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Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin

Summary

In the present report, the Special Rapporteur on the situation of human rights in Belarus describes the situation of civil, political, economic, social and cultural rights in 2020 and early 21 in Belarus. The mandate holder documents the ongoing wave of repression in the country with evidence of massive violations unprecedented in scope and gravity. In focusing on the right to education, she also highlights systemic problems in access to quality education, tutoring in the Belarusian language, education in correctional facilities, compulsory enrolment in students' unions, the limitation of teachers' rights, and academic freedoms. The Special Rapporteur concludes that the Government should address long-standing issues by introducing concrete, durable changes. On the basis of the human rights concerns identified, she makes recommendations for concretely improving the situation of human rights of all in Belarus.



I. Introduction

A. Summary

1. The Human Rights Council established the mandate of Special Rapporteur on the situation of human rights in Belarus in 2012 by its resolution 20/13. The Council has since renewed the mandate eight times, each time for one year, in its resolutions 23/15, 26/25, 29/17, 32/26, 35/27, 38/14, 41/22 and 44/19.
2. The present report, submitted to the Human Rights Council pursuant to its resolution 44/19, covers the period from 1 April 2020 to 31 March 2021.
3. As in previous years, the Government of Belarus refused to recognize the mandate of the Special Rapporteur, thereby depriving itself of an opportunity to engage with a mechanism established to promote and protect human rights.
4. In the present report, the Special Rapporteur analyses the situation of human rights in Belarus, paying special attention to its unprecedented deterioration due to increased violations since late spring 2020. The Special Rapporteur was informed about massive police violence against protesters, cases of enforced disappearance, allegations of torture and ill-treatment and the intimidation of civil society actors.
5. The period under review was marked by the presidential election held on 9 August 2020, and the results of which were widely contested, owing to alleged multiple malpractices observed during the election campaign, when some leading opposition candidates were forced out of the electoral process, and on voting day, when vote-counting was allegedly marred by fraud. The election was immediately followed by a spontaneous and mostly peaceful popular mobilization to which the authorities responded with unjustified, disproportionate and often arbitrary force.
6. Repression surged in the days following the election and continues to the present day, with reports of beatings and ill-treatment, including the torture of arbitrarily detained persons in a seemingly premeditated way by police and affiliated forces; intimidation based on administrative resources and judicial harassment to push dissenters to self-censorship or exile; and an increasing trend towards the criminalization of activities promoting internationally recognized human rights and fundamental freedoms.
7. All segments of civil society have been and continue to be targeted: civil society organizations, independent media, human rights defenders, opposition leaders, socially and politically active people, including women, students, workers on strike, and retirees.
8. The Special Rapporteur is particularly alarmed about multiplying cases of criminal prosecution of medical staff, journalists, lawyers and human rights defenders simply for doing their job. This trend is rooted in systemic problems identified in previous reports of the mandate holder.
9. Continuous infringements on the rights to freedom of opinion and expression, assembly and association, and cultural rights, have had a negative impact on the enjoyment of the right to education.
10. The Special Rapporteur commends citizens and human rights defenders in Belarus for their dedication and resilience in peacefully demanding that human rights be respected, despite adversities. She believes that the only solution for the current crisis of political legitimacy is for the Belarusian authorities to engage in a genuine, constructive and inclusive dialogue with those representing civil society.
11. In the light of the observations made by the Special Rapporteur in the present report, attention should continue be paid to the situation of human rights in Belarus, with a view to preventing its further deterioration.

B. Methodology

12. The Special Rapporteur performs her duties in accordance with the principles of truthfulness, impartiality and independence, in compliance with the Code of Conduct for Special Procedure Mandate Holders. She seeks to establish facts on the basis of objective, reliable information provided by relevant and duly cross-checked sources, paying attention to the protection of sources of information while striving to ensure transparency.

13. On 19 January 2021, the Special Rapporteur, in accordance with the practice followed in previous years, submitted a request to the Belarusian authorities to visit the country in her official capacity. Her request remained unanswered. The Special Rapporteur regrets the lack of engagement with her mandate, and encourages the Government to review its position.

14. To prepare the present report, the Special Rapporteur was therefore forced to rely on publicly available official information, including government statements and responses to allegation letters; submissions received from civil society actors, human rights defenders, and victims and witnesses of human rights violations; reports from the diplomatic community and international and regional organizations; the recent report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus in the context of the 2020 presidential election (A/HRC/46/4); reports prepared by the treaty bodies; information on the situation in Belarus provided in the context of the third cycle of the universal periodic review;¹ and other publicly available and duly verified information.

15. Two events altered the data-gathering methodology in 2020: the coronavirus disease (COVID-19) pandemic, and the consequent travel limitations, leading to an increase in opportunities for virtual meetings and discussions with stakeholders that traditionally inform the mandate; and, against the backdrop of escalating repression, the numerous individual cases brought to the attention of the Special Rapporteur directly by victims themselves, with dozens of testimonies submitted in response to the call for contributions she launched on 15 January 2021. These first-hand sources were duly verified and cross-checked to the extent possible.

II. Engagement with the international human rights system

16. During the period under review, the Government's engagement with United Nations human rights mechanisms remained selective and non-consistent. On 2 November 2020, Belarus was reviewed during the third cycle of the universal periodic review. The Government received 266 recommendations, many of which already made during the first and second cycles (such as recommendations on establishing a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles); abolishing the death penalty; banning torture in law and in practice; and adopting a comprehensive policy against discrimination). The Special Rapporteur regrets the Government's continuous failure to implement previous recommendations.

17. During the third review of Belarus, the Government reported that it had extended a standing invitation to nine thematic special procedures to visit Belarus.² The Special Rapporteur regrets that the Government continues its earlier practice of selective cooperation with the special procedures. During the period under review, the special procedures sent seven communications to the Government, which replied to five of them. The Special Rapporteur regrets that some of the Government's replies fell short of addressing the concerns raised in the communications.

18. In 2020, the Committee on the Rights of the Child made its concluding observations on the combined fifth and sixth periodic reports of Belarus.³ The Special Rapporteur endorses the findings and recommendations made by the Committee therein, while regretting that, to

¹ See www.ohchr.org/EN/HRBodies/UPR/Pages/BYIndex.aspx.

² See A/HRC/WG.6/36/BLR/1.

³ CRC/C/BLR/CO/5-6

date, the State party has made no visible effort to implement them, in particular the recommendations regarding juvenile justice, whereby the Committee urged the State party to ensure that deprivation of liberty was used as a measure of last resort and for the shortest possible period of time, and to ensure that children and adults were detained separately and that detention conditions compliant with international standards.⁴ Furthermore, despite two reminders, the State party has not followed up on the recommendations made by the Committee against Torture in its concluding observations,⁵ although more than two years have elapsed since.

19. Belarus is a party to the first Optional Protocol to the International Covenant on Civil and Political Rights. During the period under review, the Human Rights Committee registered 117 cases from Belarusian nationals, with 206 applications pending consideration. This was the highest rate of appeals submitted to the Committee for any single State in one year. Most of the complaints referred to violations of articles 19, 21 and 22 of the Covenant.

20. The international community has paid close attention to the deteriorating situation of human rights in Belarus since the presidential election held on 9 August 2020. The Security Council discussed in Arria formula meetings the situation with the Special Rapporteur on the situation of human rights in Belarus on 4 September, and media freedom with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 January. On 18 September, the Human Rights Council held an urgent debate on the situation of human rights in Belarus and adopted resolution 45/1, in which it mandated the High Commissioner to monitor and report on the situation. On 25 February 2021, the High Commissioner presented her report to the Council.⁶ On 24 March, the Council adopted resolution 46/20, in which it extended the mandate of the High Commissioner to collect evidence of violations, with the assistance of relevant experts and special procedure mandate holders, with a view to contributing to accountability for perpetrators and justice for victims.

21. On 17 September 2020, 17 Organization for Security and Co-operation in Europe (OSCE) participating States invoked the Moscow Mechanism and mandated Professor Wolfgang Benedek to establish the facts relating to alleged human rights violations committed in the context of the presidential election held on 9 August in. Following up on the recommendations contained in the report presented by Prof. Benedek to the OSCE Permanent Council on 5 November, 19 States issued a statement supporting the launching of an international accountability platform for Belarus on 24 March 2021.⁷

III. Legal framework and related developments

22. The Special Rapporteur expresses her concern at the tightening of regulations for civil society organizations operating in Belarus. On 30 October 2020, the Ministry of Justice adopted decision No. 153-1, which requires all organizations to report in detail on their activities on a yearly basis, thereby adding an unnecessary bureaucratic burden to such organizations, notably to the smallest ones, and could be used to discriminate against those involved in the promotion of human rights.

23. Regulations pertaining to the freedom of peaceful assembly have also been tightened. On 1 March 2021, the amendments made to the Code of Administrative Offences increased punishment for participation in “unauthorized” assemblies, and introduced criminal liability for repeated violations of administrative provisions regarding public assemblies. The Special Rapporteur is deeply concerned that these amendments could further limit the legitimate exercise of the right to peaceful assembly as enshrined in international human rights law.

24. The Special Rapporteur reiterates her concern that internationally recognized provisions for non-discrimination, which are crucial for the attainment of the Sustainable Development Goals of the 2030 Agenda for Sustainable Development, have not been implemented in practice. Women and vulnerable groups, including persons with disabilities, linguistic and

⁴ Ibid., para. 43 (f) and (g).

⁵ CAT/C/BLR/CO/5.

⁶ A/HRC/46/4.

⁷ Civic Solidarity, “HRDs launch International Accountability Platform for Belarus”, 24 March 2021.

religious minorities, LGBTIQI persons and persons living with HIV are still subject to discrimination. The Special Rapporteur urges the Government to adopt a comprehensive non-discrimination policy to guarantee equal rights for all in law and in practice.

25. A consensus is emerging in Belarus that constitutional reform is necessary. On 11 February 2021, President Aleksandr Lukashenko announced before the Belarusian People's Assembly that a new Constitution would be drafted and submitted to referendum in early 2022.⁸ The Special Rapporteur regrets to note, however, that the 2,700 delegates sent to participate in the Assembly were not representative of the broader civil society, and that the debates held did not touch upon the deep-rooted causes of the current crisis.⁹ She calls upon the Government to make the discussions on constitutional reform, and the drafting process itself, more inclusive of civil society actors, including constitutional law experts with dissenting opinions, and to ensure that the promotion of human rights and the consolidation of democracy are the objectives of such a reform.

26. The Special Rapporteur is concerned about legislative developments that could further restrict freedom of opinion and expression in Belarus. Proposed amendments to the Law on Countering Extremism¹⁰ provide for the closure of organizations and individual enterprises on the grounds of "extremism", which remain ill-defined. Media covering events deemed extremist would be liable for "advocating extremism". Draft amendments to the Law on Mass Media would allow prosecutors to restrict access to Internet resources and network publications considered "extremist". Draft changes to the Labour Code propose to ban political demands during strikes, and the criminalization of repeated violations of the procedure for organizing and holding mass events. The Special Rapporteur is concerned at the grave risks that the proposed amendments could entail for freedom of expression and association and the rights to work and political participation, noting that their selective implementation could further shrink civic space in Belarus.

27. The Special Rapporteur notes that the Government has not taken concrete steps towards the establishment of a national human rights institution, despite the fact that, in the second cycle of the universal periodic review, Belarus received 17 recommendations calling for the establishment of such an institution (see A/HRC/30/3) and that 11 similar recommendations were received during the third cycle (see A/HRC/46/5). The lack of an ombudsperson continues to deprive Belarusians of the opportunity to seek protection of their human rights, thus compelling victims of violations to appeal to international human rights bodies, which risk being overwhelmed, given the severity of alleged human rights violations in recent months. The Special Rapporteur reiterates her opinion that a national human rights institution in accordance with the Paris Principles could play a vital role in promoting and protecting human rights in Belarus.

28. The second review of Belarus, held in 2015, led to the State to adopt a national human rights action plan for the period 2016–2019.¹¹ At the time of finalization of the present report, the Government had not published an implementation report allowing to evaluate progress made. The Special Rapporteur urges the Government to use the opportunity of its third review to adopt a follow-up plan for improving the national legislation and to bring it into line with international human rights law.

⁸ Belta, "Lukashenko: New Constitution will be drafted by year-end", 11 February 2021.

⁹ Media IQ, "A one-of-a-kind Leader; State-run TV actively praise Lukashenka against the backdrop of the All-Belarusian People's Assembly", Monitoring of State TV Narratives in Belarus (08/02/2021 – 14/02/2021), 16 February 2021.

¹⁰ www.prokuratura.gov.by/ru/media/novosti/zashchita-sotsialnykh-prav-grazhdan/bezopasnost-zhiznedeyatelnosti-naseleniya/generalnaya-prokuratura-podgotovleny-k-vneseniyu-izmeneniya-v-zakonodatelstvo-o-protivodeystvii-ekst/.

¹¹ See geneva.mfa.gov.by/docs/interagency_plan_of_belarus_on_human_rights_eng.docx.

IV. Human rights concerns

A. Right to life and physical integrity

29. The Special Rapporteur notes with particular concern that, by applying the death penalty and by failing to promptly investigate and ensure accountability in reported cases of arbitrary deprivation of life, Belarus violates article 6 of the International Covenant on Civil and Political Rights, and demonstrates disregard for relevant recommendations made by United Nations human rights mechanisms, including those of the Human Rights Committee.¹²

1. Death penalty

30. Belarus remains the sole country in Europe to maintain and use the death penalty as the highest measure of criminal punishment. Since 1990, more than 400 inmates on death row have been executed, and only one has been pardoned. United Nations human rights mechanisms have repeatedly called upon Belarus to abolish the death penalty. The Special Rapporteur reiterates her view that the State should demonstrate political will and engage in education and advocacy in favour of abolishing the death penalty and, as an interim measure, promptly introduce a moratorium on executions.

31. As at 31 March 2021, five people in Belarus were reportedly awaiting execution. Two of them – Viktor Paulau and Viktor Serhel – both found guilty for murder, were sentenced to the death penalty in 2019. Two others – brothers Stanislau and Illia Kostseu – were sentenced on 10 January 2020 for a murder they committed when aged 18 and 20, respectively. In 2021, Viktor Skrundzik, 29, was re-sentenced to death for murder. The trial was held after the Supreme Court overturned in June the initial death sentence handed down in March 2020.

32. A matter of particular concern for the Special Rapporteur is the fact that information on the death penalty in Belarus continues to be classified as “confidential” by the State. Neither the convicted person nor the person’s relatives receive notice of the execution date or information about the place of burial after the execution.

2. Arbitrary deprivation of life

33. During the aftermath of the election held on 9 August 2020, acts of police brutality led to the death of at least four protesters. On 10 August, Aliaksandr Taraikouski died in Minsk after being shot, even though State officials claimed that an unknown object had exploded in his hands. The death certificate indicated that his death was caused by massive blood loss from an open chest wound.¹³ No criminal proceedings have been initiated on the case. Another protester, Henadz Shutau, died in hospital from gunshot wounds to the head on 11 August after a protest march in Brest. Although the Ministry of the Interior admitted the fact of his killing,¹⁴ on 25 February 2021 the Brest regional court found him guilty of attempting to murder a law enforcement officer, who pulled the trigger, allegedly in self-defence.¹⁵ On 9 August, Aliaksandr Vikhor participated in protests in Homiel and was arrested by the police. On 11 August, he was sentenced to administrative detention for 10 days. On 12 August, Vikhor’s health deteriorated and he was taken to the hospital, where he died.¹⁶ The Investigative Committee of Belarus refused to open a case, arguing that Vikhor’s death was caused by heart disease.¹⁷

34. Minsk resident Raman Bandarenka died in hospital on 12 November after being severely beaten on the so-called “Square of Changes” by unidentified men who delivered him to a police precinct from which he was taken unconscious to the hospital. On 18 February 2021,

¹² See CCPR/C/BLR/CO/5.

¹³ “Belarusians Pay Last Respects To Protester Who Died In Post-Election Unrest”, BelarusFeed, 15 August 2020.

¹⁴ <https://spring96.org/ru/news/99348>.

¹⁵ “Dead protester convicted of attempted murder”, Viasna, 25 February 2021.

¹⁶ <https://spring96.org/ru/news/99348>.

¹⁷ <https://www.belta.by/incident/view/usk-gomelchanin-aleksandr-vihor-umer-iz-za-vnezapno-obostrivshihsja-zabolevanij-428881-2021>.

following the medical staff's claim about police ill-treatment, the General Prosecutor's office launched an investigation into Bandarenka's death under part 3 of article 147 ("intentional severe bodily harm") of the Criminal Code, adding that the involvement of law enforcement officers had not, however, been established. The case is pending with the office.

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

35. Despite repeated recommendations made by the Committee against Torture and the Human Rights Committee, and in the context of the universal periodic review, the Criminal Code of Belarus still does not define torture as a separate and specific crime. The current law does not cover all acts of torture, or punish cases of torture with penalties commensurate with its serious nature.

36. Throughout the period under review, the Special Rapporteur received credible reports of systematic and widespread torture or cruel, inhuman or degrading treatment or punishment of individuals detained in Belarus,¹⁸ including children.¹⁹ Publicly available video and photo footage and the testimony of survivors and witnesses provided sufficient grounds to confirm that torture and ill-treatment in Belarus were systematic in the days following the election.

37. When dispersing peaceful demonstrations in the months following the election, police often resorted to excessive force and special means, including brutal beatings and the use of teargas, rubber bullets, stun grenades and suffocation, among others. Numerous reports were received about abuse against arbitrarily detained individuals in police vehicles; people were held in unmarked minivans and paddy wagons for hours, often handcuffed, without food or water supplies, and were denied access to toilets or medical care.

38. The Special Rapporteur received evidence of cases of torture during the interrogation of detained protesters. Several protesters – and also passers-by – were severely beaten, and some threatened with rape, during questioning. Interrogators used verbal and psychological ill-treatment, such as insults and death threats, for example by making women watch how men, who had been stripped naked, were being beaten. Humiliating treatment was frequently used during transfers between detention facilities or cells by making detainees go through "corridors of truncheons", where security officers would systematically beat, insult and humiliate them.²⁰

39. Persons in pretrial detention or serving administrative arrest sentences have been held in inhumane conditions, in overcrowded cells lacking ventilation, access to water or to toilet privacy. Combined with delays in access to health care, such poor sanitary conditions have been a source of additional concern in the context of the coronavirus disease (COVID-19) pandemic.²¹

40. The Special Rapporteur expresses her deep concern at the ill-treatment of children who have taken part in peaceful demonstrations. An information note received from the Ministry of the Interior on 2 October 2020 indicated that, between 9 August and 29 September 2020 alone, 813 minors were detained. Many of those minors were subsequently subjected to physical violence and psychological trauma; for example, Piotr Kiryk, detained on 12 August in Minsk, was taken by the police to a minivan, where he was beaten on his back, arms and legs. The beating continued even after he informed them that he was only 16 years old.²² After being released, Piotr filed a complaint for ill-treatment by the police. The appointed

¹⁸ See "Belarus: Systematic Beatings, Torture of Protesters", Human Rights Watch, 15 September 2020; and Human Rights Center "Viasna", "Human Rights Situation in Belarus in 2020: Analytical review", spring96.org.

¹⁹ See Convention on the Rights of the Child, art. 1.

²⁰ World Organization against Torture (OMCT), "Belarus: new report exposes denial of justice for victims of torture and police violence", 26 January 2021.

²¹ See <https://spring96.org/ru/news/101521>; Human Constanta, "Belarus after the 9 August Presidential Elections", 7 October 2021; International Committee for the Investigation of Torture in Belarus, "Mass Torture in Belarus 2020", available from www.legin.by/uploads/FirstReport2020.pdf (see also www.legin.by/documents/25); and <https://belhelcom.org/sites/default/files/katavanni-daklad-2020.pdf>.

²² <https://spring96.org/ru/news/99611>.

investigative committee refused to investigate the allegations, claiming that there was no evidence that such a crime had been committed.²³

41. The Special Rapporteur reiterates that international human rights law guarantees children the right to freedom of peaceful assembly, and recalls the concluding observations of the Committee on the Rights of the Child, which in February 2020 urged Belarus to ensure that cases of violence against children were investigated and prosecuted and that perpetrators were brought to justice.²⁴

42. The Special Rapporteur notes with concern that the use of torture and ill-treatment has not abated since it reached a peak following the election on 9 August, owing to the apparent impunity guaranteed to perpetrators by the justice system. On 21 February 2021, while presenting her comprehensive report on the situation of human rights in Belarus in the context of the 2020 presidential election to the Human Rights Council, the High Commissioner recalled that preliminary investigation bodies in Belarus had received 4,644 complaints about the use of physical force and special measures by the personnel of the Ministry of the Interior affairs interrupting unsanctioned protest actions. Either the majority of the complaints made were rejected or victims were informed that investigators had seen no grounds to initiate criminal proceedings.²⁵ Moreover, many victims who lodged official complaints were subsequently subjected to intimidation by the police, judicial harassment and in some cases risked new detention or torture.²⁶

43. On 19 November 2020, the Special Rapporteur and other special procedures of the Human Rights Council expressed their concern at the increasing reports of mass detentions, intimidation and torture, and called upon the authorities to conduct a prompt, independent and impartial investigation into the excessive use of force and unlawful retaliation at peaceful protests.²⁷ At the time of writing, no criminal case had yet been opened against perpetrators. Special procedure mandate holders recalled that ensuring institutional and personal accountability for human rights violations is an obligation for States under international law.²⁸

44. Female protesters were not spared torture or ill-treatment during dispersal of demonstrations, transport and detention by police forces. Detained women were allegedly denied hygiene products and access to water and soap. Kept in small cells with dozens of other detainees, their right to privacy when using toilet facilities was denied, and it was not uncommon for male officers to enter cells without warning.

45. In addition, cases of sexual and gender-based violence against detained protesters, including rape or threats of rape, were reported, against both women and men.²⁹ Some detainees were touched or beaten on their private parts by law enforcement agents using a truncheon.³⁰ Despite assurances by the authorities that no cases of rape were reported to them, at least 143 women have claimed they were tortured or sexually assaulted by security officers.³¹

4. Arbitrary arrest and detention

46. A record number of arbitrary arrests and detentions was reported in the lead-up to and the aftermath of the 2020 election. According to Belarusian human rights groups monitoring persons who faced charges for non-violent protest activities, at the end of the period, at least 322 individuals were considered to be victims of politically motivated criminal prosecution,

²³ http://eurasia.amnesty.org/wp-content/uploads/2021/02/belarus-crackdown-on-children_web.pdf.

²⁴ CRC/C/BLR/CO/5-6, para. 21 (h).

²⁵ Anastasia Ziobina, "Police Abuse Continues in Belarus", Human Rights Watch, 21 September 2020.

²⁶ "Belarus: Impunity for perpetrators of torture reinforces need for international justice", Amnesty International, 27 January 2021.

²⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Belarus: UN experts call for probe into violence against protesters", 19 November 2020.

²⁸ OHCHR, "Belarus must end pattern of police brutality and impunity: UN experts", 1 April 2021.

²⁹ www.legin.by/documents/tretii-promezhtochanii-otchet-po-pitkam-pftki-v-otnoshenii-zhenschini.

³⁰ "Belarus: Systematic Beatings, Torture of Protesters", Human Rights Watch, 15 September 2020.

³¹ www.the-village.me/village/city/whatsgoingon/287319-women-violence.

including at least 43 women and three minors.³² These numbers include prominent political activists and opposition leaders who had been in pretrial detention since May 2020. The General Prosecutor's office confirmed that 468 criminal cases had been initiated against 631 persons.³³

47. The number of arbitrary arrests and detentions surged on 9 August, when more than 1,000 people were arrested in a single day of peaceful protests;³⁴ by 12 August, Belarusian security forces had arbitrarily detained close to 7,000 people, mostly peaceful protesters, members or supporters of the political opposition, media workers, human rights defenders, lawyers, and activists expressing dissenting views.³⁵ Many of those arbitrarily arrested later faced criminal charges under article 342 of the Criminal Code ("organization of and active participation in actions grossly violating public order"), punishable by up to three years in prison; article 293 ("organization of or participation in mass riots"), punishable by up to eight years; and article 339.2 ("hooliganism").

48. The Special Rapporteur was alarmed to learn that the persons arbitrarily arrested and detained included human rights defenders and journalists performing their professional functions of monitoring or reporting on mass events. During the pre-electoral period, tens of thousands of Belarusians joined signature collection pickets to flag their support for potential presidential candidates. Hundreds were subsequently detained on these occasions, including several journalists; for example, on 14 and 15 July, some 15 media workers covering public gatherings for their media outlets had their identity and affiliation checked by the police, even though most of them were wearing badges with valid press cards and jackets identifying them as working for the press, and were subsequently arrested.³⁶

49. Medical workers have also faced various forms of reprisals and repressions, including arbitrary arrest and detentions, while performing their professional duty to help victims of violence. On 7 November 2020, more than 50 medical workers were detained for having participated in a solidarity march.³⁷ According to information received from a non-governmental organization in February 2021, at least 17 medical workers were dismissed for expressing dissent and 48 medical students were subjected to repression; in 2020, at least 25 doctors were subjected to administrative arrest. In total, medical workers were sentenced to 780 fines and served more than 600 days of arrest. Artsyom Sarokin, an anaesthesiologist who shared medical information on the case of Raman Bandarenka with a journalist, was arrested on 19 November and sentenced to two years of imprisonment on 2 March under part 3 of article 178 of the Criminal Code for publishing a medical secret.

5. Enforced disappearances, and arbitrary and forced expulsion

50. During the mass arrests after election day, a number of cases were reported of enforced disappearance, whereby the authorities denied the detention of opposition supporters or peaceful protesters and relatives were not informed about their whereabouts for more than 24 hours. People expressing views critical of the Government's policies were seized on the street, often by masked men in unmarked uniforms or in plain clothes; relatives were unable to contact or receive information about the fate and the whereabouts of the victim of abduction for several hours or even days. Blackouts of Internet and mobile telephone communications significantly complicated the search for victims. In most cases, relatives

³² <https://prisoners.spring96.org/en>.

³³ www.prokuratura.gov.by/ru/media/novosti/nadzor-za-resheniyami-po-ugolovnym-i-grazhdanskim-delam/organy-prokuratury-napominayut-o-neotvratimosti-otvetstvennosti-za-protivopравnye-deystviya/.

³⁴ Amnesty International, "Belarus: More than 1,000 people arrested in a single day of peaceful protests amid escalating repression of rights", 9 November 2020.

³⁵ Tanya Lokshina, "Justice Is Needed for Belarus", Human Rights Watch, 16 September 2020.

³⁶ "Belarus: Crackdown on Political Activists, Journalists: Arrests, Criminal Charges, Police Beatings Ahead of August 9 Presidential Vote", Human Rights Watch, 30 July 2020.

³⁷ <https://spring96.org/ru/news/100309>.

found missing persons after they were released from detention centres or with the help of human rights volunteers, or other released detainees.³⁸

51. As a result of various forms of pressure, thousands of Belarusians have left the country since August 2020, among them human rights activists, journalists, university teachers and students and computer experts. Several prominent opposition leaders sought refuge abroad, such as Valery Tsepkalo, followed by his wife Veranika, and presidential candidate Sviatlana Tsikhanouskaya, who was forced into exile on 11 August. Following her abduction in Minsk by a group of unidentified people in civilian clothes and subsequent enforced disappearance on 7 September, Maryia Kalesnikava, a prominent member of the Coordination Council established by the opposition after the contested vote, was subsequently taken to the border with Ukraine to be expelled from Belarus, an attempt she thwarted by tearing up her passport. On 12 September, Ms. Kalesnikava was charged under part 3 of Article 361 of the Criminal Code (“calls for actions aimed at causing harm to the national security of Belarus”).³⁹

52. In addition to politically motivated cases of enforced disappearance and forced expulsions, the Special Rapporteur is concerned about threats of child removal from families who were openly supporting the opposition or participating in mass rallies. Politically active parents were notified that their family had been registered with the Department of Child Protection as having a child living in a “socially dangerous situation”.⁴⁰ According to testimonies, the threat of child seizure led several families to decide to flee the country. In July 2020, Ms. Tsikhanouskaya moved her two children out of Belarus owing to safety considerations and phone threats.⁴¹

6. Right to a fair trial

53. The Special Rapporteur observed in her latest report to the General Assembly (A/75/173) that institutional deficiencies and politically motivated interference and pressure on courts and the judiciary undermined judicial independence and negatively affected the realization of the right to a fair trial in Belarus. As much became evident in the context of the deterioration in the situation of human rights in 2020 and 2021.

54. The independence of judges has been systemically restricted in Belarus. In politically sensitive cases, judges are apparently expected to implement the requests of the General Prosecutor, whose role is to implement the executive’s repressive policy of harshly punishing dissent. Judges therefore often conduct a prosecution trial, denying defendants their rights to the presumption of innocence or to present witnesses in their defence. In the context of arrests and deprivation of liberty, consistent testimonies about delays in access to a lawyer and to other legal and procedural safeguards increase concerns. Lawyers are obliged to sign a non-disclosure agreement, which makes it difficult to have information on articles and charges. The penitentiary authorities repeatedly denied the access of lawyers to their defendants in pretrial detention, invoking sanitary precautions, even though no COVID-related preventive measures or restrictions have been officially enacted by the Government to date.

55. While protests and solidarity marches have been largely peaceful, many participants, but also passers-by and bystanders, complained about being arrested or summoned to court without having been duly informed about the charges against them and/or without having had adequate time or opportunity to prepare their defence. Many hearings against peaceful protesters have been held in police stations or places of detention, seriously restricting the publicity of trials. In August, the average time for consideration of their cases varied from two to 15 minutes. Witnesses, with their faces covered with masks or balaclavas, and using pseudonyms to protect their identity, were often indiscernible from the men in plain clothes

³⁸ <https://citydog.by/post/gde-iskat-cheloveka/>; <https://meduza.io/en/feature/2020/08/11/gone-without-a-trace>; <https://news.tut.by/society/696958.html>.

³⁹ “Maryia Kalesnikava faces formal charges”, Viasna, 17 September 2020.

⁴⁰ See <https://adcmemorial.org/wp-content/uploads/osce-report-on-vaw-1.pdf>; see also http://eurasia.amnesty.org/wp-content/uploads/2021/02/belarus-crackdown-on-children_web.pdf

⁴¹ “Under Threat, Belarusian Opposition Candidate Moves Children Out Of Country”, Radio Free Europe, 20 July 2020.

who made the arrest; in other cases no witnesses were invited or they were not called upon during hearings.⁴²

56. Multiple reports indicate a trend towards the criminalization of all forms of dissent: in the summer of 2020, the charges pressed against peaceful protesters related mostly to article 23.34 of the Code of Administrative Offences (“violation of procedures for organizing or holding mass events”). As protests became recurrent and more diverse, the General Prosecutor’s office began initiating criminal cases more systematically. On 7 March 2021, the Deputy Minister of the Interior announced that more than 2,500 criminal cases had been initiated since August 2020 on charges including “organization of mass riots” or “actions that grossly violate public order” (articles 293 and 342 of the Criminal Code), “property damage” (art. 218), “violence or threat of violence against a police officer” (art. 364), “slander” (art. 188) and “hooliganism” (art. 339).

57. The Special Rapporteur regrets that the already existing degree of pressure and harassment of lawyers – an issue addressed by the mandate holder in her recent report to the General Assembly and also by the Human Rights Committee⁴³ – intensified in 2020 and persists in 2021. Interference with the professional activities of lawyers is systemic in Belarus. The Ministry of Justice reportedly put pressure on lawyers for doing their job, when they defended persons expressing dissenting views, supporters of the opposition, victims of police violence or human rights defenders; lawyers were indeed often denied access to their clients, and faced re-licensing or disbarment, or even detention or arrest.

B. Civic space and fundamental freedoms

1. Freedom of peaceful assembly

58. The Special Rapporteur echoes the concerns repeatedly raised by the Human Rights Committee about limitations on the right to hold peaceful assemblies, including the ban on spontaneous assemblies and individual pickets.⁴⁴ In 2018, the Committee also expressed concerns regarding the policing of peaceful assemblies and the punishment of participants for criminal and administrative offences. The Venice Commission of the Council of Europe has noted that spontaneous demonstrations and counter demonstrations were de facto banned in Belarus, and that even peaceful demonstrations were criminalized.⁴⁵

59. Throughout the period under review, Belarusians claimed their right to freedom of peaceful assembly on an unprecedented scale; for the first time in the country’s history, tens of thousands of people joined signature-collection pickets and campaign rallies in support of candidates alternative to the incumbent President. Following the presidential election, large numbers spontaneously took to the streets to protest the official results, which they saw as rigged. The number of peaceful protesters reached the hundreds of thousands on the following weekends, as people joined the peaceful marches organized in solidarity with the victims of police violence and arbitrary detention. They were met, however, with repressive measures. The Special Rapporteur recalls that freedom of peaceful assembly is a human right guaranteed by several conventions to which Belarus is a party.

60. In May and July 2020, at least 1,100 peaceful protesters were arrested by the police, almost 200 people were sentenced by administrative courts to detention for up to 15 days, and more than 300 were fined.⁴⁶ The measures taken by the authorities to police and to prevent the recurrence of these assemblies included the massive deployment of armed police and security personnel; excessive use of force by police and military officers, with the help of unidentified men in plain clothes; and the detention of large numbers of protesters and

⁴² https://spring96.org/files/book/en/2020_belarus_august_justice_for_protesters_en.pdf.

⁴³ CCPR/C/BLR/CO/5, para. 41.

⁴⁴ See CCPR/C/BLR/CO/5.

⁴⁵ Council of Europe, “Venice Commission on Belarus: spontaneous peaceful demonstrations and counterdemonstrations are de facto banned and non-violent demonstrations criminalised”, media release, 22 March 2021.

⁴⁶ <https://spring96.org/en/news/97358>; <https://spring96.org/en/news/98021>; <http://spring96.org/en/news/98647>.

bystanders. The unannounced inauguration of Aleksandr Lukashenko as President on 23 September triggered a new surge in protests and at least 364 detentions. Reportedly, water cannon, chemical irritants and firearms for warning shots were used against peaceful protesters, with new reports of beatings or other forms of ill-treatment during their detention.

61. Several socioprofessional categories suffered targeted administrative repression – detention for up to 15 days, and fines (pursuant to article 23.34 of the Code of Administrative Offences) – for having participated in the August protests or subsequent peaceful marches. Between August and November 2020, at least eight clergymen faced administrative charges and 24 worshippers were detained during prayer and faced administrative charges. In October, the Free Association of Athletes of Belarus documented 22 cases of reprisal, including arrests, threats and dismissal from the national team, made against athletes and people connected to their movement.⁴⁷ Workers in the field of culture,⁴⁸ enterprise personnel and trade unionists,⁴⁹ teachers and students,⁵⁰ and even pensioners (who organized their own weekly march starting on 23 November) were among those sentenced.

62. In November 2020, the authorities began to intensify the practice of criminal prosecution of peaceful protesters. On 1 November 2020, the Investigative Committee of Belarus reported that, of those arrested, 231 persons were being treated as suspects in criminal cases pertaining to the organization of and active participation in “actions that grossly violated public order”. According to the data received, since the beginning of the current cycle of repression in May 2020, more than 2,300 criminal cases have been initiated against participants in peaceful assemblies.

63. According to data collected by the volunteer service of the human rights centre Viasna on 26,579 detentions in 46 localities across Belarus in 2020, 20 per cent were women, 171 were minors, and 57 were foreigners.⁵¹ Peaceful assemblies and protests continue in Belarus in 2021, as does the repressive response of the authorities.

2. Freedom of association

64. The Special Rapporteur noted with concern that the situation of freedom of association further deteriorated during the period under review, as reflected in the pressure on and intimidation of civil society organizations, trade unions and other associations. The Government continued to violate the right to freedom of association by means of politically motivated restrictions and acts of reprisal, arrests and persecution, particularly of people involved in human rights activities. In addition to systemic administrative hurdles, civil society organizations were subjected to an unprecedented wave of financial and other inspections, including police raids and searches at private apartments.

65. Several human rights defenders and activists are currently imprisoned for having provided, through their organizations, charity support to persons detained during the post-electoral crackdown in the form of legal assistance or solidarity funds to pay for fines. Charges were pressed under part 3 of article 293 of the Criminal Code (“training or other preparation of persons for participation in mass riots, or financing of such activity”). Student Maryia (Marfa) Rabkova, coordinator of the Volunteer Service of Viasna, has been detained since 17 September 2020 on such charges.⁵² Additional criminal charges were pressed against her on 12 February 2021 under part 2 of article 285 (“participation in a criminal organization”) and part 3 of article 130 (“incitement to hatred against another social group committed by a group of persons”). She faces up to 12 years of imprisonment.⁵³

⁴⁷ “IOC must join with Belarusian athletes to ensure human rights and sport are protected”, UNI Global Union, 7 October 2020.

⁴⁸ <https://pen-centre.by/en/2021/01/28/bez-prava-na-kulturu-belarus-2020.html>.

⁴⁹ www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_776025.pdf.

⁵⁰ https://zbsunion.by/en/news/pressure_on_students.

⁵¹ <https://spring96.org/en/news/101223>; <http://spring96.org/ru/news/99641>.

⁵² <https://prisoners.spring96.org/en/person/marfa-rabkova>.

⁵³ <https://spring96.org/ru/news/101878> <http://spring96.org/ru/news/102517>.

66. On 16 February 2021, police simultaneously conducted 90 searches of the offices and private homes of several human rights defenders and journalists, accusing their organizations of financing or otherwise supporting protests and extremist activities. Non-governmental organizations receiving funds from abroad were especially targeted with a view to establish a possible link with “financing illegal mass events” and payment of fines by third-party organizations, including foreign charities set up by the diaspora.⁵⁴ The Belarusian Association of Journalists and Viasna were among the organizations targeted by the crackdown. On 5 March, the Investigative Committee opened a criminal case against Viasna under article 342 (“organization of and active participation in group actions that grossly violate public order”) and article 293 of the Criminal Code (“funding and other material support for illegal mass events”).⁵⁵

67. New measures on countering terrorism financing, which tightened the financial reporting system for public associations and foundations, entered into force in November 2020. Many civil society organizations criticized the measures, given that they had not been consulted beforehand, and argued that financial reporting and unplanned inspections put undue additional pressure on them.⁵⁶ Access to funding, particularly international assistance, has been a challenge for a long time; civil society organizations have been forced to register with the Department of Humanitarian Affairs in order to be able to receive donations from abroad. The situation with foreign funding has deteriorated since August 2020.⁵⁷

68. The Special Rapporteur was informed that the practice of forcing workers and employees to join State-controlled trade unions persists in Belarus, while discriminatory practices (such as smaller bonuses) are reported in the case of non-members, which amount to a systemic violation of article 2 of the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention. On the other hand, as the mandate holder has observed in previous reports, members of independent trade unions face various forms of repression.

69. Limitations were also imposed on the right of trade unions to call a strike. Workers who participated in strikes supporting the protests in large State-owned enterprises faced charges for their actions.⁵⁸ Trade unions are also used to put pressure on workers. The Special Rapporteur is very concerned about the fact that, in January 2021, several employees of enterprises and organizations were “strongly encouraged” to sign a petition drafted by the Federation of Trade Unions about the possible consequences of economic sanctions against Belarus. The petition was signed by 1 million people within three days.⁵⁹

3. Freedom of opinion and expression

70. The situation of freedom of opinion and expression, including freedom of the media, has been a significant concern since the establishment of the mandate of the Special Rapporteur in 2012. In the 2020 edition of its World Press Freedom Index, the non-governmental organization Reporters without Borders ranked Belarus 153rd of 180 countries. During the period under review, the situation further deteriorated in the context of the presidential election as the pressure on and harassment and intimidation of independent media escalated, reaching unprecedented an scope and intensity.

71. After the news of the arrests and beatings of protesters and journalists spread before the election, the President called upon the Government to expel foreign journalists from Belarus, alleging that they were biased and that they had called for “mass disruptions”. The Special Rapporteur recalls that, in November 2018, the Human Rights Committee expressed its concern about the reported harassment and persecution of journalists working for foreign, unaccredited news outlets.⁶⁰ In June, the President accused Telegram social media channels

⁵⁴ www.belta.by/incident/view/sk-ustanovleny-neodnokratnye-fakty-finansirovaniya-nezakonnyh-massovyh-meroprijatij-427231-2021/.

⁵⁵ <https://spring96.org/en/news/102280>.

⁵⁶ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26032>.

⁵⁷ www.lawtrend.org/freedom-of-association/izmeneniya-v-zakonodatelstve-ob-inostrannoj-bezvozmezdnoj-pomoshhi.

⁵⁸ See IndustriALL, “Workers’ and human rights violations in Belarus must stop”, 21 January 2021.

⁵⁹ <https://finance.tut.by/news716984.html?c>.

⁶⁰ CCPR/C/BLR/CO/5, para. 49 (e).

of spreading “fake news” and fuelling public protests.⁶¹ On 10 August, he claimed that the Internet outages had been caused by a foreign cyberattack, although experts attributed the disruptions to government interference by means of the State-owned company Beltelecom.⁶²

72. The wave of arrests and detentions of media workers reached its peak in August and September 2020. According to the Belarusian Association of Journalists, in 2020, at least 477 journalists were detained, 97 served administrative arrests and 15 were prosecuted.⁶³ Reporters without Borders assessed that, while in August 10 per cent of arrested journalists were sentenced to administrative detention, by November that proportion had increased to nearly one in every two journalists, and the average time spent in detention had increased to 13 days.⁶⁴ At least 62 journalists were subjected to violence or ill-treatment in 2020. The Belarusian Association of Journalists found that, as at 31 March 2021, 15 media workers are facing criminal charges, and that at least three of them were serving a prison sentence:⁶⁵ Katsiaryna Bakhvalava (Andrejeva) and Darya Chultsova from Belsat TV were sentenced to two years in prison for live-streaming the protests held 15 November,⁶⁶ and Katsiaryna Barysevich from Tut.by was sentenced to six months for contesting the official version that Raman Bandarenka was drunk at the time of his arrest; she was charged under part 3 of article 178 of the Criminal Code (“disclosure of medical secrets, which led to grave consequences”). Nine journalists are currently in jail under criminal investigation.

73. Internet-based independent media and information channels in social media were also targeted by the authorities. The Ministry of Information, accusing the news agency Tut.by of “spreading inaccurate information that could harm public interest”, suspended its status of media outlet for three months as of 1 October 2020. The Supreme Court upheld the decision in appeal, which exposed journalists working for Tut.by to liability for reporting without accreditation. Belsat TV channel, also Internet-based, has endured multiple forms of pressure from the Government for years. On 7 December, Belsat employees Liubou Luniova and Ivan Kurakevich were detained before the start of the “March of Wisdom” protest in Minsk. The next day, Luniova was hospitalized. On 20 October, Telegram-based popular channel Nexta was officially designated as “extremist”; according to article 17.11 of the Code of Administrative Offences, just reposting its materials could subject authors to fines. The Investigative Committee called upon Poland to extradite the administrators of Nexta.⁶⁷

74. Raids, searches, interrogations and other forms of pressure and intimidation of the media continue in 2021. On 14 January, the editorial office of the independent news agency BelaPAN was subjected to a search,⁶⁸ ostensibly in connection with a probe launched against a former employee, journalist Andrei Aliaksandrau, who was arrested on 13 January and charged with having participated in protests.⁶⁹ Several international observers, including the OSCE Representative on Freedom of the Media, expressed grave concern about the mass searches targeting media workers throughout Belarus on 16 February.⁷⁰

75. Given the State’s restrictive legislation pertaining to the media and its selective use for silencing dissenting voices, the broad interpretation and usage that can be made of article 17.11 of the Code of Administrative Offences and of the amended Law on Extremism, the Special Rapporteur is particularly concerned about the risk of a further limitation of the

⁶¹ “Belarus: Crackdown on Political Activists, Journalists”, Human Rights Watch, 30 July 2020.

⁶² Tanya Lokshina, “Internet Disruption in Belarus: Access to Platforms, Sites Blocked, but Protests Continue”, Human Rights Watch, 11 August 2020.

⁶³ <https://baj.by/en/analytics/figures-year-repression-media-and-journalists-belarus-2020>.

⁶⁴ “RSF’s 15 recommendations for ending the four-month-old crackdown on press freedom in Belarus”, Reporters without Borders, 9 December 2020.

⁶⁵ See <https://baj.by/en/analytics/repressions-against-journalists-belarus-2021-chart>.

⁶⁶ Ivan Nechepurenko, “Belarus Jails 2 Journalists for Covering Protests”, *The New York Times*, 18 February 2021.

⁶⁷ www.kp.by/online/news/4178466/.

⁶⁸ <https://spring96.org/ru/news/101319>.

⁶⁹ <https://spring96.org/ru/news/101908>.

⁷⁰ “Belarus: Raid on Journalists’ Homes Signals Fresh Crackdown”, Article 19, 16 February 2021; “OSCE Media Freedom Representative deeply concerned about state of media freedom and freedom of expression in Belarus”, OCSE, 16 February 2021.

freedom of expression in the name of the fight against extremism. She noted a renewed trend towards the repression of any display of white-red-white flags, which would qualify as extremist under the new law.⁷¹

4. Right to participate in public life

76. The Special Rapporteur has identified systemic problems leading to human rights violations during elections in Belarus (see A/74/196). Her recommendations on guaranteeing pluralistic and transparent conditions for campaigning and voting are, however, yet to be implemented. In the run-up to the 9 August 2020 presidential election, she pointed out the deteriorating situation with regard to civil and political rights.⁷² Throughout 2020, she received reliable information alleging violations of basic principles for democratic elections, as well as multiple complaints about the intimidation, harassment and detention of opposition candidates and their supporters, pressure on election observers and members of electoral commissions, and serious electoral malpractices that shed a negative light on the process and challenge the legitimacy of the institutions involved.

77. While not judging the outcome of the presidential election, the Special Rapporteur was informed about several reports aimed at documenting electoral manipulation, including massive fraud at the stage of vote counting. To offset the ban on exit polling and on independent election observers in Belarus, Golos, an online vote protection platform, with the help of the Honest People civic initiative, invited voters to send in pictures of their ballot papers. By 9 August, more than 1.24 million voters had registered on the platform. When the official result of 80 per cent for the incumbent President was announced, voters took to the streets in protest.⁷³

78. The three most prominent contenders who had voiced their intention to run for president were all prevented from doing so, and mostly on dubious grounds. Despite gathering a record number of signatures for seeking nomination as a candidate, businessman Viktor Babaryka was denied registration by the Central Election Commission, citing criminal proceedings against him and an alleged failure to report all his assets (Mr. Babaryka had been arrested on 18 June on suspicion of taking bribes and alleged money laundering while he was at the head of Belarusprombank).⁷⁴ As at 31 March 2021, Babaryka and his son and campaign manager Eduard were still in pretrial detention.⁷⁵

79. Blogger Siarhei Tsikhanouski was denied registration because he had not submitted collected signatures to the Central Election Commission in person, given that he was detained – on charges regarded by human rights defenders as fabricated – at the time.⁷⁶ He has been in pretrial detention since May 2020. Charges were brought against him only on 11 March 2021; having been accused of “organization of riots, incitement to social hostility, obstructing the work of the Central Electoral Commission” and “organization of actions that grossly violate public order”, he now faces up to 15 years in prison.⁷⁷ Following Mr. Tsikhanouski’s

⁷¹ Radio Free Europe, “Belarus Reportedly Looking At Law To Expand Definition Of Extremism”, 19 February 2021.

⁷² OHCHR, “Belarus must stop crackdown to silence opposing views – UN experts”, 5 June 2020; “UN experts demand end to crackdown on protesters in Belarus ahead of elections”, 1 July 2021; “Belarus: International community must continue scrutinising human rights situation ahead of election, says UN expert”, 10 July 2020.

⁷³ See Lesia Rudnik, “Explainer: how do we know that Belarusian election was rigged and who won the race?” (<https://newbelarus.vision/explainer-elections>); see also “Online Votes Protection Platform: No Way Lukashenko Could Get 80,1% Of Votes”, BelarusFeed, 16 August 2020.

⁷⁴ See “5 Out Of 7 Presidential Candidates Registered. Babariko And Tsepalo Excluded”, BelarusFeed, 14 July 2021; and “Belarusian human rights defenders call to immediately release Viktor Babaryka and members of his nomination group”, Viasna, 19 June 2020.

⁷⁵ <https://elections2020.spring96.org/ru/news/97664>.

⁷⁶ “Belarusian human rights defenders consider blogger Tsikhanouski political prisoner”, Belsat, 1 June 2020.

⁷⁷ “Jailed Belarusian Vlogger Syarhey Tsikhanouski Faces 15 Years In Prison As Final Charges Delivered”, Radio Free Europe, 11 March 2021.

arrest, his wife Sviatlana Tsikhanouskaya became a candidate officially on behalf of her husband.

80. Another presidential hopeful, diplomat Valer Tsapkala, was denied registration on the grounds that the Central Election Commission considered almost half of the 160,000 signatures in favour of his nomination invalid.⁷⁸ Mr. Tsapkala fled Belarus with his children owing to safety concerns.⁷⁹

C. Economic, social and cultural rights

81. Violations of human rights obligations and fundamental freedoms have a direct impact on the full enjoyment of economic, social and cultural rights. The Special Rapporteur emphasizes the indivisibility of and intrinsic interconnection between all these rights and the need to consolidate and strengthen their protection as a whole.

1. Right to health

82. The Special Rapporteur received numerous and concurring testimonies about systematic violation of detainees' right to health (for example, of how all detainees in an overcrowded cell were made to drink water from the same bottle). Despite the spread of COVID-19 in Belarus and the recommendations made by the World Health Organization, the authorities did not introduce consistent anti-COVID measures and continued to allow mass events, such as sports events with spectators, the Victory Day parade in May and the Slavianski Bazaar festival in July. No measures were taken to collect and analyse data, or to release statistics on new COVID-related infections and deaths.

83. The authorities did, however, use the pandemic as a pretext to curtail fundamental human rights, including freedom of movement, by closing the country's borders. The poor sanitary conditions in detention centres has made the impact that the COVID-19 pandemic has had on human rights in Belarus particularly severe for persons deprived of liberty.⁸⁰ Overcrowded cells, with no sanitation or safety measures, and the transfer of detained persons from one facility or cell to another have been described as factors facilitating the spread of the virus among detainees. According to information received from one non-governmental organization, detainees with symptoms of COVID-19 were denied adequate health care, and a majority of those detained in 2020 tested positive for the virus after their release.

2. Right to education

84. The Special Rapporteur encourages the Government to continue measures to meet the gender-specific goals listed in the Dakar Framework for Action on Education for All, especially with regard to the number of girls enrolled in school and literacy. According to the Committee on the Rights of the Child, the Government of Belarus should consistently interpret and apply the right of the child to have his or her best interests taken as a primary consideration in all legislative, administrative and judicial proceedings and decisions, as well as in all policies, programmes and projects that are relevant to and have an impact on children.⁸¹

(a) Equal access to education

85. The OECD Programme for International Student Assessment revealed a significant gap in the achievements of schoolchildren in Belarus, depending on their socioeconomic status and place of residence.⁸² The Special Rapporteur remains concerned about the inclusivity of all groups in the education system, including in rural areas, and for persons with disabilities

⁷⁸ "Belarus: Crackdown on Political Activists, Journalists", Human Rights Watch, 30 July 2020.

⁷⁹ "Unregistered Opposition Presidential Candidate Tsapkala, Children Flee Belarus", Radio Free Europe, 24 July 2020.

⁸⁰ See <https://humanconstantia.by/en/coronavirus-in-belarus-impact-on-human-rights-december-2020/>.

⁸¹ CRC/C/BLR/CO/5-6, para. 16.

⁸² See www.oecd.org/pisa/publications/PISA2018_CN_BLR.pdf.

and ethno-linguistic minorities. The Special Rapporteur is also concerned about the high rates of illiteracy and school non-attendance among Roma children.

86. The Special Rapporteur notes with concern that, because of the lack of remote schooling measures, equal access to education is not guaranteed for children whose parents, as a precaution against heightened risk of contamination, have decided to keep them at home, or for students who have preferred to self-isolate and, as a consequence, been expelled from university for having missed classes. The failure by the authorities to introduce innovative measures to prevent the spread of COVID-19 and the ensuing discontinuity in education have unloaded the burden of adapting to the pandemic in the education system onto teachers and parents.

(b) Civil and political rights in education

87. Violations of the right to education through legislative mechanisms have increased since August 2020. On 16 October 2020, the authorities announced that university students who had skipped 10 hours of classes without a reasonable excuse would be deprived of their bursaries for one month.⁸³ Missing classes for serving administrative arrest terms for participating in protests did not qualify as “a reasonable excuse”. By 9 February 2021, 415 cases of detention of students and 269 cases of pressure from university administrations had been recorded. About 146 of them were expelled from their universities, usually for “disruption of the educational process and gross violation of the internal regulations of the university”.⁸⁴ Criminal charges have been laid against at least 27 student activists, 12 of whom were arrested and detained on 12 November.⁸⁵

88. According to information in a submission received from a non-governmental organization, over the same period, at least 99 cases of pressure on teachers and university staff were reported, and 19 of the said persons served a sentence after an administrative arrest. By early January 2021, several university workers had been fired: at the Private Institute of Management and Business alone, six staff members had their job contracts terminated, 15 were dismissed, 13 were forced to resign “of their own will” and at least six resigned in solidarity with their colleagues.

89. The Special Rapporteur is greatly concerned that, currently, there are no criteria for the protection of values other than those contained in and advocated by the State. According to article 18 of the Education Code, official ideology should be the basis for “bringing up” students. The violation of the right to freedom of association in the educational sector has had a negative impact on the quality of education. Teachers may join the official trade union only, while students are given incentives or forced to join State-led student organizations.

90. Belarus joined the European Higher Education Area in 2015 and is therefore formally involved in the Bologna Process. In practice, however, the authorities consistently disregard the democratic principles and values deemed necessary for students and higher education teachers to allow full participation in the initiative.⁸⁶

(c) Education in Belarusian and minority languages

91. Even though the 2019 census showed that some 61.2 per cent of the population recognized Belarusian as their mother tongue, Belarusian speakers are not guaranteed education in their language, in violation of the Constitution, which prescribes equal rights to education in both official languages of the State. Belarusian speakers feel they are systematically subjected to discrimination in most public institutions and when seeking to enjoy their social, economic and cultural rights.

92. Of particular concern is the Government’s refusal to allow Belarusian to be used as a language of education and publication in universities. Higher and secondary specialized education is provided solely in Russian, with the exception of specific studies of Belarusian philology. According to one non-governmental organization, in Minsk, only five in 250

⁸³ <https://news.tut.by/society/704978.html>.

⁸⁴ <https://belsat.eu/ru/news/pozdravlyayu-vas-otchislili-v-belarusi-massovo-vygonyayut-studentov-iz-vuzov/>.

⁸⁵ <https://naviny.online/new/20210330/1617107882-v-minske-budut-sudit-12-studencheskih-aktivistov>.

⁸⁶ Ibid.

schools teach in Belarusian. Even though the Committee on Economic, Social and Cultural Rights has expressed its concern in this regard, its recommendations have yet to be implemented.⁸⁷

93. Discrimination against the Polish-speaking community, which faces growing obstacles to its operation of an already limited number of schools and cultural centres, is another worrying trend. On 16 March 2021, Polish schools in Baranavichi, Hrodna and Brest were visited by department inspectors. According to the information received, the General Prosecutor's office ordered an inspection of all Polish organizations in Belarus, including schools and Polish language learning centres.⁸⁸

(d) Education of children with disabilities

94. The Special Rapporteur commends Belarus for ratifying the Convention on the Rights of Persons with Disabilities in 2016. She was informed, however, of ongoing shortcomings in assuring the access of children and students with disabilities to education. The objectives set in the national action plan for the period 2016–2020, namely to ensure coordinated actions for the implementation of the Convention, are yet to be attained.

(e) Education of children in correctional facilities

95. Although children in pretrial or correctional detention facilities should be entitled to receive secondary education, their actual access to education in Belarus is insufficient. The only possibility for obtaining a higher education in detention was closed in 2020. The “Education Opens Doors” project, launched in Belarusian prisons in 2015 with the support of the European Union, was abruptly terminated in November 2020.⁸⁹ The Special Rapporteur deplores this situation and recalls that every child has the right to an education that best reflects his or her abilities and needs.⁹⁰

96. The Government continues to impose the *subotnik*, namely “voluntary” collective work on Saturdays,⁹¹ which international experts have equated with forced labour.⁹² Another practice surviving from the Soviet era is the assignment of students to compulsory work after their graduation. University and technical school graduates, who did not pay for their tuition, may be required to work in a place in Belarus defined by a special distribution committee.⁹³

V. Conclusions and recommendations

97. The Special Rapporteur is deeply alarmed at the unprecedented escalation of human rights violations in Belarus witnessed during the period under review. While the political crisis and social events have proved once again the cyclical nature of surges in human rights violations during electoral periods in Belarus, they have also revealed the deep-rooted institutional deficiencies in the State machinery, in particular the police and the justice system, used not to protect human rights but rather to curtail them. Of particular concern is the fact that the situation continues to worsen in a climate of fear, impunity and lack of accountability for perpetrators.

98. The Special Rapporteur notes the adoption by the Human Rights Council of resolution 46/20, and confirms her readiness to assist the High Commissioner in her evidence-gathering and advocacy mission.

99. The Special Rapporteur urges the Government of Belarus to reconsider its policy of non-engagement with her mandate, and to demonstrate constructive will and

⁸⁷ See E/C.12/BLR/CO/4-6.

⁸⁸ www.intex-press.by/2021/03/17/genprokuratura-nachala-proverki-v-polskih-shkolah-v-tom-chisle-i-v-baranovichah/.

⁸⁹ <https://euroradio.fm/ru/dveri-zakryvayutsya-v-belorusskih-koloniayah-uzhe-nelzya-poluchit-vysshee-obrazovanie>.

⁹⁰ See Committee on the Rights of the Child, general comment No. 24 (2019).

⁹¹ <https://pravo.by/novosti/novosti-pravo-by/2020/april/49166/>.

⁹² 2019 Country Reports on Human Rights Practices: Belarus, U.S. Department of State.

⁹³ www.belta.by/onlineconference/view/raspredelenie-vypusknikov-2020-goda-1229/.

leadership in ensuring genuine and meaningful progress in the implementation of the recommendations made by international and regional human rights mechanisms.

100. The Special Rapporteur calls upon the Government to use the third cycle of the universal periodic review as an opportunity to initiate inclusive dialogue on genuine reforms. In this context, the Special Rapporteur endorses the recommendations made by the High Commissioner in her report,⁹⁴ particularly those requiring urgent action by the Government of Belarus, namely:

(a) To release immediately and unconditionally rehabilitate all those arbitrarily detained for exercising their legitimate rights to peaceful assembly, freedom of opinion and expression, and freedom of association;

(b) To put an immediate end to the criminal or administrative prosecution of political opposition, human rights defenders, lawyers, journalists, medical workers and civil society activists performing their professional duties in defence of basic human rights and fundamental freedoms;

(c) To conduct independent, impartial, prompt, thorough, effective, credible and transparent investigations into all allegations of human rights violations in the context of peaceful protests, notably those relating to torture or ill-treatment;

(d) To ensure accountability for all perpetrators of human rights violations by bringing them to justice, and to ensure redress, remedy, rehabilitation and compensation for victims;

(e) To put an end to the practice of expulsion of those expressing dissent, including leaders of the political opposition and members of civil society, and allow their safe return to Belarus.

101. The Special Rapporteur also recalls and reiterates recommendations made in the previous reports of the mandate holder and that have not been implemented, and therefore remain valid. The Special Rapporteur recommends that the Government of Belarus:

(a) Conduct a comprehensive review and reform of national legislation pertaining to human rights with a view to bringing it into conformity with international human rights law and the State's international commitments pertaining to human rights, and in this context:

(i) To establish an independent national human rights institution in accordance with the Paris Principles;

(ii) To review the legislative base, including the Criminal Code, the Criminal Procedural Code and the Code of Administrative Offences governing the enjoyment of the rights to freedom of assembly, association, opinion and expression; and to repeal amendments that provide for stricter punishment for participation in "unauthorized" assemblies and protests, and their media coverage;

(iii) To review the legislative base regulating registration and functioning of civil society organizations and the media with a view to ensuring that registration procedures are simplified and do not constitute an obstacle to the establishment and operation of associations; and to repeal decision No. 153-1 of 30 October 2020 tightening the financial reporting obligations of civil society organizations;

(iv) To reconsider the proposed package of amendments to the Law on Countering Extremism, the Law on Mass Media and the Labour Code, which pose potential risks to the freedom of expression and association and the rights to work and to political participation;

(b) Use the outcome of the third cycle of the universal periodic review to design, through an inclusive and transparent process, a national human rights action plan aligned with the recommendations made during the review of Belarus and with a set of

⁹⁴ A/HRC/46/4.

indicators to measure progress in implementation; civil society organizations should furthermore be guaranteed an opportunity to contribute actively to this process at all stages, including drafting, implementation and assessment;

(c) Relaunch a national dialogue and introduce an information strategy on a moratorium on the death penalty as a first step towards its abolition;

(d) Create a conducive environment for the functioning of genuinely independent mass media, including full and unhindered access to the Internet for all;

(e) Effect comprehensive reform of the court system and the judiciary with a view to ensuring the independence of judicial power from any interference by the executive branch;

(f) Guarantee that those arrested or detained have unhindered access to a lawyer of their choice, and cease all harassment and intimidation of lawyers involved in politically sensitive cases;

(g) Review electoral legislation and the functioning of election management administration to ensure in law and in practice the full enjoyment by Belarusian citizens of their right to vote and to be elected in genuine elections;

(h) Amend existing provisions of the Code of Culture so that cultural diversity is respected and the principle of non-discrimination of social groups and communities is directly established;

(i) Diversify vocational and academic choices for women and men by ensuring equal opportunities to attend higher education institutions;

(j) Guarantee in law and in practice full access of children from disadvantaged groups – such as children with disabilities or HIV, Roma children, children in institutions and children living in poverty – to quality education on an equal basis;

(k) Stop the practice of forced labour for students and other categories of the population, and ensure that *subotniks* have a truly voluntary nature;

(l) Reinstate in the Education Code the concept of and articles on academic freedom, and ensure its broad definition and application, in line with the principles of the European Higher Education Area;

(m) Put an end to discriminatory practices against the Belarusian language and Belarusian speakers, and ensure the equal use of the Belarusian language in State institutions, including public schools and universities;

(n) Use constructively the opportunity of the increased international attention to the situation of human rights in Belarus, and the new body of recommendations made in the reports of the High Commissioner and in the context of the third cycle of the universal periodic review, to establish a national platform for dialogue between the Government and civil society, making it inclusive, open and lasting, with a view to breaking the current deadlock of legitimacy and to preventing the recurrence of human rights violations.
