

**Resolution of the OSCE Parallel Civil Society Forum  
on the eve of the 26<sup>th</sup> annual session of the OSCE Parliamentary Assembly**

**Minsk, Belarus  
4 July 2017**

We, participants of the OSCE Parallel Civil Society Forum in Minsk<sup>1</sup>, representing civil society organisations from across the OSCE region, both east and west of Vienna, have gathered on the eve of the 26<sup>th</sup> annual session of the OSCE Parliamentary Assembly to discuss challenges to the implementation of the Helsinki principles and the OSCE commitments and strategies of the international community to address them.

We have adopted this resolution, addressing members of the OSCE Parliamentary Assembly, OSCE participating States, and representatives of the OSCE political bodies and institutions with our analysis and conclusions. As civil society actors, we express our commitment to continue our active engagement in the fulfilment of the comprehensive security concept in the spirit of the Helsinki Principles and our determination to fight for full realisation of respect for human rights and fundamental freedoms, democracy and the rule of law throughout the OSCE region.

We believe that the OSCE Parliamentary Assembly and parliaments of OSCE participating States have a key role in ensuring the implementation of OSCE commitments and strengthening the Helsinki principles. The state of implementation of the Helsinki principles is very problematic, and we call on all actors involved to redouble their efforts to salvage the comprehensive security architecture of the OSCE region.

This resolution pays particular attention to the situation in Belarus, the host country of this session of the OSCE Parliamentary Assembly, with a number of specific recommendations. Great improvements are possible in the implementation by Belarus of a large number of OSCE commitments and its cooperation with OSCE mechanisms and procedures, and we ask your special attention for these issues.

**SITUATION ACROSS THE OSCE REGION**

Developments from 2014 to date have led to **the worst situation regarding the military-political and human dimensions of the comprehensive security in the OSCE region** since the signing of the Helsinki Accord. In addition to the crisis in Europe triggered by the annexation of Crimea by the Russian Federation, and the devastating war in eastern Ukraine, we witness increasingly restrictive trends in government approaches to civil society and human rights, both in the East and the West, under the pretext of combating terrorism and violent extremism and addressing the “refugee crisis”; the growth of populism, isolationism, and nationalism, resulting in the undermining of the rule of law, democratic institutions, and international cooperation; international corruption weakening inter-governmental organisations, and the undermining of freedoms of expression and information caused by the increasing spread of disinformation, propaganda, hate speech, and internet censorship. Many newly adopted laws in various countries across the OSCE region violate internationally recognised human rights standards; and often the people least able to defend their rights are those most likely to suffer abuses. In the face of the threat of shredding the OSCE human

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<sup>1</sup> The OSCE Parallel Civil Society Forum in Minsk on 4 July 2017 has been organised jointly by leading Belarusian NGOs (Human Rights Center Viasna, Belarusian Helsinki Committee, Assembly of Pro-Democratic NGOs, Belarusian Association of Journalists, Legal Transformation Center, and The Barys Zvozkau Belarusian Human Rights House) and the Civic Solidarity Platform, an OSCE-wide NGO coalition with almost 90 members from more than 30 OSCE participating States.

dimension in favour of what some refer to as “*hard security*” it is essential, now more than ever, to confront these problems in the OSCE region and on the global level on the basis of the Helsinki concept of comprehensive security.

The continued security and human rights crisis in the OSCE region in the context of the **war in eastern Ukraine and the occupation of Crimea** has remained our priority concern. This, the worst breach of the Helsinki Final Act principles in the history of the OSCE, was not effectively reversed in 2016-2017 and continues to strongly undermine international security and cooperation, the three dimensions of the OSCE, and the very ability of the organisation to function.

**Crimea** remains de-facto under the control of the Russian Federation, in violation of Ukraine's sovereignty and territorial integrity and in direct violation of the Helsinki Final Act principles. Monitoring of the human rights situation in Crimea by civic activists shows that the situation on the peninsula has deteriorated further in 2016-2017. Gross violations of human rights include arbitrary detention, abductions, torture, enforced disappearances, murder, the forceful relocation of detained persons to Russia and their politically-motivated prosecution, abuse of counter-extremism and counter-terrorism legislation as well as violations of freedoms of peaceful assembly, expression, and association, particularly targeting members of the Crimean Tatar community and individuals who hold pro-Ukrainian views. Russia has not implemented a single recommendation from the July 2015 report of the OSCE Human Rights Assessment Mission on Crimea by the OSCE ODIHR and the OSCE High Commissioner on National Minorities. Lack of access by the OSCE and other inter-governmental organisations to monitor the situation on the ground further exacerbates the situation in Crimea.

The ongoing devastating conflict in the **Donbas region** in the East of Ukraine poses great challenges to Ukraine, Russia, and the entire OSCE region. Civilians living close to the “contact line” continue to suffer from military violence and daily shelling, in breach of the core provisions of the Minsk Agreements. Since the beginning of the armed conflict, eastern Ukraine has seen over 10,000 people killed, some 23,000 people injured, around two million people forced to flee their homes, and regional infrastructure badly damaged. Monitoring by local and international NGOs shows that all sides of the conflict are engaged in arbitrary detentions, incommunicado and secret detention of civilians, torture of prisoners, enforced disappearances, extrajudicial executions, intentional attacks against civilians and civilian objects, including medical facilities, the use of civilian facilities and means of transport for military purposes, deliberate killing of civilians and non-active combatants, denial of fair trial rights, etc. The magnitude of violations and crimes committed by the separatist forces backed by Russia far exceeds those perpetrated by the Ukrainian side. In Donetsk and Luhansk regions, which are currently outside Ukrainian government control, human rights protection is non-existent due to the lack of access to justice both on national and international levels. Access to the conflict zone for international humanitarian organisations remains severely limited. As emphasized in the PACE resolution 2133 of 12 October 2016, the Russian Federation is responsible under international law for human rights violations in these areas as it effectively controls the armed groups there. It is imperative to conduct full and thorough investigations into all allegations of war crimes and crimes against humanity perpetrated in eastern Ukraine and to bring those responsible to justice before an independent and impartial tribunal.

Bringing perpetrators to justice and restoring justice to tens of thousands of victims and their families is a key step in the peace process. A stable ceasefire is an essential condition for the successful implementation of the Minsk Agreements and the restoration of trust between OSCE participating States. The restoration of security is impossible, however, without the complete restoration of Ukrainian control over its borders and monitoring of all border-crossing points by the OSCE Special Monitoring Mission. Protection of fundamental civil and political rights is an essential precondition for holding free and fair local elections. The possibility

for free expression of choice requires the unimpeded participation of Ukrainian parties throughout the election process, open and free coverage by Ukrainian media in the region before and during the elections, and guarantees that displaced persons will be able to fully participate in the elections. The direct and active participation of civil society organisations in the monitoring and reconciliation processes would strongly contribute to ending the crisis and to the establishment of stable peace and justice.

The year 2016 and the first half of 2017 saw the **sharp rise of nationalist far-right movements and populist political forces** in Europe and the United States and an as yet unresolved “refugee crisis”, fostering an **increase in xenophobia, antisemitism, islamophobia, and discrimination**. The far-right do not uphold a single, unified political vision – not to mention policy programme – across these countries. Nevertheless, the main figures do share some common features, such as praise of national sovereignty, security and traditional values over individual rights; resorting to populist and simplistic rhetoric in defence against perceived “outsiders” such as refugees fleeing human rights abuse and war; blatantly discriminatory and xenophobic policies; and a general contempt for civil liberties and fundamental rights – especially those of minorities. The rise of populist parties with strong anti-migration messages deepens the existing gaps in societies as well as in international communities like the EU. Governments of some countries in Europe as well as the USA have made anti-refugee policies central to their agendas and refuse to cooperate with other states in sharing the burden of accepting and integrating refugees. Terrorist attacks in many places across the OSCE region have led to an increase in hate speech and hate crimes committed against migrants. Too many OSCE participating States lack an integration policy that unites societies. This poses a risk of the emergence of increasing numbers of isolated communities in the near future. The protection of the fundamental human rights of all individuals should be the main guiding principle in the response to the challenges engendered by the current movements of people through the OSCE region. This applies equally to people while they are on the move, arriving at and crossing borders, and to their reception in countries of arrival. In the context of growing influence of the far-right populist parties who channel societal discontent, our key recommendations centre on strengthening the fight against hate speech and hate crimes, and on the adoption of just and fair integration policies which will serve both migrants and the general public in the receiving countries.

The year 2016 has seen an unprecedented series of **anti-democratic constitutional changes** in countries across the OSCE region, leading to the undermining of democratic institutions, erosion of the rule of law, and weakening constitutional safeguards for fundamental rights and freedoms. The governments of several other OSCE participating States are also discussing plans to amend the constitutions of their countries in the near future. In some instances, when the lack of a parliamentary constitutional majority rendered it impossible to push for constitutional amendments, legislative measures were adopted which weakened the democratic institutions of the country to introduce anti-democratic changes in the political system. Regardless of whether this happened to the east or west of Vienna, such changes have usually been aimed at altering the system of checks and balances by weakening the role of Constitutional Courts or of parliamentary control over governments. In authoritarian countries such as Azerbaijan, Armenia, Tajikistan, Turkmenistan, and Kyrgyzstan, constitutional changes have been used to further consolidate power in the hands of the ruling families or groups, have strengthened the autocratic nature of the political system, altered the balance of powers in favour of the executive branch, weakened the independence of the judiciary, and failed to provide guarantees to fundamental rights and freedoms. In Central European countries with stronger democratic traditions which are currently witnessing an illiberal and populist backlash, amendments to key legislative provisions have been made to allow ruling parties to maintain their grip on power. In Hungary, the government seeks to amend the Fundamental Law to include a mention of “constitutional identity” in the hope that these magic words will isolate national policies from review by European courts. Poland has been in the midst of legal and social turmoil after the new government’s actions aimed at changing the composition and the rules of work of the Constitutional Court to allow the

authorities to pass laws without an independent review. The constitutional crisis has undermined the principle of separation of powers and negatively altered the system of checks and balances. In some instances such as in Turkey, failed coup attempts provided justification for sweeping anti-democratic legislative changes and the manipulation of constitutional provisions in the framework of a state of emergency, and were accompanied by unprecedented crackdowns on fundamental rights and freedoms. In all of the countries that undertook constitutional changes, judicial independence, the independent functioning of national human rights institutions, the freedom of the media, and civil society are under growing pressure, in striking contradiction to OSCE commitments and countries' UN obligations.

Furthermore, the growing threat of international terrorism in recent years has led several governments to adopt **tougher counterterrorism legislation**, marking a shift towards hard-line security at the expense of human rights. These counter-terror laws too often define terrorism offenses, actions, and responses in overly broad terms, leaving the door open to misinterpretation and misuse for the targeting of minorities and civil society. Some recent laws include serious restrictions on the rights to freedoms of expression, peaceful assembly and movement, which could lead to disproportionate or discretionary enforcement. This legislation often violates international human rights norms enshrined in the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Other legislation violates the privacy and security of individuals by expanding state surveillance powers, often by forcing private technology companies to become state agents, as has increasingly been the case in Russia, the U.S., and elsewhere. Crucially, the exceptional powers and temporary measures adopted in the wake of national tragedies risk becoming the "new normal", with long-lasting impacts on human rights and civil liberties – while it becomes more difficult for international organisations to reprimand states when standard-bearers like France now behave in the same way. The OSCE participating States should be vigilant in addressing this move to the "new normal" and should offer a framework for the state of emergency that balances the first and third OSCE dimension concerns involved.

The need to provide 'security' against terrorism provides an argument for some governments to pay less attention to **the fight against torture and ill-treatment**. In Central Asia, the use of torture by the law enforcement and prison authorities has endemic nature, particularly in Uzbekistan and Turkmenistan. A recent letter from a prisoner in Russia drew public attention to widespread use of torture in prisons and pre-trial detention centres. In Turkey, there have been numerous reports of cruel and inhuman treatment of detained individuals during the state of emergency. Russia, Azerbaijan and Turkey have ended publishing the Council of Europe's Committee for the Prevention of Torture reports about their countries. The government of the UK seems to be willing to loosen the prohibition on sending back aliens to countries where they are at risk of torture. There have also been several reports of ill-treatment of migrants in detention facilities across Europe. The new president of the USA has openly stated his contempt for the international prohibition of torture, has spoken out in favour of reinstating practices such as waterboarding – which was banned and considered torture under the previous administration – and against the closure of the Guantanamo Bay detention camp. Notwithstanding certain recent positive steps by the OSCE to focus its efforts on addressing the prevalence of torture across the whole region, much more needs to be done to eradicate this shameful crime.

To our dismay, two countries of the OSCE region still practice **capital punishment, an extreme form of denial of the right to life**. These are Belarus and the United States. In Belarus, death penalty is also a form of torture for the convict and his family. The lack of fair trial and swift implementation of the court decision on execution, in open disregard to review of these cases by the UN Human Rights Committee, makes correction of a possible judicial miscarriage impossible. In the U.S., execution in a number of reported cases is a torture-like procedure, and judicial miscarriages in the cases of death penalty verdict have been documented. Heinous practice of government killing its own citizens is a challenge to the very concept of

human rights. We call on both states to immediately stop this cruel practice and abolish it legally. We also express our strongest concern about recent instances of justification of capital punishment in the eyes of the public and calling for its reinstatement by high-level officials in some OSCE participating States.

In the most troubling way, the **space in which civil society** can act has shrunk significantly across the OSCE region, and threats to the security of human rights defenders have substantially increased. Russia's "foreign agent" law inspired countries across Central Asia and Eastern Europe, including Hungary and Poland, Azerbaijan and Kyrgyzstan, to enact or envisage similar legislation targeting the activity of NGOs critical of government policies and international civil society cooperation. NGOs and activists in Azerbaijan and Central Asia continue to face increased pressure from law enforcement officials, with reports of threats and violence against NGO members. Attacks against civil society activists are often not investigated properly and the perpetrators are not brought to justice. This creates an atmosphere of impunity and permissiveness for violence against civil society representatives, including by private actors from among self-proclaimed "patriotic", nationalistic, or religious groups of government supporters. There is a clear connection between the growing threat of terrorism and radicalisation, on the one hand, and restrictions placed on civil society in the framework of the fight against terrorism and extremism, on the other. Governments, both in the east and the west, mistakenly or purposefully use the fight against extremism to suppress criticism by civil society and refuse to recognise and support its role in combating radicalisation and violent extremism by reaching out to citizens and residents from minority groups. These negative developments across the OSCE region stand in sharp contrast to the adoption in 2014-2015 of the OSCE ODIHR Guidelines on the protection of human rights defenders and on freedom of association. Clearly, new ways of addressing the problem of shrinking space for civil society need to be found within the OSCE.

**Politically motivated persecution and lack of fair trial guarantees** is a systemic problem in many OSCE participating States where autocratic governments use the justice system to silence their critics and suppress dissent. Imprisonment of political opponents and activists, use of torture against them, and their enforced disappearances in prisons remain widespread in Central Asia, in particular in Turkmenistan. Opposition figures, anti-corruption activists, investigative journalists and youth activists continue to face threats of arrest and unfair trials across the region, with particularly large numbers of political prisoners documented in Turkey, Uzbekistan, Tajikistan, Turkmenistan, Russia, Azerbaijan, and Armenia, and a recurring trend of releasing and again incarcerating critics of the government prevalent in other countries such as Belarus.

**Freedom of peaceful assembly** has been increasingly restricted in many OSCE participating States, both in the east and the west, often under the pretext of counter-terrorism measures and in the name of protecting stability and public order. Recently adopted legislative changes and restrictions applied in Russia, Poland, Turkey, the U.S., and other countries clearly contradict international human rights norms and OSCE commitments and do not abide by the key principles of proportionality and necessity in a democratic society. Ungrounded restrictions and outright illegal refusals of applications to hold peaceful assemblies; preventive, arbitrary, and mass detention of protesters; brutal and disproportionate use of force against demonstrators; impunity for law enforcement officials who beat and torture participants of assemblies; lack of fair trial guarantees for the accused; charging activists with the "organisation of mass riots" and the imposition of long prison sentences, and blocking domestic and international civic monitoring of assemblies have been prevalent in recent crackdowns against freedom of peaceful assembly in Russia, Belarus, Armenia, Azerbaijan, Turkey, and other OSCE participating States, in a clear violation of OSCE commitments.

**Freedom of expression** has further regressed in many OSCE participating States, both east and west of Vienna. Journalists and other communicators are faced with numerous threats including killings, death threats, arbitrary arrest and imprisonment, torture, physical abuse, legal, administrative and financial

harassment, smear campaigns and intimidation. These measures do not only endanger the lives and violate the fundamental rights of journalists and other communicators, but also aim to suspend freedom of expression and suppress dialogue in the wider society. Particularly worrisome is the trend of mass repression of journalists and communicators during periods of emergency and the ever-growing dangers for journalists in conflict zones. States are not taking adequate steps to prevent, investigate, prosecute or punish the threats and abuses, and in too many cases are themselves complicit in the violence, censorship and persecution perpetrated against those who exercise their right to freedom of expression. Particularly worrisome are new steps by a number of States such as Russia, Azerbaijan, Turkey, Turkmenistan, Uzbekistan and others, to further restrict freedom of expression and access to information online by censoring and blocking internet sites, restricting access to social networks and messengers, introducing new legislative provisions to ban content and persecute bloggers, and forcing providers to disclose identities of users and content of their communication without proper legal grounds and judicial oversight.

**Disinformation** has also increased as a worrisome phenomenon and tool for abuse of freedom of expression as Russia has wielded power in Europe using media outlets to spread propaganda and falsehoods, especially about minority communities. This has been done in order to sow dissent in Europe and cause individuals to question facts and the policies of their governments, particularly where those policies are critical of the Russian government. In Central Asia, the repressive policies of the ruling regimes and the influence of Russian media have led to disinformation campaigns targeting human rights defenders, women activists and LGBT persons, tapping into Central Asian nationalist movements that advocate a return to what are termed traditional values, which include anti-foreigner sentiment, anti-LGBT policies, and restrictions of women's rights. The effects of such campaigns are exacerbated by the rejection of the primacy of international law. Hate speech is again on the rise in the Western Balkan countries. The dilemma of how to effectively combat **propaganda and hate speech** while protecting freedom of expression and access to information has emerged as one of the most challenging tasks facing the OSCE and the international community today.

**Manipulations and outright election fraud and suppression of political competition** have been an increasingly worrying phenomenon across the OSCE region, undermining the key OSCE commitment to ensure public participation in democratic governance through periodic free and fair elections. This trend undermines the legitimacy of governments and leads to radicalization of societies instead of stability, in the name of which the incumbents cling to power. The use of electoral manipulations to maintain power in undemocratic ways is increasingly accompanied by autocratic regimes undermining the ability of OSCE ODIHR, OSCE PA, and other international organisations to observe elections by openly challenging their conclusions and ignoring their recommendations. Domestic and international civil society observers are also denied the right to conduct monitoring and targeted for persecution and harassment. Moreover, we are particularly concerned by the new and growing phenomenon of **"fake election observation"** when authoritarian governments provide funding, often through proxies, for unofficial "monitoring missions" comprised of current and former members of national parliaments of democratic states and international parliamentary bodies, including PACE, OSCE PA, and the European Parliament, who come for a short-term visit, do not apply observation methodology based on to the UN and OSCE standards, produce no written reports, challenge the conclusions of OSCE observers, and loudly praise fraudulent elections as free and fair. These "fake election monitors" are hosted by presidents; their statements are widely reproduced in the official media and are used to confirm the legitimacy of the ruling regime in the public eye. This new trend is both an outright manifestation of international corruption and a challenge to the very idea of international monitoring of elections, undermining the key role of the OSCE as a provider of safeguards for free and fair elections.

We are extremely concerned by the increasing pressure on independent OSCE institutions, attempts to revise and weaken their mandates, challenge their activities as going beyond their mandates, and the refusal to provide adequate funding for their work. This negative trend includes systematic efforts of a number of states aimed at weakening the ability of OSCE to work on the ground, including downgrading full-fledged field missions to project offices with a limited mandate or their complete closure.

### **BELARUS: SIX YEARS SINCE THE PUBLICATION OF THE OSCE “MOSCOW MECHANISM” REPORT**

Six years have passed since the OSCE Rapporteur’s report on the human rights situation in Belarus (“the Moscow Mechanism report”) was presented to the OSCE Permanent Council.<sup>2</sup> The holding of the 26<sup>th</sup> annual session of the OSCE Parliamentary Assembly in Minsk and the Parallel Civil Society Forum in July 2017 provide a special opportunity to reflect on what has changed in Belarus in the six years since the release of the Moscow Mechanism report, and to discuss strategies to address current human rights problems in this country, using international instruments and mechanisms, including in the OSCE.

The Moscow Mechanism report contained thorough and objective analysis of the events in the evening of 19 December 2010, when the presidential elections were held, including the violent dispersal of a demonstration in Minsk and mass detentions, arrests, intimidation, torture, and the unfair trials of hundreds of protesters which took place in the months that followed. In the words of the OSCE Rapporteur who described the situation as a “crisis”, “the fact-finding mission indicates the seriousness, duration and scale of gross and systematic human rights violations” and “a system of social control, by fear and harassment, torture and blackmail, phone tapping, false evidences and forced confessions, with arbitrary and discriminatory measures and sanctions against persons and their families. Beneath some legal niceties, there is neither independent justice, nor rule of law.” The report presented detailed recommendations for the government of Belarus to address these mass violations, change domestic legislative and policy framework, and take action in the framework of international cooperation on human rights.

The release of the OSCE Moscow Mechanism report as well as of the OSCE ODIHR report on observation of trials in Minsk in spring 2011 laid the grounds for a broader international response to the repressions in Belarus, including the establishment of a mandate of the UN Special Rapporteur on the situation of human rights in Belarus in 2012, the adoption of annual resolutions of the UN Human Rights Council, activation of work of the Working Group on Belarus in the OSCE Parliamentary Assembly and of the Rapporteur on Belarus in PACE, as well as undertaking of a series of steps by the European Union, the USA, and a number of other countries, including the application of targeted restrictive measures such as travel bans and economic sanctions. Assessments by international human rights institutions of the human rights situation in Belarus from 2011-2017 have been precise and detailed and have provided sound and clear recommendations on the way forward.

However, the impact of these measures on the human rights situation in this country has been limited. On the one hand, the actions of the international community have been able to soften somewhat the most severe manifestations of the crackdown, including, first and foremost, release by September 2015 from prison of dozens of previously convicted opponents the government. For several years, there have been no new mass repressions in the country such as simultaneous arbitrary detentions, beatings, arrests, politically motivated trials and incarceration of dozens of people, at least at the same scale as in December 2010 and the first half of 2011. Space for the realisation of the right for freedom of peaceful assembly has expanded somewhat. Opposition candidates were able to conduct their election campaigns relatively unimpeded. Criminal prosecution for activities on behalf of unregistered NGOs has not been applied.

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<sup>2</sup> OSCE Rapporteur’s Report on Belarus. 28 May 2011. <http://www.osce.org/odihr/78705>

On the other hand, no former political prisoners have been exonerated as the international community has demanded; and the exercise of their basic rights remains restricted. Human rights violations occurring in December 2010 and the following months have not been investigated and no one has been held responsible. All the “old”, pre-2010 repressive laws remain in place, and a number of new ones have been adopted after 2010. No positive systemic changes in human rights have occurred in practice, and conditions for new politically motivated persecution remain in place. The presidential elections in 2015 and parliamentary elections in 2016 were as flawed, unfree, and unfair as all previous elections since 1996.

Because of the inconsistent application of existing leverages by the international community, Belarus has not implemented a single recommendation of the OSCE Moscow Mechanism report of 2011 and the UN Human Rights Council Resolution of 2011 adopted in response to the crackdown after the presidential elections of December 2010. The Belarusian authorities have also failed to implement the recommendations adopted later and addressing other human rights and rule of law issues that were included in the follow-up annual resolutions of the UN Human Rights Council in 2012-17, the reports of the UN Special Rapporteur on the Human Rights Situation in Belarus, the reports of rapporteurs and working groups on Belarus at PACE and the OSCE Parliamentary Assembly as well as the reports on election and trial observation by OSCE/ODIHR. Adoption of a series of repressive laws and the continuation of repressive practices negatively affects exercise of fundamental freedoms of expression, association, peaceful assembly and movement, access to justice, protection from arbitrary detention, freedom from torture, enforced disappearances and abductions, the right to life, security of human rights defenders, and free and fair elections, to name but a few. Pressure on civic activists, human rights defenders, participants of protests, including students, defense lawyers, independent journalists and bloggers. Expulsion from the country of human rights defender Elena Tonkacheva on trumped-up charges and the refusal to lift a ban on her returning to Belarus for the duration of three years is a particularly outrageous case. This is obviously aimed at prevention of her public activities.

As in the past, the government of Belarus does not fully cooperate with international human rights mechanisms on the most important and acute problems. Not only it does not recognize the mandate of the UN Special Rapporteur on the Human Rights Situation in Belarus; it demonstratively ignores and challenges resolutions of the UN Human Rights Council, does not implement the majority of recommendations by UN treaty bodies and refuses to implement their views on individual complaints. In the key issues, the situation has remained poor since 2011, having developed into a protracted human rights crisis where violations are of “systemic and systematic” character, in the words of the UN Special Rapporteur.

Nevertheless, despite the absence of tangible progress in human rights and conduct of free and fair elections in Belarus, in 2015-2016 western countries decided to lift restrictive measures against persons and entities complicit in violations, introduced in 2011-2012, and give “one more chance” to the government of Belarus by engaging in a new efforts for dialogue and economic cooperation. Among the main reasons for the recent turnaround in western policy regarding Belarus from a value-based approach based on primacy of human rights to a “pragmatic” one are, apparently, considerations caused by the new security threats in Europe after the annexation of Crimea by Russia and the beginning of the conflict in Eastern Ukraine.

As a result of the absence of systemic changes in human rights, the existence of political prisoners remains the main factor setting the framework of relations between the official Minsk and the international community. Apparently, political prisoners are used by the government of Belarus as a tool of trade. Every time after their release, Belarus receives trade expansion and financial support from the west as a “reward”, after which the authorities detain and convict a new group of opponents. And the cycle starts again, causing a sense of *déjà vu*.



Indeed, new political prisoners appeared in Belarus just months after the release in August 2015 of those remaining in prisons after the arrests in 2010-11. Today, two persons who were recognized by the Belarusian human rights community as political prisoners remain behind the bars: Michail Žamchužny i Dzmitry Polijenka, who were convicted in 2015 and 2016 respectively. Several others were arrested and released in 2015-2016.

In its pursuit of developing economic and political relations with the West, in the last two years the Belarusian government has started actively engaging in dialogue with the OSCE, the EU, and some UN treaty bodies. Responding to international demands to demonstrate real progress in human rights, in October 2016 the government adopted an inter-agency plan on human rights for the implementation of recommendations accepted during the second cycle of the Universal Periodic Review as well as recommendations from some UN treaty bodies, and in March 2017 submitted to the UN Human Rights Committee its fifth periodic report on the implementation of the International Covenant on Civil and Political Rights. However, this government plan was adopted with no input from independent civil society, and its implementation is non-transparent since no publication of progress reports is envisioned. Most importantly, the plan fails to address key concerns raised by the international community for years. If nothing changes in implementation of this plan, there will be no real progress in the country, and it will become clear that this is just an imitation.

Prevention of further repressions can only be achieved by abandoning repressive laws and practices limiting civil and political rights, the restoration of political pluralism and media freedoms and the genuine political will of the Belarusian government to fulfil its international obligations to protect human rights. None of the above are currently in place. Human rights defenders warned that the absence of systemic change in human rights in Belarus meant that future incidents of politically motivated persecution were only a matter of time.

Unfortunately, such predictions came true: a new massive wave of repressions started in March-April this year when mass detentions of peaceful demonstrators, journalists and human rights defenders took place in Minsk on 25-26 March 2017. Many of those arrested were subjected to violence and ill-treatment. The police forcefully dispersed the peaceful demonstration, detained more than 700 participants, and arrested almost 150 of them on administrative charges. These events were the culmination of a series of repressive measures taken by the Belarusian authorities since the beginning of March in an attempt to stifle the public expression of social grievances. In total, more than a thousand people were detained in spring 2017.

On the same day of 25 March, about an hour before the start of the planned peaceful protest, anti-riot police raided the offices of the Human Rights Center Viasna and detained a total of 57 Belarusian and foreign human rights defenders, volunteers, and journalists. They had gathered for a training on monitoring peaceful assemblies and were planning observe the demonstrations in Minsk. All of them were detained without charge, packed into buses and taken to a police station where they were held for two and a half hours before being released. The raid of the Viasna offices and the detention of the civic monitors were clearly aimed at intimidating them and preventing them from observing the event and documenting possible violations.

Before the demonstration, from 22 to 24 March, the Belarusian security services (KGB) detained more than 30 people on trumped-up charges of alleged preparation of mass riots and participation in an illegal armed group. On the eve of the OSCE PA session in Minsk in July 2017, all of the detainees were released and the criminal case on preparation of mass riots was dropped. Nevertheless, charges of organising an illegal armed group remain in force.

The large-scale detentions, police brutality, and politically motivated trials which have occurred over spring 2017 strikingly resemble the crackdown of December 2010 which led to the invocation of the OSCE Moscow Mechanism in 2011 and the establishment of the mandate of the UN Special Rapporteur in 2012. In the words of the UN Rapporteur, “Only some months after the government of Belarus had seemed to ease the curbs on dissent voices, the new wave of violent nationwide repression hit thousands who were peacefully protesting against an ill-designed social measure... Belarus returned to its practice of silencing those who make use of their basic civil rights.” The cycle seems to have completed a full circle.

## **Recommendations**

To end this spiral of lawlessness and systemic violations of human rights in Belarus, we make the following recommendations to OSCE PA, OSCE political bodies and institutions, OSCE participating States, and broader international community:

1. The international community must consistently advance demands on rule of law and human rights in Belarus. International scrutiny of the situation with human rights in Belarus should be maintained and regular monitoring should be conducted. International community should systematically assess the implementation by Belarus of its international obligations and of recommendations and resolutions adopted by international bodies such as the UN, OSCE and EU since the crackdown in 2010. The analysis and conclusions in these documents should serve as a legal framework and a basis for policies of the international community regarding Belarus. The existing monitoring mechanisms regarding the situation in Belarus of the UN, the OSCE and the Council of Europe should be extended and strengthened, including the OSCE PA Working Group on Belarus. The mandate of the UN Special Rapporteur on the situation with human rights in Belarus should be maintained and extended.
2. Given the similarities between recent developments in Belarus and those of 2010-2011, OSCE participating States should actively pursue a follow-up to the Moscow Mechanism report in relation to Belarus and consider appointing a new rapporteur for this process. The case should not be considered “closed” until considerable progress has been achieved by Belarus on the implementation of recommendations from the 2011 Moscow Mechanism report.
3. OSCE/ODIHR should monitor the trials of human rights defenders, journalists, those facing charges because of their participation in peaceful protests or their efforts to monitor and report on them.
4. The international community should use the results of the second cycle of Universal Periodic Review of Belarus in May 2015 to the maximum extent possible in its dialogue with Belarusian authorities, including in the process of mid-term evaluation in 2017.
5. Any programmes of international cooperation with and assistance to Belarus, such as EU economic modernisation programmes or EBRD and IMF financial assistance, should include strong human rights conditionality and involve civil society as a full-fledged participant.
6. Cooperation programmes by OSCE/ODIHR and other inter-governmental organisations should include activities addressing fundamental rights and freedoms rather than follow the “pick and choose” approach promoted by the government of Belarus which chooses relatively easy issues for cooperation.
7. The following minimum demands should be made to the government of Belarus:
  - ensure full exoneration of all former political prisoners and lift all restrictions imposed on them;
  - immediately and unconditionally release political prisoners Michail Žamčužny and Dzmitry Palijenka;

- close politically-motivated criminal cases against persons charged in March-April 2017 in connection with the protests and drop all charges against them;
- comply with the provisions of the UN Declaration on Human Rights Defenders and end all forms of their harassment, including preventive arbitrary detention and other means of pressure;
- implement decisions of the UN Human Rights Committee and other UN treaty bodies on individual complaints from Belarus;
- remove a ban on entry into the country imposed on the Belarusian human rights activist Elena Tonkacheva and ensure safe conditions for the return of persons who were forced to leave the country due to political persecution;
- repeal article 193.1 of the Criminal Code which imposes criminal sanctions for participating in unregistered NGOs, as well as a ban on the activity on behalf of unregistered NGOs; further amend the law “On public associations” and other legislation governing NGO activities with a view of ensuring that it does not unduly restrict freedom of association; register Viasna Human Rights Center and other NGOs who choose to apply for registration, and ensure in practice that domestic NGOs are able to register and function without undue interference;
- end repressions against independent journalists, including those who work with foreign media, and bloggers, refrain from interfering with their professional activity, repeal restrictive media and internet laws, stop the practice of blocking internet sites as a form of censorship;
- end repression against lawyers, reverse decisions to disbar lawyers for representing critics of the government, and repeal restrictive legislation on bar associations;
- reverse the expulsion of students from universities who have been expelled as a reprisal for their engagement in the civil society or political activities, and refrain from such expulsions in the future;
- amend the law “On mass gatherings” to comply with international standards ensuring in particular that any restrictions should be proportionate and not create undue obstacles to the exercise of the right to freedom of assembly; end the practice of arbitrary detention and the imposition of heavy fines on those who participate in the unauthorised mass gatherings;
- repeal legislation forbidding calls for a boycott of elections and providing for penalties for doing so;
- introduce a moratorium on the death penalty;
- ensure that the cases of enforced disappearances of 1999-2000 are objectively and effectively investigated and that the perpetrators are brought to justice;
- issue invitations to visit Belarus to the UN Special Rapporteur on the situation of human rights in Belarus and thematic UN special rapporteurs to visit the country;
- allow the OSCE Mission in Minsk to reopen with a broad mandate, including monitoring of the human rights situation.

8. The implementation of these demands, based on the resolutions and documents of the UN, the OSCE, and the Council of Europe bodies in 2010-2017 should form a policy basis for other governments and international financial institutions, and inform decisions on applying, lifting, or expanding restrictive measures, engaging in economic cooperation, or providing economic assistance to Belarus. Once these acute human rights issues are successfully resolved, systemic problems such as the independence of the judiciary, prevention of torture, bringing the human rights legislation of Belarus into line with international standards, and conduct of free and fair elections, can and should be addressed.
9. The European Union should adopt and make public a plan of the minimal measures expected from the Belarusian authorities to demonstrate progress in human rights, and jointly agree to develop a roadmap on the implementation of such a plan.

10. The international community should recognise independent Belarusian civil society as a key actor in the human rights dialogue with Belarus and include the Belarusian human rights community as an equal partner in this process, along with the government.