

(Translated from Russian)

Information from Belarus in reply to questions from the Working Group on Arbitrary Detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and association and the Special Rapporteur on the situation of human rights defenders of the Human Rights Council

1. Mr. Maksim Kavaliou, Ms. Tatsiana Mastykina, Mr. Andrus Krechka, Mr. Igor Bogachek, Ms. Nasta Loika, Ms. Hanna Sakhankova and Ms. Anastasia Vasilchuk, who took part in an unauthorized demonstration on Yakub Kolas Square in Minsk on 25 March 2018, have not been charged with administrative offences.

The administrative proceedings begun against Mr. Kavaliou, Mr. Krechka and Mr. Bogachek in respect of their participation in the demonstration were considered by the Sovetsky District Court in Minsk and suspended by orders of the Court dated 29 and 30 May 2018, respectively, on the grounds that the time periods within which administrative charges could be brought had expired.

On 8 May 2018, the Pervomaisky District Court ordered the administrative proceedings brought before it against Ms. Mastykina for administrative offences under articles 23.34 (1) and 23.4 of the Code of Administrative Offences to be referred back to the internal affairs department of the Sovetsky district authorities in Minsk for clarification. The case has yet to be resubmitted to the Pervomaisky District Court.

Neither the administrative proceedings brought against Ms. Loika, Ms. Sakhankova and Ms. Vasilchuk for administrative offences involving breaches of the procedure for organizing or holding mass events and failing to comply with the lawful instructions or orders of an official in the exercise of his or her authority, nor the complaints that Mr. Kavaliou, Ms. Mastykina, Mr. Krechka, Mr. Bogachek, Ms. Loika, Ms. Sakhankova and Ms. Vasilchuk raised regarding the actions of law enforcement officers, have been received by the Sovetsky or Pervomaisky District Courts.

On 12 April 2018, the public prosecution services for the Sovetsky district in Minsk received a complaint from Mr. Kavaliou, Ms. Mastykina, Mr. Krechka, Mr. Bogachek, Ms. Loika, Ms. Sakhankova and Ms. Vasilchuk concerning the legality of their administrative detention, the need to suspend the administrative proceedings (those who participated in the unauthorized mass event were booked under article 23.34 of the Code of Administrative Offences) and the justification for taking fingerprints from Ms. Sakhankova and Ms. Mastykina.

Examination of the materials relating to the above individuals has indicated that their administrative detention was carried out lawfully and with justification. No violations of the requirements set out in the State Fingerprint Registration Act of the Republic of Belarus in the taking of fingerprints from Ms. Sakhankova and Ms. Mastykina were identified.

Consideration of the above collective complaint found no grounds for the public prosecution authorities to take action in response.

Following a complaint by Ms. Mastykina regarding unlawful actions by police officers, the Sovetsky district (Minsk) investigating agency under the Investigative Committee conducted an enquiry, as a result of which a decision was taken on 2 May 2018 not to bring criminal proceedings against officials of the Sovetsky district internal affairs department under article 29 (1) (2) of the Criminal Procedure Code of the Republic of Belarus on the grounds that their actions displayed no evidence of offences under either article 424 (Abuse of power or official authority) or article 426 (Exceeding power or official authority) of the Criminal Code of the Republic of Belarus.



2. Ensuring that citizens enjoy their rights and freedoms is the highest aspiration of the State.

Under article 22 of the Constitution of the Republic of Belarus, everyone is equal before the law and entitled to equal protection of their rights and lawful interests, without any discrimination. The Constitution also provides for the life of the individual to be protected from any unlawful interference and for freedom, inviolability and dignity of the person. Every person is guaranteed freedom of opinion, conviction and expression.

A range of State bodies and institutions steadfastly defend the rights and freedoms of citizens in Belarus, acting in accordance with the Constitution and other legislation (Ministry of Internal Affairs, courts, prosecution services, the Bar, etc.).

However, there is no legal definition of “human rights defender” in the laws of Belarus.

At the same time, in line with the general principles of law, citizens of the Republic of Belarus who engage in activities that they themselves define as defending human rights enjoy the same rights to be defended and protected by the State as any other citizen of the country. However, in the event that such activities breach legislation (in that they constitute a minor or criminal offence), such individuals will be held to account in accordance with the law.

The restrictions provided for in the Act of the Republic of Belarus on Mass Events in the Republic of Belarus do not contradict the standards set out in the International Covenant on Civil and Political Rights, article 19 of which stipulates that the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, which are to be provided for in law and must be necessary for the respect of the rights or reputations of others and the protection of national security or public order or of public health and morals.
