



## Organization for Security and Co-operation in Europe Advisory and Monitoring Group Belarus

### Spot Report No. 29/2001

#### Infringements in the Trial of Professor Bandazhevski

12 July 2001

---

Reference : Spot Report No 27/2001 dated 18 June 2001

Having reviewed the analyses of legal experts who attended the trial of Professor Bandazhevski on behalf of the OSCE AMG in Belarus, the Group has noted the following infringements of the Belarusian Criminal Code :

1. **art. 19** – the assessment of evidence was not made in accordance with procedures laid out in the law, namely people who also stood accused in the crime were also presented as witnesses during pre-trial investigation and during the course of the trial;
2. **art. 20-4** – the equality of citizens before the law was not observed;
3. **art. 44, 45** – the right to defence was violated, namely Prof. Bandazhevski was denied access to a defender during the entirety of his detention;
4. **art. 88** – the evidence was taken in a manner contrary to the law, namely investigation at the initial stage was carried out by people other than those of the investigation group. Therefore, their evidence cannot be admitted. Further, one witness, Mrs. Shamychek, herself, publicly attested to the fact that unlawful methods had been applied during the investigation;
5. **art. 105** – the evidence taken was not adequately reliable, namely it was primarily based on the unsubstantiated statements of Mrs. Shamychek, unconfirmed by any other proofs. No other evidence, including physical, was provided to the court to substantiate Prof. Bandazhevski's guilt;
6. **art. 350** – the verdict was pronounced without meeting the requirements set out in the law;
7. **art. 356** – there was no confirmation of the evidence, as per point 5 above;
8. **art. 360** – the time, place, and conditions of the crime were not named;

As quoted from one of the expert analyses: “the verdict of guilt based only on the evidence of one of the accused in the case, without any additional proof, causes well-founded concern. . . This all testifies to the higher standing of ‘expediency’ rather than the rule of law.”

In fulfilment of its mandate, the OSCE AMG in Belarus continues to monitor and report on the respect for human rights and legal norms in the Republic of Belarus.