

**Mandates of the Special Rapporteur on the situation of human rights in Belarus; the Working Group on Arbitrary Detention; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

REFERENCE:  
AL BLR 4/2020

14 April 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Belarus; Working Group on Arbitrary Detention; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 41/22, 42/22 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention of Mr. Siarhei Satsuk, investigative journalist, due to his journalistic activities.

**Siarhei Satsuk** is a prominent investigative journalist, a member of the Belarusian Association of Journalists and chief editor of the Ezhednevnik news website.

According to the information received:

Siarhei Satsuk published a number of corruption related articles in Ezhednevnik. One of his recent high-profile investigations was a series of publications about corruption in the system of state tenders launched by the Ministry of Health of Belarus. Reportedly, following these publications, about 100 individuals have been prosecuted and several officials of the Ministry of Health were convicted of corruption.

In August 2019, Siarhei Satsuk announced publicly that he received threats to his security due to his journalistic investigations by persons, reportedly affected by the corruption scandals. At a meeting on the spread of the coronavirus in Belarus, held on 21 March 2020, President of Belarus Aliaksandr Lukashenka publicly instructed the head of the State Security Committee (KGB) to pay attention to websites that disseminate misinformation about the spread of the virus in the country.<sup>1</sup> On 23 March 2020, Siarhei Satsuk's article "Who Sows Panic Around the Coronavirus, the President or Websites and Channels?" in which official statistics on cases of COVID-19 in Belarus were questioned was published on the Ezhednevnik website.

On 25 March 2020, Siarhei Satsuk was arrested in Minsk by the officers of the Financial Investigations Department of the State Control Committee. The reason

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<sup>1</sup> <https://www.belta.by/president/view/lukashenko-potreboval-razobratsja-s-rasprostraniteljami-fejkov-o-smertjah-iz-za-koronavirusa-384187-2020/>

for the arrest was the launching of a criminal investigation on bribery under Art. 430(2) of the Criminal Code of the Republic of Belarus. The basis for the charges were the alleged receipt of money by Siarhei Satsuk for conducting investigative journalism into corruption in the healthcare system in 2018 – 2019. Bribery under the Belarusian criminal code provides for a penalty of imprisonment from three to ten years. Following the arrest of Siarhei Satsuk, on 26 March 2020, the office of Ezhednevnik was searched and documents were seized. Three journalists of the news website were interrogated at the Department of Financial Investigations.

On 4 April 2020, Siarhei Satsuk was released. He gave an undertaking to appear at court at a later date. Criminal charges against Siarhei Satsuk have not been dropped and he remains in the status of the suspect in the bribery case.

While we do not want to prejudge the accuracy of these allegations, we express our serious concerns that the arrest of Siarhei Satsuk seems connected to his legitimate activities as an investigative journalist.

In this regard, we note the public statements made by the President of Belarus and information that the arrest occurred two days after Siarhei Satsuk openly expressed criticism of the Government response to COVID-19.

We remind that repressive measures taken simply as a reaction to the voicing of critical opinion about the government or its policies are incompatible with the rights to freedom of opinion and expression. More broadly, such measures have a serious chilling effect on investigative journalism and critical expressions, and thus run contrary to the duty of the State to promote an environment conducive to the exercise of the right to freedom of expression.

We further note with concern the threats faced by Siarhei Satsuk due to his journalistic activities, and remind that the State should take necessary measures to prevent attacks and threats made against journalists and others exercising their freedom of expression.

We are concerned that criminal charges could be used as a tool to silence the critical voices of journalists and other members of civil society.

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 comment(s) you may have on the above-mentioned allegations.

2. Please explain how the arrest of Siarhei Satsuk is compatible with the obligations of Belarus under international human rights law and especially under article 9 of the ICCPR.
3. Please provide information about the charges against Siarhei Satsuk, including their factual and legal basis. Please explain how the charges are compatible with the obligations of Belarus under international human rights law and specifically under article 19 of the ICCPR.
4. Please indicate what measures have been taken to ensure journalists can operate in an enabling environment and carry out their legitimate activities without fear of reprisals, threats, harassment or criminalization of any kind.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 recurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Leigh Toomey  
Vice-Chair of the Working Group on Arbitrary Detention

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

## **Annex**

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

In connection with the above alleged facts and concerns, we recall the obligations under the International Covenant on Civil and Political Rights (ICCPR), which Belarus ratified on 12 November 1973.

Article 19 of the ICCPR protects the right to freedom of expression. It guarantees the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. The protection of journalists under article 19 is particularly strong. As expressed by the Human Rights Committee, “a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society” (CCPR/C/GC/34 para. 13).

Any restrictions to the freedom of expression must satisfy the requirements under article 19 (3). That is, they must pursue one of the legitimate aims enumerated, be provided by law, and be necessary and proportionate. The State has the burden of proof to demonstrate that restrictions are compatible with the Covenant. (See CCPR/C/GC/34 paras. 24 – 35)

As indicated by the Human Rights Committee, the “penalization of a ... journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression”. (CCPR/C/GC/34 para. 42)

Moreover, States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (*id.* para. 23). Attacks against journalists by State agents or individuals attributable to the State would be incompatible. Likewise, with reference to the general due diligence obligations of the State under the Covenant, a failure to take adequate measures to prevent attacks by private parties against journalists would engage the responsibility of the State (*id.* para. 23 and para. 7).

In terms of measures implemented to prevent disinformation during the COVID-19 crisis, we refer to the joint statement issued on 19 March 2020 by the UN Special Rapporteur on freedom of opinion and expression together with regional mechanisms. Here, the experts made the following recommendations:

“Third, the right of access to information means that governments must be making exceptional efforts to protect the work of journalists. Journalism serves a crucial function at a moment of public health emergency, particularly when it aims to inform the public of critical information and monitors government actions. We urge all governments to robustly implement their freedom of information laws to ensure that all individuals, especially journalists, have access to information.

Fourth, we share the concern that false information about the pandemic could lead to health concerns, panic and disorder. In this connection, it is essential that governments and internet companies address disinformation in the first instance by themselves providing reliable information. That may come in the form of robust public messaging, support for public service announcements, and emergency support for public broadcasting and local journalism (for instance, through government health advertisements).

Resorting to other measures, such as content take-downs and censorship, may result in limiting access to important information for public health and should only be undertaken where they meet the standards of necessity and proportionality. Any attempts to criminalise information relating to the pandemic may create distrust in institutional information, delay access to reliable information and have a chilling effect on freedom of expression.”