

**Mandates of the Special Rapporteur on the situation of human rights defenders; 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 rights to freedom of peaceful assembly and of association**

Ref.: AL BLR 1/2023  
(Please use this reference in your reply)

24 March 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 50/20, 43/4 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the criminal proceedings against members of Human Rights Center Viasna. Human Rights Center Viasna is a Belarusian non-governmental organization, established in 1996 to help victims of human rights violations. The main goal of the organization is to contribute to the development of the civil society in Belarus, based on the respect of human rights standards.

Viasna has been facing pressure from the authorities for two decades. The organization was unlawfully dissolved in 2003, and despite the considerations of the Human Rights Committee (Views concerning communication no.1296/2004) did not lead to the restoration of its official status. We have received report of activists and volunteers of the organization being repeatedly arrested and interrogated. In 2011, the Chairperson Mr. Ales Bialiatski was imprisoned on charges similar to the present, which the Human Rights Committee found to be in violation of article 22 of the ICCPR (views concerning communication No.2165/2012).

In 2020, Viasna became the subject of a criminal investigation targeting the organization's leaders and members. Six members of Viasna are currently in prison. At least seven more individuals have suspect status in the criminal case against Viasna, but are currently not detained.

**Mr. Aliaksandr (Ales) Bialiatski** is the Chairperson and founder of Human Rights Center Viasna, a renowned international human rights expert, a laureate of the Nobel Peace Prize 2022, former Vice-President of the International Federation for Human Rights (FIDH) between 2007 and 2016, as well as a laureate of several international awards and prizes (Right Livelihood Award in 2020, and the 2022 Nobel Peace Prize) that recognized his contribution to the global human rights movement.

**Mr. Valiantsin Stefanovic** is a member of Viasna Board and Deputy Chairperson, Vice-President of the International Federation for Human Rights (FIDH) since 2019, re-elected on 27 October 2022. He is a well-known human rights expert and analyst, advocate for non-discrimination and against the death penalty.

Mr. **Uladzimir Labkovich** is a lawyer at Viasna, a coordinator of the “Human Rights Defenders for Free Elections” advocacy campaign, has been engaged in human rights work with Viasna since 2001, has worked as an expert with OSCE and other international organizations.

According to the information received:

Mr. Bialiatski, Mr. Stefanovic and Mr. Labkovich have been detained since 14 July 2021, on charges of ‘tax evasion’. The investigation against the three human rights defenders has lasted over 16 months and involved over 120 searches and raids across the country, as well as interviews of approximately 100 witnesses.

On 14 July 2021, the apartments of all three members of Viasna were searched, and they were detained first for 72 hours and subsequently charged with tax evasion, under article 243 of the Criminal Code of Belarus. On 26 September 2022, the criminal charges of tax evasion were replaced with new criminal charges of ‘smuggling’ and ‘financing group actions that disrupted public order’, under part 4 of article 228, and part 2 of article 342 of the Criminal Code of Belarus, respectively.

During the time of their detention, Mr. Bialiatski, Mr. Stefanovic and Mr. Labkovich have been deprived of regular visits by their family members. Their access to lawyers and medical care has also been restricted.

On 5 January 2023, the trial started in the Lieninski District Court of Minsk. The accused were reportedly taken into the courtroom handcuffed and remained in a metal cage throughout the proceedings. They filed a motion to remove the handcuffs on the grounds that it constitutes degrading treatment and violates their right to dignity. The motion was not considered by the court, the judge presiding stated that this issue falls within the jurisdiction of the guard, not the court.

On 9 January 2023, the Lieninski District Court of Minsk heard the closing arguments in Viasna trial. The prosecution sought to sentence Mr. Bialiatski to 12 years in a penal colony.

The State prosecutor claims that the guilt of human rights defenders of smuggling by an organized group under part 4 of article 228 of the Criminal Code, and financing of group actions grossly violated public order, under part 2 of article 342 of the Criminal Code, has been fully proven. The prosecutor requested to sentence Viasna chair and Nobel Peace Prize laureate Ales Bialiatski to 12 years in a medium security prison colony; and Viasna deputy chair and vice-president of FIDH Valiantsin Stefanovic to 11 years in a medium-security penal colony.

The prosecutor further asked the court to impose a fine of 185,000 Belarusian rubles (approx. USD 73,200) to each of the defendants.

Without wishing to prejudge the above allegations, we express our serious concerns about the conduct of the trial and about the charges which appear to be politically motivated and targeting Mr. Bialiatski’s and his colleagues’ legitimate

work for the protection and promotion of human rights. Their arrest, prosecution and imminent sentencing seem to form part of a pattern and unfolding policy to silence human rights defenders and eradicate civil society and their activities in Belarus.

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 provide information on the legal basis for the charges against and proposed sentencing of Mr. Bialitski, Mr. Stefanovic and Mr. Labkovich and explain how these measures are compatible with Belarus's obligations under international human rights law.
3. Please provide information as to the specific measures put in place to ensure that human rights defenders and civil society actors 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 person(s) responsible for the alleged violations.

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.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

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

## Annex

### Reference to international human rights law

In connection with 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 7, 9, 19, 21 and 22 of the Covenant, which guarantee the right to freedom from arbitrary arrest and detention, freedom of opinion and expression, freedom of peaceful assembly and freedom of association.

We would like to refer to the absolute prohibition of arbitrary detention, as set forth in article 9 of the ICCPR. Article 9 establishes in particular 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, and that anyone who is arrested 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. Pre-trial detention should thus be the exception rather than the rule (CCPR/C/GC/35, para. 38). We further note that a person may only be deprived of liberty in accordance with national laws and procedural safeguards governing detention (including in relation to arrest and search warrants), and where the detention is not otherwise arbitrary. In this respect, we wish to highlight that deprivation of liberty resulting from the exercise of the rights or freedoms guaranteed by the ICCPR is considered arbitrary (CCPR/C/GC/35, para. 17). In this regard, we would like to refer to the recent report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association on the importance of guaranteeing access to justice in the context of the mentioned rights, whereas he stressed that legal assistance must be made available to everyone without discrimination. He further indicates that legal assistance should be given to everyone by counsel of their choice, in full respect of confidentiality, and at any time during custody or detention (A/HRC/47/24, para. 40).

Article 19 of the ICCPR enshrines the right to freedom of opinion and expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one's choice. As interpreted by the Human Rights Committee in general comment no. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (paragraph 11) as well as expression of criticism or dissent. The Human Rights Committee has recommended States to take "effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression" (general comment 34 para. 23). In the same General Comment, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be *provided by law*, pursue a *legitimate* aim, and be *necessary* and *proportionate*. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. As interpreted by the Human Rights Committee, article 19(3) may never be invoked to

justify the muzzling of any advocacy of human rights (idem, paragraph 23).

In this regard, we would also like to draw your Excellency's Government attention 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 fully protect the [right] of all individuals to... associate freely, online as well as offline... including human rights defenders... seeking to exercise or to promote these rights, and to 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 international human rights law".

We would like to refer to the report of (former) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association whereas she states that "[...] the suspension and involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law" (A/HRC/20/27 para. 75). In the same paragraph, she further states that these severe restrictions can only be imposed when softer measures are deemed insufficient.

Would also like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment, as codified in article 7 of the ICCPR, and enshrined in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

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 the following articles of the Declaration on Human Rights Defenders, which state that everyone has the right, individually and in association with others:

- Article 9(1) "to benefit from an effective remedy and to be protected in the event of the violation of those rights".
- Article 9(3)(c) "[t]o offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms".
- Article 12(c) "to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms".