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Report of the Special Rapporteur on the situation of human rights in Belarus

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the situation of human rights in Belarus. In his report, the Special Rapporteur describes the return of the Government of Belarus to the policy of large-scale repression against citizens who exercise or defend their rights. The suppression of peaceful social protests in March 2017 ended a brief period of reticence to recourse to violence and deprivation of freedom. Throughout the reporting period, the entrenched oppressive laws, which in the last decades have crystallized into a systemic denial of the enjoyment of civil freedoms, remained in force. The parliamentary elections of September 2016 remained highly controlled and the ensuing parliament continued to be devoid of pluralism despite the fact that, after 20 years, two opposition candidates were allowed to enter parliament. Recourse to the death penalty increased, with more executions than in previous years. Given the overall tightening of the already strict control of public life exercised by the authorities and the steep deterioration in their handling of assembly, association and media rights, the Special Rapporteur deems it necessary for the international community to remain vigilant over the situation of human rights in Belarus.

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I. Introduction

A. Background

1. The mandate of Special Rapporteur on the situation of human rights in Belarus was created in 2012 by the Human Rights Council in its resolution 20/13, on the basis of a report by the High Commissioner for Human Rights (A/HRC/20/8). The Council requested the mandate holder to report annually to it and to the General Assembly. The Council has since renewed the mandate four times, for one year, in resolutions 23/15, 26/25, 29/17 and 32/26.

2. The present report is submitted to the Council pursuant to its resolution 32/26. The report covers the period from 1 April 2016 to 31 March 2017 and is based on information received up to the latter date. The Special Rapporteur makes reference to his latest report to the General Assembly (A/71/394), in which he focused on the electoral process in Belarus and which contains relevant information.

3. The Special Rapporteur regretfully observed a rapid and steep deterioration in the overall human rights situation in Belarus during the month of March 2017. In February 2017, 470,000 Belarusians were informed that they must pay a tax because they had worked fewer than 183 days in 2016. Ever since, waves of protest demonstrations have swept the cities and the capital with the slogan “We are not parasites”, a reference to President Lukashenka’s presidential decree No. 3 of 2015 on the prevention of social dependency, which introduced the tax to fight “social parasitism”.

4. Throughout March 2017, the Government executed a centrally planned, nationwide violent crackdown on peaceful demonstrators, human rights defenders, political opponents and journalists, as well as on foreign observers of the events. The crackdown came to a head around 25 March (Freedom Day), a popular but unacknowledged commemoration of national independence. The authorities also conducted preventive arrests of political opponents and civil activists, some unannounced, some accompanied by public allegations of an armed conspiracy to overthrow the Government, thereby opening up the possibility of silencing opponents for several years.

5. The wave of mass arrests in March was the severest since the post-election crackdown in December 2010. It is another instance of the cyclical pattern of the human rights policy of the authorities. Over the past two decades, they have repeatedly returned to repression, following brief periods of relative liberalization, while leaving intact the legal order that was purposefully developed to suppress several basic human rights. The last similar cycle of repression was described in detail by the Human Rights Council when it created the mandate of the Rapporteur in 2012 (see resolution 20/13).

6. During 2016, law enforcement agents seemed to have instructions to avoid physical attacks and detention when enforcing the unchanged laws that criminalize all unregistered public activities. The authorities acted instead by dispensing administrative and financial penalties. The international human rights community hoped that this time the cyclical pattern would not reoccur. The Special Rapporteur regrets that his warnings about the dangers inherent in the systemic character of the entrenched oppressive laws have proved right. The potential for deterioration again manifested itself through mass repression of those who endeavour to exercise their rights.

7. In his most recent report to the Council, the Special Rapporteur assessed the level of compliance by Belarus with recommendations addressed by United Nations human rights mechanisms to the country (see A/HRC/29/43, paras. 28-33 and 129). In the present report, the Special Rapporteur intends to continue with that analysis, given that the Government of Belarus announced on 24 October 2016 the adoption of an inter-agency plan for the period 2016-2019 for the implementation of recommendations made during the second cycle of the universal periodic review of Belarus and by the treaty bodies.¹ The Government has

¹ See www.government.by/upload/docs/file706bbd75fa0cca0e.PDF.

promoted the plan as a cornerstone of its human rights policy. The Special Rapporteur deems it therefore important to provide a general review of the plan in section III below and make detailed references to it in consecutive sections.

8. The parliamentary elections of 11 September 2016 were held without police violence and without the arrest of political opponents, unlike the presidential election of 2010. The Special Rapporteur underlines, however, the findings of the Organization for Security and Cooperation in Europe (OSCE) in its report on the conduct of the elections of 2016.² In the report, OSCE observed that, despite some marginal improvements, a large number of recommendations it had made on the occasion of previous elections had been ignored by the Government.

9. The allowance granted to two opposition candidates to enter parliament does not reflect any governmental opening to pluralism. The absence of the full enjoyment of any freedom conducive to free and fair elections made it impossible for a real opposition to be represented in parliament, the only one in Europe that has been without a proper opposition for decades.

10. The presidential election of 2015 and the parliamentary elections of 2016 provided opportunities for the Government to show goodwill and tangible improvements in the field of human rights. Alas, the latest elections were a reflection of an untouched, sophisticated system of oppression of basic rights, as before, during and after the elections, the freedoms of association, of expression, of peaceful assembly and of the media remained strictly limited to the sole benefit of the incumbent in power.

11. Even before the massive crackdown of March 2017, the Special Rapporteur had received reports of continuing harassment of social activists, human rights defenders and political opponents. The “permission-based” regime remains unchanged, with a legal system and a State apparatus organized to suppress any expression of opinions other than those of the Government. For more than 20 years, the Belarusian governance system has remained based on an all-powerful State, driven by presidential decrees and controlling more than 80 per cent of the economy and the totality of the judicial and information systems.

12. The administration provides for satisfactory statistical data on certain development indicators, which were used to measure the implementation of the Millennium Development Goals, such as life expectancy, school enrolment of children, literacy and other important fields that contribute to the enjoyment of certain rights. However, as the United Nations has adopted the Sustainable Development Goals, the Special Rapporteur deems it of paramount importance to assess sustainable development in Belarus in the light of the enjoyment of human rights.

13. The use of capital punishment has resumed. In 2016, four executions were conducted, of which three concerned cases which were pending before the Human Rights Committee, and four new death sentences were handed down. The Special Rapporteur recalls that no other country in Europe or Central Asia applies the death penalty. As a result, Belarus remains banned from membership of the Council of Europe.

14. Belarus has still to establish a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), despite repeated calls to do so by various human rights mechanisms. The Special Rapporteur deplores the absence of progress in this regard, as in many other areas.

15. The Special Rapporteur believes that international scrutiny should continue to be exercised, as it remains a crucial assistance to the citizens and the Government of Belarus. An acknowledgment of the compliance of the Government with its international obligations should be informed by human rights indicators rather than vague commitments or geopolitical considerations.

² See www.osce.org/odihr/elections/287486?download=true.

B. Methodology

16. As in previous years, the Special Rapporteur made a request to visit Belarus. His letter, addressed to the Permanent Representative of Belarus to the United Nations Office at Geneva and dated 10 January 2017, remains unanswered, as have previous letters. The Special Rapporteur continues to deplore this situation.

17. Owing to his inability to visit the country officially, the Special Rapporteur's assessment of the current situation has been informed by data provided by many human rights actors: rights holders, victims of violations and their relatives, civil society actors, representatives of international and regional organizations, and diplomats. The review by the Committee on the Elimination of Discrimination against Women of the State party report was the occasion for women's rights organizations to publish a set of reports, and the Special Rapporteur commends them for their work. While seeking and reviewing information, he has continued to be guided by the principles of independence, impartiality and objectivity. He continues to attach particular importance to the safety and security of sources of information.

II. Rule of law, legal framework and related developments

18. The Special Rapporteur regrets that no legislative action was undertaken during the period under review to improve the situation of human rights; the oppressive laws and practices remain in force.

19. The legal framework continues to be amended and governed by presidential decrees, which overrule constitutional law.

20. The parliament remains an affiliation of the Government and merely approves the laws presented to it. The selection of two token opponents to enter parliament following the parliamentary elections of September 2016 does not modify the overwhelming presence of pro-Government representatives (97 per cent).

21. As with the legislative branch, the judiciary is under the full control of the President, who retains the right to appoint, promote or demote any judge or prosecutor.

22. The absence of a system of checks and balances, the non-effectiveness of the parliament and the full control of the President over the judiciary illustrate the absence of the rule of law in Belarus.

III. Engagement with the international human rights system

23. The Committee on the Elimination of Discrimination against Women reviewed the eighth report of Belarus on 28 October 2016. The Special Rapporteur welcomes the engagement of the authorities of Belarus with the Committee.

24. Belarus will be reviewed by the Committee on the Elimination of Racial Discrimination at its ninety-fourth session at the end of 2017 and the Special Rapporteur welcomes the submission by Belarus of its combined twentieth to twenty-third periodic reports. It will provide an opportunity to analyse the progress made by Belarus in the fight against racism and xenophobia since the Committee last reviewed the State party's compliance with the provisions of the Convention in 2013 (CERD/C/BLR/CO/18-19).

25. The Special Rapporteur welcomes the ratification by Belarus, on 29 November 2016, of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. The ratification had been recommended by many actors, including Member States, notably during the thirtieth session of the Working Group on the Universal Periodic Review. Hopefully, the ratification of the Convention will allow for a progressive enhancement of the situation of persons with disabilities, notably through the adoption of legal texts specifically prohibiting discrimination on the grounds of physical, sensory, intellectual or mental disabilities.

26. Since the previous report of the Special Rapporteur, a number of cases have been filed under the Optional Protocol to the International Covenant on Civil and Political Rights. At its 116th, 117th and 118th sessions, the Human Rights Committee adopted views on 10 communications with regard to Belarus, most of which concerned violations of the rights to a fair trial, physical integrity and freedoms of expression, assembly and association.³

27. The main addition to the national official texts dealing with human rights is the inter-agency plan to implement the accepted recommendations from the second cycle of the universal periodic review and from treaty bodies, approved by the Council of Ministers on 24 October 2016, covering the period 2016-2019. According to the Special Rapporteur's records, the plan is not yet available to the public in English. It was presented by the Deputy Minister for Foreign Affairs and the United Nations office in Belarus on 9 December 2016 to various partners on the occasion of Human Rights Day.⁴

28. Regarding the content of the plan, the Special Rapporteur is concerned that the list of 100 activities or projects relates solely to a selection of recommendations made by the Working Group on the Universal Periodic Review and by some treaty bodies. The plan ignores the various recommendations made by special procedure mandate holders who have conducted visits to Belarus since 1997 (the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on trafficking in persons, especially women and children), in addition to the recommendations made by the Special Rapporteur on the situation of human rights in Belarus since 2012.

29. Furthermore, the Special Rapporteur is concerned that the plan does not envisage any action regarding the abolition of torture and of the death penalty. Neither does it tackle the system of criminalization of non-registered public activities, including the exercise of freedoms of peaceful assembly, association, expression and other basic human rights. Similarly, it does not envisage actions for the State organs relating to acknowledgment of and cooperation with civil society.

30. The Special Rapporteur is aware that the plan was not developed through a proper participatory process involving civil society organizations, whether registered or not registered.⁵

31. Belarusian non-governmental organizations (NGOs) have expressed approval of the adoption of the plan.⁶ They emphasize, however, that the plan falls short of taking into account the various recommendations that they had made public, in a clustered manner, in May 2016, following the second cycle of the universal periodic review of Belarus.⁷ The Special Rapporteur shares the concern of the NGOs that the potential development and implementation of the plan may not be effective as long as it is not a participatory process.

32. The Special Rapporteur remains dubious as to the effects of the holding of a number of workshops and seminars organized by the Government with the support of international partners on the reality of the legal framework and the policies and practices of the State. On the issue of the death penalty, he notes a conference held in Minsk on 10 March 2016. In

³ See Human Rights Committee communications No. 2047/2011, *S.V. v. Belarus*, decision of inadmissibility adopted on 30 March 2016; No. 2084/2011, *V.L. v. Belarus*, decision of inadmissibility adopted on 30 March 2016; No. CCPR/C/116/D/2092/2011, *Androsenko v. Belarus*, Views adopted on 30 March 2016; No. 2082/2011, *Levinov v. Belarus*, Views adopted on 14 July 2016; No. 2089/2011, *Korol v. Belarus*, Views adopted on 14 July 2016; No. 2093/2011, *Misnikov v. Belarus*, Views adopted on 14 July 2016; No. 2101/2011, *Evzrezov v. Belarus*, Views adopted on 14 July 2016; No. 2112/2011, *K.A. v. Belarus*, decision of inadmissibility adopted on 3 November 2016; No. 2135/2012, *Y.Z. v. Belarus*, decision of inadmissibility adopted on 3 November 2016; No. 2139/2012, *Poplavny and Sudalenko v. Belarus*, Views adopted on 3 November 2016.

⁴ See www.mfa.gov.by/en/press/news_mfa/e4d67633e1891aae.html.

⁵ See www.spring96.org/en/news/85305.

⁶ See www.spring96.org/en/news/85347.

⁷ See www.upr.belhelcom.org/docs/indikatory-k-rekomendaciam-upo.pdf.

December 2016, another conference on the same subject was again held in Minsk, only days after an execution was revealed.

IV. Human rights concerns

A. Freedom of opinion and expression, and freedom of the media

33. In March 2017, the media in Belarus faced extraordinary pressure from the authorities. The Belarusian Association of Journalists registered 123 cases of violations of journalistic rights during that single month.⁸ Most of the incidents occurred when the media, fully complying with both the official and the self-regulatory prescriptions on visibility, attempted to cover the street demonstrations. Many other violations had a pre-emptive and retaliatory character, such as the purposeful damaging of equipment. All incidents were carried out with great brutality, admittedly following orders. In six cases, journalists were beaten by groups of law enforcement personnel.

34. Nearly 100 detentions and 40 administrative trials against journalists were reported, leading to 10 sentences of incarceration for 5 to 15 days.⁹ Several cases are still pending at the time of writing of the present report.

35. On 31 March, two offices of Belsat TV in Minsk, which is part of Polish public television, were searched and equipment was seized. The police justified its action by citing a trademark suit initiated by an equipment seller several years previously. Throughout March, the police singled out Belsat journalists when harassing, detaining and beating journalists.¹⁰

36. The Special Rapporteur has continued to receive accounts of severe curtailment of freedom of expression during the whole period under review. Journalists and bloggers have had to endure administrative harassment, fines, temporary arrests, confiscation of personal belongings and undue intrusion into their private spheres. As many as 13 instances of detention of journalists were recorded in 2016.

37. The Special Rapporteur has reported on violations of the freedom of opinion and expression in the context of the parliamentary elections of September 2016 (A/71/394). Since the elections, no changes have occurred in the regulatory system based on the licensing and registration of media outlets by State-appointed bodies and the Government itself. The Government continues to be equipped with the power to warn, suspend and deregister all and any media outlets based on its own discretionary interpretation of what it regards as content failures.

38. Many journalists continue to work without accreditation, as the system is designed to forbid and criminalize any journalistic activity by denying accreditation. The holding of parliamentary elections in September 2016 was the occasion of another tightening of restrictions on accreditation. Freelance journalists Larysa Shchyryakova and Konstantin Zhukouski were sentenced four times to heavy fines for working with foreign media without accreditation. The Special Rapporteur is concerned about reports regarding Mr. Zhukouski, who, in addition to being fined, was detained with another journalist, Aliaksei Atroshchanka; both reportedly were ill-treated by police officers.¹¹

39. The Special Rapporteur is deeply concerned at the situation of online media, users of which are subject to harassment, indicating that the system of controlling content and

⁸ See www.baj.by/en/content/statement-baj-regarding-persecution-journalists-march-2017.

⁹ Journalists were put on trial on charges, among others, of violations of the following provisions of the Administrative Code: art. 22.9 for illegal production of mass media products (i.e. for work without accreditation); art. 23.34 for violating the procedure for organizing or holding mass events (such as participating in an unsanctioned mass event); art. 23.4 for disobedience to lawful demands of the police; and art. 17.1 for minor hooliganism.

¹⁰ See www.hrw.org/news/2017/04/03/belarus-freedom-day-crackdown.

¹¹ See www.spring96.org/files/misc/review_2016_en.pdf.

intimidation regarding free expression extends to all citizens. A user of social media received a trial notification for having shared a post calling for a rally on the day following the parliamentary elections.¹²

40. The inter-agency plan contains three planned activities that relate to the media. One is to monitor compliance with the legislation on the mass media; another relates to the conduct of board members of media outlets and journalists to promote the right to the freedom of speech at international events; and the third envisages the development and implementation of educational programmes for journalists on interconfessional and inter-ethnic relations.

41. The Special Rapporteur expresses scepticism about the potential of such activities to enhance the protection of human rights. The organization of events for journalists under the auspices of the Ministry of Information may only further enhance their dependence on that body, instead of assisting them to exercise their right to work free of governmental control.

42. Similarly, the efforts envisaged by the Government to tackle the issue of hate speech based on religion or ethnic origin do not touch upon the so-called extremism laws, which are often used by the authorities to sanction reports that are critical of the Government or merely covering events. None of the activities envisaged address the accreditation issue, which is a pressing one.

43. The Special Rapporteur notes that the inter-agency plan does not include actions to implement the only media-related recommendation stemming from the second cycle of the universal periodic review and which was endorsed by Belarus, namely the need to improve the overall situation of media freedom (see A/HRC/30/3, para. 127.79).

B. Freedom of association

44. Freedom of association in Belarus has been violated regularly by the practice of the State itself, based on a restrictive set of rules. The requirements for registering a public association are cumbersome, expensive and obstructive. As an example, to register a nationwide association, it is necessary to have at least 50 founders in the various regions of the country. Despite numerous recommendations addressed to Belarus to amend its legal framework, the Special Rapporteur sees no improvement for those who wish to organize themselves.

45. According to the information available to the Special Rapporteur, no new registrations have been accepted since the amendments to the law on public associations and on political parties were adopted on 20 February 2014. The many obstacles put in the way of registration by the State make it virtually impossible for an organization to be officially recognized and able to work freely. The Special Rapporteur recalls that non-registration entails the criminalization of any activity the organization undertakes, according to article 193-1 of the Criminal Code. At its sixty-fifth session, the Committee on the Elimination of Discrimination against Women recommended that the Government of Belarus review the registration requirements for NGOs working on human rights issues, in particular women's rights organizations, so that they could be established and operate without undue restrictions (see CEDAW/C/BLR/CO/8, para. 17).

46. The run-up to the parliamentary elections of September 2016 was marked by increased oppression of those willing to form movements (A/71/394). In 2016, the Ministry of Justice rejected for the fifth time in six years the request for registration of the public campaign "Tell the Truth", which provides for critical scrutiny of political life in Belarus. No new political party has been formed, while the request for registration by the Belarusian Christian Democrat party has been repeatedly rejected. Individuals tempted to get organized peacefully to criticize the legal or political regime or to raise awareness on social issues have been harassed.

¹² See www.svaboda.org/a/bielarusa-upiersyniu-sudzili-za-palitycny-repost-ukantakcie/28021615.html.

47. As an example, relatives of persons incarcerated for crimes related to drug consumption wished to get organized in Hrodna, to raise awareness of the rights of prisoners, and to provide legal and psychological support. The State representatives in the city refused to register the group, Mothers' Movement 328.¹³

48. In another instance, the Centre for Gender Studies Ruzha in the Mogilev region was denied registration on the basis of the inadequacy of its main objective, the fight against gender discrimination in Belarusian law. According to the administrative decision handed over to the Centre, the "acknowledgement of gender discrimination in Belarus does not correspond to norms of the law on equality between women and men".¹⁴

49. Ruzha was also denied registration by a regional department of justice, on the grounds that working on gender discrimination does not fall under the competency of the Centre as equality between women and men is ensured by the State authorities. The Special Rapporteur wishes to underline that the State authorities not only deny the reality of gender discrimination in Belarus but further instrumentalize that denial to impede civil society from working freely and openly on such issues, leaving victims of gender discrimination with ineffective avenues for seeking redress.

50. The systematic denial of registration of new organizations continues to be often grounded in petty arguments. The authorities invariably find some element missing or misspelled, such as a phone number or street name, in the extraordinary amount of documents to be submitted. According to information received by the Special Rapporteur, several organizations expressed discouragement after repeated attempts to obtain registration. The Special Rapporteur wishes to sound an alert about the possible successful registration fatigue, distilled for over two decades by the authorities.

51. Unfortunately, the inter-agency plan does not foresee any activity to improve the enjoyment of freedom of association, despite repeated calls by the international community. In fact, the words "freedom of association" are absent from the plan.

C. Freedom of peaceful assembly

52. The official handling of the right to peaceful assembly suffered the most dramatic deterioration during the events of February and March 2017.

53. The Special Rapporteur closely monitored the massive rallies which started in February 2017, organized to protest against the implementation of presidential decree No. 3, known as the law against social dependency (see A/HRC/32/48, para. 114), adopted in 2015. It provided for a new tax on people unemployed for more than 183 days a year, who are designated by the derogatory term of "parasites". According to a tax inspection in February 2017, as many as 470,000 people were obliged to pay the fee amounting to \$250, about two thirds of the average monthly salary. The implementation of this arbitrary and cruel measure amidst a degrading economic environment prompted the largest protests since 2010 in the streets of many cities across Belarus.

54. In March alone, more than 900 people were subjected to various forms of repression in connection with the demonstrations. Hundreds of them were temporarily deprived of their freedom of movement. On 27 March, 177 persons were swiftly sentenced to fines or detention for up to two weeks, the maximum as provided under the law.

55. The misdemeanour charges were fabricated, misrepresenting the behaviour of peaceful demonstrators against all the evidence. The majority of those detained in connection with the protests of 25 March were later released without charge, others were charged with offences such as hooliganism, resisting arrest or participating in unsanctioned protests. Many did not have timely access to lawyers and could not call defence witnesses.

¹³ See Viasna, "Human rights situation in Belarus in 2016: analytical review", available from www.spring96.org/files/misc/review_2016_en.pdf.

¹⁴ See www.news.tut.by/society/508632.html.

56. Many of those arrested were beaten, kicked, clubbed and physically abused. On 25 March, the police brought up water cannons, prisoner transport vehicles, armoured vehicles and other equipment for dispersing crowds. On Independence Prospect in Minsk, the police ordered the crowd to disperse, but as the entire area was blocked off, there was no way out but into the police vans.

57. During the events, the practice of “preventive actions” reappeared. Attesting to the planned nature of the wave of repression, such actions on the eve of Freedom Day rallies focused on political leaders, human rights activists and journalists, and the arrests were conducted in half a dozen cities. On 25 March, prior to the rallies, riot police raided the office of the human rights centre Viasna, one of the country’s leading human rights groups, detaining 58 people.

58. The authorities prefabricated the illegality of the demonstrations. The Minsk city authorities did not respond in time to the organizers’ request to hold the 25 March rally in central Minsk. Only hours before the rally was due to begin did the authorities suggest an alternative site, which the organizers could not accept on logistical grounds. The mayor then announced that any gatherings on 25 March would be considered unlawful.¹⁵

59. The context of the parliamentary elections of September 2016 was conducive to tightening the curtailment of the freedom to gather peacefully. Massive arrests would have been seen as a resurgence of the human rights violations that occurred in 2010. Thus, the trade-off between massive arrests and systematic fining of participants for peaceful assembly was observed on a large scale before, during and after the elections. The Special Rapporteur has received information according to which as many as 484 cases of fines were registered in 2016, representing a total amount of 200,000 euros, which makes an average of 413 euros per fine, which is more than one month of the average salary in Belarus. By fining those who dare to express different views, the authorities aim to block activists not only on political issues, but also on social and environmental issues.

60. For instance, a candidate of the United Civic Party received a fine of approximately \$535 on 30 August 2016 for participating in a non-authorized rally to support the legal action of the mother of Yuri Zakharchenko.¹⁶ The Special Rapporteur recalls that Mr. Zakharchenko, a former Minister of the Interior, disappeared in 1999.

61. A call to participate in a rally on 12 September 2016, the day following the parliamentary elections, was followed by many. Some participants received fines, including Pavel Severinets, who co-chairs the Belarusian Christian Democrat party (non-registered), who was fined \$540.¹⁷

62. Only one activity envisaged in the inter-agency plan relates to the right to peaceful assembly, namely the review of international practices on authorizing mass events and the consideration of expediency of the application of such experiences in the national context. The Special Rapporteur recalls that the Working Group on the Universal Periodic Review called on Belarus twice to bring its legislation on mass events into line with the International Covenant on Civil and Political Rights (see A/HRC/32/48, para. 51). The Special Rapporteur does not see the added value in reviewing practices when a State has been called to fulfil a clear obligation over more than six years.

D. Situation of human rights defenders and civil society

63. On 25 March, police raided the offices of Viasna and detained 58 people, mostly Belarusian human rights activists, as well as journalists and a protection coordinator from the international group Frontline Defenders. Aleh Hulak, the chairman of the Belarusian Helsinki Committee, was also detained. They were taken to a police station, photographed, had their identity documents registered and were released after a couple of hours.

¹⁵ See www.hrw.org/news/2017/04/03/belarus-freedom-day-crackdown.

¹⁶ See www.svaboda.org/a/kandydatku-u-deputaty-volhu-majoravu-znou-astrafavali/27955597.html.

¹⁷ See www.bchd.info/12164-severinca-snova-oshtrafovali-za-palchisa-na-50-bazovyh.html.

64. Among the many victims and witnesses of the brutality with which the armed, masked riot police carried out the raid was Aliaksei Loika, a Viasna staff member. He was thrown onto the concrete floor face down, causing concussion, a policeman put his booted foot on Mr. Loika's head, ordered him not to move and hit him; as a result, Mr. Loika was later hospitalized.

65. Tatsiana Revyaka, a board member of Viasna, was detained on 26 March while she was observing the rally on Oktabryskaya Square. At Minsk central police station, she was forced to stand facing the wall for two hours with her arms raised above her head before being released without charge.

66. In Minsk, Vitebsk, Biaroza, Polotsk and Molodechno, human rights activists were detained and in some cases sentenced to detention of up to 15 days on trumped-up charges.¹⁸

67. The Government continued to refuse to register prominent human rights organizations, such as Viasna, which representatives of those organizations appealed once again to the Ministry of Justice, to no avail. The marginal engagement of some State actors with only a few members of NGOs has to be put in perspective with the otherwise overwhelmingly difficult working environment in which those organizations try to deliver their services.

68. The Committee on the Elimination of Discrimination against Women expressed concern about the frequent repression, harassment, violence and threats of sexual assaults against women human rights and political activists (see CEDAW/C/BLR/CO/8, para. 16).

69. The Special Rapporteur deplores the fact that there is still no permanent avenue of cooperation between the State and civil society human rights actors, showing disrespect for the legitimate concerns raised by activists. No new independent public association was registered during the period under review.

70. Human rights activist Alena Tankachova, who was expelled from Belarus in February 2015 on fabricated grounds, namely driving above the speed limit, is still banned from entering Belarus. Her most recent appeal to the authorities to reduce the term of the ban was made on 21 February 2017 and was supported publicly by 16 NGOs in Belarus, including the Belarusian Helsinki Committee, the only accredited human rights NGO.

71. Andrei Bandarenka, who founded the human rights association Platform Innovation, and whose imprisonment for three years was politically motivated, was the subject of an additional criminal charge on 14 November 2016, based on article 411 of the Criminal Code, for allegedly having disobeyed the administration of the correctional institution in which he was detained. The Special Rapporteur notes that Mr. Bandarenka was released on 31 March 2017 after having served his term. Resorting to article 411 of the Criminal Code is another way to silence opponents and activists by charging them on behavioural transgressions that no oversight can objectively assess.

72. The authorities continue to intimidate activists. On 6 March, the office of a coalition of civic groups was searched and office equipment was seized, without proper justification. The apartments of three human rights defenders were also searched in the context of the rallies against presidential decree No. 3.

73. The Special Rapporteur acknowledges the few contacts developed during the period under review between selected members of organizations of human rights defenders and some representatives of the Ministry of Foreign Affairs on the occasion of events involving international partners.

74. Unfortunately, the inter-agency plan does not foresee any activity aimed at opening a dialogue with members of civil society working on human rights issues. NGOs are mentioned only four times in the plan: in the context of improving the mechanisms for expanding the use of social contracts to support the activities of NGOs specializing in the provision of social services to the population; in relation to broadening the scope of their

¹⁸ See www.hrw.org/news/2017/04/03/belarus-freedom-day-crackdown.

involvement in facilitating the exercise of human rights by the inmates of penal institutions, and when it comes to improving coordination between government agencies and NGOs engaged in the provision of palliative care services. A further activity refers to continuing the practice of involving public associations in discussing new legislative drafts, particularly by including members of such associations in public advisory councils.

75. In the view of the Special Rapporteur, the four activities envisioned in the plan, or rather goals in very narrow areas or too broadly formulated, do not represent a sufficient commitment of the Government to the realization of the recommendations it accepted during the second cycle of the universal periodic review (see A/HRC/30/3, paras. 127.23-127.27). One of the recommendations the Government accepted called for enabling more effective involvement of civil society in the preparation of legal acts and another for strengthening further the links of cooperation and coordination with civil society as regards the promotion and protection of human rights.

E. Torture and other cruel, inhuman or degrading treatment or punishment

76. In Belarus, ill-treatment by various State authorities forms part of a systemic oppression. The Special Rapporteur continues to be concerned about the flow of information alleging acts of torture and ill-treatment by law enforcement and prison officers. Victims generally face obstruction of the judiciary when they call for investigations into such allegations. Regrettably, the authorities still do not allow access to the penitentiary system for independent investigators or monitors.

77. Specifically, reports of violence against women engaged in human rights or political activities include beatings, sexual assaults, threats of sexual assaults and forced placement in mental institutions. Some of the illegal acts performed by officials of the State or representative of local authorities have reportedly led to cases of forced suicides.¹⁹

78. Mothers' Movement 328, which remains unregistered, has stated that the procedures for the criminal conviction of drug addicts, who are often underage, and their treatment during incarceration are cruel and often amount to torture. The fact that their association is denied registration also makes remedy of such cases extremely difficult.

79. As an example of the unwillingness of the prosecutors to investigate cases of ill-treatment and torture, an activist who was severely beaten by two policemen during his arrest on 11 August 2016 was told that his complaint could not be investigated further as he had failed to identify the person who broke his jaw.

80. The Special Rapporteur is concerned about a case of violence, including sexual violence, against a minor in the detention centre in Homiel, where he is incarcerated despite having a mental illness. His mother filed a complaint and subsequently received threats, including over the telephone, from the prosecutor in charge of the case. The minor allegedly wrote a confession, which he denied afterwards. He was sentenced to nine years' imprisonment.

81. According to the information available to the Special Rapporteur, many activists report acts of brutality, including the use of derogatory language and violence, including sexual violence and threats of sexual violence, when they are questioned by law enforcement officers.

82. Acts of torture and ill-treatment in Belarus have been regularly denounced by the international community. The Special Rapporteur therefore regrets that the inter-agency plan does not provide for any activity in this regard, not even awareness-raising campaigns or training for prison officials. The only activity related to the conditions of detention is

¹⁹ See submission by Belarusian NGOs to the Committee on the Elimination of Discrimination against Women, "Answers to the list of issues and questions prior to the submission of the eighth periodic report of Belarus" (2016). Available from http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT_CEDAW_NGO_BLR_25453_E.pdf.

listed under the heading “Equality and non-discrimination” and does not address the shortcomings of the State authorities responsible for the management of prison conditions.

F. Arbitrary arrest and detention, political prisoners and enforced disappearances

83. The authorities arbitrarily arrested hundreds of peaceful demonstrators in February and March 2017. Most of them were apprehended without any explanation and later released. Others were fined and incarcerated for up to two weeks on unsubstantiated misdemeanour charges.

84. Additionally, on 21, 22 and 24 March, the security forces arrested 32 people on suspicion of committing a crime under part 3 of article 293 of the Criminal Code (training or other preparation of persons for participation in mass disorders and funding or other material support of such activities). Those arrested were allegedly planning to overthrow the Government on Freedom Day. The official media accompanied the arrests with reports of related incidents, such as gunmen in a car attempting to force their way through a border checkpoint in Ukraine. As at 31 March, some detainees were still being held in the jails of the Ministry of the Interior and the KGB security service in Minsk.²⁰

85. “Preventively” apprehended detainees also included the leader of the Young Front organization, Zmitser Dashkevich. Former presidential candidate Mikalai Statkevich, a main leader of some of the rallies, disappeared for the three days of the Freedom Day events and was eventually released from a KGB facility.

86. The mass arrests and the preventive detention of activists and politicians prior to Freedom Day annul an apparent attempt in the second half of 2016 to replace the systematic arbitrary detention of activists participating in non-authorized rallies by heavy fines.

87. Many activists had actually found the system of fines no less intimidating than arrests, especially as in 2016 the authorities had stopped mutating the unpaid fines into days of incarceration days in many cases and had resorted rather to the confiscation and auctioning of personal property, including real estate, such as apartments.

88. The case of Nina Baginskaya, aged 70, illustrates the strategy of swapping detention for fines and then confiscation. She was heavily fined for having waved a national flag alone on a square in May 2016. For the unpaid part of the fines, her washing machine and microwave oven were seized and auctioned, even as another portion of her fines were deducted from her pension.²¹ Later, in August 2016, her summer house was auctioned, as the equivalent of \$3700 worth of unpaid fines.²²

89. Since the Freedom Day rallies, arbitrary detention has been used again to try to silence the most vocal human rights defenders and political opponents of the Government. In the view of the Special Rapporteur, the disproportionate use of judicial force against dissenting voices, often on fabricated grounds, makes the Government accountable for violating the right to freedom of movement, in addition to the rights to freedom of expression and freedom of peaceful assembly.

90. A number of detentions have gone unreported by the authorities. In Brest on 5 March 2017, five representatives of a contest movement were arrested and were still in custody at the time the present report was finalized. In Molodechno, just when the rally was over on 10 March, four political leaders and nine journalists were arrested for periods between 7 and 15 days. On 12 March, two bloggers were also arrested in Brest without justification. Another blogger was tentatively abducted by three individuals in plain clothes on 11 March in Pinsk; however, he managed to escape owing to the intervention of other people who were present and the inaction of police officers who were also present.

²⁰ See www.belarusdigest.com/story/belarus-authorities-uncover-putsch-deter-mass-protests-29530.

²¹ See www.svaboda.org/a/27758841.html.

²² See www.belapan.com/archive/2016/08/08/859041/.

91. Arbitrary detentions affect other targeted groups. The situation of Roma women is particularly alarming. Officials of the Ministry of the Interior arbitrarily detain Roma women, some of them repeatedly, on the token basis of preventing offences or of so-called special decrees of the President.²³ These arbitrary arrests, which reveal ethnic profiling measures, violate the freedom of movement of Roma women by diffusing a feeling of fear of moving outside their communities.

92. The Special Rapporteur is concerned about the situation of Alexander Lapitski, who has been forced by the judiciary to undergo medical treatment in a psychiatric hospital. He was found guilty by a court in Minsk of having committed “socially dangerous acts” of insulting the President of Belarus and two judges.²⁴

93. The Special Rapporteur notes the return to the practice of putting political opponents of the Government in jail. Viachaslau Kasinerau, who had been sentenced to 15 days of administrative detention for having participated in a rally on 17 February 2017, was transferred to the detention centre of the Ministry of the Interior on 28 March, because of an alleged crime of hooliganism, namely throwing a noose over a statue. The Special Rapporteur shares the view of Belarusian NGOs that have declared him to be a political prisoner.²⁵

94. Two other political opponents of the Government remain in prison in Belarus. On 10 July 2015, Mikhail Zhamchuzhny was sentenced to six and a half years of imprisonment under a strict regime. His sentence also bans him from holding positions related to the implementation of organizational and administrative duties for a period of two years and eight months. Uladzimir Kondrus was taken into custody on 14 June 2016 for the alleged crime of rioting in December 2010.²⁶

95. As of the finalization of the present report, no information was available on the case of the “fighters”, who were reported by the official media as conspiring to overthrow the Government. It remains to be seen whether the allegations will be proven through a fair, transparent and non-politicized procedure.

96. The Special Rapporteur continues to be concerned at the absence of progress in solving outstanding cases of the enforced disappearance of political opponents of the President. These cases, which although they date back to 1999 and 2000 are still unsolved, concern the abduction of prominent Belarusian opposition politician Viktor Hanchar and his business associate Anatol Krasouski, of Yury Zakharanka, the former Minister of the Interior, and Dmitri Zavadski, a cameraman (see A/HRC/29/43, para. 66).

97. The inter-agency plan does not include any commitment regarding arbitrary detentions or disappearances. Several recommendations by human rights mechanisms to put an end to the practice of arbitrary detentions in Belarus continue to be ignored by the authorities. They have not acknowledged any of the recommendations of the Working Group on the Universal Periodic Review on the issue.

G. Death penalty

98. Belarus executed four individuals in 2016: Sergey Ivanov, Sergey Khmelevski, Ivan Kulesh and Guennadi Yakovitsky. That represents the highest number of disclosed executions since 2008 and the resurgence of a practice, after the European Union had partially lifted its sanctions against Belarus in February 2016, that the State had not implemented in 2015, prior to the lifting of the sanctions. Two individuals were on death row as at 31 March 2017. Since the previous report of the Special Rapporteur to the Human Rights Council (A/HRC/29/43), three additional sentences of capital punishment have been handed down, most recently on 17 March.

²³ See submission by Belarusian NGOs, “Answers to the list of issues and questions”.

²⁴ See Viasna, “Human rights situation in Belarus in 2016”.

²⁵ See www.spring96.org/en/news/86654.

²⁶ See www.spring96.org/en/news/84325.

99. The Special Rapporteur recalls that Belarus is the only country in Europe and the former Soviet area which retains the death penalty.

100. The Special Rapporteur publicly condemned these executions and has repeatedly recommended that the authorities adopt a moratorium on capital punishment. He has also pointed to the ambiguous discourse of the authorities, which on the one hand organize, with the support of international partners, discussions on the issue of capital punishment and on the other not only continue the practice of executions but also bluntly violate their international obligations: three of the individuals who have been executed had cases pending before the Human Rights Committee.

101. The same ambiguity can be seen in the way the authorities of Belarus have approached recommendations on the abolition of the death penalty made during the second cycle of the universal periodic review. While Belarus accepted a recommendation to carry out public campaigns explaining the arguments for the abolition of the death penalty with the aim of ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (see A/HRC/30/3, 127.1), it rejected the numerous recommendations to consider ratifying that Protocol or to adopt a moratorium on the death penalty (see A/HRC/30/3, 130.1-130.17).

102. The Special Rapporteur refers to the report published by the International Federation for Human Rights and Viasna on the issue of the death penalty in Belarus.²⁷ He fully shares the conclusions in the report that convicted persons and their families have a number of their human rights violated. The lack of a fair trial and of the independence of the judiciary in Belarus renders any sentence of capital punishment highly disputable.

103. In addition, the conditions of detention amount to torture and ill-treatment. The Special Rapporteur recalls that the secrecy surrounding executions and the fact that no details on executions or places of burial are given to the families also amount to torture.²⁸

104. Furthermore, the Special Rapporteur questions the argument put forward by the authorities that capital punishment serves as a deterrent to criminality, when in fact no information on executions is publicly communicated. The secrecy surrounding executions goes against paragraph 7 (c) of General Assembly resolution 71/187 on a moratorium on the use of the death penalty.

105. In a system where the President has the power to commute sentences, avoiding executions would be an easy step to undertake. The Special Rapporteur understands that an omnibus referendum, to take place in 2018, could address the issue of the abolition of the death penalty. Given that official discussions on the issue of the death penalty do not include the best-known NGO working on this issue and that no official awareness-raising campaigns are taking place in the country, the stated goodwill of the Government towards shaping public opinion in relation to abolition is clearly missing.

106. The Special Rapporteur regrets that the inter-agency plan does not include any action aimed at supporting the abolition of the death penalty or the adoption of a moratorium.

H. Rule of law and the independence of judges and lawyers

107. The Special Rapporteur has noted no positive changes in the administration of justice in Belarus over the past three years. Despite repeated recommendations to separate the judiciary from the executive branch, the system for appointing and dismissing judges remains under the full control of the President, in accordance with decree No. 6 of 29 November 2013. The fact that the term for judges is time-bound for five years and that it

²⁷ "Death penalty in Belarus: murder on (un)lawful grounds", available from www.fidh.org/IMG/pdf/belarus683angbassdef.pdf.

²⁸ See, for example, Human Rights Committee communication No. 886/1999, *Schedko v. Belarus*, Views adopted on 3 April 2003.

may or may not be extended places members of the judiciary in a submissive position vis-à-vis the executive authorities.

108. Furthermore, article 100 of the Code on the Judicial System and the Status of Judges of 29 June 2006 provides for the replacement of judges on leave by either a retired judge or any “other person who fulfils the requirements set for a position of judge”. The executive branch alone assesses what those requirements are and whether they are fulfilled or not, leaving many possibilities for arbitrary decisions to be made, resulting in possible arbitrary judgments. The Special Rapporteur is particularly worried by this in a situation where the court can hand out death sentences.

109. Similarly, the right everyone has to be defended by a lawyer of their choice is not assured in Belarus. According to article 44 of the Criminal Procedure Code, the authority in charge of a criminal investigation may remove the defence lawyer of the accused individual if circumstances are discovered that would allow for such a decision. This provision leaves another door open to arbitrary behaviour.

110. Lawyers in Belarus cannot work if they are not registered in a territorial bar association. To be able to practise, they must obtain a licence delivered by the licence commission of the bar association, which is itself chaired by the Deputy Minister of Justice, in accordance with article 10 of the law on the bar association and lawyers’ activity. The Ministry further controls the qualifications needed to become a lawyer and decides on the extension of licences. It also has the power to launch investigations of lawyers, to suspend them from professional activity for the time those proceedings last and to disbar them.

111. The Special Rapporteur is concerned about accounts he has received of clients of lawyers testifying to the refusal of the latter to work on certain cases for fear of losing their job.

112. Belarus accepted two recommendations related to the judiciary during the second cycle of the universal periodic review, namely to ensure that the judiciary is free from any interference from other branches of government, and to continue promoting the independence and impartiality of the judiciary. The Special Rapporteur therefore deplors the fact that no action in that regard is envisaged in the inter-agency plan.

I. Economic and social rights and conditions of work

113. Belarus did not implement the recommendations of the Committee on Economic, Social and Cultural Rights or those of the International Labour Organization regarding the elimination of forced labour. Amidst a difficult economic environment in Belarus, both individuals who work and unemployed people are suffering deteriorating conditions in which to enjoy their economic and social rights. It was reported in August 2016 that the number of unemployed people had grown by 83,900 in one year.²⁹ While the World Bank ranked Belarus thirty-seventh out of 190 countries for ease of doing business in *Doing Business 2017*, the National Statistics Committee of Belarus revealed that real income had decreased by 4 per cent in 2016. The Special Rapporteur notes that Belarus has been conducting discussions on acceding to the World Trade Organization, with a view to bolstering its economy. He is worried about the impact of the economic plunge on the economic and social rights of Belarusian citizens. The social data that the Government has been putting forward to promote its human rights record may no longer be sustainable.

114. The Special Rapporteur deplored the approval, on 6 May 2015, of presidential decree No. 3 on the prevention of social dependency, which created the conditions for the expansion of forced labour in Belarus. It provides for the payment of fees by certain categories of unemployed citizens, including women raising children up to a certain age, persons with disabilities, senior citizens and students. It also grants the police the right to arrest persons “with obligations” (such as parents who have children in the custody of the

²⁹ See <https://ej.by/news/sociaty/2016/09/27/belstat-naschital-v-belarusi-426-tysyach-bezrabotnyh.html>.

Government) for even a single absence from work and send them to compulsory work. Those who cannot pay the fines are forced to undertake unpaid work.

115. The large protests in many cities of the country against the implementation of decree No. 3 illustrate the limits of the Government's drive to criminalize self-employment and non-registered unemployment. The Special Rapporteur notes that for 2017 the President suspended the collection of fines envisaged in the decree, which otherwise remains valid.

116. The absence of a flourishing economic perspective for individuals encourages recourse to degrading means of obtaining money. The Committee on the Elimination of Discrimination against Women noted that many women are victims of exploitation in prostitution, owing to the lack of alternative economic opportunities (see CEDAW/C/BLR/CO/8, para. 24). It is estimated that about 22,000 women are sex workers in Belarus, where prostitution is prohibited by article 17.5 of the Code of Administrative Offences and punishable by fines.

117. The Special Rapporteur notes the attempt by the newly elected member of parliament, Hanna Kanopatskaya, to present a draft law entitled "Decriminalization of economic relations in Belarus. New opportunities for interaction between parliamentarians and businesses", which contains provisions to remove criminal charges for crimes of an economic nature.

118. The Special Rapporteur is alarmed by the continuation of forced labour, including by minors. Resorting to free human resources is not a way to tackle the economic disarray of the country.

119. The Special Rapporteur has received reports of local authorities instructing managers of State-owned companies to release their employees to, for instance, harvest crops or clean up the verges of highways. If employees resist, they risk disciplinary measures or termination of their contracts if they are employed on short-term contracts. Forced labour in Belarus also includes compulsory unpaid work on weekends ("subbotniks"). Similarly, individuals who are dependent on substances, notably on alcohol, are forced to perform work for free.

120. Forced labour affects minors, who are also requested to participate in similar activities. The Special Rapporteur was dismayed at the report of the death of 13-year-old Viktoryia Papchenia, who was hit by a truck when harvesting potatoes.³⁰

121. In terms of the right to education, the Special Rapporteur notes that the Minister of Education stated in August 2016 that an independent agency to monitor the quality of higher education, in accordance with the requirements of the Bologna Process on comparability in the standards and quality of higher education qualifications, was not necessary.³¹ The Special Rapporteur wonders why Belarus joined the Bologna Process in 2015 if the intention was to ignore its regulations.

122. The inter-agency plan contains only two provisions pertaining to labour rights: one which calls for the implementation of a State programme on social protection, which does not tackle the issue of forced labour; and another activity which reads as raising awareness of the national labour law among the international community. That last activity is only designed to promote the state of play on Belarus labour policies in international forums. The plan fails to list any activity that would put an end to the practice of forced labour or to the fining of unemployed or self-employed individuals.

J. Discrimination

123. The Special Rapporteur deplores the continuing absence of a specific anti-discrimination law in Belarus, which would prohibit discrimination based on the grounds of race, religion, sexual orientation and gender identity, language, political conviction or

³⁰ See www.charter97.org/en/news/2017/1/31/239371/.

³¹ See www.naviny.by/new/20160830/1472557054-ministr-obrazovaniya-ne-schitaet-neobhodimym-sozdavat-nezavisimuyu-strukturu.

physical or mental disability. The Special Rapporteur has continued to receive information on cases of discrimination and regrets that victims have no legal remedies at their disposal.

124. The plan contains only three activities under “equality and non-discrimination”. One of them involves analysing the current legislation and assessing the need to draft specific legislation that would prohibit discrimination on all grounds. The Special Rapporteur recalls that the international community has been expecting such legislation to be adopted for more than 10 years. Similarly, the plan contains a chapter on gender equality, which deals with five activities aiming merely at the provision of statistics and the promotion of gender equality in the media. The plan fails to provide for the drafting and adoption of a law on gender equality in accordance with international standards.

1. Gender

125. The review of Belarus by the Committee on the Elimination of Discrimination against Women in October 2016 provided an in-depth analysis of the current situation of women’s rights in the country. The Special Rapporteur noted the few positive developments mentioned by the Committee, especially in the legal framework, and the increase of shelters provided to victims of domestic violence and of trafficking.

126. The Committee otherwise reiterated most of their concluding observations adopted after the previous review in 2011. Belarus still has to adopt a law on gender equality or comprehensive anti-discrimination legislation, including a clear definition of all forms of discrimination against women. Domestic violence, wage disparities and conditions for women detainees continue to be of concern. Women grow up and live in a society where the perpetuation of gender stereotyping and patriarchy is a State-led process, through school programmes and curricula, employment and social policies, and the statements of leaders.

127. The head of the Central Election Commission, Lidia Yermoshina, who has occupied the same position for the last 20 years, described women having a career and not looking to get married as “cruel, psychologically destroyed, something inhuman”. She added that “a woman not looking to get married is not normal of course”.³² President Lukashenka declared that “being President is not the business of a woman”.³³

128. The judiciary in Belarus is alarmingly not aware of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and generally ineffective when victims complain about violations.

129. The fact that Belarus has yet to adopt legislation on domestic violence and marital rape, despite repeated calls from international observers, testifies to the lack of will to put an end to this phenomenon. Despite the provision of additional shelters, victims of gender-based violence often feel abandoned and do not report acts to the police, owing to their fear of not being listened to and the lack of an effective response from the judiciary.

130. The Special Rapporteur stresses that presidential decree No. 18 of 24 November 1996 gives social services the authority to take minors from their families when they declare the living conditions of the child unsatisfactory, or if the parents are neglecting the child. It does not provide for a dialogue between social workers and parents, nor for a legal definition of parental neglect. As reported to the Special Rapporteur, the decree disproportionately affects women and single mothers.³⁴

131. The Committee on the Elimination of Discrimination against Women mentioned the high risk of gender-based violence that is faced by women in prostitution when they are confronted by the police and expressed concern at reports of sexual abuse of women detainees by male prison staff (see CEDAW/C/BLR/CO/8, paras. 26 and 44). The absence of proper counselling and legal support for victims of torture and violence leads to a revictimization of survivors.

³² See www.belarus-votes.org/2016/articles/interview-yermoshina.html.

³³ See www.udf.by/news/multi/audio/48146-lukashenko-prezident-zhenschina-kak-to-ne-ochensmotritsya.html.

³⁴ See, for example, www.nash-dom.info/38188; www.vkurier.by/76997; and www.vkurier.by/78781.

2. Persons with disabilities

132. The Special Rapporteur commends the ratification by Belarus of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto on 14 November 2016, and hopes that a specific prohibition of discrimination against persons with physical, sensory, intellectual or mental disabilities will be adopted soon to bring the domestic legislative framework into line with the standards contained in the Convention.

3. Lesbian, gay, bisexual, transgender and intersex persons

133. In October 2016, the House of Representatives adopted at the first reading a draft law entitled “On amendments and additions to certain laws of the Republic of Belarus (to protect children from information harmful to their health and development)”. Although the bill does not contain provisions for administrative or criminal liability based on sexual orientation and/or gender identity, the Special Rapporteur shares the concerns of lesbian, gay, bisexual, transgender and intersex activists in Belarus that forbidding the dissemination to children of information “discrediting the institution of family and marriage” would be interpreted in a discriminatory way.³⁵ In addition, forbidding the sharing of any information that would discredit the institution of the family threatens freedom of expression.³⁶

134. The Special Rapporteur remains concerned by reports of violent acts and intimidation against members of the lesbian, gay, bisexual, transgender and intersex community and the lack of proper investigation into such cases when they are reported to the police. A prominent case of bias-motivated violence was the death of Mikhail Pischevsky, who died on 27 October 2015 following a homophobic attack 17 months earlier. The case remains improperly investigated, causing anxiety and distrust of the authorities.

135. The inter-agency plan includes two proposed activities which aim to promote family values and contribute to “mainstreaming family as a lifestyle”. These activities serve to promote the above-mentioned stereotypes. There are no provisions for ending violence against or promoting inclusion of those whose sexual orientation is not “traditional”.

4. Religious groups

136. The Special Rapporteur has received reports of harassment of Jehovah’s Witnesses. According to the law on freedom of conscience and religious organizations, a religious group which has more than 20 members needs to register as a religious organization. Although the Jehovah’s Witnesses have three religious buildings in Belarus, members of the group have to ask the local authorities for permission if they want to meet in residential or non-residential premises for religious services. In many cases, the authorities refused permission, de facto criminalizing the religious services as illegal activities. In addition, in May 2016, one of the two traditional annual meetings of Jehovah’s Witnesses in Vitebsk was prohibited by local officials. There are also reports of gatherings being interrupted, of false allegations of non-authorizations in the form of non-appealable written warnings and of arbitrary detentions. In the first half of 2016 there were three incidents of Jehovah’s Witnesses being detained for publicly sharing their beliefs in their neighbourhoods. Furthermore, religious literature, printed or in audio form, and video materials have to undergo a State religious examination, according to the law on freedom of conscience and religious organizations.

³⁵ See www.humanrightsfirst.org/blog/homophobic-legislation-threatens-lgbt-community-belarus.

³⁶ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-sponsored Homophobia. A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition* (Geneva, May 2016).

V. Conclusions and recommendations

137. The analysis of the information available during the period under review shows that the human rights situation in Belarus has seen a dramatic deterioration. The Special Rapporteur is concerned that the protests, triggered by an unfair decree taxing the unemployed, were met with the arrests, arbitrary detention and deprivation of liberty on trumped-up charges of more than 900 individuals, including opposition leaders, human rights defenders, journalists and foreign visitors. That level of violation of civil rights had been unseen since the crackdown on peaceful demonstrators in December 2010.

138. During the events of March, the authorities revived the policy of arresting political opponents on trumped-up criminal charges and on a “preventive” basis, a practice it was believed they had given up in 2015, prior to the presidential elections. The Special Rapporteur will keep a watching brief to see if these actions will also result in the reoccurrence of longer terms of imprisonment handed down to political opponents of the Government.

139. The recent behaviour of the authorities testifies to their refusal to reform the entrenched oppressive legal system designed to curtail basic freedoms. Governance continues to be based on blocking and punishing expressions of dissent and on recourse to bureaucratic restrictions, intimidation and ill-treatment.

140. The ratification of the Convention on the Rights of Persons with Disabilities is a welcome step. The Special Rapporteur hopes that the Government will implement the concluding observations of the Committee on the Rights of Persons with Disabilities when it reviews the reports of Belarus in a more cooperative manner than the authorities have so far displayed vis-à-vis the recommendations of the human rights mechanisms.

141. The adoption of an inter-agency plan for the implementation of selected recommendations from some human rights mechanisms cannot be described as a significant step towards more respect for human rights, as many human rights actors were kept away from its preparation and because of the absence in it of key human rights concerns that have been expressed for years by the international community.

142. The parliamentary elections of September 2016 were the occasion for the Government to show real improvements, but this opportunity was missed, as serious issues repeatedly raised by various partners persisted before, during and after the poll.

143. The current level of scrutiny by the United Nations of the respect for human rights in Belarus must therefore be maintained, especially given the response to the recent demonstrations.

144. The Special Rapporteur reiterates his readiness to cooperate with the Government of Belarus. The recommendations that he made in his previous reports remain valid.

145. In addition, the Special Rapporteur recommends that the Government:

- (a) Stop all ongoing retaliatory procedures initiated in the wake of recent social protest movements and release all political prisoners, individuals and journalists who are detained;
- (b) Put an end to mass arrests and arbitrary detention as a response to peaceful assemblies;
- (c) Repeal presidential decree No. 3 on the prevention of social dependency;
- (d) Repeal article 193-1 of the Criminal Code curtailing the freedoms of peaceful assembly and of association;

- (e) **Abandon policies based on authorizations and accreditations and move towards a system of notification to ensure respect for the freedoms of assembly, association and expression;**
 - (f) **Register the civil society organizations and political parties that have been denied official recognition;**
 - (g) **Introduce a moratorium on executions, leading to the total abolition of the death penalty;**
 - (h) **Revise and amend the recently adopted inter-agency plan to ensure the inclusion of all recommendations from all human rights mechanisms;**
 - (i) **Include civil society organizations working on human rights issues in any revision of the inter-agency plan and in its implementation;**
 - (j) **End the practice of discrimination against individuals and groups that are marginalized on the basis of their belonging to a minority;**
 - (k) **Draft an anti-discrimination law encompassing all grounds of discrimination.**
-