
Translated from Russian

Information from the Republic of Belarus in response to letter AL BLR 8/2021 dated 7 September 2021 from special procedures of the Human Rights Council

The criminal case against representatives of the Vesna (or Viasna) Human Rights Centre, which has no legal status as a voluntary association, was brought under article 243 (2) (Tax evasion) and article 342 (1) and (2) (Organization and preparation of serious breaches of the peace) of the Criminal Code of Belarus and is being handled by the central office of the Investigative Committee.

It has been established that, after the winding up of the voluntary association Vesna, pursuant to a decision of the Supreme Court of Belarus of 28 October 2003, A.V. Bialiatski, V.N. Labkovich, V.K. Stefanovich, ██████████ and other – unidentified – persons, acting jointly, continued the organization's activities in the territory of Belarus in violation of the Court's decision. In the course of these activities, between 2013 and 2020 large sums of money were received from foreign organizations, having been moved in cash across the customs border of the Eurasian Economic Union into the territory of Belarus. Activities were carried out in the territory of Belarus on behalf of Vesna, including the performance of work and the provision of services, and the persons who performed the work or provided the services between 2013 and 2020 were financially remunerated. In violation of the Tax Code, Mr. Bialiatski, Mr. Labkovich, Mr. Stefanovich and Mr. ██████████ failed to submit to the tax authorities information regarding taxable income, which they concealed, causing significant losses, thus committing the offence indicated in article 243 (2) of the Criminal Code.

Mr. Bialiatski, Mr. Labkovich and Mr. Stefanovich were arrested on 14 July 2021 on suspicion of having committed this offence; on 16 July 2021, a preventive measure was imposed on them in the form of remand in custody and they were detained in Remand Centre No.1, a facility of the penalties enforcement department for Minsk and Minsk Province of the Ministry of Internal Affairs of Belarus. They are being held in conformity with the established requirements, and their rights, including the right to communicate with counsel, are being respected. These persons have been charged with the offence in question.

Mr. ██████████ is also suspected of carrying out training and preparation and providing financial and other material support, jointly with unidentified persons, through Vesna, for the conduct in 2020–2021 in the territory of Belarus of illegal mass actions in pursuit of their goal of

committing planned group acts constituting serious breaches of the peace; this involved the payment of expenses connected with participation in these acts, in breach of article 342 (2) of the Criminal Code.

Mr. ██████ absconded from the criminal prosecution body and has been declared wanted.

Furthermore, it has been established that representatives of Vesna organized, trained, financed and otherwise prepared persons to take part in group acts constituting serious breaches of the peace, that is, the offences indicated in article 342 (1) and (2) of the Criminal Code. During the investigation, procedural actions are being carried out to establish whether Mr. Bialiatski, Mr. Labkovich and Mr. Stefanovich were involved in such activities.

The following representatives of Vesna were also arrested on suspicion of having committed the offence indicated in article 243 (2) of the Criminal Code and of having aided and abetted the commission of the offence: N.S. Labkovich, V.P. Sazonau, S.A. Sys, A.P. Paluda, E.A. Laptsenak and others. There is evidence in the case file indicating their possible involvement in the commission of the offence. The persons in question were released after the necessary procedural actions had been carried out with their participation. Procedural coercive measures were imposed on them in the form of an obligation to appear, as well as restrictions on their right to leave Belarus. In violation of the procedural coercive measures imposed, which did not entail their remand in custody, some of the individuals absconded from the criminal prosecution body and left the territory of Belarus.

In addition, other representatives of Vesna were questioned as witnesses in the criminal case: I.M. Kazmerchak, O.G. Matskevich, A.A. Kaputski, ██████ and others. These persons were not detained during the investigation of the criminal case and no procedural coercive measures were imposed on them.

During the investigation, information was received about the possible presence on the premises and in the facilities used by Vesna representatives of items and documents of significance to the criminal case. Searches of these premises and facilities were carried out, during which evidence of the commission of an offence, including on electronic media, was found and seized.

Whenever a person was arrested on suspicion of having committed an offence or preventive measures were imposed on a suspect, their family members and close relatives were informed thereof within the period prescribed by law (12 hours).

The investigation period in the case has been extended to 12 months, until 15 January 2022.

The authorities ensured that defence counsel took part in the conduct of procedural actions that, under Belarusian law, must be carried out with their participation. Defence counsel of suspects remanded in custody have been authorized to visit them.

The criminal prosecution body has received no complaints that defence counsel were not permitted to take part in investigative actions carried out with the participation of their clients or were denied access to remand facilities for confidential interviews with clients held there.

The investigation is being conducted in accordance with the law. The criminal prosecution of the aforementioned persons is based solely on the unlawful acts they committed and is not related to their social and political views or their work to promote human rights.

The department of the Investigative Committee of Belarus for Minsk is currently handling the criminal case brought under article 293 (1), (2) and (3) (Organization of, participation in and preparation of mass disturbances), article 342 (1) and (2) (Organization and preparation of serious breaches of the peace) and article 130 (3) (Incitement to racial, ethnic, religious or other social enmity or discord by a group of persons) of the Criminal Code in connection with the mass disturbances and other, related offences that took place in Minsk from 14 July 2020.

The Belsat journalists I.V. Iliash and [REDACTED] along with the Radio Liberty journalists O.A. Hruzdilovich and I.A. Studzinskaya, were arrested on 16 July 2021, on the basis of information received, on suspicion of having committed the offence indicated in article 342 (1) of the Criminal Code.

On 16 July 2021, the suspects were given copies of the records of arrest and the orders for their detention, and their rights and duties were explained to them, including the procedure for appealing against their detention. The suspects were provided with defence counsel, in accordance with the established procedure.

Mr. Iliash exercised his right to appeal against his detention through counsel.

The Partizan District Court in Minsk dismissed the appeal on 21 July 2021.

Pursuant to article 114 of the Code of Criminal Procedure of Belarus, the body carrying out the pretrial investigation released the aforementioned persons as there were no longer any grounds

for their continued detention. No charges were brought against them and no preventive measure was imposed.

In accordance with articles 128, 129 and 132¹ of the Code, other procedural coercive measures were imposed on the suspects in the form of an obligation to appear, as well as temporary restriction of their right to leave Belarus.

During the investigation of the criminal case, the body carrying out the pretrial investigation ordered searches to be carried out at the places of residence and registration of the aforementioned persons, which were authorized by the Deputy Procurator for Minsk on the grounds set out in article 208 of the Code.

On instructions from the body carrying out the pretrial investigation, the staff conducting the initial inquiry undertook the searches, during which they seized computer equipment, mobile telephones and other items and documents of relevance to the criminal case.

At present, the criminal prosecution of Mr. Iliash, Mr. Hruzdilovich, Ms. Studzinskaya and [REDACTED] is continuing.

In accordance with article 108 of the Code of Criminal Procedure, Y.A. Martinovich, A.G. Skurko, A.V. Dynko and O.V. Rakovich, staff of the newspaper *Nasha Niva*, were arrested on 8 July 2021 on suspicion of having committed the offence indicated in article 342 (1) (Organization and preparation of serious breaches of the peace) of the Criminal Code.

On 8 July 2021, the suspects were given copies of the records of arrest and the orders for their detention, and their rights and duties were explained to them, including the procedure for appealing against their detention. The suspects were provided with defence counsel.

Pursuant to article 114 of the Code of Criminal Procedure, the body carrying out the pretrial investigation released the aforementioned persons on 16 and 18 July 2021 as there were no longer any grounds for their continued detention. No charges were brought against them in the criminal case and no preventive measure was imposed.

On 16 July 2021, the Investigative Committee's department for Minsk instituted criminal proceedings against Mr. Martinovich, Mr. Skurko and Mr. Dynko on the basis of evidence of an offence contrary to article 216 (2) (Causing damage to property without evidence of

misappropriation, committed by a group of persons by prior conspiracy or on a large scale) of the Criminal Code.

The criminal cases were not joined in one proceeding.

Mr. Martinovich, Mr. Skurko and Mr. Dynko were arrested on suspicion of having committed the aforementioned offence, in accordance with article 108 of the Code of Criminal Procedure.

Pursuant to article 114 of the Code, Mr. Dynko was released on 21 July 2021 as there were no longer any grounds for his continued detention. No charges were brought against him and no preventive measure was imposed.

With the authorization of the Deputy Procurator for Minsk, on 21 July 2021 a preventive measure in the form of remand in custody was imposed on the suspects, Mr. Martinovich and Mr. Skurko, and on 28 July 2021 they were charged with the offence indicated in article 216 (2) of the Criminal Code.

The criminal prosecution of these persons is continuing.

As part of the investigation of their involvement in the commission of the offence indicated in article 342 (1) of the Criminal Code, searches were conducted at the places of residence and registration of H.P. Ustsinava and Y.M. Puhach, members of Legal Initiative, a national voluntary association, in accordance with the procedure laid down in the Code of Criminal Procedure.

V.L. Fyodarava, Ms. Ustsinava and Mr. Puhach were not arrested under the procedure provided for in article 108 of the Code of Criminal Procedure and no decisions were issued declaring them suspects.

The legal and institutional basis for the establishment, operation, reorganization and winding up of voluntary associations and unions of voluntary associations is established in Act No. 3254-XII of 4 October 1994, the Voluntary Associations Act.

In accordance with the third paragraph of article 29 of the Act, international and national voluntary associations and unions may be wound up by decision of the Supreme Court of Belarus upon application by the Ministry of Justice.

The Supreme Court has wound up the following organizations in response to petitions by the Ministry: the Belarusian PEN Centre, a national voluntary association (decision of 9 August 2021), the Belarusian Association of Journalists, a voluntary association (decision of 27 August 2021), Ecodom, a voluntary association (decision of 31 August 2021), Gender Perspectives, an international voluntary association (decision of 28 September 2021), the Belarusian Helsinki Committee, a national human rights association (decision of 30 September 2021), and Legal Initiative, a national voluntary association (decision of 5 October 2021).

The winding up of voluntary associations is not connected with the exercise by their members of the right to freedom of association under article 22 of the International Covenant on Civil and Political Rights.

Article 22 (2) of the Covenant states that no restrictions may be placed on the exercise of this right other than those that are prescribed by law and that are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 36 of the Constitution of Belarus contains provisions guaranteeing the observance of this right.

Pursuant to the first paragraph of article 26 of the Voluntary Associations Act, the following penalties may be imposed on a voluntary association or a union for violations of the Constitution, the Act, other laws and/or their statutes: a written warning, suspension of their activities and winding up.

The first paragraph of article 29 of the Act provides that voluntary associations may be wound up by decision of a court if they violate the law and/or their statutes within one year of receiving a written warning or if they fail to remedy the violations that constituted the grounds for the suspension of their activities within the time limit set in the relevant court decision.

During the monitoring of the activities of the aforementioned voluntary associations, the registering body found numerous violations of national law and of the associations' statutes, which constituted the grounds for their winding up.

For example, Legal Initiative posted on its website information that did not correspond to the objectives enshrined in its statute. In addition, the name and legal address of the organization indicated on the website also did not correspond to the information contained in its constituent

documents. In violation of the law on State registration of official heraldic symbols, the voluntary association used an image of an emblem not included in the State Heraldic Register.

On 28 May 2021, the Ministry of Justice issued a warning to Legal Initiative informing the organization that it had violated the law and its statutes and requiring it to remedy the violations by 25 June 2021.

The fourth paragraph of article 27 of the Act stipulates that a written warning issued to an international or national voluntary association or union can be appealed to the Supreme Court within one month of receipt.

In accordance with the first paragraph of article 28 of the Act, the activities of a voluntary association or a union may be suspended for a period of from one to six months by decision of a court, upon application by the appropriate registering body, if the voluntary association or union has been issued with a written warning by that body and fails, within the time limit set, to remedy the violations that constituted the grounds for the issuance of the written warning or to notify the registering body that it has remedied the violations.

Legal Initiative did not exercise its right to appeal against the written warning under the procedure provided for in the fourth paragraph of article 27 of the Act and it failed to notify the registering body that it had remedied the violations within the period established by law.

These circumstances led the Supreme Court to suspend the activities of Legal Initiative for one month from 30 July 2021.

In accordance with the fifth paragraph of article 28 of the Act, if the activities of a voluntary association or a union are suspended for a period determined by a court, it is prohibited from undertaking any activity except for activities aimed at remedying the violations that gave rise to the suspension.

After the suspension of its activities by decision of the Supreme Court, Legal Initiative, in breach of article 28, continued its activities, as evidenced by the information posted on its website.

Thus, the voluntary association continued violating national law and its own statutes, including after the issuance of a written warning and the suspension of its activities by decision of a court and, in consequence, the Ministry of Justice rightly applied for the association to be wound up.

Violations of the law and of their own statutes within one year of the issuance of a written warning constituted the grounds for winding up Gender Perspectives, Ecodom and the Belarusian Association of Journalists.

Submission to the registering body of false information about the availability and expenditure of funds was the basis for the winding up of the Belarusian Helsinki Committee.

Under article 9-2 of Act No. 165-Z of 30 June 2014 on Measures to Prevent the Laundering of the Proceeds of Crime, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction, the Ministry of Justice determines the content of, and the procedure for maintaining and making publicly available, reports by voluntary associations and foundations on their activities and such other information as is necessary for taking measures to prevent the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

On 25 February 2021, the Belarusian Helsinki Committee informed the registering body of its activities over the year 2020; it noted, in particular, that it lacked any funds, citing zero balances for both income and expenditure.

However, the Ministry of Justice submitted to the court documents confirming that, in May 2020, the Belarusian Helsinki Committee had concluded contracts for the delivery of services involving long-term observation of the presidential elections in Belarus, paying fees of 1,200 euros to each counterparty.

The court found that the Belarusian Helsinki Committee had provided false information to the registering body concerning the receipt and expenditure of funds, which is a gross violation of article 5 of the Act and of the voluntary association's statute.

In accordance with article 57 (2) (2) of the Civil Code of Belarus, a legal person may be wound up by decision of a court if it carries out activities without a special permit (licence) or activities that are prohibited by law or if it commits other repeated or gross violations of the law.

Taking into account the relevant legal provisions and the facts established in the case, the court granted the registering body's request for the Belarusian Helsinki Committee to be wound up.

In monitoring the activities of the Belarusian PEN Centre, the registering body found a number of violations of the association's statutes and of the legal requirements with respect to the use of foreign donations.

These facts were confirmed during a court hearing and constituted the grounds for granting the Ministry of Justice's request for the winding up of the voluntary association.

We believe that, in the consideration of the cases of each of the parties, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, in accordance with article 14 (1) of the Covenant, was fully upheld.

In accordance with the second paragraph of article 317 and the fourth paragraph of article 399 of the Code of Civil Procedure of Belarus, decisions of the Supreme Court become enforceable immediately after they are handed down and are not subject to appeal or protest.

Final court decisions may be reviewed under the supervisory procedure within one year of the date on which they became enforceable, in accordance with articles 435 to 437 of the Code.

Under article 439 (1) and (2) of the Code, requests for supervisory review of decisions of the Supreme Court may be submitted by the President of the Supreme Court and his or her deputies and the Procurator General of Belarus and his or her deputies.

Thus, the representatives of the aforementioned voluntary associations have the right to appeal final decisions of the Supreme Court to these individuals under the supervisory procedure.

In addition, we believe that the allegations regarding suppression of freedoms and crackdowns against independent organizations are unfounded. The procedure established in the Voluntary Associations Act for regulating the right to freedom of association and the procedure for the winding up of voluntary associations by decision of a court cannot be regarded as restrictions on the right to freedom of association within the meaning of article 22 (2) of the Covenant.

Maria Aleksandrovna Rabkova was arrested on 17 September 2020 by officers of the internal affairs agency of the Central Department for Combating Organized Crime and Corruption of the Ministry of Internal Affairs on the basis of article 108 (1) (4) of the Code of Criminal Procedure on suspicion of having committed the offence indicated in article 293 (3) (Mass disturbances) of the Criminal Code.

Ms. Rabkova appealed her detention to the Partizan District Court in Minsk.

The Partizan District Court judge dismissed her appeal on 22 September 2020.

Under article 145 (2) of the Code of Criminal Procedure, a complaint against a judge's decision to dismiss an appeal for release may be lodged with a higher court within 24 hours of the decision.

Ms. Rabkova, however, did not exercise her right to appeal the decision of the Partizan District Court of 22 September 2020 to a higher court under the procedure prescribed in article 145 (2) of the Code.

The decision to dismiss the appeal for release was made by the Court after it had reviewed the case file and examined and evaluated all the arguments and evidence presented by the parties.

The Court found that there had been no violations of the requirements of articles 107, 108 and 110 of the Code of Criminal Procedure or of Ms. Rabkova's right of defence during her detention.

On 18 September 2020, a preventive measure in the form of remand in custody was imposed on Ms. Rabkova by decision of the Investigative Committee's department for Minsk; the Deputy Procurator for Minsk authorized the application of the measure on the same day.

On 25 September 2020, by decision of the Investigative Committee's department for Minsk, Ms. Rabkova was charged under article 293 (3) of the Criminal Code with the following acts: training and other preparation of persons for participation during the period from 9 to 12 August 2020 in mass disturbances involving physical assault, pogroms, arson, destruction of property and armed resistance to public officers and the provision of material support to persons who participated in the aforementioned acts.

On 11 February 2021, new charges were brought against Ms. Rabkova, under article 285 (2), article 130 (3) and article 293 (3) of the Criminal Code, for commission of the following acts:

- Participation in a criminal organization;
- Intentional actions aimed at inciting other social enmity or discord on the basis of other social affiliation, committed by a group of persons;
- Training and other preparation of persons for participation during the period from 9 to 12 August 2020 in mass disturbances involving physical assault, pogroms, arson, destruction of property and armed resistance to public officers and the provision of material support to persons who participated in the aforementioned acts.

During the investigation of the criminal case, Ms. Rabkova's procedural rights have been explained to her and those rights, including the right of defence and the right to appeal against decisions on detention and the application of preventive measures, have been upheld.

The accused and her defence counsel have twice appealed to the courts against the application of the preventive measure of remand in custody and the extension of the period of remand.

An appeal by the accused and her defence counsel was dismissed by decision of the Partizan District Court on 14 December 2020.

The legality and validity of the 14 December 2020 decision of the Partizan District Court, which had not yet become enforceable, were reviewed by Minsk City Court following an appeal by Ms. Rabkova and her defence counsel, [REDACTED]. The appeal was dismissed by decision of Minsk City Court on 21 December 2020.

An appeal by the accused's defence counsel was dismissed by decision of the Partizan District Court on 1 February 2021.

Ms. Rabkova did not exercise her right to appeal against the 1 February 2021 decision of the Partizan District Court.

Ms. Rabkova's remand in custody has been repeatedly extended in accordance with the established procedure, having been extended most recently by the Procurator General to 15 months, that is, until 17 December 2021.

It is specified in article 126 (1) of the Code of Criminal Procedure that remand in custody may be imposed as a preventive measure when a person is suspected of, or charged with, an offence for which the law prescribes a custodial sentence of more than two years.

In accordance with article 127 (3) of the Code, an accused person's remand in custody during a preliminary investigation may be extended beyond two months, up to a period of three months, where it is not possible to complete the investigation within the two-month time frame specified in article 127 (1) of the Code and there are no grounds for applying another preventive measure in respect of the accused.

Reasons were given in the decisions of the body carrying out the pretrial investigation for the application of the preventive measure of remand in custody in respect of Ms. Rabkova and for

the extension of the period of remand. A custodial sentence of more than two years is prescribed by law for the offence with which she is charged. When Ms. Rabkova was apprised of the decisions to apply the preventive measure, the procedure for appealing against those decisions was explained to her; her right of defence has not been violated.

Further to the decision of the Investigative Committee's department for Minsk to impose a preventive measure on Ms. Rabkova in the form of remand in custody, on 19 September 2020 she was placed in Remand Centre No. 1, a facility of the penalties enforcement department for Minsk and Minsk Province of the Ministry of Internal Affairs.

On instructions from the Office of the Procurator General, the Minsk procurator's office has carried out a check to ensure that the procedures and conditions for Ms. Rabkova's custody were being observed in this facility.

Ms. Rabkova is being held in a four-person cell fitted out in accordance with the internal regulations of remand centres in the penal system of the Ministry of Internal Affairs, which were approved by Decision No. 3 of the Ministry on 13 January 2004.

Ms. Rabkova is provided with a bed, bedding, linen, tableware and cutlery. She is afforded at least two hours of daily walks, eight hours of sleep at night, three meals a day sufficient to maintain her health and strength, in accordance with the standards set by the Government of Belarus, and the opportunity to take a shower at least once a week for not less than 15 minutes. Bed linen is changed once a week.

In accordance with paragraph 52.7 of the internal regulations, inmates are provided with personal hygiene products upon written request if they do not have the necessary funds in their personal accounts. Ms. Rabkova has not made any requests for personal hygiene products.

Ms. Rabkova was examined by personnel of the facility's medical unit on 21 September 2020. The examination did not reveal any bodily injuries and she had no health complaints. During her detention in the facility, Ms. Rabkova has not sought medical care. At the time of her check-up, her state of health was satisfactory and she did not need emergency or specialized medical care in a health facility.

According to the register of proposals, statements and complaints of persons in custody, in October 2020 Ms. Rabkova submitted written applications to the Minsk procurator's office and the Investigative Committee's department for Minsk, which were sent to the recipients within the period

specified in article 12 of the Detention Procedures and Conditions Act.

The administration of the facility is required to deliver letters addressed to Ms. Rabkova within three days of the date of their receipt, in accordance with article 18 of the Act.

During the period of her detention in the facility, Ms. Rabkova has been visited by lawyers from the Minsk City Bar Association of the Central District of Minsk and from the Association's Specialized Legal Aid Office No. 2.

During the pretrial investigation, Ms. Rabkova has been granted a visit from her husband, ██████████ on 13 October 2021.

No complaints have been received from Ms. Rabkova about detention procedures and conditions, including the provision of proper medical care and the granting of the right to consult defence counsel or the right to send and receive correspondence and other communications.

At present, investigative and other procedural actions are being carried out to establish whether Ms. Rabkova was involved in the commission of offences under article 285 (1), article 361 (3), article 361¹ (1), article 339 (3), article 218 (3), article 295³ (2), article 342 (1) and article 341 of the Criminal Code and whether she has been engaged in any other criminal activity.

Thus, Ms. Rabkova is suspected of committing criminal offences in the territory of Belarus and other States that are punishable under the laws of Belarus irrespective of the professional or public activities of the person concerned.

The final legal assessment of Ms. Rabkova's actions will be given based on the results of the investigation.
