

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in Belarus; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Working Group on discrimination against women and girls

REFERENCE:
AL BLR 8/2020

23 October 2020

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in Belarus; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 41/22, 41/12, 43/16 and 41/6.

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 and judicial proceedings against woman human rights defenders Marina Dubina, Irina Sukhiy, and Maria Rabkova.**

Ms. **Marina Dubina** is a woman human rights defender, promoting and defending the right to a healthy environment, as the Executive Director of Ecohome, a non-governmental organization founded in 1996, which promotes sustainable development and education around renewable energy sources while encouraging greater public participation in public policy concerning the environment.

Ms. **Irina Sukhiy** is a woman human rights defender, working for environmental awareness as chairperson of the board of Ecohome. She is also chairperson of the Green Network Council, a network of Belarusian environmental groups, and heads the campaign against the construction of the nuclear power station at Ostrovets.

Ms. **Maria Rabkova** is a woman human rights defender and volunteer coordinator at Human Rights Centre "Viasna" (HRC Viasna). The human rights organisation's volunteer network has been monitoring respect for the right to peaceful assembly since mass protests broke out in Belarus on 9 August 2020, following the announcement of the results of the presidential election. Ms. Rabkova has also been involved in documenting instances of torture and ill-treatment against detained protesters since the beginning of the protests.

According to the information received:

The case of Marina Dubina

On 8 September 2020, an attempt was made to break into the apartment of Ms. Dubina. On the same day police forcibly entered into the apartment of Ms. Dubina's Ecohome colleague, also a woman human rights defender, Ms. Sukhiy.

On 6 October 2020 at around 3:00 p.m., unidentified persons in police uniform, without identification badges, arrested Ms. Dubina whilst she was leaving the “Korpus” cultural centre in Minsk, using tear gas in the process. Ms. Dubina was held at the Okrestina detention centre in Minsk. Her colleagues and family were not made aware of her whereabouts until close to midnight that evening.

On 7 October in a court hearing, Ms. Dubina was charged with participating in a demonstration that took place on 23 September 2020 in Minsk. At the hearing, Ms. Dubina clarified that on that date she was in a different city, Brest. Ms. Dubina’s lawyer was present during the hearing, with Ms. Dubina joining the session from detention via Skype. She had been permitted to speak with her lawyer prior to the hearing, also via Skype.

The following day, Ms. Dubina was sentenced to 13 days in administrative detention in relation to her participation in a different protest that took place on 23 August 2020. On 8 October 2020, she began serving the 13-day sentence. At some point during this administrative sentence, Ms. Dubina was transferred to detention centre #6 in Baranovichi, in Brest Oblast. The date of when this transfer took place is not known.

On 19 October 2020, Ms. Dubina was released from detention after serving her administrative sentence.

The case of Irina Sukhiy

On 29 August 2020, Ms. Sukhiy partook in the women’s solidarity march in Minsk, which called for the resignation of the President of Belarus.

On 6 September 2020, unidentified men in plain clothes forcibly entered Ms. Sukhiy’s apartment in Minsk. Without stating the reason for their entry, the group of men proceeded to detain the woman human rights defender and take her to the Sovetsky District Police Department. After having taken Ms. Sukhiy from her home, the group proceeded to conduct an inspection of her apartment, confiscating her laptop computer and hard drive, along with other items

Ms. Sukhiy was first held in at the Okrestina detention centre, and was then transferred to the Zhodino detention centre.

On 8 September 2020, police carried out another inspection search at the home of Ms. Sukhiy’s daughter. On the same date, Ms. Sukhiy was sentenced to five days administrative detention under article 23.34(1) of the Code of Administrative Offences for violating the procedure for holding a protest. Ms. Sukhiy joined the hearing from detention via Skype, and her lawyer was present for the hearing. She was released upon the completion of her sentence and the items that had been confiscated from her apartment were returned to her.

The case of Maria Rabkova

On 17 September 2020, as Ms. Rabkova and her husband were walking to their home in Minsk, officers from the Main Directorate for Combating Organised Crime and Corruption (GUBOPiK), an organ of the Ministry of Interior, emerged from several minivans that had pulled up beside the couple. The GUBOPiK officers proceeded to physically assault the woman human rights defender and her husband, pushing their faces into the ground. The officers subsequently informed Ms. Rabkova that she was being detained in relation to a criminal investigation opened against her under article 293(3) of the Criminal Code of Belarus for education or other preparation of persons for participating in mass riots, or financing such activities.

Thereafter, Ms. Rabkova and her husband were separated and placed in different minivans by the officers. The human rights defender's husband was driven to the couple's home, where the arresting officers conducted a search, seizing personal belongings from the couple, including documents, money and their mobile phones. He was subsequently driven to the GUBOPiK headquarters where he was hooded, questioned, and threatened with being placed in a temporary detention centre. He was eventually released later the same day.

Ms. Rabkova was brought to Okrestina Street Detention Centre where she was interrogated and detained. She was subjected to further questioning the following day, before subsequently being transferred to Volodarskaya Street Detention Centre No.1 where she is currently being held. Her lawyer was not present for either incidences of questioning.

On 22 September 2020, a complaint filed by Ms. Rabkova's lawyer in relation to her detention was considered. While Ms. Rabkova's lawyer was permitted to attend the hearing, attempts by colleagues of the woman human rights defender were refused. The complaint was rejected by the presiding judge.

On 25 September 2020, Ms. Rabkova was formally indicted under article 293(3) of the Criminal Code, "training or otherwise preparing people for taking part in mass disorders". The article carries a possible penalty of between six months and three years in prison.

Ms. Rabkova had previously received threats, including by members of the GUBOPiK, in relation to her human rights work.

Without wishing to prejudge the accuracy of the information received, we wish to express our serious concern at the sentencing of Ms. Dubina and Ms. Sukhiy and the indictment against Ms. Rabkova, the legal basis of which, in all three cases, would strongly indicate that these woman human rights defenders have been targeted in direct retaliation for their legitimate human rights work. Furthermore, we would like to express serious concern that the administrative sentencing of Ms. Dubina, Ms. Sukhiy and the indictment of Ms. Rabkova may foretell the bringing of future criminal charges against them and other human rights defenders working peacefully in the country.

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 these actions in view of Belarus' obligations under international human rights law.
3. Please provide information as to the legal and factual basis for the detention and sentencing of Ms. Dubina under article 23.34(1) of the Code of Administrative Offences; and the use of tear gas during her detention, keeping in mind Belarus' obligations under international human rights law.
4. Please provide information as to the legal and factual basis for the detention and sentencing of Ms. Sukhiy under article 23.34(1) of the Code of Administrative Offences; the search of her apartment; the seizure of her laptop computers and any other personal belongings; and the search of her daughter's home, bearing in mind Belarus' obligations under international human rights law. Please explain how these actions were compatible with international human rights norms binding on Belarus.
5. Please provide information as to the legal and factual basis for the detention and indictment of Ms. Babkova under article 293(3) of the Criminal Code of Belarus; her conditions of detention at Volodarskaya Street detention centre and at Okrestina Street detention centre, where she was initially held; the search of her home and the seizure of personal items belonging to her and her husband. Please explain how these actions and conditions in detention were compatible with international human rights norms binding on Belarus.
6. Please provide information as to the specific measures put in place to ensure that human rights defenders in Belarus can carry out their legitimate work in a safe and enabling environment, without fear of harassment and intimidation from the authorities or any other agent acting on their behalf or with their acquiescence. Please provide information as to the specific measures that have been put in place to ensure the above for woman human rights defenders.

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 re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted a joint communication to the Government, the Working Group on Arbitrary Detention may transmit the cases 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 joint communication 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.

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer to the obligations of your Excellency's Government under the International Covenant on Civil and Political Rights (ICCPR), which Belarus ratified on 12 November 1973. We would like to make particular reference to articles 9, 14 and 21 of the Covenant, which guarantee the right to freedom from arbitrary arrest and detention, the right to a fair trial and the right of peaceful assembly, respectively.

We recall that according to Article 21 of the ICCPR, "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 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." The 'provided by law' requirement means that any restriction 'must be made accessible to the public' and 'formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly' (CCPR/C/GC/34).

We would like to refer to the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right to Anyone Deprived of their Liberty to Bring Procedures Before a Court (A/HRC/30/37), which provide for the right to legal assistance immediately after the moment of apprehension (principle 9). In a recent report to the Human Rights Council, the Working Group on Arbitrary Detention emphasized that the right to legal assistance applied across all settings of detention, including criminal justice, immigration detention, administrative detention, detention in health-care settings (including in the context of public health emergencies), and detention in the context of migration. This is essential to preserve the right of all those deprived of their liberty to challenge the legality of detention, which is a peremptory norm of international law (A/HRC/45/16, para. 51).

We would further 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

We would also like to remind you of articles 5(a) and 6(a) and (b) of the Declaration, which guarantee that everyone has the right, individually and in association with others, to meet and assemble peacefully for the purpose of promoting and protecting human rights and fundamental freedoms and to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms.

We would like to refer to article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, on women's participation in political and public life, including the right to participate in non-governmental organizations. In this sense, we also make reference to Article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women, on the important role of the women's movement and non-governmental organizations.

We also wish to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of woman human rights defenders. Specifically, we would like to refer to article 8, which calls on States to ensure that woman human rights defenders can perform their legitimate role in the context of peaceful protests, and to ensure that no one is subject to arbitrary arrest or detention in this regard. We would also like to make reference to article 10 of the Declaration, which further calls upon States to ensure that woman human rights defenders are not prevented from enjoying universal human rights owing to their work, including by ensuring that all legal provisions, administrative measures and policies affecting woman human rights defenders are clearly defined and compatible with relevant provisions of international human rights law.

Finally, we recall the thematic report of the Working Group on Discrimination against Women and Girls on participation in public life (A/HRC/23/50), where the Working Group has pointed out that stigmatization, harassment and outright attacks have been used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. . In its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate public and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders.