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Human rights situations that require the Council's attention

Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath

Report of the United Nations High Commissioner for Human Rights*, **

Summary

In the present report, submitted pursuant to Human Rights Council resolution 49/26, the High Commissioner sets out the findings of the examination of the human rights situation in Belarus since May 2020 and makes recommendations to relevant stakeholders. The report includes updated information on developments and incidents about which OHCHR has collected, consolidated, preserved and analysed information and evidence, with a view to contributing to accountability for perpetrators and justice for victims. He concludes that there are sufficient grounds to believe that systematic, widespread and gross human rights violations have been and are being committed in Belarus.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

** The annexes to the present report are circulated as received, in the language of submission only.

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 49/26, in which the Council requested the United Nations High Commissioner for Human Rights to monitor and report on the situation of human rights in Belarus and to examine all alleged human rights violations committed in Belarus since 1 May 2020, in the run-up to the 2020 presidential election and in its aftermath.

2. The present report should be read in conjunction with the previous report of the High Commissioner,[1] in which she provided an overview of the situation of human rights in Belarus, in particular the period from 9 to 14 August 2020, during and immediately after the 2020 presidential election.

3. An examination team of the Office of the United Nations High Commissioner for Human Rights (OHCHR), based in Vienna, supported the High Commissioner in implementation of the mandate. The High Commissioner appointed three experts to assist in the discharge of the mandate: Karinna Moskalenko (Russian Federation), Susan Bazilli (Canada) and Monica Płatek (Poland).

II. Methodology and standard of proof

4. The present report covers the period from 1 May 2020 to 31 December 2022[2] and is based on a detailed analysis of 207 interviews (127 with men, 79 with women and 1 with a boy) conducted remotely and in-person with victims and witnesses, representatives of non-governmental organizations, journalists, lawyers and medical personnel, in addition to interviews conducted during the previous reporting period.[3] OHCHR corroborated information gathered to ensure its validity, assessed the credibility and reliability of all sources, sought informed consent from those sources to use or share material collected and took all appropriate measures to protect confidentiality and ensure the protection of interviewees.

5. In addition to first-hand statements, OHCHR collected, preserved and analysed more than 2,500 items of information and evidence, including photographs, videos, public statements by officials, reports, copies of original medical records, court documents and other digital data. OHCHR received 16 submissions, from individuals, both victims and witnesses, and other stakeholders, such as non-governmental and international organizations, in response to its call for submissions.[4]

6. OHCHR used "reasonable grounds to believe" as the standard of proof. The standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident has occurred as described, with a reasonable degree of certainty. This standard of proof is lower than that which is required for finding criminal responsibility.

7. In its resolution 49/26, the Human Rights Council urged the Belarusian authorities to restore their cooperation with and extend full and unhindered access to OHCHR. OHCHR regrets that the Government of Belarus has not positively responded to the two notes verbales, of 23 August 2022 and 11 November 2022, from OHCHR seeking access to the country and enclosing a list of issues.

8. The High Commissioner extends his gratitude to States Members of the United Nations, the Special Rapporteur on the situation of human rights in Belarus, the three experts, the Organization for Security and Cooperation in Europe and civil society organizations for the material shared with, and support provided to, it in the discharge of the mandate. OHCHR

[1] A/HRC/49/71.
[2] Pursuant to Human Rights Council resolution 49/26.
[3] A/HRC/49/71, para. 5.
[4] For more information, see https://www.ohchr.org/en/hr-bodies/hrc/ohchr-belarus/call-for-submissions.

wishes to acknowledge, with profound appreciation, the victims, survivors and witnesses who have shared their experiences and other relevant information.

III. Applicable law

9. OHCHR continued to assess the situation of human rights in the country on the basis of applicable international law, including human rights treaties to which Belarus voluntarily became a State party, as well as customary international law applicable to all States.[5] A review of relevant domestic legislation and legislative changes was also conducted.

IV. Violations of international human rights law

A. Unnecessary and disproportionate use of force

10. In the previous report, the High Commissioner found that there had been widespread unnecessary and disproportionate use of force, including the use of police batons, tear gas, kinetic impact projectiles, stun grenades and water cannons, against peaceful protesters from 9 to 14 August 2020.[6] Additional witness accounts collected by OHCHR further confirmed that such crowd control equipment and weapons were actively used to forcibly disperse protests in Minsk, at least until November 2020. The President of Belarus, Alexandr Lukashenko, stated, in August and September 2020, that he would not allow street protests.[7] Credible reports were also received on the unnecessary use of force against peaceful protesters in response to anti-war protests at the time of the constitutional referendum in February 2022. In addition to less-lethal weapons, OHCHR gathered information confirming the use of firearms during protests and documented at least two cases in which firearms had been discharged to stop cars with protesters on the streets of Minsk in August 2020.

11. OHCHR found that, in addition to various units of the Ministry of Internal Affairs and the Committee for State Security, established under and formerly part of the Committee for State Security of the Union of Soviet Socialist Republics (KGB), the authorities deployed the armed forces, in responding to the protests in 2020. The order was given by Major General Vadim Denisenko, commander of the special operations forces of the Ministry of Defence.[8] On 12 October 2020, Deputy Minister of the Interior, Gennady Kazakevich, stated that law enforcement was permitted to "use special equipment and military weapons" against protesters, if needed.[9]

12. OHCHR collected and analysed testimonies and information on several cases of deaths that allegedly resulted from unnecessary or disproportionate force used during the protests in 2020 and from a failure to protect life in detention. In at least five cases, OHCHR found reasonable grounds to believe that they were unlawful deprivation of life,[10] either resulting from the excessive use of force by law enforcement personnel, which was not strictly necessary in order to protect life or prevent serious injury from an imminent threat,

[5] The applicable legal framework was outlined in the previous report (A/HRC/49/71), paras. 11–15.

[6] A/HRC/49/71, paras. 25–30.

[7] See https://president.gov.by/en/events/soveshchanie-po-obespecheniyu-bezopasnosti-izbiratelnoy-kampanii-1596721781#block-after-media-scroll; and https://president.gov.by/en/events/meeting-with-belarusian-high-ranking-officials#block-after-media-scroll.

[8] See https://belsat.eu/ru/news/17-02-2021-sud-po-delu-shutova-stalo-izvestno-kto-prikazal-ispolzovat-vooruzhennyh-voennyh-vo-vremya-protestov/; and https://www.svaboda.org/a/31107424.html.

[9] See https://meduza.io/news/2020/10/12/mvd-belorussii-prigrozilo-ispolzovat-ognestrelnoe-oruzhie-dlya-razgona-mitingov; and https://www.reuters.com/article/us-belarus-election-protests-arms-idUSKBN26X1TT'; and official social media sources (https://t.me/pressmvd/2226' and https://www.youtube.com/watch?v=snEieUhSTfU).

[10] Human Rights Committee, general comment No. 36 (2018) on the right to life, paras. 12, 25, 27 and 29; and general comment No. 37 (2020) on the right of peaceful assembly, paras. 78 and 88; and Minnesota Protocol on the Investigation of Potentially Unlawful Death, para. 2.

or a failure to respect the right to life of a detained person. Both scenarios constitute a violation of the right to life. The cases include the deaths of the following people:

(a) Aliaksandr Taraykouski, a 34-year-old man, who was shot in the chest by a rubber shotgun slug on 10 August 2020 in the centre of Minsk;

(b) Aliaksandr Vikhor, a 25-year-old man, who died in a hospital in Homiel on 12 August 2020, after being arrested on the night of 9 August and ill-treated in detention;

(c) Henadz Shutau, a 44-year-old man, who was shot in the head on 11 August 2020 in Brest and died in a military hospital in Minsk on 19 August;

(d) Raman Bandarenka, a 31-year-old man, who was severely beaten and abducted by plain-clothes special operations servicemen in Minsk on 11 November 2020 and died in a hospital on 12 November;

(e) Vitold Ashurak, a 50-year-old man, who was an opposition activist, was sentenced, on 18 January 2021, to five years' imprisonment and who died in the penal colony in Shklou, Mahilyou region, on 21 May 2021, allegedly as a result of cardiac arrest.

13. The authorities failed to conduct impartial, prompt, effective, and transparent investigations into any of those deaths.[11] Moreover, the authorities deliberately disseminated false information to the public about the victims and the circumstances surrounding the deaths,[12] denied access for relatives and lawyers to preliminary investigation material,[13] brought charges against witnesses,[14] harassed and intimidated the victims' relatives[15] and persecuted journalists and medical professionals who opposed the official narrative.[16] Such actions by the authorities are incompatible with the State's obligations to take appropriate measures to establish the truth relating to the events leading to the deprivation of life, to ensure that potential perpetrators are brought to justice and to prevent impunity.

14. OHCHR received allegations[17] of a number of other cases of deaths in the context of protests since August 2020. Given the widespread unlawful use of force, the widespread and systematic practice of torture and inhuman treatment, including denial of medical care, and the overall situation of impunity, the actual death toll during the protests and related arrests may have been higher, and further investigation is required.

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

15. In the previous report, the High Commissioner described the widespread and systematic practice of torture and ill-treatment, that was largely punitive in nature, directed

[11] Death of Mr. Taraykouski (CAT/C/BLR/6, para. 131; and A/HRC/47/49, para. 33); death of Mr. Vikhor (CAT/C/BLR/6, para. 149; and A/HRC/47/49, para. 33); death of Mr. Shutau (CAT/C/BLR/6, para. 132; and A/HRC/47/49, para. 33); death of Mr. Ashurak: https://spring96.org/ru/news/107754; death of Mr. Bandarenka (CAT/C/BLR/6, para. 136; and A/HRC/47/49, para. 34).

[12] See https://www.sb.by/articles/ustanovlena-lichnost-pogibshego-v-besporyadkakh-nakanune-v-minske.html; and https://spring96.org/ru/news/102625.

[13] Mr. Taraykouski's case (https://www.legin.by/posts/325); Mr. Vikhor's case (https://spring96.org/ru/news/100339); and Mr. Ashurak's case (https://spring96.org/ru/news/107754).

[14] Mr. Vikhor's case (https://www.belta.by/incident/view/usk-gomelchanin-aleksandr-vihor-umer-iz-za-vnezapno-obostrivshihsja-zabolevanij-428881-2021/); and Mr. Shutau's case (https://mediazona.by/article/2021/02/25/kordukov; https://www.dw.com/ru/kak-sud-v-breste-sudil-ubitogo-uchastnika-protestov-v-belarusi-i-ego-druga/a-56693683; and CAT/C/BLR/6, para. 132).

[15] Mr. Taraykouski's case (https://www.rferl.org/a/belarus-protester--widow-donations-taxed/31311168.html); Mr. Shutau's case (https://news.zerkalo.io/life/1334.html); Mr. Ashurak's case (https://www.svaboda.org/a/31612743.html; and https://belsat.eu/news/16-12-2021-brat-pamerlaga-u-nyavoli-vitolda-ashurka-z-ehau-z-belarusi-praz-pagrozu-kryminalnaj-spravaj/).

[16] Mr. Bandarenka's case (https://www.reuters.com/article/us-belarus-politics-trial-idUSKCN2AU1HT).

[17] See https://belsat.eu/en/news/27-05-2021-at-least-15-deaths-linked-to-post-election-protests-in-belarus/; and https://belsat.eu/en/news/man-with-open-head-injury-brought-to-hospital-from-detention-center-now-in-intensive-care/.

against individuals for their real or perceived opposition to the Government or the election results.[18] OHCHR continued documenting multiple cases of torture and other cruel, inhuman or degrading treatment or punishment that occurred during the reporting period. Those acts were usually committed after arrest, in police vehicles, police stations or police detention centres. Interviewees provided OHCHR with consistent accounts of torture and ill-treatment being used during interrogation for punishment purposes and to coerce individuals into making incriminating confessions or providing information, including mobile phone passwords and login credentials.

16. OHCHR continued to document that many victims, of all ages, were violently apprehended and subjected to prolonged beatings in police vehicles with batons, fists and feet. Detainees were hit, punched and kicked in different parts of the body, resulting in head concussions, blood in the urine, kidney and eardrum membrane injuries, hematomas and fractures. Some victims were obliged to remain in bed for months, unable to walk, or were diagnosed with closed craniocerebral trauma. Beatings were accompanied by intensive psychological violence in the form of death threats, rape threats, sexually abusive comments, insults and other verbal abuse. A forensic analysis undertaken of available medical documents and images pertaining to the injuries sustained in 2020 were consistent with findings outlined in the previous report. In addition, in a minimum of eight cases, bruises mirroring shoe soles were identified on the faces, chests, backs, shoulders and legs of injured persons. Some had three or more different shoe marks on their body. OHCHR concludes that these bruises were likely acquired while the persons were on the ground, posing no danger to security forces or others, and that, depending on its severity and particular circumstances, they could meet the threshold of torture or other ill-treatment.

17. In police stations, in cases documented since May 2020, officers applied various methods of physical violence to detainees, including kicking and beating certain body parts with batons, while the detainees were tightly handcuffed. Police officers made them stand in corridors and courtyards, in stress positions, with legs spread as wide apart as possible, for prolonged periods. Officers held detainees face down on the floor, with legs pulled up, and with a rope attached to handcuffs. They deprived them of water and medical care.[19]

18. The majority of detainees, mainly men held on politically motivated charges, continue to be arrested and detained in two detention facilities, Okrestsina and Zhodzina. OHCHR has reasonable grounds to believe that detention conditions in those facilities amounted to cruel, inhuman and degrading treatment or, in some cases, torture. Victims reported being kept in severely overcrowded cells, usually exceeding more than twice the designated number of persons per cell, and being forced to sleep on concrete floors in lines, without mattresses, bedding or ventilation. The guards regularly poured high concentrations of chlorine in the cells, making detainees feel sick and unable to breathe. In most cases, detainees had no access to basic hygienic items, such as toilet paper, soap, toothbrushes and toothpaste, towels or menstrual hygiene products. Interviewees reported that they were only allowed to sit or lie down while in the cell, between 10 p.m. and 6 a.m., and were otherwise required to stand or walk. All victims interviewed were systematically deprived of sleep for days or weeks, the result of continuous artificial light, unsafe temperatures and overcrowding in cells, forced awakening and inspections conducted at night.

19. According to credible testimony, guards often behaved aggressively, subjecting detainees to verbal abuse and insults, including of a sexual and gender-based nature. OHCHR documented several consistent reports of detainees being assaulted and/or tortured with beatings and asphyxiation. In the majority of cases, detainees were not provided with the necessary medical assistance. As a result of such circumstances and detention conditions, some detainees, after their release, developed serious illnesses, including pneumonia, insomnia, mental disorders and chronic kidney disease.

20. OHCHR was informed that, in Zhodzina and temporary detention facility No. 1 in Minsk, medical checks were performed rarely and, when they were performed, were only

[18] A/HRC/49/71, para. 53.

[19] District police stations under the District Department of Internal Affairs and the Okrestsina and the Zhodzina temporary detention centres.

conducted behind the closed prison cell door and through food port windows. Detainees were not allowed to have bedding, receive packages from relatives, use a shower, have dimmed lighting at night in cells or exercise outside their cells. Some such detainees were intentionally placed in overcrowded or solitary confinement cells, with the aim of inflicting additional physical and emotional pain and suffering. Family visits and correspondence for those convicted in relation to politically motivated charges[20] were severely restricted, and yellow tags were attached to the clothing and beds of those prisoners.

21. The authorities failed to prosecute and punish acts of torture and ill-treatment committed in the aftermath of the 2020 presidential election and have been unable or unwilling to investigate similar allegations since. During the period from 9 to 14 August 2020, the former Deputy Minister of the Interior, Aleksandr Barsukov, visited Okrestina detention facility at least once, but failed to take action to stop acts of torture and ill-treatment of detainees. On the contrary, labelling victims' accounts as "disinformation", the Government initiated criminal investigations against 51 persons who filed complaints regarding the treatment they had suffered.[21]

C. Arbitrary arrest and detention

22. Regarding the events of 9 to 14 August 2020, additional interviews conducted further confirmed the findings set out in the previous report[22] indicating that the mass arrests and detentions were carried out in response to the legitimate exercise of the rights to freedom of expression, peaceful assembly and association. OHCHR found that there are reasonable grounds to believe that arrest and detention was instigated by the authorities to intimidate, punish and deter the population from leaving their homes in exercise of their rights, resulting in fear and self-censorship.[23] Besides the organizers of the protests and the participants, security forces targeted observers and bystanders, with many arrested at random. Some people with certain characteristics, such as long hair on men, a specific hair colour, facial hair or tattoos, were targeted. In addition, individuals who spoke the Belarusian language, which became one of the symbols of the protests, were often associated with the opposition movement and targeted. OHCHR also documented cases of enforced disappearance lasting several days.[24]

23. Arbitrary arrest and detention occurred not only in the immediate aftermath of the August 2020 election, but also continued thereafter. Several additional waves of arbitrary arrest and detention were identified, especially of journalists, human rights defenders and trade unions activists. They occurred in December 2020, January and February and July 2021 and April 2022. The officers conducting the arrests did not identify themselves. Even where arrest and search warrants were presented, and in most cases documented, those being arrested were not afforded the opportunity to read them. The officers forced themselves into homes, or used other forms of coercion to enter, and conducted questioning and searches, demanding that mobile phones be unlocked. Computers and other items were seized without explanation.

24. In July 2021, dozens of persons were arrested and charged with displaying symbols, such as a piece of white paper in their windows, engaging in the work of non-governmental organizations or distributing materials labelled as "extremist". The majority were sentenced to 10 to 15 days' detention. They were threatened and their phones and other items confiscated. Many were subjected to beating, and some to electric shocks. When apartments were searched, it frequently happened without a search warrant and often with the use of force. Interviewees reported not being promptly informed about the reasons for the search, seizure of property or arrest.

25. On 27 and 28 February 2022, around 1,500 persons were arbitrarily arrested and detained for taking part in demonstrations related to the 2022 constitutional referendum, and

[20] Open type correctional facility No. 45 in the Brest region.
[21] CAT/C/BLR/6, paras. 125 and 128.
[22] A/HRC/49/71, paras. 35–42.
[23] Ibid., paras. 35 and 42.
[24] Ibid., para. 40; and A/HRC/46/4, para. 51.

following with the armed attack by the Russian Federation against Ukraine, for displaying anti-war signs and banners and chanting pro-Ukrainian slogans. Some of those interviewed reported having been subjected to beating and threats during arrest and at police stations. They were later charged with violating the procedure for organizing or holding mass events.

D. Rights to due process and a fair trial

26. OHCHR established that violations of the rights to due process and a fair trial in both administrative and criminal proceedings continue to be numerous and systematic in Belarus, since the August 2020 protests. The judiciary in Belarus lacks independence, given the President's role in, and control over, the appointment, promotion and dismissal of judges and prosecutors.[25] Decisions on whether an investigation should be opened and whether a person will be detained, charged and convicted to prison terms are taken exclusively by investigators and State security forces, including the Main Directorate for Combating Organized Crime and Corruption and the Committee for State Security. The Office of the Prosecutor approved such decisions in almost all cases, with judges simply implementing the decisions.

27. Individuals appearing before courts were unable to defend themselves effectively or through legal assistance of their own choosing. Records of administrative offences drafted by law enforcement, and reviewed by OHCHR, in many cases were the only documents used as evidence and were relied upon by judges at trial, when issuing their decisions, even though they often contained factual or legal errors and false information. Trials in administrative cases continued to be conducted online via videoconference, without justification, with prosecution evidence being based mostly on the written testimony of police officers who could not be cross-examined or anonymous witnesses whose identity was not disclosed to the defence. The non-disclosure was allegedly to protect prosecution witnesses or for reasons of State security. In addition, legal counsel were not able to call or cross examine witnesses or present additional evidence and, when presented, it was not duly considered by the court. These elements, taken cumulatively, indicate that the courts do not appear to a reasonable observer to be impartial and that victims of human rights violations are effectively denied their right to appeal or other remedies.[26]

28. The information documented and testimonies gathered for the present report indicate that, in a large number of cases, the right to legal assistance was violated. The interviewees were not given access to legal assistance at various stages of the proceedings, including during the police questioning, some could only communicate with their lawyers online and shortly before the trial and the communications were not confidential.

29. Lawyers continue to be subjected to unfair disciplinary proceedings disbarment, and, in some cases, arrest, detention and prosecution, merely for performing their professional functions and duties. Hundreds of lawyers have reportedly left the profession,[27] and, since the 2020 elections, 73 lawyers were deprived from practising through disbarment, revocation of licences and prosecution,[28] further depriving victims of the right to legal counsel and a fair hearing. In May 2022, the Working Group on Arbitrary Detention found that the arrest and detention of Maxim Znak was arbitrary, as it lacked a legal basis, was due to the peaceful exercise of his rights, was the result of violations of his fair trial rights and was based on discrimination on the basis of his political opinion and his status as a lawyer of the political opposition movement.[29]

30. OHCHR documented disproportionately severe sentences passed by the courts, which are further illustrative of the instrumentalization and abuse of the justice system.[30] Such

[25] A/HRC/49/71, para. 89; CCPR/C/BLR/CO/5, para. 39; and A/75/173, paras. 21–22.
[26] A/HRC/49/71, para. 89.
[27] A/HRC/50/58, para. 85.
[28] See https://www.defenders.by/right_to_protection.
[29] A/HRC/WGAD/2022/24.
[30] OHCHR, "UN experts call for immediate release of jailed Nobel winner and other rights defenders in Belarus", press release, 10 October 2022.

sentences include those handed down against political opposition figures,[31] bloggers,[32] journalists,[33] human rights defenders[34] and lawyers.[35] In certain circumstances, grossly disproportionate sentencing could itself also amount to prohibited ill-treatment.[36]

31. In July 2022, the Criminal Procedure Code was amended to allow for special criminal proceedings, conducted in absentia, against persons who are outside Belarus for acts of terrorism, treason or sabotage, setting up an extremist organization or participation in it, participation in mass riots and calling for sanctions.[37] The amendment has been introduced to target political activists outside Belarus, punish them for speaking out and, following conviction, seize their property on the basis that they are "traitors and extremists".[38]

E. Freedoms of expression, peaceful assembly and association

32. During the period under review, the authorities continued to target those who participated in the 2020 mass protests. The authorities made increasing use of digital surveillance, with the creation of a forensic video library containing hundreds of thousands of files, leading to the identification of more than 1,400 participants in what the authorities referred to as "street terror". The authorities also used artificial intelligence to assist in the identification of "extremism" material in Telegram channels. Those identified were detained and charged with criminal and administrative offences. The use of facial recognition and other mass surveillance technology by the Belarusian authorities in order to potentially identify every participant in a peaceful demonstration, constitutes an interference with the right to privacy and has a highly detrimental effect on the enjoyment of other rights, including the rights to freedom of expression and peaceful assembly.[39]

33. Cases of public dissent, whether protests on the streets or posting critical content online, have been less frequent, since the end of 2020, as a result of the violent crackdown by the authorities, with not a single mass gathering of the opposition and supporters of change in Belarus authorized.[40] A spike in protests was documented in February and March 2022, in the context of the armed attack by the Russian Federation against Ukraine and the constitutional referendum in Belarus.[41] Displays of dissent, including online dissent, related to the anti-war movement were considered as extremism. For example, expressing criticism of the Russian military or solidarity with Ukrainian citizens was generally classified by law enforcement as incitement to national discord.[42]

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[31] A/HRC/49/71, para. 73.

[32] See https://spring96.org/en/news/107697.

[33] Radio Free Europe, "Belarusian journalist gets lengthy prison sentence on treason charge", 14 September 2022.

[34] Three members of Viasna human rights centre, including Nobel Peace Prize laureate, Ales Bialiatski, remain detained since July 2021. In September 2022, tax evasion charges were replaced with charges of smuggling and financing actions grossly violating public order, entailing a sentence of up to 12 years in prison. Another two Viasna members were convicted and sentenced to 15 and 6 years' imprisonment, in September 2022, on charges of participating in mass riots, hooliganism and the creation of extremist formations.

[35] See A/HRC/WGAD/2022/24.

[36] European Court of Human Rights, *Babar Ahmad and Others v. the United Kingdom*, Judgment of 10 April 2012, para. 237; *Harkins and Edwards v. the United Kingdom*, Judgment of 17 January 2012, para. 133.

[37] Criminal Procedure Code of Belarus, art. 468-27.

[38] See https://sk.gov.by/en/news-en/view/chairman-of-belarus-investigative-committee-dmitry-gora-guest-of-the-program-markov-nothing-personal-11700/.

[39] A/HRC/51/17, para. 43.

[40] A/HRC/50/58, para. 90.

[41] See https://sk.gov.by/ru/news-usk-gminsk-ru/view/kak-rassledujutsja-ugolovnye-dela-ekstremistskoj-napravlennosti-10737/.
See https://sk.gov.by/en/news-en/view/the-investigative-committee-initiates-criminal-cases-for-gross-violation-of-public-order-resistance-to-law-11688/.

[42] From February to November 2022, Viasna documented 23 cases of Belarusian citizens being detained and imprisoned for opposing the armed attack by the Russian Federation against Ukraine, for showing

34. As at December 2022, 1,446 persons (1,284 men and 162 women), including 10 children, were detained on what OHCHR has reasonable grounds to believe to be politically motivated charges. The use of terrorism- and extremism-related offences to intimidate, repress and prosecute individuals and organizations exercising their rights to freedom of expression, peaceful assembly and association increased. According to official data, between August 2020 and July 2022, the authorities initiated more than 11,000 criminal cases relating to extremism.[43]

35. In July 2021, the President of Belarus announced that the Government had initiated a vigorous campaign to crack down on non-governmental organizations and so-called "Western mass media".[44] The authorities applied the concept of "extremist formations" to target hundreds of social media groups and channels and private chats. Most independent Belarusian media outlets are considered "extremist" by the authorities, including hundreds of social media channels and blogs. OHCHR found that such an expansive concept of "extremism" was incompatible with the principle of legality and that domestic extremism and counter-terrorism laws were used to suppress dissent. As at November 2022, at least 1,784 persons had been convicted of crimes that are characterized as grossly violating public order, insulting the President or a representative of the authorities or inciting social discord.[45]

36. In September 2020, the President stated that mass media outlets should be agents of the State ideology, and journalists should be "the most ardent supporters of the authorities". He also maintained that independent outlets and Telegram channels were "spreading fake news destabilizing the country, destroying people's trust in the Government".[46] The authorities continued to equate independent journalism with extremism. In 2022, regional independent media outlets were actively targeted, along with the remaining nationwide ones, such as Nasha Niva, and foreign media outlets Euroradio and Charter'97. Since May 2020, the authorities have conducted 199 raids of homes and offices, arresting 625 journalists and media workers. The courts passed verdicts in many cases, and, as at December 2022, 32 journalists and media workers remained in detention, frequently serving long prison sentences.

37. By December 2022, the number of liquidated non-governmental organizations reached 757, and 416 organizations made the difficult decision to close in order to avoid potential criminal prosecution. These statistics include virtually all human rights groups working in the country. Since January 2022, an amendment[47] to the Criminal Code provides that a person taking part in activities of an unregistered organization or one that has been liquidated, faces a sentence of two years' imprisonment. The provision is aimed at intimidating civil society and has a chilling effect on civic space and the exercise of fundamental freedoms.[48] In June and November 2022, the prosecutor's office in Grodno launched the first two investigations under the amendment.[49]

38. The authorities conducted numerous searches of trade union premises and the homes of trade union leaders and activists across Belarus. On 19 April 2022, at least 23 trade union leaders and activists were detained. The International Labour Organization called for the release of trade union leaders and for an end to intimidation of those exercising the right to

solidarity with Ukrainian victims on social media platforms or for playing a Ukrainian song. See https://prisoners.spring96.org/en/table-convicted.

[43] See https://sk.gov.by/ru/news-ru/view/v-sledstvennom-komitete-podveli-itogi-raboty-za-pervoe-polugodie-11675/.

[44] See https://president.gov.by/en/events/rabochiy-vizit-v-rossiyskuyu-federaciyu-1626158209#block-after-media-scroll.

[45] See https://www.mvd.gov.by/ru/news/9186.

[46] See https://president.gov.by/en/events/meeting-with-belarusian-high-ranking-officials#block-after-media-scroll.

[47] Criminal Code of Belarus, art. 193.

[48] A/HRC/50/58, para. 28; and CCPR/C/BLR/CO/5, paras. 54–55. See also Criminal Code of Belarus, art. 193.

[49] See https://www.prokuratura.gov.by/ru/media/novosti/nadzor-za-resheniyami-po-ugolovnym-i-grazhdanskim-delam/prodolzhali-rabotat-nesmotrya-na-reshenie-suda-o-likvidatsii-obedineniya-prokuratura-grodnenskoy-obl/; and https://prokuratura.gov.by/ru/media/novosti/nadzor-za-resheniyami-po-ugolovnym-i-grazhdanskim-delam/nezakonno-organizova/.

freedom of association.[50] In July 2022, the Supreme Court dissolved the Belarusian Congress of Democratic Trade Unions, along with its four member organizations, for engaging in public affairs, and thereby allegedly exceeding their mandates, effectively quashing the independent trade union movement in the country. As at October 2022, 19 trade union activists remained in detention.

F. Sexual and gender-based violence

39. During the period under review, OHCHR documented over 100 cases of sexual and gender-based violence (involving 4 boys, 36 women and 60 men) and reviewed over 180 additional cases documented by reputable civil society organizations, whose analysis OHCHR found to be credible. The vast majority of the cases pertain to the August 2020 events. It does not fully reflect the scale of the sexual and gender-based violations and abuses committed in Belarus, which is likely to be underreported, owing to stigma, fear of reprisals and denial of access to the country. OHCHR documented nine cases involving the targeting of male victims' genitals by the anti-riot police when attacking peaceful protesters, using batons, stun guns and other weapons, as well as detained persons in police vans, police stations and detention facilities, and found an additional six cases documented and analysed by civil society organizations to be credible. Medical records analysed by OHCHR documented traumatic injuries to male genitalia, including lesions, multiple abrasions and contusions. Two women told OHCHR that they had been hit in the stomach, requiring one to have lifesaving surgery and subsequently her pregnancy terminated as a result.

40. OHCHR documented 27 cases of women who were subjected to unwanted sexual comments and hate speech and received information on an additional 5 cases documented and analysed by civil society organizations to be credible. Although women were less likely to be beaten after an arrest than male detainees, OHCHR notes that the pattern of physical violence towards female detainees on the basis of unequal power relations, and aiming to reinforce women's' perceived subordinate status, persisted, even after the most violent period of August 2020. When beating women, officers threatened to gang rape them and bragged about having carte blanche for such conduct. Women reported being forced to witness sexual and gender-based violence perpetrated against husbands, partners, other men and women, which is per se a form of sexual violence and intimidation.

41. The majority of victims of arbitrary detention who were interviewed by OHCHR reported being subjected to strip searches and cavity searches, which were performed arbitrarily, sometimes several times a day, in a degrading manner, at times in the presence of other detainees and staff and not always by persons of the same gender. Women who had been menstruating at the time of arrest remarked that squatting or bending over while being naked was particularly humiliating. OHCHR documented forced nudity in 40 cases and found an additional 137 cases, including but not limited to strip searches, documented and analysed by civil society organizations to be credible. Such cases included detainees being naked during transfers between sections of prison facilities and, in some cases, even while appearing before a judge. OHCHR documented allegations of male prison guards observing women changing clothes and using toilets, shower facilities and dressing rooms, as well as monitoring closed circuit television (CCTV) camera feeds from prison cells, potentially in violation of international standards.[51]

42. Law enforcement officers and guards used sexual and gender-based violence to arbitrarily punish those not fitting their perceptions of heteronormativity. People with coloured hair, men and boys with long hair, girls and women with short hair, non-binary persons, people with dreadlocks or tattoos and those with "pride" symbols were especially targeted.

43. OHCHR documented six cases of rape committed in police vehicles and in police stations throughout Minsk against four men and two boys. In one case, a man was raped in

[50] International Labour Organization, "Freedom of association rights: ILO Director-General calls for the release of Belarusian trade union leaders", press release, 21 April 2022.

[51] Rule 81.2 and 81.3 of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Okrestino detention centre, following the use of homophobic slurs and death threats. Using a baton, officers ruptured the victim's rectum, causing heavy bleeding, and were laughing at him instead of providing first aid, covering his mouth as he was screaming from the excruciating pain. In another case, security officials, while beating a 16-year-old boy in a police van and pressuring him to self-incriminate, inserted a stun gun into his mouth and later in a police station a police baton into his mouth, badly injuring the victim, resulting in his being sent for intensive care hospitalization. OHCHR analysed medical records in other cases detailing injuries, including those from anal penetration. OHCHR is currently investigating other alleged cases of rape perpetrated against men and women.

44. OHCHR documented 20 rape attempts and found an additional eight cases documented and analysed by civil society organizations to be credible. The cases were committed in towns and cities across Belarus, perpetrated against both male and female victims; cases included reports where security officers pulled down, tore or cut the back of the victims' lower garments, sometimes putting condoms on police batons, and pressing the batons against victims' anuses.

45. OHCHR documented 44 cases of rape threats, affecting over 12 women and almost 30 men and found an additional 30 cases documented and analysed by civil society organizations to be credible. An additional four cases documented by OHCHR involved rape threats directed at victim's partners. Some detainees were threatened by security officials or prison guards to be placed in special cells, with implicit or explicit threats of rape by other detainees. Some law enforcement officers and guards at detention facilities threatened to urinate on detainees.

46. Sexual and gender-based violence was often directed by men towards men. Victims interviewed by OHCHR noted that rape and other forms of such violence was most often committed by higher-ranking officers or those in command or under their supervision. Sexual and gender-based violence towards men was also committed by female officers. Multiple victims identified a female police officer at one police department who was particularly cruel and was described as fixated on sexual sadism.

47. OHCHR documented multiple cases in which the authorities either publicly outed or used hate speech towards detained lesbian, gay, bisexual, transgender and intersex persons in order to punish, humiliate or intimidate them and to deter others. This became a clear pattern after September 2021, as security services started regularly releasing confession videos revealing detainees' sexual orientation. The Head of the Main Directorate for Combating Organized Crime and Corruption linked support of the opposition with the support of "LGBT values" and called all such persons "scum of society".[52] Such actions and statements expose lesbian, gay, bisexual, transgender and intersex persons to life-threatening risks in the prison system, in violation of the authorities' obligation to ensure the safety and well-being of detainees.

G. Child separation and undue interference in family life

48. OHCHR documented cases of child separation, whereby authorities pressured those perceived as opposition supporters to self-incriminate or cooperate with the security forces. Dozens of interviewees, the majority of them women, indicated that law enforcement agencies had resorted to threats of child removal to State-run foster care during house searches, arrests and interrogations, which often prompted them subsequently to relocate or go into exile. Such threats were sometimes accompanied by violence in the presence of, or directed against, children or neglect by law enforcement officers. According to a recent constitutional amendment, children may be separated from their family if their parents fail to fulfil their duties, including to "instil in them a culture of respect for the historical and national traditions of Belarus".[53] In this context, separations, threats of separation and the implementation of the constitutional amendment on punitive bases are inconsistent with the

[52] See https://mlyn.by/23112021/nachalnik-gubopik-andrej-parshin-predateli-dolzhnyi-byit-nakazanyi-i-eto-vopros-vremen/.

[53] Article 32 of the Constitution of Belarus.

rights to privacy and family life, including the right of the child to family life, enshrined in articles 3 (1), 9 and 16 of the Convention on the Rights of the Child.

H. Forced exile

49. OHCHR documented at least seven cases of the forced exile of Belarusian citizens and one attempted case of forced exile of a citizen, transported or escorted to the border by the authorities and threatened with arrest if the person did not leave the country. Such expulsions amount to a violation of the rights to liberty of movement and not to be arbitrarily deprived of the right to enter one's country, enshrined in article 12 (1) and (4) of the International Covenant on Civil and Political Rights.

50. In addition, at least 100,000 individuals have sought safety abroad after the 2020 presidential election in Belarus.[54] Individuals were compelled to leave the country and were unable to safely return, owing to the threat of arbitrary detention, ill-treatment in detention and unfair trial, as well as violations of economic, social and cultural rights. Such displacement is directly connected to policies and practices employed by the Government of Belarus, including the massive crackdown on dissent and the purposefully hostile environment that prevents safe return.[55]

V. Constitutional reform

51. Constitutional amendments introduced in 2022 include the possibility of termination of citizenship.[56] In December 2022, legislation was adopted by the parliament, enabling the revocation of citizenship of a person convicted of "participation in extremist activities or causing serious harm to the interests of the Republic of Belarus",[57] which includes calling for sanctions, insulting the President, participating in mass riots or causing damage to public property. Thousands of Belarusians have already been charged with such offences, and, since July 2022, can also be tried in absentia. Public statements by the President and the Minister of the Interior confirm that the law is directed at those who have "fled and are harming the country".[58]

52. The Constitution retains the death penalty, widening the scope of the Criminal Code to broadly defined acts of terrorism involving the attempted murder of government officials or public figures.[59] Consequently, the death penalty may now be imposed for crimes not involving intentional killing, contrary to international minimum standards on the use of the death penalty, which limit it to the most serious crimes, involving intentional killing.[60]

VI. Conclusions under applicable international law

53. The collected information confirms the scale and patterns of the violations identified in the previous reports of the High Commissioner,[61] as well as their widespread and systematic nature. In the light of the foregoing information set out in the present report, The High Commissioner has reasonable grounds to believe that several violations of international

[54] A/HRC/49/71, para. 74.

[55] See https://nashaniva.com/293680, as cited in A/77/195. The author of the article indicates that, between September 2020 and May 2022 Belarusian nationals were issued with at least 650,000 visas to enter Schengen countries.

[56] Article 10 of the Constitution of Belarus.

[57] See https://pravo.by/document/?guid=3941&p0=2022062001.

[58] See https://president.gov.by/en/events/coveshchanie-po-zakonodatelstvu-o-grazhdanstve-i-provedeniyu-amnistii-1662468665#block-after-media-scrolll; and https://www.reuters.com/world/europe/belarus-plans-law-revoke-citizenship-emigre-opponents-minister-says-2022-09-06/.

[59] Article 24 of the Constitution of Belarus.

[60] International Covenant on Civil and Political Rights, article 6; and Human Rights Committee, general comment No. 36 (2018), para. 35.

[61] See A/HRC/49/71; and A/HRC/46/4.

human rights law were committed in Belarus between 1 May 2020 and 31 December 2022. They include arbitrary deprivation of the right to life and to liberty, torture and ill-treatment, including sexual violence, denial of the rights to due process and to a fair trial, arbitrary denial of the right to enter one's own country, violations of the rights to freedom of expression, peaceful assembly and association and to equal protection of the law.

54. Some of the violations may also amount to crimes against humanity, as defined in international customary law, when such acts are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.[62] Considered cumulatively, the organized nature of the violations renders it improbable that they were random and accidental. On the contrary, they appear to have been part of a campaign of violence and repression, intentionally directed at those who were – or were perceived to be – opposing the Government or expressing critical or independent voices, a campaign which consisted of the following components:

(a) Between 9 and 14 August 2020, thousands of peaceful protesters and those perceived as opposition activists were unlawfully beaten with batons by the security forces across Belarus and at least dozens were targeted with rubber bullets and stun grenades;[63] the use of force was approved at a high level within the Government and was highly coordinated;[64]

(b) Tens of thousands have been arrested since May 2020 for legitimately exercising their rights to freedom of opinion and expression, peaceful assembly and association; owing to the dedication of resources and close cooperation between law enforcement agencies, State prosecution and the judiciary, thousands were subsequently detained on what appears to be artificial and politically motivated charges; notably, between 9 August 2020 and 1 July 2022, more than 11,000 criminal cases were opened related to "extremism";[65] as at December 2022, tens of thousands have been denied their right to a fair hearing by a competent and impartial tribunal;

(c) Thousands of complaints concerning torture and ill-treatment were submitted by victims to the Investigative Committee of Belarus in 2020, and later dismissed; OHCHR documented dozens of first-hand accounts of torture and found hundreds of complaints to be credible;[66]

(d) Since August 2020, hundreds of thousands were arbitrarily denied the rights to peaceful assembly, association and freedom of expression; more than a dozen legislative amendments were promoted, since 2021, targeting political activists or those perceived as being in opposition to the Government; the President has repeatedly used incitement against that group, publicly referring to its members as "rioters", "scoundrels", "criminals", "foreign agents", "traitors", "rebels", "enemies", "extremists", "ulcers and tumours in the society" and "conspirators" and insinuating that they were involved in terrorism and the glorification of Nazism;[67] by the end of 2022, at least 870 Telegram resources and 42 media outlets had been declared "extremist", 199 raids had been made on offices and journalists' homes and 625 journalists had been detained;[68] between August 2020 and December 2022, over 757 organizations were or were in the process of dissolution by the authorities, including virtually all human rights groups working in the country; thousands were denied the right to work on political grounds.

55. During the reporting period, the Belarusian authorities failed to carry out prompt, effective, thorough, independent, impartial and transparent investigations into those gross

[62] A/HRC/49/71, paras. 84 and 86.
[63] Ibid., paras. 28–30.
[64] Ibid., para. 34.
[65] Acting High Commissioner's interim oral update on Belarus, 23 September 2022.
[66] A/HRC/49/71, paras. 50–51.
[67] See https://president.gov.by/en/media, August 2020–December 2022.
[68] A/HRC/49/71, para. 70.

human rights violations and possible international crimes, prosecute those allegedly responsible and provide effective remedies to victims, including adequate reparation.[69]

56. OHCHR collected information regarding individuals allegedly involved in the perpetration of those gross human rights violations and possible international crimes, at various levels of the chain of command, including at senior political and command levels.

VII. Accountability

57. In the previous report, the High Commissioner concluded that there was no reasonable expectation for justice to be delivered for human rights violations committed in Belarus and pointed out that, besides the lack of investigation, there was an active policy to shield perpetrators and prevent accountability.[70] Furthermore, OHCHR confirms those conclusions. One prominent example concerns law enforcement personnel wearing balaclavas while forcibly dispersing peaceful protesters, conducting arbitrary arrests and house searches and mistreating detainees. This common practice appears to be aimed at granting impunity, assuming that the persons involved cannot be identified.[71] A similar "shielding" measure is the ban on independent real-time reporting from those events and locations,[72] thereby allowing unrestrained use of force and impeding accountability.

58. On various occasions, the President praised the response of law enforcement officials to the protests. He emphasized that they acted appropriately to save the country from destruction and that they were protected by the State. An April 2021 amendment to the Law on the Internal Affairs Bodies of the Republic of Belarus absolved law enforcement officials from any responsibility for the harm caused as a result of the use of force if carried out in accordance with that Law. It authorizes the use of firearms in cases of danger to "health" and "in other cases determined by the President", without clearly restricting the use of lethal force to extreme circumstances of imminent threat of death or serious injury. Moreover, international standards require that cases of injury or death caused by law enforcement officials be promptly investigated and that arbitrary, unlawful or disproportionate use of force be prosecuted and punished as a criminal offence. Noting the Investigative Committee's announcement that "no cases of unlawful acts by the police had been identified", OHCHR is not aware of any positive measures taken by the Belarusian authorities to comply with those accountability standards during the period under review.

59. Under the amended Constitution, immunity is granted to the President for acts committed in connection with the exercise of presidential powers, even after leaving the position, which further diminishes the prospects of accountability in Belarus, where the judiciary and prosecution systems are already controlled by the President.[73]

60. The number of competent lawyers who are able and willing to assist victims of human rights violations was already extremely low in Belarus, with approximately one lawyer for 5,000 persons,[74] and has further decreased as a result of ongoing harassment and disbarment.

[69] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147), art. 3.

[70] A/HRC/49/71, paras. 54–55 and 88; and Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, paras. 16 and 18.

[71] See, for reference, European Court of Human Rights, *Ataykaya v. Turkey*, Application No. 50275/08, Judgment of 22 July 2014, paras. 52–54; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, "14th General report on the CPT's activities, covering the period 1 August 2003 to 31 July 2004", para. 34.

[72] Following amendments to the Law on Mass Events and the Law on Mass Media of 2021.

[73] Articles 84 (10), 89 (9) and 126–127 of the Constitution of Belarus; CCPR/C/BLR/CO/5, para. 39; and A/HRC/49/71, para. 89.

[74] As at July 2022, the number of lawyers in Belarus was 1,780. See https://cchr.online/wp-content/uploads/2022/09/Report-The-crisis-of-the-Belarusian-legal-profession-how-to-return-the-right-to-defense.pdf.

61. With regard to accountability avenues outside Belarus, on 8 November 2022, Belarus denounced the Optional Protocol to the International Covenant on Civil and Political Rights, thereby withdrawing from the individual complaint procedure and preventing the Human Rights Committee from receiving individual complaints, despite article 61 of the Constitution, which allows for such applications.[75]

62. Through interviews conducted in 2022, OHCHR sought the views of victims to explore potential avenues for accountability, access to justice and reparations. Victims expressed a range of different possible avenues, such as a referral of the situation in Belarus to the International Criminal Court, the establishment of an international tribunal to try those involved in gross human rights violations, the initiation by Member States of criminal proceedings and the expansion of targeted sanctions against those involved in gross human rights violations. Many victims expressed deep distrust of national courts, identifying judges as the enablers of repression. Others emphasized the need for the dissolution of State entities involved in violence and repression and for far-reaching institutional reforms. Victims also highlighted the importance of documenting violations and of collecting and preserving evidence, which were essential for accountability processes, in the context of future recognition of their status as victims. They expressed the desire that the Government acknowledge that their detention and criminal charges were arbitrary and that confessions obtained under duress had no validity. That applies also to restoring their dignity, clearing any criminal records and restoring the reputation of organizations which have been liquidated by the Government. Others mentioned the expectation of reimbursement, including by filing civil lawsuits where possible, for fines that they were obliged to pay following an unfair hearing and for losses incurred as a result of confiscated property, loss of work or payment of tuition fees without attending school. Some expressed a fear of reprisals against them or their families and raised the need for visa support to leave Belarus. The need to support victims, including those who had fled the country, with legal assistance, medical care, psychosocial support, civil documentation and livelihoods was also highlighted.

63. OHCHR is aware of efforts to initiate relevant criminal proceedings in at least six national jurisdictions outside Belarus, on the basis of the principles of universal or extraterritorial jurisdiction. It is vital that efforts to collect, document and preserve evidence of the violations continue, with a view to assisting future accountability processes.

64. OHCHR continued to collect and preserve evidence, with a view to assisting future accountability processes. In addition, it has compiled files on individuals and entities that it has reasonable grounds to believe bear responsibility for gross human rights violations, including those which may amount to crimes under international law. The files include references to relevant security and civilian structures and a summary of evidence relating to the potential suspect or suspects.

VIII. Recommendations

65. **The High Commissioner reiterates the previous 44 recommendations contained in the previous reports on Belarus.[76]**

66. **The High Commissioner recommends that the Government of Belarus:**

(a) **Immediately release all individuals who are arbitrarily detained and sentenced on political grounds, ensuring the right to remedies and reparation, and cease all other ongoing violations of human rights identified in the present report, including the systematic repression of civil society, independent media and opposition groups and individuals, and refrain from committing such violations in the future;**

(b) **Promptly initiate independent, impartial, effective and transparent investigations into all past violations of human rights, in particular those that can be qualified as crimes under international law, including mass arbitrary arrest and**

[75] See https://www.ohchr.org/en/press-releases/2022/11/belarus-withdrawal-individual-complaints-procedure-serious-setback-human.

[76] A/HRC/46/4, paras. 77–83; and A/HRC/49/71, paras. 93–95.

detention, torture and other ill-treatment, sexual and gender-based violence, enforced disappearance, and into the gender dimension of any such crimes, and ensure that investigations address the full chain of command relevant to individual criminal responsibility;

(c) **Re-accede to the Optional Protocol to the International Covenant on Civil and Political Rights;**

(d) **Seek technical assistance from OHCHR to implement the present recommendations.**

67. **The High Commissioner recommends that Member States:**

(a) **Work towards accountability through national proceedings based on accepted principles of extraterritorial and universal jurisdiction, as relevant and in accordance with international law, and, in parallel, explore further targeted measures against alleged perpetrators of grave human rights violations and abuses, while ensuring that such measures are imposed for no longer than necessary, are proportional and are subject to appropriate human rights safeguards, including human rights impact assessments and monitoring conducted by independent experts;**

(b) **Provide additional protection measures, where necessary, to protect victims, witnesses and other persons who have had to leave the country or who were expelled and those cooperating with investigative bodies in the context of promoting accountability and access to justice in Belarus;**

(c) **Maintain the human rights situation in Belarus under review of the Human Rights Council and consider, as appropriate, other accountability mechanisms consistent with the Council's practice.**

Annex I

Note verbale of 23 August 2022 from OHCHR to Belarus

1. The Office of the United Nations High Commissioner for Human Rights (OHCHR) presents its compliments to the Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva, and wishes to make reference to resolution A/HRC/RES/49/26 of the UN Human Rights Council entitled "Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath".

2. The above-mentioned resolution, inter alia, requests the High Commissioner "to continue to monitor and report on the situation of human rights, [and] to carry out a comprehensive examination of all alleged human rights violations committed in Belarus since 1 May 2020 in the run-up to the 2020 presidential election and in its aftermath."

3. In the context of the implementation of the above-mentioned resolution, OHCHR has the honour to request unhindered access for its monitoring mission to the territory of the country. OHCHR stands ready to discuss with the Permanent Mission of the Republic of Belarus relevant practical arrangements and details for the mission.

4. The Office of the United Nations High Commissioner for Human Rights avails itself of the opportunity to renew to the Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva the assurances of its highest consideration.

Annex II

Note verbale of 11 November 2022 from OHCHR to Belarus

1. The Office of the United Nations High Commissioner for Human Rights (OHCHR) presents its compliments to the Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva, and wishes to make reference to resolution A/HRC/RES/49/26 of the UN Human Rights Council entitled "Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath".

2. The above-mentioned resolution, inter alia, requests the High Commissioner to "continue to monitor and report on the situation of human rights, [and] to carry out a comprehensive examination of all alleged human rights violations committed in Belarus since 1 May 2020 in the run-up to the 2020 presidential election and in its aftermath, including the possible gender dimensions of such violations, to establish the facts and circumstances surrounding the alleged violations […]; make general recommendations on improving respect for and the protection of human rights; provide guidance on access to justice, including reparations, and accountability, as appropriate; and engage with the Belarusian authorities and all stakeholders".

3. In the context of the implementation of the above-mentioned resolution, OHCHR requested, on 23 August 2022, unhindered access for its monitoring mission to the territory of the country.

4. As of 11 November 2022, OHCHR has not yet received permission from the Government of Belarus to visit the country. The inability to visit Belarus seriously curtails the Office's ability to fully execute its mandate in good faith.

5. Considering the lack of OHCHR's access to Belarus, the Office prepared the below list of issues pertaining to the Government.

6. OHCHR respectfully requests the Government to address the queries detailed herein. OHCHR will take into account the response of the Government when drafting the next report to the Human Rights Council and may add this Note Verbale and the response of the Government as an annex to the report.

7. OHCHR would be grateful to receive replies and any other submissions that the Government may wish to present, no later than 2 December 2022.

A. Investigations and criminal proceedings

8. Please provide information on the number of complaints received since May 2020 into human rights violations, allegedly committed by law enforcement personnel, which have been promptly and effectively investigated by the competent authorities, if any and the outcome of those investigations.

9. Please provide details of remedies provided to victims of human rights violations since May 2020 if any, including reparations.

10. Please outline action taken against perpetrators of human rights violations, including prosecutions and convictions if any.

11. Please provide an update on the total number of persons investigated and prosecuted under extremism- and terrorism-related offences in 2022.

12. Please provide an update on the total number of arrests and prosecutions under Art. 24.23 of the Code of Administrative Offences for participation in unauthorized mass events in 2022.

13. Please provide information on the total number of arrests and prosecutions in 2022 under Article 193-1 of the Criminal Code (participation in the activities of non-registered, suspended or liquidated association).

14. Please provide details on the total number of persons charged and prosecuted since May 2020 for insulting the President, a judge or representative of the authorities, as well as on the criminal or administrative sanction imposed.

15. Please provide an update on the total number of "special criminal proceedings" (*in absentia*) conducted under Chapter 49 of the Criminal Procedural Code.

B. Policies and procedures

16. Please provide details on the procedure for approving a "mass event", and on the number of approved or rejected requests to hold such a "mass event" since January 2022.

17. Please clarify if there is a specified procedure for handling persons who are detained and charged, based on political affiliation or political activities, while they are in detention or serving a sentence of imprisonment.

18. Please provide details on the practice of strip search while in detention, including the grounds for conducting such searches.

19. Please outline what rules of engagement on the use of force by law enforcement officials applied during the 2020 protests and thereafter, in relation to crowd control operations.

20. Please, outline the legal grounds for involving military personnel in crowd control operations during the protests in 2020.

C. Freedom of expression and association

21. Please provide an update on the total number of civil society, non-governmental organizations and trade unions registered in Belarus since May 2020.

22. Please provide an update on the total number of civil society, non-governmental organizations and trade unions closed down by the Belarus authorities since May 2020, including details on the basis for closure.

23. Please provide information on the total number of media outlets and telegram channels that have been included in the Republican lists of extremist materials or extremist formations since May 2020.

24. Please provide an update on the total number of websites blocked, pursuant to decisions of the Belarus authorities since May 2020.

D. Due process and the right to a fair trial

25. Please provide details on how the right to counsel is guaranteed in proceedings under the Code of Administrative Offenses, as well as in disciplinary proceedings against persons in custody.

26. Please provide updated information on the total number of lawyers disbarred since May 2020 and the grounds for their disbarment.

E. Citizenship

27. Please provide details on the total number of cases of revocation of citizenship by the Belarus authorities, if any, including on the grounds for revoking citizenship since May 2020.

F. Implementation of previous recommendations

28. Please outline any steps taken to implement recommendations contained in the last two OHCHR reports on Belarus (A/HRC/49/71 and A/HRC/46/4).

G. Access

29. Please reply to the High Commissioner's Note Verbale dated 23 August 2022 requesting access to Belarus and grant such access.

30. The Office of the United Nations High Commissioner for Human Rights avails itself of the opportunity to renew to the Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva the assurances of its highest consideration.