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Committee on Political Affairs and Democracy

The situation in Belarus

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Information Note

1. Introduction

1. On 25 January 2012, the Parliamentary Assembly adopted Resolution 1857 (2012) and Recommendation 1992 (2012) on the Situation in Belarus. In its Resolution, the Assembly, *inter alia*, deplored the deterioration of the situation of human rights and democracy in Belarus and demanded that Belarusian authorities release all political prisoners, cease continuous repression of civil society, human rights defenders, independent media and political opponents, and introduce a number of reforms in order to guarantee respect for freedom of assembly and association. The Assembly also called on the Belarusian authorities to introduce a moratorium on capital executions and to guarantee that the parliamentary elections of September 2012 be conducted in a democratic, free and fair manner.

2. The Assembly also invited all Council of Europe member States to join the targeted sanctions imposed by the European Union against Belarusian officials responsible for serious human rights violations until the release and full rehabilitation of all political prisoners.

3. On 16 March 2012, the Committee on Political Affairs and Democracy re-appointed me as Rapporteur on the Situation in Belarus and I have since followed closely the developments in the country.

4. On 25 April 2012, the Committee held an exchange of views with Mr Thomas Markert, Secretary of the Venice Commission and two months later, on 26 June 2012, it adopted a statement on “2012 Parliamentary elections in Belarus: a healthy democracy needs dissent”, in the presence of representatives of Belarusian civil society. In its statement, the Committee urged the Belarusian authorities “to open up political space and to meet their commitments to the OSCE in terms of standards for free and fair elections, electoral reforms, media freedom and respect for human rights”.¹

5. During the April and June 2012 part-sessions, I met with several civil society representatives. Since January 2012, I have also attended a number of international events on democracy and human rights in Belarus, including a conference on “Belarus Action”, on 22 March 2012, in Oslo.

6. I recall that, on 5 October 2011, the Committee backed my wish to visit Belarus in order to assess directly and objectively the human rights situation and engage in a constructive dialogue with the authorities, as well as my wish to meet political prisoners on that occasion. I immediately contacted the representative of the Mission of the Republic of Belarus to inform his authorities of my intentions. To date, I have still not received any response from Minsk regarding a possible visit.

7. Therefore, my report is based on the information provided by human rights defenders, representatives of Belarusian civil society as well as the representative of the Mission of the Republic of Belarus, who conveyed to me some documents on the preparation of the Parliamentary elections of 23 September 2012. Other sources include the newsletter and press releases of the Belarusian Ministry for Foreign Affairs, reports of Belarusian and international human rights organisations as well as media reports.

2. Human rights and political freedoms on the eve of the parliamentary election

2.1. Capital executions in 2012

8. On 30 November 2011, the Belarusian Supreme Court handed down a death sentence against Mr Dmitry Konovalov and Mr Vladislav Kovalev, who were found guilty of the fatal bombing in the Minsk Metro on 11 April 2011. This decision was followed by a wave of international protests and appeals calling on the Belarusian authorities to refrain from executing the two men and to introduce a moratorium on the death penalty as a first step towards its abolition.

9. In Resolution 1857, the Assembly expressed its deep concern that “the investigation and the trial were marred by serious human rights abuses, including the use of torture in order to extract confessions, contradictions and gaps in the evidence presented at the trial”. The Assembly called on the Belarusian authorities to carry out a full investigation of these allegations.

¹ “Parliamentary elections in Belarus: a healthy democracy needs dissent”, statement of the Committee on Political Affairs and Democracy, see: http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7783&L=2.

10. On 27 January 2012, the President of the Assembly appealed to the competent Belarusian authorities not to execute Mr Konovalov and Mr Kovalev not only because this was against the core principles of the Council of Europe, but also because of “serious doubts whether these two youths ever committed the despicable act of terrorism for which they were convicted”.²

11. On 16 February 2012, the European Parliament adopted a Resolution³ in which it also expressed its doubts about the fairness of the investigation and trial, and called on President Lukashenko to pardon the two men. The following day, the Belarusian Ministry for Foreign Affairs accused the European Parliament of “de facto tak[ing] the side of the terrorists by incompetently questioning the findings of the investigation and decisions of the Belarusian court on the terrorist acts case”.⁴

12. On 15 March 2012, together with President Mignon, the Rapporteur for opinion of the Committee on Legal Affairs and Human Rights, Ms Marieluise Beck (Germany, ALDE), and the General Rapporteur on the death penalty, Ms Renate Wohlwend (Liechtenstein, EPP/CD), we launched a solemn appeal to the Belarusian authorities not to execute Mr Konovalov and Mr Kovalev.⁵

13. Notwithstanding the numerous appeals, the two young men were executed in March 2012. The exact dates of the executions, the circumstances of the execution and the location of the bodies are unknown since the death penalty in Belarus is executed in secrecy and the bodies are not given to the families.

14. The refusal to pardon the two young men and their execution were condemned by the international community. The Secretary General of the Council of Europe,⁶ the Committee of Ministers⁷ and the President of the Assembly⁸ expressed unanimously their disappointment and indignation.

15. Many Belarusian human rights defenders I met confirmed that the investigation and the trial were held with numerous procedural violations. There were allegations of torture, and the evidence presented by the prosecutor was not sufficient to declare the two persons guilty of terrorist attacks beyond reasonable doubt. It was also doubtful that they could organise and conduct the horrifying crime on their own, without the assistance of professionals. The rapidity of the investigation, the trial and the execution were another reason for Belarusian human rights defenders to doubt the fairness of the trial and of the sentence.

16. According to the data provided by the Belarusian independent polling institute Novak and the Independent Institute of Social, Economic and Political Studies (IISEPS), in the aftermath of the executions, for the first time in Belarus, the proponents of the abolition of the death penalty outnumbered the opponents. The presidents of both research centres told me during our meetings in Strasbourg that such a change was provoked by the distrust of the people in the results of the investigation and trial.

17. Such a change in public opinion challenges the recurrent argument of the Belarusian authorities about popular support of the capital punishment. It is also important to underline that a moratorium on the death penalty in Belarus can be introduced by a presidential decree or a parliamentary decision. The only factor lacking to leave this irreversible, cruel and inhuman penalty behind is the political will of the Belarusian authorities.

² “PACE President has ‘serious doubts’ over convictions of Minsk bombers, appeals against their executions”, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7401.

³ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-63>.

⁴ “Statement of the Press-Service of the Ministry of Foreign Affairs of the Republic of Belarus Related to the Adoption by the European Parliament of a Resolution on Belarus”, http://www.mfa.gov.by/en/press/news_mfa/ba8f9dd06026cf98.html.

⁵ “PACE: last-ditch appeal for clemency for Dmitry Konovalov and Vladislav Kovalev”, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7509&L=2.

⁶ “Jagland condemns Lukashenko’s refusal to pardon the two men sentenced to death over subway bombing”, <https://wcd.coe.int/ViewDoc.jsp?id=1919647&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>.

⁷ “Declaration of the Committee of Ministers following the execution of Dmitry Konovalov and Vladislav Kovalev”, <https://wcd.coe.int/ViewDoc.jsp?id=1923193&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

⁸ “Belarus: ‘An irreparable act has been committed’”, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7519&L=2.

2.2. Lack of progress in the release of political prisoners

18. In Resolution 1857, the Assembly called on the Belarusian authorities to “release and rehabilitate all political prisoners, including those who were pardoned, and conduct a thorough and credible investigation into the allegations of ill-treatment and torture at the time of arrest and while in detention”.

19. On 14-15 April 2012, former presidential candidate Mr Andrei Sannikov and his campaign aid, Mr Zmitser Bandarenka, were granted a pardon by Mr Lukashenko and released. This release was welcomed by the Parliamentary Assembly of the OSCE⁹, the European Union¹⁰ and our Assembly. President Mignon issued a statement where he urged President Lukashenko to immediately release and rehabilitate all the remaining political prisoners.¹¹ No further positive signals as to the release of the remaining political prisoners have been given since then.

20. The major Belarusian human rights organisations, including the Belarusian Helsinki Committee, the Human Rights Centre *Viasna* and the Centre for Legal Transformations, agree that 12 political prisoners remain in detention in Belarus, including the renowned human rights defender and vice-president of the International Federation of Human Rights, Mr Ales Bialiatski, former presidential candidate, Mr Mikalai Statkevich, the leader of opposition youth organisation Young Front, Mr Zmitser Dashkevich, businessman Mr Mikalai Autukhovich, six activists of an anarchist movement and other opponents of the regime.¹²

21. One of these persons, civil activist Mr Vasil Parfiankou, had been pardoned by President Lukashenko in April 2011, but, on 29 May 2012, was sentenced again to six months of imprisonment for violating the restrictions of “preventive supervision”, a form of control imposed on all pardoned prisoners. This violation consisted in repeated involvement in rallies in support of Belarusian political prisoners and consecutive arrests for participation in such rallies.

22. On 28 August 2012, Mr Zmitser Dashkevich, a political activist arrested on the eve of the presidential elections of December 2010, and already serving his two-year imprisonment term for hooliganism, was sentenced to one more year of imprisonment for “persistent disobedience to orders of the administration of a penitentiary institution”, according to article 411 of the Criminal Code. There is a risk that Mr Dashkevich will not be the only political prisoner sentenced under this article.

23. Reports on the situation of political prisoners in detention facilities continue to raise serious concerns. Some prisoners, such as Mr Siarhei Kavalenka, alleged that they were pressured into appealing for clemency and admitting their guilt. In many cases, the released political prisoners claimed that they were subjected to torture, given inadequate medical attention and denied proper access to legal assistance. In some cases, like those of Mr Mikalai Dziadok or Mr Yauhen Vaskovich, prisoners were put in isolation wards for long periods of time for alleged violations of the internal regime of a penitentiary institution. Others, such as Mr Dashkevich, were repeatedly refused the right to see their lawyer. In July 2012, a number of human rights defenders informed the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of the allegations of torture applied in prison against Mr Dashkevich and Mr Statkevich.

24. During the meetings I had with representatives of Belarusian civil society, I was told that a general amnesty was announced for July 2012. The human rights defenders hoped that political prisoners would be released together with hundreds of other inmates. However, already in June 2012, it became clear that these hopes were in vain: the procedures were defined in such a way as to exclude the possibility for political prisoners to benefit from the amnesty. Among the requirements for the amnesty were:

- no previous criminal record;
- excellent conduct in the penitentiary institution;
- excellent respect of the internal regime of the penitentiary institution;

⁹ President Efthymiou welcomes amnesty for Sannikov and Bondarenko, calls for more releases from Belarusian prisons, <http://www.oscepa.org/news-a-media/press-releases/936-president-efthymiou-welcomes-amnesty-for-sannikov-and-bondarenko-calls-for-more-releases-from-belarusian-prisons>.

¹⁰ “Statement by High Representative Catherine Ashton on the release of Belarusian former Presidential candidate Andrei Sannikaw”, http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/129536.pdf.

¹¹ PACE President welcomes release of Belarusian opposition leader and campaign aide, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7601&L=2.

¹² To see the full list of political prisoners and information about them, please see the web-site of the human rights centre *Viasna*: <http://spring96.org/en/news/49539>.

- no objection from the penitentiary administration;
- full compensation for damages/full payment of fines.

25. The amount of the compensation Mr Bialiatski had to pay for his alleged tax evasion, for instance, was “recalculated” prior to the general amnesty, so he could not be released under that procedure.

26. On 13 September 2012, Mr Ales Bialiatski was nominated for the European Parliament Sakharov Prize for Freedom of Thought by 83 MEPs. I think that if the Prize is awarded to Mr Bialiatski, it could become a strong signal of solidarity with this outstanding advocate of human rights and a moral support in his actual situation. On 28 September 2012, he was awarded the Lech Walesa Prize for his fight for freedom and human rights in Belarus. I also believe that we should nominate Mr Bialiatski for our Assembly Human Rights Prize 2012, and I call on my colleagues to support this proposal.

2.3. Continuous pressure against political opponents, independent media and civil society

27. Regardless of numerous international requests, including numerous statements made by the Assembly’s President and Rapporteurs on Belarus, the repression against civil activists, human rights defenders, independent media and political opponents of the regime has continued in 2012.

28. The pressure was probably linked to the parliamentary campaign period. The Belarusian authorities tend to tighten their grip on civil society during electoral periods. Also, diplomatic incidents in 2012 could be a reason, or rather a pretext, for continuous repression against NGOs, activists and opposition members, regularly referred to as “the fifth column” by Mr Lukashenko and Belarusian senior officials.

2.3.1. Travel bans imposed on civil activists, journalists and opposition leaders

29. Since March 2012, sixteen major opposition leaders, independent journalists, human rights defenders, as well as Mr Sannikov’s lawyer, were stopped at the borders and banned from leaving the country. The grounds for such travel bans, namely inexistent law suits or fines due, alleged dodging of military conscription by persons older than the conscription age or by a woman, etc., were clearly fallacious.

30. Most victims of violations of freedom of movement lodged legal complaints, but proceedings were often delayed. Since June 2012, twelve activists have been able to obtain the cancellation of the travel ban against them. In all cases, the court declared that the reason for such bans was a “technical failure”. Regrettably, those responsible for such violations have not been brought to justice.

31. Notwithstanding the official claims by the Ministry of the Interior that no “blacklists” of activists exist, it is clear that such unacceptable tactics have been used by the Belarusian regime as an instrument in the diplomatic stalemate with the European Union. In an interview given to the television channel “Russia Today” on 20 March 2012, Mr Lukashenko acknowledged that the travel blacklists against the Belarusian “fifth column” was a response to the travel bans imposed by the EU on the Belarusian officials responsible for human rights violations.¹³

32. Moreover, on 6 July 2012, Mr Lukashenko signed “Edict n. 295 (2012)”, allowing the KGB to ban the exit from Belarus of all citizens under “preventive supervision”. This means that any citizen of Belarus who is considered by the KGB as “being able to create a threat to national security”, may be banned without any judicial decision from travelling outside the country. The first activist to be concerned by this measure was Mr Andrei Bondarenko, human rights defender and director of the NGO Platform, who has been put under preventive supervision since 19 July 2012.

2.3.2. Recurrent detentions and arrests of journalists and civil activists

33. The arrests of independent journalists, human rights defenders and political activists have regrettably not ceased in 2012.

34. On 21 June 2012, Mr Andrzej Poczobut, Belarusian correspondent of the Polish newspaper “Gazeta Wyborcza” and activist of the Belarusian Union of Poles, was arrested on charges of “libel of the President of Belarus in a public statement, or in a printed or publicly displayed product, or in media,

¹³ “Interview of President of the Republic of Belarus Alexander Lukashenko to the TV company Russia Today”, <http://president.gov.by/en/press129013.html>.

committed by a person, previously condemned for libel or insult".¹⁴ He had already received a three-year suspended prison sentence for libel of the President in July 2011. If found guilty, Mr Poczobut risks up to five years of imprisonment. On 30 June 2012, the journalist was released on bail pending trial. While in detention, Mr Poczobut was recognised by the Amnesty International as a prisoner of conscience.¹⁵

35. On 4 July 2012, two representatives of a Swedish advertisement agency on board of a light aircraft, defying the anti-aircraft defence, illegally crossed the Lithuanian-Belarusian border and dropped hundreds of small teddy bears with messages in support of freedom of expression. This act provoked a political scandal leading to the resignation of several high-ranking military officers in Belarus. On 6 July, Mr Sergey Basharimov, a real estate agent, who had allegedly assisted Swedish activists with an apartment rental, was arrested. On 13 July, Mr Anton Suriapin, photographer and student of the faculty of journalism of the Belarusian State University, who was the first to publish the photographs of the dropped teddy bears on his website (these photographs were sent to him by an anonymous person), was also arrested. Both men were charged with complicity in the illegal crossing of the Belarusian state border and released on bail on 17 August 2012, after having spent more than a month in the KGB remand prison. If found guilty, they risk up to seven years of imprisonment.

36. This incident illustrates the repressive nature of the Belarusian authorities who arrest and charge innocent people out of revenge for daring symbolic defiance launched by foreign nationals and acclaimed by Belarusian society. Aware of the fact that humour is an important instrument for its political opponents, the Belarusian regime acts in an extremely harsh manner in order to demonstrate that any form of resistance or participation in any form of protest will not be tolerated.

37. The recent arrests of moderators of social network communities confirm the authorities' will to suppress any form of innovative activism. On 30 August 2012, four moderators (including those of the popular Belarusian protest group "Tired of this Lukashenko" in the social network "vkontakte.ru") were arrested. One more online activist fled the country, while his apartment was searched by law enforcement agents. The detained activists were interrogated by the police who wanted to obtain the administrator passwords to gain control over protest social network groups; one of them, Mr Roman Protasevich, was reportedly beaten up. Two activists, Mr Pavel Yevitshiev and Mr Andrey Tkachev, were sentenced to five and seven days of administrative detention for "disorderly conduct", the other two were released after interrogation. The OSCE Representative on Freedom of the Media, Dunja Mijatović, condemned these detentions and arrests as "continued efforts to muzzle dissenting voices and clamp down on freedom of expression online".¹⁶

38. These are only some of the most outrageous examples of arrests of civil society activists and opponents to the regime. One could also quote the arbitrary arrests of human rights defender Mr Oleg Volchek on 24 May 2012¹⁷, Mr Alexei Pikulik, academic director of the Belarusian Institute for Strategic Studies on 31 May 2012¹⁸, or Mr Pavel Sviardlou, reporter at the "Euroradio", a radio channel based in Warsaw, on 22 June 2012.¹⁹ All of them were sentenced for "disorderly conduct" (they allegedly used obscene language in public) to nine, five and fifteen days of administrative arrest, respectively.

39. Arrests during demonstrations, even authorised ones, have continued. On 26 April 2012, during the authorised annual opposition rally Chernobyl March, around 40 people were detained, including eight Russian activists. Five participants were sentenced to ten to fifteen days of administrative arrest for alleged use of obscene language in public.²⁰

¹⁴ Article 267.2 of the Belarusian Criminal Code.

¹⁵ "Belarus: Journalist risks jail for criticizing President: Andrzej Poczobut", <http://www.amnesty.org/fr/library/asset/EUR49/007/2012/en/2614a95a-7b9c-4323-8bbe-3ce9b504ddcf/eur490072012en.html>.

¹⁶ "OSCE media freedom representative concerned by arrest of social media activists in Belarus", <http://www.osce.org/fom/93345>.

¹⁷ For details, see, for example: "Belarus: Arrest and sentencing of human rights defender Mr Oleg Volchek", <http://www.frontlinedefenders.org/node/18441>.

¹⁸ See "Alekssei Pikulik Sentenced to Five-Day Arrest", http://www.belinstitute.eu/index.php?option=com_content&view=article&id=1257:2012-06-01-15-31-47&catid=17:advert&Itemid=29&lang=en.

¹⁹ See "Pavel Sviardlou Gets 15 Days Administrative Arrest", <http://baj.by/en/node/12754>

²⁰ Among those sentenced were three activists of the youth opposition organisation the Young Front: Mr Nikolai Dzemedzenka, Mr Mihail Musski and Mr Raman Vasilieu. Mr Musski was subsequently sentenced to five more days of arrest for "disorderly conduct" while still in detention. On 14 May 2012, Mr Dzemedzenka and Mr Vasilieu, as well as

40. During the electoral campaign, activists of *Zmena* (“Change” in Belarusian, the youth organisation of the Civil campaign “Tell the Truth”) were repeatedly arrested on 5, 7 and 18 September 2012 (five days before the election day) and sentenced to up to twelve days of administrative detention for disorderly conduct and for participation in an unauthorised protest rally, which, according to the organisers, was in fact an electoral meeting.²¹

41. According to Belarusian human rights defenders, in all the aforementioned cases (which by no means represent an exhaustive list), the trials were unfair and politically motivated, and often the only evidence considered by the court was testimonies of police officers who conducted the arrests. The practice of administrative detention on easily fabricated charges of alleged use of obscene language in public is often used by the authorities to put pressure on activists; such arrests are sometimes carried out on the eve of protest mass rallies or during electoral campaigns.

2.3.3. Further restrictions on the freedom of association, assembly and expression

42. The work of independent journalists continues to be restricted by the police. I mentioned above the criminal cases against Mr Poczobut and Mr Suriapin. On 31 May 2012, four journalists, including an RFE/RL correspondent, were detained for several hours while covering a meeting of opposition activists in public. On 18 September 2012, seven journalists, including those of Associated Press, Reuters and German television channel ZDF, were briefly detained while they were covering a protest during an electoral meeting by activists of *Zmena*. The arrests were carried out with the use of force, and all the photo and video materials were deleted from the cameras of journalists before they were released.²²

43. On 4 July 2012, the Partizanski district Court of Minsk decided to confiscate the apartment which was used as the office of the human rights defence centre Viasna, which officially belongs to Mr Ales Bialiatski, the cost of which would cover the damages the latter caused to the state due to his alleged tax evasion (in January 2012 the compensation had already been fully paid, but, in March 2012, the amount was recalculated). Since 28 August 2012, after all appeals were turned down, the apartment was officially confiscated, and Viasna may be evicted any day now. The loss of the office will considerably hamper the activities of Viasna, already weakened by the imprisonment of its president and the lack of registration, which makes its activities illegal, according to Belarusian legislation²³.

44. In Resolution 1857 (2012), the Assembly called on the Belarusian authorities to repeal Article 193-1 of the Criminal Code, which penalises the organisation of, and participation in activities of non-registered public associations. Even though this article has not been applied recently, probably due to the strong criticism of the international community, the Belarusian authorities have taken no step to abolish this repressive article considered as “unacceptable from the standpoint of democratic principles and human rights” also by the Venice Commission.²⁴

45. In December 2011, the Committee on Political Affairs and Democracy requested the Venice Commission to provide an assessment of the compatibility with universal human rights standards of the amended “Law on Mass Events in the Republic of Belarus” that entered into force on 27 November 2011. The Venice Commission invited the OSCE/ODIHR Advisory Panel on Freedom of Assembly to join the assessment of the Law. On 16-17 March 2012, the Venice Commission adopted the opinion

another activist, Mr Dzmitri Kamenetski, were arrested again and sentenced to administrative arrest for the use of obscene language in public.

²¹ Mr Yahor Viniacki was detained on 5 September 2012, and subsequently sentenced to ten days of administrative arrest (use of obscene language in public). Mr Pavel Vinahradau and Mr Aliaksandr Artsybashau were detained on 7 September 2012, and subsequently sentenced to five and three days of administrative arrest respectively for use of obscene language in public. On 18 September 2012, Mrs Hanna Kurlovich, Mr Viniacki, Mr Vinahradau and Mr Artsybashau were detained during a protest performance. On 19 September 2012, Mrs Hanna Kurlovich was sentenced to pay a fine; Mr Viniacki and Mr Artsybashau were sentenced to seven and ten days of administrative arrest respectively for participation in an unauthorised protest rally; Mr Vinahradau was sentenced to twelve days of administrative arrest: seven days for participation in an unauthorised protest rally and five for use of obscene language in public.

²² The Committee to Protect Journalists strongly condemned the attacks against and detention of journalists, see: “AP, Reuters journalists beaten, detained in Belarus”, <http://cpj.org/2012/09/ap-reuters-journalists-beaten-detained-in-belarus.php>.

²³ On the issue of official registration of the NGOs in Belarus see below.

²⁴ Opinion on the compatibility with universal human rights standards of Article 193-1 of the Criminal Code on the rights of non-registered associations of the Republic of Belarus, adopted by the Venice Commission at its 88th plenary session, Venice (14-15 October 2011).

and considered that the Law on Mass Events is deliberately restrictive, does not meet international human rights standards and “is characterised by a detailed overregulation of the procedural aspects of the holding assemblies. The Law creates a complicated procedure of compliance with a rigid and difficult authorisation procedure, while at the same time leaving the administrative authorities with a very wide margin of discretion on how to apply the Law.”²⁵

46. According to the Venice Commission, the Law on Mass Events does not offer adequate mechanisms and procedures to ensure that freedom of assembly and freedom of expression “are practically enjoyed and not subject to undue bureaucratic regulation. Such overregulation is likely to restrict excessively the exercise of the freedom of assembly and of freedom of speech”.²⁶

47. The Belarusian authorities have ignored the Venice Commission’s recommendations and have not reconsidered the restrictive amendments which were adopted in October 2011 to a number of legislative acts, including the Law on Public Associations, the Law on Political Parties, the Electoral Code, the Code of Administrative Offences, the Criminal Code and the Criminal Procedure Code.

48. Furthermore, new restrictive changes were made to the Code of Administrative Offences. On 29 July 2012, the lower chamber of the Belarusian Parliament adopted a new article to the Code (a draft amendment was introduced by the President), foreseeing new legal sanctions for the conduct of non-licensed public opinion surveys.²⁷ This amendment involves possible fines not only for the organisers of non-licensed polls, but also for the interviewers. As some of the major public opinion survey institutes²⁸ are denied legal status in Belarus, they cannot receive a licence and thus have to act illegally. Adopted on the eve of the parliamentary elections, these legislative changes were clearly targeted at independent electoral exit polls.

49. It is worth noting that the practice of “warnings” issued by the Belarusian authorities against independent journalists and human rights organisations, condemned by the Assembly in Resolution 1857 (2012) as constituting “a violation of internationally recognised human rights standards”, seems to have ceased. I hope that the authorities of Belarus will continue to refrain from using such instruments to repress civil society and independent media.

3. Parliamentary elections of 23 September 2012

50. On 23 September 2012, elections to the lower chamber (House of Representatives) of the Belarusian Parliament (National Assembly) were held. On 25 September 2012, the election to the Council of the Republic (upper chamber) of the National Assembly took place.

51. 56 members of the Council of the Republic were elected by local legislative bodies (councils): 8 members from each of the 6 regions of Belarus, and 8 members from the city of Minsk out of the candidates jointly nominated by local executive and legislative organs. 8 more members were appointed by the President.

52. 56 candidates were nominated to “compete” (as the official newsletter of the Belarusian Ministry for Foreign Affairs stated²⁹) for 56 seats at the recent elections. Obviously, no candidates who would declare any form of opposition to the Belarusian authorities were, or could be, nominated. Therefore, due to the absence of even the slightest lack of predictability of the results of the elections to the Council of Republic, I will concentrate on the elections to the House of Representatives.

3.1. Major shortcomings in the electoral system

53. The 110 members of the House of Representatives are elected by secret ballot under a majoritarian system in single mandate constituencies. It means that, in order to be elected, any candidate has to obtain more than 50% of the votes in his/her constituency (in the first or second round), and the turnout has to be at least 50% of voters.

²⁵ Joint opinion on the Law on Mass Events of the Republic of Belarus, Adopted by the Venice Commission at its 90th Plenary Session, (Venice, 16-17 March 2012).

²⁶ *Ibidem*.

²⁷ In Belarus only those opinion polls that are authorised (licensed) by the special committee are considered legal.

²⁸ Namely, the Institute of Independent Social, Economic and Political Studies (IISEPS), officially registered in Vilnius.

²⁹ “Parliamentary Elections in the Republic of Belarus”, September 2012, N°4

http://austria.mfa.gov.by/modules/cfiles/files/elections%20newsletter%204%20eng_2613.pdf.

54. Such an electoral system was criticised for making the Parliament more or less inaccessible to opposition candidates: even if opposition candidates obtained 49% of the votes in every constituency, none of them would be elected to the House of Representatives.

55. Such a system *per se* does not render the elections undemocratic and exists elsewhere. However, taking into account the lack of independence of the electoral commissions in Belarus, the recurrent drastic under-representation of the opposition in the electoral commissions, the very limited rights of independent observers and the recurrent violations of international electoral standards, it is apparent that the opposition is considerably hampered by such an electoral system.

56. Further concerns have been raised by human rights defenders and the OSCE/ODIHR, jointly with the Venice Commission:³⁰

- Early voting period: voting may take place up to five days prior to the election day. During this period the ballot boxes stay without observers' control in the polling stations at night time, making ballot stuffing possible; there have been numerous reports of forced early voting, especially among students, law enforcement and military servicemen;
- Home voting: some voters (disabled people, elderly) are allowed to vote at their homes. According to Belarusian independent observers, usually two members of a divisional electoral commission and a policeman transport the ballot box to the homes of voters. The ballot box stays without any control by the observers, allowing again ballot stuffing;
- Counting and tabulation procedure: the fact that the procedure is not explicitly described in the Electoral Code facilitates fraud. Observers are often not allowed properly to observe the counting, as they are kept at a distance (5-10 metres) from the desk where the ballots are counted. The ballots are not shown to the observers during the counting procedure and are counted silently. Only the final result is announced by the chairperson of the precinct electoral commission;
- Composition and lack of independence of electoral commissions and procedure of registration of candidates: the opposition is drastically under-represented in the Central Electoral Commission, as well as in district and precinct electoral commissions; opposition candidates are often refused registration, due to minor errors in their registration documents.

57. Again, the early voting and home voting are common practices in democracies (e.g. in Estonia, the early voting lasts for ten days). But, in order for these electoral practices to comply with democratic standards, appropriate conditions to ensure the secrecy and the security of the vote are necessary, including trust in the election administration, as was also stressed by my colleague Mr Gardetto in his recent report "For more democratic elections".³¹

58. None of the parliamentary or presidential elections held in Belarus since 1995 have been recognised by the OSCE as being free and fair.

59. For the first time in these parliamentary elections, political parties were authorised to nominate candidates in all constituencies, regardless of whether or not they maintain regional structures in districts where they nominate candidates. Nevertheless, the procedure for the registration of candidates remains very strict, especially when applied to opposition candidates.

60. In Resolution 1857 (2012), the Assembly urged the Belarusian authorities to "pursue the reform process of the electoral legislation and practice by taking into account the full set of recommendations of the [OSCE/ODIHR] and the [Venice Commission]". Unfortunately, the authorities did not introduce the necessary reforms in the electoral legislation prior to the elections of 23 September 2012. Already on

³⁰ See: "Joint Opinion by the Venice Commission and OSCE/ODIHR on the amendments to the Electoral Code of the Republic of Belarus as of 17 December 2009 Adopted by the Council for Democratic Elections at its 33rd meeting (Venice, 3 June 2010) and by the Venice Commission at its 83rd Plenary Session (Venice, 4 June 2010), [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)012-e.asp](http://www.venice.coe.int/docs/2010/CDL-AD(2010)012-e.asp), and "Joint Opinion by the Venice Commission and OSCE/ODIHR on the Electoral Legislation of the Republic of Belarus, adopted by the Council for Democratic Elections at its 18th meeting (Venice, 12 October 2006) and the Venice Commission at its 68th plenary session (Venice, 13-14 October 2006)" [http://www.venice.coe.int/docs/2006/CDL-AD\(2006\)028-e.asp](http://www.venice.coe.int/docs/2006/CDL-AD(2006)028-e.asp).

³¹ Doc. 13021 For more democratic elections, <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19004&Language=EN>.

15 February 2012, the Chairperson of the Belarusian Central Electoral Commission, Mrs Lidia Yermoshina, declared that there was “no need to amend the electoral law now”.³²

3.2. Election observation missions

61. In Resolution 1857 (2012), the Assembly called on the Belarusian authorities to “invite international observers, including the OSCE and other parliamentary organisations, including the Assembly, to monitor the elections, as well as the electoral campaign”.

62. On 11 July 2012, members of the OSCE Parliamentary Assembly (OSCE PA) were invited by the Belarusian authorities to observe the elections. The mission of more than 70 OSCE PA observers was led by Mr Matteo Mecacci. After holding its Needs Assessment Mission on 16-18 July 2012, the OSCE/ODIHR recommended to send some 40 long-term and 270 short-term observers to observe the elections in Belarus.³³

63. On 19 September 2012, two members of the OSCE PA observation mission, who are also members of our Assembly, Ms Marieluise Beck (ALDE, Germany) and Mr Emanuelis Zingeris (EPP/CD, Lithuania), were denied visas to Belarus.

64. The Commonwealth of Independent States (CIS) was also invited to observe the elections. The mission of more than 300 observers of the CIS, headed by Mr Sergei Lebedev, observed the elections in Belarus.

65. Regrettably, no invitation to observe the elections was addressed to the Assembly.

66. Alongside international observers, two major domestic independent observation campaigns were active in Belarus during the parliamentary elections: “Human rights defenders for free elections” (a non-partisan election observation campaign bringing together major human rights defence organisations, including Viasna and the Belarusian Helsinki Committee), which deployed some 400 observers, and “For fair elections” (campaign bringing together 14 Belarusian political movements, including the major political opposition parties), which deployed about 1400 observers.

3.3. The electoral campaign

67. The opposition forces failed to come up with a common strategy for the elections. Some political parties and movements (such as Belarusian Social-Democratic Hramada, the civil campaign European Belarus and the non-registered Belarusian Christian Democracy party) boycotted the elections. Others (United Civil Party, “For Freedom” movement and Belarusian Popular Front) agreed on conditional participation, also referred to as “active boycott”, i.e. they participated in the electoral campaign but withdrew their candidates prior to the elections, since the condition for their participation, in particular the release of all political prisoners, was not fulfilled. Some opposition organisations (most notably the civil campaign “Tell the Truth” and the Left party “Fair world”) fully participated in the elections.

68. In my view, even though every opposition movement had legitimate reasons for choosing a strategy for the elections, the lack of common position was not beneficial to the image of the opposition.

69. The procedures for the appointment of electoral commissions and the registration of candidates, as well as the administration of the electoral campaign, made the electoral process uncompetitive from the outset, as was also stressed by the OSCE mission.

70. Only 0.1% of the members of precinct electoral commissions represented the opposition, with only 61 out of 862 candidates nominated by the opposition parties in the precinct commissions. The overwhelming majority of members, who effectively counted the ballots, were representatives of pro-governmental associations and political parties, and/or employees of state enterprises and institutions. The two members of the Central Electoral Commission representing the opposition parties Belarusian Popular Front and United Civil Party had only a consultative vote, and were expelled from the Commission on 18 September 2012, after their parties decided to withdraw from the elections.

³² “Yermoshina: No need to amend Belarus’ electoral law”, <http://news.belta.by/en/news/politics?id=674408>.

³³ See: “OSCE/ODIHR Needs Assessment Mission Report”, <http://www.osce.org/odihr/92491>.

71. The registration of candidates was carried out in a discriminatory manner. Some well-known opposition figures, such as the leader of the “For Freedom” movement, Mr Alaksandr Milinkievic, were not registered. Most of the prominent opposition candidates who were registered had already declared they would withdraw before election day.

72. There were reports of administrative support given to state-sponsored candidates, and administrative pressure put on candidates of the opposition and independent observers. I already described above some cases of arrests of activists and independent journalists in the run-up to the elections.

73. For the first time in Belarus, television debates between candidates were organised during the parliamentary campaign. Nevertheless, these debates, as well as candidates’ presentations, were recorded prior to their broadcast and censored. During the electoral campaign, the Central Electoral Commission decided that the pro-boycott campaigning was to be banned, and many presentations in which the candidates declared support the boycott were not broadcasted.

74. The independent media were not included in the Supervisory Council on the control over the electoral campaigning in media under the Central Electoral Commission.

3.4. Results of the voting

75. According to the Central Electoral Commission, 25.9% of voters took part in the early voting, which lasted from 18 until 22 September 2012,³⁴ 74.2% of voters participated in the elections, and 109 of 110 members of the House of Representatives were elected in the first round. In one constituency the minimum required turnout of 50% was not reached; a re-run election will probably be combined with the elections to local councils in 2014.³⁵ The new parliament will include representatives of five pro-government political parties. No opposition candidates were elected.

76. The opposition parties contested the results of the elections. Even before the end of the vote, they stated they would not recognise the results of the elections due to serious violations.³⁶ Based on their observations during the election day and the early voting, they declared that the turnout was only 44%.³⁷

3.5. Reactions of the observers

77. Numerous violations were reported by the independent domestic observers. The observation campaign “Human rights defenders for free elections” declared that the elections were carried out with serious violations, and that the “non-transparency of the counting of votes does not give reasons to affirm that the results of the elections express the will of the Belarusian people”.³⁸

78. Among the main reported violations were: pressure on opposition candidates and independent observers during the electoral campaign, unequal representation in the electoral commissions, censorship of candidates’ programmes and presentations in state-owned media, forced voting during the early voting period, serious impediments to the work of observers, non-transparency of the early voting, home voting and vote counting, as well as falsification of the turnout. It is worth noting that several independent observers were expelled from polling stations on election day.³⁹

79. According to the international election observation mission of the OSCE/ODIHR and the OSCE PA, that published the preliminary findings and conclusions on 24 September 2012, “many OSCE commitments including citizens’ rights to associate, to stand as candidates, and to express themselves freely were not respected, despite some improvements to the electoral law. While there was an increase in the number of candidates put forward by parties, prominent political figures who might have

³⁴ <http://news.belta.by/en/news/parlemelections?id=693594>.

³⁵ “Legitimate parliament elected in Belarus”, http://news.belta.by/en/main_news?id=693867.

³⁶ “Five opposition groups say that House of Representatives elections were short of international standards”, http://naviny.by/rubrics/english/2012/09/23/ic_news_259_402016/.

³⁷ “Independent Observers Say Final Turnout 44%”, <http://eng.ucpb.org/index.php?id=31>.

³⁸ “Final report on the observation of the elections of members of the House of Representatives of the National Assembly of the Republic of Belarus”, (in Russian) Human rights defenders for free elections, <http://elections2012.spring96.org/ru/news/57902>.

³⁹ See, e.g.: Five observers ejected from polling station in Minsk, <http://elections2012.spring96.org/en/news/57859>; Observer ejected during vote count, <http://elections2012.spring96.org/en/news/57865>; Observers ejected from polling stations in Minsk for attempt to submit complaint, <http://elections2012.spring96.org/en/news/57868>.

played a role in this contest remained imprisoned or were not eligible to register due to their criminal record. The field of contestants was also constricted by arbitrary administrative actions, leading to a limitation of choice for voters. The elections were not administered in an impartial manner and the complaints and appeals process did not guarantee an effective remedy".⁴⁰

80. The OSCE/ODIHR and OSCE PA mission also declared that the "[o]bservers were not given a meaningful opportunity to observe the count and evaluated the process negatively in a significant number of polling stations observed. The continued lack of properly delineated counting procedures meant that an honest count, as required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, could not be guaranteed"⁴¹. I issued a statement following these declarations.⁴²

90. The CIS observation mission, on the contrary, concluded that "the elections on 23 September 2012 were held in compliance with the Constitution and the Electoral Code of the Republic of Belarus, the elections met internationally recognised democratic standards, they were transparent and open and ensured free expression of the will of Belarusian citizens".⁴³

4. Foreign relations in the context of diplomatic tensions and pressure of the international community

91. Belarus' relations with Western countries remain extremely tense. On 27 February 2012, the Council of the European Union decided to add 21 more persons to the list of Belarusian officials, judges and law enforcement officers subject to travel sanctions and asset freeze. 20 judges and one law enforcement officer, allegedly responsible for human rights violations, were included in the EU travel ban list.⁴⁴ The following day, the Belarusian authorities requested that the Head of the EU Delegation in Minsk and the Ambassador of Poland to Belarus leave the country for consultations. In response, the EU member states recalled all their Ambassadors to Belarus for consultations. The diplomats returned to Minsk only in April 2012. Furthermore, Mr Sergei Martynov, the then Belarusian Minister for Foreign Affairs, was not invited to attend the Eastern Partnership meeting held in Prague on 4 March 2012.

92. In February 2012, the German Human Rights Commissioner, Mr Marcus Löning, was denied entry into Belarus. Mr Löning had intended, among other things, to deliver to President Lukashenko a letter from German Foreign Minister, Mr Guido Westerwelle expressing the German Government's demand for clemency for the two alleged terrorists on death row.⁴⁵ Commenting on the denial of the entry, Belarusian Ministry for Foreign Affairs stated that "the Belarusian party does not find Mr Löning's visit to Minsk necessary. Unfortunately, his 'contribution' to the Belarusian-German relationships cannot be viewed as a positive one".⁴⁶

93. On 1-2 March 2012, the European Council expressed "its serious and deepening concern at the further deterioration of the situation in Belarus" and welcomed the extension of the list of individuals targeted by travel sanctions and asset freeze, and invited the Council to "proceed with further measures".⁴⁷

94. On 23 March 2012, the Council of the EU condemned the latest capital executions, expressed "its grave concern about the continued lack of respect for human rights, democracy and rule of law in Belarus"⁴⁸ and further extended the sanctions against the Belarusian regime. It added twelve

⁴⁰ OSCE/ODIHR and the OSCE PA international election observation mission, "Statement of Preliminary Findings and Conclusions", http://www.oscepa.org/publications/all-documents/doc_download/1289-post-election-statement-for-23-september-2012-parliamentary-elections.

⁴¹ Ibid.

⁴² See http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7987.

⁴³ "CIS mission: Belarus' parliamentary elections meet international standards", <http://news.belta.by/en/news/parlamelections?id=693928>.

⁴⁴ See: "Addendum to the Council Implementing Decision implementing Decision 2010/639/CFSP concerning restrictive measures against Belarus" (6684/12 ADD 1.), <http://register.consilium.europa.eu/pdf/en/12/st06/st06684-ad01re01.en12.pdf>.

⁴⁵ "German Government condemns executions in Belarus", Press Release of the German MFA, http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2012/120318_BReg_Hinrichtungen_Belarus.html.

⁴⁶ "Response of the Deputy Head of the Department of Information — the Head of the Press Service of the Ministry of Foreign Affairs of the Republic of Belarus Maria Vanshina to the question of journalists about Marcus Löning's visit to the Republic of Belarus", http://mfa.gov.by/en/press/news_mfa/a3e849a0df13ce7d.html.

⁴⁷ "European Council 1/2 March 2012 Conclusions" (EUCO 4/3/12 REV 3; CO EUR 2 CONCL 1), p. 14, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/128520.pdf.

⁴⁸ "Council Conclusions on Belarus" (8102/12), <http://register.consilium.europa.eu/pdf/en/12/st08/st08102.en12.pdf>.

“individuals benefiting from and supporting the regime as well as persons responsible for the repression of civil society and the democratic opposition in Belarus” to the list of those targeted by travel restrictions and asset freeze. In addition, the Council froze the assets of 29 businesses, which are controlled by persons on the travel ban list.⁴⁹ In June 2012, Council of Europe member states Albania, Croatia, Iceland, Liechtenstein, Montenegro, “the former Yugoslav Republic of Macedonia” and Serbia joined the EU regime of economic and visa sanctions against Belarusian officials.

95. On 29 March 2012, the European Parliament adopted its Resolution on the Situation in Belarus, in which it called for the introduction of new sanctions. The European Parliament also called “on the National Ice Hockey Federations of the EU Member States and all other democratic countries to urge the IIHF [...] to re-discuss its earlier decision envisaging the possibility of relocating the 2014 World Ice Hockey Championship from Belarus to another host country until all political prisoners [...] are released and until the regime shows clear signs of its commitment to respect human rights and the rule of law”.⁵⁰

96. The Congress of the International Ice Hockey Federation, meeting in Helsinki on 17-20 May 2012, decided to confirm its 2009 decision to hold the Championship in Belarus. The reason behind such a decision was the unwillingness of the IIHF to mix sports with politics.

97. On 29 March 2012, following the conclusions of the Foreign Affairs Council,⁵¹ the Commissioner for Enlargement and European Neighbourhood Policy, Mr Štefan Füle, launched the European Dialogue on Modernisation with Belarusian society. The European Dialogue on Modernisation is intended to be “a multi-stakeholder exchange of views and ideas between the EU and representatives of the Belarusian civil society and political opposition on necessary reforms for the modernisation of Belarus and on the related potential development of relations with the EU, as well as possible EU support in this regard”. It will focus on four key areas: political reform, reform of the judiciary and people-to-people contacts, economic and sector policy issues, and trade and market reform.⁵² Regrettably, the Belarusian authorities have refused to participate in the EU programmes arguing that they would have liked to be involved in the design of the initiative from the outset.

98. On 5 July 2012, the European Parliament adopted the “Resolution on Belarus, in particular the case of Andrzej Poczobut”, calling on the Belarusian authorities, *inter alia*, to release political prisoners and stop the harassment of civil society, human rights defenders and independent media.⁵³

99. Also on 5 July 2012, in its Resolution on the “Situation of human rights in Belarus”, the UN Human Rights Council decided to appoint a Special Rapporteur, in particular, to monitor the situation of human rights in Belarus on behalf of the Council.⁵⁴ Regrettably, the Belarusian Ministry for Foreign Affairs on the same day declared the country “spurns the resolution as politically motivated and as having nothing to do with the promotion of human rights” and refused to cooperate with the Special Rapporteur.⁵⁵

100. During its 2012 Annual Session in Monaco, on 5-9 July 2012, the Parliamentary Assembly of the OSCE adopted a Resolution on Belarus, in which it, *inter alia*, strongly condemned the deterioration of

⁴⁹ “Council reinforces restrictive measures against Belarusian regime”, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/129230.pdf.

For the list of included individuals and businesses see the *Official Journal of the European Union*, L 87, Volume 55, 24 March 2012, pp. 37-44, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:087:FULL:EN:PDF>.

⁵⁰ “European Parliament resolution of 29 March 2012 on the situation in Belarus” (P7_TA(2012)0112), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2012-0112%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

⁵¹ “Council conclusions on Belarus, 3157th Foreign Affairs Council meeting, Brussels, 22 and 23 March 2012.

http://eeas.europa.eu/delegations/belarus/press_corner/all_news/news/2012/23_03_2012_en.htm.

⁵² “Launching European Dialogue on Modernisation with Belarus” (MEMO/12/226), <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/12/226&format=HTML&aged=0&language=EN&guiLanguage=en>.

⁵³ “European Parliament resolution of 5 July 2012 on Belarus, in particular the case of Andrzej Poczobut” (P7_TA(2012)0300), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2012-0300%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

⁵⁴ “Situation of human rights in Belarus” (A/HRC/20/L.7), http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A.HRC.20.L.7_en.doc.

⁵⁵ “Press Service of the Belarusian Foreign Ministry comments on the resolution on the human rights situation in Belarus adopted by the UN Human Rights Council”, http://www.mfa.gov.by/en/press/news_mfa/b0db81bd9767646d.html.

the human rights situation in Belarus and recommended to the IIHF to suspend the holding of the 2014 Ice Hockey World Championship in Minsk until the release of all political prisoners.⁵⁶

101. The Chairperson of the Central Electoral Commission of Belarus, Ms Lidia Yermoshina, while still under EU travel sanctions, attended the OSCE two-day Supplementary Human Dimension Meeting on Democratic Elections and Election Observation on 12-13 July 2012. Regrettably, another guest from Belarus, Mr Viktor Karneenka, co-chair of the election observation campaign "For fair elections", was banned from leaving his country. The OSCE Chairperson-in-Office, Ireland's Deputy Prime Minister and Minister for Foreign Affairs, Eamon Gilmore, "expressed his strong regret about the Belarusian authorities' decision to prevent a Belarusian civil society activist from travelling to an OSCE meeting".⁵⁷

102. Furthermore, notwithstanding the numerous demands, including those of the Assembly, the Belarusian authorities continue not to allow the OSCE mission to return and resume operations in the country.

103. In August 2012, a diplomatic incident between Belarus and Sweden erupted. On 1 August, the Belarusian authorities informed Sweden about their refusal to renew the accreditation of the Swedish Ambassador, Mr Stefan Eriksson. The diplomat had worked in Belarus for seven years, and was considered by civil society activists as one of the most active Western ambassadors in the country. However, the Belarusian authorities considered that, during the period of Mr Eriksson's service, "his activities were aimed not at the strengthening of relations between Belarus and Sweden, but on their erosion".⁵⁸

104. In response, the Swedish authorities expelled two Belarusian diplomats and refused to grant accreditation to the new Belarusian Ambassador to Sweden. On 8 August 2012, the Belarusian authorities announced that its Embassy staff would be withdrawn from Sweden and asked Stockholm to do the same.

105. On 10 August 2012, the Secretary General of the Council of Europe, Mr Jagland, called on the Belarusian authorities to reverse their decision and to return to dialogue.⁵⁹ By 30 August 2012, the Swedish Embassy in Minsk terminated its activities, and all the Swedish diplomats left the country.

106. Some observers and Belarusian independent media considered the diplomatic conflict to be a reaction of the Belarusian authorities to the Swedish "teddy bear air-drop" in Belarus that took place on 4 July 2012. Even though the organisers of this event, as well as the Swedish Minister for Foreign Affairs, Mr Karl Bildt, denied any link between the Embassy or the Swedish Government and the "teddy bear affair", it is likely that the refusal to renew the accreditation of the Swedish Ambassador was connected to this incident. It is even more likely that the support that Mr Eriksson outspokenly declared to human rights and democracy in Belarus were the real reason behind the diplomatic scandal.

107. On 20 August 2012, Mr Vladimir Makei was appointed Minister for Foreign Affairs of Belarus. Before acceding to this position, Mr Makei was the head of the Presidential Administration, and to date he is subject to the EU's travel sanctions and asset freeze. On the other hand, he was considered by many as a pro-European voice in the Belarusian ruling circles, architect of the dialogue between Belarus and Europe in 2008-2009. It is also worth noting that Mr Makei served as the Representative of the Republic of Belarus at the Council of Europe between 1996 and 1999.

108. The European Union has already expressed its willingness to work with the new Foreign Affairs Minister,⁶⁰ and I hope that the Mr Makei will be able to renew the much needed dialogue between Belarus and Europe.

⁵⁶ "Resolution on Belarus" in *Monaco Declaration and resolutions adopted by the OSCE Parliamentary Assembly at the twenty-first annual session. OSCE Parliamentary Assembly at the Twenty-first Annual Session, Monaco, 5-9 July 2012*, pp. 64-66, available at: http://www.oscepa.org/publications/declarations/doc_download/1266-monaco-declaration-english.

⁵⁷ "OSCE Chairperson strongly regrets Belarus travel ban on civil society activist", <http://www.osce.org/cio/92088>.

⁵⁸ "Statement of the Press-Secretary of the Ministry of Foreign Affairs of the Republic of Belarus Andrei Savinykh on Non-renewal of Accreditation of the Swedish Ambassador Stefan Eriksson", http://www.mfa.gov.by/en/press/news_mfa/afe0fdd1298d6560.html.

⁵⁹ "Belarus must return to dialogue", http://hub.coe.int/en/web/coe-portal/press/newsroom?p_p_id=newsroom&newsroom_articleId=1092004&newsroom_groupId=10226&newsroom_tabs=newsroom-topnews&pager.offset=0.

⁶⁰ "EU will work with newly appointed Belarusian foreign minister along the same line as it did with his predecessor, says foreign policy chief's spokesperson", http://naviny.by/rubrics/english/2012/08/21/ic_news_259_400025/.

5. Belarus and the Council of Europe

109. The Council of Europe continues to organise and sponsor a number of programmes related to Belarus, including in the framework of the Council of Europe Conventions to which Belarus is a party and in the Council of Europe/European Union Eastern Partnership Facility. The Council of Europe Information Point in Minsk continues to function in cooperation with the Belarusian State University.

110. A number of activities aimed at supporting independent media and civil society, human rights, rule of law and democracy continue to be supported by most Council of Europe member states, even though these activities often face difficulties concerning their implementation in the country due to the lack of co-operation by the authorities. Where such activities cannot be held in Belarus, they are organised abroad, in neighbouring Council of Europe member States, such as Lithuania, Ukraine, Poland, Latvia or the Russian Federation.

111. Recently, the Committee of Ministers of the Council of Europe invited Belarus to accede to the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), following a request by the Belarusian authorities. In 2011 Belarus acceded to GRECO, and joined the Enlarged Partial Agreement on Sport (EPAS) in 2009.

112. Following the interest of Belarus in joining the Council of Europe Convention on Cybercrime (ETS No. 185) and the Council of Europe Convention for the Protection of the Architectural Heritage of Europe (ETS No. 121) expressed by the Belarusian Foreign Affairs Minister, an informal consultation of member States was launched in April 2012 concerning the request by Belarus to be invited to accede to these Conventions. During the consultations, a number of objections were raised by member States.

113. I cannot but agree with the Committee of Ministers, when it states that “In more general terms, while noting the wish of Belarus to join a larger number of Council of Europe’s conventions, the Committee of Ministers would encourage Belarus in particular to consider joining the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126)”⁶¹.

114. The involvement of Belarusian independent civil society in the framework of the Council of Europe Conventions is sometimes insufficient. For instance, during its on-the-spot visit, the GRECO’s evaluation team was unable to meet with independent NGOs and media representatives.

115. The traditional visits of civil society representatives continue to be organised during the Assembly part-sessions. Belarusian NGOs meet with Assembly members and the secretariat of the Council of Europe, and participate in the plenary meetings of the Conference of INGOs.

116. Reacting to the deteriorating human rights and civil society situation in Belarus, the Conference of INGOs adopted a Resolution on 27 June 2012 concerning civil society in Belarus, enumerating the most flagrant cases of violations of the freedoms of assembly and association.⁶²

117. The representatives of Belarusian civil society I have met considered the impact of the Council of Europe Information Point in Minsk to be insufficient. The Council of Europe should re-think the role of its Information Point and endeavour to enlarge its mandate, so that it includes the organisation of round tables, debates, exhibitions, etc., in co-operation with Belarusian NGOs. The reaction of the Belarusian authorities to such initiatives could be an indicator of its readiness to engage in real dialogue with the Council of Europe.

118. On 18 September 2012, the Committee of Ministers of the Council of Europe adopted a reply to the Assembly’s Recommendation 1992 (2012)⁶³ in which it understood the Assembly’s concern regarding the deteriorating situation of human rights and political liberties in Belarus. Nevertheless, the reply of the Committee of Ministers remains disappointing as to the concrete actions they plan to undertake to respond to the urgent requests contained in the Assembly Recommendation. For instance,

⁶¹ “The situation in Belarus”, Reply of the Committee of Ministers to Recommendation 1992 (2012), Doc. 13025, <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=19008&Language=EN>.

⁶² Resolution concerning civil society in Belarus (CONF/PLE(2012)RES3), http://www.coe.int/t/ngo/Articles/CONF_PLE_2012_RES3_Belarus_en.asp.

⁶³ “The situation in Belarus”, Reply of the Committee of Ministers to Recommendation 1992 (2012), Doc. 13025, <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=19008&Language=EN>.

no mention was made of the alignment of the Council of Europe member States to the EU regime of targeted sanctions, or the reduction or elimination of entry visa fees for Belarusian citizens, as requested by the Assembly.

6. Concluding remarks

119. The situation of human rights and democracy has not improved in Belarus since the adoption of the Assembly's last Resolution in January 2012. Human rights continue to be trampled on, political freedoms disrespected and civil society and political opponents harassed.

120. The Belarusian authorities persistently fail to respond to the demands of the Assembly. All pleas contained in Resolution 1857 (2012) have been blatantly ignored. Although some political prisoners have been released, others remain in jail, and new ones may appear. Restrictive laws hampering the activities of civil society have not been amended, and the practice of intimidation of civil activists and political opponents, their arbitrary arrest and detention persist. The brutality of the Belarusian regime continues to defy European and international human rights standards.

121. No further steps have been made towards the abolition of death penalty or a moratorium on their execution. On the contrary, two capital executions were carried out in 2012.

122. The parliamentary elections of 23 September 2012 failed to meet the OSCE democratic standards and the Belarusian authorities missed yet another opportunity to move closer to common European values.

123. Diplomatic incidents with Western countries do not prompt Belarus to move closer to the European family and share the same values of human rights, democracy and the rule of law, nor to the Belarusian economy and society as a whole. These conflicts are not the result of an obscure international conspiracy against Belarus, but only a manifestation of the persistent unwillingness of the Belarusian authorities to introduce the much needed reforms for the economic and political development of the country.

124. We need to be consistent in our firm and uncompromising approach. We must continue to demand the release of all political prisoners. As I already stated in my previous report, unless the Belarusian government puts an end to the repression and adopts a course that allows for political, as well as economic reforms, there is little hope that relations between Belarus and the Council of Europe, as well as the European Union, can be restored to pre-December 2010 levels.

125. The issue of sanctions against Belarusian officials is not a consensual one. But what other instruments do we have to show our condemnation of unacceptable policies and practices violating values and the standards upheld by our Organisation?

126. Besides EU member States, seven other Council of Europe member States (Albania, Croatia, Iceland, Liechtenstein, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia) have joined the EU regime of economic and visa sanctions against Belarusian officials, which makes 34 out of 47 Council of Europe member states. I think this number should increase.

127. Let me recall that the sanctions introduced by the EU target Belarusian officials, and not the Belarusian people. All Council of Europe member States should further engage with Belarusian civil society and reduce or eliminate entry visa fees for Belarusian citizens, which, to my knowledge, has not been done yet.

128. Furthermore, Council of Europe member states should multiply symbolic actions against the Belarusian regime, for instance by boycotting the World Ice Hockey Championship to be held in Minsk in 2014. The Belarusian regime and businessmen close to Belarusian ruling circles, not the Belarusian people, will benefit from this competition, both economically and symbolically.

129. I believe in the virtue of meaningful dialogue and I would prefer not to support any sanctions whatsoever. But the authorities of Belarus do not give me any reason to recommend the lifting of the suspension of the special guest status for the Parliament of Belarus, since no moratorium on the execution of the death penalty has been decreed, nor has any substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe been noticed since the latest Assembly Resolution. It is my hope that Belarus may in due course become a full member of the Council of Europe, but first of all Belarus must show progress in the

respect of human rights, democracy and the rule of law, not for the sake of the “West”, but for the sake of its own people.