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Promotion and protection of human rights

Letter dated 15 October 2020 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

I have the honour to forward an aide-mémoire entitled “Belarus: human rights records” (see annex I), an aide-mémoire entitled “On the situation in the Republic of Belarus in the context of the presidential elections 2020” (see annex II) and the constitutional and legal position of the Constitutional Court of the Republic of Belarus on the protection of the constitutional order (see annex III).

I would appreciate it if you could circulate present letter and its annexes as a document of the General Assembly under agenda item 72.

(Signed) Valentin **Rybakov**
Permanent Representative of the Republic of Belarus
to the United Nations



Annex I to the letter dated 15 October 2020 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

Aide-mémoire

Belarus: human rights records

International standing

According to the 2019 United Nations Development Programme *Human Development Report 2019*,¹ Belarus is in the group of states with the very high human development, taking the fiftieth position in the Human Development Index. This group, which includes 62 countries, is led by Norway, Switzerland, Ireland, Germany and others. The Human Development Index is a composite index measuring average achievement in three basic dimensions of human development – a long and healthy life, knowledge and a decent standard of living.

In 2019, an international group of experts under the auspices of the Institute for Economics and Peace of the University of Sydney, Australia, published the study *Global Terrorism Index 2019*.² In this study, Belarus is recognized as the safest country in terms of the threat of terrorist attacks. The *Global Terrorism Index 2019* was the seventh comprehensive study of the situation in the world in terms of the level of terrorist threat.

According to the Women, Peace and Security Index 2019,³ prepared by National Geographic, Belarus took the thirty-eighth place in the ranking of safest countries for women.

In the *Global Gender Gap Report 2020*,⁴ ranking 153 countries, by the World Economic Forum, Belarus is in the twenty-ninth place. In terms of economic participation and opportunity, thanks to a high participation of women in the labour force (74.7 per cent) and a remarkably high share of women in senior roles (47 per cent), Belarus achieves the best subindex performance (83.7 per cent) in the Eastern Europe and Central Asia region.

Belarus is included in the “Best countries 2020” report,⁵ the study developed by BAV Group and the Wharton School of the University of Pennsylvania in consultation with U.S. News and World Report.

Belarus took seventy-third place in the Legatum Prosperity Index 2019⁶ elaborated by the Legatum Institute, which is a London-based think tank. The Legatum Institute’s revised and improved 2019 prosperity index quantifies prosperity in 167 countries across the globe. Almost 300 country-level indicators, grouped into 65 policy-focused elements, are used to measure the current state of prosperity in these countries and how it has changed since 2007.

In the past, Belarus reached ahead of schedule the Millennium Development Goals related to primary education, gender equality, the eradication of poverty and hunger, reducing child and maternal mortality.

¹ See <http://hdr.undp.org/sites/default/files/hdr2019.pdf>.

² See <http://visionofhumanity.org/app/uploads/2019/11/GTI-2019web.pdf>.

³ See www.nationalgeographic.com/culture/2019/10/peril-progress-prosperity-womens-well-being-around-the-world-feature/.

⁴ See www3.weforum.org/docs/WEF_GGGR_2020.pdf.

⁵ See <https://media.beam.usnews.com/8e/b0/c99b324c4a0a8c1f6dd7c76d903c/200108-best-countries-overall-rankings-2020.pdf>.

⁶ See www.prosperity.com/rankings.

National frameworks for the promotion and protection of human rights

Belarus has a comprehensive national platform for the promotion and protection of human rights, which includes broad legislative and institutional frameworks.

Since 2016, Belarus has implemented the four-year National Human Rights Action Plan, which includes measures aimed at the implementation of the universal periodic review and human rights treaty bodies' recommendations.

The Ministry of Foreign Affairs coordinated the implementation of the National Human Rights Action Plan and annually reported to the Government on the progress made and shortcomings identified. Annual reports were prepared and their results publicly discussed, including with the civil society participation.

The elaboration of the second national human rights action plan is previewed in this year.

Belarus gives high priority to the implementation of the 2030 Agenda for Sustainable Development and Sustainable Development Goals, which seeks to realize human rights for all.

At present, the United Nations-Belarus cooperation for sustainable development is based upon the United Nations Development Assistance Framework for 2016–2020. The new United Nations Development Assistance Framework, which currently is in elaboration, will be grounded on the National Sustainable Development Strategy until 2035 and the Roadmap for Sustainable Development Goal implementation in Belarus.

Reporting to the human rights treaty bodies

Belarus is a party to almost all core international human rights treaties and regularly reports to the human rights treaty bodies. Currently, Belarus has no delays in reporting.

Over the past four years, Belarus has held dialogues with the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Human Rights Committee and the Committee on the Rights of the Child.

National reports to the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of Persons with Disabilities are awaiting consideration in 2021.

Cooperation with the Office of the United Nations High Commissioner for Human Rights

Belarus is eager to develop a constrictive and result-oriented cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR).

In the past, the Government of Belarus twice issued an invitation to the United Nations High Commissioner (Ms. Navanethem Pillay, Mr. Zeid Ra'ad Al Hussein) to pay an official visit to the country.

For a long time, Belarus and the OHCHR have enjoyed fruitful cooperation on the issue of combating human trafficking through a human rights-centred approach. A number of international technical assistance projects were successfully implemented in this area, including training courses for law enforcement officials from Belarus and foreign countries.

In 2018, the Government of Belarus agreed upon the appointment of a human rights adviser in the United Nations Office in Minsk with a view to facilitate the

implementation of the first National Human Rights Action Plan. This year a new senior human rights adviser has been appointed by OHCHR.

During 2018–2019, a number of thematic events for the State authorities were organized with the support of OHCHR and human rights adviser aimed at the implementation of the National Plan.

Cooperation with the Human Rights Council's mechanisms

Belarus firmly supports the universal periodic review of the Human Rights Council and considers the universal periodic review as a unique mechanism for cooperation and dialogue on human rights issues.

Belarus passed two universal periodic review cycles, in 2010 and 2015. In the second cycle, Belarus received 259 recommendations, of which it accepted 168 for implementation relating to the whole range of human rights obligations, and noted 91. These recommendations were included in the National Human Rights Action Plan for 2016–2019.

The country is preparing for the third universal periodic review reporting that is scheduled for November 2020.

Belarus regularly collaborates with the thematic Human Rights Council special procedures and provides them with inputs and responses upon their requests.

The country issued so-called standing invitation to nine thematic special procedures: the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on the sale of children, child prostitution and child pornography.

Belarus firmly believes that the United Nations human rights mechanisms should work in an impartial, objective, constructive and non-selective manner. For this reason, Belarus totally rejects unjustified country-specific resolution initiated by the European Union and mandate of the special rapporteur on the situation of human rights in Belarus created with the aim of exerting political pressure on the country.

Belarus stands ready for constructive cooperation on human rights issues bilaterally and with the United Nations human rights mechanisms of universal nature.

Bilateral human rights dialogues

Belarus is increasingly open and engaged with the European Union and the United States on human rights issues. Since 2015, the country has conducted an annual bilateral human rights dialogue with the European Union and relevant consultations with the United States.

Human rights are also a standing item on the agenda of the Belarus-European Union Coordination Group that meets twice a year.

Belarus is open to the cooperation on human rights issues with any interested Government.

Annex II to the letter dated 15 October 2020 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

Aide-mémoire

On the situation in the Republic of Belarus in the context of the presidential elections 2020

Subject matter

The past presidential elections on 9 August 2020 were the most emotional in terms of social intensity in the entire history of the Belarusian state. The elections were accompanied by a high political mobilization of citizens, an abundance of various public initiatives, which often went outside the existing legal framework.

The authorities' opponents exerted significant pressure on the entire electoral system of Belarus. There were insults and threats against members of electoral commissions of various levels, representatives of state media, central and local authorities, public associations that supported the course of the official authorities, fake news was thrown in.

The Belarusian authorities have information that there were attempts of foreign interference in the internal affairs of Belarus. The protests in Belarus were carefully planned and prepared, coordinated, including through social networks, from abroad, in particular through some Telegram channels. Through these channels, the movement of columns of protesters around the city was coordinated, commands were given in real time to take actions, to gather people in specific places.

All of the above contributed to establishing divisions within Belarusian society. After the elections, thousands of people took part in protests in various cities of Belarus, challenging the results announced by the Central Election Commission. According to the Commission's data, 80.1 per cent of voters cast their votes for Aleksandr Lukashenko. Neither the Central Election Commission, nor the Supreme Court of Belarus, which considered the complaints from presidential candidates, found any grounds for declaring the election results invalid.

Political emotions escalated into street actions. According to the information of law enforcement agencies, in the early days of the protests, the demonstrators' actions were violent: attacks were made on law enforcement officers using "Molotov cocktails", rebar, sticks and stones, as well as vehicle hit-and-runs committed – which caused the reaction of the security forces. Thousands of protesters were detained.

Unfortunately, there were casualties among both protesters and law enforcement officials. Number of injured citizens has amounted 2,454 people, of which 385 were hospitalized. Several people died. 181 law enforcement officers sought medical help because of unlawful actions by protesters with aggressive behaviour of which 37 were hospitalized.

In the last weeks, the situation in Belarus has been steadily returning to a calm civilized channel. Despite the fact that demonstrations continue on the streets of Minsk and other Belarusian cities, they are held peacefully and without violence.

The situation in Belarus does not require outside interference or mediation. The Belarusian people is able through the constructive political forces and the relevant institutions to re-establish independently the national consensus and to decide on the future political development.

National investigation mechanisms

According to the information of law enforcement agencies, the vast majority of the people that were detained during the unauthorized street actions have been released. Charges were brought against those who intentionally broke the law. All those in need received the necessary medical assistance.

The Minister of Internal Affairs of Belarus Mr. Yuri Karaev promised to investigate the cases of violence. He publicly apologized for the instances of violence by law enforcement agencies against innocent people, which were of unintentional and accidental character and happened in the context of the legitimate reaction on the aggressive behaviour of some protesters.

The competent agencies continue to conduct pre-investigation checks on complaints from demonstrators about the use of physical force and special means during mass events. The purpose of these checks is to assess the situation objectively and comprehensively, to detect the indicia of a crime in the actions of both sides.

As of 16 September 2020, 3,000 complaints and reports were received about the infliction of bodily harm, according to the applicants by law enforcement officers, during their arrest, delivery and detention in police departments.

Important amount of those complaints are groundlessness statements submitted by persons who themselves committed illegal acts in order to avoid criminal liability. At least 100 facts were established when citizens filed allegations of violence in the absence of objective data on the presence of bodily harm. Some complaints in duplicate from different sources have been registered. Thus, the number of received complaints and reports is significantly overestimated.

Examination of complaints for infliction of bodily harm requires forensic medical examinations, associated with the reclamation of medical documents what affects the timing of proceeding. It is also necessary to interview a significant number of persons who can confirm or refute the arguments of the applicants. In a number of cases, persons in respect of whom information has been received from health-care institutions about seeking medical assistance evade from appearing in law enforcement agencies and from undergoing a forensic medical examination. According to some materials of inspections, citizens cannot explain the circumstances of causing them bodily harm due to being in a state of alcoholic intoxication at the time of injury.

These circumstances in the aggregate do not allow for promptly conducting pre-investigation checks and making appropriate procedural decisions. At the same time, the time frames stipulated by the Criminal Procedure Code have not been violated; they are extended in accordance with the procedure established by law.

In the course of pre-investigation checks on the complaints about the unjustified use of physical force against them, no facts of rape and beatings of women, violent acts of a sexual nature against minors were established. There is not a single official statement from citizens about the commission of such actions against them.

To coordinate and supervise investigations, an interdepartmental commission was created under the auspices of the General Prosecutor's Office.

Political process and national dialogue

The President of Belarus has declared his intention to undertake political transformations through a national dialogue and a referendum on the Constitution in the near future. This is an obvious legal path to the national consensus.

To this end, a working group led by the Deputy Chairman of the Constitutional Court was created. Several working versions of the country's basic law were prepared.

For inclusive public consultations the House of Representatives of the National Assembly of the Republic of Belarus is collecting proposals on amendments to the Constitution of Belarus from the citizens by 25 October 2020.

International attention

The development of the situation around the presidential campaign received an important international attention.

The mission of observation organized by the Executive Committee of the Commonwealth of Independent States monitored the presidential elections 2020 in Belarus and did not produce any negative conclusions on the way they were carried out.

The winner of the elections, the current President Aleksandr Lukashenko received congratulations from Heads of States of China, Russia, Kazakhstan and many others.

Regrettably, countries of the European Union did not recognize the results of the elections. In support of this approach, the European Union launched a massive information campaign in the global media controlled by Western countries against the Belarusian authorities.

The European Union has been openly calling for support to the opposition leaders, who lost elections. Moreover, the European Union provides these citizens of Belarus with political and financial assistance.

The European Union's unilateral sanctions against Belarus are regrettable.

The actions of some European Union countries, which have introduced even more restrictive nations measures against the Belarusian authorities, are illegal and unacceptable.

We can only deplore and condemn the actions of the European Union and its members to use international organizations as means of political pressure on the Belarusian authorities.

With the only aim to increase pressure on the Belarus' political leadership, the European Union initiated the urgent debate to discuss the situation of human rights in Belarus at the forty-fifth session of the Human Rights Council which resulted in adoption of a resolution "Situation of human rights in Belarus in the run up to the 2020 presidential election and its aftermath".

This European Union's motion misuses unblushingly this United Nations body for interfering into purely internal affairs of the Republic of Belarus. Belarus totally rejects this resolution and will never agree with the "naming and shaming" method used to adopt this text.

Against the background of numerous inactions by the Human Rights Council in the past and in the present with regard to the real humanitarian catastrophes in various countries of the world – civil armed conflicts, unrests and protests associated with hundreds and thousands of death among civilians, forced or forcible displacement of dozens and hundreds of thousands of residents – the situation in Belarus does not deserve consideration by the United Nations bodies.

Annex III to the letter dated 15 October 2020 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

[Original: Russian]

Constitutional Court of the Republic of Belarus: constitutional and legal position on the protection of the constitutional order

25 August 2020

City of Minsk

The Constitutional Court of the Republic of Belarus, comprising the presiding Chair of the Constitutional Court P.P. Miklashevich, Deputy Chair N.A. Karpovich and Judges A.N. Bodak, T.S. Boyko, T.V. Voronovich, S.Y. Danilyuk, L.G. Kozyreva, V.N. Ryabtsev, L.M. Ryabtsev, O.G. Sergeeva, A.G. Tikovenko and S.P. Chigrinov,

Guided by article 116 of the Constitution of the Republic of Belarus, article 6 of the Code of the Republic of Belarus on the Judicial System and the Status of Judges and articles 44 and 45 of the Constitutional Proceedings Act of the Republic of Belarus,

Hereby expresses its constitutional and legal position on the protection of the constitutional order:

1. The Constitution of the Republic of Belarus is a social contract on the organization of society and the State, the system of State power and the way in which it is established, and the relationship between individuals, society and the State. All citizens and authorities of our country must be guided by the provisions of the Constitution and strictly comply with the requirements of the Basic Law, based on the social, governmental and legal significance of its content.
2. In accordance with article 3 of the Constitution, the only source of State power and the holder of sovereignty in the Republic of Belarus is the people. The people exercise their power directly, through representative and other bodies, in the forms and within the limits determined by the Constitution.

The Constitutional Court states that, on 9 August 2020, the Belarusian people expressed their free will and elected A.G. Lukashenko as President of the Republic of Belarus, in accordance with the procedure established by the Constitution and electoral law based on constitutional principles. The democratic nature and legitimacy of the presidential elections are confirmed by compliance with the principles and norms of the Constitution in the electoral process.

3. Democracy in the Republic of Belarus is realized on the basis of a plurality of political institutions, ideologies and opinions. By participating in elections, political parties and other public associations operating under the Constitution and laws of the Republic of Belarus assist in identifying and expressing the political will of citizens (articles 4 and 5 of the Constitution).

At the same time, in order to protect the constitutional rights of citizens in the electoral process, legal procedures, including the right to judicial protection, have been established in the Republic of Belarus, which is a democratic State governed by the rule of law.

4. The Constitutional Court notes that citizens of the Republic of Belarus, as holders of constitutional rights and bearers of constitutional obligations, are participants in constitutional legal relations. By participating in elections, citizens

express their political will concerning the formation of government bodies, including through the election of the President of the Republic of Belarus.

The Constitutional Court points out that when exercising political rights, citizens must take into account that, in accordance with article 3 (2) of the Constitution, any actions to change the constitutional order and achieve State power by violent methods, or through any other violation of the laws of the Republic of Belarus, are punishable by law.

The Constitution does not permit the establishment of public bodies or organizations that are authorized to review the outcome of presidential elections in the Republic of Belarus.

The establishment of the Coordinating Council, which has defined its goal as reviewing the outcome of the election of the President of the Republic of Belarus, in a manner not provided for by either the Constitution or electoral law, is unconstitutional.

The Constitutional Court considers that, at present, compliance with the regime of constitutional legitimacy is a prerequisite for all social and political actors and citizens of our country, in order to counteract any destructive impact on the stability and sovereignty of the State, civil peace and harmony in society, and on the sustainability of the constitutional order.

Presiding Chair of the Constitutional Court
Of the Republic of Belarus
(Signed) P.P. Miklashevich
