



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/35
18 March 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Agenda item 9

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

**Report of the Special Rapporteur on the situation of human rights
in Belarus, Adrian Severin***

* The present report is submitted late so as to reflect the most updated information.

Summary

The mandate of the Special Rapporteur on the situation of human rights in Belarus was established by Commission resolution 2004/14. In its resolution, the Commission requested the Special Rapporteur to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-first session.

The report is based on the findings of the Special Rapporteur's missions to Poland, Lithuania and Latvia, and his discussions with representatives of Belarusian human rights and other civil society organizations, in particular the Belarusian Helsinki Committee, high-level officials of the United Nations and specialized agencies, the European Commission, the European Parliament, the Council of Europe, the United States Congress and Department of State, diplomats, academics and experts from non-governmental organizations. It includes information received by him up to the end of February 2005.

The Special Rapporteur notes with regret that the Government of Belarus has not responded favourably to his request to visit the country and has, generally, not wished to cooperate with him in the fulfilment of his mandate.

The report examines the situation of basic human rights and fundamental freedoms in the country as concerns the issue of the death penalty, disappearances, torture, detention, the independence of judges and lawyers, and freedom of expression, assembly, association and religion, as well as political rights.

Based on the information gathered, the Special Rapporteur concludes that the continuous deterioration of the situation of human rights is a matter of grave concern. He notes that the wider underlying causes need to be addressed through deep reform of the political system and a restructuring of the society, identifying the authoritarian nature of the regime, the lack of a real and strong civil society and the issue of national identity as major factors. Moreover, the geopolitical context is an element that could influence the potential for transformation and the situation of human rights in the country.

The Special Rapporteur recommends, inter alia, that the Commission consider the following initiatives:

- Establishing a programme of public education and public awareness in the field of human rights through the creation of an international fund for human rights education in Belarus, as well as a comprehensive programme for civil society training;
- Continuing technical assistance and to provide support to Belarusian non-governmental organizations and democratic political parties and establishing a national round table on human rights in Belarus;
- Convening an international conference on the human rights situation in Belarus as well as initiating an institutionalized national round table on human rights in Belarus;

- Establishing a contact group for the situation of human rights in Belarus to engage in a constructive dialogue with the Belarusian authorities, as well as a donor group to collect the funds needed to support the various programmes for the development of human rights in Belarus.

The Special Rapporteur considers that in the present circumstances, progress is most needed urgently with respect to the freedom of the media and the independence of the judiciary. He therefore recommends that the Government of Belarus, inter alia:

- Consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, incorporate it into domestic law, and follow the recommendation of the Constitutional Court to abolish the penalty;
- Launch an independent and transparent investigation into the disappearances of political activists and bring the perpetrators to justice;
- Invite the Special Rapporteur on the question of torture to visit the country;
- Fully implement the recommendations of the Working Group on Arbitrary Detention following its visit in August 2004;
- Fully implement the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers, and to repeal Presidential Decree No. 12;
- Remove all forms of administrative, financial and legal restrictions on the freedom of the media, suppress censorship in accordance with article 33 of the Constitution, and investigate attacks and threats against journalists;
- Remove all forms of administrative, financial and legal restrictions on the rights of persons and organizations, implement the standards contained in the Declaration on human rights defenders, and investigate attacks and threats against human rights defenders;
- Implement the recommendations of the Commission of Inquiry of the International Labour Organization;
- Implement measures to guarantee the equality of all religions, in accordance with the Constitution; and
- Ensure respect for international standards for democratic elections and investigate all allegations of electoral fraud with respect to the elections and referendum held in October 2004.

TABLE OF CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 3	5
I. ACTIVITIES OF THE SPECIAL RAPPORTEUR	4 - 14	5
II. THE SITUATION OF THE BASIC FREEDOMS AND HUMAN RIGHTS IN BELARUS	15 - 60	7
A. Death penalty	15 - 18	7
B. Disappearances	19 - 21	8
C. Torture	22 - 27	8
D. Issues regarding detention	28	9
E. Independence of judges and lawyers	29 - 33	9
F. Freedom of expression	34 - 42	10
G. Freedom of assembly: attacks on human rights defenders and members of the political opposition	43 - 54	13
H. Freedom of association	55 - 56	16
I. Freedom of religion	57 - 58	16
J. Political rights	59 - 60	17
III. CONCLUSIONS AND RECOMMENDATIONS	61 - 102	17

Introduction

1. The mandate of the Special Rapporteur on the Commission on Human Rights on the situation of human rights in Belarus was established by the Commission in its resolution 2004/14. Adrian Severin was appointed Special Rapporteur on 12 July 2004.
2. In its resolution, the Commission requested the Special Rapporteur to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of the programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-first session.
3. The present report is based on the findings of the Special Rapporteur's missions to Poland, Lithuania and Latvia from 30 November to 4 December 2004 and discussions he has held with different interlocutors in Brussels, Washington and New York from 17 to 22 January 2005. It contains information received by him up to the end of February 2005.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

4. From 21 to 25 September 2004, the Special Rapporteur had introductory briefings at the Office of the United Nations High Commissioner for Human Rights (OHCHR). Although the Special Rapporteur had requested an official meeting with the Permanent Mission of Belarus to the United Nations Office at Geneva during his visit, he met unofficially representatives of the Permanent Mission. Also during his visit to Geneva, the Special Rapporteur met with Kari Tapiola, executive director of the Standards and Fundamental Principles and Rights at Work Sector of the International Labour Organization, as well as with representatives of the Permanent Missions of Latvia, Romania and the Russian Federation. In addition, he met with representatives of International Service for Human Rights and Amnesty International.
5. The Special Rapporteur sent a letter to the Government of Belarus on 23 September 2004, in which he requested to undertake a visit to Belarus with a view to obtaining information for his report to the Commission pursuant to resolution 2004/14. In his letter, and in the course of the informal meetings held in Geneva on the same date with representatives of the Government, he drew attention to the fact that he regularly receives information from various sources about the human rights situation in Belarus, including from civil society and from international organizations. With a view to presenting the most balanced report possible, the Special Rapporteur requested an opportunity to also establish contacts and obtain information directly from the Government of Belarus. The Government replied on 10 December 2004, stating that resolution 2004/14 was politically motivated, based on biased allegations, and "a manifest example of [a] double standards approach and a mockery of the principles of the Commission". The letter went on to state that the Government rejected the allegations upon which the resolution was based and that it did not accept the resolution itself. The letter concluded that "the Republic of Belarus reiterates its firm rejection of the resolution 2004/14, including [the] mandate of the Special Rapporteur contained therein".¹
6. The Special Rapporteur noted the Government's response with profound regret and decided that in the absence of meaningful working cooperation with the Government, he would

gather as much information as possible from sources other than the Government of Belarus. The Special Rapporteur conducted a fact-finding mission to the neighbouring countries Poland, Latvia and Lithuania from 30 November to 4 December 2004, during which he met with and received information about the human rights situation in Belarus from members of civil society, including human rights organizations, the media, free trade unions and lawyers representing individuals claiming to be victims of human rights violations. In addition, the Special Rapporteur had the opportunity to meet and exchange views on the human rights situation in Belarus with government authorities of Poland, Latvia and Lithuania. The Special Rapporteur met with the Minister for Foreign Affairs of Poland, Włodzimierz Cimoszewicz, and the Acting Minister for Foreign Affairs of Lithuania, Antanas Valionis, as well as with the Under-Secretary of State of Latvia, Andris Teikmanis, among others.

7. During his visit to Warsaw on 30 November, the Special Rapporteur also met with Christian Strohal, Director of Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR), and his team; with representatives of the Diplomatic Academy of the Ministry for Foreign Affairs; and with the Polish civil society organizations Helsinki Foundation for Human Rights, Batory Foundation, the East European Democratic Centre, as well as the Belarusian Association of Non-governmental Democratic Organizations.

8. During his visit to Riga on 1 December, the Special Rapporteur also met with several members of the Latvian Parliament as well as with the Latvian non-governmental organizations (NGOs) Open Society Foundation Latvia, Open Belarus, and European Movement - Latvia. In Riga, he also met with several prominent Belarusian lawyers and journalists, in particular with Andrei Bastunec, deputy chairperson of the Belarusian Association of Journalists, and with representatives of the human rights centre "Vyasna" and the youth movement "Zubr".

9. In the course of the Special Rapporteur's visit to Vilnius between 2 and 4 December, he met with members of the Human Rights Committee and Committee on Foreign Affairs of the Parliament of Lithuania, the Seimas, as well as with the United Nations Resident Coordinator in Belarus and Latvia. In addition, the Special Rapporteur met with representatives of a number of Belarusian human rights organizations, who travelled to Vilnius for this purpose, including representatives of the Belarusian Helsinki Committee.

10. In follow-up to this mission, the Special Rapporteur conducted missions to Brussels, Washington and New York between 17 and 22 January 2005. In Brussels, he met with Benita Ferrero-Waldner, Commissioner for External Relations and Neighbourhood Policy of the European Commission, as well as with a number of officials of the European Commission, representatives of the Presidency of the European Union, and members of the European Parliament.

11. In Washington, the Special Rapporteur discussed the human rights situation in Belarus with Michael Kozak, Acting Assistant Secretary of State at the Bureau of Democracy, Human Rights and Labor, and a number of other officials of the Department of State. The Special Rapporteur also met with a number of human rights NGOs based in Washington, members of the United States Congress and diplomatic representatives.

12. In New York, the Special Rapporteur met with the United Nations Assistant Secretary-General for Political Affairs, Danilo Türk, the president of the Open Society Institute, Aryeh Neier, and a number of high-level officials of United Nations agencies, academics and NGO experts.

13. On 27 January 2005, the Special Rapporteur had an exchange of views with the Sub-Committee on Belarus of the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe in Strasbourg, France.

14. The Special Rapporteur intended to pay a visit to the Russian Federation, in his desire to have consultations with all States neighbouring Belarus and the major regional and global players. Much to his regret, the visit could not take place.

II. THE SITUATION OF BASIC FREEDOMS AND HUMAN RIGHTS IN BELARUS

A. Death penalty

15. According to the information available to the Special Rapporteur, Belarus is the last remaining country in Europe, and together with Uzbekistan the only country of the former Soviet Union, that still uses the death penalty. According to various reports received by the Special Rapporteur, Belarus has since 2001 been carrying out between four and seven executions a year, a welcome decline compared to the number of executions in the previous years.

16. While the prohibition of the death penalty is by no means a universal practice and the death penalty is not illegal under international law, its practice in Belarus remains of grave concern because of its potential link with other human rights violations, such as abuses of the right to a fair trial and of torture and ill-treatment used to extract confessions. The Special Rapporteur is concerned that certain convictions resulting in the death penalty may be unsound owing to judicial errors or due process violations.

17. The Special Rapporteur is furthermore gravely concerned at the current practice of carrying out executions and burying the bodies of executed prisoners in secret without informing their families, which causes them immense suffering. This de facto punishment of executed prisoners' families has no grounds in international human rights standards, and the Special Rapporteur recalls the finding of the Special Rapporteur on the question of torture that "maintaining families in a state of uncertainty with a view to punishing or intimidating them and others must be considered malicious and amounting to cruel and inhuman treatment" (E/CN.4/2003/108/Add.2, para. 65).

18. The Special Rapporteur notes with appreciation that in March 2004, the Belarus Constitutional Court found that certain articles of the Criminal Code were inconsistent with the Constitution, and that in the current circumstances, the abolition of the death penalty, or as a first step the introduction of a moratorium, could be enacted by the Head of State and by Parliament.

B. Disappearances

19. The Special Rapporteur is concerned about reports concerning the absence of a satisfactory conclusion to investigations into the disappearances, during 1999 and 2000, of four prominent opposition figures: Yury Zakharanka, former Minister of the Interior, Viktor Hanchar, former Vice-President of the Parliament, the businessman Anatol Krasowski and the journalist Dzmitry Zavadski (all are also known under Russianized spellings as Zakharenko, Gonchar, Krasovsky and Zavadsky).

20. The officials investigating the disappearances reportedly refused to cooperate with international bodies and closed the investigation in 2003 with the conclusion that the disappearances had been “staged by the opposition in order to attract international attention”. A separate investigation was subsequently reopened, resulting in the prosecution of two former members of the Almaz special police unit in connection with the disappearance of Dzmitry Zavadski. The shortcomings of the trial, as well as a number of procedural shortcomings, including the appointment as head of the investigative team of the official the political opposition accused of masterminding the disappearances, were pointed out in the report of the Rapporteur for the Parliamentary Assembly of the Council of Europe, Christos Pourgourides, in April 2004. The report further implicates several high-ranking State officials, including the Head of State, in the disappearances. The Government rejected the findings of that report, and declared them unfounded and politically motivated.

21. The Special Rapporteur’s key concern is the absence of transparency in the official investigations into the disappearances, and the participation of several potential suspects in the official investigation. He is further concerned about the reports of intimidation, harassment and threats of reprisals against complainants, witnesses, lawyers and others involved in the investigations.

C. Torture

22. According to testimony sent to the Special Rapporteur by a senior judge, torture is routinely used as a means of extracting confessions from detainees. According to the judge, the methods of torture include practices such as hanging and beating while hung on a metal grate; food deprivation; night-time interrogation; threats of execution and mock executions; use of gas masks on the face of a detainee with the intention to restrict breathing; pulling out of pubic hair; and pain-inducing tight handcuffing.

23. The Special Rapporteur has received information regarding the case of 17-year-old Mikhail Avdeyev, who was allegedly severely beaten by the OMON forces of the Ministry of the Interior during a public protest on 21 July 2004, resulting in life threatening injuries including bruises, a lacerated spleen and broken ribs. No reports about the prosecution of officials responsible for the assault were available at the time of the drafting of this report. The case of Maxim Khromel, who died in a detention centre in Minsk as a result of brain haematoma caused by severe beating by law enforcement officers on 23 January 2004, has reportedly still not been resolved.

24. The Special Rapporteur is concerned about allegations of systematic torture of prisoners on death row. In the case of Dmitry Kharkhal, a former death row prisoner whose sentence has been commuted to a term of imprisonment, it is alleged that while he was on death row he was frequently beaten on the head, back, stomach and genitals by prison guards who reportedly forced him to say "thank you very much" after each beating. There are no reports that his allegations were investigated by the authorities or that the perpetrators were dealt with in accordance with the law.

25. *Dedovschina* (the practice of hazing), severe harassment and physical abuse of new draftees by senior soldiers to maintain strict discipline has reportedly been recognized by the Ministry of Defence as a serious problem in the military. The Special Rapporteur has however received reports that the practice continues and that prosecution of officers responsible for the welfare of recruits is rare.

26. Owing to the nature of the crime of torture and severe restrictions of access to its victims in detention centres, death row facilities and the military, the Special Rapporteur believes that the relatively rare cases that have come to light only represent the tip of the iceberg. While torture is not a human rights violation unique to Belarus, some of its specific features make it particularly alarming. These include the absence of reliable information, and the allegation that judges are systematically forced by the executive to ignore evidence of torture and pass judgements based on confessions extracted through methods that include torture.

27. The corrosive impact of ongoing acts of torture therefore not only has a negative effect on the physical and psychological well-being of victims and members of their families, but also on the victims' right to a fair trial. The official tolerance of the practice of torture further undermines the independence of judges and lawyers and spreads a climate of impunity among law enforcement officials.

D. Issues regarding detention

28. The Special Rapporteur would like to express his satisfaction about the visit of the Working Group on Arbitrary Detention to the country, which took place from 16 to 26 August 2004, and draws attention to the concerns and recommendations formulated by the Working Group in its report (E/CN.4/2005/6/Add.3). The Special Rapporteur joins the Working Group in expressing satisfaction with the cooperation extended by the Government in the organization of the Working Group's mission to the country.

E. Independence of judges and lawyers

29. The Special Rapporteur has received credible reports from concerned judges and lawyers about pressures put on them by the executive branch of Government, with the effect of reducing or annihilating their independence.

30. Judges report that the conditions of service and the appointment, dismissal and disciplinary procedures interfere with their independence. Conditions of service in courts remain poor, with funds lacking for basic maintenance and equipment. The basic remuneration packages for judges are reportedly below subsistence levels, and there is a system of substantive

monthly bonuses in place, controlled by court chairpersons and the Ministry of Justice. Furthermore, judges depend on local authorities for access to subsidized State housing. All of this gives rise to serious concerns about their vulnerability to economic pressure.

31. Following the 1996 referendum, the responsibility for senior judicial appointments was transferred from Parliament to the Head of State, who now directly appoints 6 out of 12 judges of the Constitutional Court and all judges at all other levels. The Supreme Council of Belarus, a body reportedly controlled by the Head of State, approves his recommendations for the appointment of the remaining six judges of the Constitutional Court and chairpersons of high courts, as well as other judicial officers.

32. The Special Rapporteur is gravely concerned about the phenomenon of so-called “telephone justice”, whereby judges reportedly receive instructions by telephone about the desired outcome of cases that are of interest to the Government. The Special Rapporteur notes reports that state that a number of judges who had allegedly refused to carry out such orders had received disciplinary sanctions or had been dismissed.

33. Lawyers report that presidential decree No. 12 of 1997, which had introduced significant restrictions on the independence of the legal profession and given excessive powers of control over the legal profession to the Ministry of Justice, remains a key source of concern. This decree requires lawyers to renew their licences every five years, prevents them from creating independent professional associations, and limits the right to legal defence in criminal proceedings. As a matter of practice, lawyers report frequent interferences of the executive branch in their work, dismissals of prominent lawyers from the national bar association of lawyers, and revoking of their licences - all measures aimed at minimizing their independence. In some cases of dismissal, the Government claims that the lawyers themselves had resigned of their own accord, or that they had failed to satisfy professional criteria for membership.

F. Freedom of expression

34. The Special Rapporteur received numerous allegations of violations of the freedom of expression, in particular in the period immediately before the parliamentary elections and referendum of 17 October 2004. According to the information received by the Special Rapporteur, 160 registered print media institutions were forcibly closed down in the eight months preceding the elections and the referendum, and there were numerous complaints of difficulties associated with the printing and distribution of independent newspapers during the election campaign. The Special Rapporteur is particularly concerned about reports of attempts at censorship that are increasingly being channelled through companies in the printing and distribution sector, including private companies, all of which have a purely commercial relationship with the independent media whose work they are effectively restricting by commercial means. For instance, following the dismissal in June 2003 of the director of the large Minsk printing house Chyrvonaya Zorka, this establishment now reportedly uses a number of strategies, some of which are noted below, to control the content of the newspapers it prints. This phenomenon of what could be called “mainstreaming of State censorship” reflects a particularly insidious strategy of the authorities to involve broad sectors of society in controlling and restricting freedom of expression, information and opinion in Belarus, which is of great concern to the Special Rapporteur.

35. Owing to the refusal of Belarusian printing houses to print some of the popular independent media, the latter were forced to seek printing contracts in the Russian Federation, making their distribution more cumbersome and expensive and highly vulnerable to customs seizures. On 5 August 2004, the editorial office of the newspaper *Narodnaya Volya* received a letter from Chyrvonaya Zorka, stating that it would not execute the agreement concerning the printing of the newspaper until the court had dropped all charges of slander pending against the newspaper, and until *Narodnaya Volia* completely paid off the financial compensation for moral harm to the State officials who had been awarded punitive damages for slander by a court in 2003. The Special Rapporteur was given to understand that if the damages ordered by the court were not fully paid, the newspaper would be closed. The printing contract of another independent newspaper, *Mestnaya Gazeta*, was cancelled by the Svetach printing house, reportedly for financial reasons. According to information made available to the Special Rapporteur, this happened after the printer had unsuccessfully attempted to persuade the newspaper's editor to remove an article on the corruption of the local tax authority. Reportedly, other printing houses in Minsk, Baranavichy and Slonim subsequently refused to print the newspaper.

36. In another case, the satirical newspaper *Navinki* was reportedly suspended on more than one occasion for failure to notify the change of its legal address and submit sample issues to the Ministry of Information. After the latest suspension in 2004, the newspaper reportedly experienced difficulties securing printing contracts and financing its publication. Another report concerned the cancellation of the contract between the independent newspaper *Belorusskaya Delovaya Gazeta* and two State distributors (Belpochta, the Belarus postal service, and the State newsprint distributor Belsayuzdruk) in January 2004, following the publication of articles critical of the Government. Yet another reported type of pressure on the media takes the form of the condition imposed by printing houses on newspaper editors to replace critical articles with photos or other material.

37. Another form of reported indirect restriction of media freedom is administrative harassment, such as in the case of the independent weekly *Den'*. On 11 May 2004, its offices were searched by agents of the KGB and equipment was removed, on suspicion of being involved in the publication of leaflets discrediting the President. In April 2004, the police also seized 4,800 copies of the newspaper during its transportation from a printer in Smolensk in the Russian Federation. The seizure is believed to be linked to an article in that issue criticizing the refusal by the police to take action against two men, one of whom allegedly is a KGB officer, who were arrested on 18 March 2004 while attempting to break into the offices of Batskaushchyna, the organization providing office space to *Den'*. *Batskaushchyna* was reportedly subsequently ordered to vacate their offices for having sublet office space to the newspaper. The Special Rapporteur has received information that State-owned supermarket chains and other shops, including bookshops, in Minsk and other parts of Belarus refused to sell independent newspapers. For instance, the sale of an issue of the *Arche* magazine devoted to the tenth anniversary of the President's rule was reportedly refused by the prominent bookshop Akademkniha, on the grounds of lack of space.

38. Between January and October 2004, 19 issues of various Belarusian independent newspapers were reportedly suspended by the Ministry of Information. Some of the suspended media included *Vremya*, *Zgoda*, *Rabochnaya Solidarnasts*, *Vecherniy Stolin*, *Versiya*, *Nedelya*, *Regionalnye Novosti*, *Narodnyi Predprinimatel'*, *Molodiozhnyi Prospekt*, *Novaya Gazeta*

Smorgoni, Predprinimatel'skaya Gazeta, Lyuboy Kapriz and *Kupliu, prodam, meniayu*. The grounds for the suspension of some of these newspapers included having changed their thematic areas, "from productive and legal" to "mass and political", and changing their periodicity without informing the Ministry. In September 2004, *Regionalnaya Gazeta*, an independent newspaper published in the town of Maladechna, was ordered by the Ministry to cease publication for three months. The Ministry informed the editors that the paper was in breach of its publication licence that allowed for one publication only, claiming that it was publishing two newspapers because the Ministry considered a television guide insert to be a separate periodical.

39. Other reported restrictions on the freedom of the media include the requirement introduced on 1 May 2004 to obtain a licence from the Ministry of Education to distribute newspapers by subscription, and the refusal of State-controlled distribution companies to distribute independent newspapers. The Government reportedly denies broadcasting time to individuals and groups believed to be members of the political opposition, such as the pop music groups that played at the opposition's political rally on 21 July 2004. The terrestrial rebroadcasting of foreign, mostly Russian-language, programmes has reportedly been reduced by 70 per cent in the last two years.

40. The circulation of foreign print media is restricted by a regulation of the Ministry of Information that requires the Ministry's prior permission for the distribution of each newspaper. This has reportedly severely restricted the availability of a number of leading foreign newspapers in the country.

41. The Special Rapporteur is particularly concerned about reports of physical attacks on journalists and editors of prominent independent media. Veronika Cherkasova, a journalist with the independent newspaper *Solidarnost'*, was stabbed to death in her Minsk apartment on 20 October 2004. Her family claims that prior to her death, she had been receiving anonymous threats related to her investigative articles on the role of security services in violations of privacy laws. Her last series of published articles was entitled "The KGB is still watching you". At the time of her death she was researching material for articles on the Government's suppression of religious freedoms in Belarus. According to the information available to the Special Rapporteur at the time of submission of this report, the police were reportedly only pursuing the line of investigation focusing on her stepfather and her 15-year-old son as key suspects, despite the family's urging that the death threats received by Ms. Cherkasova prior to her murder be investigated. Of additional concern is that her son had reportedly been interrogated by the security forces in the absence of lawyers or adult family members, in breach of international standards of juvenile justice. The Special Rapporteur is gravely concerned at the allegation that he was being pressured by the authorities to admit involvement in the killing of his own mother. Another reported attack on a journalist was the beating and subsequent arrest of Pavel Sheremet, the head of special projects of the TV Russian Channel 1, on the eve of the elections in October 2004.

42. Another form of media restriction noted by the Special Rapporteur is the closure of foreign media offices, the denial or withdrawal of press accreditation, and the deportation of foreign correspondents. According to the information made available to the Special Rapporteur, on 23 July 2004 the offices of the Russian public television Rossya were closed down for broadcasting "biased information". The closure was announced after a journalist reported that between 2,000 and 5,000 people had joined an opposition demonstration in Minsk on

21 July 2004, while the police estimated that only 193 persons had participated. International news agencies noted around 4,000 demonstrators. Another reported case concerns the deportation by the KGB on 21 June 2004 of Mikhail Podolyak, a Ukrainian journalist. According to the information received by the Special Rapporteur, Mr. Podolyak was forced out of his home and put on the train for Odessa, separating him from his wife, who is a Belarusian national. The official KGB statement accused him of writing “slandorous fabrications” about the political situation in Belarus in his articles, in which he criticized the Government’s political and economic policies.

G. Freedom of assembly: attacks on human rights defenders and members of the political opposition

43. The Special Rapporteur has received numerous reports concerning restrictions imposed by State organs on individual human rights defenders and NGOs for which they work. He is concerned that most of the restrictions he has noted are in apparent contravention of international human rights standards concerning human rights defenders, as enshrined in international human rights covenants and treaties and in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

44. Some of the restrictions reported to the Special Rapporteur that are in apparent contravention of such standards include the Government’s refusal to register human rights defender organizations, as well as the deregistration of existing organizations on frivolous grounds; excessive restrictions of access of human rights organizations to funding from foreign sources; restrictions on the voluntary provision of legal advice and defence to the population; excessive taxation and auditing controls, targeting in particular the most prominent human rights organizations; excessive restrictions on the freedom of expression and opinion by means of criminalizing the expression of comments that are critical of the Head of State; refusal to grant permission for public demonstrations, and the excessive use of force in the dispersal of public demonstrations; and violations of individual privacy.

45. A legal provision introduced in 1999 strictly regulates the registration, functioning and funding of NGOs, giving rise to concerns about the excessively cumbersome nature of registration procedures, which grants wide powers to the authorities to deny registration or close down organizations and effectively restricts the ability of NGOs to provide legal assistance and representation to citizens in civil trials. The Special Representative on human rights defenders, Hina Jilani, has analysed some of these issues in her recent reports (E/CN.4/2004/94/Add.3 and E/CN.4/2003/104/Add.1), and the Special Rapporteur wishes to draw attention to her deep concern about administrative and judicial closure of human rights NGOs, which may lead to “an overly restrictive environment for defenders to carry out [their] activities” (E/CN.4/2004/94/Add.3, para. 54).

46. The trend to turn down requests for registration and deregistering NGOs reportedly peaked in 2003 when, according to the Special Representative, 51 human rights NGOs were closed down, and continued throughout 2004, during which a further 37 NGOs were reportedly deregistered. Most if not all of these NGOs were reportedly closed down for minor administrative irregularities, such as the absence of a legally registered address, variation of design of the official seal or letterhead, and so on. Organizations receive warnings about such

administrative irregularities from the Ministry of Justice, and two such warnings in a year constitute sufficient grounds for closure. Among organizations that were closed or suspended during 2004 are the legal resource centre Independent Society for Legal Research, the youth organization Novaya Grupa, the Belarusian Association of Young Politicians, the Belarusian Centre for Constitutionalism and Comparative Legal Studies, and the International Institute of Political Studies.

47. The Special Rapporteur further notes the particular concern of the Special Representative “with regard to the situation of the Belarusian Helsinki Committee (BHC), reportedly the last nationally operating human rights NGO, which is threatened with closure”.² The organization, which is one of the last remaining officially registered human rights organizations, faced closure on charges of tax evasion. Although the Minsk Economic Court and the Court of Cassation acquitted BHC of tax violations on 23 June 2004, the Committee of State Control reportedly continues to pursue individual criminal cases against Tatsyana Pratsko, chairperson of BHC, and its accountant, Tatsyana Rutkevich, on charges that carry a maximum sentence of seven years’ imprisonment and confiscation of property. Furthermore, the Ministry of Justice reportedly initiated an NGO deregistration procedure on 16 September 2004, after BHC publicly expressed doubts about the legality of the national referendum that was due to be held on 17 October 2004. Another official of BHC, Hary Pahaniaila, was charged with slander against the President in October 2004 for voicing concern over obstructions to the investigation into disappearances of prominent opposition politicians. This is a crime that carries a maximum sentence of five years’ imprisonment. BHC reports that since September 2004 it and several other NGOs had their web sites, which carry statements critical of the Government’s policies, blocked.

48. According to the documents made available to the Special Rapporteur, human rights NGOs are prevented from offering assistance to members of the public unless they are members of the association and have paid their subscription. Presidential Decree No. 13 of 15 April 2003 reportedly amends article 72 of the Code of Civil Procedure, which had previously allowed citizens’ associations to represent defendants in courts in accordance with their respective statutes. The decree restricts this right by stipulating that “NGOs may only represent defendants at civil trials in general courts if authorized by law to represent members of such associations and other persons before the courts and defend their rights and interests.” This provision has reportedly been used to close down a number of associations since its introduction in 2003, effectively eliminating a number of free legal clinics and other legal aid organizations.

49. Access to funding from foreign sources is reportedly severely restricted. All foreign grants are subject to approval by a State body under the terms of Presidential Decree No. 24 of 28 November 2003, which prevents NGOs from using such aid to organize “meetings, demonstrations or picket lines”, as well as to “draft and circulate propaganda documents or to engage in other types of political activities”. In practice, it is reportedly used to ensure strict control over foreign financial assistance to NGOs, and prohibits foreign funding to educational and any activities the Government deems “political”. Organizations such as NGOs or political parties that are found to be in violation of the decree are liable to be deregistered, and several NGOs have reportedly already been closed down on grounds of misuse of foreign funding.

50. NGO activists have expressed their concern to the Special Rapporteur that closures of NGOs are sometimes followed by personalized persecution of prominent individuals, such as in the case of Ms. Pratsko and Ms. Rutkevich of BHC. Other activists reportedly face increasing

pressures in their place of employment or studies, and there are cases of individuals who have been expelled from educational institutions or laid off by State-owned companies in connection with their human rights activities. The new compulsory system of short-term contractual employment (most frequently for periods of up to one year) introduced in all State companies in 2004 reportedly offers opportunities for intimidation and harassment of human rights activists and politically active individuals at a previously unprecedented level.

51. According to information received by the Special Rapporteur, after the referendum and parliamentary elections of 17 October 2004, the authorities arbitrarily arrested and beat up a number of demonstrators who were peacefully protesting against the results of the elections and the referendum on 19 October 2004. Riot police reportedly used batons to disperse hundreds of demonstrators, including young activists and leading members of the opposition, who were marching toward the presidential palace. The chairperson of the United Civic Party, Anatol Lebedka, was reportedly hospitalized as a result of his injuries, and the chairperson of the Belarusian Social Democratic Party Mikalai Statkevich and the former chairperson of the Malady Front, Pavel Severinets, were arrested and detained. Journalists from the Russian TV channels Ren TV and NTV were reportedly also beaten up and a journalist from AFP was detained. About 40 individuals were charged with participation in, or organization of an unauthorized public demonstration under the Code on Administrative Infringements, and sentenced to up to 15 days in prison or a fine.

52. The Special Rapporteur notes reports that, despite attempts by groups of political activists, no political party has been registered since 1999. In August 2004, the Supreme Court closed down the Belarusian Labour Party, while in the same month another four influential opposition parties, the Party of Communists of Belarus, the Belarusian People's Front, the United Civil Party and the Belarusian Social Democratic Hramada received official warnings from the Ministry of Justice. The Ministry reportedly threatened to close these parties unless they stopped making statements on behalf of the political opposition group "People's coalition 5+" ahead of the national election and referendum.

53. The former Minister of External Economic Affairs, Mikhail Marinich was detained between April and late December 2004, and subsequently sentenced to five years in prison on grounds of theft of computer equipment, lent to his NGO Business Initiative by the Embassy of the United States in Minsk, a charge denied by both the NGO and the Embassy. During its visit to Belarus in August 2004, the Working Group on Arbitrary Detention was denied an opportunity to meet with Mr. Marinich. Observers noted that numerous questions that were addressed to Mr. Marinich during his trial were related to his political activities rather than to the charges brought against him, leading the Special Rapporteur to express his concern that Mr. Marinich's extended detention and subsequent sentencing may have been politically motivated.

54. On 7 September 2004, the Minsk Central Borough Court sentenced Dzimitri Dashkevich, a member of the Belarusian youth association Youth Front, to 10 days of imprisonment for shouting "Shame on you!" on the city's central square after the President's address to the nation regarding the referendum of 17 October.

H. Freedom of association

55. The Special Rapporteur draws attention to the comprehensive report of the ILO Commission of Inquiry, which investigated allegations of violations of workers' rights between November 2003 and October 2004. The Commission of Inquiry found that several independent trade unions had been denied the right to bargain collectively by means of refusal of registration of new trade unions, or deregistration of existing ones. The Commission of Inquiry found that workers' organizations had been prevented from organizing their activities freely, and those laws regulating the registration of trade unions had been used to restrict the establishment and unhindered operation of trade unions. The ILO Standards Committee urged the Government to eliminate interference with trade unions and to implement the ILO recommendations in full.

56. According to other information made available to the Special Rapporteur, employees of State-owned enterprises who join independent trade unions are frequently subject to threats and intimidation, including dismissal. The change of contractual arrangements to short-term contracts, implemented during the course of 2004, has reportedly been used as a means of applying pressure on members of independent unions and other politically active workers.

I. Freedom of religion

57. The Special Rapporteur notes that freedom of religion and the principle of equality of religions are enshrined in the Constitution of Belarus. In this connection, he is concerned at the existence of a special agreement that bestows upon one religious group special rights not available to others. The concordat signed in June 2003 between the State and the Belarusian Orthodox Church, which is an exarchate of the Russian Orthodox Church, grants it the exclusive official use of the word "Orthodox", whereas there are at least another two groups in the country that also use the same word in its titles. Those groups, among which the Belarus Autocephalous Orthodox Church, are therefore unable to obtain official registration, and are, as a consequence, unable to legally practice their faith collectively. The Belarusian Orthodox Church legally plays a "determining role" in spiritual, cultural and State developments in Belarus. Certain other religions, such as Catholicism, Lutheranism, Judaism and Islam are depicted as "traditional", while new religious groups such as the Krishna Consciousness or the Church of Scientology are considered "non-traditional" and are unable to obtain registration, which renders them vulnerable to administrative harassment.

58. Private religious practices such as home Bible study groups or "home churches" are reportedly prohibited. There is a restrictive permit system in place for the holding of religious ceremonies by communities that do not own their premises, and religious meetings or singing religious songs in public places are banned. In one case, a group of three Baptists were reportedly arrested and fined in April 2004 for singing hymns and distributing Bibles to patients and visitors at the Mozyr hospital, although they had previously informed the hospital administration of their visit. Those communities that attempt to acquire property for religious practice, such as the Krishna Consciousness Society or some Protestant Churches, reportedly face insurmountable administrative obstacles at central Government and local levels. The Special Rapporteur is also concerned about the reported censorship of religious literature and the absence of action against mass media organizations that spread alarmist or inaccurate information about minority religious groups, thus inciting prejudice and hatred among the population at large.

J. Political rights

59. Parliamentary elections and a referendum to change the Constitution with a view to eliminating limits to the term in office of President were held on 17 October 2004, as a result of which the new Parliament does not include one single member of the political opposition and the incumbent Head of State has the opportunity to run for a third term in 2006. The OSCE election observation mission concluded that the election fell significantly short of applicable international standards, and drew attention to irregularities that reportedly included the refusal to register opposition candidates, detention of opposition campaign workers and domestic observers, unbalanced media coverage, serious flaws in vote counting and vote tallying, and restrictive campaigning rules.

60. Among the other reports received by the Special Rapporteur are allegations of ballot-box stuffing and coercion of independent candidates to withdraw their nominations, including by means of threats by their employers of being laid off. The Special Rapporteur was shown copies of ballots registering votes against the referendum that had reportedly been found in rubbish bins in Borisov by electoral observers one day after the election. According to the electoral records, all ballots were accounted for in that voting station. An appeal for investigation into this case was reportedly turned down by the court, and the Office of the Prosecutor has reportedly still not investigated the circumstances of the finding.

III. CONCLUSIONS AND RECOMMENDATIONS

61. **Based on the information gathered, the Special Rapporteur has come to the conclusion that Belarusian society is a closed and controlled one. The Special Rapporteur believes that Belarus is not yet a real dictatorship, but is very close to it. The regime is of an authoritarian nature. The Head of State claims to have his legitimacy based on a direct link with the people and therefore does not recognize any constitutional, legal or institutional limitation. Within such a system there is virtually no place for human rights.**

62. **Belarus is a bureaucratic State. There is a lack of a real and strong civil society as well as of a well-developed middle class. Instead, a vertical hierarchy of State bureaucrats administer the State budget in accordance with the President's priorities. Using the budget at his disposal the President is able to promote his own political agenda, thus behaving like the protector of those he chooses. The obedience of the rest of the population is guaranteed by oppressive means. Consequently, the Belarusian society is, at the same time, highly assisted and highly divided.**

63. **Belarus also has an important problem of identity. The consciousness of the national identity is still confused. Such confusion does not allow for the complete emancipation of the Belarusian nation at the international level, nor for the appropriate organization of the society's defence of democracy at the internal level. Noting that a people without a clear national identity can be easily controlled, both from inside and from outside the country, the presidential policy is raising ever-growing obstacles against the progress of the national Belarus language, traditions and culture.**

64. Thus, the disregard for human rights in Belarus starts with the denial of the right to a cultural (national) identity. From this perspective, it is paradoxical that a president who claims to be the father of the nation constantly restricts the consolidation of national self-consciousness. While the lack of national self-reliance may represent an external vulnerability for any State, this appears to be accepted willingly by the Belarusian leadership as long as it simultaneously prevents the political activism of the people.

65. Bearing all this in mind, it is quite obvious that the development of respect for human rights in Belarus does not depend exclusively on the Head of State's behaviour and political inclinations, but on the nature and particularities of the political regime and societal organization in Belarus as well. In order to promote human rights in that country, a deep reform of the political system and a dramatic restructuring of the society are needed.

66. The geopolitical context may, according to international developments, have a positive or a negative impact on such desired transformations. For the time being, the Special Rapporteur is of the opinion that the international disputes around Belarus, as well as the international ambitions relating to it, do not have a favourable influence on the promotion of human rights in that country. The preservation of the status quo of the human rights situation in Belarus is perceived by many international actors as the way to keep the geopolitical status quo. As long as Belarus is seen as being a part of a larger geopolitical game, the international community will be divided when the problem of human rights in Belarus comes onto the agenda. In order to change the present situation of human rights in Belarus for the better, the solidarity of the international community is necessary.

67. Within the context described above, the continuous deterioration of the human rights situation in Belarus became not only a matter of international concern for humanitarian reasons, but also a source of international anxiety for security reasons.

68. The Special Rapporteur is of the opinion that a robust programme of public education and public awareness in the field of human rights for the benefit of the ordinary citizens of Belarus is of paramount importance. Unfortunately, such a programme cannot be implemented in a country where civil initiatives are radically restricted while the media are strictly controlled by the Government. Therefore, the Commission on Human Rights, in cooperation with other international organizations such as OSCE and EU, should create an international fund for human rights education in Belarus, under the supervision of the Commission.

69. Such a fund should be used primarily to establish and finance, in a country neighbouring Belarus, a television and a radio station (including the necessary facilities for satellite transmission) through which accurate, complete and free information could be provided to the people of Belarus. These media channels could also be used to present and expose the violations of human rights in Belarus and elsewhere and the possible remedies for such breaches in accordance with democratic standards and international procedures. At the same time, they should contribute in a specific way to the consolidation of the cultural self-awareness and the national identity of the Belarusian people.

70. **The Commission, together with willing and concerned international and national governmental and non-governmental organizations, as well as with private donors, should put in place a comprehensive programme of civil society training. Such a programme should be oriented first and foremost to the establishment and training of the non-political NGOs in Belarus, mainly at the local level, thus contributing to the development of the civil society and of the Belarusian communitarian spirit from the roots.**

71. **At the same time, the international community should continue its efforts to transfer the necessary know-how, to provide technical assistance and support (morally, politically, financially, intellectually and logistically) the Belarusian NGOs and the Belarusian democratic political parties. Legal assistance for defending civil and political democracy advocates and their families against government abuses is also needed.**

72. **The Commission should initiate and facilitate, in accordance with the needs, a permanent national round table on human rights in Belarus. This round table must be basically a Belarusian gathering under the auspices of and supported by the good offices of the Commission. The round table should offer a permanent framework for dialogue to the representatives of Belarusian civil society, political parties and governmental structures. The scope of the dialogue should be to assess the progress of the human rights situation in Belarus as well as to identify, by negotiation, the political, administrative and legislative remedies for the breaches of those rights. If the Belarusian authorities are not willing to support such an idea, the round table should start even in their absence and act as a civic forum, producing and providing clear assessments and political and legislative initiatives for the best use of the Government and the society. If the Belarusian authorities do not allow the round table to be established and to function on Belarusian territory, it should be organized in a neighbouring country with the support of the Commission and with the agreement of the respective country's authorities.**

73. **At the request of the Commission, the High Commissioner for Human Rights should convene an international conference on the human rights situation in Belarus, inviting all States concerned about the deterioration of the situation of human rights in Belarus, that feel that this deterioration represents a threat to regional security and stability, and that are ready to contribute in an effective way to the improvement of the country's record in the field of respect for human rights. Within this framework, the international community must try to build clear solidarity in its approach to the human rights situation in Belarus and, at the same time, define a comprehensive and bold policy to ensure that all those concerned show due respect for the human rights of the citizens of Belarus.**

74. **The Commission should encourage the High Commissioner for Human Rights to take the initiative of establishing an international group of friends of human rights in Belarus. Under the auspices of this group two other groups should be formed: a contact group for the situation of human rights in Belarus, composed of a limited number of governmental representatives from different States who will try to engage in a constructive dialogue with the Belarusian authorities on the subject, and a group of donors that will try to collect the funds needed to support the various programmes and endeavours dedicated to the development of respect for human rights in Belarus. Such funds should also be used for cultural programmes aimed at developing the Belarusian national identity.**

75. The EU, as well as other major European organizations, should be encouraged to pursue a motivating and inspiring policy towards Belarus, having among its main goals supporting respect for human rights in the country. Such a proactive and flexible strategy should combine appropriate sanctions with appropriate rewards in an effort to engage the Belarusian authorities in a constructive dialogue (including dialogue with Belarusian civil society) and pragmatic action for the improvement of the country's democratic and human rights record.

76. The Special Rapporteur is of the opinion that international isolation of Belarus is not desirable for its people, for the future of human rights in that country or its future integration within the democratic world. However, the Special Rapporteur believes that the existing sanctions adopted by the international community against Belarus must not be lifted at this point; they should be removed gradually and replaced by positive actions only following improvements in the human rights situation in Belarus. From this point of view, a clear "benchmark strategy" that will allow the international community to promptly adjust its policy in accordance with progress in the field, and at the same time will give the Belarusian authorities a clear idea of the consequences of their deeds, is highly advisable.

77. The main goal of the international community (both organizations and donors), should be to improve the effectiveness of its policy regarding respect for human rights in Belarus through more synergy and solidarity. The Russian Federation, as a neighbouring country having a special political relationship with Belarus, has a crucial role to play. Human rights should not become hostage to geopolitical controversies and rivalries.

78. Likewise, united action in favour of respect for human rights is needed in the internal life of the Belarusian society. Marginal disputes, personal ambitions and shortsighted actions on the part of the various players in Belarusian society must be put aside in favour of meaningful, joint endeavours. To this end, the international community should support only, or at least primarily, those projects that are promoted jointly by the democratic political and/or civil forces of Belarus.

79. The Special Rapporteur shares the general lack of optimism as to the readiness of the present Government of Belarus to dramatically improve the situation of human rights in the country. However, he is of the opinion that within the governmental circles in Belarus there are a number of officials who understand that a system based on a closed and controlled society and an internationally isolated State has no future in a globalized and democratic world. Therefore, they are more open to dialogue and more ready for a positive change. It is worthwhile trying to stay in contact with such people.

80. It is also advisable that the international community continue its efforts to engage all Belarusian authorities (including those who until now have refused dialogue) in a more cooperative attempt to improve the country's human rights situation. In this respect, the international community has already made its standards and its expectations clear. It has also indicated the areas where reforms are needed. These cover civil and political rights, such as the right to life, freedom of assembly, freedom of association, freedom of religion, the right to vote and free elections; economic and social rights such as employment, education, health, etc; as well as cultural rights, including academic freedom, minority rights, etc. Within this framework, the Special Rapporteur, while recognizing the equal

importance of each and every human right, appreciates that in the current circumstances, progress is most urgently needed in respect of freedom of the media and the independence of the judiciary.

81. Based on his findings, the Special Rapporteur formulates the following recommendations to the Government of Belarus:

Recommendations regarding the death penalty

82. The Special Rapporteur recommends that the Government carry out, without delay, a review of current practices surrounding executions, aimed at removing the veil of secrecy surrounding dates of execution and immediately release the bodies of all executed prisoners to their families.

83. Because of the irreversible nature of the death penalty and the risk of judicial error in sentences involving the death penalty, the Special Rapporteur recommends that the sentences of all prisoners condemned to death be commuted to terms of imprisonment.

84. Furthermore, the Special Rapporteur calls upon the Government to consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and incorporate it into domestic law.

85. The Special Rapporteur welcomes the recommendation of the Constitutional Court to abolish the death penalty, or, as a first step, to introduce a moratorium, and joins the Court in its urging that this be enacted by the Head of State and by the Parliament without delay.

86. Until such time as the concerns about practices surrounding the death penalty in Belarus are resolved, the Special Rapporteur recommends to all other Governments that they ensure that no one is deported or extradited if as a result of the deportation or extradition they would be at a risk of serious human rights violations including the death penalty and torture.

Recommendations regarding disappearances of political activists

87. The Special Rapporteur calls upon the Government to reopen the cases of the disappearances of Mr. Zakharanka, Mr. Hanchar, Mr. Krasowski and Mr. Zavadski, and to avail itself of the assistance of qualified and impartial international criminal experts, with a view to launching an independent and transparent investigation; finding and bringing to justice the perpetrators of the acts; and informing the families of the fates of their missing relatives.

88. The Special Rapporteur further calls for fair and just compensation to the families of the disappeared political activists to be made promptly.

Recommendations regarding torture, ill-treatment and cruel and unusual punishment

89. The Special Rapporteur calls upon the Government to invite the Special Rapporteur on the question of torture for at least an exploratory visit, and to use the opportunity to consult him on concrete steps that can be taken to combat the impunity of law enforcement officials and eradicate the practice of torture.

90. The Special Rapporteur calls upon the Government to establish, in cooperation with qualified civil society experts where appropriate, a network of torture rehabilitation centres offering legal, psychosocial and specialized medical assistance to victims.

Recommendation regarding detention issues

91. The Special Rapporteur urges the Government to implement fully the recommendations made by the Working Group on Arbitrary Detention following its country visit in August 2004.

Recommendation regarding the independence of the judges and lawyers

92. The Special Rapporteur draws the attention of the Government to the provisions of the Principles on the Independence of the Judiciary regarding the security of tenure of judges and urges their full implementation, in accordance with international standards.

Recommendation regarding the independence of the judges and lawyers

93. The Special Rapporteur calls for the repeal of Presidential Decree No. 12 “On certain measures to improve the operation of the legal and notary professions in the Republic of Belarus”, and for the alignment of the relevant legislation regulating the work of the legal profession with the Basic Principles on the Role of Lawyers which require Governments to ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference” (para. 16).

Recommendation regarding freedom of the media

94. The Special Rapporteur calls upon the Government to remove all forms of administrative, financial and legal restrictions on the freedom of the media that are in contravention of international human rights standards. Administrative harassment practices such as exercising indirect pressure through printing and distribution companies must cease, and the system of licensing and registration should to be overhauled in order to permit the widest possible dissemination of independent electronic and print media. All forms of direct and indirect censorship must be suppressed effectively and fully in accordance with article 33 of the Constitution of Belarus. Attacks and threats against journalists must be investigated seriously and perpetrators dealt with in accordance with the law.

Recommendations regarding freedom of assembly

95. **The Special Rapporteur calls upon the Government to remove all forms of administrative, financial and legal restrictions on the right of persons and organizations, individually and in cooperation with others, to effectively protect and promote human rights in Belarus.**
96. **The system of registration of organizations and payment of foreign grants needs to be brought in line with highest existing international standards, as laid down in the Declaration on human rights defenders and other sources of international law.**
97. **Attacks and threats against individual human rights defenders and political activists must be investigated seriously and perpetrators dealt with in accordance with the law. Those human rights defenders and political activists who are brought to justice for administrative or criminal violations must be accorded the highest standards of fair trial.**

Recommendation regarding freedom of association

98. **The Special Rapporteur recalls the recommendations of the ILO Commission of Inquiry, and urges the Government to implement them fully and without delay.**
99. **The Special Rapporteur recommends an independent review of the ongoing contractual reform, and urges the Government to ensure that changes to the contractual status of workers and employment security resulting from these reforms are not used as a means of administrative harassment and intimidation.**

Recommendations regarding freedom of religion

100. **The Special Rapporteur calls upon the Government to implement effective measures to guarantee equality of all religions, in accordance with the Constitution of Belarus. Onerous registration and permit procedures need to be reviewed and simplified in order to ensure effective equality before the law for all religious communities.**

Recommendation regarding political rights

101. **The Special Rapporteur calls upon the Government of Belarus to ensure respect for international standards for democratic elections in all future electoral procedures and to investigate without delay all allegations of electoral fraud brought to its attention by domestic and international observers with respect to the elections and referendum held in October 2004.**
102. **The refusal of the Belarus authorities to cooperate with the Special Rapporteur is to be deplored. However, the Special Rapporteur is of the opinion that his mission, even in unfriendly circumstances, provided welcome moral support to all democratic forces in and**

outside Belarus who are working to promote and defend respect for human rights. At the same time, it has undoubtedly encouraged the governmental authorities of Belarus to consider the issue more carefully and to understand that their relations with the international democratic community depend on their capacity to respect human rights and to improve their country's human rights record. Such endeavours should therefore further continue.

Notes

¹ The letter is available as document E/CN.4/2005/G/11.

² Press release dated 21 June 2004 issued by the Special Representative of the Secretary-General on human rights defenders.
