



Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning allegations that, over the previous months following the Presidential elections which were held on 19 December 2010, **human rights defenders, including and journalists**, have been severely restricted from carrying out their legitimate work in the defence of human rights and fundamental freedoms.

In a press statement issued on 21 February 2011, the High Commissioner for Human Rights, Ms Navanethem Pillay, expressed concern regarding allegations that a number of opposition activists were facing trial for exercising their right to freedom of peaceful assembly and freedom of expression. Ms. Pillay noted that "acts of harassment and political and administrative pressure against human rights defenders and NGOs also continue... including arrests, interrogation, office raids, confiscation of material, and intimidation designed to prevent contact with international and intergovernmental organizations. The High Commissioner stated that "Human rights defenders should be able to do their work in a safe environment without putting themselves at risk and without fear of reprisals, intimidation, threats or stigmatization" and pointed out that "States have a duty to protect human rights defenders, journalists and civil society from threats, retaliation or pressure stemming from the legitimate exercise of their work in defence of human rights."

Over the previous six months, we have sent a number of urgent appeals dated 22 December 2010, 28 January 2011, 25 February 2011, 10 March 2011, as well as two allegation letters dated 5 April 2011 and 30 May 2011 concerning the situation of human rights defenders, trade unionists, legal professionals, and journalists, whose work has

been severely restricted since the Presidential elections held on 19 December 2010. We wish to thank the Government for the responses transmitted to the most of the aforementioned communications. However, we wish to bring the following new information to your attention.

According to the recent reports received:

During previous months since the Presidential election of December 2010, actions carried out by the Belarusian authorities, police and the judiciary have severely restricted the work carried out by human rights defenders, including journalists. It is alleged that those who are critical of the President have been targeted by Government agents, many have been arrested and detained for alleged participation in demonstrations connected with the Presidential elections and their right to freedom of expression has been severely curtailed.

On the situation of human rights defenders

More specifically, we have received reports over the past months indicating that a number of human rights defenders, including trade unionists and journalists, have reportedly been arrested, detained, and summarily sentenced, while there are also allegations of harassment and ill-treatment, and threats against them. There are also reports that the security forces have carried out a number of sporadic searches on the homes of human rights defenders, as well as on premises associated with their work. There is also evidence of an emerging trend involving the deportation of foreign human rights defenders working in Belarus. There are reports that in the aftermath of the terrorist attack at the Minsk metro station on 11 April 2011, Government officials and journalists made public statements stigmatizing the work carried out by human rights defenders.

It is reported that on 16 March 2011, at 9.10pm approximately, **Mr. Andrey, Yurov**, head of the International Observation Mission of the Committee on International Control over the Situation with Human Rights in Belarus, and member of the Supervisory Board of the Committee on International Control over the Situation with Human Rights in Belarus, was arrested at his apartment in Minsk by police officers from Sovetsky district. Mr Yurov was allegedly held overnight at the police department. His personal belongings were reportedly confiscated. Police alleged that Mr. Yurov, a Russian citizen, was on a list of people who were to be denied entry to Belarus.

On 17 March 2011, at 11.00am approximately, it is alleged that Mr. Yurov was released but was issued with a document which was drafted under Article 371.2 of the Criminal Code which demanded that Mr. Yurov leave Belarus within 24 hours because his name featured on a list of persons banned from entering Belarus. The list was reportedly drafted by the KGB (State Security Apparatus) in relation to allegations that those named on the list were interfering with internal affairs of the State.

On 25 March 2011, **Mr. Zmitser Dashkevich**, and **Mr. Edward Lobau** were sentenced to two and four years respectively in a labour colony, for allegedly attacking bystanders on 18 December 2010. Mr. Dashkevich is the leader of the “**Young Front**”, a pro-democratic youth organisation, while Mr. Lobau is a member of the same organisation. According to another member of the Young Front who was present at the time, Mr. Dashkevich and Mr. Lobau were attacked by a group of four men. The police allegedly arrested both the aforementioned human rights defenders, and two of the attackers. It is alleged that Mr. Dashkevich and Mr. Lobau were detained in order to prevent them from participating in further demonstrations. It is reported that the aforementioned defenders were convicted on the basis of the testimony provided by two of the attackers.

Mr. Dashkevich was the subject of an allegation letter dated 11 December 2009 sent on behalf of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment regarding allegations of the arrest and ill-treatment of a number of protesters, including Mr. Dashkevich, at Kastychnitskaya Square.

It is further alleged that on 25 March 2011, up to seventy persons, including a number of trade unionists and journalists, were detained in order to prevent them from participating in activities to mark the anniversary of the Belarusian National Day.

On 29 March 2011, **Mr. Mikita Likhavid**, a peaceful protester, was sentenced to three years and six months in a labour colony on charges of mass disorder. Mr. Likhavid participated in peaceful protests during the Presidential election in December 2011. He was allegedly among a group of protesters who were beaten by riot police in disturbances surrounding the election. It is reported that Mr. Likhavid was initially detained for an administrative offence but was later charged with a criminal offence despite the police officer who filed his arrest warrant stating in court that he had not actually seen Mr. Likhavid during the protest. Furthermore, there are allegations that during his court hearing, twelve police officers testified having beaten by Mr. Likhavid.

In the days following the explosion in Minsk on 11 April 2011, many Belarusian governmental officials and journalists issued public statements which allegedly accused opposition leaders and human rights defenders of involvement in the attack. On 13 April 2011, a Governmental figure stated, in relation to the bombing at the Minsk metro station that persons who asked the European Parliament to take sanctions against Belarus were guilty of dancing “on the corpses of their compatriots”. On 12 and 13 April 2011, national TV channels broadcasted statements stigmatising the work carried out by human rights defenders and linking them to the attack on the Minsk metro station on 11 April 2011. In particular, a journalist from STV, a Belarusian channel, specifically linked **Mr. Ales Bialiatski**, President of the Human Rights Centre Viasna, and Vice

President of the International Federation for Human Rights (FIDH) and **Ms. Elena Tonkacheva**, Director of the Independent Society for Legal Research to the terrorist attack at the Minsk metro station.

Mr. Bialiatski was the subject of an urgent appeal dated 25 February 2011, sent on behalf of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders, as well as an urgent appeal dated 22 December 2011, sent on behalf of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

It is alleged that on 19 April 2011, a number of human rights defenders gathered in Minsk to celebrate the birthday of **Mr. Valery Shchukin**, human rights defender, independent journalist and former military officer. It is alleged that at 11.00am, on the same day, police officers arrived at the apartment of Mr. Valery Shchukin's daughter where the party was taking place, and began checking identification documents of those present. According to the information received, the police officers left the party, but returned some hours later and carried out a search of the apartment without producing a search warrant. Apparently, up to fourteen people were arrested and transported to a detention centre in Frunzensky district, Department of the Interior in Minsk.

It is reported that eleven of the detainees were released some hours later however, **Mr. Pavel Levinau**, member of the **Belarusian Helsinki Committee**, **Ms. Olga Karach** director of NGO **Our Home**, and **Mr. Pavel Staneusky**, civil and political rights analyst, were reportedly detained overnight to appear in court the following morning.

Initially Mr. Levinau contacted his colleagues by telephone to inform them that he was being detained under Article 108 of the Belarusian Code of Criminal Proceedings on suspicion of committing a serious crime, however it later emerged that Mr. Levinau, along with Ms. Karach and Mr. Staneusky were being held under Article 17 of the Code of Administrative Offences which deals specifically with the act of swearing in a public place.

On 20 April 2011, Mr. Levinau allegedly appeared before Frunzensky district court, Minsk and was found guilty under Article 17.1 of the Administrative Code and sentenced to ten days of administrative detention. Ms. Karach, who also appeared in court on 20 April 2011, was fined 700,000 BLR. Mr. Staneusky was allegedly released due to contradictory declarations from police officers who acted as witnesses in his case, and his file was returned to the police for further

revision. It is alleged that testimonies made by the defendants regarding ill-treatment during pre-trial detention were ignored by the judge.

On 20 April 2011, at 4.00am approximately, **Ms. Marina Tsapok**, a Ukrainian national, and member of the International Observation Mission of the Committee on International Control over the Situation with Human Rights in Belarus was allegedly refused entry to Belarus. Ms. Tsapok was removed from a train at the Teryukha border crossing by police officers who informed her that she was being denied entry to Belarus. A few hours later, at 7.00am, Ms. Tsapok was forced to board a train which took her back to Kiev.

On 4 May 2011, it is alleged that police officers and officials from the Ministry of Internal Affairs, visited the offices of **Human Rights Centre Viasna**. It is reported that the officers claimed the visit formed part of a special security operation in search of explosive devices. It is alleged that this is the fourth such visit to the Viasna offices since the Presidential elections in December 2010. A member of Viasna was detained briefly before being subsequently released. The police allegedly prevented those present in the offices from leaving while they carried out the operation.

Both Viasna, and staff working with Viasna, were the subject of an urgent appeal dated 25 February 2011, sent on behalf of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders, as well as an urgent appeal dated 22 December 2010, sent on behalf of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Viasna was also the subject of an urgent appeal dated 24 August 2009, sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders as well as an allegation letter dated 14 May 2009, sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the situation of human rights defenders. We acknowledge the responses transmitted to the aforementioned communications.

It is reported that, later the evening of 4 May 2011, a press conference was due to be held in the Viasna offices during which the Committee on International Control over the Human Rights Situation in Belarus was scheduled to present a report on the current human rights situation in the country. A group of human rights defenders allegedly organised for the aforementioned report to be presented in a street adjacent to the Viasna offices. It is alleged that the police arrested and detained four human rights defenders who were present at the launch of the report

including **Mr. Yuri Dzhibladze**, President of the Moscow based Centre for Democracy and Human Rights, and member of the Council on Civil Society and Human Rights, **Mr. Vladimir Chemerys**, an independent expert of the International Observation Mission, as well as **Ms. Irina Paikacheva** and **Mr. Alexander Mnatsakanyan**, both Russian citizens, and representatives of the aforementioned International Observation Mission Committee.

It is alleged that later on 4 May 2011, **Ms. Victoria Gromova**, and **Mr. Lobov Zakharova**, members of the International Observation Mission Committee on International Control over the Human Rights Situation in Belarus were also arrested and transported to a local police station.

It is alleged that those defenders arrested on 4 May, were detained for three hours before being released without charge. Ms. Gromova and Mr. Mnakatsanyan, were presented with a written order to leave Belarus within 24 hours. Both Ms. Gromova and Mr. Mnakatsanyan were banned from re-entering Belarus until 31 March 2012 and 31 May 2013 respectively.

On 5 May 2011, **Mr. Ales Kirkevich**, a member of the Young Front, and **Mr. Paval Vinahradau**, member of the civic society campaign, Tell the Truth, were sentenced to four years imprisonment for allegedly participating in post election mass riots.

On 12 May 2011, **Mr. Siarhei Kazakou**, participant in the civil campaign, European Belarus, was sentenced to three years imprisonment by Judge Alena Shylko from the Maskouski Court, Minsk, for allegedly participating in a post-election demonstration.

On the situation of journalists

It is alleged that many journalists who were present during the unrest surrounding the Presidential elections and reported on the events that occurred, have since been prosecuted for their alleged participation in the demonstrations.

According to the new information received, a number of members of the Belarusian Association of Journalists, as well as those of various digital and printed media, have received official warnings from the Public Prosecutor's Office and the KGB. It is reported that such warnings may be used as grounds for prohibiting the work carried out by members of the Belarusian Association of Journalists.

It is reported that the Ministry of Justice filed a lawsuit before the Supreme Economic Court of Belarus seeking the closure of *Nasha Niva* and *Narodnaya Vola*, two Belarusian newspapers.

More specifically, it is reported that, on 19 April 2011, **Mr. Aleg Barshcheusky**, editor-in-chief of local newspaper Vitsebsky Kurier was arrested and detained in Minsk for his alleged involvement in the terrorist attack on the Minsk metro station on 11 April 2011.

On 20 April 2011, Mr. Barshcheusky allegedly appeared before Frunzensky district court in Minsk and was found guilty instead under Article 17.1 of the Administrative Code accused of using swear words in public, and sentenced to ten days of administrative detention.

Grave concern is expressed regarding restrictions placed on human rights defenders, including trade unionists and journalists, which may serve to hinder the legitimate work they carry out, in the defence of human rights. In this connection, concern is also expressed regarding the limitations on the right to freedom of opinion and expression. Further concern is expressed in relation to allegations that over the previous months a number of foreign human rights defenders working in Belarus have been deported, accused of interfering with internal affairs of the State. Concern is also expressed surrounding allegations that, in the aftermath of the explosion at a Minsk metro station, Governmental officials and journalists made comments which served to stigmatise and undermine the legitimate work carried out by human rights defenders. Moreover, concern is expressed that the situation many human rights defenders, trade unionists and journalists may be linked to their legitimate activities promoting and defending human rights and fundamental freedoms. .

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all

human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

The Special Rapporteurs would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and that accountability of any person guilty of the alleged violations is ensured. We also

request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

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:

1. Are the facts alleged in the above summary of the case accurate?
2. Please indicate what measures have been taken to ensure that the legitimate right to freedom of expression is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
3. Please provide details regarding allegations that there are limitations on exercising the right to freedom of opinion and expression. In this connection please explain how such limitations comply with international standards and norms.
4. Please explain why a number of international human rights defenders have been deported from Belarus, in particular specify whether such deportations are linked to their legitimate work in the defence of human rights.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

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