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EU Restrictive Measures Regarding Belarus Should Not Be Lifted or Suspended

Your Excellency Minister Wallström,

The European Union has until the end of October to review its restrictive measures in respect of Belarus. We have learned that the Council of the European Union might meet soon to discuss this issue.

On the eve of this important decision, we would like to share with you our assessment of the situation in Belarus and our recommendations on the way to advance European values in Belarus. Most importantly, we urge the Council to refrain from any suspension or lifting of targeted restrictive measures regarding Belarusian officials and entities, until all conditions included in the Council's conclusions in previous years are met. These conditions, clearly set forth in 2011 and repeated annually in 2012, 2013, and 2014, are as follows: "immediate release and rehabilitation of all political prisoners and significant improvement in the respect for human rights, the rule of law and democratic principles." Except the recent release of all political prisoners, no other conditions have been met.

Currently 201 persons and 18 business entities remain on the list of the EU restrictive measures in respect of Belarus. These measures against them were extended a year ago "because not all political prisoners have been released and rehabilitated, and the respect for human rights, the rule of law and democratic principles has not significantly improved in Belarus."¹ As indicated in conclusions of the Council in 2011-2014, persons included in the EU list of restrictive measures

¹ Factsheet: The European Union and Belarus. Brussels, 30 October, 2014, 131029/01, EEAS, http://eeas.europa.eu/statements/docs/2013/131029_01_en.pdf

in respect of Belarus are personally “responsible for violation of international electoral standards in the presidential elections or the crackdown on civil society and the democratic opposition”, “serious violations of human rights, the repression of civil society and opposition”, “or whose activities otherwise seriously undermine democracy or the rule of law in Belarus, or any natural or legal persons, entities and bodies associated with them, as well as legal persons, entities or bodies owned or controlled by them”, and “in particular persons in a leading position and persons and entities benefiting from or supporting the Lukashenko regime, including in particular persons and entities providing financial or material support to the regime”².

Assessment of the human rights situation in Belarus by international human rights institutions, including the UN bodies, the OSCE and the Council of Europe, has been precise and provide clear and sound recommendations. However, Belarus has not implemented a single recommendation of the UN Human Rights Council Resolution of 2011 and of the OSCE Moscow Mechanism report of 2011 produced in response to the crackdown after the presidential elections of December 2010, which included the police brutality against demonstrators, detention of almost 700 people, torture and inhuman treatment of the detainees, and the following unfair trials resulting in conviction of over 40 people, widely recognised as political prisoners.

Moreover, the government of Belarus has not implemented any of the further recommendations of international organisations addressing human rights and rule of law problems, which accumulated after the crackdown in winter 2010 – spring 2011. These recommendations were included in the follow-up annual resolutions of the UN Human Rights Council in 2012-14, reports of the UN Special Rapporteur on the Human Rights Situation in Belarus, reports of rapporteurs and working groups on Belarus at the Council of Europe and the OSCE Parliamentary Assembly as well as reports on observation of elections and trials by OSCE/ODIHR.

The situation has continued steadily deteriorating since 2011, developing into a protracted human rights crisis where violations have “systemic and systematic” character, in the words of the UN Special Rapporteur on the Human Rights Situation in Belarus. It has resulted from adoption of a series of repressive laws and application of increasingly repressive practices, essentially destroying fundamental freedoms of expression, association, and peaceful assembly, 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 a few. Atmosphere of impunity for human rights violations is cultivated in Belarusian law enforcement structures, only increasing further violations.

The Belarus government does not cooperate with international human rights mechanisms on the most important problems of human rights. Not only it does not recognise the mandate of the UN Special Rapporteur on the Human Rights Situation in Belarus; it blatantly ignores and challenges resolutions of the UN Human Rights Council, does not implement most of the recommendations of the UN treaty bodies and refuses to implement decisions of the UN Human Rights Committee on individual complaints, all in violation of its international obligations. The death penalty is still

² See, for example: Council Regulation (EU) No 114/2012 of 10 February 2012 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, 11.2.2012, Official Journal of the European Union, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:038:0003:0005:EN:PDF>.

applied in Belarus, which is the only country in Europe that has not abolished it.

Even after all political prisoners were released by Lukashenko in August-September 2015 because of a dire economic situation and a need for Western financial assistance, none of the prisoners of 2010-2015 has been rehabilitated. They remain restricted in their fundamental rights and freedoms and are a subject of “prophylactic supervision” threatening them with new detention and persecution.

As a result of absence of any positive change in human rights and rule of law, the framework of relations between the Lukashenko regime and the international community has been again, like in the past, skilfully restricted by the autocratic ruler to a classic game of “hostage trade”. Once he receives the lifting (or suspension) of the EU sanctions, expansion of trade, investment and financial support from the West as a “reward” for release of political prisoners, he will easily detain and convict a new group of opponents, and the “hostage game” will continue.

The EU should understand that holding of “smooth elections” on 11 October should not be seen as a positive step, based on which the sanctions could be suspended or lifted. Absence of freedoms of expression, assembly and association and of independent judiciary do not allow even a feeble semblance of free and fair elections.

None of the individuals on the sanctions list deserves to be taken off. They are responsible for gross violations of human rights or electoral fraud. Those violations have not been investigated and the perpetrators have not been brought to justice. Those who do not currently hold their official positions anymore, have not ceased to be guilty of those violations. Taking them off the list would be an insult to thousands of victims of political persecution, unfair trials, and torture, and their families. It will also be a strong encouragement for continuing impunity.

We believe that it is of paramount importance for the EU to reiterate and consistently pursue a principled position, based on clear demands of significant improvement in human rights and rule of law in Belarus, including measurable benchmarks of progress. Continued restrictive measures against individuals and entities, as well as human rights conditionality built in any assistance and cooperation programmes, remain the key to addressing the human rights crisis in Belarus.

We suggest the following demands to the government of Belarus, the progress in which can be used as criteria of “significant improvement in human rights and rule of law”:

- ensure rehabilitation of all former political prisoners and lift all restrictions imposed on them;
- comply with provisions of the UN Declaration on Human Rights Defenders and end all forms of harassment of human rights defenders, including preventive arbitrary detention and other acts of retribution against civil society activists;
- repeal article 193.1 of the Criminal Code which imposes criminal sanctions for participating in unregistered non-governmental organisations; 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; simplify the administrative process for registering NGOs and minimise reporting obligations to authorities; allow in practice that

- domestic NGOs are able to register and function without undue interference; ensure unhindered registration of political parties;
- end repressions against independent journalists and bloggers, repeal restrictive media and internet laws, stop the practice of blocking internet sites with critical information;
- end repressions against lawyers, reverse decisions to disbar lawyers for representing critics of the government, and repeal restrictive laws on the bar associations;
- amend the law “On mass gatherings” to comply with international standards ensuring in particular that any sanctions are proportionate and do not create undue obstacles to freedom of assembly; end the practice of arbitrary detention;
- repeal legislation forbidding calls for a boycott of elections and penalising people for it;
- ensure effective investigation of the cases of enforced disappearances in 1999-2000 and bringing perpetrators to justice;
- agree to reopen the OSCE Mission in Minsk with a broad mandate.

Implementation of these demands, based on the resolutions and documents of the UN, the OSCE, and the CoE bodies, should form a basis of the EU policy regarding Belarus and inform decisions on lifting, suspending, or expanding restrictive measures and engaging in economic cooperation. Once these acute human rights issues are successfully resolved, more systemic problems of independence of the judiciary, prevention of torture, and conduct of free and fair elections, among others, could be addressed.

We are convinced that Lukashenko and his associates should not be “rewarded” for releasing political prisoners by lifting or suspending economic and travel sanctions. The policy of restrictive measures on individuals and entities should not be abandoned and instead should be continued until significant improvement in human rights and rule of law takes place.

We believe that only a consistent EU strategy with the use of effective restrictive measures can lead to positive change in Belarus. We urge the Council of the European Union to extend restrictive measures without suspending them until all the conditions are met and all the reasons they were applied for are eliminated.

Sincerely yours,



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