of international electoral standards and for the crackdown on civil society and democratic opposition. The list of officials against whom such restrictive measures would be applied was added to subsequently. On 18 May the EU froze the assets of President Lukashenka and 35 other officials.*

*Non-governmental organizations continued to face stringent controls and checks on their activities. A number of civil society activists were detained or*

*charged under Article 193 of the Criminal Code which was amended in November 2005 to include a prison sentence of up to three years for "organizing and running an unregistered organization that infringes the rights of citizens".*

*Large numbers of peaceful demonstrators were detained and beaten by riot police and anti-terrorist forces during demonstrations following the March elections. According to the human rights group Vyasna, a total of 686 people were detained during the period 19-25 March. Most of those detained were charged with administrative offences, such as participation in unsanctioned meetings or hooliganism, which carry sentences of 10 to 15 days' detention.*

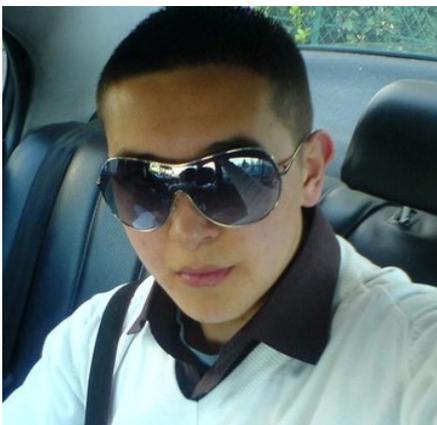
*Opposition activists were harassed and intimidated and increasingly sentenced for criminal offences in an attempt to discredit them. Eleven prisoners of conscience were held during the year.*

*According to press reports nine death sentences were passed during 2006. There was no official information on the number of executions carried out and death sentences imposed.*

## **Labour relations**

**###**

*Igor (26), an employee of the Gomselmash plant in Gomel, being an enthusiast, during free time from his primary work duties he organized parties for local gays and lesbians. From August, 2004 information about these parties have been placed on the local web portals where it was read by the enterprise's management.*



*In 2006 the supervisor summoned Igor. He asked for explanations. He demanded and willed that Igor be dismissed. Subsequently the plant administration summoned Igor's father who worked at the same enterprise. He told the father the whole story, demanding that the father castigate his son. Information about the homosexual orientation of the son became circulated in Igor's family, conservative enough as it was.*

*Igor was compelled to leave his highly paid work position. The reasons for this were not to aggravate family conflict, and not to endanger the official position and reputation of the father.*

## **Police misconduct**

**###**

*In the evening on 20 March 2008 Aleksandr (22) was kissing with a friend, standing at the bus stop in Zhlobin. The two friends did not notice as a police car approached them. Police officers requested their individual documents, but they didn't have them. Following this, the two men were taken to district police station to establish each person's identity.*

*"Having got us into the premises of the police station, the officer loudly declared that he has brought "faggots". After that from the bull-pen came shouts: "Bring them here! We'll fuck them", Aleksandr recalls. "I claimed to the officer on duty that I will complain to the office of public Prosecutor. After that we were taken to another room where the same officer took out from the table drawer a package with a white powder. He showed it to us and told us that there will also be witnesses... Before releasing us he reminded us that if we write a complaint, then we'll become arrested as drug-sellers".*

*A representative of TEMA suggested Aleksandr to accept assistance in advocating his rights, however he didn't wish to enter a conflict with the police.*

**###**

*On 25 March 2007, in Minsk three lesbian girls took part in an action coinciding with National Freedom Day. They stuck up leaflets about tolerance along the street. Their group was detained by a police patrol. Police officers refused to name themselves and delivered the girls to Moskovsky district police station. Here the girls had undergone insults and sneers on the part of police officers, many of whom were in a state of alcohol intoxication.*

*The girls were released from the station only some hours later — thanks to the assistance of a lawyer they knew and a bribe to the policemen. Nobody explained the reason for their detention. The victims did not want to advocate for their rights, being afraid of publicity about their sexual orientation.*

**###**

*On 6 April 2008, at 12:30 am, in Minsk a special police has raided gay party at the restaurant-club "Fortuna. Within several minutes music has been switched off, and all visitors of the "closed" party have been forced to present their IDs. Those who didn't have IDs have been transported to the Partizanski borrow police department for further clarifications.*

*In the morning Julia Mickiewicz, the journalist of independent media holding BELAPAN, called Partizanski borrow police department for explanations on the detention of visitors of "Fortuna" club.*



*Borodin Sergey Leonidovich, the police officer on duty has asked a counter question: "Do you belong to this kind of people? (stressing on "this")... If these people consider the detention was illegal – they should address the Office of Public Prosecutor. And you as a journalist don't have any connection to them. It's not your business".*

*According to not confirmed information, one visitor of "Fortuna" club, who declared incompetence of actions of police officers, has been beaten by them.*

**###**

*This incident has happened in one of the regional centers in Belarus. In this city Denis for some time has organized and led discos for gays and lesbians. Announcements about a post-New Year's party at the beginning of 2008 were posted on one of websites for gay people. Denis's contact telephone number was also listed in the announcement.*

*On 2 January 2008, a girl who named herself as a lesbian, called him and said that she wanted to get a ticket to the party. They agreed to meet in a city park the next day. Denis and his boyfriend Andrei went to the meeting where the young girl was waiting. After talking together for a minute, two unknown men walked up to them. They identified themselves as KGB agents, showed their identification badges, and asked Denis and Andrei to come with them to the KGB division.*

*At the division, Denis and Andrei were led into two different rooms where the agents began to take down their testimony. In interrogating Denis they used psychological abuse in the form of humiliation and insulted him with foul language. During all this interrogating, they said things like "gays don't have the right to live on Earth", and "they should be isolated and sent to Siberia". Denis kept silent and protected himself and the gay community.*

*Afterwards, the KGB agents insisted Denis to collaborate with them, but he refused. They told him that they would interfere with the parties and discos for homosexuals, and then threatened and insulted him again. Denis was then finally released after more than five hours. Andrei was scared by the agents' threats that they would spread rumours about his sexual orientation at his place of study. He stopped communicating with Denis and other homosexual friends after this incident.*

**###**



*On 15 April 2008, in Vitebsk, three unknown men forced their way into the apartment of gay couple Oleg and Pasha. The attackers threatened them with weapons, insulted and humiliated them, and beat them badly. Fortunately, they were able to escape from the apartment. They made enough noise in the corridor so that the neighbours called the police. When the attackers heard all the commotion, they fled the scene after successfully stealing two mobile phones. Obviously, the motive of the attack was theft of personal property.*

*During the resulting investigation the police came across Mikhail, who also is gay. On 11 May 2008, around 11pm, the police took Mikhail from*

*his home in handcuffs and led him to the police station, where he spent the night. According to his account, there the policemen insulted and humiliated him. Mikhail was later proven not guilty; only then did the authorities begin to treat him better. They recorded his testimony, took his photo and fingerprints, and released him. Although Mikhail endured several difficult hours at the police station, he didn't press charges or pursue any legal action against the police. He said that in general he thinks about police actions with understanding, because "they should catch the criminal".*

## **Denial of Services**

**###.**

*For years the Centre bar in Gomel was a favourite recreational spot for local gays and lesbians. After an incident with MtF transgender person, which occurred in the bar in the autumn of 2007, its management began in every possible way to prohibit the appearance of the homosexual clients in the bar. As a result, Gomel homosexuals had been forced to search for another place for meetings and recreation.*

## **Robbery**

**###**

*In the night on 28/29 August 2007, in Gomel unidentified persons robbed the apartment of famous Belarusian LGBT activist Viachaslau Bortnik. The TV, DVD- and VHS-players, collection of rare musical CDs have been stolen. At the same time the unknown have taken notebooks, photos, documents, disks with stored information.*

*"I have learned about the robbery from my sister just on 6 September. She simply did not want me to be upset in the foreign trip", - Viachaslau said.*

*Next day after a robbery the criminal case was opened by the local police department.*

*"I called the police and they collected fingerprints from everywhere you can possibly imagine. They also photographed everything in the apartment. Would be from it though any sense", - Sviatlana Bortnik stated.*

*"A number of circumstances points that theft could be simulated to steal my briefs, photos, the information. For some reason unknown guests have not taken other valuable things, and "have not found" some money that were available in the apartment. I was detained repeatedly by law enforcement because of my human rights activism, once together with my colleagues in my apartment. Here now the next surprise ", - Bortnik added.*

*Almost in two weeks after a robbery the victim has tried to learn at the local police*



department about a course of investigation. At the checkpoint counter he was told, that "after the city annual festival it is not known, who and when works in a department". As it was found out further, the case was transferred from one investigator to another, and "in general, if something became known, you would already informed. In any case, the criminal suspect is not identified". And at the same time the police have his face pick and video recording.

As of the end of June 2008 no progress has been made in the case.

## **Business Constraints**

Approximately all homosexuals who were engaged in business informed us that they faced various sorts of prejudicial attitudes from the authorities and supervising bodies.

###

Alex, who organizes gay parties in Brest, has no permanent place for holding parties. For partying purposes he as a matter of course rents different cafes and clubs in the city. In September 2007, he verbally agreed with the co-owner of one of Brest's night clubs to rent the venue. When Alex came to the club to prepare its space, he met with the establishment's owner, who asserted himself aggressively. The owner began to offend Alex obscenely and declared that there would be no party, as he did not wish to see "pederasts"("fagots") in the club. He then started to turn Alex out forcibly from the club.

However, Alex had already circulated party information among Brest's gays and lesbians and did not want the occurrence of the party to be frustrated. Via an intermediary he managed to come to agreement about holding a party; he agreed with the club owner's requirement for him to pay double the rent. As a result, Alex suffered financial losses.

## **Hate Crimes Motivated by Homophobia**

###



On 22 August 2008, unknown group of people burn gay-beach on river Soj in Gomel. The fire was so big that two fire brigade machines came.

The same unknown group distributes couple of thousands homophobic papers at downtown and city beaches of Gomel: "Attention!!! To all real guys!!! Action!!! Clean our beaches from gays! Faggots must die!!!"

###

*On 10 May 2003, an unknown hacker broke into the Belarusian LGBT web site APAGAY. He deleted all the topics of the site's forum and introduced a new one calling for the murder of gays. In addition while downloading the home page of APAGAY the notification "FAGGOTS MUST DIE" and "STOP FAGGOTS IN BELARUS" appeared on the screen. The break-in was followed by telephone calls to the members of the site's team with threats of physical violence.*

###

*17 y. o. Pavel, an inhabitant of a village Pokolyubichi in Gomel district, was found dead from hanging in a court yard of his house in November, 2007. Since age of 14 the boy felt he was of a homosexual bent. The psychologist of the school where he studies testified about this homosexual tendency.*

*Pavel was brought up — or to be exact, he grew up — in an unsuccessful family having many children. The family head was a stepfather with a criminal past and an unstable mentality. The bent of his teenager step-son had not escaped his attention. This bent constantly served as a subject for sneers and mockeries. During the evening of the eve of the boy's suicide, a drunk stepfather persisted with harassments, accompanying them with insults and mockeries. In the middle of the night neighbours heard shouts and saw Pavel crying. In the morning, Pavel's mother found her son hung to death in a court yard of the house.*

*The district office of public Prosecutor instituted proceedings on the grounds of suicide. Suspicions about the stepfather having driven Pavel to suicide were withdrawn because of insufficient proofs and testimonies. The intimidated mother and brothers of the dead boy refused to testify officially against the stepfather.*

###

*Vitaly (25) was drinking beer with his friends in the city park in Minsk on 16 May 2008. "Then a guy walked by and decided that I was gay. He came up and punched me so hard that he knocked out a tooth. Others were shocked, but they didn't react, because they just thought that the attacker had drunk too much. I did not report the incident to the police, because it is my experience that the police in particular have a nasty and humiliating attitude towards gays", - Vitaly said.*



###

*On 29 March 2003, the security guard of the Buda-Bar nightclub in Minsk heavily beat Yuliya Yukhnovetz, volunteer for Minsk Pride Festival, only because she kissed a girl in the club hallway. She was taken to hospital where she was diagnosed with a "closed injury of the cranium".*

###

31 y. o. Nikolai lives in one of the villages in Khoiniki district with his mother and grandmother. His sexual orientation is no secret in the village. He said that since childhood he has been found to be obvious because his figure, voice and gait appear feminine to others. Throughout many years Nikolai was the object of insults and attacks from the villagers. Several times he was also exposed to physical violence from them. Attempts to receive police protection ended with sneers from local police officers.

The most recent incident occurred in May 2008. Nikolai, on the way home, underwent an attack by three young men who are village inhabitants. They dragged him into an inhabited house where they beat and raped him. After being mocked, beaten and raped Nikolai managed to escape his tormentors by taking advantage of their quarrelling. When he got home, his mother called an ambulance and the police. But only doctors arrived and took him to the district hospital. Police officers came only when they were telephoned from the hospital.

The District police station refused to initiate any criminal case because, according to the investigator, there were insufficient proofs against the assaulters. Moreover, according to police officers Nikolai himself had provoked the attack because he ostensibly stuck to the men.

Three weeks later the police suggested that a medical certificate should document physical injuries that had been caused. However, by this time black and blue bruises had gone away, and proving a beating was impossible. In the initial diagnosis, concussion of the brain and rape were not specified in the medical extract. Reasons conjectured about from hearsay subsequently clarified why policemen and medical personnel may have tried to hush up the affair: it was found out that among the relatives of the assaulters are the head physician of district hospital and the deputy Chief of the police station.

###



On 21 May 2008, in Minsk Edward Tarletski, famous Belarusian gay and member of the Board of Lambda Belarus has been badly beaten. It has occurred nearby 11 pm when Edward was on the way back home. According to Tarletski, he was attacked by three young persons in the age of 20-25 years at an entrance of his home. "I was approaching to an entrance, when I saw young people smoking nearby. One of them called me by a surname. To make it clear that it was me, I think. Another one has unexpectedly struck me to face, and I have fallen. They struck many times with legs, and mostly in the head. Then they escaped. I have lost consciousness. The neighbour has helped me to reach an apartment. The villains have taken nothing: in my bag I have money and camera ", - Edward said.

*Edward Tarletski is a founder of Lambda Belarus, the first gay-organization in Belarus. In 1998-2002 he edited and published LGBT magazine FORUM LAMBDA. He was the organizer of BELARUS GAY PRIDE festivals in 1999-2002. Now E. Tarletski is within editorial of TABOO magazine. Edward is also known as travesty performer.*

**###**

*On 12 April 2002, verbal assault and beating of the two gay and one bisexual man took place outside a gay club "Babylon" in Minsk. According to witnesses a group of skinheads (around 12 young men) who attacked 3 visitors of the club ran away before the police arrived.*

**###**

*On 22 June 2008, gay male Slava (24) was within the last visitors in the bar with his friend in Gomel. "The owner of the bar together with his son decided to beat us up. They locked the door and we couldn't escape. They badly beat my friend ... and I kicked the door in. The police showed up, but they behaved as though I was the guilty one. We were taken to the police station together with our attackers. The police let the attackers go, without even finding out who they were. The attitude toward us was very humiliating. It was as if we were the criminals, not the victims", - Slava said.*

## **Domestic Violence**

**###**

*Anna G. (32), who is a lesbian, was falsely accused of committing domestic violence against her mother in an unfair investigation by corrupt prosecutors in April 2004. Her sexual orientation status was used against her. She spent 6 weeks in a pre-detention institution (SIZO) in Minsk and was given a 12-month suspended prison sentence by the court. Although she was a lawyer she was unable to protect herself in the Belarusian national justice system.*

## **Persecution of LGBT Activists**

**###**

*On 12 January 2008, the officers of the local KGB department in Gomel searched an apartment of a famous Belarusian gay and opposition journalist Siarhei Padsasonny.*

*Prakapenka, district militia officer from the militia department of the Central district, knocked at the door of the apartment on 2 Valatauskaya Street, hired by the journalist. He demanded to open the door: allegedly, noise in the apartment was disturbing the downstairs neighbours.*

*The journalist said he was alone in the apartment, no one made noise there, and he had no downstairs neighbours – there's a grocery store downstairs.*

*"After that the KGB agents appeared. They said they had search warrant, and demanded to open the door. I refused, but they warned they would break the door. The warrant said I was suspected of involving pupils and students in the Young Front (opposition youth group banned in Belarus), with the purpose to harm the state," the journalist said to Radio Free Europe/Radio Liberty.*

*Siarhei's gay friends came to support him. They offered themselves to be witnesses of search, but militia and KGB agents forced them out. Computer's hard disk, video-camera and flash memory stick were confiscated from Padsasonny. KGB detective officer, senior lieutenant Melnikau signed the report of search.*



*In last November the KGB agents took Padsasonny to the KGB department by force for a so called talk – they were interested if he concerned with the satellite TV channel Belsat he works for.*

*Siarhei Padsasonny is openly gay and very famous within Gomel gay community, but for broader population he is known for his criticism of Belarusian regime.*

**###**

*On 8 November 2006, in Gomel the police broke into the apartment of Viachaslau Bortnik where the meeting of the Organizing Committee of the International Conference on LGBT Culture and Human Rights took place and arrested seven activists who were there. The Conference materials have been seized and activists were brought to the Zheleznodorozhnyi Borrow Police Department.*

*"They interrogated us in the night and four of my colleagues have been released after two hours. Together with two other Slavas I spent the whole night behind the bars. It was cold in the police station and I was refused to call my consulate as well as I'm Russian citizen. But we didn't experience violence or gay-bushing from police officers," Svyatoslav Sementsov, one of the detainees said.*

*The police officers said foreigners trying to attend the event for workshops and discussions "would be immediately expelled from the country in keeping with the article of intervention in domestic affairs of the Republic of Belarus."*

*Belarusian LGBT activists have been released on 9 November after 22 hours of interrogation in detention. The Organizing Committee of the International Conference was forced to cancel the event.*

*Although no criminal charges were filled against released activists the vague wording of the amendments of the Criminal Code adopted on 15 December 2005 (Law N 71-Z) provides wide discretionary powers to the authorities allowing them to label activities of LGBT groups as illegal attempts to discredit or harm the Belarusian state. Criminal persecution could be implied for the coordination of activities by an association or a foundation which has been suspended or liquidated (Article 193). Bearing in mind that none of Belarusian LGBT groups has legal status anyone who organizes such activities may face a fine and six months imprisonment, and in vaguely defined "serious cases" can be subjected to a "restriction of freedom" for up to two years.*

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