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The situation in Belarus

Report[1]
Committee on Political Affairs and Democracy
Rapporteur: Mr Andrea RIGONI, Italy, Alliance of Liberals and Democrats for Europe

Summary

The committee deeply regrets that the positive trend of greater international openness and dialogue between Belarus and the Assembly has been undermined by the recent escalation of violence and harassment against peaceful protesters in the spring of 2017. It calls for the immediate release of still detained opposition activists and for an investigation into the allegations of ill-treatment and intimidation against them.

The committee urges the Belarusian authorities to respect and uphold the right to freedom of assembly, association and expression, and it proposes a number of recommendations to ensure political pluralism and free and fair elections and a genuine political will on the issue of the death penalty and the administration of justice. It also proposes that the Assembly continue its activities, including high-level contacts, both with the authorities and with independent civil society. The committee could step up dialogue with the Belarusian Parliament, independent civil society and opposition political forces not represented in parliament.

1. Reference to committee: Bureau decision, Reference 3841 of 9 March 2012.

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A. Draft resolution[2]

1. Over the past five years, since the adoption of Parliamentary Assembly Resolution 1857 (2012) and Recommendation 1992 (2012) on the situation in Belarus, the authorities of Belarus have engaged in greater international openness and dialogue, including with the Council of Europe, the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations. This, for instance, allowed our Assembly to observe the last presidential and parliamentary elections in October 2015 and September 2016 respectively.

2. The Assembly deeply regrets that this positive trend has been undermined by the recent escalation of mass violence and harassment against peaceful protesters in February and March 2017. It deplores, in particular, the use of administrative detention and harassment to intimidate political opponents, journalists, human rights defenders and ordinary people for exercising their right to peaceful protest, and urges the Belarusian authorities to:

2.1. immediately release opposition activists still detained and investigate allegations of ill-treatment and intimidation against them;

2.2. continue dialogue with the international community and move towards greater engagement with independent civil society organisations and the political opposition.

3. Taking note of the final report of the OSCE's Office for Democratic Institutions and Human Rights on the 2015 presidential and 2016 parliamentary elections, the Assembly welcomes specific improvements and an improved climate surrounding both elections; however, it regrets that a number of long-standing shortcomings remain, including restrictions on political rights and fundamental freedoms as well as procedural irregularities and lack of transparency.

4. The Assembly welcomes a number of positive developments, including the release of all political prisoners and the presence of two independent members in parliament, and urges the authorities to rehabilitate former political prisoners, fully restore their civil and political rights, including the expunging of any criminal record and limitations on their participation in political life and in elections, and ensure that there is no setback on this critical issue.

5. Nevertheless, the Assembly regrets the lack of political will to address repeated recommendations made by the Assembly and numerous international and regional human rights mechanisms to bring legislation into line with international standards in the field of democracy, rule of law and human rights. It therefore calls on the Government of Belarus to:

5.1. ensure respect for freedom of association and peaceful assembly, in particular by:

5.1.1. effectively guaranteeing the rights of citizens to peaceful assembly and expression and refraining from using violence and intimidation against demonstrators and human rights defenders;

5.1.2. revising article 193.1 of the Criminal Code, which currently criminalises participation in unauthorised associations and public events, by introducing a notification-based registration system;

5.1.3. removing undue practical and legal obstacles to the registration of political parties and independent civil society and human rights organisations, and introducing the possibility for them to have their legal premises in residential buildings;

5.2. ensure respect for freedom of expression and of the media, in particular by:

5.2.1. putting an end to the practice of harassment and administrative prosecution of independent media, including online-based outlets and freelance journalists working with foreign media;

5.2.2. enabling freedom of the press, including journalists' right to obtain and impart information without any interference, and investigating all violations of journalists' rights which unlawfully restrict media freedom;

5.2.3. reforming the legal framework to avoid all forms of discrimination against non-State dependent press, in particular freelance and online journalists;

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2. Draft resolution adopted unanimously by the committee on 26 April 2017.

5.3. ensure genuine political pluralism and free and fair elections, in particular by:

5.3.1. resuming work on a comprehensive electoral reform and swiftly implementing the recommendations made by the OSCE election observation mission, also in co-operation with the European Commission for Democracy through Law (Venice Commission), of which Belarus is an observer member, in time for the municipal elections of February 2018;

5.3.2. including substantial procedural safeguards that ensure the integrity and transparency of all stages of the electoral process, and ensuring a politically balanced membership of election commissions;

5.3.3. promoting a truly competitive political system and allowing unrestricted political activities and registration of political parties, especially during the electoral campaign;

5.3.4. consider inviting the Council of Europe Congress of Local and Regional Authorities to observe the forthcoming municipal elections;

5.4. show genuine political will on the issue of the death penalty and the administration of justice, in particular by:

5.4.1. not carrying out the death sentences recently pronounced against Kiryl Kazachok and Siarhei Vostrykau;

5.4.2. rapidly introducing a *de jure* moratorium on the death penalty and executions, with a view to its abolition;

5.4.3. encouraging public dialogue in society on the death penalty, also through public campaigns, television debates and parliamentary hearings, in co-operation with the Council of Europe;

5.4.4. including representatives of the opposition, independent civil society and human rights defenders in the work of the parliamentary working group on the death penalty and setting up a clear timetable of meetings;

5.4.5. reforming the judicial system to guarantee its complete independence and guaranteeing the right to fair court proceedings, the presumption of innocence and protection mechanisms to prevent confessions being made under torture;

5.4.6. expressing interest in acceding to the European Convention for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (ETS No. 126);

5.4.7. in line with Resolution 1371 (2004) on disappeared persons in Belarus, bringing to trial the perpetrators as well as the instigators and organisers of the disappearances of Yuri Zakharenko, Victor Gonchar, Anatoly Krasovski and Dmitri Zavadski;

5.5. implement recommendations issued by United Nations bodies.

6. The Assembly also calls on the European Union to:

6.1. take the above-mentioned recommendations into account in the framework of the European Union–Belarus Human Rights Dialogue;

6.2. make support for Belarus conditional on political reforms in the field of democracy, human rights and the rule of law;

6.3. strengthen support for independent civil society organisations and media;

6.4. intensify co-operation in the framework of the European Union–Belarus Coordination Group, with the participation of experts and non-governmental organisations;

6.5. depending on progress in the dialogue between Belarus and the European Union on the respect for democratic values, consider the possibility of lifting all remaining sanctions against Belarus, move forward on visa liberalisation, and promote stronger relations with the World Trade Organization, including a possible accession of Belarus.

7. For its part, the Assembly resolves to:

7.1. engage both with the authorities and with independent civil society to promote stronger relations with Belarusian society as a whole, on the basis of Council of Europe values and democratic standards;

7.2. continue its activities and maintain high-level contacts with the Belarusian authorities;

7.3. invite the Committee on Political Affairs and Democracy to consider stepping up dialogue with the Parliament and independent civil society of Belarus by inviting members of parliament from the majority and of the opposition, as well as representatives of independent civil society and of opposition political forces not represented in parliament, to attend its meetings during the Assembly part-sessions over the next two years.

8. The Assembly regrets that, in the absence of a moratorium on the death penalty and of substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe, it is not in a position to call on its Bureau to lift the suspension of the special guest status for the Parliament of Belarus.

B. Draft recommendation[3]

1. Referring to its Resolution … (2017) on the situation in Belarus, the Parliamentary Assembly, while welcoming greater international openness by the Belarusian authorities, stresses the need to address a number of serious human rights concerns in order to make progress towards the attainment of Council of Europe standards.

2. The Assembly deeply regrets that the positive trend over recent years has been undermined by the recent escalation of mass violence and harassment against peaceful protesters in February and March 2017 and calls on the Committee of Ministers to join the Assembly in:

2.1. regretting the use of administrative detention and harassment to intimidate political opponents, journalists, human rights defenders and ordinary people exercising their right to peaceful protest;

2.2. urging the Belarusian authorities to:

2.2.1. immediately release opposition activists still detained and investigate allegations of ill-treatment and intimidation against them;

2.2.2. continue dialogue with the international community and move towards greater engagement with independent civil society organisations and the political opposition.

3. The Assembly also invites the Committee of Ministers to:

3.1. remain open to the accession of Belarus to Council of Europe instruments open to non-member States for which Belarus has made a formal request and help it to bring its legislation into line with Council of Europe standards;

3.2. continue engaging with the Belarusian authorities with a view to implementing the Council of Europe Action Plan for Belarus, paying special attention to the issue of the death penalty;

3.3. encourage the authorities, non-governmental organisations and independent civil society representatives to take an active role in the implementation of the Action Plan;

3.4. encourage its intergovernmental committees to organise meetings, seminars and conferences in Belarus;

3.5. consider setting up a Council of Europe office in Minsk in the near future, with a view to enhancing the impact of its activities in the country.

3. Draft recommendation adopted unanimously by the committee on 26 April 2017.

C. Explanatory memorandum by Mr Andrea Rigoni, rapporteur

1. Introduction

1. I have been following the situation in Belarus for the past two and a half years. I was also previously rapporteur for the Parliamentary Assembly from 2007 to 2009 and my work led to the adoption of Resolution 1671 (2009) and Recommendation 1874 (2009) on the situation in Belarus

2. Subsequently, our Assembly took stock of the severe deterioration of the situation of human rights and civil and political liberties, which followed the 2010 presidential election, with Resolution 1857 (2012) and Recommendation 1992 (2012) on the situation in Belarus, with Mr Andres Herkel (Estonia, EPP/CD) as rapporteur, who unfortunately never received an invitation to visit the country during his rapporteurship from 2011 until 2014.

3. I was appointed rapporteur for a second time on 10 April 2014 and, in April 2015, I prepared an information note outlining the state of play of the relations between our Assembly and Belarus since 2010, taking stock of recent signs of opening up, highlighting major human rights concerns and discussing the relations with the international community and, in particular, with the Council of Europe.

4. I have had the opportunity to visit the country several times since my appointment, upon the invitation of the National Assembly of the Republic of Belarus on 25 and 26 February 2015, and also to attend a number of conferences, seminars and round tables on specific themes, in particular in conjunction with the 2015 presidential election and the 2016 parliamentary elections and also on the issue of the death penalty. These events allowed me to maintain close contacts both with authorities and with civil society representatives and human rights defenders, who have always been involved in our discussions.

5. In all interactions, I have always reiterated the Assembly's principled position on the establishment of a moratorium on executions with a view to abolishing the death penalty. At the same time, I have also stressed that it is high time for Belarus and our Assembly to start looking in the same direction, build mutual trust and set up an honest, transparent and regular collaboration.

6. Moreover, the Committee on Political Affairs and Democracy has organised regular hearings both in Strasbourg and in Paris, with the participation of elected representatives of the National Assembly of Belarus, human rights defenders and opposition leaders. The latest exchange of views took place on 24 January 2017. For the first time in twelve years, an elected represented from the opposition, Ms Hanna Kanopatskaya, from United Civic Party, attended along with Mr Andrei Naumovich, Chairperson of the Standing Commission on Human Rights, National Relations and Mass Media, as well a representative of the Human Rights Centre Viasna, Mr Valiantsin Stefanovic.

7. On 23 and 24 March 2017, I carried out a final visit to Minsk where I met with government representatives, including the President, the Minister of Foreign Affairs and the Speakers of both Chambers, as well as with civil society representatives, including opposition activists, journalists and non-governmental organisations (NGOs).

8. The visit took place in the context of large street protests to defy the so-called "social parasite law" taxing the unemployed, which culminated in a major demonstration on the annual "Freedom Day" commemoration on 25 March 2017, the day after my visit. According to media reports, since the beginning of March, over 100 journalists have been subject to increasing pressure, detention, violence and administrative charges, and hundreds of people, including opposition leaders, have been arrested and many have been charged with hooliganism and participation in unauthorised protest actions (see below sections 2 and 3).[4]

9. My report inevitably takes into account this recent setback but also takes stock of the situation over the past three years and highlights a path of dialogue and trust which, as rapporteur, I have striven to build, along with other countries and institutions all over the world, including the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), the European Union and the United Nations, in what it is known as "critical engagement" with a regime which has been in place for the past 23 years.

4. See my statement of 27 March 2017: http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6565&lang=2&cat=137.

2. Recent political developments

10. My discussions with the Belarusian authorities over the past years have been open and constructive. As I stressed in the past, most of my contacts acknowledged that problems and shortcomings should be discussed openly with all international partners.

11. The Assembly's concerns are well known to the Belarusian authorities. What is less apparent is a clear-cut political will to uphold the Council of Europe's values and to engage in a comprehensive reform process, starting with a moratorium on the execution of the death penalty.

12. The 2014 Russian annexation of Crimea pushed the Belarusian leadership to seek a further rapprochement with European governments and institutions. Russia reportedly demanded that Belarus build a Russian air base outside Babruysk, south-east of Minsk, which Belarus opposed. Russia also introduced passport checks on the Belarusian–Russian border in early February 2017.

13. At the same time, it is clear that Belarus' preference for privileged relations with Russia has strengthened over the years and Belarus is an active member of the Eurasian Economic Union and shares open borders and mutual defence commitments with Russia. The Belarusian economy entered into recession in 2015, the first since 1995. Economic activity continues to stagnate, driven by the economic contraction in Russia, lower export revenues and domestic structural problems.[5] This is becoming very apparent in the Belarusian society, especially among the elderly, and street protests began to intensify in February and March 2017.

14. On 17 February 2017, independent trade unions and protest movements took to the streets to put public pressure on the government to abolish decree No. 3 "on prevention of social dependency" (known as "social parasites decree"), signed by the President in April 2015 and imposing a tax (equivalent to more than €200 in compensation for lost taxes) on those who "have not participated in the financing of public expenditure or have done it for less than 183 days".

15. Protests in the region have continued despite the President's decision to suspend the enforcement of the decree on 9 March. According to media and human rights defenders' reports, over 700 people have been detained since 3 March, including opposition leaders and activists, journalists and ordinary protesters. The Belarusian Association of Journalists stated that at least 107 journalists faced repression and harassment for their professional activities in March 2017.

16. On 21 March 2017, President Lukashenko accused "Western" organisations of financing the protests in order to instigate "scuffles and bloodshed" in the country. He also stated that some 20 "fighters" had been detained for "preparing armed provocations" on 25 March, "Freedom Day". On 25 March 2017, police raided the offices of the human rights group Viasna and briefly detained around 60 people. Amnesty International's monitors personally witnessed the detention of many individuals, including elderly people.

2.1. Presidential and parliamentary elections

17. Belarus held presidential and parliamentary elections in 2015 and 2016 respectively. Fourteen years after the previous invitation in 2001, our Assembly was invited to take part in the Election Observation Mission of the presidential election of 11 October 2015 and subsequently the parliamentary elections of 11 September 2016.

18. The 2015 report of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) indicated that Belarus still has a considerable way to go to meet its OSCE commitments for democratic elections, but also noted certain improvements and an open attitude. The campaign and election day were peaceful and candidates were provided with a platform to convey their messages despite a restrictive media environment. However, the integrity of the elections was undermined by significant problems, in particular voter registration, vote counting, tabulation of results, concerns regarding access and transparency, early voting procedures and a general lack of confidence in the independence and impartiality of the election administration.[6]

19. With a view to the 2016 parliamentary elections, upon my proposal, the Assembly organised a round table in Minsk on 18 May 2016 on "Electoral standards and the electoral process improvement in Belarus", as part of the Assembly's activities in the Eastern Partnership Programmatic Co-operation Framework, funded by

5. World Bank, country profile.
6. OSCE/ODIHR, Belarus, Presidential Elections, 11 October 2015: Final Report.

the European Commission. The aim of the round table was to involve the National Assembly of Belarus in the discussions on the implementation of the OSCE recommendations and to improve the political climate with a view to the parliamentary elections of September 2016.

20. For the first time, an international event was hosted by the National Assembly, with the participation of representatives of the OSCE/ODIHR, the European Commission for Democracy through Law (Venice Commission), the European Parliament, the Commonwealth of Independent States Executive Committee, the Center for European Perspective (Slovenia), and, on the Belarusian side, members of parliament, the Central Electoral Commission, the Ministry of Foreign Affairs, as well representatives of the NGO "Tell the truth" and of the Belarusian Helsinki Committee.

21. According to the 2016 Election Observation Mission, which included a Parliamentary Assembly delegation, the parliamentary elections of 11 September 2016 were efficiently organised but continued to present long-standing systemic shortcomings, such as a restricted legal framework for political rights, limited media coverage and lack of visibility for many candidates, lack of pluralism in electoral commissions, irregularities with early voting, counting and tabulation procedures. NGOs also argued that the legislation changes were insufficient to qualitatively change the character of the campaign towards greater democracy and transparency.

22. Neither the amendments passed to the Electoral Code in 2013 and 2015, nor the Law on Political Parties, the Law on Mass Media or the decisions and instructions of the Central Electoral Commission addressed key recommendations of international organisations, including those set out in the Venice Commission and OSCE/ODIHR Joint Opinion issued in 2010, and they were not preceded by public consultations with relevant stakeholders.

23. The United Nations Special Rapporteur on Belarus, Mr Miklós Haraszti, in his latest report noted that "elections in Belarus remain fully guided and have transformed into ceremonial tools used to perpetuate power".[7] The leader of the OSCE observer mission, Mr Kent Harstedt, hoped that "the Belarusian government, together with the newly elected parliament, will carry on with the democratisation process and undertake a comprehensive effort to address our long-standing recommendations".[8] Ms Gisela Wurm (Austria, SOC), Chairperson of the Austrian delegation to the Parliamentary Assembly, stressed the urgency "to begin immediately the necessary reform of the legal framework" and that "PACE and the Venice Commission stand ready to co-operate with Belarus in this regard."[9]

24. On 24 March 2017, Ms Lidia Yermoshina, Chairperson of the Central Election Commission, informed me of the recent proposals of the interagency expert group in charge of considering OSCE/ODIHR recommendations on improving the electoral process in Belarus, which had just been submitted to the Head of State for consideration. Proposed changes include increased independence of election commissions, transparency of the voting procedures and counting in the presence of observers, concerns related to early voting, a better use of electoral funds for nominated candidates who are not yet registered, improvement of election campaigning and the organisation of rallies. In April 2017, analysts of the civil society campaign "Human Rights Defenders for Free Elections" presented the results of the monitoring of the 2016 parliamentary elections to the 110 deputies of the lower house, regretting the absence of any public information on previously announced steps to improve election legislation[10].

25. Speaking before the Committee on Political Affairs and Democracy in Strasbourg in January 2017 and in a private meeting we had in Minsk on 24 March 2017, opposition member Ms Anna Kanopatskaya, from the United Civic Party, asked our Assembly to support the Belarusians' right to choose their leaders, starting with the forthcoming municipal elections of February 2018.

2.2. Signs of progress

26. The Minister of Foreign Affairs, Mr Vladimir Makei, during our numerous exchanges, including the last one we had in Minsk on 24 March 2017, has always stressed that Belarus, as one of the founding members of the United Nations, is party to most international human rights instruments, including the six major human rights treaties[11] and aspires to fully comply with its international obligations in this sphere.[12]

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7. Report of the United Nations Special Rapporteur on the situation of human rights in Belarus, 21 September 2016.
8. www.osce.org/odihr/elections/263656?download=true.
9. www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6296&lang=2&cat=31.
   See also Ad hoc committee of the Bureau, Election observation report, Doc. 14158.
10. https://spring96.org/files/misc/2016_parliamentary_elections_final_report_en.pdf.

27. In this respect, I will refer to a number of reports recently published by the Council of Europe, the European Union and other international organisations, including the United Nations, the OSCE as well as human rights defenders, whose representatives I have met on numerous occasions, both in Strasbourg and in Minsk.

28. While the human rights situation – which I will detail in the next chapter – has clearly deteriorated in recent weeks, up to March 2017 a number of signs pointed to Belarus' willingness to make progress and open up, namely:

i. Belarus' relations with the diplomatic community in Minsk have been steadily improving over the past few years. Just to mention an example, the day I was in Minsk, prior to the demonstration of 25 March, the Minister of Foreign Affairs convened all European Union Ambassadors to discuss the situation;

ii. regardless of the Belarusian leadership's self-interest and need to improve the country's international image, one cannot deny that Belarus has been playing an important role in the regional context, with an autonomous stance vis-à-vis Russia on the Ukraine conflict and also in its relations with the Republic of Moldova and Georgia, which has also contributed to creating a positive climate between the European Union and Belarus over the past three years;

iii. Belarus has no territorial conflicts and disputes with its neighbours and openly supported Ukraine's territorial integrity and facilitated the de-escalation of the crisis;

iv. in August 2015, the government released six individuals convicted in previous years on politically motivated charges (but has not yet restored their civil and political rights);

v. opposition candidates were allowed to register more easily at the last elections and observers were granted better access to the vote count according to the OSCE/ODIHR report;

vi. independent candidate Anna Kanopatskaya, of the United Civic party, and Yelena Anisim, of the Belarusian Language Society, won a seat in parliament, and I was able to meet with both of them during my last visit to Minsk;

vii. up to February 2017, the NGOs and human rights defenders I met had all noted an improved political climate, despite persisting human rights concerns, and were generally open to dialogue with the authorities; obviously the latest events have dramatically changed this perception;

viii. the Assembly was invited to monitor the past elections and I was invited twice, as Assembly rapporteur, to visit the country and to take part in a number of international conferences, which were organised by the Council of Europe, the European Union and the United Nations in Minsk, showing the authorities' willingness to engage in dialogue with the international community on human rights and rule of law issues;

ix. in 2017, Belarus took over the Presidency of the Central European Initiative[13]. It chose "Promoting connectivity in a Wider Europe" as the main theme of its Presidency.

3. Major human rights concerns and a new wave of repression as of March 2017

3.1. Human rights and fundamental freedoms

29. Despite an improved political climate up to March 2017, there has been no systematic improvement in the human rights situation in Belarus and government restrictions on political freedoms, in particular freedom of speech, association, peaceful assembly and religion, have remained in place.

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11. International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on Elimination of Racial Discrimination, Convention on Elimination of All Forms of Discrimination Against Women, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child.

12. See the section on "human rights" of the website of the Ministry of Foreign Affairs of the Republic of Belarus: http://mfa.gov.by/en/organizations/human_rights/.

13. The Central European Initiative (CEI) was founded in 1989 to develop stable relationships between the countries of central, western, and eastern Europe in politics, economy and culture, and to prevent new dividing lines in Europe. In the late 1990s, facilitation of the European integration and closer relations between European Union and non-EU European countries was defined as the CEI's major objective. The CEI has 18 member States: Albania, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Italy, Republic of Moldova, Montenegro, Poland, Romania, Serbia, Slovak Republic, Slovenia, "the former Yugoslav Republic of Macedonia", Ukraine.

30. Up to March 2017, according to the Human Rights Centre Viasna, the Belarusian authorities had been implementing a policy of "soft practices", which began in August 2015, and had abstained from violently dispersing unauthorised protests and detaining protesters and sentencing them to short jail terms. At the same time, administrative sanctions for exercising freedom of peaceful assembly and expression increased sevenfold in 2016 compared to 2015.

31. In 2016, human rights defenders documented cases of prosecution on political grounds against seven people: Vadzim Zharomski, Maksim Piakarski, Viachaslau Kasinerau, Dzmitry Paliyenka, Eduard Palchys, Aliaksandr Lapitski and Uladzimir Kondrus. According to them, new politically motivated prison sentences were pronounced in 2016 against Aliaksandr Lapitski and activist Mikhail Zhamchuzhny.[14]

32. Article 193.1 of the Criminal Code continues to penalise the activities of non-registered associations in Belarus and as a result over 150 Belarusian NGOs have registered in Lithuania, Poland, the Czech Republic and elsewhere. Restrictions also apply to political parties and to some religious groups, which continue to experience difficulties in obtaining registration, holding religious meetings and finding suitable venues to hold religious services. The Minister of Justice informed me of the ongoing proposals to simplify the registration process, reduce the number of signatures required and implement other OSCE recommendations. However, no real change has taken place in the meantime.

33. With regard to freedom of expression and assembly, the use of administrative detention and violence to intimidate the opposition, especially in connection with the recent protests, is alarming and particularly disturbing at this time of rapprochement between Belarus and our Assembly. Everything should be done to avoid people who have been held prior and during the demonstrations becoming political prisoners. As I stressed in a statement following my visit, filling up prisons is not the solution to deal with criticism and dissent and only distances the country from the European standards of respect for freedom of expression, assembly and human rights.[15]

34. Already in Resolution 2141 (2017) on attacks against journalists and media freedom in Europe, adopted on 24 January 2017, the Assembly regretted that media pluralism and diversity were still absent in Belarus. This fact limits the Belarusian people in exercising public control over government conduct and especially hampers the respect of democratic standards during elections.

35. According to Reporters without Borders, freelance journalists cannot get accreditation and are harassed by the judicial authorities. The Information Ministry has stepped up its control over print media distribution networks and the Internet, further restricted freedom of expression by expanding the definition of "extremism" and banned the software used to circumvent online censorship. Belarus ranked 157 out of 180 in the 2016 World Press Freedom Index.[16]

3.2. Capital punishment

36. In violation of its obligations under the Optional Protocol to the Covenant on Civil and Political Rights, Belarus has continued to carry out death sentences, the last one on 17 March 2017, despite the call for interim protection measures issued by the United Nations Human Rights Committee and repeated calls by the Secretary General of the Council of Europe, the Committee of Ministers, our Assembly as well as the European Union leadership.

37. Two men sentenced to death, Kiryl Kazachok and Siarhei Vostrykau, are currently held on death row and the sentences can be enforced at any moment. I have reacted strongly to each new execution and death sentence[17] and stressed that each new sentence sends yet another negative signal to the Council of Europe and the Parliamentary Assembly, for which strong opposition to the death penalty is a matter of principle.[18] Nothing in the Belarusian Constitution or legislation would prevent President Lukashenko or the parliament from declaring a moratorium, which is simply a question of political will.

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14. Viasna, Human rights situation in Belarus, January 2017.
15. http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6565&lang=2&cat=137.
16. https://rsf.org/en/belarus.
17. Ivan Kulesh and Siarhei Khmialeuski were executed in November 2016. Siarhei Ivanou, sentenced in 2015 for murder, was executed in April, although his complaint about violations of his rights was pending before the United Nations Human Rights Committee. Death sentences were handed down on Henadz Yakavitski for murder, Siarhei Khmialeuski for three murders, and Siarhei Vostrykau for rape and two murders. All three sentences were upheld on appeal. A new death sentence was handed down on Kiryl Kazachok in January 2017.
18. Statements of 4 January 2017, 29 November 2016, 9 May 2016, 4 March 2016, 17 February 2016, 14 January 2016, 24 November 2015, 20 March 2015 and 5 November 2014.

38. The Council of Europe is investing greatly in this issue and organised two large-scale events in Minsk in co-operation with the Ministry of Foreign Affairs, one on "Religion and death penalty" in 2013 and the latest, which I attended, on the "Abolition of the Death Penalty and Public Opinion" on 13 December 2016. I have often stressed that the Belarusian authorities should take this dialogue seriously and immediately halt all executions.

39. In 2015, I had the opportunity to exchange with Mr Petr Miklashevich, Chairperson of the Constitutional Court, and thoroughly discussed Article 24 of the Constitution which reads as follows: "the death penalty can be applied as an exceptional measure of punishment for grave crimes in accordance with the law and only under court sentences until it is abolished". The scope of crimes punishable by the death penalty has been reduced in recent years. The death penalty may also, by means of a pardon by the President, be commuted to life imprisonment. Mr Miklashevich confirmed that the death penalty is a "temporary measure", and that a moratorium could be introduced by a decision of the President and parliament at any time. Two years later, during a second meeting in Minsk on 23 March 2017, he reiterated the same position but nothing has changed in the legislation or in practice in the meantime.

40. During the last committee hearing in Strasbourg on 24 January 2017, Mr Andrei Naumovich, Chairperson of the Standing Commission on Human Rights, National Relations and Mass Media and head of the Working Group on the Death Penalty, announced his readiness to hold parliamentary hearings on the issue of the death penalty in late 2017 or early 2018 and the working group is expected to decide how to proceed this year.

41. I was pleased to attend a meeting of the Working Group at the National Assembly on 23 March 2017, and noted with satisfaction the participation of a civil society representative from the Belarusian Helsinki Committee and of a number of representatives from the international community, including ambassadors and a European Union representative. I can only encourage the National Assembly to include a representative of the parliamentary opposition as well in this group, involve civil society representatives and human rights defenders on a permanent basis and set up a clear timetable of meetings and expected results.

42. Public awareness is also key and parliament could organise public campaigns, television debates, parliamentary hearings and other public events, also in co-operation with the Council of Europe, to promote a change of attitude in Belarusian society.

43. According to a public opinion survey conducted in 2016 by the Independent Institute of Socio-Economic and Political Studies (IISEPS), approximately 37% of the population supports the abolition of the death penalty, almost twice as many as 20 years ago. Research previously conducted in 2014 by the public survey firm Satio, commissioned by the Belarusian Helsinki Committee and Penal Reform International, shows that the number of abolitionists is even higher: according to the results of a general survey of Belarusians' attitudes toward the death penalty, 43.3% supported the immediate or graduate abolition of the death penalty in Belarus.[19]

4. Relations with the international community

44. Belarus is keen to contribute to creating a constructive atmosphere with neighbouring countries and adjusts its foreign policy accordingly to strengthen regional security, attract foreign investments, open new markets, remove and avoid new sanctions and obtain economic aid.

4.1. Regional co-operation

45. Against the background of the Ukrainian crisis, Belarus has established what is known as "multi-vector foreign policy", which also aims to counterbalance the increasing dependence on Russia.

46. Together with its partners (Russia, Kazakhstan, Armenia and Kyrgyzstan), Belarus is Party to the Eurasian Economic Union (EAEU), launched on 1 January 2015. In parallel, dialogue has been intensified with the European Union, China, the United States and Latin America. Bilateral relations with European countries also increased steadily in 2016.[20]

19. As reported in FIDH-Viasna, Death penalty in Belarus: murder on (un)lawful grounds, October 2016.
20. See also the Annual Review of Foreign Policy of the Republic of Belarus and Activities of the Ministry of Foreign Affairs in 2015.

4.2. United Nations

47. In September 2015, the President of Belarus attended the United Nations Summit in New York to promote individual initiatives within the United Nations on combating trafficking of human beings and human organs, a sustainable energy agenda, youth and traditional family values.

48. As I stressed in all my discussions, promoting human rights in international fora, including co-operation with the United Nations mechanisms, should remain a key priority for Belarus. The first National Human Rights Action Plan in Belarus for 2016-2020, adopted by the government in December 2016, contains steps for the implementation of the recommendations made within the Universal Periodic Review of the United Nations Human Rights Council. However, the plan does not address important human rights concerns and proposed changes in the area of political rights and civil liberties fall short. Nevertheless, it increases the government's increased awareness of human rights, which should be welcomed.

49. In my view, it is particularly important to co-operate with the United Nations Special Rapporteur on Belarus, Mr Miklós Haraszti, and, on behalf of our committee, I invited him to attend one of our meetings. Unfortunately, Mr Haraszti has not yet been able to attend. However, his recommendations provide us with information on much needed reforms in the country and can be a source of inspiration for our Assembly as well.[21]

4.3. OSCE Parliamentary Assembly

50. Prior to my visit, on 16 March 2017, the OSCE Parliamentary Assembly President Christine Muttonen paid a visit to Minsk and also met with the President of Belarus, the Minister of Foreign Affairs and the Chairperson of the House of Representatives of the National Assembly. She expressed gratitude for the intensive efforts underway in Minsk in preparation for the OSCE Parliamentary Assembly's 26th Annual Session, which is due to take place in Minsk from 5 to 9 July 2017 and is expected to include some 300 parliamentarians from North America, Europe and Asia. The theme is "Enhancing mutual trust and co-operation for peace and prosperity in the OSCE region".

51. Ms Muttonen stressed that Belarus had long been "one of the most active participants within the OSCE and our Parliamentary Assembly" and that "its hosting of our Annual Session this year is an indication of Minsk's high level of commitment to dialogue, and likewise, demonstrating the level of importance we attach to Belarus within our Assembly, Mr Kent Harstedt has, since April 2016, led efforts to increase engagement and promote the development of democracy in the country".[22]

4.4. The European Union

52. During the past five years, marked by sanctions and limited engagement, support for the European Union amongst Belarusians has decreased considerably. In a 2015 poll, over 50% were in favour of further rapprochement with Russia, against only 30% with the European Union.[23] At the same time, the war in Ukraine has undermined the credibility of popular political protest for fear of intervention and instability.[24] This trend seemingly reversed in March 2017 with the street protests linked to increasingly widespread discontent.

53. The lifting of the European Union sanctions against Belarus in October 2015, following the release of political prisoners in August 2015, greatly facilitated the normalisation of relations and the level of high-ranking political contacts considerably increased in 2015-2016.[25] While condemning the response of the Belarusian authorities to the March demonstrations, the European Union stressed that steps taken by Belarus to respect universal fundamental freedoms, rule of law and human rights will remain key for the shaping of the European Union's relationship with the country.

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21. Report of the United Nations Special Rapporteur on the situation of human rights in Belarus, 21 September 2016.
22. https://www.oscepa.org/news-a-media/press-releases/2683-in-belarus-osce-pa-president-muttonen-signs-annual-session-agreement-holds-high-level-talks.
23. Independent institute of socio-economic and political studies, 2015-2016 data.
24. European Council on Foreign Relations, The challenge of re-engaging Belarus, 2015.
25. Belarus – EU Council Conclusions of 15 February 2016 and 27 February 2017. The restrictive measures were first introduced in 2004 in response to the disappearance of four individuals. The Council later adopted further restrictive measures against those involved in the violation of international electoral standards and international human rights law, as well as in the crackdown on civil society and democratic opposition. The arms embargo was introduced in 2011.

54. Negotiations on a Visa Facilitation and Readmission Agreement and on a Mobility Partnership, the resumption of the EU–Belarus Human Rights Dialogue, the signature of a Cooperation Arrangement on an Early Warning Mechanism in the energy sector, and the proactive participation of Belarus in the Eastern Partnership are all evidence of a critical engagement and of a more positive agenda towards Belarus. This may change in the coming weeks, in view of the recent wave of repression.

55. The first visit of a European Parliament delegation for relations with Belarus since 2002 took place on 18 and 19 June 2015. However, the European Parliament has no official relations with the Belarusian Parliament. On 24 November 2016, the European Parliament adopted a resolution on the situation in Belarus in which it firmly states that progress made by Belarus in terms of electoral standards and human rights is still insufficient.[26] A second official visit to Minsk of the European Parliament delegation for relations with Belarus is planned for May 2017.

56. On 29 March 2017, in Malta, the European People's Party Political Assembly at the European Parliament voted unanimously to accept the Belarus Christian Democratic Party as an observer member.[27] In a resolution on the situation in Belarus, adopted on 6 April 2017,[28] the European Parliament condemned the "crackdown on peaceful protesters" across Belarus. The MEPs warned that in the event of a failure to carry out thorough and impartial investigations into all allegations in connection with the demonstrations, the European Union may impose new restrictive measures.

57. The key priority sectors for the European Union's financial support to Belarus in the period 2014-2017 were social inclusion (employment, vocational education and training, support to the European Humanities University) the environment and local and regional development, with complementary support for civil society and for the modernisation of public institutions. In 2016, Belarus also applied for financing by the European Investment Bank and the European Bank for Reconstruction and Development.

58. I noted a great interest in Minsk in increasing co-operation both with the Council of Europe and the European Union on technical matters such as trade, economic assistance, border management, the fight against human trafficking and against corruption, education and culture, children's rights, and sport. As an active member of the Committee on Political Affairs and Democracy, I can only encourage more emphasis on the political and human rights spheres as well and I was pleased that the Committee of Ministers approved the first Council of Europe Action Plan for Belarus on 18 October 2016.

5. Relations with the Council of Europe

59. The Council of Europe Action Plan for Belarus covering the period of 2016-2017 aims to assist the country in areas where the Council of Europe can offer its expertise, and builds upon earlier co-operation with Belarus between 2012 and 2015. The Action Plan is structured around priorities defined jointly between the Organisation and the Belarusian authorities, covering the following areas:[29]

– protecting and promoting human rights;

– abolition of the death penalty;

– assistance in finding the optimal model for a human rights institution;

– bioethics;

– domestic violence; violence against women and children; human trafficking; gender equality;

– data protection;

– regional and minority languages;

– media, internet governance;

– social rights;

– ensuring justice;

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26. www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2016-0456%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN.
27. www.epp.eu/press-releases/epp-congress-in-malta-highlights-of-the-first-day/.
28. 2017/2647(RSP).
29. The overall budget of the Action Plan is slightly over €7 million; the United Kingdom and Bulgaria have also provided voluntary contributions for targeted activities, respectively on the abolition of the death penalty and the functioning of the Info Point in Minsk, inaugurated in 2009.

– constitutional justice;
– criminal and civil justice;
– combating threats to the rule of law;
– fight against corruption and money laundering;
– fight against terrorism;
– cybercrime;
– drug use;
– fight against counterfeiting of medical products and similar crimes;
– promoting democratic governance and participation;
– higher education reforms;
– culture, youth and sports;
– electoral issues;
– civil society;
– local democracy;
– environment.

60. Most of the proposed actions are not fully fledged projects but rather a series of activities aimed at raising awareness about Council of Europe standards in a given area and building confidence between the two sides. Human rights defenders and civil society representatives expressed optimism for this document and hope to be involved in the assessment of its implementation by the Steering Committee.

61. The Council of Europe is also considering opening an office in Minsk and will discuss this possibility with the authorities. In my view, this would be a good option as the Info-Point, inaugurated in 2009, is confined to the Belarusian State University and can no longer fulfil its potential.

62. As stressed by the Committee of Ministers in its reply to Assembly Recommendation 1992 (2012), the integration of Belarus into the Council of Europe remains a strategic objective, on the basis of the Organisation's values and principles.[30]

63. Belarus has joined 11 Council of Europe conventions, mainly in the field of culture, education, international law, the fight against corruption and human trafficking, anti-doping and sport. It has been invited to sign the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211). Belarus is a member of seven steering committees. Since 2010, it has been given the right to take part in the meetings of the Venice Commission as an associated member.

64. On 1 September 2016, the Council of Europe's Group of States against Corruption (GRECO) published a summary of the Interim compliance report on Belarus, saying that Belarus has implemented only one out of the 20 pending recommendations on addressing corruption. An evidence-based comprehensive strategy and plan of action, as well as independent mechanisms to combat corruption are still lacking; no initiatives have been taken to strengthen the independence either of the Prosecutor General's Office or of the judiciary. Presidential immunity has not been limited to the term in office and the number of officials who benefit from specific procedures that limit the extent to which they can be investigated and prosecuted for corruption offences still goes beyond what is acceptable in a democratic society.

65. On 3 July 2013, the Committee of Ministers agreed to accept the request by Belarus for observer status with the Committee of Legal Advisers on Public International Law (CAHDI) "on the understanding that the matter will be followed in the light of developments in Belarus with respect to Council of Europe values".[31] The Director of the General Department of Legal Affairs and Treaties of the Ministry of Foreign Affairs of Belarus has participated in all CAHDI meetings so far.

30. Doc. 13025.
31. CM/Del/Dec(2013)1175/2.4.

66. In 2016, Belarus requested again an invitation from the Committee of Ministers to accede to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201). However, during the consultation process with Council of Europe member States, objections have been raised and it was not possible to obtain the majority necessary to invite the country to accede.

67. I am convinced of the importance of promoting Belarus' accession to the core instruments of the Council of Europe rather than a policy of a Council of Europe *à la carte*, which disregards the essence of the Organisation. It is particularly important, for instance, that Belarus expresses interest in acceding to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), which is not the case for the moment.

68. The challenge for the Council of Europe, as well the United Nations and the European Union, remains to promote a universalistic agenda of human rights which should not be interpreted in terms of geopolitical interests.[32]

6. Conclusions

69. The Belarusian authorities continue to send contradictory signals to the Council of Europe and to its western and eastern partners.

70. The country is suffering a deep economic recession, exacerbated by falling oil prices, a weak currency, depleted foreign currency reserves and lack of economic reforms. Since 2015, Belarus consistently seeks a rapprochement with European governments and institutions but fails to take tangible steps to address the outstanding recommendations, bring legislation in the sphere of human rights into line with international standards and ensure effective implementation.

71. As I stressed during my talks with the authorities, Belarus is at a turning point in its relations with the Council of Europe and it is time to look in the same direction.

72. Severe restrictions on the rights to freedom of expression, of association and of peaceful assembly remain in place and should be revised. In addition to legal restrictions, a large number of citizens, activists and journalists appear to have been arbitrarily and indiscriminately detained during the March 2017 demonstrations throughout the country and must be immediately released. The way the authorities respond to these requests will inevitably determine the course of action of our Assembly and other international organisations, and many of the previous recommendations remain applicable today.

73. Around 400 people were executed in Belarus since its independence in 1991 and new death sentences are handed down regularly, the last one on 17 March 2017. Currently, two people are on death row.

74. The government continues to refuse co-operation with the United Nations Special Rapporteur on human rights in Belarus. Our Assembly should call on the government to open up the county to all human rights mechanisms and institutions, be it at Council of Europe, European Union, OSCE or United Nations level.

75. At the same time, it must be acknowledged that Belarus plays a constructive role in the region and the authorities have shown openness and willingness to discuss human rights issues with the Council of Europe, the United Nations, the OSCE and the European Union. Concrete, tangible results must follow declarations of principle and declaratory diplomacy.

76. The government's success in achieving its objectives to ensure international acceptance, maintain neutrality and improve its economy will very much depend on the degree of political liberalisation and pluralism that the system is willing to accept, with a constructive opposition that has a stake in governance.

77. My action as a rapporteur for the Assembly over the past two and a half years aimed to find a common ground for dialogue and I have always striven to remain judicious and objective in my relations both with the authorities and the opposition forces in the country. I believe that our role as elected representatives is not only to criticise and condemn human rights violations but also to encourage the convictions that lead towards democracy, human rights and the rule of law. This can only happen through strenuous and consistent efforts to keep the dialogue open, with extreme caution and in spite of the obstacles.

32. See also Alex Nice, Playing both sides: Belarus between Russia and the EU, Deutsche Gesellschaft für Auswärtige Politik [German Council for Foreign Relations] – DGAPanalyse, March 2012, No. 2.

78. The March events clearly represent a setback, but this should not discourage the Assembly from remaining committed to a positive reform agenda on the basis of common interests and based on the values upheld by the Council of Europe.

79. I will repeat this tirelessly: a first and most urgent step for Belarus to show sincere openness to a meaningful dialogue with our Assembly would be an immediate moratorium on the death penalty, with a view to its permanent abolition.

80. I firmly believe that our Assembly cannot remain on the sidelines and hope that change will somehow occur. Democracy is a skill that can also be practised through continuous dialogue and exchange of experience and good practice. We must continue to engage both with the authorities and with civil society to accompany and encourage change and to ensure that Council of Europe values take root in Belarusian society. We must dismantle barriers and establish stronger relations, both with the authorities and with the opposition.

81. It is therefore important to strengthen the parliamentary dimension of relations between Belarus and the Parliamentary Assembly and to continue all activities, including high-level contacts, with the Belarusian authorities. The Committee on Political Affairs and Democracy could also consider stepping up dialogue with the Parliament and civil society of Belarus by inviting representatives of the majority and of the opposition, as well as a representative of civil society, to attend its meetings during the Assembly part-sessions over the next two years.

82. At the same time, in the absence of a moratorium on the death penalty and of substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe, the Assembly is not in a position to call on its Bureau to lift the suspension of the special guest status for the Parliament of Belarus.