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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandate of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 Health (2002-7) G/SO 214 (53-24)
BLR 8/2011

17 June 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 15/22, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning **the detention and urgent medical condition of Mr. Dzmitry Bandarenka**, a journalist, civil society leader and member of the political opposition in Belarus.

According to the information received:

Mr. Dzmitry Bandarenka is a member of the Belarusian Association of Journalists, co-ordinator of a civil campaign "European Belarus" promoting integration with the European Union, and co-founder of an independent website *Charter 97*. Mr. Bandarenka was a primary advisor to the opposition presidential candidate Mr. Andrei Sannikov. Mr. Bandarenka took part in the protests held on 19 December 2010 following the presidential polls.

On 20 December 2010, Mr. Bandarenka was arrested at his home in Minsk. He was taken to the State Security Agency (KGB) remand facility in Minsk. Mr. Bandarenka was not allowed family visits until April 2011. Although his lawyers were present during the interrogations, Mr. Bandarenka was not allowed to communicate with them. It was not until 26 March 2011, that he was allowed to privately confer with his lawyer. On 27 April 2011, a judge of the Peshmanayski District Court in Minsk sentenced Mr. Bandarenka to two years in prison on public disorder charges. On 11 May 2011, he was transferred to the remand prison on Valadarski Street, Minsk, where he is currently being held in detention.

We are also informed that, prior to his arrest and detention, Mr. Bandarenka sustained a spinal injury which has led to restricted movement of his foot. Since April 2010 he was undergoing constant treatment which included regular therapy

sessions. He was due to undergo another therapy session and potential surgery in January 2011. Mr. Bandarenka was unable to do so following his arrest and detention on 20 December 2010.

In this regard, it is reported that he was deprived of medical treatment by the prison authorities of the KGB remand facility in Minsk. It was only on 22 May 2011, after having been transferred to the remand prison on Valadarski Street, Minsk, that the Ministry of Internal Affairs allowed Mr. Bandarenka to meet a neurologist. The neurologist determined that Mr. Bandarenka suffers from four herniated intervertebral disks and three spinal nerve entrapments, and is in need of urgent surgery. If Mr. Bandarenka's condition remains untreated, it may lead to paralysis.

Concern is expressed at the allegation that Mr. Bandarenka's health condition is quickly deteriorating as a consequence of his detention and protracted denial of medical treatment. Concern is also expressed at the allegation that unless Mr. Bandarenka is immediately taken to a hospital for surgery, he may be paralyzed.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Bandarenka is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Dzmitry Bandarenka. We would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers". Furthermore, rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.)

We would also like to draw your Excellency's Government's attention to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate

opportunity to communicate with the outside world [...]”. We would also like to draw your Excellency’s Government attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits”.

In addition, we would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the enjoyment of the right to the highest attainable standard of health of Mr. Dzmitry Bandarenka. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 12 November 1973), which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. In addition, we would like to draw your attention to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (E/C.12/2000/4), which holds that States are under the obligation to respect the right to health by, inter alia, refraining from interfering directly or indirectly with the enjoyment of the right to health and to refrain from denying or limiting equal access for all persons to preventative, curative and palliative health services.

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Dzmitry Bandarenka are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Mr. Dzmitry Bandarenka in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?

3. Please provide information on the legal basis for the detention of Mr. Bandarenka and how his detention is compatible with the norms and standards contained in the UDHR and ICCPR.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the prison authorities denying medical treatment to Mr. Bandarenka?
6. Please provide information on the measures taken to ensure the physical integrity of Mr. Bandarenka.
7. Please provide information on measures taken to ensure the enjoyment of the right to health of Mr. Bandarenka?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we shall submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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