



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Fifth periodic report submitted by Belarus under  
article 40 of the Covenant pursuant to the optional  
reporting procedure, due in 2016\***

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\* The present document is being issued without formal editing.

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## Introduction

1. In accordance with article 40 of the International Covenant on Civil and Political Rights, the Republic of Belarus hereby submits its fifth periodic report on the measures taken to give effect to the rights recognized in the Covenant and on the progress made in the enjoyment of those rights.
2. The report has been prepared in response to the list of issues addressed to Belarus by the Human Rights Committee prior to submission of the fifth periodic report (CCPR/C/BLR/QPR/5) and taking into account the Committee's concluding observations (CCPR/C/84/Add.4 and Add.7).
3. The report was prepared by the Ministry of Foreign Affairs, in cooperation with the Office of the Commissioner for Religious and Ethnic Affairs, the Supreme Court, the Office of the Procurator General, the State Security Agency, the National Statistical Committee, the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Information, the Ministry of Communications, the Ministry of Labour and Social Protection, the Ministry of Justice and the Investigative Committee.
4. The report contains information on the legislative, administrative and other measures taken in Belarus to implement the Covenant's provisions. The report reflects the progress made in guaranteeing the rights recognized in the Covenant and includes information on the remaining obstacles in that area.
5. Information on the observance by Belarus of specific categories of human rights is presented in detail in the periodic reports to other human rights treaty bodies and in the documents relating to the universal periodic review:
  - The common core document (HRI/CORE/BLR/2015)
  - The national report submitted for the universal periodic review (A/HRC/WG.6/22/BLR/1)
  - The combined fourth to sixth periodic reports on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BLR/4-6)
  - The fifth periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/BLR/5)
  - The combined twentieth to twenty-third periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/BLR/20-23)
  - The combined third and fourth periodic reports on the implementation of the Convention on the Rights of the Child (CRC/C/BLR/3-4)
  - The eighth periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/BLR/8)

## **General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

### **Information in response to questions 1 and 2**

6. In accordance with its Constitution, Belarus recognizes the precedence of the universally recognized principles of international law and ensures that its legislation is consistent with them.
7. State legislation in the process of being adopted is subject to a mandatory legal review of its compliance with the Constitution and with the international agreements to which Belarus is a party. The Constitutional Court carries out a mandatory preliminary review to decide, before they are signed by the President, whether laws adopted by the

parliament are in conformity with the Constitution and with the international legal instruments ratified by Belarus.

8. Belarus has established a legal and regulatory framework that is consistent with the relevant international human rights norms. In addition to the Constitution, the following instruments cover issues of human rights protection: the Civil Code, the Code of Civil Procedure, the Code of Economic Procedure, the Housing Code, the Elections Code, the Labour Code, the Criminal Code, the Tax Code, the Penalties Enforcement Code and Code of Criminal Procedure, the Marriage and Family Code, the Education Code, the Code on the Judicial System and the Status of Judges, the Code of Administrative Offences, the Code of Administrative Procedure and Enforcement, the Constitutional Proceedings Act, the Rights of the Child Act, the Civil Society Associations Act, the Act on the Legal Status of Foreign Nationals and Stateless Persons, the Freedom of Conscience and Religious Organizations Act, the Social Protection for Persons with Disabilities Act and other laws and regulations.

9. On 24 October 2016, by Decision No. 860, the Council of Ministers approved the 2016–2019 inter-agency plan to implement the recommendations accepted by Belarus following the second cycle of the universal periodic review before the Human Rights Council and the recommendations of the treaty bodies. This document is the first national human rights plan in the history of independent Belarus. The inter-agency plan is a policy document aimed at facilitating the implementation by Belarus of its international human rights obligations, including through improvements to its laws and their application. The plan provides for the implementation of 100 measures.

10. An important role in the protection of human rights is played by the Citizens' and Legal Entities' Appeals Act, No. 300-Z of 18 July 2011, which regulates the procedure for the exercise by individuals and legal entities of their right to petition government bodies and other organizations with a view to defending rights, freedoms and/or lawful interests. The law defines the rights and duties of petitioners, the procedure for submitting written, electronic and oral appeals, the procedure for organizing private meetings, the arrangements for the representation of petitioners, the time frames for considering appeals and the process for the consideration of different types of appeal.

11. National government bodies and provincial and local executive and administrative bodies have departments to deal with citizens' appeals. All government bodies and organizations and individual businesses have introduced comments and suggestions books and have created a uniform system for analysing and responding to public opinion on their work.

12. Private meetings and visits by officials from government bodies are widely used in the country as a means of dealing with appeals from individuals, as are telephone hotlines and direct lines.

13. A National People's Assembly is convened in order to give effect to citizens' constitutional right to participate in decisions on matters of State. It convenes once every five years. The Assembly is mandated to discuss the main provisions of the country's socioeconomic development programme and other nationally important issues in State and public life and to adopt resolutions on them. The Assembly in fact represents a form of supplementary public scrutiny of the actions of the authorities. The fifth National People's Assembly was held in June 2016.

14. The following State programmes for 2016–2020, among others, are intended to help realize citizens' rights in specific areas of human rights: the State Programme on Social Protection and Employment Promotion; the State Programme on Public Health and Demographic Security in Belarus; the State Programme on Education and Youth Policy; the State Programme on Culture in Belarus; the State Programme to Develop Physical Fitness and Sport in Belarus; the State programme "Decent Homes — an Enabling Environment"; the State programme on Environmental Protection and Sustainable Natural Resource Use; and the State Programme on Small and Medium-Sized Business in Belarus.

15. State social support for the population is the most important component of the country's social and economic policy. Since 2001, the principle of targeting has been used

in the provision of such support. This approach, enshrined in legislation since 2007, makes it possible to apply a clear and transparent mechanism for providing targeted State social assistance to those in need.

16. The main provisions of the Covenant have been incorporated into national legislation, which explains the absence in court decisions of direct references to the instrument.

## **Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee**

### **Constitutional and legal framework within which the Covenant is implemented (arts. 2, 3 and 26)**

#### **Information in response to question 3**

17. Belarus complies fully with its obligations under the Optional Protocol to the Covenant. Any citizen of Belarus who believes that his or her rights under the Covenant have been violated is able to submit a communication for consideration by the Committee.

18. The Committee's requests for interim measures of protection, especially in death penalty cases, are based on its rules of procedure rather than the provisions of the Optional Protocol. The application of these measures by States parties is not provided for in the Optional Protocol and therefore does not constitute an obligation. Accordingly, national legislation does not contain norms allowing interim measures to be applied on the basis of a request by the Committee, including the staying of the execution of a death sentence. This matter has been repeatedly brought to the attention of the Committee.

19. National legislation contains no mechanism for implementing the Views of the Committee adopted under the Optional Protocol. Belarus, like other States parties to the Optional Protocol, considers the Committee's decisions on communications to be advisory. Each decision of the Committee is brought to the attention of the competent State bodies and, as a matter of course, the Supreme Court and the Office of the Procurator General.

20. The non-application of measures to implement the Committee's Views is also a consequence of the violation by the latter of the norms of the Optional Protocol, particularly in cases where communications are accepted for examination (considered admissible) despite the non-exhaustion by complainants of all available domestic remedies (a requirement of article 2 of the Optional Protocol), including the appeal of court decisions under the supervisory procedure. Communications accepted for consideration by the Committee in violation of the Optional Protocol are rejected by Belarus from the outset, of which the Committee is officially informed by the State party.

21. Belarus is also studying other States parties' experience of cooperation with the Committee on these issues.

#### **Information in response to question 4**

22. Belarus does not currently have a national human rights institution that is compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). It is continuing to study international experience of the establishment and operation of national human rights institutions.

23. Despite the lack of a national human rights institution, Belarus has a well-developed network of specialized State-civil society institutions to protect and promote various categories of human rights:

- National Commission on the Rights of the Child
- National Council on Gender Policy
- Inter-Ethnic Advisory Council

- Inter-Faith Advisory Council
- National Council on Labour and Social Affairs
- National Interdepartmental Council on Disability
- Interdepartmental Commission on Older Persons, Veterans and Victims of War attached to the Ministry of Labour and Social Protection
- Council for the Development of Social and Employment Legislation
- Community Coordinating Council on the Mass Media
- Community Coordinating Council on the Environment
- Community Council to Combat Corruption
- Community Council attached to the Ministry of Internal Affairs
- National Bioethics Committee
- Centre for Public-Private and Other Partnerships

24. In 2011–2012, the National Centre for Legislation and Legal Research studied the views of interested parties, including a number of civil society associations, on the advisability of establishing a national human rights institution, on the most appropriate kind of institution and on the main questions relating to the activities that the institution would carry out. The research demonstrated that opinion was divided regarding the establishment of such an institution.

25. On 18 July 2014, an international seminar was held in Minsk on the topic “National Human Rights Institutes: Establishment and Operation”.

26. As part of efforts to implement the National Human Rights Plan for 2016–2020, it is intended to continue exploring the possible benefits and feasibility of establishing a national institution for the promotion and protection of human rights.

27. Furthermore, the State network for protecting human rights encompasses authorities and officials responsible for the protection and promotion of human rights.

### **Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)**

#### **Information in response to question 5**

28. Under the Constitution, all persons are equal before the law and have the right, without discrimination, to equal protection of their rights and lawful interests (art. 22). This right is guaranteed to all citizens irrespective of their origin, race, ethnicity, nationality, social or financial status, sex, language, education, attitude to religion, place of residence, state of health or other circumstances.

29. The principle of equality before the law and the prohibition on discrimination are enshrined, inter alia, in the following legislation governing the enjoyment of rights and fundamental freedoms in the political, economic, social and cultural spheres and other areas of public life: the Labour Code; the Marriage and Family Code; the Education Code; the Civil Code; the Criminal Code; the Code of Administrative Offences; the Rights of the Child Act, No. 2570-XII of 19 November 1993; the State Youth Policy Act, No. 65-Z of 7 December 2009; the Citizens’ and Legal Entities’ Appeals Act, No. 300-Z of 18 July 2011; the Act on the Confirmation of Domestic and Foreign Policy Guidelines, No. 60-Z of 14 November 2005; the Administrative Procedures Framework Act, No. 433-Z of 28 October 2008; and the Public Service Act, No. 204-Z of 14 June 2003.

30. Effective protection of the right to non-discrimination is provided through various types of court proceeding. Belarusian procedural law comprehensively regulates the right of citizens to equality and prohibits discrimination in the administration of justice for all types of case.

31. Article 9 of the Constitutional Proceedings Act enshrines the principle of equality of the parties in constitutional proceedings and provides that the consideration of cases by the Constitutional Court must proceed on that basis; the parties enjoy equal rights to submit and examine evidence, file motions and express their opinions on any matter relating to the case.

32. In accordance with article 20 (1) and (2) of the Code of Criminal Procedure, all parties to criminal proceedings are equal before the law and are entitled, without discrimination, to equal protection of their rights and lawful interests. Criminal proceedings are based on the principle of the equality of citizens before the law irrespective of their origin, social, official or financial status, race, ethnicity, political or other convictions, attitude to religion, sex, education, language, type or nature of occupation, place of residence or other circumstances.

33. Article 2.12 (1) of the Code of Administrative Procedure and Enforcement stipulates that all parties to administrative proceedings are equal before the law and are entitled, without discrimination, to equal protection of their rights, freedoms and lawful interests.

34. Article 12 of the Code of Civil Procedure provides that citizens are equal before the law and the courts irrespective of their origin, social or financial status, race or ethnicity, sex, education, language, attitude to religion, political or other convictions, type or nature of occupation, place of residence, length of residence in a particular area or other circumstances.

35. Parties to a case before the economic courts are equal before the law and those courts. Courts adjudicating economic cases ensure equal protection of the rights and lawful interests of all parties to cases (Code of Economic Procedure, art. 15).

36. Article 190 of the Criminal Code establishes liability for the intentional direct or indirect violation or restriction of rights and freedoms or the granting of direct or indirect advantages for citizens on the basis of sex, race, ethnicity, language, origin, financial or official status, place of residence, attitude to religion, beliefs or affiliation with a voluntary association where this results in substantial harm to the rights, freedoms and lawful interests of citizens.

37. In addition, suits brought to defend citizens' honour and dignity are decided in accordance with the Code of Civil Procedure, while claims regarding the defence of business reputations in the sphere of entrepreneurial and other economic activity are decided by the economic courts in accordance with the Code of Economic Procedure.

38. Article 2 of the Civil Code enshrines the principle of equality of the parties to civil law relations: subjects of civil law participate in civil law relations on an equal footing, are equal before the law, may not enjoy advantages or privileges contrary to the law and are entitled, without discrimination, to equal protection of their rights and lawful interests.

39. The prohibition of discrimination in employment relations is established in article 14 of the Labour Code. Persons who believe that they have been subjected to discrimination in employment relations have the right to apply to the courts to end the discrimination.

40. The lack of a single enactment on discrimination is due to the desire to avoid duplication of the legal rules of existing legislation on this issue.

41. Since the constitutionally enshrined principle of equality of all persons before the law is universal, there are no grounds for adopting special anti-discrimination legislation covering members of sexual minorities.

42. National legislation does not contain norms prohibiting or condemning non-traditional sexual relations, nor does it prevent members of sexual minorities from using all the means permitted by law to defend their rights and lawful interests.

43. The Criminal Code does not criminalize same-sex sexual relations (except in cases where there is a lack of consent or the victim is underage).

#### **Information in response to question 6**

44. The Criminal Code contains articles criminalizing socially dangerous acts motivated by racial hostility or hatred (arts. 127, 128, 130, 139 (2) (14), 147 (2) (8) and 443 (2)).

45. The commission of an administrative offence or criminal offence motivated by racial, ethnic or religious hatred is recognized as an aggravating circumstance under the Code of Administrative Procedure (art. 7.3) and the Criminal Code (art. 64), respectively.

46. Natural persons incur liability for extremist activities in accordance with criminal law. Article 361-1 (Establishment of extremist organizations), which was inserted in the Criminal Code pursuant to Act No. 358-Z of 20 April 2016 amending certain laws of Belarus, provides for punishment in the form of restriction of liberty for a period of up to 5 years or deprivation of liberty for a period of from 3 to 7 years for the establishment of an extremist organization or the leadership of such an organization or one of its branches; the same acts, if they are repeat offences or are committed by officials using their official powers, are punishable by restriction of liberty for a period of from 3 to 5 years or deprivation of liberty for a period of from 6 to 10 years.

47. In order to prevent the dissemination in Belarus of extremist material, the Council of Ministers adopted Decision No. 810 of 21 August 2014 on expert commissions for the assessment of information outputs for signs of extremism.

48. In accordance with the Decision, in 2014 a system of commissions was set up for that purpose. Beginning in October 2014, the National Expert Commission for the assessment of information outputs for signs of extremism, attached to the Ministry of Information, conducted a study of more than 850 samples of content with a view to determining (or establishing) whether they contained signs of extremism. Evidence of extremism (incitement to racial, ethnic or religious hostility or hatred, advocacy of the exceptionalism, superiority or inferiority of persons by reason of their racial, ethnic or religious background, or advocacy and public displays of Nazi symbols and paraphernalia) was found in 156 of the samples.

49. Provincial expert commissions have been in operation since 2015. As at 1 January 2017, the provincial commissions had reviewed a total of 1,583 samples of content with a view to determining (or establishing) whether they contained signs of extremism. Evidence of extremism was identified in 233 of them.

50. Belarusian society is characterized by the absence of xenophobic attitudes, due in part to traditional norms of tolerant behaviour.

#### **Information in response to question 7**

51. Belarusian citizens who are Roma enjoy the same rights as citizens of Belarus of other ethnicities. Thus, under the Ethnic Minorities Act, No. 1926-XII of 11 November 1992, the State guarantees citizens of Belarus who regard themselves as belonging to an ethnic minority the exercise of equal political, economic and social rights and freedoms in accordance with the law (art. 6). Citizens of Belarus, irrespective of their ethnicity, enjoy the equal protection of the State (art. 13).

52. Belarus does not permit the use in the media of negative stereotypes in relation to members of the Roma community or of any other ethnic group. Under article 13 of the Act, any discrimination on grounds of ethnicity, obstruction of the enjoyment by ethnic minorities of their rights or incitement to inter-ethnic hatred is punishable by law.

53. There are not many Roma in Belarus. Five Roma organizations are registered in the country.

54. The president of one voluntary association, the Belarusian Roma Diaspora, is a member of the Inter-Ethnic Advisory Council reporting to the Office of the Commissioner for Religious and Ethnic Affairs.

55. Roma children receive education on the same basis as others in Belarusian general secondary education establishments. They are covered by all statutory requirements regarding general secondary education.

56. If children are found not to be attending classes, the education, sport and tourism offices (departments) of district and municipal executive committees request the competent authorities to impose the penalties provided for by law on children's legal representatives who fail to take the requisite steps to ensure that children receive a general basic education.

57. In accordance with article 10 of the Employment Act, No. 125-3 of 15 June 2006, State employment policy is designed to secure equal opportunities for all citizens, including members of the Roma ethnic group. Roma citizens of Belarus are principally employed in the non-State sector of the economy.

58. The rules for providing medical assistance to members of the Roma peoples depend on their legal status in the territory of Belarus. Citizens of Belarus who are of Roma ethnicity receive medical care on an equal footing with other citizens.

59. With regard to law enforcement practice, isolated complaints have been made to the Office of the Procurator General over the last 10 years in connection with alleged violations of the rights and lawful interests of members of the Belarusian Roma diaspora. All complaints were duly investigated.

#### **Information in response to question 8**

60. In 2015, Belarus signed the Convention on the Rights of Persons with Disabilities and it ratified the Convention in 2016. Work is currently being finalized on a set of measures for implementing the provisions of the Convention at the national level.

61. In Belarus, a legal and regulatory framework has been set up to address disability-related issues and to protect the rights and improve the situation of persons living with disability.

62. National legislation regarding persons with disabilities is based on the Constitution and includes laws and regulations enacted by the President, the Social Protection for Persons with Disabilities Act, No. 1224-XII of 11 November 1991, the Prevention of Disability and Rehabilitation of Persons with Disabilities Act, No. 422-3 of 23 July 2008, the Act on Social Protection for Persons Affected by the Chernobyl Disaster and Other Radiation Accidents, No. 9-3 of 6 January 2009, the Act on State Social benefits, Rights and Guarantees for Particular Categories of Citizens, No. 239-3 of 14 June 2007, and government decisions.

63. In Belarus, there is an Interdepartmental Council on Disability headed by the Deputy Prime Minister and comprising the heads of central government agencies.

64. In Belarus, a number of government programmes have been carried out to prevent disability, rehabilitate persons with disabilities and create a barrier-free living environment for persons with physical impairments.

65. As part of the State Programme on Social Protection and Employment Promotion for 2016–2020, there are plans to carry out five subprogrammes on employment promotion, labour protection, the prevention of disability and the rehabilitation of persons with disabilities, a barrier-free living environment for persons with physical impairments, and the social integration of persons with disabilities and older persons.

66. In accordance with employment law, the State provides supplementary guarantees with respect to the promotion of the employment of persons with disabilities and other persons in particular need of social protection by: (1) devising and implementing targeted government programmes to promote employment; (2) generating more jobs and setting up specialized organizations (including organizations employing persons with disabilities); (3) establishing reserved posts; (4) organizing training through special programmes; and (5) carrying out other measures.

67. In 2016, 2,071 posts were reserved for persons with disabilities. Measures are being adopted to encourage organizations and employers to create more jobs for persons with disabilities. In 2016, the volume of financing allocated from the State extrabudgetary Social Security Fund for the creation of jobs for persons with disabilities amounted to 2,805,831.1 Belarusian roubles.

68. As part of moves to implement the State Programme to Create a Barrier-Free Living Environment, the relevant work has been carried out on 20,700 social infrastructure facilities and more than 3,300 low-floor public transport vehicles have been purchased.



69. The State provides families caring for children with disabilities who are aged up to 18 years with material assistance, while tax, employment and housing legislation offer additional safeguards and benefits.

70. In Belarus, there is an extensive system of social service institutions that offer families in difficulty a broad range of social services, including childcare and the care (nursing) of children with disabilities.

71. Residential homes for children with special psychophysical needs offer care for children with disabilities (social respite services) for a period of up to 28 days in a calendar year, thus releasing parents (or family members) from the care of children with disabilities in order to give them an opportunity to recuperate and attend to family and domestic issues.

72. Medical assistance to persons living with HIV is provided in compliance with the principle of confidentiality and respect for human rights and freedoms. Persons infected with HIV have rights and freedoms equal to those of other citizens.

73. All persons who need it have access to antiretroviral therapy. Etiotropic antiviral treatment covers 96 per cent of patients (of the total registered with clinics who display the symptoms of HIV and who wish to receive treatment). Antiretroviral chemical prophylaxis has been introduced for pregnant women and newborns to prevent the vertical transmission of HIV. In 2015, medical prophylaxis covered 94.1 per cent of pregnant women and 96.9 per cent of newborns.

74. On 7 June 2016, the World Health Organization certified that Belarus had officially eliminated mother-to-child transmission of HIV and syphilis.

#### **Information in response to question 9**

75. Citizens of Belarus belonging to sexual minorities are not subject to discrimination or persecution. They have equal rights to other citizens and have equal opportunities to defend their rights through all available legal remedies.

76. In Belarus, there have been no reports of homophobic discourse or hate speech in the mass media or on the part of senior officials.

77. The Office of the Procurator General has not received any reports or information supported by factual evidence of the use of physical or psychological violence against or harassment of members of sexual minorities.

78. It should be noted that, in Belarusian society, the traditional family is widely regarded as a natural and fundamental social institution.

79. In Belarus, the International Day of Families (15 May) is widely observed. On that date, benefit evenings for foster families are held, as are receptions with married couples who have great experience of family life, and festivities are organized for children from large and disadvantaged families. These and other measures serve to enhance the status of the family and help to bring about a better understanding in society of families' daily problems and needs.

#### **Equality between men and women and violence against women, including domestic violence (arts. 2, 3, 7 and 26)**

##### **Information in response to question 10**

80. As at 1 July 2015, in Belarus women comprised 70.1 per cent of civil servants, including 51.6 per cent in the legislative branch, 69.8 per cent in the executive branch, 67.9 per cent in the judiciary, 49.0 per cent in State bodies with a special constitutional status, and 74.5 per cent in local government and self-governing authorities. Women hold 54.7 per cent of the positions of heads or deputy heads of State bodies.

81. As at 1 January 2017, women accounted for 57.8 per cent of the total number of judges of courts of general jurisdiction. As far as persons holding decision-making

positions are concerned (presidents and vice-presidents of courts), women make up 47.3 per cent (42.6 per cent of presidents of courts and 42.3 per cent of vice-presidents).

82. In Belarus, the target of 30 per cent representation of women in decision-making positions set by international instruments has been achieved. At local council elections in 2014, 46.3 per cent of seats were taken by women. After elections to the House of Representatives, the lower house of the National Assembly, in 2016, the proportion of women deputies rose to 33.7 per cent.

83. The gender approach in education and the mass media is the principal tool for overcoming gender stereotyping.

84. In order to give effect to the National Gender Equality Plan 2011–2015, steps have been taken to expand gender education, including public debates on gender issues and women’s equality during awareness-raising events. There are plans to continue this work over the next few years within the framework of a new gender equality plan.

85. Thematic events are held on a regular basis for representatives of the media. For example, workshops entitled “Shedding light on gender (in)equality and domestic violence in the media” were held during the implementation of an international technical assistance project called “Developing the national capacity of the Republic of Belarus to combat domestic violence by achieving gender equality”. A course on gender and the media was put together and introduced in the teaching and learning activities of the Institute of Journalism of the State University, and a competition was held among journalists to produce the best article on gender issues.

86. The strategy of expanding gender education in the country is reflected in the Framework Plan for the Continuing Education of Children and Young People in Belarus. The Academy of Postgraduate Education, the National Institute for Higher Education and the National Institute for Vocational Training provide advanced teacher training on gender issues. Various aspects of gender issues are included in the curricula for the advanced training and further training of teachers and civil servants.

87. Mainstreaming the image of women as leaders is promoted through the annual national Woman of the Year competition run by the Belarusian Women’s Union, which includes awards in the categories “Leadership and successful management” and “Morale boosting”. The national Family of the Year competitions held in 2012 and 2014 sought to eliminate stereotypical views of the role, responsibilities and identity of women and men in the family and society.

88. An annual holiday, “Every day is father’s day”, is held in Minsk in a bid to overcome gender stereotypes in society, to provide targeted sociopsychological counselling for men and to enhance the social status of fathers in society. In June 2016, a municipal competition was run in Homiel among fathers of large families. It was called “You name it, Dad can do it” and was designed to increase recognition for a father’s role in bringing up children.

89. Article 42 of the Constitution specifies that men and women, adults and minors are entitled to equal remuneration for work of equal value.

90. In Belarus, the equality of men and women’s labour rights is embodied in article 14 of the Labour Code, which prohibits any discrimination, that is, the restriction of employment rights or the acquisition of any privileges on grounds of sex.

91. Article 57 of the Labour Code establishes that wages should be paid to a worker for the work done in keeping with its complexity, amount, the nature of working conditions and the worker’s skills or qualifications. A worker’s labour is appraised solely on the basis of quantitative and qualitative criteria and not according to sex.

92. According to the data of the National Statistical Committee, the relationship between women's nominal average monthly wage and men's wages was:

2010	2011	2012	2013	2014	2015
76.6%	73.7%	74.5%	74.5%	76.6%	76.2%

93. In December 2015, the above-mentioned relationship according to principal economic activity was:

Type of economic activity	Percentage
Agriculture	95.7%
Industry	74.2%
Construction	84.0%
Trade, car repairs, household goods and personal hygiene items	79.3%
Transport and communications	85.7%
Financial activities	80.7%
Public administration	84.9%
Education	84.3%
Health and social services	85.7%

94. In Belarus the gender pay gap is primarily due to the higher proportion of men working in branches of the economy such as industry (58.9 per cent), construction (82.5 per cent) and transport and communications (63.5 per cent) where working conditions are harmful and dangerous, work is more stressful and wages are therefore much higher.

#### Information in response to question 11

95. In Belarus a series of laws and regulations has been adopted to establish a set of measures on, inter alia, combating domestic violence, prevention and training, special educational programmes and psychocorrection programmes for perpetrators of violence.

96. Criminal legislation provides for extremely severe penalties for persons guilty of domestic violence. In cases where unhealthy family or household relations have led to a homicide-related crime or an offence seriously damaging health or sexual inviolability, the offender is deprived of liberty or the latter is substantially restricted.

97. In the event of the commission of offences not constituting a grave danger to society or of less serious offences — causing slight bodily injury, cruelty, threats of killing, causing serious bodily injury or destruction of property (a form of psychological violence) — legal action is initiated on the basis of a complaint by the victim of the crime or of his or her legal representative.

98. Victims in a situation of dependency, who fear revenge or who have other reasons frequently do not wish to prosecute members of their family. In these situations, article 26 (5) of the Code of Criminal Procedure allows a procurator to initiate criminal proceedings for crimes dealt with under a private or semi-public prosecution procedure and in the absence of a complaint from the victim, if they affect essential interests of the State or of society, or have been perpetrated against a dependant of the accused or if, for any other reason, the victim is himself or herself unable defend his or her rights and lawful interests.

99. One effective measure for clamping down on domestic violence is the Principles of Crime Prevention Act, No. 122-3 of 4 January 2014, which provides for the optimization of the preventive register and establishes obligations for persons against whom individual crime prevention measures are adopted. In addition, the Act contains a number of new measures to prevent domestic violence, first and foremost, the handing down of restraining orders establishing bans on contacting, visiting or discovering the location of a person who has been subjected to domestic violence and obliging persons who have committed

domestic violence temporarily to leave the home shared with the victim. A restraining order is applied to a person after the delivery of a ruling imposing an administrative penalty for an offence committed against a family member.

100. In 2015, the staff of the internal affairs agencies issued 1,422 restraining orders, 1,152 of which established an obligation temporarily to leave the shared home. Additional measures are being taken to optimize the maintenance of the preventive register.

101. When they have the legal basis for doing so, the internal affairs agencies do the groundwork for referring alcoholics or drug addicts to occupational therapy centres. When necessary, measures are taken to terminate parental rights, to remove a child without such termination or to restrict the legal capacity of persons who have caused the destitution of their family.

102. The “Preventive Measures” database went into operation in July 2015. It has essentially systematized the work of staff maintaining the preventive register.

103. The Criminal Code renders a number of acts accompanied by the perpetration of violence, including violence against women, punishable offences, including rape (art. 166), violent acts of a sexual nature (art. 167), coercion to perform acts of a sexual nature (art. 170), organization and/or exploitation of prostitution or facilitating prostitution (art. 171), recruitment for the purposes of engaging in prostitution or coercion to continue engaging in prostitution (art. 171-1) and trafficking in persons (art. 181).

104. Convictions between 2011 and 2016 were as follows:

**Under article 166 of the Criminal Code — 460 persons**

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
No. of persons	86	64	61	92	80	77

**Under article 167 of the Criminal Code — 379 persons**

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
No. of persons	57	46	53	80	73	70

Under article 170 of the Criminal Code — 7 persons (in 2011 — 1 person, in 2013 — 2 persons and in 2016 — 4 persons).

**Under article 171 of the Criminal Code — 164 persons**

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
No. of persons	36	20	24	21	25	38

**Under article 171-1 of the Criminal Code — 22 persons**

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
No. of persons	9	9	1	2	1	0

Under article 181 of the Criminal Code — 9 persons (in 2011 — 6 persons and in 2013 — 3 persons).

105. Thanks to the measures adopted the number of offences committed in the home, including murder and intentional grievous bodily harm, fell by 9.7 per cent (from 528 to 477).

106. In 2013, paragraph 2 was added to article 9.1 of the Code of Administrative Offences, which covers intentional bodily harm and other violent acts. It provides for the imposition of an administrative penalty in the form of a fine of up to 10 base units or administrative detention for acts of battery that do not cause bodily harm and for the

intentional infliction of pain, physical or psychological suffering on a close relation or family member, when these acts do not constitute a criminal offence.

107. Between 2013 and 2016, courts of general jurisdiction heard 123,538 cases concerning the administrative offences envisaged in article 9.1 (2) of the Code of Administrative Offences (in 2013 — 1,173 cases, in 2014 — 28, 735 cases, in 2015 — 44,002 cases and in 2016 — 49,628 cases).

108. In Belarus, State facilities have been set up to assist persons in difficulty, including victims of domestic violence. Local family support centres are operating in every administrative region (making a total of 146) and there are two municipal family and children's support centres, in Minsk and Homiel. These centres provide free counselling, sociopedagogic, sociopsychocological and socio-rehabilitative services, family support, temporary accommodation and other social services.

109. The Social Services Act, No. 395-3 of 22 May 2000, has been in force since the year 2000. It regulates the provision of social services. It introduced the family support service, which offers a wide range of assistance to persons in difficulty, including victims of domestic violence.

110. The number of crisis units has increased more than 3.5 times over the last six years. As at 1 January 2016, 109 crisis units were in operation throughout the country. In practice, the average length of a stay in a crisis unit is about two weeks.

111. In 2015, 237 persons were given shelter in crisis units, 178 of whom were victims of domestic violence and 4 of whom were potential victims of trafficking in persons or of crimes in connection therewith.

112. Community, international and religious associations offer assistance to victims of domestic violence.

113. Advocacy to spur women into seeking help when violence occurs is conducted through the media, booklets, leaflets and special campaigns ("A home without violence" and "16 days without violence"). Counselling is provided through 156 telephone hotlines operated by local family support centres.

114. In order to give the staff of internal affairs agencies better training in the prevention of domestic violence, the Academy of the Ministry of Internal Affairs holds advanced training courses for members of public safety militia units on action by internal affairs agencies to counter domestic violence.

115. There is no need to introduce special rules criminalizing marital rape. The view is taken that such rules would constitute discrimination against victims of sexual violence perpetrated outside the family or domestic sphere.

## **Right to life (arts. 6, 7 and 14)**

### **Information in response to question 12**

116. The Investigative Committee of Belarus is undertaking pretrial investigations in the criminal cases concerning the unexplained disappearances of Mr. V.I. Hanchar, Mr. A.S. Krasovsky and Mr. Y.N. Zakharenko. Despite the additional measures taken to ensure effective investigation of these cases, it has not yet been possible to establish the whereabouts of these individuals. Criminal proceedings concerning the disappearance of Dimitry Zavadsky were suspended on 31 March 2006 owing to the non-discovery of the missing person. Information on the conduct and results of the investigation is subject to investigative confidentiality and cannot be revealed.

117. Criminal proceedings concerning the murder of Ms. V.A. Charkasava were suspended on 10 December 2014 in connection with the failure to identify the individual who had committed the crime. The legality and validity of this decision were examined by the Minsk procurator's office.

118. Based on the results of an investigation by the Minsk interdistrict procurator's office, it was decided on 14 December 2005 not to initiate criminal proceedings in respect of the death of Mr. V.P. Hrodnikau on the grounds that the cranial and cerebral trauma that caused his death had occurred as a result of his own careless actions.

119. An investigation into the circumstances surrounding the suicide by hanging of Mr. A.N. Biabenin established that there was no information to indicate that he could have been murdered or have committed suicide as a result of unlawful acts by third parties. Based on the results of the investigation, the Minsk provincial procurator's office issued an order on 20 December 2010 declining to initiate criminal proceedings.

120. The legality and validity of the decisions concerning the deaths of Mr. Hrodnikau and Mr. Biabenin were examined by the Minsk provincial procurator's office and the Office of the Procurator General of Belarus.

121. In Belarus, all deaths in custody are investigated. Between January 2012 and March 2015, investigative units carried out 169 investigations into notifications (reports) concerning the deaths of 170 citizens in custody, as a result of which it was decided to launch criminal proceedings in 5 cases and not to do so in 164. While in custody, 128 citizens died as a result of various medical conditions, including heart attacks, HIV, AIDS, cancer and tuberculosis; the deaths of 42 individuals were violent in nature (mechanical asphyxia resulting from compression of the organs in the neck, obstruction of the airways caused by food particles and so forth).

122. In two cases, criminal proceedings were launched against officials for the deliberate commission of violent acts that clearly fell outside the scope of the rights and authority conferred on them by their position while, in one case, criminal proceedings were launched against a medical worker for actions resulting in the death of a patient through negligence. Thus, in December 2014, a warrant officer in the internal service of Prison No. 8, a correctional facility, was sentenced to 6 years' deprivation of liberty for bringing about the suicide of an inmate. On 31 August 2015, the Salihorsk district court in Minsk province sentenced a former militia officer of the specialized holding unit in the Salihorsk district internal affairs office to 4 years' deprivation of liberty, stripped him of the rank of "senior militia officer" and revoked his right to occupy certain positions for 5 years for deliberately causing bodily harm to a detainee through the use of force. In addition, the Zhodzina municipal office of the Investigative Committee instigated criminal proceedings under article 162 (2) of the Criminal Code (Improper performance of professional duties by a medical worker resulting in the death of a patient through negligence) in respect of the death of Mr. I.S. Barbashinsky, a resident of Slutsk, in Prison No. 8 in Zhodzina. A pretrial investigation is under way in the case.

123. On 15 May 2013, the Zavodsky district court in Minsk sentenced Mr. Ihar Ptichkin to 3 months' short-term rigorous imprisonment under article 417 of the Criminal Code. He was held in Remand Centre No. 1 (SIZO No. 1), a facility of the investigation department for Minsk and Minsk province, from 30 July 2013 and underwent treatment for a diagnosis of drug dependency and withdrawal syndrome. On 4 August 2013, Mr. Ptichkin died in the medical unit of SIZO No. 1. The immediate cause of death was acute heart failure.

124. On 26 September 2013, the Minsk department of the Investigative Committee initiated criminal proceedings against Mr. A.V. Krylov, a medical attendant in the medical unit of SIZO No. 1, under article 162 (2) of the Criminal Code. On 21 October 2016, a court found Mr. Krylov guilty and sentenced him to 3 years' deprivation of liberty in an open prison, which was subsequently reduced by 2 months. In addition, he is forbidden from occupying a post in a medical establishment and from working in any part of the country's penal correction system.

### **Information in response to question 13**

125. Under international law, the use of the death penalty is not universally prohibited. The International Covenant on Civil and Political Rights, to which Belarus is a party, establishes certain restrictions on the use of the death penalty, providing that "sentence of death may be imposed only for the most serious crimes" and that "sentence of death shall

not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women” (Covenant, art. 6).

126. In Belarus, even stricter restrictions are in place on the use of the death penalty than are set out in the Covenant: the death penalty may not be imposed for crimes committed by persons below the age of 18, on women or on men who have reached the age of 65 by the date of sentencing.

127. This exceptional penalty may be imposed for certain especially serious offences involving a person being deliberately deprived of life in aggravating circumstances (for example, launching or conducting a war of aggression (Criminal Code, art. 122 (2)), acts of terrorism (arts. 124 (2), 126 (3) and 289 (3)), genocide (art. 127), crimes against humanity (art. 128), using weapons of mass destruction (art. 134), violating the laws and customs of war (art. 135 (3)), murder (art. 139 (2)), among others). In no case do any of the articles of the Criminal Code that provide for the death penalty establish it as the only possible sentence.

128. The temporary nature of the use of the death penalty is enshrined in the national legislation of Belarus, in particular the Constitution. Pending its abolition, the death penalty may be used pursuant to a court judgment as an exceptional punishment for certain especially serious offences involving a person being deliberately deprived of life in aggravating circumstances.

129. In the international arena, Belarus takes a balanced stance on the use of the death penalty. Belarus traditionally abstains in the voting during consideration of the General Assembly resolution concerning the moratorium on the death penalty.

130. In a 1996 referendum, the majority of Belarusian citizens voted to keep the death penalty. Sociological surveys show that there are various attitudes towards the death penalty in society, but that, overall, a significant number of people favour retention. Work is therefore under way to raise public awareness of international trends in the use of the death penalty. In 2016 alone, two big events were held on this issue in Minsk, jointly with the United Nations and the Council of Europe: an international conference entitled “Death Penalty: Transcending the Divide” (10 March) and a conference entitled “Abolition of death penalty and public opinion” (13 December).

131. Over the course of two cycles of the human rights universal periodic review, Belarus has accepted a number of recommendations relating to considering the possibility of introducing a moratorium on the death penalty.

132. Since February 2010, a working group has been active within the House of Representatives studying the issue of the death penalty as a means of punishment in Belarus.

133. Since 2000, the use of this exceptional penalty in Belarus has been isolated. While 106 people were sentenced to death in the three years from 1997 to 1999, in the 16 years from 2000 to 2016 the number was 54. In recent years, 12 people have been sentenced to this exceptional form of punishment:

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
No. of people	3	0	2	2	1	4

134. Fair trials are ensured by the independence of the judiciary and by the fact that judicial proceedings are strictly regulated by criminal procedure law. In criminal cases against individuals accused of crimes carrying the death penalty, participation of defence counsel is compulsory (refusals of defence counsel by the suspect (accused) are not accepted).

135. Under article 354 (4) of the Code of Criminal Procedure, this exceptional penalty may only be imposed on a person who has been convicted by unanimous decision of all the judges on the bench.

136. Under article 370 (5) of the Code of Criminal Procedure, rulings of the Supreme Court are not subject to appeal under the appeals procedure and become enforceable once they have been handed down.

137. Under article 399 (2) of the Code of Criminal Procedure, a court judgment, ruling or order that is not subject to appeal or protest becomes enforceable from the moment it is handed down.

138. At the same time, in accordance with article 408 of the Code of Criminal Procedure, persons convicted or acquitted, their defence counsel and legal representatives, victims, civil claimants, civil defendants and their representatives are entitled to lodge appeals for judgments, rulings or orders that have become enforceable, including those handed down by the Supreme Court, to be reviewed under the supervisory procedure. In this case, the grounds for review (Code of Criminal Procedure, art. 389) are the same whether the ruling to be reviewed for legality has become enforceable or not.

139. Under article 407 of the Code of Criminal Procedure, protests against rulings handed down by the Supreme Court in criminal cases are examined by the presidium of the Supreme Court, while protests against rulings handed down by the presidium of the Supreme Court in such cases are examined by the plenum of the Supreme Court. This stage, involving the review of the legality of judicial rulings, was introduced pursuant to an Act of 18 July 2011 amending various codes of the Republic of Belarus to improve the legal mechanism for reviewing judicial rulings, which aimed to create a more effective mechanism for the judicial protection of civil rights and freedoms.

140. Thus, persons sentenced to death enjoy the same rights and opportunities to appeal against their sentence as other individuals found guilty of criminal offences.

141. When a sentence is handed down, if the offender is sentenced to the ultimate punishment, that is, the death penalty, the presiding judge explains the offender's right to plead for clemency after the judgment has become enforceable (Code of Criminal Procedure, art. 365 (5)).

142. Once the judgment has become enforceable, the convicted person is entitled, under article 174 (2) (1) of the Penalties Enforcement Code, to lodge a plea for clemency in accordance with the procedure established by law.

143. Under article 59 (3) of the Criminal Code, the death penalty may be commuted to life imprisonment as an act of clemency.

144. Clemency is granted by the Head of State (Constitution, art. 84 (19)). The right to lodge a plea for clemency is exercised in accordance with the Regulations on the procedure for granting clemency to convicted persons and exempting individuals who have facilitated the disclosure and elimination of the consequences of crimes from criminal liability, approved by Presidential Decree No. 250 of 3 December 1994.

145. A death sentence that has become enforceable is only carried out once official notification has been received that any appeal for supervisory review or plea for clemency has been rejected.

146. Article 176 of the Penalties Enforcement Code provides for the possibility of staying a sentence of death. If a person sentenced to death is found to have symptoms of a psychiatric disorder, the administration of the institution concerned arranges for a medical examination by a panel composed of three specialist doctors and a report of the examination is produced. If a psychiatric illness is diagnosed that makes it impossible for the offender to be aware of his or her actions, the death sentence is not carried out and the medical report is transmitted to the court that handed down the sentence. In this event, the court stays the execution and decides what security and treatment measures are to be imposed on the offender, in accordance with the procedure established in the Criminal Code. If the offender recovers from the illness, the court that handed down the sentence decides whether the death sentence is to be carried out or possibly commuted to an alternative penalty.



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

### **Information in response to question 14**

147. The use of torture is prohibited in Belarus. Under article 25 of the Constitution, no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

148. The penal enforcement legislation of Belarus and the application thereof in practice are founded on strict respect for guarantees that convicted persons and those in custody will be protected from torture and from other cruel or degrading treatment.

149. In order to uphold the rights of convicted persons and those in custody and prevent them from being subjected to acts of torture or to cruel or inhuman treatment, the Office of the Procurator General carries out inspections of places of detention and correctional facilities, organizes a telephone helpline, regularly holds individual interviews with convicted persons and those in custody, holds meetings with former prisoners to obtain information from them on possible instances of torture or violence while they were in custody or serving their sentences, and analyses the causes of bodily harm sustained by inmates in remand centres and prisons. Official action is taken by the procuratorial authorities in their supervisory role if there are grounds to do so.

150. In 2016, the procuratorial authorities carried out 1,712 inspections at facilities within the country's penal correction system, resulting in the drawing up of 585 official reports by those authorities. Charges were brought against 145 internal affairs officers for breaches of legislation.

151. Under article 21 (1) and (2) of the Penalties Enforcement Code, voluntary associations may monitor the activities of bodies and institutions responsible for enforcing penalties and other criminal sanctions; they take part in the reform of offenders and also assist the bodies and institutions in their work.

152. In accordance with Council of Ministers Decision No. 1220 of 15 September 2006, Belarus has public oversight commissions that monitor the activities of bodies and institutions responsible for enforcing penalties and other criminal sanctions.

153. The procedure and conditions established in the legislation of Belarus apply to all individuals held in remand centres of the State Security Agency. Since 2011, persons suspected, accused or convicted of offences under article 293 of the Criminal Code have not been held in such centres.

154. Under article 13 (4) of the Penalties Enforcement Code and article 12 of the Detention Procedure and Conditions Act, No. 215-3 of 16 June 2003, proposals, applications and complaints addressed by persons sentenced to short-term rigorous imprisonment, deprivation of liberty, life imprisonment or the death penalty, or persons in custody, to bodies responsible for State monitoring and oversight of the work of institutions enforcing those penalties are not censored and are forwarded to the addressees within 24 hours (excluding weekends, public holidays and days of celebration announced by the President and declared to be non-working days).

155. Complainants are informed of decisions regarding such submissions in the established manner via the administration of the penal correction facility.

156. All cases of bodily harm suffered by convicted persons or those in custody are investigated in accordance with the legislation of Belarus and steps are taken to eliminate the causes and circumstances that have led to such incidents occurring.

### **Information in response to question 15**

157. Under the Act of 5 January 2015 amending the Criminal Code, the Code of Criminal Procedure, the Penalties Enforcement Code, the Code of Administrative Offences and the Code of Administrative Procedure and Enforcement, a note was added to article 128 of the Criminal Code that specifically defines the concept of torture:

158. “Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person with the aim of coercing that person or a third person to act against his or her will, including for the purpose of obtaining information or a confession, and also for the purpose of punishment or for any other purpose or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official acting in an official capacity and using his or her official powers. It does not include pain or suffering arising from the application of procedural or other measures of lawful coercion.”

159. At present, acts involving the use of torture or other cruel, inhuman or degrading treatment or punishment are criminal offences under articles 128 (Crimes against the security of humankind) and 394 (Coercion to give evidence) of the Criminal Code.

160. The penalty provided for in article 128 of the Criminal Code is deprivation of liberty for between 7 and 25 years, or life imprisonment, or the death penalty, while article 394 (1) provides for forfeiture of the right to occupy certain positions or to perform certain activities, or restriction of liberty for up to 3 years, or deprivation of liberty for the same period, with or without forfeiture of the right to occupy certain positions or perform certain activities; article 394 (2) provides for deprivation of liberty for between 2 and 7 years, with or without forfeiture of the right to occupy certain positions or perform certain activities; and article 394 (3) provides for deprivation of liberty for between 3 and 10 years, with or without forfeiture of the right to occupy certain positions or perform certain activities.

161. No complaints have been made to the Office of the Procurator General concerning the use of torture or cruel treatment, including against Mr. Aliaksandr Kazulin, Mr. Andrei Sannikau or Mr. Ales Mikhalevich, nor have any information or other submissions been received concerning harsh physical or psychological ill-treatment of persons complaining to the competent authorities about the use of torture.

162. From 2011 to 2016, no one was convicted under articles 128 or 394 of the Criminal Code.

## **Elimination of slavery and forced labour (art. 8)**

### **Information in response to question 16**

163. In Belarus, there are criminal penalties for exploiting a person’s labour, as provided in the following articles of the Criminal Code: article 181 on trafficking in persons (3 to 15 years’ deprivation of liberty); article 181-1 on the use of slave labour (2 to 12 years’ deprivation of liberty); article 182 on abduction, if committed for the purposes of exploitation (5 to 15 years’ deprivation of liberty); and article 187 on unlawful acts related to the recruitment of citizens for jobs abroad, if those acts result in the exploitation of the person concerned (3 to 8 years’ deprivation of liberty).

164. In 2002–2015, 5,222 victims of trafficking in persons were identified: 4,617 had been subjected to sexual exploitation and 602 to labour exploitation, while 3 had suffered the removal of organs.

165. The Ministry of Internal Affairs has established a telephone hotline to better inform citizens about efforts to combat human trafficking and about safety while travelling abroad for employment. Calls to the hotline are picked up by non-governmental organizations (NGOs): Gender Perspectives (La Strada Belarus programme) deals with calls from Minsk, Viciebsk, and Minsk and Mahilioŭ provinces, while the Businesswomen’s Club serves Brest, Homiel and Hrodna provinces.

166. The telephone hotline of the Department of Citizenship and Migration of the Ministry of Internal Affairs provided advice on job placement abroad to 1,280 persons in 2015 and 1,157 persons in 2016.

167. To prevent human trafficking, legislation provides for licensing of the types of activity that could give rise to trafficking and/or exploitation. The relevant requirements cover the activities of modelling agencies and of persons engaged in the tourism industry.

168. Pursuant to article 14 of the Action against Human Trafficking Act, No. 350-Z of 7 January 2012, licensing was established for activities related to the employment abroad of Belarusian citizens, foreign nationals and stateless persons permanently residing in Belarus, and the collection and dissemination, including through the Internet, of information about individuals for the purposes of their introduction to one another (the activities of marriage agencies).

169. Belarus is a party to all the universal instruments of the United Nations on combating human trafficking. Belarus acceded to the Council of Europe Convention on Action against Trafficking in Human Beings on 26 November 2013.

170. A mechanism has been set up in Belarus to identify and assist victims of trafficking in persons. The Act amending the Action against Human Trafficking Act was adopted on 16 December 2014. The Act defines the principles for the identification of victims of trafficking and their referral for rehabilitation. Pursuant to the Act, the Council of Ministers adopted Decision No. 485 of 11 June 2015 approving the Regulations governing the procedure for identifying victims of trafficking, the procedure for completing the questionnaire for citizens who could have been victims of trafficking or related offences and the procedure for submitting the information contained therein. These Regulations, among other things, clearly define the role of the authorities, NGOs and international organizations in the process of identifying, referring and assisting victims of trafficking, and establish a common procedure for identification of victims and completion of the questionnaire on work with victims.

171. Under the law, two categories of citizen are entitled to receive assistance: (1) victims of trafficking in persons; and (2) citizens who could have been victims of trafficking or related offences.

172. Victims of trafficking are offered open-ended assistance. The procedure for obtaining the various types of assistance is regulated by the departmental laws and regulations of the Ministry of Health, the Ministry of Education and the Ministry of Labour and Social Protection.

173. Persons who could have been victims of trafficking or related offences have 30 days in which to receive rehabilitation and reflect on whether to file a complaint with the prosecution authorities. They receive rehabilitation support irrespective of their participation in criminal proceedings.

174. The central administration of the Ministry of Internal Affairs, the Central Internal Affairs Department of the Minsk City Executive Committee and all internal affairs departments of provincial executive committees have a designated person to whom the procedures for identifying and referring victims of trafficking have been explained.

175. Advanced training for specialists from State and non-State organizations on identifying and assisting victims of trafficking is provided through the International Training Centre on Migration and Combating Trafficking of the Ministry of Internal Affairs Academy, which is also the main institution offering specialized training to experts from States members of the Commonwealth of Independent States (CIS).

176. In 2016, the Centre held a number of training events on identifying victims of trafficking for law enforcement staff, community associations and other relevant organizations. Practical guidelines on the procedure for identifying victims of trafficking are sent to local internal affairs agencies for use in their work.

177. As part of a joint project with the International Organization for Migration on international technical assistance to build national capacity to combat human trafficking in Belarus, multidisciplinary working groups responsible for identifying, referring and reintegrating victims of trafficking convene each year in every provincial capital and in Minsk. In order to enhance the groups' work on the identification of victims of trafficking and citizens who could have been victims of trafficking or related offences and on referrals, assistance and returns to countries of origin, guidance on identifying and referring victims and providing them with assistance has been disseminated to all regions of Belarus. The guidance provides step-by-step instructions for each area of work and contains forms that have been prepared to simplify the task of specialists at each stage of work with victims.

178. In order to increase the availability of temporary refuge services funded from local budgets, the network of crisis units is being expanded. As at 1 January 2017, there were 124 crisis units in the country. No citizens who could have been victims of human trafficking stayed in crisis units in 2016. However, in that year, the labour, employment and social protection authorities assisted 12 such citizens.

179. Medical assistance is provided to victims of trafficking in conformity with Ministry of Health Decision No. 41 of 28 April 2012 approving the list of essential medical services — including inpatient care — offered by State health facilities to victims of trafficking irrespective of their permanent residence. The list includes diagnostic services, outpatient and inpatient treatment for acute diseases and flare-ups of chronic conditions, vaccinations to prevent epidemics, psychiatric evaluation, psychiatric care and emergency medical care.

180. In the period 2000–2015, 687 cases of trafficking in persons and 3,207 related offences were identified.

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*3 894 offences, of which:*

3 760 involved sexual exploitation of the victims	133 involved labour exploitation	1 involved the removal of organs and tissue
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181. Of the 99 offences identified in 2015, 97 involved the sexual exploitation of victims, while 2 involved labour exploitation.

182. The scale of human trafficking in Belarus has fallen: 159 cases were identified in 2005; 69 in 2008; 39 in 2010; 6 in 2013; none in 2014; and 1 in 2015. In the same years, the number of offences related to human trafficking was: 210 in 2005; 141 in 2008; 178 in 2010; 65 in 2013; 50 in 2014; and 98 in 2015.

183. In 2005–2015, 766 persons were prosecuted for human trafficking and related offences. The number of convictions for offences related to human trafficking prosecuted under article 171 of the Criminal Code (Organization and/or exploitation of prostitution or facilitating prostitution) was: 78 in 2005; 51 in 2006; 43 in 2007; 66 in 2008; 41 in 2009; 71 in 2010; 36 in 2011; 20 in 2012; 24 in 2013; 21 in 2014; 25 in 2015; and 38 in 2016.

184. The significant decline in the number of offences identified and the number of convictions for human trafficking and related offences started in 2011. That year, 38 persons were convicted of trafficking or procuring, which is one third of the figure for 2005–2006. The fall occurred due to changes in the law, which included increasing the criminal penalties for human trafficking and related offences.

185. In 2008–2013, many foreign traffickers who had come to Belarus to engage in the “flesh trade” were prosecuted. For example, 18 foreign nationals were convicted of human trafficking and related offences in 2013: 10 from Russia; 2 from Germany; 2 from Poland; 1 from Czechia; 1 from Lithuania; 1 from Latvia; and 1 from Moldova.

186. Nowadays, criminals attempt not to commit acts that, in the aggregate, would constitute human trafficking. Since the penalty for human trafficking alone is up to 15 years’ deprivation of liberty and only human trafficking is punishable irrespective of where the acts took place (the offence is subject to extraterritorial jurisdiction under the Criminal Code), they commit offences that are very similar to human trafficking. Many traffickers now instead operate as procurers: they refrain from acts of violence against the girls working for them abroad and endeavour to adhere to the originally agreed conditions of work. In such cases, it is not possible to launch criminal proceedings for trafficking in persons. In these cases, the perpetrators are prosecuted for organization or exploitation of prostitution or facilitating prostitution (Criminal Code, art. 171 — maximum penalty of 10 years’ deprivation of liberty), or for recruitment for the purposes of engaging in prostitution or coercion to continue engaging in prostitution (Criminal Code, art. 171-1 — maximum penalty of 10 years’ deprivation of liberty). Moreover, perpetrators are very cautious and employ more serious security measures.

187. For these reasons, only 1 case of human trafficking and 98 related offences were identified in 2015. In 2016, 152 offences related to human trafficking were identified and 1

case of human trafficking. Two persons were convicted of offences under article 171-1 of the Criminal Code.

188. Liability for recruitment for the purposes of engaging in prostitution or coercion to continue to engaging in prostitution is established in article 171-1 of the Criminal Code. A small number of persons have been convicted under that article: one in 2013; two in 2014; one in 2015; and none in 2016.

189. Engaging in prostitution is punishable under article 17.5 of the Code of Administrative Offences. In 2011–2016, the country’s courts of general jurisdiction heard 8,105 cases under article 17.5: 874 cases in 2011; 1,305 in 2012; 1,184 in 2013; 1,442 in 2014; 1,801 in 2015; and 1,499 in 2016. Following those hearings, 7,129 persons were sentenced to administrative penalties: 763 persons in 2011; 1,049 in 2012; 1,006 in 2013; 1,307 in 2014; 1,662 in 2015; and 1,342 in 2016.

## **Liberty and security of person and humane treatment of persons deprived of their liberty (arts. 9 and 10)**

### **Information in response to question 17**

190. According to the legislation in force, during a preliminary investigation preventive measures such as remand in custody, house arrest or bail may be imposed by persons authorized thereto (the procurator or procurator’s deputy, the Chair of the Investigative Committee of Belarus, the head of the State Security Agency or the persons performing those functions, or the body conducting the initial inquiry or the investigator if authorized by the procurator or procurator’s deputy), and at the trial stage by the court (Code of Criminal Procedure, art. 119).

191. Remand in custody is one of the preventive measures imposed on a suspect or accused person to prevent him or her from committing socially dangerous acts proscribed in criminal law or acts that impede proceedings in a criminal case, or to ensure the enforcement of a sentence (Code of Criminal Procedure, art. 116).

192. Alongside remand in custody, preventive measures can include travel restraints and good behaviour bonds, personal guarantee, placement of a person with military status under the supervision of the commander of a military unit, release of a minor under a supervision order, bail, and house arrest.

193. When it is decided whether to impose a preventive measure on a suspect or accused person, the nature of the suspicion or charge, the suspect or accused person’s character, age, state of health, occupation, family and financial situation, the existence of a permanent residence and other circumstances are taken into account.

194. Where there is no need to impose preventive measures on a suspect or accused person, he or she is required to give a written undertaking to appear at the request of the body conducting criminal proceedings.

195. In accordance with the Code of Criminal Procedure, accused persons are entitled to appeal in court against their detention, remand in custody, house arrest or involuntary committal to a psychiatric (psychoneurological) establishment for examination, and to file appeals against actions or decisions of the body conducting criminal proceedings.

196. The procedure for dealing with appeals from this category of person is set out in chapter 16 of the Code of Criminal Procedure. Under article 143 of the Code of Criminal Procedure, appeals by persons held in custody against their detention, the imposition of the preventive measure of remand in custody or the extension of the period of custody are lodged with the court through the administration of the place of pretrial detention. Appeals by persons held under house arrest and other persons against detention, imposition of the preventive measures of remand in custody or house arrest or extension of the period of custody or house arrest are submitted to the body conducting criminal proceedings.

197. The administration of the place of pretrial detention must, within 24 hours of the filing of an appeal, forward it to the body conducting criminal proceedings and notify the

appellant, the procurator, the Chair of the Investigative Committee of Belarus, the head of the State Security Agency or the persons performing those functions and the court deciding whether to impose the preventive measure of remand in custody or extend the period of custody that it has done so.

198. Appeals may be submitted orally or in writing. Oral appeals are entered in the record, which is signed by the appellant and the official receiving the appeal. The appeal may be accompanied by additional material.

199. In 2016, the country's courts of general jurisdiction heard 48,080 criminal cases, in 15,091 (31.4 per cent) of which the accused persons were held in custody.

200. In 2015, 48,193 accused persons were prosecuted in criminal cases investigated by the Investigative Committee of Belarus and referred to a prosecutor for trial. Of that number, 13,447 (27.9 per cent) had been remanded in custody as a preventive measure. Preventive measures in the form of travel restraints and good behaviour bonds were imposed on 62.3 per cent of accused persons, personal guarantees on 1.6 per cent, house arrest on 1.1 per cent, release under a supervision order — in the case of minors — on 1 per cent, bail on 0.3 per cent and placement under the supervision of the commander of a military unit — in the case of persons with military status — on 0.1 per cent.

201. Alongside this, maximum periods are established for remand in custody as a preventive measure (Code of Criminal Procedure, art. 127), and the scrutiny by the courts of the legality of and grounds for detention, remand in custody or house arrest or extension of the period of custody or house arrest is regulated (Code of Criminal Procedure, art. 144).

202. The periods of custody and the procedure for their extension are regulated by article 127 of the Code of Criminal Procedure. Extension of the period of custody beyond 6 months is permitted only for persons accused of serious or very serious offences, persons who have committed crimes in Belarus but are not permanently resident in Belarus if there are grounds to believe that they might evade investigation and trial by going abroad, and persons held in custody in other States pending extradition to Belarus for prosecution. In such cases, the extension of the period of custody is carried out by a deputy procurator general for periods of up to 12 months, or by the Procurator General or the person performing those functions for periods of up to 18 months.

203. In 2011, 675 appeals to amend preventive measures were filed with the country's courts of general jurisdiction, of which 44 were successful (6.5 per cent of the total); 485 appeals were filed in 2012, of which 22 were successful (4.5 per cent); 582 were filed in 2013, of which 32 were successful (5.5 per cent); 716 in 2014, of which 29 were successful (4.1 per cent); 839 in 2015, of which 31 were successful (3.75 per cent); and 797 in 2016, of which 23 were successful (2.9 per cent).

#### **Information in response to question 18**

204. Under the Code of Administrative Procedure and Enforcement, measures to safeguard the administrative process, including the administrative detention of an individual (art. 8.1), can be taken in the interests of preventing administrative offences, establishing the identity of an individual against whom an administrative case has been opened, recording an administrative offence, ensuring that cases are heard in a timely and proper manner, and enforcing orders relating to them. The Code sets out the procedure for the application of this measure.

205. The administrative detention of an individual against whom an administrative case has been opened can be appealed to the procurator or a district or municipal court (Code of Administrative Procedure and Enforcement, art. 7.2).

206. National legislation does not provide for the use of such measures as preventative arrests, administrative arrests and arbitrary detention prior to important political or social events.

207. Psychiatric hospitalization and treatment are not used for punitive reasons, but only for medical ones. The Mental Health Care Act of 7 January 2012 stipulates that a patient may be hospitalized in a psychiatric institution only for the purpose of providing him or her

with psychiatric care, which includes prevention, diagnostics, treatment for mental disorders (illnesses) and medical rehabilitation.

208. On 21 August 2013, the Viciebsk district court granted the application of the Viciebsk Regional Centre for Psychiatry and Narcology to forcibly hospitalize Mr. I.A. Postnov and provide inpatient psychiatric treatment for a mental illness that he had developed, specifically, a personality disorder. The medical advisory board of the Viciebsk Regional Centre for Psychiatry and Narcology concluded in a reasoned opinion, No. 725 of 16 August 2013, that Mr. Postnov was suffering from a mental illness (diagnosis: paranoid personality disorder and decompensation). He underwent a magnetic resonance imaging head scan, which detected subatrophic changes in the brain, namely, non-occlusive intracranial hydrocephalus. His mental state makes him a danger to himself, and leaving him without medical care could cause it to worsen, which would result in significant harm to his health. He therefore requires forced hospitalization and treatment. Mr. Postnov lodged a cassational appeal against the decision reached in the case, but, on 12 September 2013, the civil division of the Viciebsk provincial court upheld the decision and his cassational appeal was dismissed. The Viciebsk provincial court and the Supreme Court summoned the case for review under the supervisory procedure.

209. In the light of the information transmitted by the Human Rights Committee regarding the possible infringement of the rights and lawful interests of Mr. A.C. Kasheuski, the Office of the Procurator General instructed the Zhodzina procurator's office to carry out the appropriate checks, which are currently under way. It will be possible to provide more detailed information on the matter following their completion.

#### **Information in response to question 19**

210. The persons referred to in the question as "political prisoners" violated national legislation and consequently were serving sentences imposed by the judicial authorities.

211. On 22 August 2015, the President decided on humanitarian grounds to pardon Mikalai Dziadok, Ihar Alinevich, Mikalai Statkevich, Evgeniy Vaskovich, Artisom Prakapenka and Yuri Rubtsou and to release them from deprivation of liberty.

212. Pursuant to the seventh paragraph of article 60, of the Electoral Code, persons who have a criminal record and therefore do not have the legal right to occupy positions in government bodies or in other public organizations cannot be put forward as candidates for the offices of President or deputy (the definition of a criminal record and of the period for which it is valid are established in criminal legislation).

#### **Information in response to question 20**

213. Most institutions of the penal correction system operate within the maximum capacity prescribed by law. As at 1 January 2017, 35,890 persons were held in places of deprivation of liberty, the maximum capacity being 37,460 persons.

214. Overcrowding is currently a problem in correctional colonies for persons serving custodial sentences for the first time. Measures are being taken to prevent institutions of the penal correction system from exceeding their prescribed maximum capacity.

215. Institutions of the penal correction system regularly carry out efforts to improve the living conditions of convicts and persons in custody and raise hygiene levels in living, work and ancillary areas.

216. Construction is under way on a new complex of buildings and installations for a remand centre and a national general hospital. The construction will take place in two phases: the buildings and installations of the national general hospital for convicts will be constructed in the first phase, and the buildings and installations of the detention facility in the second. It is planned to complete the first phase in 2018 and the second in 2020.

217. Work is constantly undertaken to repair and overhaul the buildings and installations of the penal correction system. In 2015, 25.1 billion roubles and 19.2 million roubles, respectively, were allocated to meet these two objectives.

218. Persons held in places of deprivation of liberty are provided with food and personal hygiene items in accordance with the norms approved by the Council of Ministers in its Decision No. 1564 of 21 November 2006 establishing standards of nutrition for detainees in temporary holding facilities of the internal affairs agencies, special establishments of internal affairs agencies carrying out sentences of administrative detention, institutions of the penal correction system and compulsory rehabilitation centres of the Ministry of Internal Affairs, and standards for the provision of personal hygiene items to detainees in institutions of the penal correction system and compulsory rehabilitation centres of the Ministry of Internal Affairs.

219. These standards were developed scientifically and meet the following basic requirements of rational human nutrition. Food is prepared in accordance with the meal plan approved by the director of the institution, which is developed to comply with departmental regulations and dietary schedules.

220. Before food is served, a medical worker and the deputy director on duty check its quality (a sample is taken from each batch), the conformity of the prepared dishes with the meal plans, portion sizes, and the cleanliness of the canteen, crockery, equipment and utensils. In the quality control log for prepared food, separate entries are made for breakfast, lunch and dinner. Food cannot be served unless it has been tested by a medical worker and unless the deputy director on duty has granted authorization. Poor-quality food or food prepared from poor-quality ingredients is thus not served, and the current monitoring system ensures that all the ingredients served to inmates meet the relevant standards.

221. In the penal correction system, the provision of medical care and efforts to improve hygiene and prevent disease are organized and carried out in accordance with national legislation on health care, the internal regulations of correctional institutions and other departmental regulations.

222. Pursuant to the Instruction on medical care for persons held in institutions of the penal correction system of the Ministry of Internal Affairs, approved by Ministry of Internal Affairs and Ministry of Health Decision No. 202/39 of 27 August 2003, medical wings, hospitals, other medical units of institutions of the penal correction system and secure hospitals are being established to provide medical care for persons deprived of their liberty. The provision of medical care is based on the minimum State social standards for health care prescribed by legislation.

223. When it is not possible to provide urgent and routine treatment (in particular specialized care for cancer, heart problems, tuberculosis and so forth) in institutions of the penal correction system, essential diagnostic and treatment services are provided at appropriate State health facilities.

224. Medical care, including medicines prescribed by doctors, is provided to persons held in institutions of the penal correction system free of charge. Legislation also permits persons deprived of their liberty to receive, in institutions of the penal correction system, medical services in addition to those provided for in the minimum State social standards for health care, at their own expense.

225. In institutions of the penal correction system and compulsory rehabilitation centres, there are currently 35 medical units (2,095 beds), including 2 national hospitals for treating convicts (830 beds) and a children's facility (70 places).

226. In 2015, a total of 15,187.0 million roubles was spent on medicines for persons deprived of their liberty and a total of 2,362.5 million roubles on medical equipment.

227. Significant efforts were made to provide medical care to persons deprived of their liberty as part of the activities conducted under the State tuberculosis programme for 2010–2014 and the State programme for the prevention of HIV for 2011–2015.

228. On 7 July 2016, the Ministry of Health and the Ministry of Internal Affairs adopted joint Decision No. 82/186 on additional measures to provide medical care to patients infected with HIV in medical units of institutions of the penal correction system, compulsory rehabilitation centres and State health facilities. In accordance with this Decision, the Penal Enforcement Department of the Ministry of Internal Affairs monitors



the treatment and antiretroviral drugs and HIV testing kits provided for convicts (patients) infected with HIV. In addition, since 2017, the Ministry of Health has designated health facilities to offer medical appointments and routine medical examinations for persons held in institutions of the penal correction system.

229. Public health monitoring of conditions in places of deprivation of liberty is conducted by the medical units of institutions of the penal correction system of the Ministry of Internal Affairs, as well as by the public health inspectorate of the public health and disease-control service attached to the Ministry pursuant to the Public Health and Epidemiological Welfare Act of 7 January 2012.

230. Public health monitoring is a system for overseeing efforts to improve the working and living conditions in institutions of the penal correction system and prevent disease by averting, uncovering and tackling violations of the legislation on health and disease control, including health standards and rules and hygiene regulations.

231. The public health and disease-control situation in institutions of the penal correctional system (Minsk, Baranavichy, Navapolatsk and Ivatsevichy) is satisfactory.

232. In Belarus, there are national (operating throughout Belarus) and local (operating in a particular province or in the city of Minsk) public oversight commissions to monitor the work of penal enforcement bodies and institutions. The commissions are formed of representatives of various voluntary associations, and their statutory objective and main area of activity is the protection of the rights of citizens, which includes assistance in the protection of the rights of convicts.

233. The work of public oversight commissions was enhanced with the introduction in 2011 of a number of amendments to Council of Ministers Decision No. 1220 of 15 September 2006 approving the Regulations governing the procedures for voluntary associations to monitor the activities of the bodies and institutions that enforce sentences and other criminal sanctions:

- Commissioners were granted the right to interview persons held in penal institutions without the presence of representatives of the administration
- Commissions were granted the right to request the administration of an institution to provide any information and documents needed to carry out public monitoring and draft conclusions
- Commissioners were granted the right to conduct surveys among persons held in correctional facilities
- Oversight commissions were given the right to visit not only penal institutions but also remand centres of the penal correction system that are serving as correctional facilities for persons sentenced to deprivation of liberty
- Members of international voluntary associations registered in Belarus were permitted to participate in oversight commissions alongside representatives of national and local voluntary associations
- The procedure for authorizing visits by public oversight commissions to penal institutions was streamlined (previously, there had been a two-step procedure that had required approval from both the provincial internal affairs department and the administration of the penal institution)

234. In 2012–2016, members of public oversight commissions visited 30 institutions of the penal correction system.

235. During visits to correctional facilities, attention is paid to the conditions of detention, provision of medical care, recreational and learning activities, and the moral, cultural, social, occupational and physical education and guidance provided for convicts. For example, commissioners visit kitchens, canteens, bathroom and laundry facilities, libraries, visiting rooms, study rooms and other areas. Interviews are held with convicts during these visits.

236. When an oversight commission is made aware of any problems relating to a convict's serving of a sentence, following either a visit or the receipt of a written communication, they are analysed and referred to the Ministry of Internal Affairs and other competent bodies, including the Ministry of Labour and Social Protection (if they concern disputes over pension payments) and the Ministry of Health (if they concern the provision of medical care).

237. Furthermore, the activities of temporary holding facilities and detention centres for offenders and the conditions of detention in them are regularly checked by procuratorial staff, who also make the rounds of cells and conduct interviews with convicts and other detainees.

238. In accordance with article 10 of the Detention Procedure and Conditions Act, persons remanded in custody have the right:

- To submit petitions, proposals, applications and complaints, including to a court, regarding the legality of and grounds for their detention and regarding violations of their rights and lawful interests
- To apply to meet in person with the director of the administration of the remand centre and with his or her authorized representatives, as well as with the person who supervises the remand centre, while such persons are on its premises

239. Pursuant to article 12 of the Act, petitions, proposals, applications and complaints addressed to bodies conducting criminal proceedings, other State bodies, local government and self-governing authorities and defence lawyers are not censored and are dispatched, as appropriate, within the prescribed time frame following their receipt.

240. This procedure for submitting communications is set out in article 13 of the Penalties Enforcement Code, which stipulates that proposals, applications and complaints addressed by persons sentenced to short-term rigorous imprisonment, deprivation of liberty, life imprisonment or the death penalty to bodies responsible for State monitoring and oversight of the work of institutions enforcing those penalties are not censored and are forwarded to the addressees within 24 hours (excluding weekends, public holidays and days of celebration announced by the President and declared to be non-working days).

241. Staff of the Office of the Procurator General regularly meet in private with convicts and persons held on remand and conduct inspections of remand centres and correctional facilities. Procuratorial staff can hold such meetings without the presence of officials of the administration of the correctional facility. Moreover, during such meetings, and in the course of inspections, convicts and persons held on remand can submit communications directly to procuratorial staff regarding any issue, including sexual violence in remand centres. If the communication concerns an issue that falls outside the competence of the procuratorial authorities, the procurator's office transfers it to the authority responsible for such matters. During visits to places of deprivation of liberty and remand centres, procuratorial staff almost always solicit complaints or communications from convicts and persons held on remand.

#### **Information in response to question 21**

242. The concept "political prisoner" does not exist in national legislation. The persons serving sentences in institutions of the penal correction system have been found guilty of offences covered by the special section of the Criminal Code under a judgment or enforceable court ruling or decision amending such a judgment.

243. The length of a convict's sentence cannot be extended unless he or she commits a new offence in the period between sentencing and the completion of the sentence. In such cases, the unserved portion of the original sentence is added, in full or in part, to the new sentence (Criminal Code, art. 73 (1)).

244. The penalties provided for in article 112 of the Penalties Enforcement Code, which include deprivation of the right to receive parcels and deprivation of long or short visits, can be imposed on convicts who violate the established procedure for the serving of prison sentences.

245. Convicts have the right to appeal an official's decision to impose a penalty to a higher-ranking official, a procurator or a court. The enforcement of the penalty is not suspended while it is appealed. If there are sufficient grounds, the penalty may be revoked or replaced by the official who imposed it or by a higher-ranking official with that right or it may be revoked by a procurator or a court. An official's decision to impose a penalty may be appealed no more than one year after its imposition (Penalties Enforcement Code, art. 113 (1)).

246. Appeals filed by persons sentenced to short-term rigorous imprisonment, deprivation of liberty or life imprisonment and persons held on remand concerning penalties imposed on them, as well as appeals filed by persons in administrative detention concerning disciplinary action taken against them, are examined in accordance with chapter 29, paragraph 6<sup>1</sup>, of the Code of Civil Procedure.

247. In 2012–2015, the courts heard 19 such cases. All the complaints were deemed to be unfounded.

248. The Detention Procedure and Conditions Act of 16 June 2003 governs the procedure and conditions of detention and guarantees for the rights and lawful interests of persons deprived of their liberty.

## **Right to a fair trial and independence of the judiciary (art. 14)**

### **Information in response to question 22**

249. The foundations and principles of the work of the judiciary and the status of judges in Belarus are enshrined in the Constitution and the Code on the Judicial System and the Status of Judges.

250. The key principles underpinning the work of the judiciary, as enshrined in article 110 of the Constitution, are the independence of judges in the administration of justice, the subordination of judges to the law alone and the inadmissibility of any interference in their administration of justice.

251. Pursuant to article 67 of the Code on the Judicial System and the Status of Judges, the independence of judges is guaranteed through the statutory procedure for their appointment (or election and confirmation) and the suspension and termination of their powers, their inviolability, the procedure for the consideration of cases and issues, the confidentiality of the deliberations on the adoption of judicial decisions and the prohibition on requests for any lifting of that confidentiality, liability for contempt of court or interference in court activities, and other guarantees corresponding to the status of judges, as well as the establishment of the necessary organizational and technical conditions for the work of the courts. Article 390 of the Criminal Code establishes criminal liability for the use by an official of his or her official powers to interfere in the resolution of a legal case.

252. The Code on the Judicial System and the Status of Judges sets out the procedure and criteria for the selection of candidates for the position of judge and the procedure for the appointment of judges and for the suspension, reinstatement and termination of their powers and governs the disciplinary action to which judges are liable. In accordance with article 76 of the Code, candidates for the position of judge of a court of general jurisdiction must be citizens of Belarus who have reached the age of 25 years, are proficient in both the Belarusian and Russian languages, have undergone higher legal education in law and/or law with economics, have acquired at least three years' experience, have not acted dishonourably and have passed the qualifying exam for the position of judge.

253. Candidates for the position of judge are admitted by the judges' certification board, which assesses the professional and personal qualities of applicants and serves as a selection panel (Code on the Judiciary and the Status of Judges, art. 79).

254. The President appoints judges and can suspend, reinstate and terminate their powers. Judges are appointed for a five-year term and can be appointed for a further term or indefinitely (Code on the Judicial System and the Status of Judges, art. 81).

255. Judges' powers can be suspended if criminal proceedings are brought against them, if they are identified as a suspect or are formally charged in criminal proceedings brought against other persons or in relation to a crime that has been committed, or if they are detained or otherwise deprived of their liberty, until the entry into force of a judgment or decision imposing compulsory security and treatment measures on the judge or of a decision terminating criminal proceedings (Code on the Judicial System and the Status of Judges, art. 107).

256. Judges' powers can be terminated (Code on the Judicial System and the Status of Judges, art. 108) if: they retire; they voluntarily resign; they reach the maximum age for public service; their term of office expires; they refuse to swear the oath; they relinquish or forfeit citizenship of Belarus; they are appointed or elected to another position or are reassigned; they engage in conduct unbecoming of a judge or fail to observe the restrictions on public servants; they refuse to transfer to another court in the event that their court is disbanded or that the number of judges is reduced; they commit systematic disciplinary violations (disciplinary action is taken against them more than twice in one year); they commit a single gross breach of duty recognized as such in accordance with legislative acts or commit an act unbecoming of a public servant; a court judgment against them becomes enforceable; a court finds them to have limited or no dispositive capacity; a medical assessment indicates that the judge is incapable of fulfilling his or her judicial obligations on health grounds for an extended period (at least one year); or the judge dies or is, by an enforceable court decision, declared dead or disappeared.

257. Chapter 9 of the Code on the Judicial System and the Status of Judges governs disciplinary action against judges. Pursuant to article 91 of the Code, disciplinary action may be taken against a judge: for violation of legislative requirements in the administration of justice; for violation of the judges' code of conduct; and for infringement of the workplace regulations or commission of another disciplinary offence.

258. Judges' certification boards conduct disciplinary proceedings against judges of courts of general jurisdiction (Code on the Judicial System and the Status of Judges, art. 94).

259. Article 102 of the Code on the Judicial System and the Status of Judges governs the imposition of disciplinary measures by the President. The Head of State can impose disciplinary measures on a judge without disciplinary proceedings having been brought, provided that there are sufficient grounds and that the measures are imposed within the time limits established in the Code. The judge may offer explanations regarding the disciplinary offence that he or she committed.

260. Since 1 January 2014, the Supreme Court and the Supreme Economic Court have been merged into one supreme judicial body that deals with civil, criminal, administrative and economic cases: the Supreme Court. The Supreme Court heads a system of courts of general jurisdiction into which the general and economic courts have been absorbed. The consolidated system of courts of general jurisdiction functions effectively and ensures the autonomy and independence of the judiciary as the fundamental guarantor of civil rights and freedoms.

261. The reform of the judiciary strengthened guarantees for the independence of judges by transferring responsibility for organization, infrastructure and staffing in courts of general jurisdiction and responsibility for organization and infrastructure in judicial bodies from the executive, that is, the Ministry of Justice and its agencies, to the Supreme Court.

262. The reports of politically motivated court decisions, prosecutorial bias and accusatory bias in criminal cases are not supported by the evidence and are divorced from reality.

263. The statistics show that the number of acquittals pronounced by the courts is low. In 2011, 382 persons were acquitted, which was 0.7 per cent of the total number of persons sentenced; in 2012, the figure was 0.8 per cent; in 2013, 0.4 per cent; in 2014, 0.2 per cent; in 2015, 0.2 per cent; and, in 2016, 0.2 per cent. However, this fact alone is not evidence of an accusatory bias in the work of the courts.

264. Pursuant to article 24 of the Code on the Judicial System and the Status of Judges, decisions of the Constitutional Court are final, cannot be appealed or challenged, are

directly enforceable and require no approval from other State bodies, other organizations or officials. The Constitutional Justice Act of 2014 governs the procedure and time frames for the enforcement by State bodies, other organizations and officials of decisions of the Constitutional Court. Pursuant to article 88 of the Act, failing to implement enforceable decisions of the Constitutional Court or impeding their enforcement incurs the penalties provided by law.

265. The enforcement of decisions of the Constitutional Court has steadily improved, and the responsibility of organizations and officials involved in the process for their timely and full enforcement has been increased. The more extended time frames for the enforcement of certain decisions are due to the intricacies of the legislative process.

### **Information in response to question 23**

266. The reports of a failure to observe fair-trial guarantees in criminal cases involving former opposition candidates and other persons following the presidential elections of 2006 and 2010 are groundless.

267. On 13 July 2016, the Moskovsky district court in Minsk found Mr. A.Y. Kazulin guilty of malicious hooliganism and of organizing and actively participating in group activities that seriously breached public order, accompanied by a clear failure to comply with the lawful demands of the authorities, causing disruption to transport and business. He was sentenced to 5 years and 6 months' deprivation of liberty in a general-regime correctional colony for multiple offences under articles 339 (2) and 342 (1) of the Criminal Code.

268. In 2011, district courts in Minsk heard criminal cases against the participants in the mass disorder that occurred in Independence Square in Minsk on the evening of 19 December 2010, which was accompanied by riotous attacks and attempts to gain unlawful entry to Government House.

269. Mr. A.O. Sannikau was sentenced to 6 years' deprivation of liberty by the Partizansky district court on 14 May 2011, and Mr. D.I. Uss and Mr. M.V. Statkevich were sentenced, respectively, to 5 years and 6 months' and to 5 years' deprivation of liberty by Leninsky District Court on 26 May 2011, under article 293 (1) of the Criminal Code for organizing mass disorder accompanied by violence against persons, riotous attacks and destruction of property.

270. On 20 May 2011, the Frunzensky district court in Minsk found Mr. V.P. Neklyaeв and Mr. V.A. Rymashevsky guilty of organizing and actively participating in group activities that seriously breached public order, causing disruption to transport, and sentenced them to 2 years' deprivation of liberty, deferred for 2 years, under article 342 (1) of the Criminal Code.

271. Following the lodging of cassational appeals by the accused and their defence counsel, the legality and validity of those judgments were checked under the cassational procedure for criminal cases in the Minsk city court. The court's criminal division upheld the judgments and the cassational appeals were dismissed.

272. The Supreme Court heard appeals submitted under the supervisory procedure by the defence counsel for Messrs. Kazulin, Sannikau, Statkevich, Uss and Neklyaeв. The examination of the criminal case files uncovered no grounds on which to question the court decisions and the appeals were therefore dismissed; the convicted men and their defence counsel were informed in writing of the reasons for the decision not to reopen the case.

273. The courts' findings concerning the guilt of Messrs. Kazulin, Sannikau, Statkevich, Uss and Neklyaeв were supported by the evidence put forward in the judgments, which underwent due evaluation. Convincing reasons were advanced in the judgments for the courts' rejection of the evidence put forward by the defendants.

274. The trials took place in public and the principles of openness, the presumption of innocence, adversariality and equality of arms were observed, enabling the parties to exercise their rights and fulfil their duties.

275. There is no evidence that the rights to defence and to present evidence were restricted or that the court permitted any violations of criminal procedure law that affected the legality and validity of the judgments.

276. Messrs. Kazulin, Sannikau, Statkevich, Uss and Neklyaev were defended by professional lawyers, who made active use of the rights accorded to them.

277. Applications filed by the defence are examined in court in the manner prescribed by law. The checks carried out revealed nothing to suggest that the defence had been denied the opportunity to study evidence that might have had a significant impact on the outcome of the case.

278. Thus, the right of the convicts and their lawyers to a fair and public hearing by a competent, independent and impartial tribunal established by law (Covenant, art. 14) was upheld.

279. Mr. Rymashevsky and his lawyer did not exercise their right to submit an appeal to the Supreme Court under the supervisory procedure.

#### **Information in response to question 24**

280. In Belarus, the compliance with legislation of bar associations, legal clinics, law offices and lawyers practising individually in local bar associations is monitored in accordance with the established procedure.

281. The Bar and Advocacy Act, No. 334-3 of 30 December 2011, contains the basic set of regulations governing the work of lawyers.

282. The legislation governing the legal profession contains a number of guarantees for the unhindered conduct by lawyers of their activities. In accordance with article 16 (1) of the Bar and Advocacy Act, lawyers are independent and subject solely to the law.

283. Lawyers are entitled to practise only once they have obtained a licence and become members of a local bar association, which must accept them. Bar associations facilitate self-governance and improve lawyers' professional skills and the legal and social protection afforded them.

284. It is compulsory for lawyers in many countries around the world to join State-controlled bar associations. The licensing of lawyers' activities is consistent with the Basic Principles on the Role of Lawyers, adopted at the United Nations Congress on Crime Prevention and Criminal Justice in 1990.

285. The legislation guaranteeing the independence of lawyers also imposes a number of obligations on them (Bar and Advocacy Act, art. 18) in order to protect the rights of clients. In particular, lawyers are required to comply with legislation precisely and strictly and to use all the means and methods available within the law to protect their clients' rights, freedoms and interests. Pursuant to article 37 of the Act, the State has a duty to guarantee the accessibility of legal assistance.

286. The Ministry of Justice licenses the work of lawyers and monitors their compliance with legislation. In accordance with the legislation on licensing, orders to desist are issued in response to initial evidence of violations. Licences may be revoked for repeated and serious violations of legislation.

287. The Ministry of Justice bases its licensing decisions on the conclusions of the professional body, the lawyers' certification commission, which includes one representative from each of the local bar associations, one from the Supreme Court, one from the Office of the Procurator General, five from the Ministry of Justice and two from academic institutions.

288. Lawyers have the right to appeal decisions to revoke their licences, in the manner prescribed by law.

289. On 14 February 2011, the Ministry of Justice revoked the special permits (licences) to practise law issued to Mr. A.V. Ahejeu and Ms. T.N. Ahejeu on account of serious violations of the procedure for drawing up agreements to provide legal assistance and

obstruction of the efforts of the licensing authority to monitor compliance with the law through the submission of false information, and those issued to Mr. U.I. Toustsik and Ms. T.P. Harajeva on account of gross violations of the legislation on licensing, specifically their refusal to provide legal assistance to Ms. I.V. Khalip. These lawyers were expelled from the Minsk City Bar Association. On 3 March 2011, the board of the Minsk City Bar Association expelled Mr. P.V. Sapelka for conduct unbecoming of a lawyer, consisting in the taking of leave for which authorization had not been granted by the governing body of the legal profession, prolonged absence from work without notification of whereabouts, failure to appear — without good reason — when summoned by a body conducting criminal proceedings to defend the rights and lawful interests of accused persons, lack of consultation with the defendant concerning his absence and failure to transfer the client file to another lawyer with the client's consent that is, effective refusal to carry out professional duties. Mr. Ahejeu, Ms. Ahejeu, Mr. Toustsik and Mr. Sapelka did not appeal the decisions to expel them from the Minsk City Bar Association and revoke their licences.

290. Ms. Harajeva did not agree with the decision and presented evidence that it had been impossible for her to discharge her mandate to provide legal assistance. On 4 October 2011, the board of the Minsk City Bar Association admitted Ms. Harajeva to the bar as from 10 October 2011, and she now practises at legal clinic No. 2 in the Sovietsky district of Minsk.

## **Freedom of movement (art. 12)**

### **Information in response to question 25**

291. The Constitution enshrines the right of citizens to move freely and choose their place of residence within Belarus, to leave the country and return without hindrance (art. 30), but it also establishes that personal rights and freedoms may be restricted in the cases prescribed by law in the interests of national security, public order and the protection of public morals and health and the rights and freedoms of others (art. 23, first para.).

292. Thus, although the constitutional right of citizens to freedom of movement (which includes the right to leave and return to the State) is a right granted to a person from birth and is inalienable, it is not absolute, which means that it may be restricted in certain circumstances. As it is not absolute, it is subject to legal regulation, which entails consideration of the rights and freedoms of others, and it may be restricted on the grounds and under the procedure set forth in articles 23 and 63 of the Constitution. Legislation relating to this constitutional right is passed in the light of the legal positions of the Constitutional Court, in which it is established that the law may prescribe restrictions of this right only if they are justified, admissible, not excessive and commensurate with the interests set out in the first paragraph of article 23 of the Constitution. Deprivation of the right to travel abroad is inadmissible.

293. The relative nature of the right to travel abroad is confirmed by article 3 (3) of the Act on the Procedure for Citizens of Belarus to Leave and to Enter Belarus, No. 49-3 of 20 September 2009, which stipulates that the right of citizens to travel abroad may be temporarily restricted in accordance with the Act and other legislative acts.

294. In Belarus, citizens are registered at their place of residence and place of stay within the country.

295. Pursuant to Presidential Decree No. 413 of 7 September 2007 on the enhancement of the system for the registration of citizens at their places of residence and places of stay, the *propiska* (address registration) system was abolished as from 1 January 2008 to facilitate the exercise by citizens of their right to move freely within the country and their right to select their place of residence, as enshrined in article 30 of the Constitution.

296. Administrative measures were taken repeatedly (on 21 occasions) against Ms. E.B. Tonkacheva, a citizen of the Russian Federation, during her stay in Belarus.

297. In 2009, the Pervomaisky district internal affairs office in Minsk considered the matter of Ms. Tonkacheva's continued stay in the territory of Belarus in view of the administrative measures repeatedly taken against her. On 26 May 2009, it was decided that

it would be inexpedient to revoke Ms. Tonkacheva's permission to reside permanently in Belarus. Her attention was drawn to the need to comply with the legislation of Belarus. However, Ms. Tonkacheva did not heed this explanation and continued to commit administrative offences.

298. On 29 October 2014, the Pervomaisky district internal affairs office in Minsk revoked Ms. Tonkacheva's permanent residence permit on the grounds specified in articles 57 (1) (2) and 30 (1) (5) of the Act on the Legal Status of Foreign Nationals and Stateless Persons in Belarus (administrative measures taken against a foreign national on five or more occasions in a single calendar year with insufficient time having passed for their expungement). On 5 November 2014, an expulsion decision was issued, and Ms. Tonkacheva was ordered to leave Belarus voluntarily and not to return for three years, or before 21 February 2018. The decision was taken in the interests of public order.

299. The decision to expel Ms. Tonkacheva was appealed to the Central Internal Affairs Department of the Minsk City Executive Committee, the Pervomaisky district court in Minsk and the Minsk city court. The appeal was dismissed, which confirms the legality and validity of the decision.

300. Under the legislation in force, a foreign national expelled from Belarus may be denied entry to the country for between 6 months and 10 years.

301. On the subject of the right to freedom of movement, it should be noted that Belarus has gone further than many other countries, as shown in particular by Presidential Decree No. 8 of 9 January 2017 on the establishment of a visa-free regime for the entry into and exit from Belarus of foreign nationals. This Decree establishes a visa-free regime for entry into and exit from Belarus at the Minsk National Airport State border crossing point and for temporary stay in the territory of Belarus for a period of no longer than five days from the date of entry for citizens with valid identity documents from 79 States and the Sovereign Order of Malta.

## **Right to privacy and family life (art. 17)**

### **Information in response to question 26**

302. The Information, Information Systems and Data Protection Act of 10 November 2008 is the main law governing personal data and the protection thereof. Information relating to private life and personal data are included in the category of information the dissemination and disclosure of which are restricted (art. 17). The Act establishes the procedure for collecting, processing and storing such information. Thus, no one has the right to demand that an individual disclose information about his or her private life or personal data or otherwise to obtain such information against the will of the person concerned, except as provided in the legislation of Belarus.

303. Where personal data have been obtained in violation of the requirements of the Act or other legislation of Belarus, they may not be used.

304. The right to privacy and family life is protected in the following articles of the Criminal Code, among others:

- Article 177: Breach of the confidentiality of adoption
- Article 178: Breach of medical confidentiality
- Article 179: Unlawful collection or dissemination of information relating to private life
- Article 203: Breach of the confidentiality of correspondence, telephone conversations, telegraph or other communications
- Article 349: Unauthorized access to digital information
- Article 352: Unlawful possession of digital information



- Article 376: Unlawful production, acquisition or sale of covert surveillance equipment
- Article 407: Disclosure of data relating to an initial inquiry, pretrial investigation or closed court hearing
- Article 408: Deliberate disclosure of information on security measures taken in respect of parties to criminal proceedings

The deliberate disclosure of data relating to a preliminary investigation or closed court hearing by officials of the court or of State prosecution bodies is an aggravating factor under article 424 of the Code.

305. The Code of Criminal Procedure provides for the seizure, examination and confiscation of postal, telegraphic and other correspondence (art. 213) and the wiretapping and recording of conversations (art. 214). These procedural acts are carried out only with the authorization of a procurator or on the decision of the Chair of the Investigative Committee of Belarus or the head of the State Security Agency. Furthermore, the wiretapping and recording of conversations are carried out only in criminal cases involving serious or especially serious offences.

306. Pursuant to the Act of 5 January 2016 amending certain codes of Belarus, amendments were made to article 103 of the Code of Criminal Procedure requiring requests by criminal prosecution bodies for the provision of information or documents containing State secrets or other secrets protected by law to be authorized by a procurator.

307. In addition, the Police Operations Act of 15 July 2015 provides for surveillance measures such as monitoring of electronic communication networks (art. 31) and monitoring of postal correspondence (art. 32), which may be carried out with the authorization of a procurator or procurator's deputy (art. 19).

308. Citizens who are or have been subject to these measures have the right to challenge the actions of the bodies conducting the related operations before the supervisory authorities of those bodies or before a procurator or judge, in accordance with the Act (art. 10, second para., third indent).

309. Under article 54 of the Electronic Communications Act of 19 July 2005, the confidentiality of telephone and other communications transmitted via the electronic communication network is guaranteed in Belarus. This right may be restricted only in the cases envisaged by law; under the law, covert surveillance measures are permitted only in the course of police work and other specific operations explicitly provided for in the Constitution and the country's laws and decrees.

310. Pursuant to Presidential Decree No. 71 of 16 February 2012 on the procedure for licensing activities involving designated goods, work and services, a list has been drawn up of covert surveillance methods, according to which the execution of work and the delivery of services in connection with covert wiretapping of telephone conversations are activities subject to licensing.

311. The Instructions on compiling and storing reports on websites visited by Internet users, approved by Ministry of Communication and Information Decision No. 6 of 18 February 2015, and the Regulations on cooperation between electronic communication operators and bodies conducting police operations, approved by Presidential Decree No. 129 of 3 March 2010, also contain such provisions.

312. The norms established in Presidential Decree No. 60 of 1 February 2010 and the provisions of the aforementioned Instructions are used to protect the lives and health of the public; to create a safe environment for the development of children and young people; to curb extremist activity, the illicit trade in weapons and narcotic drugs, the dissemination of pornographic material, the abetting of illegal migration and human trafficking, and the promotion of violence and cruelty; and to ensure the security of society and the State.

313. The use of surveillance equipment (SORM) is governed by the Regulations on cooperation between electronic communication operators and bodies conducting police operations, according to which surveillance of the electronic communication network and

the extraction and use of information contained in databases about subscribers, the services provided to them and the operators' digital systems may be carried out by the units authorized thereto provided that the requirements of the Police Operations Act, No. 307-3 of 15 July 2015, with regard to the grounds and conditions for conducting surveillance measures are met.

314. In accordance with Presidential Decree No. 60 of 1 February 2010, reports on Internet services provided to subscribers are supplied by Internet service providers, owners of Internet kiosks or persons authorized by them to do so at the request of bodies conducting police operations, procuratorial authorities and investigative agencies, the State Audit Committee, tax agencies and the courts, under the procedure prescribed by law.

## **Freedom of conscience and religious belief (arts. 2, 18 and 26)**

### **Information in response to question 27**

315. The Alternative Service Act was adopted on 4 June 2015 and entered into force on 1 July 2016. The Act regulates the realization of the constitutional right to perform alternative service.

316. Under article 3 of the Act, persons who are liable to conscription for fixed-term military service or service in the reserve and are healthy and physically fit to serve may be directed to perform alternative service if they have made a personal declaration that taking the military oath, bearing or using arms or participating directly in the production or servicing of arms, ammunition or military hardware would violate their religious beliefs to such an extent that they would be unable to perform military service.

317. Persons who are exempted from conscription by law and persons who have the right to defer fixed-term military service or service in the reserve are not directed to perform alternative service.

318. The length of alternative service for persons with no higher education is 36 months; for persons with higher education, it is 24 months.

319. The length of alternative service has been set at twice that of military service in order to prevent abuses and avoid an increase in the number of persons requesting the substitution of alternative service for fixed-term military service simply because they wish to perform a less arduous type of service.

### **Information in response to question 28**

320. Human and civil rights with regard to freedom of conscience and freedom of religion, along with the legal framework for the establishment and activities of religious organizations, are governed by the Freedom of Conscience and Religious Organizations Act, No. 2054-XII of 7 December 1992.

321. The Act is aimed at guaranteeing the right of everyone to freedom of conscience and freedom of religion, social justice, equality, protection of rights and interests irrespective of attitude to religion or religious affiliation, and freedom of association in religious organizations.

322. In accordance with the Act, religious organizations, communities and associations, monasteries and monastic communities, religious brotherhoods and sisterhoods, religious missions and religious educational establishments must be registered with the State.

323. On State registration, a religious organization acquires the status of a legal person. As legal persons, religious organizations enjoy the rights and assume the duties stipulated in the country's legislation and in their charters.

324. Believers of all religious faiths enjoy the same rights, but no one may refuse, on account of their religious convictions, to fulfil the duties incumbent on them under the law.

325. A total of 3,337 religious communities have been registered and are active in Belarus, representing 25 faiths and religious tendencies.

326. Most often it is adherents of the Protestant faith, namely evangelical Christians-Baptists, who refuse to register with the State. The position of the International Council of Churches of Evangelical Christians-Baptists is based on the rejection by the leadership of those communities of the legislation of Belarus on freedom of conscience and religious organizations. Most leaders and members of the Council consider State registration to be at odds with the principle of freedom of religion. The refusal of these communities to register with the State goes hand in hand with violations of a number of other legal norms: conduct of mass religious events in breach of the established procedure, dissemination of religious literature, extension of invitations to foreign clergy and missionaries who then operate in the country without any supervision, unauthorized construction of places of worship and so forth.

327. Under the legislation in force on freedom of conscience and religious organizations, adherents of all religious faiths enjoy the same rights and are equal before the law. The concept of “minority religious group” is not provided for.

328. As stated in article 25 of the Freedom of Conscience and Religious Organizations Act, acts of worship, religious rites, rituals and ceremonies may be freely conducted in religious premises, facilities and connected areas, in other sites made available to religious organizations for that purpose, in places of pilgrimage, and in cemeteries and crematoria. Acts of worship, religious rites, rituals and ceremonies, as well as other mass events primarily intended to meet religious needs, may be conducted in the open air or in premises not specifically designated for that purpose only on the decision of the head of the local executive and administrative body or his or her deputy, under the procedure established by law.

### **Freedom of expression, peaceful assembly, freedom of association and the right to participate in public life (arts. 19, 21, 22 and 25)**

#### **Information in response to question 29**

329. Under articles 33 and 34 of the Constitution, everyone is guaranteed freedom of opinion, belief and expression. No one may be compelled to express his or her beliefs or to renounce them. The monopolization of the media by the State, civil society associations or individual citizens is not permitted, nor is censorship. Citizens are guaranteed the right to receive, store and disseminate complete, reliable and timely information about the activities of government bodies and civil society associations, about political, economic, cultural and international life, and about the state of the environment.

330. Article 7 of the Media Act of 17 July 2008 prohibits the unlawful restriction of freedom of information in the form of:

- Censorship, that is, demands by officials, government bodies, political parties or other civil society associations, or any other legal person, to editorial staff of media outlets, news agencies or correspondents’ offices or to an editor, journalist or founder of a media outlet for prior approval of news reports and/or material, except in cases where this has been agreed to by the author or interviewer or where official news reports are being disseminated pursuant to articles 18 and 26 of the Act
- Interference with the professional independence of a legal person entrusted with editorial functions at a media outlet
- Suspension or termination of the publication of a media outlet in breach of the requirements of the Act and other legislation of Belarus
- Forcing of a journalist to disseminate or refrain from disseminating information
- Violation of the rights of a journalist as established in the Act and other legislation of Belarus
- Any other form of impediment of the lawful activities of the founder or editorial staff of a media outlet

331. As at 1 January 2017, 1,601 printed media publications and 273 electronic media outlets were registered in the State media register, of which the overwhelming majority were non-State media. Of the total number of printed media publications, 440 were State and 1,161 were non-State publications. Of the nine news agencies, two were State and seven were non-State agencies. Of the total number of television and radio broadcasters, 189 were State broadcasters (149 radio stations and 40 television channels) and 84 were non-State broadcasters (25 radio stations and 59 television channels).

332. The overall trend in the media market is positive, with 42 new printed media publications registered in 2016 (10 newspapers and 32 magazines) and 1 new electronic media outlet (a radio station).

333. A total of 1,405 distributors of printed matter, 510 publishers and 424 economic actors distributing printed media publications are registered in Belarus.

334. The Internet is one of the preferred channels for disseminating information. There are more than 10 million unique subscribers in the country. Belarus has reached thirty-first position in the global ICT Development Index of the International Telecommunication Union. In recent years, the country has climbed the rankings, moving from fifty-eighth position in 2008 to fiftieth in 2010, thirty-eighth in 2014 and thirty-sixth in 2015. The ICT Development Index consists of 11 indicators with respect to ICT (information and communication technology). They include ICT access (number of fixed-telephone and mobile-cellular telephone subscriptions and international Internet bandwidth), ICT use (number of active mobile-broadband subscriptions) and ICT skills among a country's inhabitants.

335. Amendments to the Media Act, No. 427-3 of 17 July 2008, entered into force on 1 January 2015. One of the key innovations was the extension of the Act's norms to cover websites operating as media outlets. It should be noted that authorization for such websites, including State registration, is not required.

336. Article 51-1 of the Act provides for the restriction of access to media products distributed via a website on the decision of a central body of the State administration with responsibility for the media in the event that:

- The owner of the website is issued with two or more warnings within one year
- The website is used to distribute news reports and/or material the dissemination of which is prohibited or restricted under the legislation of Belarus or pursuant to an enforceable court decision
- The owner of the website fails to fulfil a lawful request by a government body to eliminate violations of the country's legislation on the media

337. Access to Belarusian news sites has been restricted in a relatively small number of cases. During the entire period for which the Media Act has been in force, the Ministry of Information has taken the decision to restrict access to 49 websites. The majority were blocked for propagating information about the circulation of narcotic drugs (26), promoting extremist activity (11) or child pornography, advertising alcohol and so forth.

338. In 2015, 285 representatives of foreign media organizations were accredited with the Ministry of Foreign Affairs in Belarus. This number represented an increase of 37 per cent compared with 2014. A total of 1,586 journalists received temporary accreditation (22 per cent more than in the previous year). All necessary conditions were put in place for foreign journalists to work unimpeded during a range of important events, including the presidential and parliamentary elections held in 2015–2016, the Normandy Four talks on the situation in Ukraine and the meetings of the Trilateral Contact Group for a peaceful resolution in eastern Ukraine.

339. The legislation of Belarus provides for criminal liability for harassing members of the public on account of criticisms they have made (art. 197) and for impeding the lawful professional activities of a journalist (art. 198).

340. Thus, the infringement by officials of the rights, freedoms and lawful interests of members of the public on account of proposals, statements or complaints addressed by such

persons to government bodies or civil society associations or on account of criticisms contained in such communications or expressed in any other form is punishable by a fine, forfeiture of the right to occupy certain positions or perform certain activities, punitive deduction of earnings for up to 2 years or restriction of liberty for up to 3 years. The same activities, if they cause significant harm to the rights, freedoms and lawful interests of members of the public, are punishable by restriction of liberty for up to 5 years or deprivation of liberty for up to 4 years with or without forfeiture of the right to occupy certain positions or perform certain activities.

341. Impeding in any way the lawful professional activities of a journalist or forcing a journalist to disseminate or refrain from disseminating information, when carried out with the threat or use of force, destruction of or damage to property or the infringement of the journalist's rights and lawful interests, is punishable by a fine, forfeiture of the right to occupy certain positions or perform certain activities, restriction of liberty for up to 3 years or deprivation of liberty for the same period.

342. In Belarus, liability is established for defamation. In most cases, those who disseminate information about another person that they know to be false and defamatory are subject to administrative penalties (Code of Administrative Offences, art. 9.2).

343. There are also criminal penalties for defamation (Criminal Code, art. 188). The dissemination of information about another person that is known to be false and defamatory within one year of the imposition of an administrative penalty for defamation or insult is punishable by community service, a fine, punitive deduction of earnings for up to 1 year, short-term rigorous imprisonment or restriction of liberty for up to 2 years.

344. Defamation contained in a public statement, in a printed or publicly performed work, in the media or in information posted online, or accompanied by accusations of the commission of a serious or especially serious offence, is punishable by a fine, punitive deduction of earnings for up to 2 years, short-term rigorous imprisonment or restriction of liberty for up to 3 years.

345. Other countries, including Denmark, Germany, Spain and the United States of America, have legislation stipulating criminal penalties for defamation.

346. The criminal law establishes liability for defamation of the President of Belarus (Criminal Code, art. 367) or discrediting the Republic (Criminal Code, art. 369-1).

347. The above-mentioned legislative mechanisms for State regulation, which encompass a number of restrictions, are proportionate and necessary in any democratic society since, in addition to ensuring the rights of citizens to receive complete and reliable information, the authorities are called on to react appropriately to current challenges and threats in the information sphere with a view to neutralizing them.

### **Information in response to question 30**

348. Article 21 of the Covenant states that no restrictions may be placed on the exercise of the right of peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

349. Under the Constitution, the freedom to hold assemblies, rallies, marches and demonstrations and to engage in picketing is guaranteed by the State provided that this does not disturb law and order or violate the rights of others.

350. The restriction of individual rights and freedoms is permitted only in the cases specified by law, in the interests of national security or public order or the protection of public morals or health or of the rights and freedoms of others.

351. The procedure for holding assemblies, rallies, demonstrations and other public events is defined in the Public Events Act of 30 December 1997. The Act makes the holding of public events subject to authorization (another procedure has been established for the organization of electoral events by individuals participating in election campaigns).

The Act is also intended to ensure public safety and order when such events are conducted in streets, squares and other public spaces.

352. The head of the local executive and administrative body or his or her deputy is obliged to consider applications to hold public events and to communicate his or her decision to the organizer(s) in writing within the specified time frame.

353. In the majority of cases, such applications are approved. For example, in 2015, the Minsk City Executive Committee received 857 applications to conduct 15,838 public events in Minsk, of which 15,672 (99 per cent) were approved; in 2016, it received 566 applications to conduct 9,398 public events, of which 9,273 (99 per cent) were approved.

354. When a public event takes place, the participants must respect the requirements of public order and carry out all lawful demands made by the organizers of the event, internal affairs officers or civil society representatives tasked with protecting public order.

355. Persons who violate the established procedure for organizing and/or holding public events are held liable under the legislation of Belarus (Code of Administrative Offences, art. 23.34, and Criminal Code, art. 369<sup>3</sup>). Reports concerning offences under article 23.34 of the Code of Administrative Offences may be drawn up by internal affairs officers authorized thereto, while cases relating to such offences are considered by the courts. Article 23.34 provides for such administrative penalties as warnings, fines or administrative detention.

356. Amendments to the Elections Code entered into force on 19 January 2010. One of the main innovations was that the procedure for the conduct of public campaign events by presidential and parliamentary candidates and persons acting for them was significantly simplified. Under article 45<sup>1</sup> of the Code, such events may be held, subject to notification, in places designated for that purpose by local executive and administrative bodies in agreement with the election commissions concerned.

357. During the 2016 parliamentary elections, in accordance with a recommendation of the Central Commission on Elections and National Referendums, local executive and administrative bodies specified that all places suited to the purpose would constitute places designated for the holding of public campaign events, with the exception of certain locations in which the conduct of public events was prohibited by law. In its final report on the 2016 parliamentary elections in Belarus, the Organization for Security and Cooperation in Europe (OSCE) election observation mission mentioned this practice as a positive one.

### **Information in response to question 31**

358. Based on the general principles of law, citizens carrying out activities that they deem to be in defence of human rights enjoy the same rights to State protection and support as other citizens; there is no separate legal definition of the term “human rights activist” in Belarusian legislation, nor any specific legal status.

359. In the event that their activities are unlawful (that is, when they constitute an offence or crime), such persons are held liable in conformity with national legislation.

360. According to information from the competent authorities, including the Office of the Procurator General and the Investigative Committee, no statements or reports have been received regarding violations of freedom of assembly, repressive measures by law enforcement officers, excessive use of force, arbitrary arrests or detentions, or the imposition of harsh fines or administrative detention on journalists and opposition and human rights activists for exercising their right to freedom of assembly, including in the run-up to the World Ice Hockey Championship in May 2014.

### **Information in response to question 32**

361. The Constitution grants everyone the right to freedom of association.

362. Belarus, as a modern State governed by the rule of law, enables the establishment of various civil society associations. As at 1 January 2017, 15 political parties (1,145 branches) and 2,731 civil society associations (42,094 branches) were registered in the Republic. In 2016, 116 new civil society associations and 16 foundations were registered. Compared with 2015, the total number of registered civil society associations increased by 2.5 per cent.

There was also an increase in the number of registered branches of political parties and civil society associations.

363. The Act amending certain legislation on the activities of political parties and other civil society associations entered into force in February 2014. This law simplified the requirements with regard to the establishment of civil society associations. In particular, the amendments reduced the numerical requirements regarding the representation of the provinces and the city of Minsk among the founders of such associations. In addition, the Act contains provisions simplifying the procedures for State registration of changes to the charters of civil society associations and political parties, for their disbanding and for the registration of their branches.

364. There are no provisions in Belarusian legislation that impede the submission of registration documents by a civil society association whose application for State registration has previously been rejected. Article 15 of the Act contains provisions stipulating that denial of State registration may not constitute an obstacle to the resubmission of the necessary documents, provided that the violations that caused the application to be rejected have been addressed.

365. Once such violations have been addressed and shortcomings remedied, the founders have the right to resubmit the documents to the registration body with a view to the registration of their civil society association by the State.

366. A civil society association may be refused State registration only on the grounds specified in the Act.

367. The restrictions on the establishment and activities of civil society associations are set out in article 7 of the Civil Society Associations Act, No. 3254-XII of 4 October 1994. It prohibits the establishment and activities of civil society associations or alliances the objectives of which are to engage in propaganda for war or incitement of extremism; the activities of unregistered civil society associations or alliances; and activities of civil society associations or alliances to promote the granting by foreign States to Belarusian nationals of privileges and advantages in connection with their political or religious views or ethnic affiliation, in violation of the law.

368. Article 193 of the Criminal Code makes it an offence to organize or lead a civil society association or religious organization that infringes on the person, rights or duties of citizens. Under article 193-1 of the Code, it is an offence to organize or participate in the activities of a political party or other civil society association or a religious organization or foundation that is the subject of a final decision by an authorized State body to disband it or suspend its activities, or to organize or participate in the activities of a political party or other civil society association or a religious organization or foundation that has not been registered with the State under the established procedure. However, this article contains a note providing for the exemption from liability of persons who voluntarily cease such actions and inform the State authorities thereof. Moreover, the criminal law also makes it an offence to impede the lawful activities of civil society associations (Criminal Code, art. 194) and religious organizations (Criminal Code, art. 195).

369. Between 2011 and 2016, there were no prosecutions under article 193-1 of the Criminal Code.

370. On 5 May 2013, the Ministry of Justice was obliged to reject the application for State registration submitted by the Lambda Human Rights Centre, a nationwide youth association. The application was rejected on the grounds that the founders had violated the procedure for the association's establishment by failing to comply with the requisite conditions. Furthermore, the association's charter did not provide for activities aimed at the socialization and all-round development of young people.

371. The founders of the civil society organization Viasna have not attempted to register the organization for almost eight years (since May 2009). The documents received in connection with previous applications for State registration did not comply with the legal requirements, and the registration body therefore declined to register the organization. Given that this organization was not registered with the Ministry of Justice as a civil society association, political party or legal person of any other institutional or legal type and that it

was not listed in the Consolidated State Register of legal persons and individual entrepreneurs, the Office of the Procurator General, in February 2011, issued an official warning to Mr. A.V. Belyatsky, who had positioned himself as the leader of Viasna, about the inadmissibility of violating the legislation in force.

372. Civil society associations have the right to receive foreign donations, including financial resources.

373. At the same time, the law defines purposes to which such donations may not be put. Thus, it is prohibited to receive foreign donations to pursue certain goals of an essentially political nature, that is, to finance the preparations for or conduct of elections or referendums, the recall of deputies or members of the Council of the Republic, the upper house of the National Assembly, the organization or conduct of assemblies, rallies, marches, demonstrations, picketing or strikes, the production or distribution of campaign material, the holding of seminars and other forms of political or public campaigning. Under article 369<sup>2</sup> of the Criminal Code, it is also prohibited to receive foreign donations to finance political parties or alliances (associations) of political parties.

374. These restrictions are intended to prevent the Republic from being tied to policies that are not in the national interest and to avoid interference from outside in the country's internal governmental processes.

375. The Regulations on the procedure for receiving, recording, registering and using foreign donations, for the oversight of their receipt and targeted use and for the registration of humanitarian programmes, approved by Presidential Decree No. 5 of 31 August 2015 on foreign donations, entered into force on 4 March 2016. This legislative act expands the list of purposes to which foreign donations may be put and allows the registration requirements for goods received as foreign aid to be waived.

376. In Belarus, issues relating to the legal regulation of the activities of trade unions are kept under constant close scrutiny and review.

377. Pursuant to Presidential Decree No. 4 of 2 June 2015 amending Presidential Decree No. 2 of 26 January 1999 on certain measures to regulate the activities of political parties, trade unions and other civil society associations, adjustments were made to the latter decree. The amendments eliminated the provision requiring a quorum of at least 10 per cent of all workers in an enterprise or students in an institution or organization in order for a trade union to be formed or operate in an enterprise, institution, organization or other place of work or study. The norm requiring such a trade union to have at least 10 founders (members) remained in place.

378. The amendments have created more favourable conditions for the formation and operation of trade unions in enterprises, institutions, organizations and other places of work or study. They will facilitate the fuller realization in Belarus of workers' right to associate in trade unions and seek the protection of their social and employment rights and interests.

379. Reports of the intimidation of trade union leaders and members, including allegations of beatings, arrest and detention, have no bearing in fact.

380. As at 1 January 2017, 31 trade unions were registered in Belarus. There has been an increase in the number of trade union organizations or branches. Over the past five years, the number of branches has risen by 332, to 23,303, bringing together more than 4 million members.

### **Information in response to question 33**

381. Comprehensive information on the 2010 elections, including on the unlawful actions of a number of former candidates for President and of other persons, has been submitted by Belarus to the Human Rights Council (see documents A/HRC/17/G/4, A/HRC/18/G/7, A/HRC/20/G/8\* and A/HRC/21/G/1\*) and the special procedures, as part of the universal periodic review process and to the Human Rights Committee in connection with the consideration of individual complaints.

382. The Elections Code (arts. 73 and 74) guarantees equal rights for all candidates in elections, including the right to appear on and be published in State-owned media.



383. Article 46 of the Code enshrines the duty of State-owned media to ensure that candidates have equal opportunities to appear in campaign spots and publish campaign materials and prohibits them from giving preference to individual candidates. The provisions of this article establish the same limits for all candidates with regard to the publication free of charge of manifesto documents, as well as the order in which such material is to be published in the printed State-owned media.

384. The decisions of the Central Commission on Elections and National Referendums, which define the procedure for the use of the media during every election, provide for candidates to be granted strictly equal airtime for appearances on radio and television and for lots to be drawn to determine the running order, as well as explaining the duty of all media outlets to allow candidates to publish campaign material and appear in campaign spots paid for with their own campaign funds, on the same contractual basis.

385. There are no obstacles to the use of Web-based media in election campaigns and they are used actively by candidates.

386. The broadcast of campaign spots and publication of campaign materials may be refused only in exceptional cases, where candidates have committed gross violations of the law prohibiting the dissemination of harmful information (that is, information inciting enmity or discrimination in society, promoting violence or narcotic drugs, or containing insulting or defamatory material and so forth).

387. There is no provision in criminal law for liability for calls to boycott elections. However, such actions may constitute an offence when accompanied by other acts that are unlawful: mass disorder (Criminal Code, art. 293); organization of or active participation in a gross breach of the peace by a group of persons (Criminal Code, art. 342); and incitement to commit acts intended to harm the national security of Belarus (Criminal Code, art. 361), among others. Impeding the exercise of electoral rights, the right to participate in referendums or citizens' right to initiate legislation and obstructing the work of the Central Commission on Elections and National Referendums, election commissions, referendum commissions or commissions organizing votes on the recall of deputies also constitute offences under the Criminal Code (art. 191).

388. On 27 January 2016, the OSCE Office for Democratic Institutions and Human Rights published the final report of the election observation mission on the 2015 presidential elections in Belarus. In addition to making comments and recommendations, the Office noted a range of positive aspects:

- The open and unrestricted invitation extended to the International Election Observation Mission institutions
- The engagement by the authorities and the welcoming attitude exhibited by the Central Election Commission
- The fact that the campaign and election day were peaceful
- The prolonging of the period for the collection and use of campaign funds

389. The granting of free access to State-owned media on an equal basis and in an uncensored format was also welcomed.

390. The observer mission of the Commonwealth of Independent States (CIS) noted the following in a statement on its findings with regard to the preparation and conduct of the presidential elections held in Belarus on 11 October 2015:

- The country's legislation corresponds to the universally recognized norms of international law regarding the organization and conduct of elections and provides an adequate legal framework for holding free and democratic elections
- Equal conditions were established for the candidates with regard to campaigning, and their right to appear in the media was upheld
- When candidates for President requested additional time for campaigning, they were able to purchase airtime and space in the printed media with their own campaign funds

- The State-owned media printed interviews with the candidates for President and reports on the activities of their campaign headquarters and staff
- The measures taken by the election organizers ensured that campaigning took place in a free atmosphere and allowed the participants to set out their political views and positions openly and to familiarize voters with their manifestos, and the campaign was peaceful, organized and civilized

391. On 8 December 2016, the OSCE Office for Democratic Institutions and Human Rights published the final report of the election observation mission on the 2016 elections to the House of Representatives. In addition to making comments and recommendations, the Office noted the following aspects:

- The timely invitation extended to international observers
- The Belarusian authorities' welcoming attitude towards them
- The overall increase in the number of both nominated and registered candidates, including from the opposition
- The presence of alternative candidates in all constituencies
- The fact that candidates were able to campaign freely within the limits prescribed by law
- The more permissive approach to the designation of public spaces for campaigning
- Women's increased representation on election commissions and among elected representatives
- The compliance by election commissions at all levels with the time frames established by law for the election campaign
- The establishment of the Inter-Agency Expert Working Group to consider prior recommendations of the OSCE Office for Democratic Institutions and Human Rights and the adoption by the Central Election Commission, on the basis of the Group's work, of a number of resolutions addressing technical aspects of the process

392. The CIS observer mission, in a statement on its findings with regard to the preparation and conduct of the elections to the sixth House of Representatives, stated *inter alia* that:

- The election commissions in the constituencies organized the drawing of lots by registered candidates and each candidate was given airtime for appearances on television and radio
- Time was also allocated for televised debates involving the candidates
- Equal conditions were established for the candidates with regard to campaigning, and their right to appear in the media was upheld

393. Pursuant to Council of Ministers Decision No. 707 of 31 May 2002, the Commission on Opinion Polls was established under the National Academy of Science to regulate the conduct of sociological surveys concerning national referendums, presidential and parliamentary elections and the sociopolitical situation in the country, to increase the scientific reliability of such polls and to ensure the objective analysis of public opinion, as well as to publish the results of opinion polls.

394. The Commission consists of 15 leading experts in the field, along with representatives of the Central Commission on Elections and National Referendums, the Ministry of Information, the Ministry of Justice and the Belarusian Polling Association. The composition of the Commission is approved by the board of the National Academy of Science on the recommendation of the president of the Commission, taking into account proposals made by polling organizations and the aforementioned government bodies.

395. The Commission is guided in its work by the legislation and international treaties of Belarus.

396. Each year, the Commission has accredited a certain number of polling organizations, as follows:

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<i>Year</i>	<i>2005</i>	<i>2006</i>	<i>2008</i>	<i>2010</i>	<i>2012</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Number of organizations	2	3	8	9	4	4	2	4

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