

**Alternative report by National Human Rights  
Coalition on implementation of the  
International Covenant on Civil and Political  
Rights in the Republic of Belarus**

Represented to the 124<sup>th</sup> session of the UN Human Rights  
Committee

Minsk, May 2018

## References

The report has been prepared in connection with the UN Human Rights Committee's consideration of the fifth periodic report of the Republic of Belarus on the fulfilment of its obligations under the International Covenant on Civil and Political Rights by the following non-governmental human rights organizations in Belarus:

- 1) Republic Human Rights Public Association "Belarusian Helsinki Committee", [office@belhelcom.org](mailto:office@belhelcom.org)
- 2) Human Rights Center "Viasna", [viasna@spring96.org](mailto:viasna@spring96.org)
- 3) Legal Transformation Center "Lawtrend", [infolawtrend@gmail.com](mailto:infolawtrend@gmail.com)
- 4) Public Association "Belarusian Association of Journalists", [press@baj.by](mailto:press@baj.by)
- 5) Assembly of Pro-Democratic NGOs of Belarus, [ngo@belngo.info](mailto:ngo@belngo.info)
- 6) The Republican Public Organization "Legal Initiative", [lirngo@gmail.com](mailto:lirngo@gmail.com)
- 7) The Barys Zvozkau Belarusian Human Rights House, [belarus@humanrightshouse.org](mailto:belarus@humanrightshouse.org)
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- 9) Educational Institution "Office for the Rights of Persons with Disabilities", [info@disright.org](mailto:info@disright.org)
- 10) The Belarusian Documentation Center, [info@bydc.info](mailto:info@bydc.info)
- 11) Institution "Advisory center on contemporary international practices and their legal implementation "Human Constanta", [info@humanconstanta.by](mailto:info@humanconstanta.by)
- 12) The Initiative Group "Identity and Law", [office@identitylaw.org](mailto:office@identitylaw.org)

The report represents information on actual civil and political rights situation relating to the Committee's questions to the Government of Belarus (CPR/C/BLR/QPR/5). Each section contains recommendations by the author organizations presenting the Government's possible steps to address the issues of civil and political rights set out in this report.

The structure of the report is as follows:

- The State's obligation to respect human rights and submit periodic reports (questions 1 and 3) – The Barys Zvozkau Belarusian Human Rights House;
- Non-discrimination (questions 5-9) – RHRPA "Belarusian Helsinki Committee", EI "Office for the Rights of Persons with Disabilities", The Initiative Group "Identity and Law";
- The right to life (questions 12 and 13) – Human Rights Center "Viasna", The Belarusian Documentation Center;
- Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (questions 14 and 15) – Human Rights Center "Viasna", The Republican Public Organization "Legal Initiative", RHRPA "Belarusian Helsinki Committee";
- Prohibition of slavery, servitude and forced labour (question 16) – Human Rights Center "Viasna";
- Freedom and security of the person and humane treatment of persons deprived of liberty (questions 17, 18, 20, 21) – Human Rights Center "Viasna", The Republican Public Organization "Legal Initiative", RHRPA "Belarusian Helsinki Committee";
- Right to a fair trial, judicial independence. The Independence of the Legal Profession (questions 22-24) – RHRPA "Belarusian Helsinki Committee", The Belarusian Documentation Center;
- Freedom of movement (question 25) – Institution "Advisory center on contemporary international practices and their legal implementation "Human Constanta";
- Freedom of conscience and religion (question 28) – Expert Law Partnership "FORB Initiative"
- Freedom of speech (question 29) – Public Association "Belarusian Association of Journalists"; Institution "Advisory center on contemporary international practices and their legal implementation "Human Constanta";
- Freedom of peaceful assembly (questions 30 and 31) – Human Rights Center "Viasna", RHRPA "Belarusian Helsinki Committee";

- Freedom of association (question 32) – Legal Transformation Center “Lawtrend”, Assembly of Pro-Democratic NGOs of Belarus;
- The right to participate in the affairs of one’s country (question 33) – RHRPA “Belarusian Helsinki Committee”, Human Rights Center “Viasna”.

***The State’s obligation to respect human rights and submit periodic reports (articles 2 and 40) (questions 1 and 3)***

*Information on question 1*

1. In accordance with the provisions of article 2 of the International Covenant on Civil and Political Rights (ICCPR), States Parties are obliged to “respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized therein”, and “take the necessary steps to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant”.
2. One of the ways for the State to show progress in fulfilling its obligations under the Covenant is presenting regular reports. This responsibility is enshrined in article 40 of ICCPR, pursuant to which the State undertakes to submit periodic “reports on the measures it has adopted to give effect to the rights enumerated in the Covenant and the progress achieved in this regard”.
3. Fourth periodic report to the UN Human Rights Committee was presented by Belarus in 1997, 4 years late. Fifth periodic report was prepared by Belarus under the optional reporting procedure adopted by the HR Committee in October 2009 (A/65/40 (Vol. I), paragraph 40), and presented to the Committee on 30 March 2007.
4. Human rights organizations in Belarus that had contributed to the preparation of the present alternative report welcome the fact that Belarus has started reporting more regularly and timely to the UN treaty bodies (in 2015-2016 Belarus presented the reports to the Committee against Torture, the Committee on the Elimination of Discrimination against Women, and the Committee on the Elimination of Racial Discrimination). However, it is a matter of concern that representatives of civil society, including human rights organizations, are only slightly or not at all engaged in preparing periodic country reports. More specifically, in completing the report to the HRC, the Government had failed to consult human rights organizations in Belarus. A public presentation of the Report with invited representatives of human rights organizations was organized in May 2017, that is, after the report had been submitted to the Committee.

*Information on question 2*

5. More than 20 years have passed since the adoption of the Committee’s previous concluding observations. Human rights organizations have been concerned to note the significant deterioration in the situation with respect by the Republic of Belarus of its legal obligations under the International Covenant on Civil and Political Rights since 1997. Information about the situation with civil and political rights has been provided by the coalition in its report to the second cycle of the Universal Periodic Review (2015), which is reflected in the summary prepared by OHCHR (A/HRC/WG.6/22/BLR/3).
6. Since 2015, there have been no significant changes in the legislative and institutional framework for the promotion and protection of human rights. On a positive note, the Inter-Agency Implementation Plan was adopted for recommendations accepted by Belarus following the second cycle of the Universal Periodic Review within the UN Human Rights Council, as well as the recommendations addressed to Belarus by the human rights treaty bodies for 2016 – 2019.

*Information on question 3*

7. The Republic of Belarus ratified the Optional Protocol to the ICCPR in 1992 and recognized the HR Committee’s competence to receive and consider communications from individuals subject to its jurisdiction claiming to be victims of a violation by the Belarus authorities of any of the rights set forth in the Convention.
8. According to the HRC’s official statistics, 257 individual communications against Belarus have been registered by the Human Rights Committee as at 31 January 2018. 107 of 257 have been examined on the merit; The Committee has found violations by the Republic of Belarus of its obligations under the Covenant in 104 communications. However, for the time being, none of the observations was implemented by the State.
9. The authorities of Belarus are continuing the practice of selective collaboration with the Committee under the individual complaints procedure. In 2014-2016, the Belarus authorities failed to provide any observations on the admissibility of the allegations made in the individual complaints brought before the Committee at least in 36 cases. If Belarus submits the comments, they are, as a rule, formalistic and represent the authorities’ attempt to justify non-compliance with their obligations under the 1966 Optional Protocol to the ICCPR (non-recognition of the Committee’s rules of procedure, as they do not form part of the Covenant; registration of the communications provided by third parties (lawyers and other individuals) on behalf of those claiming the violation of their rights, constitutes an abuse of the right to submit a communication; etc.). The Committee has repeatedly emphasized that it has authority over its own rules of procedure accepted by the State Parties under article 39 (2) of the Covenant, and that in keeping with the Optional Protocol, the State party of the Covenant recognizes the Committee’s

competence to receive and consider communications from individuals claiming to be victims of a violation of any of the rights set out in the Covenant (Preamble and Article 1 of the Optional Protocol), regardless of who represents the victim. Failure to comply with these rules basically constitutes a violation by the State of its obligations to recognize the competence of the Committee to receive and consider communications from individuals subject to their jurisdiction who claim to be victims of a violation by the State Party of a right set forth in the Covenant, as well as the obligation to cooperate with the Committee in order to ensure full and comprehensive consideration of the circumstances contained in the complaint. However, none of the Committee's views regarding Belarus have been implemented by the authorities.

10. Belarus also fails to take into account the provisional measures requests addressed by the Committee pursuant to rule 92 of its Rules of Procedure to avoid irreparable damage to the victim of the alleged violation. The Committee requested provisional measures for at least 11 persons in Belarus who had filed individual communications to the Committee. None of his requests have received a favorable response.

#### *Information on question 4*

11. The authorities have not demonstrated any notable progress in establishing a national human rights institution thus far. In accordance with the Inter-Agency Implementation Plan for recommendations accepted by Belarus under of the Universal Periodic Review process, as well as the recommendations made by the UN Treaty Bodies, in 2016-2019 Belarus will continue a comprehensive study of feasibility of establishing a national human rights institution. These activities are not public, and civil society organizations have not been informed of any steps taken by the authorities in this regard.

#### **Recommendations:**

- Involve civil society representatives in the preparation of reports to the UN treaty bodies;
- amend the criminal procedural and criminal enforcement legislation with a view to suspend execution of execution of death penalty prior to consideration of the defendants' communications by the UN treaty body;
- Take measures to implement the views issued by the UN treaty bodies in domestic legislation and practice.

### ***Non-discrimination (questions 5-9)***

#### *Information on question 5*

12. So far, a comprehensive anti-discrimination law has not been adopted in Belarus.
13. Owing to the absence of a comprehensive anti-discrimination legislation, Belarus has no effective legislative mechanisms for ensuring equality and protection from discrimination. The general provisions on the equality and non-discrimination principles contained in Belarusian law have not been addressed fully in legislative texts and lack effective measures for their implementation, and thus cannot be a substitute for specific comprehensive anti-discrimination legislation. Without such legislation, the realization of the principles of equality and non-discrimination in Belarus will remain quite challenging.
14. The Inter-Agency Implementation Plan adopted in 2016 provides for "a study of legislative acts as to the need for incorporating of provisions of non-discrimination on any grounds, as well as determination of the feasibility of comprehensive legislative instruments prohibiting such discrimination". These activities are scheduled to be held in 2017-2019. Thus, there are no reasons to expect specific anti-discrimination legislation to be adopted during that period. In August 2017, a meeting took place between the representatives of human rights NGOs (Belarusian Helsinki Committee and Office for the Rights of Persons with Disabilities) and the National Centre of Legislation and Legal Studies – the body responsible for conducting the activity. At that meeting, possible options for cooperation were discussed. In particular, the NCLLS representatives expressed interest in receiving information regarding foreign experience in adoption and operation of anti-discrimination legislation.
15. On a positive note, in 2017 two National Action Plans for Gender Equality and implementation of the Convention on the Rights of Persons with Disabilities were adopted that include a range of activities to achieve equality in these respects.
16. Owing to the lack of anti-discrimination legislation, there are no effective remedies for discrimination. Particularly, the legislation lacks specific rules and norms relating to the examination of discrimination cases by courts that have been developed in other European jurisdictions in recent years (for example, shifting the burden of proof to the defendant). Under the Belarus legislation and the general rule applied to discrimination cases, the burden of proof lies equally with all the parties in the process. Under article 179 of the Code of Civil Procedure, each party proves the facts on which it relies as the grounds for its claims and objections. In practice, this often means that a victim of discrimination has to provide evidence of a violation of the right to equality. One of the court decisions explicitly noted that the claimant has failed to prove the occurrence of discrimination in recruitment by the defendant. At that, the defendant in such cases is not obliged to prove that there was no discrimination or differential treatment towards the victim in the defendant's acts.
17. In Belarus, no adequate court practice has been formed in discrimination cases. The references to discrimination are very rarely invoked in legal proceedings. The judges are reluctant to consider the issues of violation of equality

and lack specific training in the handling of discrimination cases. There is no practice of directly applying the provisions of international treaties in the examination of individual cases by courts.

18. The victims of discrimination have no legal ability to address the public authorities specializing in the protection of human rights and non-discrimination; there is no access to simplified conflict resolution procedures for discrimination cases; Belarus has not established a national human rights institution that could check the claims of discrimination and collect relevant information on the application of the principles of equality and non-discrimination within its territory.

*Information on question 6.*

19. The Belarus legislation as a whole contains a prohibition on hate speech. Hate motivation constitutes aggravating circumstances of a crime. Under the law, offences committed on the grounds of hatred entail increased criminal liability. It should be noted, however, that there have been virtually no cases in which persons have been convicted with an attached statement of hate motivation in the sentence. In most cases, hate crimes are qualified as hooliganism.

*Information on question 7.*

20. The rights of the Roma population are subjected to multiple restrictions by the militia using ethnic profiling. Such cases were particularly common between 2014 and 2016. The actions resulting in ethnic profiling included arbitrary detention and fingerprinting of Roma individuals or those resembling the Roma (similar appearance, clothes). The militia officers have explained their actions by the need for delinquency prevention, and referred to a “special Presidential Decree” or the instructions of their supervisors. In fact, these actions have been conducted based on the MIA internal document No. 56 “For Official Use Only”, which had been revoked from 2017. The existence of such legal instruments providing for ethnic profiling, as well as their possible appearance in future, is of the utmost concern.
21. There have been information materials distributed (publications in the media, leaflets calling for ethnic profiling) spreading hostile anti-Roma prejudices among the population. These measures are not conducive to social integration of the Roma population.
22. At present, there is no national programme for social integration of the Roma population in Belarus, which renders impossible the realization of the Roma population's right to work, to free choice of employment, to just conditions of work, to protection against unemployment, and to equal pay for equal work. The reasons for a lack of legal employment are: a lack of necessary educational and qualifications; difficult access to educational programs and a lack of educational motivation; discrimination in recruitment, where there are appropriate vacancies. The lack of legal employment has resulted in the Decree of the President of the Republic of Belarus of 2 April 2015 No. 3 “On the Prevention of Social dependency” (see article 59 of this report) striking hardest at the Roma population.
23. Secondary and primary education is provided to about 80% of the Roma children, but the majority only receives primary education. 12% of the Roma children aged 10 and over are unable to read and to write. According to the unofficial data provided by Roma mediators for the period 2014 – early 2015, around 55% of underage Roma never attended school. Among the main causes are lack of motivation for learning among the Roma children, lack of parents’ control, and lack of clothing or school supplies because of low income in Roma families.
24. Health-care services are provided to the Roma population on an equal basis with others.

*Information on question 8<sup>1</sup>.*

25. On a positive note, the Convention on the Rights of Persons with Disabilities was ratified by Belarus on 3 October 2016 (the last State to adhere to the Convention in Europe). However, Belarus refused to sign the Optional Protocol to the Convention on the Rights of Persons with Disabilities. One positive development is that the first National Implementation Plan was prepared for the norms of the Convention on the Rights of Persons with Disabilities for 2017-2025. The Plan included, above all, a responsibility to study the issues of combating discrimination, of enhancing legal capacity, of risk management, of public information etc. Unlike the existing national recovery and social integration programmes, this Plan is currently not funded.
26. The commitment to ensuring equality is implemented through special positive action group measures (not personal) in different spheres of human activity. Nonetheless, there are still many discriminatory norms contained in national legislation and applied in practice. These are, for instance, norms restricting the right to family, norms imposing limitations depending on types of disability etc.
27. The legal ban on commissioning of residential buildings and other social infrastructure without ensuring their accessibility for persons with physical disabilities has been in place since 1994. To this end, the third 5-year national programme for establishing a barrier-free environment is being implemented, the relevant building regulations are developed and approved. However, objects below accessibility standards are built and operated even to date. Accessibility surveys reveal only 10 to 15 per cent of objects to be relatively accessible. Only 1 per cent of all programmes on national television are translated into sign language. Persons with psychosocial disabilities are subject to institutional oversight and highly stigmatized.

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<sup>1</sup> For more information, see: [http://www.disright.org/sites/default/files/source/07.05.2016/nulevoy\\_otchet.pdf](http://www.disright.org/sites/default/files/source/07.05.2016/nulevoy_otchet.pdf)

28. The country's transport infrastructure is not compliant with the principle of full and continued accessibility of transit routes, as there are no such policy settings in the country's traffic management.
29. Contrary to the inclusive and personalized approach, social protection is provided institutionally. The system of specialized services is under full State monopoly. Social care includes over 80 State residential institutions where more than 18,000 people have to live in virtual conditions of restricted freedom (closed regime may take place in such institutions).
30. There are many positive action measures in employment. However, their effectiveness can be measured by the fact that only about one third of employable people with mildest disabilities have found employment.
31. On a positive note, the Concept for the development of inclusive education for persons with special mental or physical development needs in Belarus was adopted by local regulations. The Concept provides for gradual shift from a special or segregated educational approach to an inclusive one. In addition, there is a network of correction- and development-training centers acting as resource centers for local communities. Nonetheless, parents' organizations of physically disabled persons note the slow progress in achieving inclusiveness.

*Information on question 9*

32. Crimes motivated by LGBTphobia are common in Belarus. Only a small fraction of the victims comes forward to go to law-enforcement agencies for help. The victims often note a bias by the staff of the internal affairs agencies. If criminal proceedings are instituted, hate motive is generally not regarded as an aggravating circumstance. There has been only one case (the verdict issued by the Pervomaiski District Court of the City of Minsk in February 2016) where homophobia was regarded as a qualifying circumstance.
33. In spite of well-regulatedness of the issues of sex reassignment, the existing situation with replacement of identity documents after sex reassignment may result in an undesired disclosure of that private fact and, consequently, in discrimination in various spheres of life. An important issue is that there is no way to change the unique identification number when changing sex designation on passport. That seriously violates the right to privacy of persons after sex reassignment. Bearing in mind extremely negative societal attitudes towards transgender people, disclosure of the fact of a person's sex reassignment often leads to discrimination. Discrimination of transgender people will only be prevented when each person who undergo gender transition is allowed to change the identification number.
34. Another important challenge is that the grounds for obtaining a passport after sex reassignment stated in the national database of the "Passport" automated system is "Sex change". Therefore, the fact of sex reassignment is being disclosed even in routine identity check. There are cases where this information attracted the officer's special attention, which results in discriminatory and humiliating treatment. Given that the Ministry of the Interior allows the access to the data from the "Passport" system to other state bodies, a broad range of persons gains access to sensitive information of that kind.

***Recommendations on articles 2 and 26 of the Covenant:***

- Adopt comprehensive anti-discrimination legislation with the established definition of direct, indirect and other forms of discrimination.
- Establish effective mechanisms for the prevention and protection against discrimination, including mandatory anti-discrimination expert evaluation of draft laws and regulations.
- Prevent discrimination in law, as well as in practice.
- Ensure equal access to rights under the Constitution and the country's international obligations in practice.
- Accede and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- Implement anti-discrimination policy on disability.
- Eliminate and replacing discriminatory laws and practices regarding the realization of all civil and political rights set forth in the Covenant.
- Provide training for law enforcement officials and the judiciary on the investigation of crimes and consideration of criminal cases of crimes motivated by hostility towards different social groups, including the proper treatment of the victims.
- Provide an opportunity for persons who have changed their sex designation on passport to change the identification number in the protection of their privacy.
- Exclude any reference to a person's changed sex designation in the "Passport" database, as well as in other databases available to a wide range of persons.

## ***The right to life (article 6)***

### *Information on question 12*

35. No attempts have been made by the authorities to investigate the cases of enforced disappearances of political opponents of the regime, namely former Interior Minister Yury Zakharanka, former deputy speaker of the Supreme Soviet Viktor Hanchar, entrepreneur Anatol Krasowski, and journalist Dzmitry Zavadski, in 1999-2000.
36. Official reports of the relevant authorities of the Republic of Belarus alleging the lack of information on the perpetrators of the kidnappings do not correspond to reality, as the involvement of current and former representatives of Belarus official authorities in these crimes is confirmed by the available data. These findings are contained in a memorandum by the Special Rapporteur of the Parliamentary Assembly of the Council of Europe Christos Pourgourides entitled "Missing People in Belarus".
37. The validity of allegations against the highest State officials has not been refuted in the manner determined by law. The aggrieved persons, their representatives and the public have not received any data confirming this. In this, the Human Rights Committee found Belarus guilty for violation of the International Covenant on Civil and Political Rights in the case of Anatoly Krasovski, as Belarus had failed to provide effective remedies and to ensure a thorough and effective investigation of relevant facts, the prosecution and adequate punishment of offenders, the proper reporting on the results of the investigations carried out, and due compensation. Similar findings were reflected in the Views of the Committee of 17 March 2017 on the case of Yury Zakharanka. In response to the complaint by Ulyana Zakharanka, the State refused to implement the Committee's decision, arguing that the Committee's Views were of recommendatory nature.
38. Currently, the investigation of criminal cases for disappearances of political opponents of the regime is virtually non-existent and bears imitative character. The authorities of Belarus have prolonged the investigation on these cases every 3 months for 18 years. They claim that they lack evidence of the State's involvement with the disappearances.
39. At the same time, the authorities conceal the investigation materials from the public and the families of disappeared politicians, and refuse to report what specifically has been done to examine possible political motivation of the disappearances. Numerous requests by the relatives and their representatives to obtain copies of procedural documents that they were entitled to receive have been denied without valid reasons.
40. During the period of 1999-2018, no information was given on the investigation of these cases.
41. Information about deaths in custody is not publicly available; there is no publicly available statistics on such deaths and their causes. Occasionally, the cases of death in custody are brought to public attention due to the efforts of the victims' relatives and human rights defenders. In 2010, it was made public that Alexander Akulich had died in the temporary detention centre in Svetlogorsk, Egor Protasenya, Oleg Bogdanov and Igor Barbashinsky had died in the prison of Zhodzina, Valyantsin Pischalau, Valyantsin Zbankou, Sergey Ishchuk, Mr. Yurchik (first name unknown) had died at penal colony No. 13 (Glubokoe). Some of them committed suicide, and had accused the MIA officers of ill-treatment.
42. The death of Ihar Ptichkin was investigated. The Interior Ministry officer A. Krylou, a staff member of the medical ward, was sentenced to imprisonment for violation of the procedure for providing medical care resulting in the death of an individual. Compensation of Br. 30 000 (about \$16 000) was awarded to the victim's mother and sister by the Court. Nonetheless, ill-treatment of Ihar Ptichkin has not been duly investigated, and physical suffering inflicted to him in detention remains unpunished.

### *Information on question 13*

43. Even though there has been a trend towards a significant decline in the number of death sentences imposed and carried out since 1999, Belarus continues to impose and carry out death sentences. To date, the Criminal Code of the Republic of Belarus contains 12 offences carrying the death penalty. Two more offences carry the death penalty in wartime.
44. Between 1997 and 2018, 167 death sentences were reported to be imposed. It is not known how many of them were carried out because of the lack of information provided by the State.
45. On 14 July, the Supreme Court overturned the sentence of life imprisonment against Vyacheslav Suharka and Alexander Zhilnikau imposed by the Minsk City Court. After reviewing the case, the Minsk City Court handed down two death sentences to the accused on 20 January 2014.
46. Death sentences continued to be imposed by the Supreme Court in the first instance, in particular against Siarhei Marosau, Valery Harbaty, Ihar Danchanka, Uladzlau Kavalyou and Dzmitry Kanavalau, so the accused were deprived of their right to appeal against the sentence in cassation. According to the current legislation in Belarus, a sentence imposed by the Supreme Court shall be enforced immediately after announcement and may not be appealed under the procedure established by the law. Under article 408 of the Code of Criminal Procedure, a convicted person, an acquitted person, their lawyers and legal representatives, the victim, the civil defendant and their representatives may appeal against an enforceable court's sentence. However, this form of appeal is not an appropriate remedy, as supervisory appeal for sentences which came into force has no suspensive effect (article 405 of the Code of Criminal Procedure). Furthermore, court hearing is not required in supervisory review proceedings. The appeal is examined by a designated official who is entitled to challenge enforceable court's

sentences. The official is to decide whether there are grounds for satisfying the appeal and protesting against the court decision (article 404 of the Code of Criminal Procedure).

47. After the sentence came into force, the persons sentenced to death have the right to seek pardon under the Penal Enforcement Code (article 174, paragraph 1, section 2). Pardon may be granted by the President under article 84, paragraph 19 of the Constitution of Belarus. The procedure for applications for pardon is governed by the Regulation on the Procedure of Granting Pardon to Convicts, Releasing the Individuals Providing Assistance in Solving Crimes and Dealing with their Consequences from Criminal Prosecution, confirmed by the Decree of the President of the Republic of Belarus No. 250 dated December 3, 1999. Under paragraph 8 of the Regulation, before its submission for approval by the President, a request for pardon is considered by the Presidential Pardons Commission. Although the paragraph 9 of the Regulation provides for the possibility to invite the representatives of public organizations and mass media to the Commission sessions, the sessions are closed. Presidential pardon decrees are also never made public.
48. S. Marozau and I. Danchanka were sentenced to death twice by the Supreme Court of the Republic of Belarus – in December 2006 and in October 2007, and V. Harbaty was sentenced to death in December 2006. In February 2008, the enforcement of sentences became known. At the same time, the Supreme Court of Belarus instituted proceedings in one more criminal case – the one against S. Marozau and his three accomplices in January 2008. The reason for such hasty enforcement of the sentences before starting new court hearing (February 19, 2008) remained unknown.
49. A death sentence for Dzmitry Kanavalau and Uladzslau Kavalyou passed by the Supreme Court of Belarus in first instance was enforced only in 2 months after announcement.
50. In ten cases (U. Kavalyou, A. Zhuk, V. Yuzepchuk, A. Burdyka, A. Grishkovets, P. Selyun, A. Grunou, S. Ivanou, S. Khmelevsky, G. Yakovitsky), death sentences were carried out despite the fact that protection procedures had been initiated for persons sentenced under the HR Committee's Rule of Procedure No. 92 on individual communications to the UNHRC. The Belarus Government was informed in writing that the procedures had begun. Failure to implement these HRC procedures points to violation of the international obligations of Belarus under the Optional Protocol to the International Covenant on Civil and Political Rights.
51. In six cases, the UNHRC has found violations of article 6 of the ICCPR (the right to life) by Belarus on individual communications of the executed U. Kavalyou, A. Zhuk, A. Grishkovets, A. Burdyka, V. Yuzepchuk, P. Selyun.
52. According to the Belarus legislation, death sentences are carried out by firing squad in private. Dates and places of execution are not announced, the bodies of the executed are not given out to relatives and the places of burial are not disclosed. The UNHRC has repeatedly recognized these procedures as cruel and inhuman treatment to the relatives of those executed.

***Recommendations on article 6 of the Covenant:***

- Ratify the International Convention for the Protection of Persons from Enforced Disappearance;
- Take necessary measures for full, independent and impartial investigation of cases of disappearances of political actors (Yury Zakharka, Viktor Hanchar, Anatol Krasowski, Dzmitry Zavadski);
- Bring to justice those accused of these offences before an independent judiciary, and, if found guilty, ensure that they are prosecuted and punished in accordance with international human rights obligations of Belarus;
- Abolish the death penalty; as an interim measure, establish a moratorium on executions;
- Publish full statistics for death sentences handed down and carried out in Belarus.

***Prohibition of torture and other cruel, inhuman or degrading treatment or punishment  
(article 7)***

*Information on questions 14 and 15*

53. There are clear reports of torture and ill-treatment to be still practiced in MIA and KGB facilities.
54. Persons responsible for torture and ill-treatment of detained activists and presidential candidates (and their agents) in peaceful protest actions against rigging the presidential election in the KGB detention facility in December 2010 - February 2011 have not been held accountable or subjected to any punishment. Those detained in the KGB detention facility who have been the victims of ill-treatment in December 2010 - February 2011 were penalized for complaints by strengthen disciplinary actions against them. Many detainees of MIA and KGB detention facilities and other places of imprisonment have alleged possible detainees' collective responsibility in case one of them filed a complaint of ill-treatment.
55. Complaints by torture victims are often sent for verification to the very body alleged to have perpetrated the ill-treatment. For example, the complaints submitted to the Public Prosecutor's Office regarding the conduct of officials from the Investigative Committee are forwarded to the Investigative Committee.
56. Belarus has not established a national preventive mechanism. The complaints of those convicted or detained are in most cases examined by bodies in charge of such facilities. In rare cases, investigation is conducted by the Investigative Committee. Even those suspected of having taken direct part in torture or ill-treatment are not

- suspended from their duties during the investigation. For example, the investigation of the death of Ihar Ptichkin was conducted by the Office of the Prosecutor General.
57. Injuries are not documented or documented superficially by prison medical authorities, and expertizes can be conducted after a reasonable period of time.
  58. At present, the Criminal Code of the Republic of Belarus contains 2 articles mentioning tortures, namely article 128, entitled “Crimes Against Peace and Safety of Mankind”, that criminalizes tortures and ill-treatment on the ground of racial, national, ethnic reasons, political convictions or religion, and article 394, part 3 of the Criminal Code, entitled “Coercion to testify”, applicable only to those conducting initial inquiries, preliminary investigation or administering justice. However, there are still no norms providing for liability for torture and cruel, inhuman or degrading treatment, and the articles mentioned above do not cover the total range of forms of torture, hence, it cannot be concluded that these articles of the Criminal Code criminalize all acts of torture. In 2015, article 128 of the Criminal Code is supplemented with explanatory notes defining the concept of torture as set out in the provisions of the Convention against Torture.
  59. Investigations into the offences committed by prosecutors, the Investigative Committee and internal affairs representatives in the course of their professional activities are carried out directly by the Investigative Committee.
  60. The Investigative Committee is established as a special institution that serves to ensure independent investigation of crimes regardless of the charges involved. However, no measures have been taken to ensure independent investigation of cases involving torture. The organizational structure of the Committee does not include a special unit to handle cases involving torture. Therefore, this State body is not capable of investigating impartially the cases involving torture committed by its agents.
  61. Persons subjected to torture may apply to the procurator's office that has competence for investigation of such complaints. Inadequate handling of such complaints concerns the partiality of prosecutors, as under article 4, part 4 of the Law On Prosecutor's Offices in the Republic of Belarus, prosecutors are intended not only to supervise law enforcement in pre-trial proceedings, preliminary investigations and initial inquiries, but also to promote public criminal proceedings.
  62. Furthermore, complaints of torture and ill-treatment are often forwarded by prosecutors to internal affairs agencies, the members of which have been accused of perpetrating torture and cruel, inhuman or degrading treatment. The legislation does not provide for the suspension from duties of officials investigated for alleged use of torture. They continue to work, and can put pressure on the victims and potential witnesses.
  63. In view of the above, it may be concluded that allegations of torture and ill-treatment are not investigated promptly, impartially and effectively, and victims do not have access to the record of investigation and effective remedies.
  64. To date, no independent and impartial investigation has been carried out into the allegations of torture and ill-treatment to former presidential candidates Andrei Sannikau and Ales Mikhalevich. During criminal investigation, complaints about ill-treatment and denial of access to Andrei Sannikau by the defense council were repeatedly submitted by his council Pavel Sapelka to the investigator, the Minsk Prosecutor's Office and the General Prosecutor's Office. Ales Mikhalevich had lodged a complaint of ill-treatment, but criminal investigation on this was denied. Subsequently, the court did not satisfy the appeal against the order to dismiss the criminal complaint.
  65. At legislative level, no measures have been taken by the State to prevent torture and ill-treatment in places of detention.
  66. According to the State's report to the Committee against Torture in 2016, prosecution authorities have conducted 1712 checks in Belarus penal correction facilities. This information was not mentioned on the website of the General Prosecutor's Office. No substantive response has been provided to the appeals sent by human rights defenders to regional prosecutor's offices and the General Prosecutor's Office for information on the number of the checks conducted. The prosecutors recalled that this information was proprietary.
  67. According to former detainees, medical units, punitive confinements and solitary cells, the conditions in which remain a point of concern are never demonstrated to the prosecutors conducting monitoring visits to detention facilities. The administration tries to conceal serious violations, so the prosecutors only meet the convicts who collaborate with prison administration and tell about minor violations.
  68. It has been reported that prison administration urge the convicts subject to torture and ill-treatment to avoid complaining. If the convicts cannot be coaxed, they will be threatened, beaten, or placed in punishment cells. All prisoners' correspondence, including complaints, is being censored by the administration. The prison administration tries to prevent the complaints from getting outside the territory. The only option to launch a complaint is through the lawyers or newly-released convicts. However, the administration directly regulates visitations to convicts, and can refuse to allow the presence of lawyers, citing the convict's poor health or other fictitious reasons.
  69. The State does not take any legislative and practical measures to ensure videotaping of all interrogations. Information on the conditions in temporary detention facilities is not provided. Human rights defenders are denied access to this information. Courts do not entertain complaints about concealment of information on the conditions in temporary detention facilities or proves reasonability of concealment.
  70. Belarus lacks independent bodies authorized to conduct periodic independent visits to detention facilities, including psychiatric hospitals, without prior notice. In Belarus, there are public monitoring commissions, but their powers are extremely limited. The legislation does not provide for visits to confinement centers, psychiatric

- hospitals and temporary detention facilities by the PMC members. Moreover, detention facilities are accessible only with permission of a head of a penal establishment.
71. The Provision of the procedure for organizations to exercise control over the activities of bodies and establishments executing punishment and other measures of criminal liability approved by the Regulation of the Minister of Justice No. 1220 does not provide for clear criteria for selection of commission members. Public oversight commissions are constituted under the authority of the Ministry of Justice. Public oversight commissions in main includes members of charitable, sport, social, and religious organizations. With few exceptions (the inclusion in the national POC of the chairman of the Belarusian Helsinki Committee Aleh Hulak in 2017), the representatives of relevant human rights organizations have been unreasonably denied inclusion in POCs. At the same time, POCs include the members of such organizations as the Belarus Culture Fund, the Belarus Writers' Union, the Russian Cultural Society "Rus", the voluntary association "Social Projects", the Gomel Club for the Happy and Resourceful, the voluntary association "Promotion of Traffic Safety", that is, the organizations having no relevance to human rights.
  72. According to information provided by the State, public oversight commissions visited 25 penal institutions in 2012-2014. POC members therefore visit an average of 8 penal institutions per year. Such number of visits is miniscule, as there are 47 penal institutions, to which POC members may have access. For all the years of existence of POCs in Belarus, they have not yet published a thorough monitoring report on the visits to detention facilities. The conclusion made by POCs have mostly been that the conditions of detention met the requirements of relevant legislation. However, in the light of all the information available to independent human rights defenders on human rights violations at prison facilities, it can be concluded that the data provided by POCs, as well as the State's contention of satisfactory conditions in penal institutions, were untrue.
  73. Belarus has extradited persons to states where they might be subject to the death penalty or torture: on 7 February 2017, Alexander Lapshin, a blogger of Israeli-Russian citizenship, was extradited from Belarus to Azerbaijan despite his appeal to the UNHRC. Subsequently, Alexander Lapshin was sentenced to 3 years' imprisonment in Azerbaijan and was pardoned by the President of Azerbaijan in September 2017.
  74. An example of disguised extradition is the decision to expel a citizen of the Islamic Republic of Iran Mekhrdad Dzhamshidiyan, who was actually extradited under the decision on forced expulsion, although the extradition had been refused in 2013. The State also extradited Mourad Amriev, a citizen of the Russian Federation from Chechnya who was on the international wanted list. Amriev was extradited without access to a lawyer, and his application for refugee status was ignored.
  75. The situation was similar with a Russian citizen Imran Salamov who was detained in Brest on his sixth attempt to cross the border to Poland. Salamov was put on the international wanted list by request from Chechnya. The Migration and Citizenship Department of the Leninsky District of Brest ordered his detention and forcible expulsion on 13 April 2017. From that day on, Salamov was placed in temporary detention. Salamov made an asylum claim in Belarus, stating that he had been repeatedly tortured in Chechnya, and that he had left Chechnya for fear of being tortured again. The expulsion order was suspended while the claim was being considered. At the same time, Salamov lodged an appeal against the expulsion decision. All this time, he was held in detention. Salamov's application for refugee status was denied, and on 5 September 2017 he was extradited without the opportunity to appeal against the denial. The Brest Prosecutor's Office recognized the violation on the matter. However, since 11 September the relatives of Salamov have not seen him in Grozny, as he disappeared on his way to a temporary detention facility. Accordingly, Amnesty International launched the international campaign in support of Imran Salamov<sup>2</sup>.
  76. To date, the State has made no declaration under articles 21 and 22 of the Convention against Torture (recognizing the Committee's competence to receive and consider communications from individuals subjected to torture). In response to the request from human rights activist Victoria Fyodarava about possible declaration under articles 21 and 22 of the Convention, the Ministry of Foreign Affairs stated that acceptance of competence of the UN Committee against Torture was not an obligation and was left to discretion of State parties. The Republic of Belarus has not yet decided whether or not to recognize the competence of the UN Committee against Torture under the articles of the Convention invoked.

**Recommendations on article 7 of the Covenant:**

- Criminalize all acts of torture, as defined in article 1 of the Convention against Torture, including attempts, complicity and participation in acts of torture, as well as compelling to take part in torture.
- Establish an independent and effective complaint mechanism for victims of torture and ill-treatment; providing an opportunity of medical examination in cases of alleged torture; ensuring in practice that complainants are protected against ill-treatment or intimidation as a consequence of their complaint or any evidence given.
- Establish independent and impartial governmental and non-governmental national human rights commissions with all necessary authority to monitor the implementation of the Convention, including the opportunity to protect human rights and investigate all complaints of human rights violations.

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<sup>2</sup> <https://www.amnesty.org/en/documents/eur49/7081/2017/en/>

- Ensure that persons suspected of having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation, especially if there is a risk that the suspect may exert pressure on the victims and hinder the investigation by remaining in office.
- Take legislative and practical measures to ensure videotaping of all interrogations from the moment of detention.
- Introduce open appointments of relatives of current and former detainees with General Prosecutor's Office with timely publication in mass-media to receive information on possible acts of torture during detention and service of sentence; publishing detailed information on the website of General Prosecutor's Office on the place, time and periodicity of prosecutors' visits to places of detention, including psychiatric hospitals, as well as on the results of the visits and the actions taken.
- Establish fully independent bodies empowered to carry out independent and effective visits to places of detention, including temporary detention facilities, without prior notice. Ensure the presence of human rights defenders and medical professionals familiar with relevant international standards, international experts and other representatives of civil society within the bodies. Ensure that the members can speak in private to detainees. Ensure that the monitoring findings and the recommendations are published within a reasonable timeframe.
- Allow access for independent non-government organizations to detention facilities, including militia departments, pretrial detention facilities, security service premises, places of detention on administrative charges, detention units of medical and psychiatric institutions and prisons.
- Avoid using as a general rule the method of detention of persons seeking asylum for substantial reasons under the UNHCR Guidelines on Applicable Criteria and Standards relating to the Detention of Refugees and Asylum-Seekers and alternatives to detention. Provide for visits by representatives from relevant NGOs to detained foreign nationals and stateless persons.

### ***Prohibition of slavery, servitude and forced labour (article 8)***

#### *Information on question 16*

77. Although the Belarus Constitution prohibits forced labor, there are several instances where elements of forced labor are enshrined in separate legislation.
78. For instance, the Decree of the President of the Republic of Belarus of November 24, 2006 No. 18 "On supplementary measures for affording State protection to children in dysfunctional families" sets out the duty of persons whose children are under State care to reimburse the expenses on the keeping of children under the state support. If they are unemployed (or are employed, but unable to cover full costs of the maintenance of their children in State establishments), they will be subject to mandatory employment by a court order on employment. In case of their failure to cover the costs spent by the state on the keeping of children under the state support (for example, absence at work for ten months, avoidance employment under a court order committed during one year after the imposition of an administrative penalty for the same act), they may be held criminally liable under article 174 of the Criminal Code. Article 9.27 the Code of Administrative Offences of Belarus establishes the administrative liability in the form of administrative arrest for parents obliged to reimburse the expenses on the keeping of their children under the state support, and avoiding employment under a court order. Under article 3.6 of the Procedural-Executive Code of Administrative Offences, arrest warrants for obliged persons who avoid employment are made extrajudicially by the bodies of MIA.
79. The Law of the Republic of Belarus "On Procedure and Conditions of Placement in Occupational Therapy Dispensaries and Conditions in them" of January 4, 2010 No. 104-3 provides for occupational therapy dispensaries – organizations participating in the system of Internal-Affairs Agencies, established for involuntary isolation and medical and social rehabilitation with a labor obligation of persons suffering from chronic alcoholism, drug addiction and substance abuse, and persons obliged to reimburse the expenses on the keeping of their children under the state support. The placement of citizens in occupational therapy dispensaries is regulated by the Code of Civil Procedure of Belarus. Therefore, Belarus nationals are isolated and forced to labor in civil, not criminal procedure, and is not linked to criminal offence.
80. The Decree of the President of the Republic of Belarus of April 2, 2015 No. "On Prevention of Social Dependency" provides for fees charged for compensation of State expenses to adults who worked less than 183 days in a year or failed to pay income tax in the amount equal or greater than that of the fee. Certain categories of citizens are exempted from this obligation, including craftspeople, persons with disabilities, persons receiving public benefits, persons engaged in in agro-tourism, persons employed in agriculture, persons registered as unemployed, single parents with children up to the age of 7, clergy, students and pensioners. Failure to pay the fee incurs sanctions, such as administrative arrest with compulsory involvement in work. A person who was released after serving the sentence of administrative arrest with compulsory involvement in community work is recognized to have performed his duties under the Decree No. 3. It should be noted that applying the Decree has led, in practice, to massive protests in many cities across Belarus between February and April 2017. Currently, the application of the Decree is suspended, and reforms to it are under consideration. At the time of reporting the Decree No. 1 was issued by the President, which introduced substantial amendments to the Decree No. 3. In particular, a fee for those recognized as parasites was abolished. However, it provided that from 1 January 2018

non-workers would be required to pay full price of some housing and communal services subsidized currently by the State.

81. Among other common forms of forced labor in Belarus are compulsory participation in community work days (*subbotniks*), involvement of members of State enterprises and educational institutions (including under-age school pupils) in harvesting by order of local executive authorities, unpaid work by military personnel etc. It should be noted that this practices contradict the Belarus legislation, since the Labor Code prohibits an employer from demanding performance of works, not specified in the employment contract. Of particular concern in the human rights community are cases of involvement of minors in these activities. In 2016, A student of a city public school in Molodechno, Minsk oblast, was run over by a truck while performing agricultural work by order of local education authorities. In this case, sentences have been pronounced on the teachers who had supervised the children, and, in the court's view, had failed to prevent the incident.

***Recommendations on article 8 of the Covenant:***

- Remove all situations of forced labor from law and practice, including the engagements of persons placed in occupational therapy dispensaries, persons required to reimburse the expenses on the keeping of children under the state support; members of State enterprises in community work days (*subbotniks*), and students of educational establishments.

***Freedom and security of the person and humane treatment of persons deprived of liberty  
(articles 9 and 10)***

*Information on question 17*

82. Belarus has taken no steps to ensure that pre-trial detention is applied only by order of the Court. Furthermore, since 13 December 2011, the power to use pre-trial detention has been given, in addition to prosecutors, to the heads of the law enforcement bodies. At present, this includes the Chairperson of the Investigative Committee and Chief of the Belarus KGB, as well as persons temporarily performing their functions.
83. A highly negative trend is a fact that in case of violation of migration rules, such as loss or lack of personal documents, foreign nationals and stateless persons are kept for identification purposes for a long time in temporary detention facilities not adapted to lengthy detention without a court decision. In the lack of special facilities (there are only 3 holding centres for aliens seeking international protection with a limited number of places), foreign nationals and stateless persons are placed in establishments for the serving of sentences of administrative detention for up to 25 days or on suspicion of crimes for up to 10 days. In doing so, in case these persons applied for refugee status, they are still kept in detention facilities until the respective decision is taken. There have been cases where foreign nationals and stateless persons were kept in custody for a long time: a national of the Democratic Republic of the Congo Patrick Mangalua has been detained for 6 months; a stateless Asra Mirwais has spent more than a year in detention; a Russian national Elena Domnina has spent 5 months in detention in Maladechna; a stateless Tatyana Fomina has spent 10 months at the Detention Center for Violators in Minsk waiting for readmission to Kazakhstan. The number of foreigners who are detained for months for administrative proceedings exceeds 100 each year. Lengthy detention without trial constitutes ill-treatment itself under article 7 of the Covenant.
84. It should also be mentioned that detention conditions in pre-trial detention centres are themselves close to solitary confinement and constitute inhuman and degrading treatment, which includes poor sanitary conditions in cells, meager ration, lack of exercise in the open air, lack of contact with the outside world and of quality health care.

*Information on question 20*

85. The increase in the prison population (from 28471 in 2013 to 35200 by the end of 2016) is accompanied by increased overcrowding in places of detention, which in turn leads to deteriorated conditions in prisons.
86. The majority of questioned convicts mention the poor quality and lack of food in detention facilities. Incongruous products are used together in some dishes. There is no opportunity to receive special ration, such as vegetarian, vegan, gluten-free, the one with no pork or no beef etc.
87. The quality of health care provided to prisoners is low. Access to health workers is difficult. There is no up-to-date Republican prison hospital. Its construction started in 2010, and has been extended until 2018. However, technical readiness is currently 60 per cent.
88. Recently, suicides and deaths as a result of the denial of proper medical care have become more frequent in places of detention. In June 2016, Siarhei Ischuk died in the Penal Colony No. 13 in Hlybokaje. In January 2017, the convict Valentyn Pishchalau died in the mentioned penal colony, and Alexander Lembovich died in the Penal Colony No. 15 in Mahiliou. The complaints submitted by the relatives on suspicion of medical neglect were refused. Thus, it appears from the order to dismiss criminal complaint that Pishchalau asked for medical assistance for the first time on 19 December 2016, and told that he had been ill for more than a week. According to the medical records, Pishchalau had neither been excused from work, nor given bed rest between 19 and 30 December 2016. During the checkup on December 30, Pishchalau had complained about headache, weakness, chills, cough, and fever. However, a medical assistant mentioned in the records that his general state was satisfactory and diagnosed SARS, despite a diagnosis of tuberculosis in Pishchalau's medical history. It was only in January 3 that

Pishchalau was examined by a physician. Pishchalau was diagnosed with pneumonia and given a referral for an X-ray. On 4 January 2017, Pishchalau was examined one more time, during which a decision was made to take Pishchalau to the pulmonary department of the Republic Hospital "Prison No. 8". On 4 January 2017, Pishchalau died while being taken to hospital.

*Information on question 21*

89. Prisoners arrested on political grounds face captious criticism by prison administration, and are therefore prevented from early release and release under amnesty.
90. On 26 February 2015, the detention of Mikalaj Dziadok (released in response to international pressure on 24 August 2015) was extended for a year. In 2012, the detention of Zmicier Dashkevich was prolonged.
91. Appeals against penalties have shown to be ineffective. Appeals are handled in accordance with the Rules of Civil Procedure, which requires convicts to pay a fee in the amount comparable to a convict's monthly income. The cases are, as a rule, considered by courts in the absence of convicts.

**Recommendations:**

- Ensure that convicts enjoy the same standards of health care as the rest of the society; ensure their free access to essential health services.
- Ensure urgent, effective and impartial investigation of circumstances and causes of all cases of death in custody.

***Right to a fair trial, judicial independence. The Independence of the Legal Profession (article 14)***

*Information on question 22*

92. More than 15 years have passed since the report of the UN Special Rapporteur on the independence of judges and lawyers following his visit to Belarus. However, most of the recommendations made in the report have not been implemented.
93. The Code on Judicial System and Status of Judges in the version of 22 December 2016 states that organizational, logistical and staffing support of the activities of the courts of general jurisdiction, as well as departmental monitoring the compliance of the activities of the courts of general jurisdiction with legal requirements, is performed by the Supreme Court of the Republic of Belarus. Therefore, these functions lie beyond the competence of the Ministry of Justice as an executive authority. This should be noted as a positive aspect of the of a judicial and legal reform.
94. Nevertheless, there are still some issues regarding the independence of the judiciary that continue to be relevant. These issues undermined judicial independence and impact on the realization of the right to a fair trial.
95. Final decisions on key judicial issues are still made by the President of the Republic of Belarus and the President's Office. These bodies actually perform the functions that are the responsibility of independent bodies comprised of judges in countries with the rule of law. In particular, the President's Office is engaged in examining candidates for judgeships and judges to be reappointed, and sends relevant requests to the National Security Council. The Council further verifies the candidates involving special services. Only after the approval of the National Security Council on a candidate's appointment as a judge or reappointment of a duty judge, the President's Office starts preparing a draft Decree of the President appointing a judge.
96. Judges are nominated and appointed in closed sessions. Only the decrees appointing or dismissing judges are published. The criteria (except for general requirements for candidates listed in article of the Code on Judicial System and Status of Judges) used by the President and the National Security Council when examining the candidates and making other decisions regarding judges are unknown to candidates and the public. There is credible information, however, that one of the decision criteria used by the National Security Council in the examination of candidates is whether a judge has or has not made rulings that suited the Council.
97. A legal status of judges regarding the principle of non-removability has now downgraded even compared to the period prior to 2007, when the Law on the Judicial System and Status of Judges had been in force. Under this law, judges were appointed initially for a term of five years, and then for terms with no time limits. 93. The Code on Judicial System and Status of Judges in the version of 22 December 2016 states in article 81 that "judges are appointed initially for a term of five years with the possibility of reappointment for a further term or for indefinite terms". Therefore, judges are appointed and reappointed arbitrary without any clear criteria set by the law. The analysis of the Presidential Decrees appointing judges shows that 353 judges, or 87% of all judges, have been appointed for a term of five years. This number combined with 25 judges, who have been appointed for a period of other judges' social leave, make up 378 judges, or 93% of all judges, appointed for a limited term. Only 30 judges have been appointed for indefinite terms in the given period.
98. The President is well positioned to dismiss any judge. For example, a judge may be dismissed in the process of staff movement, after the expiration of the term of office, in reappointment for a further term and when promoted to a higher qualification category, when held accountable under disciplinary rules, in ordinary or extraordinary re-certifications that are carried out at all stages of the judges' staff movement. So, the provision enabling the appointment of judges for indefinite terms is actually deprived of value by the fact that judges undergo

extraordinary re-certification once in five years, which may result in judges' dismissal. Furthermore, a judge's powers may be terminated in case of systematic disciplinary violations (disciplinary action taken against a judge more than twice in a year); a single gross violation of work duty, as defined by the relevant legislation, offences incompatible with public service.

99. Under article 102 of the Code on Judicial System and Status of Judges, the President possesses the specific competence regarding disciplinary measures: the President is empowered to prosecute or dismiss any judge without disciplinary proceedings having been initiated. In this way, the President's decision to terminate the powers of a judge may be approved with and without the participation of the Chairman of the Supreme Court. The Code on Judicial System and Status of Judges makes no provision for appealing against the President's decision on the use of disciplinary punishments. Therefore, given that the criteria for gross violation of work duty or offences incompatible with public service not clearly defined in the law, the President is empowered to dismiss any judge at any time at his/her own discretion without fair procedures and by his/her own decision, which shall be final.
100. The salaries of judges are not determined by the law, but established by a Presidential decree No. 625 of 4 December 1997 "On the regulation of the remuneration of judges, the physical and personnel conditions of the courts of the Republic of Belarus". According to the Decree, the judges' official salaries are determined as a percentage of the salaries of the Chairmen of the Constitutional and Supreme Courts. This percentage is provided in the annex to the Decree, which was not published.
101. The above issues seriously affect the independence of judges and are inconsistent with Belarus's obligations under article 14 of the ICCPR.

*Information on question 23.*

102. The authorities have not recognized the violations of the right to a fair trial that took place in consideration of the in case of mass unrest on 19 December 2010. The violations have not been investigated, no measures have been taken to prevent their recurrence, and the perpetrators have not been brought to justice. For example, the alleged cases of non-admission of lawyers to presidential candidates and opposition activists detained on 19 December 2010 have not yet been addressed. The complaints have been filed to the Prosecutor's Office and the Court by defence counsels of former presidential candidates Andrei Sannikau, Ales Mikhalevich and Uladzimir Nyaklyayeu, political activists Pavel Seviarynets and Alexander Feduta, journalists Irina Khalip and Natalia Radina.
103. In violation of the presumption of innocence, public television and newspapers have been reporting that those arrested in connection with the case of mass unrest were guilty before the start of long before the start of the court proceedings.

*Information on question 24.*

104. The situation with bar associations being de jure independent, and de facto controlled by the Ministry of Justice has not changed. In this regard, the HR Committee's previous concluding observations (CCPR/C/79/Add.86, paragraph 14) have not been implemented or paid attention to.
105. In 2017, the independence of lawyers was seriously affected. Several lawyers of the Minsk City Bar Association and the Mahiliow Regional Bar Association were examined by the Ministry of Justice of the Republic of Belarus. As a result, an extraordinary inspection was ordered regarding at least 21 lawyers from the Minsk City Bar Association. The first outcome of this wave of inspections by the Ministry of Justice was a negative assessment received by Anna Bakhtina, a lawyer of the Minsk City Bar Association, and a conditional assessment with further reassessment after six months due to insufficient professional qualifications received by three more lawyers who, among other things, had provided legal assistance in politically motivated cases. The appeal by Anna Bakhtina against the Ministry of Justice's decision to terminate her license to the advocate's practice was rejected by the Court of Maskouski district of Minsk.
106. The State has failed to fulfil the requirements for reforming the Bar Association in order to ensure its independence in accordance with international standards.
107. In Belarus, there is a lack of actual independence and self-governance of the Bar Association, and of freedom of exercise of the profession of lawyer. The procedure through which access to the profession of lawyer is provided in Belarus does not meet international standards.
108. The general analysis of the regulations governing disciplinary proceedings also leads to the conclusion that under the current legislation of Belarus, lawyers lack actual independence.
109. In Belarus, the Ministry of Justice has the broadest powers of control and oversight over the legal profession and the operations of individual lawyers, who are licensed for law practices by the Ministry of Justice. This power is provided for in the Law on the Bar and Legal Practice in the Republic of Belarus, which has come into force on 6 April 2012.
110. Notwithstanding the adoption of the new Law on the Bar, various organizational and legal forms of activities established for lawyer and their increased number, Belarus has not yet created a favorable environment for the lawyers' full performance of their duties to protect the rights of citizens. As previously, lawyers remain under strict control of the judicial authorities, and are not free from interference with their organizational and professional activities.

111. The State provided the Committee in paragraph 289 of the fifth Periodic Report with incorrect information that the lawyers who had represented the participants of the events on 19 December 2010, and had subsequently been disbarred eventually accepted the Ministry of Justice's ruling and did not appeal it. Contrary to the arguments of the State, Tatstsiana Ahejeva, Uladzimir Toustsik, Aleh Ahejeu, and Tamara Harajeva appealed against the decisions of the Ministry of Justice to the Court, but the Court supported the position of the government agency.
112. Upon the decision of the Court of Maskouski district of Minsk of 14 April 2011 (the judge Elena Rudnickaya), the appeal by Tatstsiana Ahejeva against the decisions of the Ministry of Justice was denied. The decision was further appealed on cassation, but the Minsk City Court affirmed the decision and rejected the appeal on 21 July 2011.
113. The appeal by lawyer Uladzimir Toustsik against the decisions of the Ministry of Justice was denied by the ruling of the Court of Maskouski district of Minsk of 24 March 2011. His appeal against the ruling was rejected by the Minsk City Court.
114. Tamara Harajeva filed a complaint against the decisions of the Ministry of Justice to the Court, and the courts of first and second instance affirmed the decision of the Ministry on 26 April 2011 (the judge Lyubov Simakhina).
115. The appeal by Aleh Ahejeu against the decisions of the Ministry of Justice was denied. The court of cassation affirmed the ruling and rejected the appeal on 27 November 2011. Lawyer Aleh Ahejeu has used both national legal remedies and international mechanisms for the protection of his violated rights. To date, the individual communication of Aleh Ahejeu v. Belarus is registered for consideration by The Human Rights Committee under No. 2862/2016, where the question is raised about a violation by the State of articles 14 and 19 of the Covenant. The exclusion of Ahejeu from the Bar Association was not appealed, since the Minsk City Bar Association is obliged to comply with the Ministry of Justice's decisions on disbarment under the Law on the Bar and Legal Practice.
116. Presently, the option of reinstating the licenses of Tatstsiana Ahejeva, Uladzimir Toustsik, Aleh Ahejeu, and Pavel Sapelka is not considered by the governmental bodies and the Bar Associations, despite numerous demands by international organizations.
117. The only lawyer whose license was reinstated in September 2011 is Tamara Harajeva. However, this has nothing to do with the relevant UN recommendation. As far as the appropriateness of disbarment of Tamara Harajeva is concerned, it can be concluded that she was the only lawyer who was disbarred by the Ministry of Justice based on the grounds provided for in normative acts in force. The Court found no violations on the part of the Ministry of Justice, and affirmed the disbarment. However, despite the final court's decision, the Ministry agreed to reinstate her license, after which Tamara Harajeva was called to the Minsk City Bar Association.
118. In April and June 2017, the Ministry of Justice carried out an inspection at the Mahiliow Regional and the Minsk City Bar Associations. The subject of the inspection was their compliance with the instructions issued by the Ministry on preparation of documents necessary for providing legal assistance. Although formally all lawyers of the Bar Associations were to be checked, selective inspection was made of individual lawyers at the discretion of the Ministry officials. The documentation errors found during the inspection led to extraordinary assessment of several lawyers, since, according to the appointment order, "the established facts revealed a lack of qualification of individual lawyers". Furthermore, some lawyers were summoned to the Ministry for ordinary assessment held every five years by the Bar Association. The assessment was carried out on 12 and 25 September 2017 by the Qualification Board, set up at the Ministry of Justice. According to our information, the Qualification Board had decided on the inability of 2 of the 33 lawyers to carry out their professional duties owing to the lack of qualification, and on incompetent performance of 12 lawyers with reassessment after six months.
119. Even prior to the inspection at the Minsk City Bar Association, there have been talks among the Bar members of the assessment initiated by the State Security Committee in relation to the lawyers who had worked on highly visible politically motivated cases in cooperation with human rights defenders. The "violations" of the guidelines of the Ministry of Justice identified by the inspection do not relate to the lawyers' professional performance. The inspection procedure itself was humiliation and stressful: the members of the Qualification Board (mainly representatives of the Ministry of Justice) asked numerous questions on different branches of law, however, not related to the specialization of particular lawyers or specific legal situation. This "quiz" required the lawyers to quote regulations, give definitions and listings, and the questions often included the members' controversial interpretation of legislation. Analysis of the inspection results suggests that 8 lawyers who failed to complete the assessment (one of the two lawyers rejected by the board, and seven of the twelve lawyers reassessed after six months) had been defending the interests of the accused in one and the same case of mass unrest initiated by the State Security Committee on 21 March 2017 – prior to the protest action scheduled for 25 March. As further events have shown, this case was a pretext to brutal repression of protests and detention of hundreds of their participants. Subsequently, this charge was changed to the one of involvement in an unlawful armed unit. The accused were released from custody, but so far, the investigation is not completed, and conducted in secret. It follows from the above that negative measures taken against the lawyers in the form of assessment can be seen as revenge for their professional activity, and as intimidation of them and other lawyers. It was therefore demonstrated that any lawyer in Belarus could be subject to repressive measures by the State at any moment and for any reason, even a minor one.

### ***Recommendations on article 14 of the ICCPR:***

- Establish independent judicial self-governing bodies in Belarus bodies empowered to select, appoint, dismiss, and take disciplinary measures against judges, and ensure the body's freedom of operation at the legislative level.
- Amend the legislation to exclude a crucial influence of the President and executive authorities on issues related to appointment, dismissal, and disciplining of judges, their material security and pensions.
- Ensure indefinite appointment of judges by introducing appropriate changes to the legislation.
- Address the issues of legal regulation of housing and other social benefits for judges so as to avoid any discretion in this regard.
- Bring the Belarus legislation regulating the legal profession into line with international standards.
- Abolish provisions in the country's legislation on the legal profession concerning the responsibilities of the Ministry of Justice to govern the legal profession, and transfer the duties of the Ministry of Justice to lawyers' self-governing bodies.
- Abolish licensing of lawyers by the Ministry of Justice by transferring the duties to regulate lawyers' admission to the profession to lawyers' self-governing bodies.
- Exclude representatives of executive authorities from the Qualification Board, and transfer the responsibility for managing the Board to lawyers' self-governing bodies.

### ***Freedom of movement (article 12)***

#### *Information on question 25*

120. On 5 November 2014, a decision was adopted by the Department of Internal Affairs of the Pervomaisky District of Minsk to deport Alena Tankachova, a Belarusian human rights activist, Chair of the Board of Legal Transformation Center "Lawtrend", on a voluntary basis from Belarus "in the interests of public order". The decision also provided for the ban on entering Belarus for 3 years. In the view of the human rights community, the decision on expulsion of Alena Tankachova is linked to her public activities. Alena Tankachova has been working on protection of human rights and public interests in Belarus since 1996. The Belarusian authorities have twice closed the organizations established by her. Moreover, Alena Tankachova was pressured due to her work on collection and estimation of information on arrests and trials of the participants of mass events on 19 December 2010 in Minsk. The law does not establish specific grounds for expulsion, and only uses general formulations, such as "in the interests of public order". In case of Alena Tankachova, the deportation was caused by a minor speeding offence. The law does not identify speeding as an offence against public order. Furthermore, the expulsion decision was disproportionate. Although Alena Tankachova had the citizenship of the Russian Federation, she has been permanently resident in Belarus since 1985. Her daughter a Belarusian national by birth. Alena Tankachova received her education in Belarus, and her professional activities were dedicated to Belarus. Furthermore, she owned property and had a permanent source of income in Belarus. Since she was deported, Alena Tankachova had filed 4 requests for reducing the period of her entry ban and her removal from the list of persons banned from entering Belarus. All the requests were denied, and the latest request (filed on 16 June 2017) was rejected without consideration by the Ministry of Internal Affairs. Over 7700 petitions from Belarusian citizens were submitted to the competent authorities against the deportation of Alena Tankachova.
121. In 2012, several human rights defenders faced arbitrary restrictions to their right to leave the Republic of Belarus. Some of them were held at the border during passport control on the side of Belarus. Others were informed about the restrictions by contacting the Citizenship and Migration Departments of the local internal affairs bodies. The statements from the database on citizens whose right to leave Belarus was temporarily restricted contained various grounds for restriction, such as evasion of the call-up for military service, evasion of the obligations imposed by the court, indebtedness within bankruptcy proceedings, a civil action brought before the court etc.). In March 2012, Aleh Hulak, a chairman of RHRPA "Belarusian Helsinki Committee" (BHC); Valiantsin Stefanovich, a vice-chairman of Human Rights Center "Viasna"; Zhanna Litvina, a chairperson of Belarusian Association of Journalists; Garry Paganyaila, a head of the BHC legal department and others faced restrictions to their right to leave Belarus. The attempts to appeal to courts against the restriction of the right to leave the country have failed. Consideration of the appeals against the actions of the Ministry of Internal Affairs had been postponed under various pretexts. Although appeals against the actions of State bodies should have been considered within 1 month from the date of filing, judicial proceedings have not been conducted on time, but only in 3 months from the above-mentioned date. It was revealed during the court proceedings that human rights defenders had been included in the database by mistake, a result of alleged technical error in the database. Consequently, a decision was taken to exclude from the database all persons wrongly included in it. A representative of the Ministry for Internal Affairs provided certificates in the court proceedings on each appeal proving that the persons concerned had been excluded from the database. Based on this, the courts dismissed the cases, and rejected the appeals. These decisions were obviously politically motivated, since Pavel Radzionau, a member of the General Prosecution Office of the Republic of Belarus, mentioned these possible restrictions on 1 March 2012, that is, shortly before the unlawful restrictions were imposed. The imposition of restrictions against human rights activists was also confirmed by public statements of the President of Belarus.

122. Border checks of human rights defenders are still conducted, such as in the case of Liavon Sudalienka, a human rights activist who has filed several complaints to the UN Human Rights Committee.

### ***Freedom of conscience and religion (articles 2, 18 and 26)***

#### *Information on question 28*

123. Freedom of Conscience and Religion Act (hereinafter – the Act) in force since 2002, as subsequently amended, is the main normative instrument in the national legal system of the Republic of Belarus which is intended to ensure the exercise of freedom of conscience and religion as part of the international commitments. The original wording of the Act of 1992 provided extensive opportunities for religious organizations to operate and ensured the fulfillment of the right to freedom of religion by individuals.
124. The 2002 version of the Act, as well as the provisions of Mass Events Act, the Administrative and Criminal Codes, issued after 2002, have significantly limited the freedom of religion and the possibilities of the activities of religious organizations.
125. Only a religious organization that has undergone state registration can carry out systematic religious activity. Upon that, state bodies regularly refuse or prevent the registration of existing religious organizations. Believers of the Belarusian Autocephalous Orthodox Church, Buddhist communities, many Protestants and other communities repeatedly and unsuccessfully tried to register as a religious community. The article 193-1 of the Criminal Code of the Republic of Belarus establishes criminal responsibility for organizing or participating in the activity of a religious organization which has not undergone through the process of state registration.
126. In May 2012, Public Prosecution Office of Mozyr district of Homel region issued an official warning to Siarhej Suzko, Uladzimir Suzko and Zoja Suzko under articles 193-1 and 130 (inciting religious strife) of the Criminal Code of the Republic of Belarus, which was later appealed in court. The court repealed the warning under article 130 of the Criminal Code of Belarus, but the warning under article 193-1 remained in force. In June 2013, a private welfare shelter for the homeless, created by a catholic Aliaksej Schadrou in a village in Hrodna region, was recognized as a religious organization, for which cause Aliaksej was prosecuted criminally under article 193-1. Aliaksej was forced to undergo a process of social institution registration, upon which the investigators stopped the criminal prosecution. However afterwards, the institution was eliminated by the coercion of the authorities in 2014. In addition, an official warning was issued under article 193-1 of the Criminal Code of Belarus to Siarhej Nikalajenka, a clergy of the Protestant community in Homel (July, 2015).
127. The conduct of religious activities in premises that do not have the status of the places of worship is allowed under the condition of obtaining a permit under Mass Events Act, otherwise administrative liability may be applied under article 23.34 of the Administrative Code of the Republic of Belarus. Upon that, the law does not define the conditions and procedure for obtaining permits for regular religious events (services) for a long period. This allows the state authorities to give selective permission, as well as very often unreasonably deny them, thereby limiting the activities of religious organizations. In 2013, the leaders of the unregistered community of the International Council of Churches of Evangelical Christians-Baptists in Homel A. Zalatarjou, A. Tupalski, A. Danileuski, A. Sidarenka were prosecuted under article 23.34. In July 2015, administrative fines were imposed on a cleric of the Protestant community in Homel Siarhej Nikalajenka under the same article. The same happened to the representatives of an unregistered Protestant religious community in Minsk in October 2016.
128. In accordance with the Regulation on the procedure of inviting foreign citizens and stateless people to the Republic of Belarus, permission for various types of religious activities by foreign citizens and stateless people is required. In this, only a registered religious association can apply for such permission; autonomous claimants can not to apply for an invitation. Also, in accordance with Freedom of Conscience and Religion Act foreign citizens and stateless people cannot found (i. e. to initiate creation) and lead religious organizations, which puts them in an unequal position compared to the Republic of Belarus citizens regarding the realization of the right to religious freedom.
129. During the reporting period, foreign churchmen were systematically denied permission for religious activities, especially in Catholic communities. In December 2011, the Belarusian authorities did not give permission and did not extend national visas to two Roman Catholic priests in Pinsk and Minsk dioceses. In May 2014, the visa was not extended to Raman Shulz, the abbot of the parish of St. Kasimir and St. Jadviha in Mahiliow. Afterward, the authorities gave the abbot a permission, but only for half a year. In 2016 and 2017, there were several cases when a state body did not prolong the permission for religious activity to Polish churchmen, but after public statements made by the head of the Roman Catholic Church on that issue the permission was given.
130. Recently a certain pattern of interpretation of the rights of minors in choosing religion and practicing it in various ways has been used by state bodies, which restricts the right of minors to freedom of religion. In 2017 some parents filed complaints to state authorities regarding the fact that their minor children (several months were left until their maturity) without their consent attended the activities of religious organizations different from the religion of their parents. In response to such complaints, the state authorities have stated that in these cases there was an unlawful involvement of minors in the activities of religious organizations. Upon that, the right of minors to determine their own attitude to religion, to practice any religion or not to practice it at all, as established by article 10 of Rights of the Child Act in particular, was utterly ignored.

## ***Recommendations on Article 18 of the ICCPR***

Religious legislation and law enforcement practices in regard to freedom of religion and belief should be brought in compliance with international standards concerning the right, and therefore it is necessary to:

- Repeal the mandatory state registration of religious communities.
- Eliminate permissions to conduct religious activities in premises legally owned by religious organizations.
- Remove legislative restrictions on the establishment of mass media by religious organizations of various kinds.
- Grant an opportunity to foreign citizens legally present at the territory of Belarus to fully realize their rights to freedom of religion without obtaining additional permits (as being a founder and a leader of a religious organization, exercising legal religious activities, including teaching in spiritual schools).
- Exclude legislative norms providing restrictions on the activities of religious organizations by the limits specified by the law.

## ***Freedom of speech (article 19)***

*Information on question 29*

### ***a) Restrictions of access to information of public interest***

131. Belarusian legislation and law enforcement practices are far from recognizing free media's special role as "guardians of society". Belarusian state bodies do not take into account the "public interest" as a category determining the legitimacy of providing this or that information. Thus, there is no mention of public functions of journalists and mass media, guarantees of realization of their access to the information right regarding their professional activities in Mass Media Act.
132. There is no separate law on access to information of public character in Belarus. Existing norms and practices do not provide effective mechanisms for access to such information. The Information, Computerization and Data Protection Act gives the state authorities the right to limit the dissemination of public information at its own discretion. Moreover, the state authorities limit the dissemination of information even in cases when it is prohibited by law: information on the activities of state bodies and their budgets; information on individual cases of law violation; information on the rights of citizens.
133. Article 38 of Mass Media Act contains the list of the information, the distribution of which among mass media is forbidden. Among others, this includes "information from organizations that have not passed the state registration (re-registration) in due course". In 2016, this list was supplemented with "information, the dissemination of which could harm the national interests of the Republic of Belarus". Significantly, the list of cases of permissible limitation of access to information given in Mass Media Act is not closed and does not contain any reference to other "legislative acts", which gives an opportunity for its broad interpretation.

### ***b) State control over the mass media, harassment and censorship of independent media***

134. Belarusian legislation provides a specific out-of-court form of sanctions against the media – written warnings addressed by the Ministry of Information. The vast majority of such warnings are issued to independent publications, which can lead to serious negative consequences. The Act stipulates the closing down of mass media having two or more warnings to its editorial office or founder from the Ministry of Information over a year by the court decision, as well as after two warnings of the prosecutor's office to its editorial officers. The threat of being closed down as a consequence of received warnings may lead to the establishment of the editors' self-censorship regime.
135. Media release may be terminated by the court on a claim by the Ministry of Information or the prosecutor. Such claims may be filed within six months since the warning, regardless of how serious the reasons were. It means that if, for example, any inaccuracies have been noticed in publication data twice within a year, this publishing office can be closed.
136. In 1997, on the claim of the State Press Committee of the Republic of Belarus (the predecessor of the Ministry of Information) the newspaper "Svaboda" was closed; in 2001, the newspaper "Pahonia" was closed, based on the claim of the Hrodna Region Prosecutor's Office; the newspaper "Zhoda" was closed in 2006, based on the claim of the Ministry of Information. In 2011, two leading Belarusian non-state newspapers "Nasha Niva" and "Narodnaja Volia" were under threat of closure and almost stopped its publications because of being given three and four warnings correspondingly. The year 2015 was marked by a series of warnings by the Ministry of Information "as part of monitoring of their compliance with the legislation". More than 20 written warnings were issued for inaccuracies in the publication data. Warnings were issued to such independent publications as "Hazieta Slonimskaja", "Intex-Press", "Hantsavitski chas", "Borisovskije novosti", "Reklamnyj Borzhomi", "Novy chas", "Nash kraj" and others. In 2011 The Ministry of Information issued a warning to "Avtoradio" radio station, which was one of the reasons to stop its broadcasting by the decision of the Republican Commission on Television and Broadcasting. The reason to issue a warning to "Avtoradio" and then close the radio station down was the

broadcasting of the phrase made by a presidential candidate for the 2010 elections Andrej Sanikau in a commercial where he said that "the fate of the country should be decided not in the kitchen, but in the square".

137. The Ministry of Information has the right to make a decision to exclude media distributors, as well as publishers, manufacturers and other printed products distributors from the relevant registers, which actually means the prohibition of distribution. Among the reasons for the exclusion from the state distributors of media products registers are the distribution of foreign media products without the permission from the Ministry of Information, the distribution of information messages and (or) materials, prohibited for distribution under article 38 of the Mass Media Act, and two or more written warnings issued to a distributor within a year.

138. The immediate reprisals against journalists include detentions, the number of which has soared due to mass protests against the "tax on spongers" in the spring of 2017. In comparison with 13 detentions of journalists in 2016, there has already been 103 cases since the beginning of 2017.

**c) Mandatory state accreditation for journalists and sanctions against those who are not accredited by the authorities;**

139. Accreditation in Belarus is often used to restrict journalists' access to information. The possibility for this is laid in the definition of "media journalist accreditation" as "the confirmation of the right of a media journalist to cover events" given by article 1 of Mass Media Act. In practice, accreditation is interpreted as the power of a state body or other institution to give permission to a journalist to cover its activities.

140. In addition, Mass Media Act (article 35) provides for compulsory accreditation of foreign media journalists by the Ministry of Foreign Affairs, which can be sought only by staff members of foreign media. Foreign media journalists without accreditation are not allowed to carry out their professional activities on the territory of the Republic of Belarus. Mass Media Act does not provide for an opportunity to appeal against refusal of accreditation.

141. Since April 2014, freelance journalists have been harassed for publishing their materials in foreign media. Since that time, dozens of them have been brought to justice in the form of a fine under article 22.9 (2) on Violation of the Mass Media Act of the Administrative Code. Many journalists have been prosecuted repeatedly (for example, only in 2017 Kanstantsin Zhukouski was fined six times and Larisa Schiriakova was fined five times). Journalists were held accountable because their materials have been published in foreign media.

**d) Restrictions on the freedom of expression online and additional journalistic restrictions on online media**

142. Amendments to Mass Media Act that entered into force in 2015 contain new article 51-1 on Restriction of access to the products of mass media distributed through the information resource (its part) available on the Internet. It states that the restriction of access is implemented by the decision of the Ministry of Information – a state administration body in the sphere of mass media. It's possible to restrict access even for a single violation within three months since finding a case for such action. Moreover, there is no mention of the possibility of judicial appeal.

143. With the adoption of amendments to article 38 of the Mass Media Act in 2015, the responsibility for content is extended to the owners of Internet resources, who are obliged to "prevent the use of this information resource (its component part) for distribution of information contrary to the requirements of the Act". Thus, there were legal basis for holding the owners of Internet resources accountable for the comments posted by visitors (up to blocking those Internet resources). Upon that, the Act does not define in what time and what exactly should be done by the owner of the web-site in order to avoid accountability for the posted comment.

144. Decisions on access restrictions, the total number of the blocked sites and their web-addresses are not published. In June 2015, the access to a web-magazine *kyky.org* was restricted by the decision of the Ministry of Information. "Distortions of historical truth about the Great Patriotic War" and the usage of taboo words in the articles were listed among the reasons. The access was restored after the materials were deleted by the editors. In December 2017 and January 2018, access to the Belarusian news web-resources *belaruspartisan.org* and *charter97.org* was restricted, since they allegedly contained "materials, distribution of which could harm the national interests of the Republic of Belarus". As at February 2018, access to web-sites *belaruspartisan.org* and *charter97.org* was restricted.

**e) criminalization of libel and defamation**

145. In 2003, the editor-in-chief of "Vechernij Stolin" newspaper Aliaksandr Ihnatsiuk was sentenced to a fine under the Criminal Code Article 369 on Insulting the authorities for publishing material about the local authorities. A year later the editor of the newspaper 'Borisovskije novosti' Anatol Bukas was sentenced for libel and defamation in mass media. He was also sentenced to a fine for publishing the article about the editor of the local state newspaper.

146. Three Articles of the Criminal Code provide for increased liability for defamation against the President: article 367, entitled "Libel against the President of the Republic of Belarus" (maximum sanction is up to 5 years of imprisonment), article 368, entitled "Insult of the President of the Republic of Belarus" (up to 3 years of imprisonment), and article 369, entitled "Insult of an authority representative". Articles 367 and 368 of the Criminal Code are applied quite often in Belarus. After the presidential elections in 2002, the editor-in-chief of Hrodna newspaper "Pahonia" Mikalaj Markievich, a journalist Pavel Mazheika, and the editor-in-chief of "Rabochi" newspaper Viktor Ivashkevich were sentenced under these articles. In 2011, after another presidential elections, a journalist Andrei Pachabut was convicted for libel against the President. Later in 2012, a criminal case was opened against him under the same article, but the case was dismissed in 2013.

147. Article 369-1 on Defamation of the Republic of Belarus establishes liability for providing a foreign state, foreign or international organization with knowingly false information on political, economic, social, military or international state of the Republic of Belarus and the legal status of citizens in the Republic of Belarus, which damages the image of the Republic of Belarus or its authorities. The term "defamation" is a relative term, which enables law enforcement agencies to use it to suppress dissent.

***Recommendations on article 19 of the Covenant:***

- Establish the concept of "public interest" in the Mass Media Act as a category determining the legitimacy of provision of this or that information.
- Develop and adopt comprehensive legislation to ensure an effective mechanism for citizens' access to public information.
- Abolish the prohibition on distribution of information in the media from organizations that have not undergone the process of state registration (re-registration) in due course.
- Bring the definition of the term "accreditation" in compliance with international standards; abolish the ban on the activities of foreign media journalists without accreditation; provide for the possibility of appealing the refusal of accreditation, including in the court.
- Stop the practice of prosecuting the journalists who publish materials in foreign media, as well as the practice of unnecessary detention of journalists while they carry out their professional activities.
- Limit the power of the Ministry of Information to interfere in the activities of the media out-of-court.
- Decriminalize defamatory offenses; abolishing the criminal liability established by the following articles of the Criminal Code: article 188 (Slander), article 189 (Insult), article 367 (Libel against the President of the Republic of Belarus), article 368 (Insult of the President of the Republic of Belarus), article 369 (Insult of a government representative), article 391 (Insult of a judge or a juror), article 369-1 (Defamation of the Republic of Belarus).
- Bring the approaches to information restriction on the Internet in compliance with the standards of article 19 of the Covenant; abandon the practice of out-of-court blocking and political censorship of online-media.

***Freedom of peaceful assembly (article 21)***

*Information on question 30*

148. There is no progress in bringing the legislation and application of the Public Gathering Act in compliance with the international obligations of Belarus. The Belarusian legislation stipulates excessive restrictions on peaceful assemblies. с БДИПЧ ОБСЕ. Amendments and additions to the Public Gathering Act adopted in 2011 seriously worsened the legal framework of exercising the freedom of peaceful assembly and were criticized as non-compliant with international standards of European Commission for Democracy through Law in cooperation with ODIHR/OSCE.
149. The restrictions on peaceful assembly in practice apply primarily to those who express their disagreement with government policies.
150. The Act establishes the permitting procedure for holding any mass events, including single pickets. Holding unresolved meetings and even calls for participation in them incur liability up to the criminal: on 8 November 2011, the Criminal Code of the Republic of Belarus was supplemented by article 369 [3], entitled "Violation of the procedure of organizing or holding a mass event". Under the article, a penalty is imposed right up to imprisonment for public calls for organizing or holding mass events violating the established procedure of organizing or conducting mass events, if they cause damage on a large scale (two hundred and fifty times more than the size of the base value, as at the day of committing a crime, about 3 000 euro). As a rule, the authorities deny permission to hold peaceful assemblies initiated by the opposition and public activists. They also unreasonably change the event location and time.
151. One of the conditions for obtaining a permission to hold a peaceful assembly is signing contracts and paying charges for services of public utilities, health organizations and law enforcement agencies. The same requirements apply to single pickets. The same rules govern meetings indoors and single pickets, as well as any advertising and commercial campaigns.
152. The law and the decisions of local authorities determine the locations where mass events are prohibited. These restrictions are not always justifiable, since these very locations are used by the authorities to hold their own mass events. The maximum number of participants in events organized by individuals is limited by law, and may not exceed 1000 people.
153. Spontaneous mass events and protests is subject to the same rules and requires a preliminary application and approval of the authorities.

*Information on question 31*

154. The authorities actively apply "preventive detention", which is an arbitrary arrest on false motives for preventive purposes. The International Ice hockey championship held in Minsk from 9 to 26 May 2014 was no exception. Then, according to the Human Rights Center "Viasna", 38 political activists were subjected to arbitrary arrests for up to 25 days.

**Recommendation under article 21 of the ICCPR:**

- Adopt a new law on Peaceful Assembly, which meets international standards and the recommendations of the Venice Commission and the ODIHR/OSCE;
- As an interim measure, make amendments and supplements to the Law on Mass Events aimed at the full realization of the right to peaceful assembly, including, in particular:
  - o Establish the principle of notification for holding meetings with the aim of promoting the constitutional right to freedom of expression and peaceful assembly;
  - o Provide for the possibility of holding spontaneous assemblies under a simplified procedure;
  - o Provide for the possibility of holding counter-demonstrations;
  - o Abolish the requirement for organizers of assemblies, meetings, street marches, demonstrations, and picketing, that is, mass events with the aim of observing the constitutional rights of citizens, to bear the costs of cleaning services at venues of mass events, the costs of maintaining public order and medical services;
  - o Exclude single pickets from the range of application of the Law on Mass Events;
- Cease detentions of participants of mass events, independent monitors for events peaceful assemblies, and journalists.

***Freedom of association (article 22 of the Covenant)***

*Information on question 32*

155. The main restrictions regarding the freedom of association in Belarus remain the following: a) the procedure of state registration of public associations, parties, their organizational structures, as well as funds is complex and burdensome, allowing state registering bodies to unreasonably refuse to register any newly established organization; b) a ban is established on various forms of activity of non-profit organizations without state registration, including public associations and religious organizations, for violation of which criminal punishment right up to two years of imprisonment is prescribed; c) the legislation establishes substantial restrictions for non-profit organizations to obtain funding from both domestic and foreign sources.
156. On 2 October 2013, the law On Making Addenda and Amendments to Some Laws of the Republic of Belarus on the activities of political parties and other public associations was adopted, which amended the Public Gathering Act (amendments came into force on 20 February 2014). The law softened the criteria of territorial representation of the founders when creating a republican and local public association (the requirement remained 50 people for an organization of national level and 10 people for a local associations in total). Besides, the law slightly reduced the list of documents to be submitted during registration, clarified some issues of international public associations' registration, and made other technical improvements. Nevertheless, the registration procedure remained rigid, allowing arbitrary denial of registration, and many public associations for many years could not obtain state registration. At the same time, the amendments introduced an additional basis for abolishment of public associations through the court, namely, failure to submit annual reports required by legislation to a registering body (the Ministry of Justice and its regional divisions) within three consecutive years.
157. The registration procedure for public associations and foundations remained difficult for founders of new associations (especially political parties). The registration procedure for public associations and foundations remained difficult for the founders of new associations (especially political parties). The strict criteria are to be fulfilled to register an association, such as: to register a nationwide association, the participation of at least 50 founders living in the city of Minsk and most oblasts is required; any non-profit organization prior to registration should have a legal address in non-residential premises; state fee for public associations and funds registration considerably exceeds the fee for registration of commercial organizations.
158. The wording of the norms on possible basis for refusal of public associations registration is very vague, which empowers the Ministry of Justice authorities to unreasonably deny registration to associations on the basis of technical violations or minor deficiencies in the completion of documents. In practice, the reasons for denial of registration to associations are often failure to specify an office or a landline number, errors in the founders' date of birth, administrative sanctions imposed on the founders, documents completed in the wrong font etc. It is a common practice to deny registration to a public association based on the fact that it has operated as an unregistered organization. As a result, the authorities refused registration to dozens of associations, including human rights associations in the period 2010-2017. More specifically, in July 2014, registration was denied to the Public Association "PACT", established to facilitate the implementation of the recommendations of the UN Human Rights Committee adopted on individual appeals of citizens of Belarus. In 2016, registration was denied to public associations, such as "Gender Partnership" and "Gender Center "Ruzha" due to the fact that their statutory purpose "to counteract gender discrimination" was declared illegal by the judicial authorities (later the denial of the registration was recognized as lawful decisions of the courts).
159. In addition, the following public associations were denied registration in 2016: Historical and educational public association "Spadchina", Youth social association "Molodiez' Vozrozhdenija", Social-educational public association "Peace Initiatives and Decisions", Republican public association "Business Support Committee

- "Solidarnost" (twice within a year), Public association "Christian Democratic Movement", Social and educational public association "Movement of Solidarity "Razam", Youth public association "Intermarium" etc. Some of the listed above organizations have been unsuccessfully trying to register and repeatedly submitting documents for many years.
160. For example, in March 2016, the Ministry of Justice denied registration to the Republican Public Association "For Statehood and Independence!", one of the founders of which is the Nobel laureate in literature Sviatlana Aliaksievich. The registration was denied for formal reasons: the organization is called "RPA "For Statehood and Independence!" in accordance with its charter, but in the list of founders the name is indicated as "PA "For Statehood and Independence!".
  161. In 2014, the UN Human Rights Committee recognized a violation of the international Covenant on Civil and Political Rights in the decision of the Ministry of Justice to deny registration of human rights public association "For Fair Elections" in 2011. Other HRC conclusions on violation of international standards of freedom of association when denying their registration and dismantling public associations also remain unfulfilled, including the conclusions regarding the issue of registration of public Association "Human Rights Center "Viasna". On 10 March 2016, the Supreme Court rejected the complaint of the Human Rights Public Association "For Fair Elections" regarding the refusal of registration by the Ministry of Justice. This was the fourth attempt to register this organization. That time, the violations detected were the usage of abbreviations in the bank receipt on payment of the organization registration fee, and improper letter of guarantee on a premise rented as a legal address.
  162. Often the reasons for refusal of registration of public associations are claims against the lists of founders and their documents confirming the existence of a legal address. For example, on 4 October 2016, the Ministry of Justice denied registration of the Republican Public Association "Business Support Committee "Solidarnost" due to the fact that the list of founders submitted had been invalid. This conclusion was based on the fact that some of the founders had not stated the landline number, and one of the founders had made a typo indicating the address. The decision of the Supreme Court from 13 December 2016 found the registration refusal justified and left it in force. Even prior to the judicial review of the registration refusal, the founders resubmitted the documents for registration, but the Ministry of Justice denied registration again on 9 December 2016.
  163. The conditions established for formation of political parties do not actually provide for the realization of the right to form new parties. The latest case of registration of a new political party took place in 2000. In the period between 2010 and 2017, the Belarusian Christian Democracy party, the Belarusian Communist Workers' Party as well as local branches of the BPF were repeatedly denied registration.
  164. A mechanism for judicial appeal against registration refusals provided by law does not really serve as a means of restoring the right to association, since the courts never settle complaints against the decisions of justice authorities on registration refused to public associations, political parties and foundations. In addition, there is no possibility of cassation against court decisions on registration refusal for national associations.
  165. The practice of eliminating non-profit organizations through the court on lawsuits by registering bodies is not used as widely as in the early 2000s, but is still used. In particular, a human rights institution "Platforma" engaged in the protection of the rights of prisoners was eliminated by the court decision in 2013.
  166. There is a steady trend in civil society to increase a share of new organizations registered as institutions not based on membership, which requires an easier procedure, similar to a registration procedure for commercial organizations.
  167. Since 2005, the Criminal Code of Belarus has contained article 193-1, stipulating that organization of activities or participation in the activities of an unregistered public association, party, religious organization or foundation is punishable by fine or arrest for up to six months, or imprisonment for a term of up to two years. In its special opinion, the Venice Commission of the Council of Europe for Democracy through Law recognized the existence of this article as a violation of international standards of freedom of association.
  168. During the first (2010) and second (2015) rounds of the Universal Periodic Review on human rights, numerous recommendations (including recommendations from Belgium, the Czech Republic, France, Israel, the Netherlands, and Poland) were made to Belarus on the repeal of article 193-1 of the Criminal Code, some of which were considered acceptable by the Government of Belarus. However, despite numerous assurances from various state bodies of possible changes in legislation on prohibition of unregistered organizations activity (in particular, from the Foreign Ministry, the Prosecutor's Office, Parliament and the administration of the President), this article has never been abolished.
  169. In the period between 2010 and 2017, no new sentences under article 193-1 were recorded, although at least 18 people were convicted in the period between 2005 and 2010. However, criminal cases under this article are occasionally initiated against the heads of unregistered non-profit organizations.
  170. The Prosecutor's Office and the KGB (including regional units of those services) make official warnings about criminal prosecution of unregistered associations members (under article 193-1 of the Criminal Code of Belarus) in case they do not cease their public activities as public associations or religious organizations without state registration. In particular, these warnings were issued to two leaders of unregistered human rights groups: to the chairman of the Human Rights Center "Viasna" Ales Byalyatski in 2011, and to the head of the Human rights Initiative "Against lawlessness in courts and procuracy authorities" Tamara Siarhej in 2013, as well as to leaders of several other non-registered public associations and religious organizations. The practice of issuing warnings

- under article 193-1 contributes to latency of civil society structures – many of them try to keep a low profile, avoid being identified with any public activity of the structures that have not undergone the process of state registration for fear of criminal punishment.
171. In addition to article 193-1 of the Criminal Code of Belarus, there is article 193, entitled "Organizing or leading a public association, a religious organization infringing on the identity, rights and duties of citizens". Part 1 of article 193 provides for imprisonment for a term of up to two years for organizing or leading a political party, any public association, a religious organization, the activities of which involve violence against citizens, cause bodily injury or any other infringements on the rights, freedoms and legitimate interests of citizens, or impede the fulfillment of citizens' state, public and family obligations. Part 2 of article 193 provides for a more severe penalty of imprisonment for up to three years, with implementation of the above activities as a member of an unregistered public association being an indicium increasing liability. At least 2 convictions were carried out under article 193, part 2 of the Criminal Code of the Republic of Belarus in 2012 and 2016.
  172. Since the legislation on public organizations provides for a ban on organizations whose activities involve infringement on an identity, rights and freedoms of citizens, the creation of such organizations is prohibited in Belarus. The organizations that are engaged in illegal activities can also be eliminated under the law. Moreover, such wording in the Criminal Code could be used to restrict the activities of civil society organizations. In fact, article 193 of the Criminal Code can be applied to a wide variety of legitimate forms of civil society organizations and trade unions activities (organizing strikes, boycotts, information campaigns etc.). Article 193 has been introduced into the Criminal Code with a ban on unregistered organizations activities. Part 2 of article 193, which introduces the conduct of activities without registration as an indicium, was amended to the Criminal Code in 2006 together with article 193-1 in a general package of laws restricting freedom of expression, freedom of assembly, and freedom of association. The Assembly of democratic non-governmental organizations of Belarus and the Center for Legal transformation consider unreasonable the establishment of increased liability for offenses due to them being committed by unregistered public associations, as stated by article 193 of the Criminal Code.
  173. The system of state support of civil society organizations in Belarus is extremely underdeveloped and based mainly on direct financing from national and local budgets loyal to the state (and actually fully controlled by state bodies) of several organizations: the Belarusian Republican Union of Youth, the Union of Women, the Association of Veterans. The legislation defines the list of sports non-profit organizations provided with support from the state enterprises.
  174. In early 2014, amendments to the Social Security legislation entered into force, which allowed social organizations to receive funds for the provision of social services from the state budget on a competitive basis. The emergence of a mechanism of allocating public funds among non-profit organizations on a competitive basis is a positive innovation. However, for now this mechanism remains of a little usage. The amount of allocated budget funds is not enough and smaller than the amount of direct financing from the budget of the loyal to state youth organization BRUU. The main recipient of funds as part of government social-sector procurement is the Red Cross and its regional offices.
  175. The procedure for receiving foreign donations is governed by the Presidential Decree No. 5 of 31 August 2015 (entered into force on 4 March 2016). Foreign donations before its usage are subjects to mandatory pre-registration in the Department on Humanitarian Affairs under the presidential Office. In practice, the registration of foreign donations is selective. The permitting procedure is maintained for obtaining foreign donations with restriction of the purposes for which foreign donations are drawn. Despite some expansion of the goals list, it still lacks such important goals as the protection of human rights, promotion of healthy lifestyle, gender equality, protection of animals and other aspects of civil society activities. Foreign donations with the purposes not mentioned in the list can be obtained only by the decision of the Department of Affairs of the President of the Republic of Belarus. The law does not establish a minimum amount of foreign donations that a non-profit organization could receive without registration. Foreign donations are exempted from taxes under a special procedure, which requires a separate state bodies decision. Significant amounts of foreign donations received by non-profit organizations are not exempted from taxes.
  176. In autumn 2011, article 369-2 on Obtaining foreign grant assistance in contravention of the law of the Republic of Belarus was amended to the Criminal Code, establishing criminal liability for violating the procedure of receiving foreign donations. Article 369-2 establishes that obtaining as well as possessing or transferring foreign grant assistance in order to conduct extremist activities or other acts prohibited by the Belarus legislation or to finance political parties, unions (associations) of political parties, to prepare or hold elections, referendum, recall of a deputy, a member of the Council of the Republic of Belarus, to organize or hold meetings, rallies, street marches, demonstrations, pickets, strikes, to produce or distribute agitation materials, to hold seminars or carry out other forms of political and agitation work among the population, committed within a year after imposing the administrative penalty for the same violations incurs criminal liability with possible punishment in the form of imprisonment for a period up to two years.
  177. Domestic donations from corporate donors (legal entities and individual entrepreneurs) are limited to targeted use under the Presidential Decree No. 300 from 2005. The legislation regulates the provision of such donations and defines an exhaustive list of possible purposes for which they may be provided. Human rights activities, as well as many other activities of civil society structures (gender equality, environmental protection, etc.) are not on the list. Allocation of funds for the purposes not included in that list is possible only with the President's consent.

178. Independent entrepreneurial activity is prohibited for public associations by the Act on Public Associations of the Republic of Belarus, and public associations are deprived of the opportunity to receive funds through sale of their own products, publications, or service delivery.
179. Depriving a non-commercial organization of the status of a registered organization incurs difficulties in obtaining funds for its activities. For example, the head of the Human Rights Center "Viasna" (deregistered by the court decision in 2003) Ales Byalyatski was sentenced to 4 ½ years' imprisonment on 24 October 2011 for failure to pay taxes on donations spent on human rights activities of the human rights organization. Ales Byalyatski was amnestied on 21 June 2014. In August 2017, similar criminal charges with non-payment of taxes on donations were filed against Henadz Fiadinich i Ihar Komlik, the leaders of the independent Radio and Electronic Workers' trade union.
180. In January 2013, a ban was introduced on founding or leading non-profit organizations of certain forms for persons placed on the KGB or MIA watch list. The legislation on preventive accounting empowers the State authorities to put citizens on such record unreasonably, and the established judicial procedure of appealing such decisions does not constitute an effective means of the restoration of violated rights – courts never grant such complaints.
181. In summer of 2013, administrative liability in the form of a fine was established under article 9.28 of the Administrative Code for conducting sociological studies by organizations that had not received a special accreditation from the State Academy of Science of the Republic of Belarus Commission.
182. There is a large number of public councils established with the help of various state bodies in Belarus. At the same time, their legal regulation lacks uniformity: in almost every case the regulation of a particular council is established by a State body anew, in isolation from the preceding practice of such bodies. There are no uniform standards for councils functioning on different levels and in different state bodies. Only few councils have regulations of their activity. Council members are in most cases appointed by a State body.
183. The legislation does not facilitate the participation of civil society organizations in the process of development and discussion of draft legislation. Although the procedure for the preparation of the national plan of legislative drafting activities provides for the possibility of putting forward proposals to initiate the adoption of laws from public associations (but not other forms of non-profit organizations), this procedure is generally closed, and in practice does not work because of the lack of access to information and non-democratic political system in general. It is very rare that the procedure of public discussion of draft laws is initiated by the state. Despite the access to information being guaranteed by the Constitution, only a few civil society organizations are invited to participate in the discussions of the draft laws. Even the civil society organizations involved in the discussion generally do not get information on whether their recommendations have been taken into account.
184. The discussion of draft laws affecting the interests of non-profit organizations is still non-public. Despite the fact that the draft law of 2013 on Making additions and amendments to some laws of the Republic of Belarus on political parties and other public associations activities was aimed directly at non-profit organizations, its drafting was conducted without extensive discussion with them. The proposals for a draft law submitted by the Legal Transformation Center to Parliament were deemed inappropriate. The initiative to hold special parliamentary hearings on the improvement of legislation on non-profit organizations proposed by 25 non-profit organizations was rejected on 16 July 2013. In autumn 2013, amendments to the Electoral Code were adopted without prior publication of the draft law and discussion with political parties and civil society organizations, which significantly changed the election procedure.

### ***Recommendations on Article 22 of the ICCPR***

Bring legislation and practice regarding the freedom of association and legal regulation of civil society organizations in compliance with international standards, including:

- Abolish criminal liability for organizing and participating in unregistered organizations activities (to exclude article 193-1 from the Criminal Code); cancel prohibition on the activities of unregistered public associations.
- Simplify the registration procedure for political parties, other public associations and funds; shorten the list of reasons for refused registration.
- Ensure through legislation that non-commercial organizations, including public associations and their offices, can be registered in residential premises at the place of residence of their founders.
- Reduce the number of founders, necessary for forming and running a public association; ensure that all public associations have equal capacity to carry out their activities on the territory of the whole country (to abolish division of public associations on local, republican and international); introduce the amount of the registration state fee for public associations equal to the registration state fee for commercial organizations.
- Remove the requirement of preliminary registration of foreign donations by the State bodies, and abolish restrictive lists of purposes for which foreign and domestic donations can be received, entrenching only the purposes for which foreign donations cannot be received.
- Increase the civil society organizations' capacity to attract donations, including providing tax deductions on domestic donations for non-profit organizations.
- Avoid imposing income tax on goods (works, services), received by citizens as charitable assistance from non-profit organizations on a free-of-charge basis.

- Develop a non-discriminatory and inclusive system of financing of non-profit organizations from the state budget on a competitive basis, which includes publication of data on the amount of state support, as well as reports from the recipient organizations on its use.
- Legislate on the mechanisms of consultation and partnership between the State bodies and civil society organizations; increase the practice of discussing draft laws affecting the interests of civil society organizations with members of these organizations.
- Stop persecuting the participants of civil society organizations, including human rights organizations.
- Implement the recommendations of the UN Human Rights Committee, including individual appeals of the victims of the right to freedom of association violations; submit periodic reports to the UN bodies in accordance with all international obligations assumed by the State.

### ***The right to participate in the affairs of one's country (article 25)***

185. The electoral process in Belarus does not comply with a number of basic international standards for democratic and free elections. This is due to the lack of equal access to the media for all the candidates, the lack of impartial electoral commissions, the active use of administrative resources, numerous facts of forcing voters to participate in early voting, and a number of electoral procedures restricted for observers. The most important reason for criticizing the elections is the lack of transparency of vote counting, which prevents the declared results of the elections from being seen as a reflection of the voters' expression.
186. In February 2016, an interdepartmental expert working group was established on behalf of the President of the Central Commission on Elections to study the recommendations given by the ODIHR/OSCE on the results of the 2015 presidential elections in order to improve electoral process in Belarus. The results of this group work have not been made public, and no amendments aimed at democratization and transparency of the electoral process in Belarus have been made so far.

#### ***Recommendations on Article 25 of the ICCPR***

- Legislate the right of each political party after the announcement of an election campaign to delegate one of its representatives with the right of deciding vote to an election commission of any level; legislate the preferential right of political parties to send their representatives to election commissions.
- Legislate that citizens who cannot be present at the polling station on the voting day may vote ahead of time when submitting documents that confirm the fact of not being able to vote on the voting day.
- Legislate the following recommendation of the ODIHR/OSCE: "The counting of votes shall be made transparently, when all members of PEC, observers and candidates representatives could confirm the result of the process. In order to improve public trust, it is worth considering the possibility of announcing and demonstrating the choice on each ballot to everyone present, as well as declaring all the numbers that are entered in the PEC protocol."
- Legislate the right of judicial appeal against any decisions of election commissions at all levels that affect the rights of the campaign participants.