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Committee of Ministers
Comité des Ministres

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For consideration at the GREL
meeting on 16 February 1995

RELATIONS WITH THE REPUBLIC OF BELARUS

Visit by a Secretariat delegation to Minsk
from 5 to 7 February 1995

1. In accordance with the decision of the Ministers' Deputies (523rd meeting, December 1994, point 2.2) a Secretariat delegation visited Minsk from 5 to 7 February 1995. The delegation comprised:

Mr Hans-Peter FURRER, Director of Political Affairs;
Mr Jean-Louis LAURENS, Head of Pan-European Cooperation Programmes Division, Directorate of Political Affairs;
Mr Ivan KOEDJIKOV, Political Advisor, Directorate of Political Affairs;
Mrs Isabelle JAQUES, Programme Advisor, Directorate of Human Rights.
2. The purpose of the visit was to hold discussions with Belarussian authorities in order to establish, following the visit to Minsk by the Chairman-in-office of the Committee of Ministers and the Secretary General on 21 September 1994, a cooperation programme covering the most essential areas for the Council of Europe. The delegation had also been instructed to indicate to the Belarussian authorities the Deputies interest in a political dialogue with a representative of the Belarus Government in the near future.
3. The programme of the visit appears in Appendix I to this report.

1. GENERAL POLITICAL AND INSTITUTIONAL CONTEXT

4. Since the adoption of the "Declaration on the State Sovereignty of Belarus" (27 July 1990) which established its independence from USSR, the reform process in Belarus¹ has proceeded at a slow pace, with most of the old political and economic structures as well as many former regulations remaining in place. During the visit, the Secretariat delegation found a still overwhelming predominance of the State factor in all aspects of life in Belarus, mainly through an excessively important role played by the three power and security departments: Army, Ministry of Internal Affairs and KGB (still with its traditional denomination).
5. Belarus has a special guest status with the Parliamentary Assembly since 16 September 1992 and is a party to the European Cultural Convention since 18 October 1993. The Belarussian application for membership in the Council of Europe is dated 12 March 1993.
6. In 1994, two major events in Belarus have opened new opportunities for democratic reform: the adoption of the new Constitution and the first ever presidential elections. Moreover, the first pluralist parliamentary elections are scheduled for 14 May 1995.

1.1. Constitutional development

7. The new Constitution was adopted on 15 March 1994. Its section I establishes Belarus as a unitary, democratic, social state based on the rule of law with the individual as its highest value. Section II of the Constitution "The Individual, Society and the State", contains an extensive list of constitutionally protected human rights and freedoms.
8. The law on the entry into force of the Constitution envisages a two year transition period during which the legislation is to be brought in conformity with the Constitution and, where necessary, new legislation is to be adopted. Thus the new Constitution provides a basis for a democratic reform of the institutions, the legislation and the administration.

¹ Territory: 207 600 sq.km, bordering on Lithuania, Latvia, Russia, Ukraine and Poland.
Population: 10 300 000 (1 January 1992).
Capital: Minsk, 1 589 000 inhabitants.

1.2. Presidential institution

9. In July 1994, in what were the first presidential elections in Belarus, Mr. Alyaksandr LUKASHENKA won a landslide victory over the incumbent Prime minister. This was seen as a protest vote against the established nomenklatura during whose term of office the country slid into a near economic collapse².
10. Despite reservations as to their media coverage and some minor irregularities, the elections were evaluated by European observers as broadly democratic and fair and were welcomed as a first step in the democratic transformation of Belarussian society.
11. The election results enabled the self-styled President LUKASHENKA, who lacks the backing of organized political formations, to initiate structural reform in the administration.

1.3. Upcoming parliamentary elections

12. The current 345-member Parliament (Supreme Soviet) was elected in March 1990 on electoral lists proposed by the Belarussian branch of the Communist Party of the Soviet Union (CPSU), but also by the perestroika-type Belarussian Democratic Block, which won 60 seats. In accordance with the new Constitution, parliamentary elections for a new 260-seat Parliament are to be held on 14 May 1995.
13. A new electoral law, adopted in 1994, envisages a majoritarian electoral system in single member districts in two rounds. To win a seat, a candidate must obtain 50%+1 votes of the minimum voter turnout which is 50%+1 of the registered voters. Therefore the law provides that the new parliament may function with only 2/3 of its members elected³.

² In the past, the highly skilled labour force gave Belarus the reputation of the "assembly line of the USSR" and a corresponding (relative) prosperity. The economic structure of Belarus presents, by Soviet standards effective, but internationally uncompetitive agriculture and an overdeveloped, largely obsolete industry. Today Belarus is heavily handicapped by its overdependence on imports for raw materials and energy as well as on export for markets (ranging from 70% to 90%, mostly on the Russian Federation). Moreover, the longer-term Chernobyl contamination has impaired 20% of the agricultural land and made 2,2 million people dependent on some form of State support.

³ Because of similar regulations, 14 electoral districts are not represented in the current Parliament.

14. The electoral law contains a number of doubtful provisions concerning the procedure of candidate nomination. For example, "workers collectives"⁴ have an unrestricted right to nominate candidates. The political parties can do so only for electoral districts where they have local party organisations⁵.
15. Notwithstanding these shortcomings, the electoral law was seen by Belarussian interlocutors from the democratic parliamentary opposition as "the best electoral law Belarus has had for the last 80 years".

1.4. Constitutional Court

16. The new Constitution (art. 125-132) provides for a Constitutional Court, composed of 11 judges. A Law on the Constitutional Court of the Republic of Belarus, elaborated with the advice of the European Commission for Democracy through Law, has been adopted in 1994.
17. The Court is entitled to examine, including at its own discretion, laws and other prescriptive legal instruments and decisions adopted by state bodies or officials and to issue binding judgements.
18. The first case was taken up by the Constitutional Court in September 1994. Since then, the Court seems to be establishing itself as a genuinely independent body, with some tendency to develop a political role⁶.

1.5. Judiciary system

19. A new law on the judiciary system has been adopted and is expected to be signed by the President on 8 February 1995. According to the Minister of Justice, this law would establish a genuinely independent judiciary in Belarus.

⁴ Some 80% of these collectives are composed of the employees of State or State-owned institutions, enterprises etc.

⁵ Only the Party of Communists of Belarus and the Belarussian Popular Front have well-established local branches.

⁶ On 27 January 1995 the Constitutional Court adopted a 14-page document entitled "Message of the Constitutional Court of the Republic of Belarus on the State of the Constitutional Legislation in the Republic". The document was addressed to the President and the Parliament of Belarus.

1.6. Media

20. According to the Minister of Culture and Print, who is responsible for issuing media licences, at present there are registered in Belarus some 700 newspapers, 300 radio and TV programmes and 1000 publishing houses. The Ministry is also responsible for all printing facilities and all retail outlets for press, as well as for cinema and video production and distribution. The same Ministry supervises the maintenance, protection and access to historic and cultural monuments and museums as well as 3 higher education and 30 secondary education institutions in the field of culture. The "Inspection on Protection of State Secrets in the Press" occupies 15 employees of the total of 137 officials of the Ministry.
21. A law on the media has been adopted. Other relevant legislation, such as law on publishing activities, copyright law, law on protection of intellectual property and others are under different stages of conception or preparation.

1.7. Religion

22. The celebration of the 1000th anniversary of Christianity in Russia in 1988 marked a beginning of a religious revival in Belarus.
23. The Orthodox church, seen by some to be pro-Moscow, is more influential in Eastern Belarus. The Roman Catholic church has more influence in Western Belarus closer to Poland. The Uniate Catholicism was forbidden by Stalin and legally reestablished in 1990; it is seen by its followers as the true national Belarus religion.
24. The Church is separated from the State, which seems to follow a policy of tolerance towards religion. The Council on Religion is within the competence of the Ministry of Culture and Print.

1.8. Minorities, language

25. The tightly intertwined history of Belarus, Lithuania, Poland and Ukraine, as well as numerous territorial changes have left their mark on the minority situation in Belarus⁷. However, there are no hardcore nationalistic parties in Belarus and extreme nationalistic feelings seem to be of little relevance in internal political life. Much to the credit of Belarus, it has up till now managed to steer a wise course in avoiding ethnic conflict.

⁷ According to the latest census (1989), the Belarus population comprises 77,9% Belarusians; 13,2% Russians; 4,1% Poles; 2,9% Ukrainians; 1,1% Jews and 0,8% others.

26. The Belarus Language Law (1990) does not require Russophones to pass an examination of the State language (Belarusian). This may reflect the fact that while ethnic Russians represent less than 14% of the population, some 80% of all Belarussians still prefer to speak Russian.
27. There have been some protests concerning the teaching in Belarussian in elementary schools, including from Russian-speaking Belarussian parents of school-children. However, in general the Belarussian public opinion is in favour of the renaissance of Belarussian language.
28. Following requests from Lithuania and Poland, Lithuanian and Polish language elementary schools have been established.

1.9. Non governmental organisations

29. There are few non-governmental organisations, especially in the human rights field. The political and economic environment still being largely unfavourable to the development of non-governmental organisations, most of those who currently exist have minimal material and human resources. Nevertheless a few NGO representatives voice strong and critical opinion. The Secretariat delegation met with representatives of the "Belarus League of Human Rights", the "Independent Institute of Socio-Economic and Political Research", the "East-West National Centre for Strategic Initiatives", and the "Informational and Educational Centre of Local Government".

2. THE EUROPEAN OPTION OF BELARUS

30. Despite the fact that some of the Belarus interlocutors were not very familiar with the activities of the Council of Europe and the conditions for membership, all of them saw without the slightest doubt the place of Belarus in Europe as part of the natural order of things. Therefore, they expressed a strong determination to move closer to European institutions, including to membership in the Council of Europe.
31. For ethnic, historic and other reasons the notion of close ties with Russia permeates the public opinion in Belarus. The prevailing trend however is towards consolidation of Belarus independence. It has been strengthened by the "Chechnya effect", i.e. the growing awareness of the fact that closer ties with Russia might constrain Belarus to participate in Russian or Russian-controlled military operations.

32. The Ambassadors of States-Members of the Council of Europe accredited in Minsk, while being aware of the complex situation in Belarus, expressed the opinion that the country was engaged on its road to Europe and strongly advocated encouragement of democratic reforms by European institutions.

3. COOPERATION WITH THE COUNCIL OF EUROPE

3.1. Political dialogue

33. In accordance with the decision of the Committee of Ministers (523th meeting, January 1995, item 2.2), the Secretariat informed the Minister of Foreign Affairs, Mr. Uladzimir SYANKO of the Committee's invitation for an exchange of views in the context of the 'Political dialogue'.
34. The Minister of Foreign Affairs accepted in principle this invitation. The date for such a dialogue is still to be confirmed (possibly in March or April 1995).

3.2. Cooperation programmes

35. All Belarus authorities have expressed genuine interest in developing cooperation with the Council of Europe with a view to its future accession to the organisation. In this context, a clear priority has been expressed in favour of human rights and the legal cooperation in order to develop democratic institutions ruled by law. Other fields of cooperation which deserve a particular attention are the media (particularly in the context of a pre-electoral period) and local government.

3.2.1. Human rights

36. In the field of human rights activities should be developed around two main objectives: information and awareness-raising in order to develop a 'human rights conscious' in the various circles of the society and the preparatory work for the possible future accession of Belarus to the European Convention of Human rights (following its accession to the Council of Europe).
37. The following activities could be implemented in 1995:
- i. an information meeting on the European Convention of Human Rights (ECHR) and the international protection of human rights, to be organised with the Minsk University and possibly other academic institutions and representatives of the legal community (possibly the Constitutional Court) and NGOs active in the field of human rights;

- i. seminar on the training of judges (Themis 3) which could focus on the new legislation on the organisation of courts and status of judges;
- ii. bilateral meeting on international public and private law (Themis 5) which could focus on the question of applicability of international treaties in the domestic legal order of Belarus and the possibility for Belarus to join European Conventions;
- iii. bilateral meeting on the profession of lawyer (Themis 7) which could focus on the organisation and role of bar associations.

In addition, the Belarus authorities have expressed their interest in developing cooperation in the following fields, without presenting specific requests:

- relations between the legislative and executive: drafting of legislation (Themis 6),
 - fight against organised crime (drug trafficking, money laundering, money forging etc..),
 - crime prevention,
 - economic legislation,
 - training for judges,
 - computerisation of law.
39. Further cooperation activities in those fields could be developed in the future after consultation with the competent authorities in Minsk.
 40. The Constitutional Court for its part presented specific proposals such as:
 - i. organisation in 1996 of an International workshop on 'the juridical protection as the basic form of guaranteeing human rights'. This proposal could be considered in the 1996 Programme of activities; in the meantime, the Constitutional Court could be involved in the organisation of the Information seminar on the ECHR and the international protection of human rights, referred to under paragraph 37 i.
 - ii. organisation of an international Conference on 'the problems of creation of democratic legal state in the countries of Eastern Europe'. The Constitutional Court will participate in the Multilateral Conference on 'the judiciary systems in transition' organised in Budapest in September 1995 (date to be confirmed) in the context of Themis 3 ('the role of a judge in a democratic society'). Following this Conference a bilateral activity for the benefit of Belarus could be foreseen for 1996;

- iii. study visits for judges of the Constitutional Court. Members of the Constitutional Court will be included in the various schemes of study visits organised by the Council of Europe;
- iv. documentation: the Constitutional Court will be one of the institutions to which specific documentation on human rights and the rule of law will be addressed.

Legislative expertise

- 41. The Parliament of Belarus is at present examining major draft laws, such as the Penal Code and Code of criminal procedure, Civil Code and Code of civil procedure. A law on the organisation of Courts and the status of judges was recently adopted. Contrary to information given in Minsk, the Council of Europe has not provided any legal expertise of these new legal texts.
- 42. With a view to the future overall examination of the compatibility of Belarus legislation with the ECHR, it might prove useful to organise, even at this late stage, legal expertise of this important elements of Belarus legal order. The same would certainly apply to the electoral law -with a view to the forthcoming parliamentary elections on 14 May 1995. However, no request was presented to this effect by the authorities of Belarus.

3.2.3. Media

- 43. Freedom of information and independent media is a crucial problem in the future development of democratic institutions in Belarus, particularly in the pre-electoral period. In the present situation, Council of Europe cooperation with Belarus in the field of media could consist of:
 - i. a fact-finding mission by an expert to examine the general situation of media (written press and electronic media), to assess the problems and needs for cooperation;
 - ii. on the basis of this mission, the Council of Europe could look into the legal framework for media in Belarus and, if so required, provide legal assistance for the drafting of new legislation;
 - iii. training activities for media professionals particularly, in the fields of:
 - access to media in an electoral campaign
 - management of independent media.

44. Financing for these activities could be assured in the existing provisions under the media section of Demosthenes-bis and the training programme for media professionals.

3.2.4. Local government

45. At present, the situation of local authorities in Belarus is very problematic. The Presidential administration and its representatives (the so-called 'Presidential vertical line of authority') represent the executive power in the local entities. The mandate of the local soviets expire in March 1995; new elections should take place in a very near future. However, the Parliament did not adopt a new electoral law for the local soviets. 2 options are opened: either to proceed with the elections on the basis of the old legislation or to prolong the mandate of the present local soviet for one year, in order to adopt a new legislation before new elections.
46. Mr. J. HOFFMANN, Chairman of the local chamber of the Congress of local and regional authorities of Europe will visit Minsk on 16 to 25 March 1995 together with a representative of the Secretariat. The main purpose of this visit will be to examine the situation of local authorities in Belarus in order to see whether any association of local authorities would qualify for observer status with the Congress. At the same time, the delegation will study the possibility to develop cooperation activities, in particular in the field of legal expertise, in the context of the LODE Programme.

3.2.5. Education

47. The Minister of Education expressed its appreciation for cooperation with the Council of Europe in particular in the field of higher education. He considers that now the effort should be concentrated on the reform of secondary education. Proposals will be presented by the Belarus delegation in the competent intergovernmental structures of the CDCC.
48. In addition, the Minister expressed great interest for the questions of civic education and education for human rights. A special effort could be developed in this field in cooperation with the Human Rights Information Centre of the Council of Europe.

3.2.6. Culture

49. Having regard to the very wide spectrum of competencies of the Ministry of culture (including media), the Minister handed over to the Delegation, a series of documents referring to various aspects of the activities of his Ministry. These documents do not always call for any specific cooperation with the Council of Europe. They refer to:
- cultural administrators: organisation of an international school of administrators and managers in the field of culture [Seminar on the management of culture, April-May 1995],
 - regional cultures: conditions for the conservation of the identity and for the development of regional cultures, the case of Polesye culture (Belarus, Poland, Ukraine),
 - cultural itineraries: cultural routes through Belarus,
 - various proposals in the field of libraries and books: creation of a data-bank on legal issues in the National Library, introduction of computerised systems, translation of publications in Belarussian etc..
50. These various proposals will be examined in the competent intergovernmental structures of the CDCC.

3.2.7. Social affairs

51. The Ministry of Social Affairs is particularly interested in the issues of social security. Belarus will be invited to take part in two multilateral activities planned in the 1995 Demosthenes Programme: a Seminar on social assistance to take place in Bucharest and the annual advanced training course on social security (Strasbourg).
52. Following these two activities, a bilateral programme of cooperation with Belarus could be drawn up. This specific programme could be discussed during a forthcoming visit to Minsk of a representative from the competent Department of the Secretariat.

3.3. Conventions

53. Confronted with a very rapid increase of the criminality, the authorities of Belarus urgently need to establish cooperation agreements with other European countries. In this context, they have expressed their urgent wish for Belarus to be invited to accede to the various European Conventions in the penal field i.e:
- European Convention on extradition [ETS 24]
 - European Convention on mutual assistance in criminal matters [ETS 30]
 - European Convention on the supervision of conditionally sentenced or conditionally released offenders [ETS 51]
 - European Convention on the international validity of criminal judgments [ETS 70]
 - European Convention on the transfer of proceedings in criminal matters [ETS 73]
 - Convention on the transfer of sentenced persons [ETS 112]
 - Convention on laundering, search, seizure and confiscation of the proceeds from crime [ETS 141]
54. As was the case for other countries (Russia, Ukraine, Moldova), before inviting Belarus to accede to these Conventions, a meeting could be organised in Minsk in order to examine the various problems of the possible accession of Belarus to the penal conventions.
55. Furthermore, the authorities of Belarus have expressed an interest in signing the Outline-Convention on the protection of national minorities.

3.4. Participation, study visits

56. Belarus would like to be invited to participate in an increased number of intergovernmental Committees of the Council of Europe. Particular references were made to the Committees in the legal and human rights fields (CDCJ, CDPC, CDDH) as well as in the field of media (CDMM).
- i. The Committee of Ministers might consider taking a decision inviting Belarus to participate in all Steering Committees for which it expresses an interest, as observer. Similar decisions were adopted for most countries of Central and Eastern Europe.
 - ii. Belarus authorities have expressed their interest for short-term study visits to Secretariat of the Council of Europe for diplomats and officials of the various Ministries and governmental institutions concerned with Council of Europe activities.

- iii. Finally, the question of establishing a small representation of Belarus to the Council of Europe was also mentioned.

3.5. Financial aspects

57. The activities of cooperation which have been specifically identified during the visit of the Delegation, in particular in the fields of human rights (including media) and legal cooperation could be financed within the limits of the financial resources earmarked in the various Vote 9 programmes for cooperation with Belarus.
58. Would the cooperation develop extensively in 1995 , in particular in the context of the overall examination of the compatibility of legislation with ECHR, additional resources might be required.

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PROGRAMME OF THE VISIT**Sunday, 5 February 1995**

- 14.00 Arrival at Minsk Airport²
- 16.15 Meeting Ambassadors of States-members of the Council of Europe, accredited to Minsk:
Mr.Dusan DOSKOČIL, Chargé d'affaires a.i. of the Czech Republic,
Mr.Gottfried ALBRECHT, Ambassador of Germany,
Mr.Claude JOLIF, Ambassador of France,
Mr.Gian Luca BERTINETTO, Ambassador of Italy,
Mr.Tansu OKANDAN, Ambassador of Turkey,
Chargé d'affaires a.i of the United Kingdom;
- 19.00 Concert of Minsk Philharmonic Orchestra. Meeting Mr.Uladzimir SYANKO, Minister of Foreign Affairs.

Monday 6 February 1995

- 8.00 Meeting Mr.Yevgheni NOVIKAU, President of the Belarussian League of Human Rights;
- 9.00 Meeting in the Ministry of Justice:
Mr.Valentin SUKALO, Minister,
Ms.Galina BOCHKOVA, Deputy Minister and
Ms.Lyudmila KAMENKOVA, Head of External Relations Department;
- 10.00 Meeting in the Ministry of Education and Science:
Mr.Vassilyi STRAZHEV, Minister,
Mr.Vassilyi STAVROV, Deputy Minister,
Mr.Vladimir TIKHONOV, Advisor to the Minister and
Mr.Sergey SHAVRUK, Special Assistant to the Minister;
- 11.00 Meeting in the Supreme Soviet of the Republic of Belarus:
Mr.Yacheslav KUZNETSOV, First Vice-Chairman,
Mr.Valentin GOLUBEV, Vice-Chairman of Belarussian Popular Front, Secretary of the
Parliamentary Committee on International Affairs,
Mr.Alexander ANTIPENKO, Head of the Secretariat,
Mr.Andrey FEDOROV, Head of the International Relations Department and
Mr.Uladzimir CHARNISHOU, secretary of the Special Guest Delegation to the Parliamentary
Assembly of the Council of Europe;
- 12.00 Meeting in the Ministry of Foreign Affairs:
Mr.Uladzimir SYANKO, Minister,
Ms. Natalya DROZD, Director of the Department of Information, Humanitarian Cooperation and
Human Rights and
Mr.Arkadyi CHEREPANSKYI, Desk-officer for the Council of Europe;

- 13.00 Meeting Mr.Matthew KAHANE, Representative, United Nations Office in Belarus;
- 14.15 Meeting in the Ministry of Culture and Press:
Mr.Anatoly BUTEVICH, Minister,
Head of External Relations Department;
- 15.30 Meeting in the Ministry of Internal Affairs:
Maj.-Gen.Yuri ZAKHARENKO, Minister,
Maj.-Gen.Sergey RUKHLYADEV, Deputy-Minister,
Col.Vladimir POLYAKOV, Head of Department,
Col.Vyacheslav SEMENKEVICH, Head of Department in the KGB and
Mr.Alexandre OBLOMEYKO, Head of the Department of External Relations of KGB;
- 16.30 Meeting in the Constitutional Court:
Mr.Valery TIKHINYA, Acting Chairman,
Ms.Valjantsina PADGRUSHA, Judge,
Mr.Mikhail PASTUKHOV, Judge,
Prof.Leonid DEDKOV, Secretary General and
Mr.Oleg MOSKALEV, Press Secretary;
- 17.30 Meeting in the Procuratura:
Mr.Yladimir KANDRATIEV, First Deputy Procurator General,
Mr.Mikhail SNEGIR, Head of Department of General Supervision,
Mr.Sergey GUREEV, Head of Department of Instruction and
Mr.Georgiy TARNAVSKYI, Head of Division of International Affairs;
- 19.00 Official dinner hosted by Mr.Uladzimir SYANKO, Minister of Foreign Affairs

Tuesday, 7 February 1995

- 8.00 Meeting Mr.Anatol MAYSENYA, President of the "East West National Centre for Strategic Initiatives",
Mr.Oleg MANAEV, Director of the "Independent Institute of Socio-Economic and Political Studies", Chairperson of the Board of Belarussian Soros Foundation and
Mr. Giorgij KUNIEWICH, Executive Director of the "Informational and Educational Centre of Local Government";
- 9.15 Meeting in the Office of the President of Belarus:
Mr.Michail SAZONAU, Deputy Head of the Administration and
Mr.Alexandre BACHILO, Head of the Department for Regional Planning;
- 10.30 Meeting in the Ministry of Social Security:
Mr.Guennadi BESPALOV, Deputy Minister and
Head of External Relations Department;
- 11.30 Press Conference in the National Press Centre
- 12.30 Departure for Minsk Airport 2