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Situation of human rights in Belarus*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, submitted in accordance with Human Rights Council resolution 29/17.

* The present report was submitted after the deadline to take into account the parliamentary elections held in Belarus on 11 September 2016.

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

Summary

The present report is submitted by the Special Rapporteur on the situation of human rights in Belarus in accordance with Human Rights Council resolution 29/17.

The Special Rapporteur focuses on human rights in electoral processes in Belarus, especially in the context of the parliamentary elections held on 11 September 2016. He explores the patterns of purposeful and systemic human rights violations that had led to Belarus being the only country in Europe in the past decade that had no opposition members elected to its parliament. He analyses why the elections held in September have not brought improvements in the underlying oppressive governance of human rights and the Government's full control over the election outcomes, despite the admittance to the parliament of two government-independent candidates.

The Special Rapporteur concludes that the environment in which elections are held in Belarus remains non-compliant with the international human rights standards recognized by Belarus. His findings underline the deprivation of a real space for citizens to express concerns in a system that has locked out from the public debate any divergent views. Respect for the freedoms of expression, association and assembly continues to be deliberately ignored, making it inappropriate to assess the election as being fair or transparent.

The absence of a set of norms and procedures surrounding elections that is compatible with human rights, the lack of restraining elements in the exercise of power by the executive branch and a both de jure and de facto ineffective parliament in Belarus show that, while regularly held, elections have become mere symbolic reinstating ceremonies of the incumbent authority with no chance for the will of voters to transpire.

The Special Rapporteur therefore makes recommendations to improve the human rights situation in Belarus in line with the country's international obligations.

I. Introduction

A. Background

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established by the Human Rights Council in its resolution 20/13 in response to the wave of mass arrests and the crackdown by law enforcement officials in the aftermath of the presidential elections of 2010. The Special Rapporteur assumed his functions on 1 November 2012. On 1 July 2016, in its resolution 32/26, the Council extended the mandate for one year.

2. In his most recent report to the Human Rights Council (A/HRC/32/48), the Special Rapporteur described the dismal situation of human rights in Belarus, highlighting the absence of substantive change in the enshrined system of oppression of human rights.

3. The Special Rapporteur welcomed the release of six political prisoners (ibid., para. 4). However, those released have yet to have their civil and political rights reinstated. Consequently, most released political detainees, among them several former presidential and parliamentary candidates, were unable to run for office in the presidential election of 2015 and the legislative election of 2016.

4. In his previous report to the General Assembly (A/68/276), the Special Rapporteur gave an overview of the various elections and referendums held since 1991, when Belarus became an independent State. Since the issuance of that report, parliamentary elections have been held in September 2012, local elections in 2014 and a presidential election in October 2015. While the mandate of the Special Rapporteur does not entail the observation, per se, of elections in Belarus, it is the prerogative of the Special Rapporteur to assess whether the electoral process and its environment in Belarus are compatible with international human rights standards recognized by Belarus.

5. The Special Rapporteur notes that the presidential election of October 2015 was assessed by the Organization for Security and Cooperation in Europe (OSCE) as being not more open or fair than the election held in 2010. However, no violence was attested during the most recent presidential election, held in October 2015. The same holds true for the parliamentary elections held in September 2016.

6. The welcome, violence-free character of the elections held in 2015 and 2016, however, leaves the Special Rapporteur concerned that the absence of aggression by law enforcement bodies may testify to a more elaborated system of fear of manifestations of collective disappointment over the fully controlled character of the elections. The international observation mission reports of the OSCE Office for Democratic Institutions and Human Rights reveal the both legally and practically deficient character of these elections, showing no substantial variance compared with the quality of the election held in 2010, except that it was infamously marred by violence by law enforcement bodies against election-related protests.

7. The Special Rapporteur credits two basic reasons for the difference in the level of protests and the ensuing violence by law enforcement bodies between the elections held in the past two years, on the one hand, and the vote in 2010, on the other.

8. First, the entrenched, decades-long non-existence of collective vectors of expression of legitimate concerns within society, including in the economic and social areas, explains the apathy of the citizens in the face of the lack of advancement of human rights. Most citizens remain employed by the State apparatus or State-owned companies that are under the single-handed ultimate command of the sitting President of the past decades.

9. The other reason lies in the horrifying effect of the rise in the level of violent civil and international clashes in neighbouring Ukraine since 2014. An unending endangerment of lives, goods and territorial integrity in that fellow post-Soviet country are interpreted by the government media, which is the dominant source of information for the citizens of Belarus, as a direct result of the protests that preceded the changes in Ukraine. Thus, the fear of similarly developing international consequences also had a restraining effect on the free manifestation of citizens' views regarding Belarusian public issues.

10. Another improvement compared with several previous legislative elections in Belarus was the admittance to the parliament of two candidates with programmes that were critical of the incumbent administration: Hanna Kanopatskaya, of the United Civil Party, and the Deputy Chair of the Belarusian Language Society, Alena Anisim. The concession is the first in two decades, during which Belarus lacked any modicum of political variety in the parliament.

11. Analysts both worldwide and in the country explain the concessions as brought about by the need for the Government of Belarus to demonstrate change vis-à-vis some of its foreign policy partners that had long voiced their expectations of an opening in pluralism.

12. Nevertheless, even the welcome entry to the parliament of one opposition party member and one independent cultural activist demonstrated the unchanged, fully guided character of the electoral process. In the Special Rapporteur's view, while it was a gesture towards foreign policy partners, the manner of admittance of the two token opposition members served to prove to the national scene that the central command over election results had not been modified. The move was also aimed at sowing discord among opposition parties.

13. In his most recent report to the Human Rights Council (A/HRC/32/48), the Special Rapporteur noted that the elections of the 110 members of the House of Representatives, then scheduled to be held on 11 September 2016, should be seen as a benchmark for any progress with regard to civil and political rights in Belarus.

14. Indeed, the penchant of the population for stability, and the resulting protest-free and peaceful conduct of the elections in 2016, did provide the opportunity for the authorities to demonstrate their political engagement and support for a more open society at large, and for an advancement of human rights within the State. However, a lack of political will by the Administration to make progressive use of its absolute authority proved to block any reform or transition towards improved governance with regard to the rule of law.

15. No progress was made towards any of the benchmark components of free and fair elections: equal access to the media at the service of the contestants, a verifiable turnout, an honest vote count and a pluralistic parliament representing the will of the voters, as opposed to merely promoting the designs of the incumbent State apparatus.

B. Methodology

16. In the conduct of his work, the Special Rapporteur endeavours to collect as much information as possible from various sources, which include the authorities of Belarus, civil society actors inside and outside Belarus, international and regional human rights mechanisms, the diplomatic community and any other partner who can contribute to a better understanding of the situation on the ground.

17. The Special Rapporteur regrets that the Government does not cooperate with the mandate holder. His letters of requests to visit the country have remained unanswered. He again reiterates his readiness to engage, even gradually, with the Government, beginning with issues that both acknowledge as human rights concerns.

18. Given that the present report is focused on the situation of human rights in the context of the parliamentary elections of September 2016, the Special Rapporteur relied on the objective information available, chiefly from the official data, the reports of the OSCE Office for Democratic Institutions and Human Rights and the United Nations human rights mechanisms, including the Working Group on the Universal Periodic Review.

19. Before going into the details of the situation of human rights in the context of elections however, the Special Rapporteur highlights the role of the parliament in a democracy, given that elections count as the most important constitutive acts towards that basic institution of people's representative self-government. There is therefore a need to briefly recall the added value of a pluralistic parliament from a human rights perspective, as well as its founding grounds.

II. Role of the parliament in a democracy

20. According to article 25 of the International Covenant on Civil and Political Rights, "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives". The involvement of every citizen in the conduct of public affairs is broader than simply participating in elections. The State therefore has a positive obligation to ensure that citizens are provided with opportunities to express their views when they are not pleased with the conduct of public affairs. The obligation cannot be read solely as to the provision of means to support only the conduct of public affairs by the executive branch. Applied to the functioning of the parliament, the obligation takes the form of the necessary representation of diverging views within the chamber and the obligation to ensure respect for their expression.

21. A parliament is the cornerstone of any democratic system. It is where the various constituencies of society gather to exchange, confront and adjust views on the common good and ultimately shape the rules for a common destiny on the basis of a variety of inputs. Even in a changing world where citizens' expressions of interest may take different forms, chiefly through social media, parliaments are the weavers of the basic social fabric: law.

22. Traditionally, it is accepted that parliaments have the following functions: to produce law, to vote on budgets, to exercise oversight over the executive branch and

to represent the nation. Parliaments also have other roles deriving from these functions, such as advancing good governance, ensuring the rule of law and protecting and promoting human rights by adopting laws that conform to international human rights standards.

23. To fulfil these tasks, parliaments need to be inclusive, accountable and effective. A parliament needs to reflect the variety of opinions, and, to the extent possible, no one should feel that their ideas are not taken into account in debates. It therefore requires the presence of a plurality of views and opinions, expressed through freely formed and registered political parties. Accountability for a parliament means that the citizens may be able to change the political composition of their legislative body by dismissing members at regular terms — through elections — if they did not fulfil their mission as promised. A parliament should be able to discharge its functions in a way that it may be able to contribute to the legal framework, possible divergent views from the executive branch notwithstanding.

24. Experience shows that the double goal of accountability and governability of a democracy is best served with a representative process of law-making as opposed to direct democracy alone. A parliament therefore must be composed of members who bring to it the various aspirations of the people who elect them. Given that those aspirations are necessarily not only varied, but also changing, the system of representation should allow such a variety of opinions to be represented, through a pluralistic system of political parties, so as to avoid a disconnect between the aspirations and the legal corpus adopted, with the consequence of frustration being fuelled within certain parts of society.

25. The electoral system leading to the composition of a parliament is one of the many elements that can ensure the reality of its democratic nature. The overall environment in which the parliament operates (the balance between the various branches as described in a constitution) and the legal framework governing the rights and freedoms of the citizens have an influence on the way in which the parliament discharges its functions.

26. An equally constitutive part of a parliamentary, representative, elective democracy is what could be called “the parliament of opinion”, that is, multi-centred, demonopolized, competitively pluralistic media outside of the reach of the political parliament. The media should be enabled to freely reflect — and freely shape, in a demonopolized way — the ever-changing views of the public. It is sometimes difficult to make it accepted by lawmakers that the democratic function of the media entails the power to scrutinize the activities of the legislature, and that relationship must not be mechanically mutual. In a working democracy, to guarantee the open-ended character of the political process, the legal parliament should never be allowed to define the “parliament of opinion”, not even to coerce the media to replicate the political proportions of the acting legal parliament.

27. Parliaments have a critical role to play in promoting democracy, good governance and human rights and not only by ratifying international treaties. Human rights may be under threat from the executive branch or may need to be translated into new norms. Parliaments should, for example, revise laws that contain discriminatory provisions or any provision that does not comply with international human rights standards. Parliaments are therefore encouraged to participate in the universal periodic review process, notably through joint efforts by the Office of the

United Nations High Commissioner for Human Rights and the Inter-Parliamentary Union (see A/70/917, para. 40).

28. The Special Rapporteur underlines that the parliament of Belarus has in the past decades consisted solely of pro-government members. Even in the wake of the elections of 2016, it remained 97 per cent composed of admittedly pro-government members. In addition, the parliament has adopted only a handful of laws in years, and those were conceived and formulated by the presidential Administration. The bulk of the national legal system consists of presidential decrees. The parliament of Belarus therefore may be described as non-pluralistic and non-effective.

III. Elections and human rights

29. In the present report, the Special Rapporteur focuses on human rights in the context of electoral processes in Belarus, with the parliamentary elections of 11 September 2016 in mind.

30. In all countries, participation in parliamentary elections is key to linking people's will to the conduct of affairs in all spheres by the Government. The Universal Declaration of Human Rights states that "the will of the people shall be the basis of the authority of government" (art. 21 (3)). Article 25 (b) of the International Covenant on Civil and Political Rights reiterates the overarching importance of genuine periodic elections "guaranteeing the free expression of the will of the electors".

31. The conduct of free and fair elections, through processes that respect all human rights for all, is a fundamental component of political systems that respect human rights. It is within this nourishing environment that societies can live and develop without the fear of the arbitrary wielding of executive or economic power.

32. The respect for human rights when passing and applying laws is what can actually be called the "rule of law", as opposed to "rule by law". Many factors contribute to the reality of elections being respectful of human rights and actually promoting them ipso facto.

33. All citizens of voting age should be able to participate in elections and run for election, regardless of their status, social origin, gender or physical condition. Authorities should ensure that citizens have, and the media are able to offer, pluralistic access to information about candidates and political profiles. Freedom of peaceful assembly and association is needed to ensure that citizens are free to attempt, publicly and collectively, to convince others to change their opinion. Non-discriminative campaign regulations, election administration and polling equipped by independent and impartial commissions and the free movement of national and international observers are necessary to safeguard the right of any citizen to stand for election or vote without being subordinated to any "unreasonable restrictions" (art. 25 of the International Covenant on Civil and Political Rights) and without fearing retaliation for doing so. A fearless election atmosphere also depends on the availability of an effective and independent system of appeals and remedy, capable of democratically solving disputes that arise in the context of elections.

34. All the rights and freedoms mentioned above may encounter restrictions as long as those restrictions do not affect the essence of the right. The Human Rights

Committee has stated that "the relation between right and restriction and between norm and exception must not be reversed".[1]

35. The Special Rapporteur recalls that five presidential elections (1994, 2001, 2006, 2010 and 2015), five parliamentary elections (1995, 2000, 2004, 2008 and 2012) and six local elections (1995, 1999, 2003, 2007, 2010 and 2014) have been held in Belarus since 1991. Of those observed by the OSCE Office for Democratic Institutions and Human Rights, none was considered free and fair.[2]

36. That until the parliamentary elections of 2016, none of the 110 seats had gone to any opposition candidates, while in the elections of 2016 only two of them did, is a quite direct consequence of the overall human rights context surrounding elections in Belarus. The Special Rapporteur recalls that Belarus today practically still remains the only State in Europe with a parliament without an opposition force. This has invariably been the case since 2004, whether the opposition did or did not boycott the elections.

37. Overall, despite the number of parties registered (15), the party system is weak.[3] That no new party has been registered since 2000, the repeated requests for registration by several parties notwithstanding, shows the artificially frozen pattern of political life in Belarus.

38. While the Special Rapporteur welcomed the release of six political prisoners before the presidential election of October 2015, the move did not mark any substantial progress for political rights in Belarus, given that those opponents cannot run for election, their civil and political rights not having been restored.

39. The magnitude of the repression of peaceful demonstrations that followed the presidential election of 2010 characterized an overall system of oppression of the human rights of the entire Belarusian society, the toolkit for which has been gradually developed over the past six years, as described by the Special Rapporteur in all his reports. It is the view of the Special Rapporteur that the main aim of the Government with regard to civil and political rights after 2010 has been to avoid any credible contest able to shape the results of any future election. The analysis of both the legal framework and the practices of the State shows the extent to which the executive power has locked out both individual and collective attempts to channel the opinions of citizens into a direction different to that of the President.

40. In his previous report to the General Assembly (A/68/276), the Special Rapporteur had suggested that his report should be read in conjunction with the report to the Assembly of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/68/299), which addressed those freedoms in the context of elections. The two reports, being submitted at the same time to the Assembly, underscored that it was important for States to uphold their obligations to promote and protect those freedoms in general and in particular during electoral processes. The Special Rapporteur regrets that the shortcomings highlighted by his fellow Special Rapporteur remain major obstacles to the electoral process in Belarus being assessed as respectful of human rights.

[1] See Human Rights Committee, general comment No. 34 (2011) on freedoms of opinion and expression (article 19 of the International Covenant on Civil and Political Rights), para. 21.

[2] OSCE did not monitor local elections in Belarus.

[3] OSCE Office for Democratic Institutions and Human Rights needs assessment mission report, presidential election of 11 October 2015.

IV. Legal framework

41. The Electoral Code was adopted on 11 February 2000 and subsequently amended in 2000, 2003, 2006, 2010, 2011, 2013 and 2014. OSCE noted that the most recent amendments of 2013 and 2014 did not address the key recommendations that the Office for Democratic Institutions and Human Rights had made,[4] leading the latter to make additional recommendations for future amendments, in general terms on a "comprehensive legal reform", and on specific aspects such as the inclusion of "procedural safeguards that ensure integrity and transparency of all stages of the electoral process".

42. As described by the OSCE Office for Democratic Institutions and Human Rights and the Special Rapporteur, in his previous report to the General Assembly (A/68/276), the Electoral Code and other relevant legislation contain limitations to the rights and practices essential for a conduct of elections that would be respectful of human rights. The level of detailed and elaborated restrictions of the right to be elected, to vote freely, to the freedoms of expression, opinion, peaceful assembly and association and to an effective remedy, fair trial and due process, and the lack of substantive changes in the legal framework despite numerous recommendations by various mechanisms shows the executive branch as persistently ignoring the rights without which no legal environment can be conducive to the freedom and fairness of elections.

43. The Special Rapporteur recalls that the current legislation could easily be amended to allow for free and fair elections. He is aware of the establishment, on 12 February 2016, of an interdepartmental expert group on the recommendations made by the OSCE Office for Democratic Institutions and Human Rights on measures to improve the electoral process. According to the Office, the expert group made recommendations to the Central Election Commission, which adopted two of them (albeit none with legal force). One was allowing, but not requiring, the publication on the Internet of information about the sessions of election commissions and decisions on electoral disputes, as well as the rights of observers.[5] It is the understanding of the Special Rapporteur, however, that the Commission will look at possible changes to the Electoral Code only after the parliamentary elections of September 2016 have been held. Complying with the OSCE recommendations and other human rights-related recommendations therefore remained a missed opportunity to demonstrate political engagement for significant change before the elections of 2016. The Special Rapporteur is equally concerned that civil society was represented in the working group in a token way only. Nevertheless, the process demonstrated that it is technically viable to embark on reform, if the political will exists to go down the path.

44. The still-unaddressed recommendations made after the parliamentary elections of 2012 both by international observers such as the OSCE Office for Democratic Institutions and Human Rights and in reports by the Special Rapporteur, contain two

[4] OSCE Office for Democratic Institutions and Human Rights election observation mission, final report on the presidential election of 11 October 2015 in Belarus, available from www.osce.org/odihr/elections/belarus/218981.

[5] OSCE Office for Democratic Institutions and Human Rights election observation mission, parliamentary elections in Belarus, interim report, 2-26 August 2016, available from http://www.osce.org/odihr/elections/belarus/261741.

items of paramount importance. One is to guarantee the independence of election commissions, including through pluralistic composition; the other is to accomplish a transparent vote count, including a detailed procedure for full and open observation by election commission members and other stakeholders.

45. The Special Rapporteur is concerned that the assured goodwill of the authorities to address human rights issues highlighted by international human rights bodies and mechanisms is not accompanied by genuine, even if gradual, changes in the reality of political life in Belarus. In fact, a number of legislative acts or presidential decrees that do not directly address the electoral process do relate to it. In particular, the Special Rapporteur notes that the denials of registration of political parties have continued since the adoption of amendments to the Law on Public Associations on 20 February 2014. Political parties, as any other association, must be registered through the "permission-based" regime (see sect. V.B below on freedom of association), which in fact can be used to deny legality to any entity that could express opinions critical of the Administration. Another example is the adoption of presidential decree No. 5 of 31 August 2015, which prohibits the use of foreign funds by public associations for a number of purposes, including elections. Similarly, the Law on Mass Events, adopted in 2014, imposed unreasonable limits on the right of assembly.

46. The combination of an electoral code that is not respectful of human rights with an overall legal framework that is not conducive to free expression and free association makes it virtually impossible for any dissenting views to be expressed and therefore reflected in the parliament. The arbitrary picking of token oppositionists to enter the parliament, as in the elections of 2016, will not rein in the vast extent of the discretionary powers of the executive branch, allowing it not to register political parties or to deregister them. The way forward will be to fortify the basic requirements of the rule of law in Belarus.

V. Human rights and the rule of law in electoral processes

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

47. The full enjoyment of the right to freedom of opinion and expression should underpin any electoral process, before, during and after the conduct of elections. The Human Rights Committee underlined that "voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind".[6] Articles 33 and 34 of the Constitution provide such guarantees, with article 33 stating that "no monopolization of the mass media … and no censorship shall be permitted".

48. The Special Rapporteur recalls that Belarus is the only European country without privately owned broadcast media with full-country coverage. Printed private media must go through the permission-based registration process, and thereafter the State-run system of distribution.

[6] Human Rights Committee, general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service (article 25 of the International Covenant on Civil and Political Rights), para. 19.

49. The fully government-dependent status of all media outlets has persisted for decades, and the authorities did not license or register any new nationwide public journalism outlet before or during the elections of 2016. In addition, amendments made to the Law on Mass Media in July 2015 imposed a registration procedure with the Ministry of Information for any individual or entity distributing print media. As a result, it is estimated that only 30 mass media outlets in Belarus cover sociopolitical issues, and about a dozen of them have been eliminated from the State-run networks of distribution.[7]

50. Article 5 of the Constitution stipulates that political parties and other public associations are to have the right to use the State mass media under the procedure determined by the law. In the major broadcast media during the presidential elections in 2015, however, the incumbent received 48 per cent of the media coverage, while competitors received only fractions of such coverage, the maximum being 8 per cent for Ms. Korotkevich.[8] The OSCE Office for Democratic Institutions and Human Rights reported in detail on the unbalanced use of State media in favour of the President. In parallel, the privately owned news agency BelaPAN was not accessible from 3 to 5 October 2015, allegedly owing to cyberattacks. The rhetoric of the President-candidate was recycled through the State media during the campaign, thus distorting what otherwise should have been neutral language. The OSCE Representative on Freedom of the Media also expressed concern at harassment of journalists, noting a "destructive trend".[9]

51. Media access further deteriorated during the campaign of 2016. All independent monitors, as well as the intergovernmental standard-bearer OSCE Office for Democratic Institutions and Human Rights, found that news programmes on State-owned media were focused largely on the activities of the President and other State officials, as well as political statements by the Chair of the Central Election Commission. Coverage of candidates' campaign activities, meanwhile, was virtually absent and largely limited to short pre-recorded speeches.[10] It was stated in the report of the OSCE Office that such media coverage of the campaign had "narrowed the opportunity for voters to effectively receive candidate information".

52. The Special Rapporteur is very concerned at the climate of fear and intimidation that has prevailed since the crackdown of 2010 within the journalist community.

53. In particular, the legal provisions on the protection of the "reputation of the Republic" restrict free debate. Article 369-I of the Criminal Code makes it a criminal offence to discredit Belarus by giving international organizations "false information" on the situation in the country or the legal status of its citizens.

54. Several restrictions on communications at election time are designed to protect officials. In its resolution 22/6, the Human Rights Council unanimously called upon

[7] According to the Chair of the Belarusian Association of Journalists, Andrei Bastunets. See http://spring96.org/en/news/83714.

[8] See footnote 4 above.

[9] Press release dated 3 April 2015, available from www.osce.org/fom/150011.

[10] State television channels dedicated 83 per cent of their news coverage to the President and government officials, 16 per cent to the Central Election Commission and 1 per cent to all the candidates together. Statement of preliminary findings and conclusions on the parliamentary elections in Belarus, 11 September 2016, available from www.osce.org/odihr/elections/belarus/257436.

States to ensure that legal provisions did not prevent public officials from being held accountable. In Belarus, article 47 of the Electoral Code prohibits campaign materials from containing "insults or slander in relation to official persons of the Republic of Belarus and other candidates". A competing candidate found in violation of this provision can have his or her registration cancelled. The European Commission for Democracy through Law noted that in Belarus the protection of the reputation or rights of others was used to "limit, diminish, or suppress a person's right to free political expression and speech".[11]

55. The rules on accreditation demand that foreign journalists be accredited in a permission-based regime by the Government, which is also entitled to deny the accreditation of Belarusian journalists working for foreign outlets or for Belarusian media based abroad. Such legal requirements are described by the OSCE Office for Democratic Institutions and Human Rights as constituting "disproportionate and unreasonable restrictions on the freedom of expression and the right to disseminate information".

56. The amendments made to the Law on Mass Media in 2014 have also brought restrictions to the use of the Internet by the media. If an online media outlet (the owners of which are responsible for the content of but also comments on articles published) is suspected of diffusing information (including reports) relating to criminal offences or considered harmful to the interests of the country, the Ministry of Information is entitled to restrict the access to the website at issue. That the "interests of Belarus" are not defined makes it possible to block any content that does not go along with the interests of the executive branch. Furthermore, the absence of a requirement to have a court decision is another sign of the lack of rule of law in Belarus, leaving to the Government the arbitrary decision to disconnect any website of its choice. Self-censorship by online media writers or bloggers can therefore be considered as a way of surviving in such an environment.

57. In a recent report, Amnesty International describes in detail the system of surveillance in place in Belarus. According to the findings of the non-governmental organization, "the use of surveillance of mobile phone and Internet data to track the identities of protestors and to prosecute opposition political leaders and others was a significant feature of the (2010) crackdown".[12] The Special Rapporteur received similar accounts that show that the fear of communicating inhibits communication itself, including through the Internet or mobile phones, especially in the case of those who wish to express or exchange dissenting views. The level of sophistication, including technological, with which the State apparatus intrudes in the private sphere of people makes it impossible for freedom of expression to be real in Belarus.

58. Numerous cases of restriction of public discussion of issues raised in the candidates' short, pre-recorded television appeals have been brought to the attention of the Special Rapporteur. For example, the State television channels did not broadcast some of the appeals. Regional newspapers rejected the anti-nuclear

[11] OSCE Office for Democratic Institutions and Human Rights and European Commission for Democracy through Law, joint opinion on the electoral legislation of the Republic of Belarus, 2006. Available from www.osce.org/odihr/elections/belarus/25360, para. 67.

[12] See www.amnesty.org/en/latest/campaigns/2016/07/how-fear-of-surveillance-is-forcing-activists-to-hide-from-public-life-in-belarus/.

programme of the United Civil Party candidate, Nikolay Ulasevich,[13] and his appeal was not broadcast either.[14] The programme of the United Civil Party member, Yuriy Haschevatskiy, which mentioned "20 years of authoritarian rule," was rejected by the *Vecherniy Minsk* newspaper.[15]

59. Non-standard or citizen-initiated election information is regularly suppressed. This was the gist of the case of the activist, Grigoriy Grik, who was banned from displaying information on the right of citizens to participate in elections on a voluntary basis, while coerced voting — a regular occurrence during the four-day so-called "early voting" — is illegal and against the Constitution.[16]

60. Opposition candidates continue to be banned from publicly considering a boycott of an election. The Human Rights Committee considered that advocating non-cooperation with an electoral exercise must be allowed for any person (see CCPR/C/81/D/927/2000).

61. The Special Rapporteur noted the call issued by the leaders of seven opposition groups not to participate in the parliamentary elections of September 2016.[17] The Special Rapporteur deplores that the overall climate of intimidation, denounced by the opposition leaders, leads to the blockade of the electoral process and impedes any progress or transition towards more respect for fundamental rights and freedoms in Belarus.

62. The Special Rapporteur is concerned that the legal provisions in force in Belarus not only do not correspond to basic standards of free circulation of ideas in the context of elections, but also are designed precisely to control the content of what citizens may hear or say. The impact on the freedom of thought on freedom and fairness of elections in Belarus should not be underestimated.

B. Freedom of association

63. A true and vivid democracy cannot be nourished without the full respect of the right to freedom of association. According to the Human Rights Committee,[18] article 25 of the International Covenant on Civil and Political Rights entails that "citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves". Such capacity cannot be effective without the full exercise of the freedoms of expression, assembly and association.[19] Citizens should therefore be able to found and participate in political parties freely, to contribute to the progress of their society. In an effective democracy, political parties, consequently, should be free to present candidates at elections.

64. In Belarus, as noted by the Special Rapporteur in all his reports, the limits of freedom of association are grounded in numerous provisions of the criminal and

[13] See http://naviny.by/new/20160820/1471701680-nikolayu-ulasevichu-otkazali-v-publikacii-predvybornoy-programmy.
[14] See https://belapan.com/archive/2016/08/25/861712/.
[15] See http://nn.by/?c=ar&i=175860.
[16] See http://spring96.org/en/news/83768.
[17] See https://charter97.org/en/news/2016/7/14/213478.
[18] Human Rights Committee, general comment No. 25, para. 8.
[19] Ibid., para. 12.

administrative codes. In addition to restrictive laws, the application of the latter by the State has made it practically impossible since 2000 to register a political party and, consequently, to operate it freely.

65. Article 193-1 of the Criminal Code, which criminalizes any activity not authorized by the State, and article 15 of the Law on Associations, which states that registration can be refused in cases of violation of the registration formalities, are not compatible with international standards and have repeatedly been assessed as such by the Special Rapporteur and by numerous human rights mechanisms. In practical terms, citizens who wish to establish political parties or associations must go through an administrative ordeal that has been designed to discourage them.

66. The Special Rapporteur once again urges the authorities to support and encourage national non-governmental organizations that carry out electoral monitoring and voter education, which are essential for free and fair elections.

C. Political parties

67. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process.[20]

68. The Special Rapporteur refers to his previous report to the General Assembly (A/68/276), which contains a detailed section (paras. 56-61) on political parties in Belarus, and especially on the regulations that restrict the creation of political parties. These curtailments exist despite articles 4 and 5 of the Constitution, which imply the right of people to create political parties and be united in these parties without any compulsory membership, and articles 2 and 4 of the Law on Political Parties, which reaffirm the right to form political parties on the basis of freedom of association, democracy, rule of law, transparency, self-governance and the equality of all political parties and unions.

69. In particular, rules regulating financial aid to parties are overly restrictive and abuse the correct principle of transparency. Article 23.24 of the Code on Administrative Offences prohibits receiving, as well as storing and transferring, "gratuitous" foreign aid. The Code also bans foreign funding for a number of activities that are relevant for political parties, such as the preparation and conduct of elections, organization or conduct of meetings, street processions, demonstrations, picketing, strikes, production or distribution of agitation materials, conduct of seminars or any other type of political and mass agitation work with the population.

70. With such provisions, a political party can be practically deprived of any funding from abroad for any activity that is natural to its life, thus jeopardizing its mere existence as a political force.

71. There are still 15 registered political parties in Belarus, but the fact that no new political party was created during the past 16 years raises concerns regarding the adequacy of the political system for the current social and political needs of the citizens. To be able to still exist and advance their ideas, political associations

[20] Ibid., para. 26.

register as non-governmental associations, rather than parties, with the consequence that they cannot present candidates.[21]

72. The Special Rapporteur underlines the particularly difficult legal and practical environment for new concepts to emerge and be shaped in an adequate form to contribute to the political debate. As new generations are growing up without any experience in a pluralistic political culture, the sustained high level of State control over peaceful political aspirations may have gradually undermined the natural need to be confronted with different ideas.

D. Candidacy

73. The condition that the district electoral commissions in the elections of 2016 continued to have only a handful of opposition-delegated members nationwide and retained wide discretionary powers in registering candidates gave rise to the inconsistent application of the law and unequal treatment of candidates.[22] Signature verification could not be challenged by the candidates, and citizen observers were not allowed to observe it. The selective and arbitrary decisions and the insufficient transparency are directly related to the level of the rule of law in Belarus and pose barriers to candidacy, thus contravening paragraphs 7.5 and 24 of the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe, as well as paragraph 15 of general comment No. 25 of the Human Rights Committee, in which it is stated that "any restrictions on the right to stand for election … must be justifiable on objective and reasonable criteria".

E. Freedom of peaceful assembly

74. The freedom of peaceful assembly should be looked at in conjunction with the freedom of association in the context of elections. Political parties and associations should be able to conduct free campaigns and meetings, advocating their ideas and asking to take part in the public debate, in a peaceful manner. They should be able to reach out to others, just as citizens should feel free and secure to participate in such public gatherings. According to international human rights standards, the exercise of the right to freedom of assembly should not be subject to previous authorization; at most it should be subject to a prior notification procedure only for large assemblies or for assemblies where some degree of disruption is anticipated (see A/HRC/23/39, para. 52).

75. In a positive development during the elections of 2016, the instruction by the Central Election Commission for a more permissive allocation of public venues was followed by many local authorities.[23] In addition, more places for candidates to meet voters were authorized for the parliamentary elections of September 2016 compared

[21] Amnesty International, "What is not permitted is prohibited: silencing civil society in Belarus" (London, 2013), p. 6. Available from www.amnesty.nl/sites/default/files/public/belarus_eur490022013.pdf.

[22] See statement of preliminary findings and conclusions on the parliamentary elections in Belarus, 11 September 2016, available from www.osce.org/odihr/elections/belarus/257436.

[23] Ibid.

with the previous round. This is an improvement compared also with the presidential elections of October 2015.

76. Nevertheless, the authorized political parties could still not conduct gatherings freely, given that they first had to obtain permission from the local authorities, which designated locations for campaign events and for the display of campaign materials. Similarly to the association registration procedure, the authorization for public gatherings is cumbersome and discouraging and amounts to systemic harassment.

77. Article 193.1 of the Criminal Code continues to be applied to unauthorized gatherings, in a denial of the standard that the freedom of peaceful assembly should entail the right to participate freely in a peaceful assembly. In his most recent report to the Human Rights Council (A/HRC/32/48), the Special Rapporteur reported on the apparent change in the State's practice in implementing the still-valid punitive rules on participation in unauthorized public gatherings, which apply in Belarus regardless of whether the gathering was peaceful. Reports appear to indicate that such participation now leads to heavy fines rather than instant detention and incarceration. The Special Rapporteur also reported on recent cases from January 2016.

78. This practice was followed, for example, during the rally called by the opposition leader, Mikalai Statkevich, in Minsk on 12 September 2016, on the day following the elections. Law enforcement officers made participants produce their identity documents and registered their identities for later administrative procedures, as a rule leading to fines.

79. The Special Rapporteur reiterates the ongoing validity of several provisions that inhibit the right to freedom of peaceful assembly, notwithstanding an instructed lack of on-the-spot confrontation by the authorities.

80. Articles 5 and 6 of the Law on Mass Events establish excessive requirements on organizers in the process of authorization of assemblies. They must indicate in their application measures for securing public order and safety, the provision of medical services and the cleaning of the space, again in violation of international human rights norms and standards (see A/HRC/20/27, para. 31, and A/HRC/23/39, para. 57). The law does not include provisions as to what specific measures would satisfy such requirements.

81. Article 15 of the same law provides for the immediate liquidation of any organization that fails to abide by the vague notions contained in the legislation on assembly, including the violation of "the legal interests of citizens, organizations, or State or public interest".

82. Article 293 of the Criminal Code criminalizes organizers of and participants in mass disorder that results in "arson, violence against persons, pogroms, destruction of property, and armed resistance to authorities". In the aftermath of the presidential elections in December 2010, a number of people were prosecuted on the basis of this article and article 342 of the Criminal Code, which imposes sanctions for "serious breach of public order".

83. Not only restrictive by nature, the Law on Mass Events also contradicts the Electoral Code. The Human Rights Committee noted that limiting pickets to certain predetermined locations, regardless of the kind of manifestation or the number of

participants, raised doubts as to the necessity of such regulation under the obligation of Belarus to ensure the right to freedom of expression for all (see, e.g., CCPR/C/105/D/1867/2009). Furthermore, imposing penalties for "participation in an unauthorized meeting" restricts the freedom of peaceful assembly and the right to impart information (see, e.g., CCPR/C/85/D/1022/2001, para. 7.2, and CCPR/C/101/D/1604/2007, para. 10.4).

84. The Special Rapporteur is concerned that these restrictions severely curtail the right to freedom of peaceful assembly ahead of or during future elections. In any country, on election night spontaneous assemblies can happen; such restrictive measures make it impossible for the authorities to maintain public order without using excessive force and arresting people. The Special Rapporteur urges the authorities to take measures to facilitate and protect such assemblies.

F. Arbitrary arrest and detention and enforced disappearances

85. In a welcome development, the mass arrests that had taken place after the presidential election of 2010 and that prompted the international community to react by creating the mandate of the Special Rapporteur did not occur before, during or after the elections of 2015 and 2016. The Special Rapporteur notes, however, the persistence of a system of short-term arrests and detentions, on highly disputable grounds, of political opponents and activists as a method of harassment and intimidation, as also underlined by the OSCE Office for Democratic Institutions and Human Rights.[24]

86. A number of recent cases have taken place in 2016, as reported by the Special Rapporteur (see A/HRC/32/48, paras. 93, 94 and 96). Some of them have produced incarcerations that can correctly be classified as imprisonment on political grounds.

87. In particular, the Special Rapporteur is concerned at the arrest, on 14 July 2016, of Uladzimir Kondrus, who was charged with participating in the events that took place at the Government House on 19 December 2010. The Special Rapporteur shares the opinion expressed by Belarusian human rights organizations that declared Mr. Kondrus a political prisoner.[25]

88. Recently, on 29 July 2016, the Deputy Chair of the "For Freedom" movement, Ales Logvinets, received an official warning from the district election commission. The warning was issued for having organized a signature collection picket that was reportedly attended by more than 1,500 people. The week before, the Chair of the Central Election Commission, Lidiya Yermoshina, had stated that that picket might be considered to be "untimely agitation". Mr. Logvinets was notified during the first week of August that, as a consequence of the warnings, he was not registered to run as a candidate. This testifies to the actions of the authorities to curtail the rights of political leaders to stand as candidates.

89. Arbitrary administrative and criminal detention are used not only against clearly identified political activists or members of political parties but also against ordinary participating individuals, which creates an atmosphere of fear among those

[24] See footnote 5 above.

[25] Human Rights Centre Viasna, ''Human rights situation in Belarus, August 2016'', available from http://spring96.org/en/news/84740.

who would like to support political parties, whether registered or not, or take part in events, regardless of whether these have received authorization.

90. The Special Rapporteur recalls that the outstanding cases of the enforced disappearance of political opponents of the President remain unsolved, since 1999 and 2000 (see AHRC/32/48, para. 92). The effect of these unresolved tragedies and human rights atrocities lingers on the minds of politically active citizens of Belarus in an unmeasurable but clearly weighty manner. The Special Rapporteur calls upon the Government of Belarus to conduct serious investigations into these cases and to bring the perpetrators to justice. In this regard, the Special Rapporteur deplores the recent judgment by the Appeal Court regarding the appeal made by the mother of the former Minister of the Interior, Yuri Zakharanka, who was disappeared in 1999, to have his death officially recognized.

G. Administration of the electoral process

91. Denials of the right to vote to certain categories of citizens challenge the principles of equality before the law, as well as the proportionality of otherwise legitimate restrictions. Those citizens who are in pretrial detention or serving a prison sentence cannot vote, regardless of the gravity of the offence. Similarly, people who have been declared mentally incompetent by a court cannot take part in elections.

92. The electoral process regarding the House of Representatives is governed by article 28 of the Electoral Code. The process is nationally supervised by the Central Election Commission, a permanent body, and at the local level by district election commissions and precinct election commissions, which are temporary bodies. These bodies are responsible for the overall organization of the election, the registration of candidates, the voting, the counting of votes and the announcement of the results at each polling station.

93. The OSCE Office for Democratic Institutions and Human Rights election observation mission stated that “the composition of election commissions was not pluralistic, which undermined confidence in their independence”.[26]

94. Belarus has thus far declined to reform the way in which the 12 members of the Central Election Commission are selected. Half of them, including the Chair, are designated by the President, and the other half by State bodies that ultimately are also made up according to the will of the President. The Special Rapporteur notes that the current Chair has held her position for 20 years. Representative pluralism and rotation, an essential prerequisite of an impartial conduct of the elections, is entirely missing at the level of this permanent body.

95. With regard to district and precinct election commissions, they are consistently dominated by nominees of the local executive committees, very often by senior officials of local administrations, thus circumventing the legal provision prohibiting heads of local executive and administrative bodies being members of election commissions. This makes the district and precinct election commissions composed of predominantly pro-government members.

[26] Press release dated 12 September 2016, available from www.osce.org/odihr/elections/belarus/263651.

96. Despite a somewhat changed order in which the members of the election commissions are voted in, the OSCE Office for Democratic Institutions and Human Rights noted the unchanged discretionary power of local authorities to nominate the commissioners, resulting in reality in a very limited participation of opposition groups in such commissions. The Office states that such a system of appointment leaves no room for independence and impartiality at the Central Election Commission.

97. Decree No. 18 of the Central Election Commission introduced on 8 June the concept of "political qualities" as part of the selection criteria. This has resulted in a further denial of participation of people other than pro-governmental personalities in the precinct election commissions. Responding to a query for clarifications by Human Rights Defenders for Free Elections, a coalition of independent observers, the Chair of the Commission responded that "political qualities" should be interpreted as the "political views, level of representation of public associations and political parties in the region, their recognisability and credibility among the population".[27] Most local administrations interpreted it as "support for government policies". This principle has further deprived the conduct of the electoral process of a representative character, its key element.

98. All in all, in the elections of 2016, of 65,856 individuals elected as commissioners, only 53 people belonged to opposition parties (0.08 per cent).[28] The Special Rapporteur notes that this figure is even less than in parliamentary elections of 2012, when 0.1 per cent of members of precinct election commissions belonged to opposition parties.

99. Notwithstanding the requirement (para. 3.9 of the guidelines for election commissions, issued by the Central Election Commission) that decisions on disputes should be posted on the websites of the relevant local executive committee and administrative body, no information was available in most cases. Similarly, only negligible data on appeals against such decisions were available through the Commission.

VI. Election observation

100. Article 13 of the Electoral Code provides for national and international observation of the election process. Accreditation of observers from public associations and political parties at the national level is delivered by the Central Election Commission, while accreditation of other observers at the local level is delivered by the district and precinct election commissions.

101. Representatives of public associations, political parties, citizens' groups, labour collectives and media outlets have the right to be accredited as domestic observers, to attend sessions of commissions with which they are registered, and to observe election day proceedings.

102. Fortunately, Decree No. 18 adopted by the Central Election Commission provided — for the first time — for the possibility for observers, both national and

[27] Human Rights Defenders for Free Elections, report on the formation of precinct election commissions, 31 July 2016, available from https://spring96.org/files/misc/report_pecs_en.pdf.

[28] Ibid.

international, attending the meetings of the executive committees and district administrations at the time of forming the precinct election commissions. However, that process is largely preordained, and the vote on the composition of the committees is a formality. In addition, the process of verification of signatures in favour of candidates is still closed to any external observer, leading to possible manipulation.

103. Another reported improvement consisted of issued decision by the Central Election Commission to allow observers to approach the vote-counting table, albeit not closer than 3 m, and only at the fourth side of the table.[29] The Special Rapporteur notes, however, that the observers are practically still not allowed to be present, or to be sufficiently close during key moments, such as the verification of signatures for candidate registration, or to review the list of voters, or to witness the vote count or to observe the transfer of results established by the precinct election commissions to the district election commissions. The lack of transparency leaves room for manipulations of results and other data and infringes paragraph 7.4 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe.

104. As it did for the presidential election of 2010, the parliamentary elections of 2012 and the presidential election of 2015, Belarus invited the OSCE Office for Democratic Institutions and Human Rights and several other international observers to the vote in 2016. After the presidential election in 2010, the OSCE Office stated that Belarus had "a considerable way to go in meeting its OSCE commitments for democratic elections".[30] In the parliamentary elections in 2012, the mission found that many OSCE commitments, including citizens' rights to associate, to stand as candidates and to express themselves freely, had not been respected, some improvements to the electoral law notwithstanding.[31] In its report on the presidential election in 2015, the OSCE Office observed some improvements regarding election observation. As many as two thirds of the observers were representatives of State-funded public associations, however.

105. The Special Rapporteur was pleased to note that an unregistered non-governmental organization, Human Rights Centre Viasna, in alliance with other organizations, was able to observe the conduct of the electoral process. The role of independent civil election observation again proved crucial in determining the reliability of the official data, for example regarding voter turnout, vote counting and mandate allocation.

106. Key results of the parallel, independent observation by both the international and the civil observers shed light on the artificially inflated, in many cases fictitious, turnout count. This was regularly observable, especially during the so-called "early voting", a four-day process based on the intra-institution coercion of army conscripts, students, and State clerks to go to the polls. The OSCE Office for Democratic Institutions and Human rights stated that "early voting, counting and tabulation procedures were still marred by a significant number of procedural

[29] Photograph by Reuters, showing the fourth side of the vote-counting table: http://ichef.bbci.co.uk/news/624/cpsprodpb/75AE/production/_91162103_mediaitem91162102.jpg.

[30] OSCE Office for Democratic Institutions and Human rights presidential election observation mission, final report, 2011, p. 1.

[31] OSCE Office for Democratic Institutions and Human rights parliamentary election observation mission, final report, 2012, p. 1.

irregularities and a lack of transparency".[32] The independent civil observation alliance published its well-documented estimates of organized turnout inflation in statistical form.[33]

107. Other well-documented reports[34] alleged post-factum adjustments of the crucial results at precinct No. 205 in Minsk. The manipulation is assumed to be responsible for the finally published results of two opposition politicians. The United Civil Party candidate, Hanna Kanopatskaya, was declared the winner and could enter the parliament as the first opposition party member in two decades. One of her competitors was the Tell the Truth candidate, Tatyana Korotkevich, who had made her fame by running against the incumbent in the presidential election in 2015 and was considered by all analysts to be the most nationally visible opposition candidate of the campaign. The allegations of a swap were based on photographs of the changes in the committee's protocols. According to these documents, the surprising results were made possible by the leeway provided by a threefold magnification of the early voting turnout, from 169 to 501. In addition, the move resulted in discord among the opposition parties.

VII. Conclusions and recommendations

108. **The Special Rapporteur concludes that, notwithstanding some marginal progress regarding the rights of candidates to hold meetings, more openness for external observation and the recent admission of a couple of members of the opposition to the lower chamber of the parliament, the exercise of the rights to vote and to be elected remain incompatible with international human rights standards.**

109. **The systemic shortcomings, such as the absence of a free system of registration for any movement, including political parties, the lack of equal access to the media by all political streams, the absence of transparency in turn out and vote counting and registration of voters and the ongoing harassment and discrimination of unwelcome candidates, render the entire electoral process not compatible with the concept of elections that are respectful of human rights and therefore pose the question of the purpose of such a process. As already pointed out by the Special Rapporteur, elections in Belarus remain fully guided and have been transformed into ceremonial tools used to perpetuate power.**

110. **The Special Rapporteur regrets that Belarus did not take into account the numerous recommendations made by the OSCE Office for Democratic Institutions and Human Rights, the United Nations human rights mechanisms and by himself on several occasions to tackle the systemic deficiencies that underpin the electoral process in Belarus and hinder the exercise by citizens of their basic freedoms. The absence of real changes in the practices of the State apparatus and in the legal framework, notwithstanding a ready-to-implement list of recommendations, demonstrates a lack of political will to adhere to rights that are universally recognized.**

[32] See footnote 22 above.
[33] See https://spring96.org/files/images/sources/early_voting_final_report_statistics_en.png.
[34] See http://nn.by/?c=ar&i=177103.

111. **The Special Rapporteur is grateful to all those who provided detailed first-hand information. He regrets that the Government did not avail itself of this opportunity. He reiterates his readiness to work with the Government and continues to offer his support to civil society. He will continue to request an official visit to the country during 2017. In addition, the Special Rapporteur recommends that the Government:**

(a) **Conduct a holistic review of the legal framework surrounding electoral processes to make it compliant with human rights standards;**

(b) **Base such a review on the set of recommendations made by the OSCE Office for Democratic Institutions and Human Rights and the United Nations human rights mechanisms, including the Special Rapporteur;**

(c) **Ensure a transparent turnout and vote count, including for their full and open observation by election commission members and other stakeholders;**

(d) **Guarantee non-interference by the Government in the media, including the online-based outlets, and establish a pluralistic and demonopolized system of broadcasting;**

(e) **Eliminate the permission-based registration procedure for assembly, association and the press and complete the denied registration of parties and civic and human rights organizations;**

(f) **Free Uladzimir Kondrus;**

(g) **Conduct prompt, impartial and thorough investigations, as well as prosecute and punish any acts of intimidation and violence against political leaders, human rights defenders and journalists;**

(h) **Repeal article 193.1 of the Criminal Code, which criminalizes public activities without official permission;**

(i) **Ensure full rehabilitation for individuals who have been politically prosecuted and convicted, including the expunging of any criminal record and limitations on their participation in political life and elections;**

(j) **Recognize and extend full cooperation to the mandate holder by engaging in dialogue and facilitating a country visit.**