

**Statement by Professor Dr. Wolfgang Benedek**  
**OSCE Rapporteur under the Moscow Mechanism on Alleged Human Rights Violations**  
**related to the Presidential Elections of 9 August 2020 in Belarus**  
**to the Permanent Council of OSCE on 5 November 2020**

On 17 September 2020 the Moscow Mechanism of the human dimension of OSCE has been invoked by 17 Participating States with regard to credible reports of human rights violations before, during and after the Presidential elections of 9 August 2020 in the Republic of Belarus. Due to the decision of Belarus not to appoint a second expert the author of this report has been informed by ODIHR on 29 September 2020 that he had to act as a single rapporteur. ODIHR has facilitated the mission by providing administrative and logistical support to the rapporteur. In particular, it opened a channel for communications to the rapporteur under the Moscow Mechanism through which the rapporteur received more than 700 submissions. The report was duly delivered on 13 October 2020.

The mandate of the rapporteur as defined by the 17 invoking States based on the Moscow Document was to establish the facts and give advice on possible solutions to the concerns raised, which were defined as:

*“Intimidation and persecution of political activists, candidates, journalists, media actors, lawyers, labour activists and human rights defenders, as well as the detention of prospective candidates; election fraud; restriction on access to information, including internet shutdowns; excessive use of force against peaceful protesters; arbitrary and unlawful arrests or detentions; beatings; sexual and gender violence; abductions and enforced disappearances; torture and other cruel, inhuman or degrading treatment or punishment, and widespread impunity for all of the above.”*

In view of the limited time available for the report, which the Moscow Document defines as 14 days, the wide mandate required particular efforts to cope with the large amount of material available, comprising both the analysis of the submissions and own research. The rapporteur immediately turned to the Permanent Representation of the Republic of Belarus with the request to facilitate a visit to Belarus and to provide its position on the allegations, but in spite of the clear obligation in Paragraph 6 of the Moscow Document he was informed that the Government of Belarus had decided to refrain from participating in the implementation of the Moscow Mechanism. Consequently, the rapporteur had to collect the evidence and conduct the interviews online, which, however still proved to be feasible because of the abundance of sources available. The rapporteur received a great number of testimonies and reports from individuals and pertinent local and international human rights organizations. This information was cross-checked by the rapporteur with other sources and with the help of a number of interviews the rapporteur made with persons having particular knowledge of the events in question as well as with victims of police violence and persecution by authorities.

The findings are documented in detail in the comprehensive report. With regard to the question of “**election fraud**” the rapporteur comes to the conclusion that there were evident shortcomings of the presidential elections which did not meet the basic requirements established on the basis of previous election monitoring. This relates in particular to: 1) non-timely invitation of international observers, 2) shortcomings in the appointment of election management bodies on all levels, 3) restrictions of the right to stand, 4) limitations in election dispute resolution, 5) overall disregard for freedom of assembly, 6) unequal playing field for

candidates, 7) non-transparent early voting process, 8) overcrowding of polling stations, 9) lack of possibility to verify the electoral results, 10) inaccessibility of all steps of the electoral process for observation.

ODIHR having been invited too late to observe the crucial process of registration of candidates as it had been the practice in previous elections, rightfully renounced to send a monitoring mission. The observations by local monitoring organizations, citizens and international observers with good reasons found that the presidential elections did not meet the basic international requirements for genuine elections. Accordingly, the allegations that the presidential elections were not transparent as well as neither free nor fair were found confirmed.

Regarding the **alleged major human rights abuses** committed by the Belarusian security forces in response to peaceful demonstrations and protests, those were found to be massive and systematic and unfortunately still ongoing. The facts assembled in this report show massive arbitrary detentions, systematic torture of protesters in the first days after the elections, regular beatings and cases of sexual violence, while most cases of disappearance could be resolved. The authorities themselves do publish the high numbers of arrests, while they are denying the wide-spread ill-treatment of protesters. The latter however is proven by a vast amount of testimonies supported with pictures and videos, despite attempts by the authorities to prevent independent reporting by journalists, citizens and NGOs and systematic shutdowns of the Internet. Presently, some 70 webpages are blocked. The purpose of the massive police brutality appears to be the intimidation of citizens, which is also taking place through threats and reprisals against civil society, workers on strike, student and teacher protests, defense lawyers and reporting journalists as well as businessmen supporting the protests. While participation in unauthorized assemblies had been decriminalized in the past, the reaction of the authorities against the protests show a trend back to criminalization, aggravated by recent indictments.

It is particularly worrying that the well-documented cases of torture and ill-treatment in the crackdown by the security forces on political dissent, which happened right after the elections, have not as yet resulted in a single person being held accountable. Together with the absence of a fair trial in political cases this confirms allegations of general impunity. The freedom of the media and the safety of journalists are under massive attack as are the freedom of assembly and association and the right to liberty and security. However, without democratic and structural reforms, it cannot be expected that necessary legal reforms will have the desired effects.

As requested by my mandate I have made **recommendations** to the Republic of Belarus, to OSCE and to the International Community, which could contribute to addressing the dramatic situation with regard to the Presidential elections and the related massive human rights violations, which were still ongoing when the rapporteur had to complete his report. This was done in a constructive spirit with a view to the future of Belarus as a European country based on human rights, democracy and the rule of law. For reasons of time, only a brief summary of the altogether 88 recommendations in the report can be given:

With regard to the **presidential elections of 9 August**, the Republic of Belarus is recommended to cancel the results due to irregularities at all stages of the process and to organize new, genuine, presidential elections based on international standards as contained in previous ODIHR/OSCE recommendations and with the timely invitation of international observation.

Regarding the **Situation of Human Rights** in Belarus it is recommended to immediately cease all violence, in particular ill-treatment against peaceful protesters and opponents and to unconditionally release all prisoners held for political reasons, including all detainees which

were arrested in relation to the presidential elections before and after 9 August 2020; to end the use of preventive detention, in particular for administrative offenses and to refrain from reprisals and extra-judicial punishment, like the dismissal of protesters and strikers; and to engage into a dialogue with all actors, in particular civil society and political opponents.

**Regarding the right to fair trial, it is recommended to** ensure that the standards of fair trial like the presumption of innocence and the speedy access to legal assistance as well as the independence of judges are respected both in criminal as well as administrative procedures; the harassment of lawyers representing political prisoners has to be stopped;

**Regarding freedom of assembly and association it is recommended to** ensure the freedom of peaceful assembly in line with international standards which includes the respect for the right to spontaneous assemblies as part of the right to assembly; to stop threatening parents with custodial removal of children in the context of participation in assemblies or political dissent; to respect legitimate protests in the fields of culture, universities and sports as well as from labour activists or religious leaders and to refrain from taking reprisals for such actions;

**Regarding freedom of expression and the media it is recommended to** ensure the safety of all journalists and to refrain from any persecution related to the performance of their duties and to the seizure of and damage to equipment and footage; to facilitate and deregulate the accreditation of foreign journalists; to refrain from interference with the access to the Internet including the mobile Internet and to terminate censorship and blocking of webpages as well as any restrictions on bloggers;

**Regarding accountability and preventing impunity it is recommended to** promptly investigate all allegations of torture, ill-treatment, sexual violence and killings by security forces, including their disproportionate use of weapons by an independent and impartial body; to provide effective judicial remedies for alleged violations of human rights; to ensure full accountability of perpetrators, to speedily bring those responsible for torture, inhuman treatment and other human rights violations to justice; to enable an independent, transparent and impartial international in-depth investigation on all allegations of torture and ill-treatment as well as other serious human rights violations; and to allow for the UN Special Procedures, in particular the Special Rapporteur on the Situation of Human Rights in Belarus to visit the country on the basis of standing invitations;

**With regard to measures of a structural nature it is recommended to** invite the Venice Commission of the Council of Europe to assist with necessary constitutional and other legal reforms, which are particularly needed for the electoral law, the criminal code, for the law and registration procedure for public associations, political parties and labour unions or the law on mass events; to abolish the administrative sanction of detention for unauthorized peaceful assemblies; to establish a constitutional complaint mechanism for violations of human and fundamental rights; and to establish an independent complaint procedure on police behavior;

**Regarding OSCE Participating States it is recommended to** continue efforts to facilitate a dialogue between all actors in Belarus; to request and monitor the implementation of the recommendations made by the rapporteur under the Moscow Mechanism; to provide technical assistance to the necessary reforms; and to participate in international investigative mechanism on the human rights violations related to the presidential elections proposed above;

**As to the International Community it is recommended to** request new presidential elections under international monitoring; to establish an independent international body for the in-depth investigation of human rights violations in the context of the presidential elections with the help of forensic experts; to bring perpetrators of torture and inhuman treatment among the Belarusian security forces and their responsible superiors to justice wherever possible; to provide assistance to people who had to leave the country, both for their (temporary) protection as well as for the treatment of injuries and traumata as a result of torture and ill-treatment; and to provide support to human rights defenders and civil society organizations promoting and protecting human rights.



