

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; 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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

REFERENCE:
AL BLR 1/2021

19 March 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in Belarus; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 43/20, 42/22, 44/19, 43/4, 41/12 and 41/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **arrests, arbitrary detention and excessive use of force and ill-treatment against protesters and the repression of journalists and media personnel.**

Concerns regarding allegations of torture and ill-treatment against detained protesters following the Presidential election of 9 August 2020 were raised by Special Procedures mandate holders in a communication sent on 27 August 2020 (AL BLR 6/2020). We thank your Excellency's Government for its reply dated 31 August 2020.

According to the information received:

Case of Viachaslau Rahashchuk

In the evening of 10 August 2020, Mr. Rahashchuk was violently arrested by at least five police officers in Pinsk, while walking with his family. He has been charged under article 293 Part 1 of the Belarusian Criminal Code (mass riots) for his alleged participation in public protests, a charge which carries a prison sentence of up to 15 years.

On 11 August 2020, information was received that he had been very badly beaten by prison officers. He reportedly suffered a hematoma behind his ear, three cuts to his head and bruises along his spine. Mr. Rahashchuk is said to have lost consciousness for up to twenty minutes at the time and developed a tumour on the left side of his ribcage.

Since he has been incarcerated, Mr. Rahashchuk has had a continuous ringing noise in his head. When his family asked for him to be sent for a head-scan, they were told that he was fine and that they should send medication to alleviate his

symptoms. The insistant requests from his family for him to be examined by an independent doctor have continued to be declined, and he is not receiving the medical treatment he urgently requires.

Three written appeals in relation to the allegations of torture and ill-treatment have been submitted to the prosecutor, the detention centre and the investigative committee. The complaints have not resulted in any investigation.

Mr. Rahashchuk remains in detention and has not yet had a trial. He still requires medical attention and the ringing in his ears continue. He was informed by the prison authorities that he is on a waiting list for medical assistance which is likely to take a year.

Case of Evgenii Servuk

On 11 August 2020, Mr. Servuk was arrested in Minsk. During his transportation with a number of other individuals to the police station, the riot police beat him and his fellow detainees with truncheons and verbally abused them. Upon arrival at the District Department of Internal Affairs, all the arrestees were off loaded from the transport car and told to lay on the ground, face down, and were left there for half an hour. They were then placed in a cell holding 50 persons. Following a search procedure, they were returned to the basement and left standing for two hours. Mr. Servuk was not informed of the charges against him, nor was he allowed to make any calls, meet with his lawyer or any family.

On 12 August 2020, Mr. Servuk and the other detainees were removed from their cell and beaten by unknown officers dressed in black uniform. While they were being transferred to the Center for Isolation of Offenders, they were subjected to further beatings. After two hours of waiting, the detainees (120 people) were crammed into a small courtyard, where they were left standing for about 2,5 hours.

On 13 August 2020, the detainees were placed in a small cell (capacity 6 people, detained 18) without access to water, food or toilet. Mr. Servuk was released that night at 11pm with an administrative charge. He and the other detainees were forced to sign two papers, which they could not get acquainted with before release. It is alleged that one paper was a petition to appear in court, and the other a warning about failure to appear.

Case of Alexey Evtushik and Vasily Bikbaev

On 10 August 2020, Mr. Evtushik and Mr. Bikbaev were arrested by six riot police (OMON) officers in black uniforms on the street and loaded into a white minibus. Mr. Bikbaev was first punched in the face that cut his lip, allegedly because "he was smiling". They were then transferred to a prisoner transport vehicle, ordered to turn off their mobile phones and were beaten during the transport to a detention facility. Mr. Bikbaev was forced to crawl into the vehicle on his knees (injuries to his legs were recorded by a forensic medical examination). The detainees were taken to the Center for Isolation of Offenders.

Upon arrival, they were kicked out of the vehicle and forced to go through the “corridor” of the riot police (30-40 people, 25-30 meters), who beat them with their feet, hands and truncheons, in what is usually known as “welcome beatings”. The detainees were placed in a room of 10 by 10 meters, in a kneeling position and with their hands behind their heads, where they were repeatedly beaten again. They were forced to rest their heads against the wall, which was covered with rough plaster. If their heads were to move from the wall, they were reportedly subjected to more beatings. Mr. Evtushik and Mr. Bikbaev were released but continue to face administrative charges. During their detention period, they did not have access to a lawyer.

Case of ██████████

On 11 August 2020, Mr. ██████████ was driving when he was stopped by a traffic police inspector without a stated reason. Riot police then pulled Mr. ██████████ and the other passengers out of the car. The police took his phone, looked at personal details and photographs. When asked about his nationality, Mr. ██████████ replied that he was Roma. Mr. ██████████ informed the police that he was a minor and asked to call his parents but his request was denied. Mr. ██████████ was badly beaten, insulted and ridiculed for his Roma origin. The riot police demanded that he admit his participation in the protests but he denied any participation in the gatherings. Mr. ██████████ was thrown into a paddy wagon, and was taken to the Center for Isolation of Offenders, where he was subjected to ill-treatment and inadequate conditions of detention.

On 13 August 2020, the Center's employee forced Mr. ██████████ to sign the detention protocol, but did not let him read it, because he was forced to look at the floor all the times. When he tried to raise his head, he was beaten. A copy of the protocol was not provided. He was released later that evening, but he continues to face administrative charges.

As Mr. ██████████ was about to exit, a few officers dressed in riot gear forced him to go with them, took him out through an emergency exit into the forest. Four riot police officers continuously beat him, while two other riot police officers picked him up from the ground when he fell and forced him to stand during the beating. They left Mr. ██████████ unconscious in the forest. When Mr. ██████████ regained consciousness, the following day, he was able to walk and took transportation home.

Case of Rustam Lazarenko

On 9 August 2020, Mr. Lazarenko was at the centre of Minsk where the protests were taking place. There was a loud explosion and smoke, people started to disperse and run. Mr. Lazarenko followed a crowd of people running away into a courtyard where they were met by riot police. They were arrested and led to a police van. As they were waiting for the van to fill, the police were taking people out of it, beating them with batons on the back and neck and returning them. Once the transport vehicle was filled beyond its capacity, they were made to lay face down which caused difficulty in breathing.

They were then driven around the city for a long time before being taken to the Center for Isolation of Offenders where Mr. Lazarenko was subjected to ill-treatment and inhumane conditions. In the corridor of the Center, everyone was placed on their knees with their heads down along the wall. Those who moved or got up were beaten on the back with batons. They were completely undressed, and their belongings were taken away. Then they were taken to a cell 2x12m, designed for 4 people. Reportedly, 33 detainees were kept in this cell. The windows were closed. When the walls were very wet because of breathing, the Center staff opened the window for about 10 minutes only. The detainees were beaten and several were bleeding. They were drinking tap water and received bread (4 loaves for 33 people) and tea only three days after their incarceration.

Mr. Lazarenko was notified of administrative charges imposed on him and released. After his release, Mr. Lazarenko sought medical care. According to medical reports, he was found to have a tear of meniscus, a closed craniocerebral trauma, a bruise of the left knee joint with ligament damage, a soft tissue bruise in the anterior-outer surface of the left hip, in the anterior surface of the left shin, in the scapular area, in the parietal area, a reaction to severe stress and adaptation disorders, post-traumatic stress disorder.

Case of [REDACTED] and [REDACTED]

While on their way home on 10 August 2020, Mr. [REDACTED] and Mr. [REDACTED] reached the Bobrujskij square garden in Minsk. While some people were in the square garden, no groups or spontaneous gatherings were taking place. They went to sit on a bench, when Mr. [REDACTED] saw two riot police approaching. The police asked for their names and age, although the officers were not carrying identification to prove their identity at the time. Mr. [REDACTED] was asked to open his backpack and show his phone. Mr. [REDACTED] showed them his phone, which had a Pagonia [ancient Belarusian symbol] on the phone wallpaper.

Mr. [REDACTED] wrists were then twisted and he was pushed to the ground and handcuffed by the police. The two individuals were then taken to an avtozak (a prisoner transport van). When they arrived to the vehicle, they were hit on their legs, and body searched. The police officers took Mr. [REDACTED] phone and threw it into the avtozak, and took away all his belongings. Mr. [REDACTED] and Mr. [REDACTED] stayed there up to two hours before the van started moving.

They were transported to the detention facility in Okrestin street. They were first asked to kneel facing the wall then they were moved to a basement, where they were forced on their knees and told to take off their laces, necklaces and chains. They were then taken to the delinquents detention centre (the next building). Prior to their release, they were forced to sign documents with false evidence which served as the basis for the administrative charges brought against them.

Case of Ihar Pahotski

On 12 August 2020, Mr. Pahotski was recording a protest in Minsk, when eight riot policemen ran up to him and begun beating him. The police officers dragged him to a police van. On the way to the Frunzenskiy police station, he was

severely beaten. His personal belongings were searched including the video he had recorded. Upon arrival at the station, during the inventory of his possession, one of his cameras was missing. Mr. Pahostski was placed in a cell with 20 other detainees.

On 13 August, the Deputy Minister of Internal Affairs announced that all the detainees would be released but only after signing a document attesting that they will not participate in any protests and that they will also not launch any complaints against law enforcement agencies.

In the morning of 14 August, Mr. Pahostski was asked to sign a document prohibiting participation in further rallies and a warning about criminal liability in case of a second arrest, the condition of not signing the agreement was a fine or further 15 days in detention. Mr. Pahostski was experiencing pain and therefore signed the documents in order to be released. After his release, Mr. Pahostski went to the hospital for treatment of the injuries he sustained from the physical assault he was subjected to. On 15 August, he submitted a statement to the Investigative Committee of the Moscow District on his ill-treatment. On November 10, he was informed that the Central Office of the Investigative Committee decided to suspend the inspection No. 450 of 28 August 2020 on allegations of illegal actions against the applicant and other persons held in the Center for Isolation of Offenders and the temporary detention Center of the Minsk City Executive Committee's police department. The suspension of the inspection is due to the large volume of appointed examinations, the conclusions of which are of significant importance.

On 5 October, while Mr. Pahostski was in hospital undergoing spinal treatment, the court of the Frunzensky District of Minsk, in absentia imposed a fine of 540 rubles (approximately 176 EUR) against Mr. Pahostski for participating in the rally. The appeal hearing took place on 29 December 2020 and a re-examination of the case took place on 28 January 2021, in both hearings Mr. Pahostski was present, the case was sent for re-examination to the Frunzensky District Police Department.

On 8 November 2020, Mr. Pahostski was arrested at another rally. On 9 November, he was moved to the Center for Isolation of Offenders. The next day he appeared in court and sentenced to 15 days imprisonment at the Zhodino Prison. It is reported that he was also subjected to ill-treatment during his detention.

Case of Zhenya Velko (passport - Yevgeny Senkov)

Zhenya Velko is a trans man. On 26 September 2020 he was arrested at the Women's March in Minsk. In a cohort of other LGBT+ people, Zhenya was detained by four unidentified security officers in green clothes and taken to a van without number plate. Throughout his detention, the officers constantly forced him to confirm his gender, spoke insultingly about it, and ridiculed the LGBT+ flag found in his bag. He was taken to the Leninsky RUVD in Minsk.

The police interrogated Zhenya, without a lawyer, after which they asked him to falsely sign that the mobile phone previously seized for inventory had been returned to him, and that he had been given a copy of the protocol, although that was not the case.

The officers refused to inform his family that Zhenya was in custody, despite his mother insisting that the geolocation of his phone and that other released detainees confirmed seeing him at RUVD.

Zhenya was transferred to the temporary detention facility on Akrestina and after that he was transferred again to prison No. 8 in Zhodino. During the search, he was told to undress to his underpants in front of everyone even though he told the nurse that he is a trans man. They made several remarks about his body, ridiculed him with transphobic rhetoric and threatened to shot him or to place him in a cell with men where he would be subjected to physical and sexual violence before putting him in a cell alone.

He served two days of administrative arrest and then appeared before court on 28 September. At the trial, Zhenya was told to sign a waiver of defense, since his relatives allegedly did not provide information about the conclusion of an agreement with a lawyer. He was fined under article 23.34 of the Belarusian Code of Administrative Offences (violation of the organisation or holding of mass events) and released.

Case of Dmitry Kulakovsky

Mr. Kulakovsky, a former police officer, was arrested with no warrant by a group of officers dressed in black without giving reason and detained on 6 October 2020. Five hours after his arrest, he was presented with a decision to initiate a criminal case but was not informed of the charges. He was sentenced to 12 days of imprisonment for his reported submission of a petition for dismissal from the police force in September 2020. 13 days after his arrest, he was informed that he was assigned a lawyer. It is alleged that the officers who acted as witnesses in the case submitted false reports.

He was being held at the temporary detention facility in Minsk, in isolation cell No. 8. The bed was reportedly fastened to the wall and was never unfastened in the night. There was only one stool with a metal border that rises 0.5 centimeters above the seat and pinches into the body when sitting for a prolonged period. The stool was bolted to the floor in the middle of the cell, making it impossible to lean against the wall for support. The cell was lit 24 hours and made it difficult to sleep. A bucket of water was poured on the concrete floor every two to three days and was not wiped away, which led to dampness and growing mold. The window in the cell remained open, even when temperature dropped at night, it was left open.

Mr. Kulakovsky was not permitted to receive parcels from home and was not provided with socks or warm clothing. He was provided with 1.5 to 3 litres of water per day for hygiene and drinking.

He was supposed to be released on 18 October but he was not allowed to leave. The following day, on 19 October he was taken before a court on allegation of disobedience and was sentenced for another 15 day, which were served at the temporary detention facility.

Following his release in November, a court hearing on his criminal charges was held, which was reportedly conducted without due process. Mr. Kulakovsky was sentenced to two years imprisonment on 22 January 2021. He has reportedly filed an appeal on the ruling.

Cases of Maryna Kastylianchanka and Aliaksandr Paplauski

On 30 October 2020, Ms. Kastylianchanka was arrested along with seven other individuals at a cafe in Minsk by officers from the Main Directorate for Combating Organised Crime and Corruption (GUBOPiK) for allegedly taking part in an unauthorized rally, chanting slogans and disobeying police orders earlier on the same day, even though it is reported that she had not participated in any rally.

According to the information received, on 2 November 2020, Ms. Maryna Kastylianchanka was sentenced to 15 days of administrative detention by the Zavodski District Court of Minsk on charges of “participating in an unauthorized mass event” (art. 23.34 of the Code of Administrative Offences) and “disobeying the legal orders of a police officer” (article 23.4 of the Code of Administrative Offences). She was detained in Okrestina detention centre, in Minsk.

The only evidence taken into consideration by the court was the oral testimony of the police officers, no visual images of the rally were presented. The court allegedly rejected two motions to question the police officer who filed the record of administrative offences against her and to call the rest of detainees as witnesses, respectively.

On 30 October 2020, Mr. Poplausky, who was monitoring the trials of individuals charged for their participation in a peaceful demonstration, was arrested at the Maskoŭski District Court of Minsk, after he had refused to leave the courtroom by order of a judge. Mr. Poplausky was charged under art. 17.1 of the Code of Administrative Offences (“petty hooliganism”) and was subsequently taken to Okrestina detention centre, in Minsk.

On 2 November, the Maskoŭski District Court of Minsk adjourned Mr. Poplausky’s case to 17 November and he was released pending trial.

Systemic arrest of journalists and media personnel

At least 300 journalists or media personnel have been arrested by Belarusian authorities in connection with the presidential elections and ensuing protests. Additionally, multiple journalists have reported that excessive and disproportionate force was used during their arrests. A notable violent police raid occurred on 10 August 2020 in Babruysk when numerous individuals,

including journalists and media personnel waiting for events to unfold near a pretrial detention center, were suddenly violently attacked by riot police officers. All the journalists were forced to face the ground before being beaten up by police officers. Journalists and media personnel were forbidden to record the event and the police officers threatened “to cut their hands” if they did. Whilst covering protests in Minsk, numerous reports of journalists being clubbed by police officers resisting their arrests, had pictures from their cameras erased, violently pressed to the ground by plainclothes policemen, held for several hours, had their accreditations withdrawn, and some being deported to Russia.

On 16 February 2021, the police searched headquarters of the Belarusian Association of Journalists (BAJ) and the human rights organisation Viasna in Minsk, seized information and equipment and then placed a seal on its entrance. On the same day, the homes of representatives of the organisations’ representatives were also searched. It is reported that the homes of several freelance journalists were also searched on that day. According to the information we received, the Belarus’s Investigative Committee explained that the operation was carried out as part of a preliminary investigation into “funding or organizing actions posing a serious threat to public order” pursuant to article 342 of the Belarus penal code.

Without making any judgment at this point as to the accuracy of the information made available to us, we reiterate our serious concern at the allegations of arbitrary arrests and detention, the treatment and conditions which the above named individuals reportedly were subjected to. Should the facts alleged above be confirmed, they would contravene the internationally recognized rights of every individual to liberty and security of person, not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, to physical integrity, privacy, fair trial, freedom of expression, and non-discrimination, protected under articles 3, 5, 7, 9, and 10 of the Universal Declaration of Human Rights (UDHR) and articles 2, 7, 9, 10, 14, 19 and 26 of the International Covenant on Civil and Political Rights (ICCPR), which Belarus ratified on 12 November 1973. Moreover, they may constitute violations of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Belarus ratified on 13 March 1987. The aforementioned rights are of universal nature and apply to everyone, irrespective of their sexual orientation or gender identity. In regard to LGBT people, we wish to remind your Excellency’s Government that the authorities are obliged to prevent and combat violence against LGBT detainees by other detainees (A/HRC/31/57, para. 35).

We are seriously concerned at the excessive use of force on protesters, bystanders and journalists and wish to remind your Excellency’s Government that even in cases where an assembly is no longer peaceful, participants retain all the other rights protected under the ICCPR. No assembly should thus be considered unprotected. (A/HRC/31/66, para. 8-9). We are also particularly concerned about the situation of journalists and press freedom organisations, and how vague provisions in the legislation are seemingly being used to curtail freedom of expression. We are deeply concerned

that the authorities are seeking to silence all forms of dissent, by both criminalising those who exercise their fundamental rights, and those who work to defend those rights.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information about the factual and legal grounds for the arrest and continued detention of the persons referred to in this letter. Please clarify the charges brought against these individuals and provide details on measures taken to ensure that their fair trial and due process rights have been respected in the context of the trial proceedings. Please also clarify the legal basis for the searches of the organisations mentioned-above and how it complies with your Excellency's Government's international human rights obligations under article 19 and 22 of the ICCPR.
3. Please provide the details and, where available, the results of any investigation, medical examinations, and judicial or other inquiries which may have been carried out, or which are foreseen, in relation to allegations of torture and other cruel, inhuman or degrading treatment or punishment. If no such investigation measures have been conducted, please explain why, and how this is compatible with the international human rights obligations of Belarus under the conventions it has ratified.
4. Please explain how your Excellency's Government maintains safety of people in detention facilities, especially for those who identify themselves as LGBT. Also for transgender detainees, please provide information about how detention facilities take into consideration their self-identified gender. If no specific protection measures have been taken, please explain why.
5. Please indicate if there are guidelines or training provided to the prison authorities in relation to the treatment of prisoners and juveniles, including the principle of non-discrimination and the reviewed Standard Minimum Rules for the Treatment of Prisoners (as amended and adopted by the UN General Assembly on 5 November 2015 and renamed the "Mandela Rules"); and if any protection measures against sexual harassment, torture and other cruel, inhuman or degrading treatment or punishment have been put in place especially in places of detention.

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.

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 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 prejudge any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. The freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected under all circumstances. The report of the Special Rapporteur on Torture (A/72/178) states that, "any extra-custodial use of force that does not pursue a lawful purpose (legality), or that is unnecessary for the achievement of a lawful purpose (necessity), or that inflicts excessive harm compared to the purpose pursued (proportionality) contradicts established international legal principles governing the use of force by law enforcement officials and amounts to cruel, inhuman or degrading treatment or punishment."

Arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35, para. 17). According to article 9 of the ICCPR, any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. In addition, anyone deprived of his liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37). Moreover, the deprivation of liberty as punishment for the legitimate exercise of rights guaranteed by the ICCPR is arbitrary, this includes protections for the rights to freedom of opinion and expression, as well as freedom of assembly and association (CCPR/C/GC/35).

We recall article 14 of the ICCPR, which provides that in the determination of any criminal charge, everyone shall be entitled to the minimum guarantees of fair trial and due process, including to have adequate time and facilities for the preparation of his defence, to be assisted by and to communicate with a lawyer of his own choosing, as also established by the UN Basic Principles on the Role of Lawyers. In this respect, we would like to refer your Excellency's Government to the recent report of the Working Group on Arbitrary Detention to the Human Rights Council (A/HRC/45/16, paras. 50-55), where the Working Group reiterated that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty. The Working Group also highlighted that the right to legal assistance applies from the moment of deprivation of liberty, and that it should be available at all stages of criminal proceedings, namely, during pretrial, trial, re-trial and appellate stages, to ensure compliance with fair trial guarantees.

The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. We refer to the Standard Minimum Rules for the Treatment of Prisoners (the so-called "Mandela Rules," adopted unanimously by the UN General Assembly (resolution 70/175 of Nov 2015) which, inter alia, provide inter alia for a separation of

prisoners taking into account of their sex, age, criminal record, the legal reasons for their detention and the necessities of their treatment (rule 11). They also provide for appropriate accommodation, including minimum cubic content of air and floor space, lighting and ventilation (rules 12 to 17), requirements to be met regarding personal hygiene (rule 18), clothing and bedding (rules 19 to 21), food (rule 22) and exercise and sport (rule 23). We would also like to draw your attention to 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.

The rights to freedom of expression, peaceful assembly and of association are protected in articles 19 and 20 of the Universal Declaration of Human Rights and in articles 19, 21 and 22 ICCPR. The Human Rights Council has emphasized that States have the obligation to respect and fully protect these rights online as well as offline. The General Assembly has also called upon all States to “ensure that the same rights that individuals have offline, including the rights to freedom of expression, of peaceful assembly and of association, are also fully protected online, in accordance with human rights law”.

Article 19 of the ICCPR protects, inter alia, political discourse, commentary on one’s own and on public affairs, discussion on human rights and journalism (Human Rights Committee, General Comment no. 34, CCPR/C/GC/34 para 11). As indicated by the Human Rights Committee, “the function of journalists includes not only full-time reporters and analysts, but also bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere”, CCPR/C/GC/34 para. 44. While all restrictions must comply with the requirements of necessity and proportionality, the penalisation 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. Furthermore, Human Rights Committee, in its General Comment No. 35 paragraph 53 has stated that detention purely due to peaceful exercise of right protected by the Covenant may be arbitrary. Laws justified by national security, whether described by sedition laws or otherwise, can never be invoked to prosecute journalists, see CCPR/C/GC/34 para 30. Likewise, the arbitrary arrest or torture of individuals because of the exercise of their freedom of expression will under no circumstance be compatible with article 19, CCPR/C/GC/34 para. 23.

We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”, and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force.

The General Comment 37 of the Human Rights Committee states that only the minimum force necessary may be used where this is required for a legitimate law enforcement purpose during an assembly. Once the need for any use of force has passed, such as when a violent individual is safely apprehended, no further resort to force is permissible.(Code of Conduct for Law Enforcement Officials, Art.3). Law enforcement officials may not use greater force than is proportionate under the circumstances for the dispersal of an assembly, prevention of crime or in effecting or assisting in the lawful

arrest of offenders or suspected offenders.(Code of Conduct for Law Enforcement Officials, commentary to art. 3.) Domestic law must not grant officials largely unrestricted powers, for example to use “force” or “all necessary force” to disperse assemblies, or make under-protective generalisations, for example simply to “shoot for the legs” (CCPR/C/GC/37 para. 79).