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Mr President, Ladies and Gentlemen,

It is an honour to present my second report (A/68/276) as the Special Rapporteur on the situation of human rights in the Republic of Belarus to the General Assembly. As you are aware, following my first report (A/HRC/25/52) to the Human Rights Council this June, the mandate was renewed for a further year (resolution 23/15, A/HRC/RES/23/15).

My first report reviewed the main human rights developments in Belarus against the obligations and commitments of Belarus under international human rights law. The broad list of persisting and newly emerging concerns speaks of the systemic nature of the human rights violations. I found little progress, if any, in the implementation of the recommendations made by the High Commissioner in her report to the Human Rights Council in 2012 (A/HRC/20/8).

- The report accounted for infringements on the freedoms of expression and opinion, peaceful assembly, and association. Belarus has instituted a system of administrative discrimination against practically all and any independent public activity by civil society, political opposition, and the media.
  - All of these public activities need case by case permission from the authorities.
  - It is near impossible to obtain the authorizations because of artificial bureaucratic hurdles and built-in arbitrariness of the procedures.
  - Finally, any unauthorized public activity is punishable.

This triply oppressive system has practically lamed any government-independent civic life in the country, and is bringing those insisting on their rights into constant danger of sanctions.

- Particular concerns included:
  - Arbitrary arrests and detentions;
  - Harassment of imprisoned political opponents and human rights defenders;
  - Conditions in detention facilities, the use of torture and other cruel, inhuman or degrading treatment, and unresolved cases of enforced disappearances;
  - As well as the continued use of the death penalty in secrecy, lack of transparency and without legal guarantees, including the right to appeal.
  - Infringements on the independence of judges and lawyers, and on the rights to due process and fair trial.
  - Discrimination was found to cut across a number of issues, from the treatment of sexual minorities to labour rights, and the work of trade unions.

Mr President, Ladies and Gentlemen,

This second report focuses on human rights concerns in electoral processes in the Republic of Belarus. In particular, the report deals with the circumstances that have led to Belarus being the only in country in Europe where for a long time now there has been no opposition in Parliament.

As with my first report, I aimed at gathering as much first-hand information as possible, by holding meetings with Belarusian experts and victims of human rights violations, as well as consultations with Belarusian civil society. I see it as a priority, in order to independently fulfil the duties of my mandate, to gather information from sources within the
country. I would therefore be grateful to the authorities of the Republic of Belarus to invite me to visit the country.

Elections are not simple administrative techniques and they are not about one man; they are about shaping the future of a country and are the strongest link between universal human rights and national democracy.

As underlined by my colleague Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his first report to the General Assembly this year (A/68/299), the full realisation of the right to elect and to be elected, enshrined in Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights, always depends on a number of relevant additional factors, general and specific sets of human rights.

Information gathered from primary sources suggests that in Belarus overlapping, systematic, and purposeful violations of human rights undermine free and fair elections. With recourse to a government-dependent election management, a system of restrictive regulations, and constant persecution of human rights defenders, lawyers, independent media and journalists, independent organisations and candidates, elections have been transformed into ceremonial tools used to perpetuate power.

The state of election-related human rights is epitomised by the fact that in the last parliamentary elections, held on 23 September 2012, none of the elected 110 seats went to any opposition candidates, of those few allowed to even stand as candidates. Belarus today is the only state in Europe with a parliament without opposition. This has invariably been the case since 2004, whether opposition did or did not boycott the elections.

Since 1991, four Presidential elections, five parliamentary elections and five local elections were held in Belarus. None were considered free and fair, of those observed by the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe.

- In 1994, the current President, Alyaksandr Lukashenka was elected. These elections are widely viewed as the most free and fair elections to have been held in the history of independent Belarus.
- A 1996 Referendum initiated by the President amended the Constitution. The one-chamber Supreme Soviet was replaced with a bicameral Parliament: a National Assembly comprising a 110 seat House of Representatives and a 64 seat Council of the Republic. But Parliament was deprived of the power to initiate referenda and changes to the Constitution. The President was given the authority to issue decrees having the force of law. Henceforth, Parliament has not been organised along party lines; prospective Parliamentarians have been hand-picked by the Presidential administration from local elites. Ever since the referendum, observers have widely reported fraud to ensure that selected loyalists win seats;
- A further referendum in 2004 eliminated the rule that the president cannot be elected for more than two terms. Domestic and international experts criticised that referenda are held which use personal popularity to loosen constitutional constraints;
The 2001, 2006 and 2010 Presidential Elections offered candidates, but restrictive campaign regulations barred voters from full information about the alternatives. International observation teams found fundamental flaws in the electoral process. In 2006 and 2010, post-election protests were broken up by police force, and key political figures and hundreds of individuals were arrested. Ever since, a great number of participants in “unsanctioned activities” were sentenced by courts to administrative arrests and fines, while others, including the Presidential candidates, faced criminal proceedings mostly under the title of “mass disturbances”.

Parliamentary Elections - generally draw less attention than presidential. This is explained partially by the fact that the 1996 Constitution practically eliminated parliamentary powers for the benefit of the executive branch. Since 2004, and uniquely in Europe, there have been no opposition members elected to parliament. Although a number of parties are registered, the political system in Belarus lacks political pluralism. Numerous legal restrictions, excessive control measures by the executive, described in the present report, and the majoritarian system blocks the possibility to build a strong political party system.

Evidence from past elections in Belarus shows a pattern of increased human rights violations during the periods prior to and following elections and on Election Day itself.

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Specifically, in the aftermath of the 2010 Presidential elections, a severe deterioration in the human rights situation occurred. This saw a crackdown against the peaceful demonstrators protesting the observed irregularities; the arrest and conviction of many prominent candidates and the still on-going incarceration of several of them; and the severe repression against civil society and specifically against human rights defenders and their organisations. These events triggered the 2011 Human Rights Council resolution 17/24 requesting the United Nations High Commissioner for Human Rights to monitor the human rights situation in Belarus and the 2012 Human Rights Council resolution 20/13 establishing the mandate of Special Rapporteur on the situation of human rights in Belarus.

I would here like to remind that organisations independently observing elections, such as the Human Rights Centre Viasna, were targeted, and Ales Belyatsky, Viasna’s leader was incarcerated, which was found arbitrary by the United Nations Working Group on Arbitrary Detention (opinion No. 39/2012 of 20 April 2012, A/HRC/WGAD/2012/39). The United Nations Human Rights Committee found the refusal to register Viasna (Belyatsky et al. vs. Belarus, communication No. 1296/2004 of 24 July 2007, CCPR/C/90/D/1296/2004) as a violation of Article 22 of the International Covenant on Civil and Political Rights.

The experience of the last Presidential elections fitted in the uninterrupted trend of the last fifteen years. Elections have not been rights-based procedures serving the citizens to shape Belarus’ future but have been transformed into tools used to maintain power.

The human rights violations in electoral processes that have been recorded over the years include:

- Curtailment of the right to freedom of opinion and expression, including that of a media independent through pluralism – essential ahead of elections.
- The lack of freedom of association – restricted in various provisions of the criminal and administrative codes as well as by overtly restrictive registration regulations, and their draconian application. This hampers the election participation of independent associations and opposition political parties, as well as placing difficulties on NGOs
engaged in the monitoring of elections. During electoral processes NGOs face increased harassment, including legal proceedings aimed at their dissolution, especially those NGOs engaging in independent monitoring of the elections and campaigning publicly for human rights issues during the electoral process.

- **Specifically:** regulations on the registration of a political party are restrictive and complicated; the vague definition of what constitutes political activities invites arbitrary, selective and politicised application. Party candidates faced increased harassment, surveillance and at worst criminal charges, which for some candidates, particularly Presidential, have led to conviction on spurious charges.

- **Belarusian authorities do not allow any kind of public assembly raising human rights or participation deficiencies in electoral processes.** Authorities regular prohibit peaceful gatherings and use “hooliganism” or similar charges of misdemeanour to detain, intimidate and silence citizens.

- **Arbitrary detention** has been consistently used at times of elections against representatives of national observations groups and of political candidates. This was particularly egregious in 2010 when riot police violently dispersed some thousands of demonstrators.

- During an electoral process, the lack of independence and impartiality of the judiciary plays a particularly ominous role. Despite amendments to the Electoral Code, mechanisms to review complaints and appeals still do not provide an effective remedy.

- **Fair trial concerns** have been raised in election-related hearings, including: limitations on the right to a public hearing; neglect of procedural rules; selective approach to the examination of evidence, leading to accusatory bias; violation of the principle of equality of arms; violation of the presumption of innocence, and lack of access to an independent counsel.

- During these trials, allegations of ill-treatment of detainees while in police custody were raised. Judges failed to follow up on allegations by defendants that statements made were obtained under duress, intimidation, and inhuman treatment and possibly torture. Defence motions to exclude evidence based on the alleged maltreatment were ignored or denied.

- **Lawyers also face particular risks:** they are threatened in order to avoid them accepting to defend candidates, political activists or human rights defenders; lawyers also face pressure of disbarment; some are arbitrary detained due to the clients they accepted to defend, such as deprivation of liberty of Andrei Sannikov found arbitrary by the Working Group on Arbitrary Detention (opinion No. 14/2012 of 12 July 2012, A/HRC/WGAD/2012/14) due to him being the defence lawyer of a few of the arrested Presidential candidates in the aftermath of the Presidential elections of December 2010.

- Although election observation is provided for in the Electoral Code, domestic and international observers face regulatory and practical limitations. Despite minor improvements in 2011, it is still impossible to observe the entire electoral process.

**Mr President, Ladies and Gentlemen,**

On January 2013, a law on amendments to the Electoral Code was included in the plan of law drafting activities for 2013, approved by Presidential Decree.

**I welcome the fact that, upon the of invitation of the Government, a delegation of the Office for Democratic Institutions and Human Rights of the Organisation for**
Security and Organisation in Europe (OSCE/ODIHR) visited Minsk last week on 23-24 October and consulted with the Government, legislators, civil society, and election officials.

However, inclusiveness of the drafting process does not seem to improve, and the planned legislation does not seem to take into account the recurring severe problems analysed both in my report and in the expertise of OSCE/ODIHR.

- The Election Code amendments have already gone through their first reading in parliament.
- Yet the draft amendments have not been published despite the requirements of the Law on Normative Legislation that all draft legislation be made public on submission to parliament.
- Neither civil society requests nor the OSCE recommendations from the last report seem to be part of the current amendments.
- Some recurring crucial issues need to be addressed by the current amendment process: the formation of election commissions; the registration of election commissions; ensuring the transparency of the ballot count; enabling the appeal of the final election results; and making sure that every polling station is obliged to immediately publish the results.
- Not even the dates of the second reading are published, although the next presidential election will be held in March 2014.

It is critical to ensure that the process of electoral legislative reform is undertaken transparently and inclusively, in line with international norms and standards, and through consultation with a broad number of stakeholders (even if the draft legislation has already been tabled with Parliament) in time for its full and effective implementation during the next Presidential elections.

I would be glad to support efforts of Belarusian authorities in this direction and others to ensure further the overall promotion and protection of human rights in Belarus. I look forward to being invited to do so, as foreseen within my mandate.