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Advocacy briefer

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Since the adoption by the Human Rights Council of resolution 17/24 in June 2011, the human rights situation in Belarus has continued to deteriorate. Harassment campaigns have targeted human rights defenders, political activists, journalists and lawyers. The rights to freedom of association, expression and peaceful assembly were also further restricted. In November 2011, Ales Bialiatski, President of the Viasna Human Rights Centre and Vice-President of FIDH, was convicted on politically motivated charges of tax evasion. The Human Rights Council should respond by establishing a Special Rapporteur on the situation of human rights in Belarus.

1. Update on human rights violations in Belarus

Political prisoners and politically motivated prosecutions

As underlined in the last report of the UN High Commissioner for Human Rights,¹ the recent release of political prisoners in Belarus should not obscure the fact that the last months have seen the human rights situation for others significantly deteriorate:

On 13 August 2011, the Government pardoned and released 9 people sentenced to imprisonment in connection with the events of 19 December 2010. This was followed by the pardoning of 4 people on 1 September, and of 11 more on 14 September (...). In the meantime, the authorities have continued to arrest, detain and sentence political opponents, in violation of their right to freedom of assembly. For example, activist Pavel Vinahradau was arrested on 22 February 2012 and sentenced to 10 days of administrative detention for organizing a “toy rally” near a Government building in Minsk.²

Regarding the recent release from prison of 2010 presidential candidate **Andrei Sannikau** and his deputy, **Zmitser Bandarenka**, on 14 and 15 April 2012 respectively, it is notable that they were forced to sign a pledge confessing the illegality of their actions and guaranteeing their non-participation in future political activities. Andrei Sannikau was informed that his criminal record will last for at least eight years. The psychological and physical condition of these individuals is of grave concern: after release, both men stated that they had been subjected to pressure in prison and threatened with rape and mutilation.³ This undermines the positive developments that these releases have marked, especially as 13 political prisoners continue to be incarcerated in Belarusian prisons,⁴ among them opposition activist **Siarhei Kavalenka**, and four persons recognized by Amnesty International as prisoners of conscience.⁵

On 24 February 2012, Siarhei Kavalenka was sentenced to two years and one month in prison for evading the punishment of supervised release, after being sentenced in May 2010, reportedly for flying a banned pre-Lukashenka-era national red and white flag on a Christmas tree in the city of Vitebsk. Upon arrest, in December 2011, he was severely beaten by police officers. This second prosecution of Mr. Kavalenka is a blatant attempt to continue his

¹ Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus, A/HRC/20/8, 10 April 2012.

² Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus* A/HRC/20/8, 10 April 2012.

³ ‘Review-Chronicle of Human Rights Violations in Belarus in April 2012’, 11 May 2012, Viasna Human Rights Center, available at: <http://spring96.org/en/news/52410> (Last accessed 21 May 2012).

⁴ ‘Belarus: further information - prisoners of conscience freed: Andrei Sannikov’, 16 April 2012, Amnesty International, available at: <http://www.amnesty.org/en/library/asset/EUR49/004/2012/en/968c7581-b329-4df6-82c1-7c7fd4214106/eur490042012en.html> (last accessed 21 May 2012).

⁵ ‘Belarus: further information - prisoners of conscience freed: Andrei Sannikov’, 16 April 2012, Amnesty International,

political persecution and further isolate him.⁶ Mr. Kavalenka was on hunger strike for three months, until mid-April, and again for two weeks in May, protesting against unjust imprisonment and punishment.⁷

Restrictions on the civil and political activities of the government's opponents **heightened in April 2012**. Thus, for instance, former political prisoner Vasil Parfiankou was informed on 19 April that a criminal case was being brought against him for allegedly violating the conditions of his preventive supervision. Parfiankou was subject to preventative supervision for having taken part in a solidarity action with political prisoners on 19 December 2011, for which he was sentenced to 12 days of detention⁸.

The **absence of an independent judiciary** in Belarus is aggravated by the practice of **disbarring independent lawyers**. In 2011, 7 lawyers defending convicts of the 19 December 2010 events were disbarred. Moreover, the interference of the executive branch has a deterrent effect; most lawyers in Belarus feel severely intimidated to work with politically motivated cases and tend to reject them.

Administrative prosecutions of human rights defenders and violations of freedom of expression, association and opinion

Between 12 and 30 April 2012, **over 40 social and political activists throughout Belarus were detained, interrogated, or subjected to personal examination because of their activities**. Most activists were fined or had their materials confiscated by the police. Ten activists were also arbitrarily detained, and sentenced to 3 to 15 days of detention under Article 17.1 of the Administrative Code relating to "disorderly conduct". Some of the trials lasted no longer than 10 minutes.

Earlier in February 2012, **Valiantsin Stefanovich**, a human rights defender working for the Human Rights Center 'Viasna', was found guilty of tax evasion and fined 53 million Belarusian Rubles (around 4,840 Euros). We strongly denounce this politically motivated case against Stefanovich, as well as his ongoing harassment by the authorities, including him having been barred from leaving Belarus under the pretext of his alleged evasion to complete military service. Such harassment seems aimed at undercutting Mr. Stefanovich's human rights activities and the activities of HRC 'Viasna'. FIDH deplores the continued violations of fair trial standards in this case.⁹

Moreover, there are deep concerns about recent and ongoing moves to curtail the **rights to freedom of association and expression of non-governmental organizations** (NGOs) and other civil society actors to operate independently and effectively. An amendment to the Criminal Code adopted by Parliament in October 2011 establishes criminal liability for receiving foreign grants or donations in violation of Belarusian law.¹⁰ This will substantively limit the operations of NGOs. Moreover, demonstrations and peaceful public assemblies, such as the Chernobyl Way opposition march that took place on 26 April 2012 in Minsk, are restricted and protesters arbitrarily detained.¹¹

available at: <http://www.amnesty.org/en/library/asset/EUR49/004/2012/en/968c7581-b329-4df6-82c1-7c7fd4214106/eur490042012en.html> (last accessed 21 May 2012).

⁶ 'The Belarusian government must stop the political persecution of Siarhei Kavalenka and provide him with proper medical assistance', 30 March 2012, FIDH, available at: <http://freeales.fidh.net/the-belarusian-government-must-stop-the-polit> (last accessed 21 May 2012).

⁷ 'Review-Chronicle of Human Rights Violations in Belarus in March 2012', 13 April 2012, Human Rights Center 'Viasna', available at: <http://spring96.org/en/news/51662> (last accessed 21 May 2012).

⁸ 'Review-Chronicle of Human Rights Violations in Belarus in April 2012', 11 May 2012, Human Rights Center 'Viasna', available at: <http://spring96.org/en/news/52410> (last accessed 29 May 2012).

⁹ 'BELARUS: Verdict upheld against "Visna" Vice-Chairman Valiantsin Stefanovich', 21 February 2012, Observatory for the Protection of Human Rights Defenders (OBS), available at: <http://www.fidh.org/Belarus-Confirmation-du-verdict> (last accessed 27 April 2012).

¹⁰ 'Open Joint Letter to the Parliament of Belarus', 20 October 2011, HRW, Amnesty International, HRHF, FIDH, OMCT, Civil Rights Defenders, Front Line Defenders, Norwegian Helsinki Council, Article 19, available at <http://www.hrw.org/news/2011/10/20/belarus-open-joint-ngo-letter-parliament-belarus>

¹¹ '40 detained in Chernobyl Way march', 27 April 2012, HRC 'Viasna', available at: <http://spring96.org/en/news/52016> (last accessed 27 April 2012).

Ales Bialiatski, President of HRC ‘Viasna’ and Vice-President of FIDH, was arrested on 4 August 2011; he was sentenced to four and a half years’ imprisonment on fabricated charges of “tax evasion on an especially large scale” in November 2011, following a blatantly unfair trial that made clear the politically motivated nature of his prosecution. On 24 January 2012 Minsk City Court confirmed the human rights defender’s four and a half year incarceration under strict regime conditions.¹² On 29 March 2012, Minsk Pervomaisky District Court issued a new decision ordering Mr Bialiatski to pay an additional penalty of 140,366,151 Belarusian Rubles (nearly 12,700 Euros) under the pretext that his original fine had not been indexed to inflation, and therefore had to be up-scaled. This judgement was issued in the absence of the accused, and neither he nor his relatives were notified or even aware of the hearing.

Black List

At the beginning of March 2012, the Belarusian authorities were reportedly considering drafting a **list of 108 human rights and opposition activists**, with a view to banning them from leaving the country¹³.

Indeed, since the beginning of March, 15 opposition politicians, independent journalists and human rights defenders have been denied their right to leave the country, under various pretexts and usually without any adequate explanation. On 28 March 2012, Valiantsin Stefanovich was informed that he was restricted from travelling outside Belarus because of his alleged evasion of a call to military service. However, the human rights defender is 12 years older than the maximum draft age and completed his military service between 1990 and 1992. On 5 March 2012, two members of the Belarusian Helsinki Committee, Aleh Hulak and Garry Pogonyailo, and Belarusian Association of Journalists chairperson, Zhanna Litvina, were also issued travel bans for alleged late payment of arrears. Andrei Bondarenko, Director of the informational and educational institution “Platforma”, was one of the three human rights defenders who came to Geneva the 9-12 November 2011 and participated in the briefing of NGOs of the Committee against Torture and assisted in the review of his country at the Committee’s 47th session. On 15 March 2012, he learned that he is temporarily not allowed to leave the country. March 2012 was the first time he tried to leave Belarus due to a travel abroad after his trip to Geneva in November 2011.

This harsh reaction from the Belarusian authorities appears to be a direct act of retaliation for the European Union’s extension of a list of Belarusian officials subject to visa restrictions and the freezing of their EU-based assets. Indeed, in February 2012, EU foreign ministers placed on a sanctions list an additional 21 Belarusian officials, bringing the list total to over 200 individuals.

At the end of 2011, an addendum was added to **article 7 of the Law on Entry and Exit Procedures to and from the Republic of Belarus**. This addendum, effective as of the end of May 2012, states that every person whose name is registered on the national criminal blacklist can have their right to leave Belarus temporarily restricted. We fear that the Belarusian authorities’ attempts to file criminal cases against opposition activists have become a pretext to legally ban them from leaving the country and interacting with United Nation and other mechanisms.

Death penalty¹⁴

Belarus is the last remaining country in Europe to use the death penalty. On 16 March 2012, Dzmitry Kanavalau and Uladzslau Kavalyou were executed. Both men had been convicted for alleged acts of terrorism committed in the Minsk subway on April 2011 and sentenced to death on 30 November 2011 following a trial that failed to meet international fair trial standards. The execution of Uladzslau Kavalyou took place despite an official request from the UN Human Rights Committee not to execute him until his application to the Committee had been considered. Violating

¹² ‘Sentencing of Ales Bialiatski confirmed: 4.5 years of imprisonment for defending human rights’, 24 January 2012, Observatory for the Protection of Human Rights Defenders (OBS), available at <http://freeales.fidh.net/blog?tag=ourpublications> (last accessed 21 May 2012).

¹³ ‘Review-Chronicle of Human Rights Violations in Belarus in March 2012’, 13 April 2012, Human Rights Center ‘Viasna’, available at: <http://spring96.org/en/news/51662> (last accessed 21 May 2012).

¹⁴ See in addition, joint NGO report (Human Rights Center ‘Viasna’, Belarusian Human Rights House, Penal Reform International, Human Rights House Foundaion) on death penalty, April 2012, available at: <http://humanrightshouse.org/Articles/17981.html>.

both national and international mechanisms of protection, this extremely rapid execution demonstrated a blatant disregard for national laws and international treaties ratified by the Republic of Belarus.¹⁵

On 30 April 2012, Uladzislau Kavalyou's mother, Liubou Kavaliova, filed a complaint with the head of the KGB prison in which her son was jailed, demanding the return of written notes made by him during his trial. Following Mr. Kavalyou's execution, Liubou Kavaliova received a parcel from the KGB prison containing her son's belongings. However, the writings of Uladzislau Kavalyou had disappeared; his mother believes that the investigation and the court that sentenced her son to death were not objective and that the yellow folder containing her son's notes could contain information that the KGB prison was reluctant to disclose.

2. The imperative need to establish a Special Rapporteur on Belarus in June

Belarus faces both **chronic and urgent human rights issues**.

Systematic abuses regularly documented by Special Procedures and Treaty Bodies for many years (such as the routine use of torture to extract confessions from detainees, restrictions on the rights to freedom of assembly, expression and the press, and fair trial violations) have increased since the last presidential election, worsening in recent months. As stated by the UN High Commissioner for Human Rights in her report to the Human Rights Council, "The already restrictive laws regulating civil and political rights were further tightened by amendments to various laws adopted by Parliament on 21 October 2011".¹⁶ The High Commissioner also stressed that the information collected "suggests a pattern of serious violations of human rights since 19 December 2010" and that a number of actions "were clearly aimed at curtailing the rights to freedoms of association, assembly and expression, and the right to a fair trial." **The situation of human rights defenders and political opponents has continued to deteriorate, making a bolder response from the Human Rights Council necessary.**

At the same time, for years, Belarus has **avoided any meaningful engagement with the UN special procedures mechanisms**. Since the establishment of the Human Rights Council, Belarus has granted access only to the Special Rapporteur on trafficking in persons, but has failed to respond to key requests for visits by the Special Rapporteurs on freedom of association and assembly, on human rights defenders, on torture and the Working Group on enforced or involuntary disappearances.

In this context, and given Belarus' increasing closure to human rights scrutiny, the Human Rights Council should establish a **country-specific mandate, such as a special rapporteur, on the situation of human rights in Belarus** for at least two years. Such a mechanism would also play an important role in independently documenting abuses and monitoring the implementation of recommendations put forth by the various UN mechanisms, in particular those formulated in the High Commissioner's most recent report.

A country mandate is the only mechanism that would allow **daily interaction with human rights defenders and victims of human rights violations**. It would provide support to local civil society, which is currently under threat, and would help build a greater political space for civil society action on human rights issues. It would also provide advice and recommendations to the Government of Belarus on reforms needed to ensure the full enjoyment of the rights to freedom of association, assembly and expression, to prevent torture and ill-treatment in custody, as well as to address the lack of independence of the judiciary. It would finally increase pressure on the Belarusian government with a view to securing the release of all political prisoners and human rights defenders, including 'Viasna' President and FIDH Vice-President, Ales Bialiatski.¹⁷

Sustained international engagement and monitoring, including the creation of a Special Rapporteur mandate to monitor the situation of human rights violations in Belarus and report back to the Council, would be the best response to the systematic nature of the abuses currently taking place in Belarus.

¹⁵ 'Review-Chronicle of Human Rights Violations in Belarus in March 2012', 13 April 2012, Human Rights Center 'Viasna', available at: <http://spring96.org/en/news/51662> (last accessed 21 May 2012).

¹⁶ Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus, A/HRC/20/8, 10 April 2012.

¹⁷ For further see FIDH blog: <http://freeales.fidh.net/>