

**Mandates of the Special Rapporteur on the situation of human rights in Belarus, 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**

REFERENCE:  
AL BLR 1/2019

7 February 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Belarus, 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, pursuant to Human Rights Council resolutions 35/27, 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the judicial harassment against Mr. **Alies Burakoŭ**, a human rights defender and journalist, editor of the human rights web platform "Human rights in Mahilioŭ" (the regional website of the Human Rights Center "Viasna"), and member of non-governmental organization "Viasna".

Concerns at harassments of "Viasna" and its members have been raised in several communications by Special Procedures mandate holders, including most recently on 16 May 2018 (ref. BLR 1/2018) and on 13 April 2017 (ref. BLR 1/2017). We thank your Excellency's Government for the replies received to these communications on 19 July 2018 and on 6 July 2017, respectively. However, we remain concerned at the continued harassments of individuals for their affiliation with "Viasna".

According to the information received:

On 8 October 2018, the Office for the economic crimes of the Kastryčnicki Department of Internal Affairs of Mahilioŭ (ROVD) launched an investigation into Mr. Burakoŭ's activities as a human rights defender and journalist under Article 193.1 of the Criminal Code of Belarus, on suspicion of "involvement in the activities of an unregistered organization", the Human Rights Center (HRC) "Viasna", putting pressure on him in an attempt to halt his human rights-related journalism. The investigation alleges that Mr. Burakoŭ's activities relate to the HRC "Viasna" and therefore violate Article 193.1 of the Criminal Code. We note that this article was used in the past by the authorities to harass other representatives of the HRC "Viasna".

On 8 November 2018, Mr. Burakoŭ was summoned to the ROVD to provide explanations about his activities related to the web platform "Human rights in Mahilioŭ", as well as to the HRC "Viasna". The interrogating officer allegedly informed Mr. Burakoŭ about the investigation for the first time. Mr. Burakoŭ refused to give self-incriminating statements, invoking Article 27 of the

Constitution. Allegedly, Mr. [REDACTED], the ROVD official who interrogated Mr. Burakoŭ, threatened him and warned him to stay away from human rights journalism and “to keep quiet”, otherwise he could face problems. Although Mr. Burakoŭ was not detained or charged, the officer reportedly threatened Mr. Burakoŭ by telling him that they “will meet again in the future”.

According to our information, this is the second attempt of the authorities to put pressure on the human rights defender. In September 2018, the ROVD conducted another investigation into Mr. Burakoŭ’s activities related to the same web platform. The authorities in Mahilioŭ initiated the investigation after receiving a complaint of the owners of the carbon plant “Omsk Carbon”, which Mr. Burakoŭ criticized for its damaging effect on the ecosystem of Mahilioŭ in an article published on HRC Viasna’s regional website.

We express concern at the judicial harassment of Mr. Burakoŭ which appears to be directly related to his journalistic activities and his affiliation with the non-governmental organization “Viasna”. We express concern that these efforts by the authorities may have the intention and effect of silencing the work of human rights defenders and journalists in monitoring, documenting and reporting on the human rights situation in Belarus. We also express our concern that a criminal case under Article 193.1 of the Criminal Code has been opened against Mr. Burakoŭ. Prosecution under this article represents a criminalization of the legitimate exercise of the right to freedom of expression and the right to freedom of association.

We recall that the human rights non-governmental organization “Viasna” was registered until November 2003, when the Supreme Court of the Republic of Belarus deregistered it, thus leading to a prohibition of its activities in Belarus. On 7 August 2004, the Human Rights Committee recognized this step as a violation of the right to freedom of association, which the Republic of Belarus must ensure in accordance with its obligations under the International Covenant on Civil and Political Rights (ICCPR) (Decision No. 1296/2004). Accordingly, the Human Rights Committee asked the Belarusian government to provide the founders of the organization with appropriate remedies, including the re-registration of the HRC “Viasna”. The government failed to comply with the UN decision and HRC “Viasna” remains de-registered as of today.

We also recall that on 24 November 2011, the Minsk Pieršamaski District Court sentenced Mr. Alies Bialiacki, President of “Viasna”, to four and a half years of imprisonment under what was assessed as abusive charges of “tax evasion”.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the steps taken by your Excellency's Government to Guarantee in all circumstances the physical and psychological integrity of Mr. Alies Burakoŭ.
3. Please indicate what measures have been taken to ensure that human rights defenders and independent journalists in Belarus are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind, in particular in view of the upcoming elections.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Anaïs Marin  
Special Rapporteur on the situation of human rights in Belarus

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to Articles 6, 7, 9, 17, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Belarus on 12 November 1973, which states that everyone shall have the inherent right to life, that no one shall be subjected to inhuman or degrading treatment, that everyone has the right to liberty and security of person, that no one shall be subjected to unlawful attacks on their reputation, and the right to freedom of expression, including the freedom to seek, receive, and impart ideas, either orally, in writing or in print or through any other media of his choice; and that the right to peaceful assembly shall be recognized and everyone shall have the right to freedom of association with others.

We also wish 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to Articles 1 and 2, which states that everyone has the right, individually and in association with others to promote and to strive for the protection and realization of human rights and that the State has a prime responsibility and duty to protect, promote and implement all human rights. We would also like to draw attention to Article 5, 6 and 12. Article 5 and 6 state that everyone has the right to meet or assemble peacefully and to know, seek, receive, and impart information about all human rights. While according to Article 12, the state shall take all necessary measures to ensure the protection by the competent authorities of everyone, against any arbitrary action as a consequence of the legitimate exercise of their human rights.

We further refer your Excellency's Government to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States of their obligation to respect and protect the right of all individuals, including human rights defenders, to associate freely, online as well as offline, seeking to promote these rights. States should take all necessary measures to ensure that any restrictions on the free exercise of the right to freedom of association are in accordance with their obligations under human rights law.