



Delegations

RE: Addressing the situation of human rights in Belarus at the UN Human Rights Council

Geneva, September 5, 2011

Dear AAAAA

We are writing to call on your delegation to participate in the Interactive Dialogue with the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus, and to express serious concern with the continuing human rights violations perpetrated by the Belarusian government since the December 19, 2010 presidential election.

The adoption of Human Rights Council Resolution 17/24 was instrumental in demonstrating the broadly shared concerns over the ongoing crackdown against the political opposition and civil society in Belarus. It also provided the Human Rights Council with the tools to monitor the situation as well as to regularly maintain pressure on the government of Belarus to end this crackdown. We believe that the discussion during the interactive dialogue should send a strong signal to the Belarusian government that countries that shared the concerns expressed in Resolution 17/24 remain focused on the human rights situation in the country. In this regard, the voice of your delegation during the interactive dialogue will be crucial in showing to Belarusian authorities that your government follows developments closely, and will continue to scrutinize Belarus's human rights record and to expect implementation of the resolution's action points.

Below is an update on human rights developments in Belarus since Resolution 17/24 was adopted, covering many of the concerns raised in the resolution. We hope this update can inform your interventions in the interactive dialogue.

Arbitrary arrest and detention, and ill-treatment of political opposition leaders and supporters

The Belarusian authorities have pardoned and released from custody 13 individuals who were convicted on charges of participation in mass disorders in relation to the December 19, 2010 protests. While it is a positive development that these individuals are no longer behind bars, it is worth noting that the overwhelming majority were compelled to sign statements admitting guilt as a condition for their release. Moreover, at least 19 other people, including three former presidential candidates, remain imprisoned in connection with the December protests, following trials which, as we described in our May 30, 2011 letter to you, lacked due process and in which defendants were convicted despite a lack of evidence.

In addition, there are serious allegations of ill-treatment of political prisoners, which in several cases may have risen to the level of torture. According to domestic and international human rights monitors, several individuals sentenced to prison terms in connection with the December protests have been repeatedly placed in solitary punishment cells without justification. This includes Mikita Likhavid, a member of the "For Freedom" movement, who has spent more than three months in total in punishment cells since his sentencing in March 2011, and Zmitsier Dashkevich, leader of the Youth Front, who has been put in solitary confinement eight times since his sentencing in March 2011. Many detainees have not had access to their lawyers for weeks at a time; their correspondence with family and friends was not delivered, and they were not allowed visits by family members.

There are serious health concerns regarding Andrei Sannikau, a candidate in the December presidential election who was convicted on trumped-up riot charges, and Zmitsier Bandarenka, Sannikau's aide and a coordinator of "European Belarus" campaign. Sannikau has been forced to work in the production of corrugated cardboard boxes, where harmful fumes have worsened his pre-existing chronic lung condition.

Zmitsier Bandarenka's previously existing spinal condition worsened significantly as the apparent result of ill-treatment to which he was subjected during his six months in KGB custody, including being forced into a stress position by having to stand in a stretched stance for up to two hours and being compelled to run up and down steps carrying heavy objects. In addition he was forced to sleep on floorboards, and did not have a toilet in his cell. Despite his serious and rapidly deteriorating condition, the prison administration refused to let him see a neurosurgeon. Following emergency surgery on his spine in July, Bandarenka was eventually sent to a prison colony, even though he now requires constant medical supervision. As a result of his spinal injury one of Bandarenka's legs is now paralyzed and the other is at risk of paralysis.

Harassment of human rights defenders, and freedom of association

On August 4, Ales Bialiatski, head of the Human Rights Center Viasna and vice-president of the International Federation of Human Rights, was arrested on politically motivated charges of large-scale tax evasion. The authorities have refused his lawyer's requests to release Bialiatski under his own recognizance while the investigation is pending.

Bialiatski, who is one of Belarus' leading human rights defenders, remains in pretrial custody and faces up to seven years in prison. The charges stem from Bialiatski's apparent use of his personal bank account in Lithuania to receive funding from international donors in support of human rights work in Belarus, in particular, for legal and financial assistance to support political prisoners and their families following the 2011 pro-democracy protests in Belarus. The charges were triggered by banking information

about several Belarusian human rights activists, including Bialiatski that the Lithuanian Ministry of Justice and Polish Prosecutor's office made available to the Belarusian authorities. As a result, Bialiatski's deputy, Valiantsin Stefanovich, is currently under investigation on the same charges, though is still at liberty, and several other activists appear to be at risk of being targeted with such charges.

The detention of Ales Bialiatski and other related accusations stem from the severe restrictions placed on nongovernmental organizations and other civil society groups, particularly article 193.1 of the criminal code, which imposes criminal penalties for participating in unregistered organizations. Only one independent human rights group, the Belarusian Helsinki Committee, is nationally registered, and the government has been arbitrarily denying registration to all other human rights organizations, including the Human Rights Center Viasna. As a result, an unregistered group cannot open a bank account in the organization's name in Belarus or meet the terms set out in financial regulations. We believe that Bialiatski's case is emblematic of the Belarusian authorities' efforts to push human rights defenders to work in the margins of the law, deny them capacity to function.

We believe Bialiatski is being held for his long-time involvement in human rights work. The UN Office of the High Commissioner for Human Rights expressed concern on the arrest of Bialiatski in a public statement on August 5, 2011 and "called on the authorities to guarantee in all circumstances the physical and psychological integrity of Bialiatski and all human rights defenders in Belarus."

You may recall that in January 2011 the Belarusian Helsinki Committee (BHC) received a Ministry of Justice warning after it had sent information to the UN special rapporteur on the independence of judges and lawyers detailing instances of improper pressure on lawyers. Under Belarusian law an organization that has received two Ministry of Justice warnings can face suspension. The BHC is increasingly vulnerable because in June it received a second official Ministry of Justice warning, this time relating to a politically motivated tax evasion suit brought by the government against the organization in 2002. Also, in early August the Ministry of Justice threatened the BHC with a third warning for "deliberately spreading false information" after the organization had preliminarily posted partially erroneous information about revoking the licenses of two defense lawyers which it later promptly corrected. The Justice Ministry has a year to issue an official warning.

Finally, the authorities banned three more foreign human rights defenders from entering Belarus. Yuri Dzhibladze, a Russian national who is president of the Center for the Development of Democracy and Human Rights and a representative of the Committee of International Control over Human Rights Situation in Belarus, was banned in August. Inna Sangazhieva, a Russian national, and Olga Shamshur, a Ukrainian national, both from the Norwegian Helsinki Committee, were banned in June. These incidents bring to 13 the number of defenders banned from Belarus in 2011 and demonstrates the government's willingness to prevent any independent monitoring of the human rights situation in the country.

Freedom of expression, peaceful assembly

Andrei Pachobut, a Belarusian national, a correspondent for the Polish newspaper, *Gazeta Wyborcza*, was convicted on July 5 2011 on charges of defaming the president of Belarus. The charges stem from a total of ten reports posted by the journalist on the *Gazeta Wyborcza* website, the *Belaruspartisan.org* website and in his own blog, in which he called Alexander Lukashenko a dictator. The court handed Pachobut a 3-year suspended sentence after arbitrarily detaining him for three months. Pachobut's trial was held behind closed doors and marked by procedural irregularities. Journalists trying to cover it were reportedly beaten and arrested, according to Reporters Without Borders.

According to a Lithuanian media report, on August 24, Belarusian border police detained a group of Lithuanian television journalists seeking entry at the border, beat them and broke their camera.

The authorities in Minsk, the capital, continue to unlawfully restrict peaceful public assemblies, at times going to absurd lengths to do so. On July 3, 2011, Belarusian police arrested, in many cases using unnecessary force, about 340 people who participated in silent protests in Minsk and several other Belarusian cities. Dozens were given administrative detention sentences of up to 15 days. Those arrested had done nothing more than walk around silently or clap their hands. Similar harsh treatment was given to participants of several “silent protests” and actions in support of political prisoners throughout July and August. At the end of July the government submitted to parliament new restrictive draft amendments to the law on public assembly events that seem aimed at banning silent demonstrations.

Criminal Justice System

On August 17, the Ministry of Justice revoked Tamara Sidorenka’s license to practice law for apparently political reasons. Sidorenka, who has practiced law since 1978, had represented Uladzimir Nyaklyaeu and Ales Mikhalevich, candidates in the December 2010 presidential elections against whom criminal rioting charges were brought. Sidorenka had spoken out repeatedly about abuses against her clients, and had insisted that those who attacked Nyaklyaeu during his detention be brought to justice.

This brings to seven the number of lawyers representing individuals in connection with the December 2010 events who either had their licenses revoked or were disbarred.

In July 2011, Belarus authorities executed two individuals who had been convicted of murder, while their claims were still in the process of being reviewed by the UN Human Rights Committee. The defendants pleaded guilty but alleged that they were tortured during interrogations. The Human Rights Committee publicly stated on July 27, 2011 that in executing the men, “Belarus has violated its international obligations” and expressed its “dismay at the second such breach in two years.”

International Human Rights Cooperation

Finally, the authorities have taken no steps to restore the OSCE mission in Minsk, as Human Rights Council Resolution 17/24 had urged. They also have not reversed the decisions to deny entry of high-level OSCE representatives, namely the chair of the OSCE Parliamentary Assembly’s Working Group on Belarus and the OSCE Special Representative on Freedom of the Media.

The refusal of the Belarusian government to cooperate with the OSCE reinforces the importance of the attention given by the Human Rights Council to the situation of human rights in Belarus. We sincerely hope that the voice of your government will respond to the needs of those affected on the ground and express its concerns on the total lack of progress and engagement of the government of Belarus in taking the urgent steps and implementing the much needed actions highlighted by Resolution 17/24.

We thank you for your attention to the concerns in this letter.

Sincerely,

2. Center for the Development of Democracy and Human Rights (Russia)
3. CIVICUS: World Alliance for Citizen Participation
4. Committee for International Control over the Human Rights Situation in Belarus (CIC)
5. Helsinki Foundation for Human Rights (Poland)
6. Human Rights House Foundation
7. Human Rights Watch
8. International Federation for Human Rights (FIDH)
9. International Youth Human Rights Movement (YHRM)
10. Moscow Helsinki Group (MHG)
11. Netherlands Helsinki Committee
12. Norwegian Helsinki Committee