

Mandates of 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 Independent Expert on the enjoyment of all human rights by older persons and the Special Rapporteur on freedom of religion or belief

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(Please use this reference in your reply)

25 February 2022

Excellency,

We have the honour to address you in our capacity as 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; Independent Expert on the enjoyment of all human rights by older persons and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 42/22, 44/19, 43/4, 42/12 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Vladimir Matskevich**, a Belarusian public figure, who was allegedly arbitrarily arrested on 4 August 2021.

According to the information received:

Mr. Vladimir Matskevich, born on 14 May 1956, is a prominent Belarusian philosopher, methodologist of social science and public figure.

On 4 August 2021, Mr. Matskevich was reportedly arrested by the State Security Committee of the Republic of Belarus, following searches in his office and apartment on the order of the chief investigator of the Minsk department of the Investigative Commission, and on suspicion of organizing actions that grossly violate public order, contrary to article 342 part 1 of the Criminal Code.

On 18 August 2021, charges were allegedly brought against Mr. Matskevich, pursuant to article 342 of the Criminal Code. As a public figure and intellectual, Mr. Matskevich has criticized the Belarusian authorities, including in his open letters to the ministers of internal affairs and foreign affairs, and to the current President of Belarus. Reportedly, Mr. Matskevich was arrested soon after he wrote a public statement on the planned referendum, in which he described it as a crime. As a result, Mr. Matskevich would appear to have been targeted for openly criticising the Belarusian authorities and their actions.

According to the information received, in October 2021, Mr. Matskevich's texts allegedly began being examined for the presence of language "inciting racial, national, religious or other social hatred", pursuant of article 130 of the Criminal Code. It is reported that all procedural actions have been kept secret from Mr. Matskevich's relatives and from the public. Though Mr. Matskevich was placed in pre-trial detention over six months ago and no new charges

appear to have been brought against him, the date of his trial has not yet been announced officially, contrary to article 127 of the Criminal Procedure Code.

It is also reported that Mr. Matskevich's lawyers have been subjected to unprecedented pressure. Allegedly all of Mr. Matskevich's lawyers are under a non-disclosure agreement; one of Mr. Matskevich's lawyers was forced to leave Belarus as his apartment was searched on 13 August 2021 and his legal license was revoked; and another one of his lawyers had her license revoked on 22 December 2021. Additionally, Mr. Matskevich was reportedly deprived of the right to see his relatives during the entire time of his detention, despite Belarus having lifted Covid-19 related restrictions on 21 October 2021.

It is further alleged that Mr. Matskevich's demand to see a protestant priest was made unfulfillable by the Belarusian authorities in so far as the requirement for a priest to produce legal documents confirming his affiliation with a registered religious organization is hard to fulfill and Belarusian protestant organizations and congregations have been denied registration and are themselves subjected to various forms of repression. In this regard, the Government is alleged to have taken no action to implement the United Nation Human Rights Committee's November 2018 recommendation that the Government of Belarus repeal mandatory state registration of religious communities.¹

On 2 February 2022, Mr. Matskevich reportedly announced to his lawyer that he would begin a hunger strike if his detention was extended. On 4 February 2022, Mr. Matskevich began a hunger strike in the pretrial detention center No 1 in Minsk, demanding that his preventive detention be changed to a written recognizance not to leave, that the investigation be completed, and that a date be set for his trial. Mr. Matskevich reportedly began a dry hunger strike on 14 February 2022 as his demands were not met. After an incident when he started losing consciousness, and a subsequent meeting with an investigator, on 17 February 2022, Mr. Matskevich reportedly discontinued his dry hunger strike.

Without prejudging the accuracy of the information received, we express deep concern about the arrest and continued detention of Mr. Matskevich, which appear to be politically motivated, and about the conditions of his detention. Despite the reports that Mr. Matskevich stopped his dry hunger strike on 17 February 2022, we are concerned about his state of health, due to his older age and his lack of access to independent doctors who could evaluate his health condition and share the information with his family. We are further concerned about the reports that the information regarding new charges and the court hearing date are still not made public.

If confirmed, the above allegations could amount to violations of the right to be free from torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, the right to be treated with humanity and with

¹ CCPR/C/BLR/CO/5, para. 46.

respect for the inherent dignity of the human person, the right to access legal counsel, the right to freedom of thought, conscience and religion, and the right to freedom of expression and opinion, as enshrined respectively in articles 5, 9, 18, 19 of the Universal Declaration of Human Rights and articles 7, 9, 10, 14, 18 and 19 of the International Covenant on Civil and Political Rights (the “Covenant”), which Belarus ratified in 1973. The above allegations could also contravene several rules of the United Nations Standard Minimum Rules for the Treatment of Prisoners, pertaining to the rights of detainees to communicate with the outside world and to access a qualified representative of their religion

Specifically, we wish to draw the attention of your Excellency's Government to article 9 of the Covenant, which provides that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. Specifically, article 9 (3) guarantees that anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. As the Human Rights Committee has noted, any delay beyond 48 hours to bring a detainee before a judge following his or her arrest must remain absolutely exceptional and be justified under the circumstances.² Furthermore, article 9 (4) of the Covenant requires that anyone deprived of his or her liberty shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of the detention. According to the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, the right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society and applies to all situations of deprivation of liberty.³

In addition, we wish to remind your Excellency's Government that article 14 of the Covenant enshrines the rights to access and communicate with legal counsel and to have adequate time and facilities for the preparation of one's defense. As per the jurisprudence of the Working Group on Arbitrary Detention, the failure to provide a detainee access to his or her lawyer, violates that individual's right to have adequate time and facilities for the preparation of his or her defence and to communicate with a lawyer of his or her own choosing.⁴

Further, we refer to articles 18 and 19 of the Universal Declaration of Human Rights and articles 18 and 19 of the Covenant, which guarantee the right of everyone to freedom of thought, conscience and religion, and freedom of expression and opinion. Freedom of expression, as encapsulated in article 19 of the Covenant, protects expression even when it may shock, offend or disturb, or which may insult an individual or group, or criticize an institution.⁵ In this respect, we wish to remind your Excellency's Government that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including the right to freedom of opinion and expression and the right to freedom of religion.

² Human Rights Committee, general comment No. 35, para. 33.

³ A/HRC/30/37, paras. 2–3, 11.

⁴ See, for example, opinion No. 1/2021, para. 99.

⁵ See, for example, opinion No. 33/2021, para. 68.

As Mr. Matskevich's state of health is unknown following his dry hunger strike and knowing that detention exacerbates underlying health conditions in old age, we draw the attention of your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Belarus on 12 November 1973, which establishes an obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including older prisoners or detainees, to health services (General Comment 14. Para. 34.). The UN Standard Minimum Rules for the Treatment of Prisoners, or the Mandela Rules (rules 22–26; 52; 62; and 71, para. 2), further establish States' responsibility to provide healthcare for prisoners, including prompt access to medical attention in urgent cases and the transfer of prisoners who require specialized treatment to specialized institutions or civil hospitals (Rule 27). Finally, informed consent in health is an integral part of respecting, protecting and fulfilling the enjoyment of the right to health (A/64/272, Para.18) and as such any medical intervention linked to the hunger strike should guarantee informed consent as a fundamental feature of respecting an individual's autonomy, self-determination and human dignity.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individual from irreparable harm and without prejudicing any eventual legal determination.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds for the arrest and detention of Mr. Matskevich and how these measures are compatible with international norms and standards as stated, *inter alia*, in the Universal Declaration of Human Rights and the Covenant.
3. Please provide information regarding the investigations and proceedings against Mr. Matskevich and how these comply with his right to a fair trial, in particular, under article 14 of the Covenant.
4. Please provide information on how the charges against Mr. Matskevich comply with the international obligations of Belarus with regard to freedom of expression and opinion, freedom of religion, and the

prohibition of arbitrary detention.

5. Please provide information on the detention conditions of Mr. Matskevich, as well as his state of health, and how they comply with the international obligations of Belarus regarding his right to access legal counsel, to communicate with his family, and to access a qualified representative of his religion and his right to health, based on his older age.

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 responsible of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal 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 deprivations of liberty were arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We may issue a public statement on the case mentioned above as we believe that the public should be informed about it. Any public statement on our part will indicate that we have been in contact with your Excellency's Government to clarify the issues in question.

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.

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

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Vice-Chair of the Working Group on Arbitrary Detention

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

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