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Working Group on Arbitrary Detention

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Opinion No. 3/2024 concerning Aleksandr Bialiatski (Belarus)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,¹ on 3 January 2024 the Working Group transmitted to the Government of Belarus a communication concerning Aleksandr Bialiatski. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

* Miriam Estrada Castillo did not participate in the discussion of the present case.

¹ [A/HRC/36/38](#).

1. Submissions

(a) Communication from the source

4. Aleksandr Bialiatski is a national of Belarus, born on 25 September 1962. His usual place of residence is in Minsk, Belarus. Mr. Bialiatski is a globally renowned, award-winning human rights defender and the founder and chairperson of Viasna, the country's premier human rights organization. He has been an outspoken government critic for many decades, including with respect to the detention of political prisoners.

(i) Context

5. According to the source, the arrest and detention of Mr. Bialiatski must be understood in the context of the country's long-standing "use of criminal persecution and instrumentalization of the justice system ... to quash all scrutiny and dissent to its repressive policies".² It is reported that, for decades, the country's President has waged a violent campaign against all critics and political opponents, imprisoning them on fraudulent charges, depriving them of their due process rights, and subjecting them to ill-treatment and torture in custody.³

6. Reportedly, the situation in Belarus worsened prior to the 2020 presidential election, which took place in August of that year. The source emphasizes that the United Nations High Commissioner for Human Rights has detailed that "more than 1,000 people were arrested during the pre-electoral period" and "journalists and human rights defenders were regularly harassed and detained while exercising their legitimate functions".⁴

7. The source adds that following the presidential election, mass protests broke out across Belarus. Although the participants at these protests were "overwhelmingly peaceful, they were systematically and in many cases violently dispersed by security forces".⁵ It is reported that within days of the election, at least 6,700 people had been arrested in connection with the protests, and by the end of 2021 there had been, by some counts, more than 33,000 politically motivated arrests. Reportedly, hundreds were subjected to torture or ill-treatment in an attempt to stifle the protests. In February 2021, the United Nations High Commissioner for Human Rights described these events as "a human rights crisis of a magnitude unprecedented in Belarus".⁶

8. According to the source, since then the number of political prisoners has increased, reaching 1,485 political prisoners in Belarus in October 2023. Nearly 2,000 others have been convicted of politically motivated crimes. It is asserted that, as United Nations experts noted in July 2023, the authorities continue to purge civic space of its last dissenting elements.⁷

(ii) Alleged persecution of Mr. Bialiatski

9. The source affirms that Mr. Bialiatski "has been a pillar of the human rights movement in Eastern Europe since the late 1980s" and that he is globally recognized for his work on human rights and democracy in Belarus. He has received many awards for his human rights work, including being nominated five times for the Nobel Peace Prize and winning the award in 2022. He also served as the Vice-President of the International Federation for Human Rights from 2007 to 2016.

² Office of the United Nations High Commissioner for Human Rights (OHCHR), "Belarus: verdict against Nobel laureate Ales Bialiatski an effort to quash scrutiny and dissent, say UN experts", press release, 3 March 2023, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-verdict-against-nobel-laureate-ales-bialiatski-effort-quash-scrutiny>.

³ OHCHR, "Belarus must end systematic repression, release detainees, UN human rights Chief says", press release, 17 March 2023, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-must-end-systematic-repression-release-detainees-un-human-rights>.

⁴ A/HRC/46/4, paras. 19 and 20.

⁵ Ibid., para. 22.

⁶ Ibid., paras. 24 and 74.

⁷ See <https://www.ohchr.org/en/press-releases/2023/07/belarus-human-rights-situation-still-catastrophic-un-expert-says> and A/HRC/46/4.

10. According to the source, as a result of his advocacy and human rights work, Mr. Bialiatski has repeatedly been targeted by the Government of Belarus, having been arrested over 25 times.

11. It is noted that Mr. Bialiatski began his career in the early 1980s as a student activist. Since the 1990s, his human rights work has been focused on political prisoners. Reportedly, in the spring of 1996, a series of large protests in Belarus led to repression and mass arrests. Mr. Bialiatski recognized an urgent need to support these political prisoners, founding the Viasna-96 human rights initiative, which was later transformed into the Viasna Human Rights Centre.

12. The source emphasizes that the Supreme Court of Belarus cancelled Viasna's registration in October 2003, at the request of the Ministry of Justice, for allegedly violating the country's electoral laws during its election monitoring work in 2001. The source mentions that the Human Rights Committee subsequently found that the dissolution had violated the right to freedom of association of Viasna's members.⁸ Also, the source notes that they applied for re-registration several times, but that each application was denied.⁹

13. Despite that, the source emphasizes that the organization continues to promote democracy and respect for human rights in Belarus. However, it is noted that, because Viasna remains unregistered to this day, anyone associated with it could be arrested and imprisoned at any time. Such is the disposition in article 193-1 of the Criminal Code, which criminalizes participation in the activities of an unregistered organization and makes such offences punishable by up to two years' imprisonment.

14. Within this context, it is reported that the Government has harassed, interrogated, arrested and prosecuted numerous Viasna members,¹⁰ and repeatedly raided and searched its offices. As far back as 2012, the Working Group on Arbitrary Detention itself took note of the "continuous harassment against the work of Mr. Bialiatski and his colleagues at Viasna".¹¹

15. With regard to the alleged persecution of Mr. Bialiatski specifically, the source affirms that Mr. Bialiatski has been targeted and prosecuted on baseless charges previously. Reportedly, on 4 August 2011, Mr. Bialiatski was arrested for alleged tax evasion, in which the Government claimed he had failed to pay income tax on money held in two bank accounts held abroad.¹² The source explains that, in fact, these accounts were never used for personal expenses but by Viasna to receive donations from foreign partners.

16. The source reports that in November 2011, Mr. Bialiatski was found guilty and sentenced to four and a half years in prison. In June 2014, Mr. Bialiatski was granted amnesty and released after serving nearly three years. The source highlights the opinion issued by the Working Group, which found that the use of the foreign bank accounts to fundraise for Viasna was protected by article 22 of the Covenant related to freedom of association and that Mr. Bialiatski's detention was arbitrary and unlawful.¹³

(iii) *Arrest and detention of Mr. Bialiatski*

17. According to the source, Mr. Bialiatski was arrested on 14 July 2021 at his country house in the town of Rakov, outside Minsk. It is reported that other two leaders and six members of Viasna were arrested on the same day.

⁸ *Belyatsky v. Belarus* (CCPR/C/90/D/1296/2004).

⁹ *Pinchuk v. Belarus* (CCPR/C/112/D/2165/2012), paras. 2.2–2.6.

¹⁰ See, for example, the following communications: BLR 1/2023, BLR 8/2021, BLR 2/2019, BLR 1/2019, BLR 1/2013, BLR 3/2012, BLR 2/2012, BLR 9/2011, BLR 7/2011, BLR 2/2011 and BLR 1/2010. All communications mentioned in the present opinion are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

¹¹ Opinion No. 39/2012, para. 46.

¹² *Pinchuk v. Belarus*, para. 2.8.

¹³ Opinion No. 39/2012, paras. 50 and 51.

18. The source reports that the arrests were carried out by officers of the Financial Investigations Department for suspected tax evasion. Following his arrest, Mr. Bialiatski was initially detained in the Okrestina pretrial detention facility in Minsk.

19. The source emphasizes that the authorities did not inform Mr. Bialiatski's family or attorney that he had been detained; rather, his local lawyer has guessed that he would be at the Okrestina facility and was able to visit him that day. However, during the three days that Mr. Bialiatski was detained in the Okrestina facility, his family could not contact or visit him.

20. The source notes that on 17 July 2021, Mr. Bialiatski was transferred to pretrial detention facility (SIZO) No. 1, but the family was not informed of this.

21. According to the source, on 29 July 2021, Mr. Bialiatski's relatives received the first letter from him. However, it had the number "3" written at the top, allegedly indicating that prison officials had failed to send Mr. Bialiatski's first two letters. Moreover, Mr. Bialiatski was not allowed to make phone calls from SIZO No. 1.

22. The source asserts that Mr. Bialiatski's pretrial detention was extended at least eight times, and always by the prosecution rather than by a court. His lawyers appealed each of these decisions, but on each occasion, the court upheld the extension by simply referring to the gravity of the charges. Additionally, Mr. Bialiatski was not brought to any of these court hearings. The source also claims that the court's decision to extend Mr. Bialiatski's pretrial detention was identical to the treatment of other detained leaders of Viasna, indicating that the court would not have considered their individual circumstances.

23. Reportedly, during the time that Mr. Bialiatski was detained in SIZO No. 1, from 17 July 2021 to 21 April 2023, he only had one visit from his family – on 10 November 2022.

24. Regarding the trial proceedings of Mr. Bialiatski, the source reports that on 26 September 2022, more than 14 months after he was arrested, the tax evasion charge against him and the others was dropped, and two new charges were brought: smuggling (art. 228 (4) of the Criminal Code) and financing group actions grossly violating public order (art. 342 (2) of the Criminal Code).

25. The source reports that, under the smuggling charge, Mr. Bialiatski was accused of receiving money from 2016 to 2021 in a Lithuanian bank account held in the name of a Lithuanian non-governmental organization (NGO), transferring it to Belarus in small instalments to avoid declaration, and using that money to finance the "illegal" activities of Viasna. The source argues, however, that most of this money was used for salaries over the course of several years in amounts that did not require reporting and that there was no deliberate structuring of payments to avoid reporting requirements.

26. As to the charge under article 342 (2) of the Criminal Code, the source reports that Mr. Bialiatski was accused of preparing and assisting persons, including by means of financial support, to engage in protests in May 2020 and July 2021. The source affirms that the activities alleged to be illegal included standard functions of a human rights organization, such as election observation, paying fines imposed on convicted protestors, paying for meals for persons in administrative detention, paying lawyers' fees in criminal cases relating to the protests, and, more generally, continuing Viasna's activities after its dissolution.

27. According to the source, Mr. Bialiatski's trial on these charges began on 5 January 2023, in the Lieninski District Court of Minsk. The source alleges that the presiding judge had been previously sanctioned by the European Union for "numerous politically motivated rulings against peaceful protesters",¹⁴ and that the prosecutor of the case would later be sanctioned by the European Union for "numerous politically motivated criminal cases against Belarusian human rights defenders" and "in particular ... the politically motivated

¹⁴ Council of the European Union, Council Implementing Regulation (EU) 2021/997 implementing article 8a(1) of Regulation (EC) No. 765/2006 concerning restrictive measures in respect of Belarus, 21 June 2021, available from <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ%3AL%3A2021%3A219I%3AFULL>.

prosecution of representatives from the Belarusian human rights organization Viasna, including Viasna chairperson Mr. Bialiatski”.¹⁵

28. Mr. Bialiatski was found guilty on 3 March 2023 and sentenced to 10 years of imprisonment. The source reports that Mr. Bialiatski appealed this decision, but, on 21 April 2023, his appeal was denied and Minsk City Court upheld his sentence.

29. The source emphasizes that during the pretrial period and the trial itself there were many irregularities.

30. The source reports that Mr. Bialiatski was given only one month to review the case materials, which consisted of 283 volumes of approximately 300 pages each. Moreover, all the documents were in Russian, while Mr. Bialiatski’s native language is Belarusian. As a result, he was able to review only 70 of the 283 volumes before the trial started. On the first day of the trial, Mr. Bialiatski expressly stated that he had not had enough time to become acquainted with all of the case files. However, the judge replied that one month was sufficient and that there were no grounds for giving additional time.

31. The source also notes that the authorities allegedly repeatedly pressured Mr. Bialiatski’s counsel. Reportedly, Mr. Bialiatski had three lawyers, but two of them were arrested and disbarred before the trial. In addition, Mr. Bialiatski’s lawyers were subjected to a non-disclosure order preventing them from sharing any information, even with his family.

32. During the trial, the source reports that Mr. Bialiatski was kept in handcuffs and forced to sit in a cage behind metal bars. Reportedly, he made numerous requests for the handcuffs to be removed, but all were denied. Mr. Bialiatski also requested for the trial to be conducted in Belarusian rather than Russian, but these requests were also denied. The source emphasizes that the presiding judge also refused to provide an interpreter for Mr. Bialiatski.

33. Moreover, the source affirms that although the trial was not officially closed, several independent observers were either prevented from attending or were removed from the trial proceedings.

34. The source also notes that, although about 100 witnesses were questioned during the case investigation, only a handful were actually summoned to the trial to provide testimony. As a result, the court read out the testimony that each had provided during the investigation and relied on it as evidence, which left the defence unable to conduct any sort of cross-examination. Additionally, it is argued that there were other evidentiary issues – for example, some of the evidence presented at trial consisted of unauthenticated photocopies for which no originals were produced.

35. According to the source, before the verdict was rendered, the authorities and the State-controlled media repeatedly commented publicly on Mr. Bialiatski’s guilt.

36. Reportedly, on 30 July 2021, the President of Belarus, referring to Mr. Bialiatski and Viasna by name, commented that NGOs and “human rights organizations” were “fulfilling someone else’s political order” “under the guise of charity and socially significant projects”.¹⁶ He added that those organizations had trained people to engage in protests relating to the August 2020 elections and that some had received funding from abroad.¹⁷ In addition, a State-funded and State-controlled newspaper reportedly suggested, prior to the verdict, that Mr. Bialiatski and his co-defendants were guilty.

37. The source emphasizes that in early May 2023, Mr. Bialiatski was transferred to Penal Colony No. 9 in Gorki, and in October 2023 he was placed in a separate prison within Penal Colony No. 9.

¹⁵ Council of the European Union, Council Implementing Decision (CFSP) 2023/1592 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, 3 August 2023, available from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023D1592>.

¹⁶ See <https://www.sb.by/articles/lukashenko-nko-pod-vidom-blagotvoritelnosti-otrabatyvayut-chuzhoy-politicheskiy-zakaz.html> (in Russian).

¹⁷ Ibid.

38. The source reports that since being transferred to Penal Colony No. 9 in May 2023, Mr. Bialiatski has had limited access to the outside world. He has not been able to receive any visitors. He has been able to send some letters to his relatives but is not receiving all their replies. Furthermore, Mr. Bialiatski's attorneys twice tried to visit him in person, but they were prevented from doing so on both occasions. It is reported that, in his letters, Mr. Bialiatski has complained of chronic health issues, including swollen legs. He is no longer able to receive food packages from outside.

(iv) *Legal analysis*

39. The source argues that Mr. Bialiatski has been detained arbitrarily and that his detention falls under categories I, II, III and V of the categories used by the Working Group when considering cases submitted to it.

40. The source claims that Mr. Bialiatski's detention is arbitrary insofar as there is no legal basis for his detention.

41. According to the source, a detention is arbitrary under category I when "it is clearly impossible to invoke any legal basis justifying the deprivation of liberty".¹⁸ The source recalls that the Working Group has found detention to be arbitrary under category I where the law giving rise to the detention is "extremely vague and lacks the requisite degree of precision and legal certainty" and therefore "leads to deprivation of liberty which is unreasonable or unnecessary".¹⁹

42. The source asserts that Mr. Bialiatski was convicted under article 342 (2) of the Criminal Code for financing group actions that grossly violated public order. However, the source mentions that article 342 is notoriously vague, and, as the European Commission for Democracy through Law (the Venice Commission) has highlighted, it criminalizes activity that "is firmly protected by human rights standards".²⁰

43. The source affirms that article 342 of the Criminal Code is one of the most commonly used charges against political prisoners in Belarus. Moreover, it recalls that in May 2023, the Working Group, along with eight other special procedure mandate holders, wrote to the Government to express "concerns about the vague definition and discriminatory application" of article 342 and other criminal provisions "targeting citizens for the mere exercise of their human rights and freedoms".²¹

44. The source also notes that the Human Rights Committee has found that a similar provision in the country's Criminal Code – article 293 (1), which criminalizes organizing "mass disorder" – is "too vague and broad to be able to foresee the legal consequences of one's actions", especially since there is "no definition of what constitutes 'mass disorder' in domestic law".²² The source concludes that article 342 is similarly too vague and broad, and notes that there is no definition of "group actions that grossly violate public order".

45. Thus, the source argues that article 342 lacks the requisite degree of legal certainty and leads to deprivation of liberty that is both unreasonable and unnecessary, as in the case of Mr. Bialiatski, rendering his detention arbitrary under category I.

46. The source further recalls that a detention is arbitrary under category II when it results from the exercise of fundamental rights or freedoms protected under the Universal Declaration of Human Rights and the Covenant.²³ It is affirmed that Mr. Bialiatski's detention is arbitrary because it is a direct result of his exercise of his rights to freedom of association (stipulated under article 20 of the Universal Declaration of Human Rights and article 22 of

¹⁸ A/HRC/36/38, para. 8 (a).

¹⁹ Opinion No. 8/2017, paras. 36 and 38; and Human Rights Committee, general comment No. 35 (2014), para. 22.

²⁰ European Commission for Democracy through Law, Belarus: opinion No. 1016/2020 on the compatibility with European standards of certain criminal law provisions used to prosecute peaceful demonstrators and members of the "Coordination Council", 22 March 2021, para. 33, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)002-e).

²¹ See communication BLR 4/2023, pp. 8 and 9.

²² *Sannikov v. Belarus* (CCPR/C/122/D/2212/2012), para. 6.12.

²³ A/HRC/36/38, para. 8 (b).

the Covenant) and freedom of expression (stipulated under article 19 of the Universal Declaration of Human Rights and article 19 (2) of the Covenant).

47. The source argues that the smuggling charge alleged that Mr. Bialiatski and others had received money in a foreign bank account, transferred it to Belarus and used that money to finance the activities of Viasna. Moreover, the charge of financing group actions grossly violating public order consisted merely in continuing Viasna's activities after its dissolution.

48. The source argues that all the activities that Mr. Bialiatski was accused of fall under the rights to freedom of association and freedom of expression. In this context, the source recalls that the Working Group has previously found that Mr. Bialiatski's use of foreign bank accounts to fund Viasna's activities was protected under article 22 of the Covenant and article 20 of the Universal Declaration of Human Rights.²⁴

49. Additionally, the source argues that the charges underlying Mr. Bialiatski's detention are directly related to the Government's dissolution of Viasna in 2003. The use of foreign bank accounts, which formed the basis of the smuggling charge, was required only because Viasna could not open bank accounts in Belarus due to its lack of legal status. As for the second charge – financing group actions grossly violating public order – one of the allegedly illegal actions was to continue Viasna's activities after its dissolution. Therefore, the source asserts that Mr. Bialiatski's prosecution and conviction are invalid, as the Working Group emphasized in its prior decision concerning Mr. Bialiatski.

50. The source concludes that the context of Mr. Bialiatski's arrest further makes clear that he is being detained as punishment for his human rights work, rendering the detention arbitrary under category II.

51. In relation to category III, the source argues that the detention of Mr. Bialiatski is arbitrary insofar as his judicial proceedings violated his due process rights.

52. The source notes that Mr. Bialiatski was not brought promptly before a court. In this context, it recalls article 9 (3) of the Covenant and affirms that "this requirement applies even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity".²⁵

53. The source also recalls that the Human Rights Committee has explained that 48 hours is ordinarily sufficient to bring a person before a court and that any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.²⁶ Moreover, the source refers to article 9 (4) of the Covenant.

54. The source notes that Mr. Bialiatski was arrested on 14 July 2021. It is believed that he was not brought before a court until his trial began in January 2023 – more than seventeen and a half months later.

55. The source argues that while his lawyers did appear in court during this period to appeal against the prosecutor's extensions of pretrial detention, Mr. Bialiatski was not allowed to attend or participate, in violation of article 9 (3) and (4) of the Covenant.²⁷

56. The source further argues that Mr. Bialiatski was denied the presumption of bail. The source asserts that article 9 (3) of the Covenant contains a presumption against pretrial detention, and mentions that the Human Rights Committee has explained that pretrial detention "shall be the exception rather than the rule" and "must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime".²⁸

57. The source also affirms that pretrial detention "should not be mandatory for all defendants charged with a particular crime", nor should it be based solely on the potential

²⁴ See opinion No. 39/2012.

²⁵ Human Rights Committee, general comment No. 35 (2014), para. 32.

²⁶ *Ibid.*, para. 33.

²⁷ See opinion No. 23/2021.

²⁸ Human Rights Committee, general comment No. 35 (2014), para. 38.

sentence that a defendant is facing.²⁹ Before imposing pretrial detention, “courts must examine whether alternatives to pretrial detention, such as bail, electronic bracelets or other conditions, would render detention unnecessary in the particular case”.³⁰

58. The source recalls that the Working Group has similarly emphasized that pretrial detention “should be justified in each individual case and assessed by a competent, independent judge”.³¹

59. The source asserts that in contrast with these standards, article 126 (1) of the Criminal Procedure Code allows pretrial detention to be imposed solely on the basis of the gravity of the offence that the accused is charged with (for “grave” crimes) and article 126 (4) vests authority to impose pretrial detention in the prosecutor rather than in a court.

60. Moreover, the source underscores the lack of an individualized determination, mentioning that the court decisions upholding the extensions were identical for Mr. Bialiatski and the other two co-defendants, in violation of article 9 of the Covenant.

61. The source recalls that in 2014, the Human Rights Committee found that Belarus had violated Mr. Bialiatski’s rights under article 9 of the Covenant, for these exact same reasons.³²

62. The source also recalls that Mr. Bialiatski was denied access to his family, and asserts that the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that “communication of the detained or imprisoned person with the outside world, and in particular his family ... shall not be denied for more than a matter of days”.³³ The source also highlights the provision in principle 19, and notes that these rights are also guaranteed by the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).³⁴

63. Additionally, the source highlights principle 16 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, according to which a detained person is entitled to promptly notify family members (or others of his choosing) of his arrest or detention, his location, and any transfer from one place of detention to another.³⁵ In the absence of exceptional circumstances, this notification must be done or be allowed to be done “without delay”.³⁶

64. The source argues that, despite the standards mentioned above, Mr. Bialiatski has been repeatedly denied his right to communicate with his family. His family was allegedly not informed of his arrest on 14 July 2021 or of his whereabouts. Moreover, although Mr. Bialiatski was transferred to SIZO No. 1 on 17 July 2021, his relatives did not learn about this until a week later, through unofficial channels. Also, it is asserted that during the time that Mr. Bialiatski was held at SIZO No. 1 (from 17 July 2021 to 21 April 2023), he was allowed only one visit from his family.

65. In addition, the authorities did not inform Mr. Bialiatski’s family about his transfer to Penal Colony No. 9 in Gorki. The source notes that Mr. Bialiatski’s relatives also cannot obtain information about him indirectly through his attorneys, as the authorities have imposed a strict non-disclosure obligation upon them.

66. Moreover, Mr. Bialiatski was allegedly denied access to counsel, as his attorneys have faced a campaign of intimidation and reprisals for their representation of him. Reportedly, two of his lawyers were arrested and disbarred. In this context, the source refers to article 14 (3) (b) and (d) of the Covenant.

²⁹ Ibid.

³⁰ Ibid.

³¹ Opinion No. 62/2017, para. 41.

³² *Pinchuk v. Belarus*, para. 8.2.

³³ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 15.

³⁴ See rule 58 (1).

³⁵ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 16 (1).

³⁶ Ibid., principle 16 (4).

67. The source concludes that this constitutes improper restrictions, influence and pressure or undue interference on his counsel.

68. The source also argues that the authorities have imposed a strict non-disclosure obligation on all of Mr. Bialiatski's attorneys, which it alleges is a common practice in politically motivated cases. In this regard, the source recalls earlier mention of this practice in a previous opinion of the Working Group.³⁷

69. The source affirms that Mr. Bialiatski's attorneys have not been able to see him since he was transferred to the prison colony in Gorki in early May 2023, and that there have also been allegations that Mr. Bialiatski's meetings with his attorneys were recorded, which would violate the confidentiality of their communications.

70. The source further argues that Mr. Bialiatski was denied adequate time and facilities to prepare a defence. It recalls article 14 (3) (b) of the Covenant and mentions that Mr. Bialiatski was originally arrested for and charged with suspected tax evasion. However, it is asserted that on 26 September 2022 – over 14 months into his detention, and just three months before his trial – the tax evasion charge was dropped and new charges were brought, leaving Mr. Bialiatski with very limited time to prepare his defence, as the trial was to begin on 5 January 2023.

71. The source affirms that Mr. Bialiatski could not even use the full three months to prepare, as he was given only one month to review the case file, which consisted of approximately 85,000 pages. The source also claims that this was even more difficult because all the documents were in Russian, whereas Mr. Bialiatski's native language is Belarusian.

72. The source notes that Mr. Bialiatski was denied the right to cross-examine witnesses. It refers to article 14 (3) (e) of the Covenant and argues that Mr. Bialiatski was prevented from cross-examining nearly all of the witnesses against him because the court excused most of them from appearing at trial. Since these witnesses were not present to testify in court, the court read out the testimony that they had provided during the investigation, which meant that the defence had no opportunity to conduct cross-examination to point out bias or inconsistencies or to otherwise challenge their testimony.

73. The source further argues that Mr. Bialiatski was not tried by an independent and impartial tribunal, in contravention of article 14 (1) of the Covenant and article 10 of the Universal Declaration of Human Rights which provide that everyone is entitled to a fair and public hearing by an independent and impartial tribunal.³⁸ In this context, the source recalls previous jurisprudence of the Working Group stating that “the independence of judges has been systemically restricted in Belarus” and that “in politically sensitive cases, judges are apparently expected to implement the requests of the Procurator General, whose role is to implement the executive's repressive policy of harshly punishing dissent”.³⁹ The source also recalls that the Special Rapporteur on the situation of human rights in Belarus has similarly stated that “in Belarus, the judiciary and the court system are subject to the excessive control of the executive branch”.⁴⁰

74. The source argues that in Mr. Bialiatski's case specifically, the presiding judge was neither independent nor impartial. The source notes that, at the time that this judge presided over Mr. Bialiatski's trial, she had already been sanctioned by the European Union for “numerous politically motivated rulings against peaceful protesters” and for the “repression of civil society and democratic opposition”.⁴¹ Moreover, during the trial, this judge allegedly

³⁷ Opinion No. 50/2021, para. 89.

³⁸ *González del Río v. Peru* (CCPR/C/46/D/263/1987), para. 5.2.

³⁹ See opinion No. 45/2023.

⁴⁰ OHCHR, “Belarus: establishing independent judicial system should top the agenda for future reforms, says UN expert”, 26 October 2020, available at <https://www.ohchr.org/en/press-releases/2020/10/belarus-establishing-independent-judicial-system-should-top-agenda-future>.

⁴¹ Council of the European Union, Council Implementing Regulation (EU) 2021/997 implementing article 8a(1) of Regulation (EC) No. 765/2006 concerning restrictive measures in respect of Belarus, 21 June 2021, available from <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ%3AL%3A2021%3A219I%3AFULL>.

consistently denied reasonable defence requests and made egregious rulings that violated Mr. Bialiatski's rights.

75. The source further submits that Mr. Bialiatski was denied the presumption of innocence. The source reiterates article 14 (2) of the Covenant and article 1 1(1) of the Universal Declaration of Human Rights, and affirms that "defendants should normally not be shackled or kept in cages during trials" and "the media should avoid news coverage undermining the presumption of innocence".⁴²

76. In this context, the source recalls that during court proceedings, Mr. Bialiatski was kept handcuffed in a cage with metal bars. Furthermore, it claims that the President has referred to Mr. Bialiatski and Viasna by name, reportedly foreshadowing the charges that Mr. Bialiatski and his co-defendants would be convicted of. In addition, a State-funded and State-controlled newspaper suggested, prior to the verdict, that Mr. Bialiatski and his co-defendants were guilty.

77. The source also notes that the Human Rights Committee previously found that Belarus had violated Mr. Bialiatski's right to the presumption of innocence, for similar reasons.⁴³

78. Finally, in relation to category V of the Working Group, the source recalls that a detention is also arbitrary when it is based on "a person's status as a human rights defender".⁴⁴

79. According to the source, Mr. Bialiatski is being targeted, prosecuted and imprisoned for engaging in his work as a human rights defender. The source also refers to the statement made by the United Nations High Commissioner for Human Rights⁴⁵ referring to the prison sentence imposed on Mr. Bialiatski. It adds that six United Nations special procedure mandate holders called Mr. Bialiatski's sentence "the result of targeted use of criminal persecution and instrumentalization of the justice system by Belarusian authorities to quash all scrutiny and dissent to its repressive policies".⁴⁶

(b) Response from the Government

80. On 3 January 2024, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 4 March 2024, detailed information about the current situation of Mr. Bialiatski and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Belarus under international human rights law, and in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government of Belarus to ensure his physical and mental integrity.

81. The Working Group regrets that the Government did not submit a reply, nor did it seek an extension in accordance with paragraph 16 of the Working Group's methods of work.

2. Discussion

82. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

83. In determining whether Mr. Bialiatski's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.⁴⁷ In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

⁴² Human Rights Committee, general comment No. 32 (2007), para. 30.

⁴³ *Pinchuk v. Belarus*, para. 8.3.

⁴⁴ Opinion No. 45/2016, paras. 44 and 45.

⁴⁵ See <https://news.un.org/en/story/2023/03/1134702>.

⁴⁶ OHCHR, "Belarus: verdict against Nobel laureate Ales Bialiatski an effort to quash scrutiny and dissent, say UN experts", press release, 3 March 2023, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-verdict-against-nobel-laureate-ales-bialiatski-effort-quash-scrutiny>.

⁴⁷ See A/HRC/19/57, para. 68.

84. The source has argued that the detention of Mr. Bialiatski is arbitrary and falls under categories I, II, III and V. The Working Group will proceed to examine these in turn.

(a) Category I

85. The Working Group notes the sources' submissions, unrefuted by the Government, that Mr. Bialiatski's pretrial detention was extended at least eight times by the prosecution and that a court upheld these extensions by simply referring to the gravity of the charges.

86. In this respect, the Working Group recalls that it is a well-established norm of international law that pretrial detention is to be the exception and not the rule and that it should be ordered for as short a time as possible.⁴⁸ Article 9 (3) of the Covenant provides that it shall not be the general rule that persons awaiting trial shall be detained, but release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings. It follows that liberty is recognized as a principle and detention as an exception in the interests of justice. Moreover, although the severity of the sentence faced is a relevant element in the assessment of the risk of absconding or reoffending, the need to continue the deprivation of liberty cannot be assessed from this purely abstract point of view, taking into consideration only the gravity of the offence and using stereotyped formula without an individualized assessment or considering alternative preventive measures.

87. In the present case, the Working Group considers that by failing to address specific facts or to consider alternative preventive measures and by relying essentially on the gravity of the charges, the authorities failed to properly justify Mr. Bialiatski's pretrial detention, which lasted approximately two years. In the absence of any argument to the contrary, the Working Group finds his detention to be in violation of article 9 (3) of the Covenant.

88. Moreover, according to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge is to be brought promptly before a judge. As the Human Rights Committee has stated, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee "promptly" before a judge following his or her arrest and any longer delay must remain absolutely exceptional and be justified under the circumstances.⁴⁹ In the present case, Mr. Bialiatski was arrested on 14 July 2021 and according to the source was not brought before a court until January 2023. In the absence of any explanation to the contrary by the Government, the Working Group considers that such a significant delay is contrary to article 9 (3) of the Covenant.

89. Furthermore, the Working Group considers that Mr. Bialiatski has the right to appear in person at all hearings held to review the legality of his detention. As the Human Rights Committee has stated, the physical presence of detainees at hearings might serve the inquiry into the lawfulness of detention and serves as a safeguard for the right to security of person.⁵⁰ The right to be physically present was denied to Mr. Bialiatski, in breach of article 9 (4) of the Covenant.

90. Accordingly, the Working Group considers that the detention of Mr. Bialiatski was arbitrary under category I.

(b) Category II

91. The source alleges that the persecution of Mr. Bialiatski was motivated by his opinions and participation in peaceful assemblies. It refers to the imputation of the crimes under articles 342 and 293 of the Criminal Code, and stresses that it is a widely known fact that these provisions of the Criminal Code are used to persecute critics of the authorities. The

⁴⁸ Opinions No. 8/2020, para. 54; No. 1/2020, para. 53; No. 57/2014, para. 26; No. 49/2014, para. 23; and No. 28/2014, para. 43. See also Human Rights Committee, general comment No. 35 (2014), para. 38; and [A/HRC/19/57](#), paras. 48–58.

⁴⁹ Human Rights Committee, general comment No. 35 (2014), para. 33; and [CAT/C/GAB/CO/1](#), para. 10.

⁵⁰ See the Committee's general comment No. 35 (2014), paras. 34 and 42. See also principles 32 (2) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

source also asserts that the case related directly to the dissolution of Viasna by the authorities in 2003.

92. The Working Group observes that while the Government has had the opportunity to explain which specific actions by Mr. Bialiatski amounted to criminal acts, it has chosen not to do so. The Working Group further reiterates that it attaches particular importance to the special role of human rights defenders in promoting and defending human rights.

93. The Working Group also notes that the charges against Mr. Bialiatski were brought under article 342 of the Criminal Code. In this regard, it recalls that in its earlier jurisprudence,⁵¹ it relied on the report of the Venice Commission, in which the Commission emphasized that article 342 of the Criminal Code of Belarus criminalized group behaviour of a non-violent character, relating to a mass demonstration, and stressed that the mere fact that the demonstration caused inconvenience to the public did not suffice to criminalize the participation of a person in such an event.

94. Furthermore, the Working Group considers that the situation of Mr. Bialiatski should be viewed against the backdrop of the arbitrary arrest and detention of government critics, civil society activists and human rights defenders in Belarus, as has recently been addressed in numerous opinions of the Working Group.⁵²

95. In the absence of any explanation to the contrary, and following the pattern identified by the Working Group, the Working Group concludes that the basis for the arrest and subsequent detention of Mr. Bialiatski was his exercise of freedom of expression and freedom of assembly, guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the Covenant. No indication of any violent behaviour on the part of Mr. Bialiatski was presented to the Working Group.

96. The Working Group concludes that the arrest and detention of Mr. Bialiatski is arbitrary and falls under category II.

(c) Category III

97. Given its finding that the deprivation of liberty of Mr. Bialiatski is arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. Nevertheless, as the trial took place and Mr. Bialiatski was convicted, the Working Group will proceed to examine the source's submissions concerning the denial of fair trial rights to Mr. Bialiatski.

98. The source submits that the presiding judge in the case of Mr. Bialiatski had been previously sanctioned by the European Union for "numerous politically motivated rulings against peaceful protesters".⁵³ The Working Group finds that this fact creates a strong presumption that Mr. Bialiatski was not tried by an independent and impartial tribunal.

99. As the Working Group has recalled in previous opinions on leaders of the opposition in Belarus, an independent and impartial tribunal is a *sine qua non* for the right to a fair hearing enshrined in article 10 of the Universal Declaration of Human Rights and article 14 of the Covenant. The notion of the separation of powers between the political organs of the Government and the judiciary, as well as the importance of safeguarding the independence of the judiciary, have assumed growing importance. In this regard, the Working Group again refers to the report of the Special Rapporteur on the situation of human rights in Belarus, submitted to the Human Rights Council, covering the period in question, which points to systemic restrictions of the independence of judges in Belarus, with judges being expected to implement the requests of the General Prosecutor, whose role is to implement the executive's repressive policy of harshly punishing dissent. Judges therefore often conduct a prosecution

⁵¹ Opinion No. 64/2023.

⁵² See, for example, opinions No. 76/2023, No. 64/2023, No. 52/2023, No. 45/2023, No. 50/2021, No. 23/2021 and No. 39/2012.

⁵³ Council of the European Union, Council Implementing Regulation (EU) 2021/997 implementing article 8a(1) of Regulation (EC) No. 765/2006 concerning restrictive measures in respect of Belarus, 21 June 2021, available from <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ%3AL%3A2021%3A219I%3AFULL>.

trial, denying defendants their rights to the presumption of innocence or to present witnesses in their defence. In the context of arrests and deprivation of liberty, consistent testimonies about delays in obtaining access to a lawyer and to other legal and procedural safeguards increase concerns. Lawyers are obliged to sign a non-disclosure agreement, which makes it difficult to have information on articles and charges.⁵⁴

100. In view of these findings as well as the Working Group's earlier jurisprudence covering the same context, given the submissions of the source, and in the absence of any reply by the Government, the Working Group concludes that Mr. Bialiatski was not tried by an independent and impartial tribunal, contrary to article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.

101. In relation to the allegations by the source that Mr. Bialiatski was denied effective legal representation, the Working Group is concerned that no confidentiality was guaranteed during Mr. Bialiatski's communication with his lawyer. In this regard, the Working Group reiterates that respect for lawyer-client confidentiality is an important part of the defence rights. The right of a defendant to have private discussions with his or her legal counsel, without surveillance, constitutes one of the fundamental aspects of a fair trial.⁵⁵ If a lawyer is incapable of conferring with his or her client and obtaining confidential instructions, the legal assistance essentially loses its purpose. In this respect, the Human Rights Committee has stressed that counsel should be able to meet with clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications, and furthermore, lawyers should be able to advise persons charged with a criminal offence without restrictions, influence, pressure or undue interference from any quarter.⁵⁶ Moreover, according to principle 8 of the Basic Principles on the Role of Lawyers, all arrested, detained or imprisoned persons are to be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality.

102. Further noting that the allegations by the source concerning intimidation of the lawyer are in line with the above-mentioned findings of the Special Rapporteur on the situation of human rights in Belarus, and in the absence of any explanation to the contrary by the Government, the Working Group concludes that Mr. Bialiatski was deprived of effective legal representation, in breach of article 14 (3) (b) of the Covenant as well as rule 61 (1) of the Nelson Mandela Rules and principle 18 (3) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

103. The source also submits that contrary to article 14 (3) (b) of the Covenant, Mr. Bialiatski was not afforded sufficient time to prepare his defence, as the charges against him were changed three months prior to his trial, and the case materials consisted of some 85,000 pages. The Working Group recalls that the right to an adversarial trial under article 14 of the Covenant means that both prosecution and defence must be given the opportunity to have knowledge of and to comment on the observations filed and the evidence adduced by the other party. Article 14 (3) (b) of the Covenant stipulates that individuals facing charges have the right to adequately prepare their defence without constraints, ensuring that they can present all necessary arguments to affect the trial's result. It mandates that individuals accused of criminal activities should have access that allows them to familiarize themselves with the investigation findings in order to prepare their defence effectively. The sufficiency of the time and resources provided to the accused should be evaluated on the basis of the specific context of each case.

104. In the present case, the Working Group observes that the prosecution's case file was rather large, consisting of some 85,000 pages of materials. Examination of such a large volume of evidence by the defence would inevitably require a substantial amount of time. The Government has not submitted any relevant information as to the exact period of time or the manner in which the defence was allowed to consult the investigation file. In the absence of any relevant information from the Government, the Working Group finds that the

⁵⁴ A/HRC/47/49, para. 54.

⁵⁵ A/HRC/54/51, para. 50.

⁵⁶ Human Rights Committee, general comment No. 32 (2007), para. 34.

circumstances of the case disclose serious problems as to the adequacy of the time and facilities afforded to the defence to become acquainted with the investigation file in preparation for Mr. Bialiatski's trial, contrary to the requirements of article 14 (3) (b) of the Covenant.

105. As the Human Rights Committee has stated with regard to the right to equality before courts and tribunals and to a fair trial, there is a strict obligation to respect the right to have witnesses admitted who are relevant for the defence and to be given a proper opportunity to question and challenge witnesses against them at some stage of the proceedings.⁵⁷ In the present case, the source submits that this right was denied to Mr. Bialiatski as he and his defence team were not able to cross-examine most of the witnesses, who failed to appear before the trial, and that the trial court relied on their pretrial statements. The Working Group considers that this bears the hallmarks not only of serious denial of equality of arms in the proceedings, in violation of article 14 (3) (e) of the Covenant, but also of failure by the court to act in an impartial manner, in violation of article 14 (1) of the Covenant.

106. The Working Group especially wishes to emphasize that the presumption of innocence is one of the fundamental principles of a fair trial and thus non-derogable,⁵⁸ and guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt.⁵⁹ As the Human Rights Committee has stated, it is the duty of public authorities to refrain from prejudging the outcome of a trial – for example by abstaining from making public statements affirming the guilt of the accused. Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals.⁶⁰ In the present case, the Working Group, in the absence of any explanation to the contrary by the Government, considers that Mr. Bialiatski's right to the presumption of innocence under article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant was violated by accusatory statements by the highest officials. What is more, being displayed in a cage during a trial may project a detrimental image to the judges tasked with determining criminal responsibility, by portraying Mr. Bialiatski as significantly dangerous and warranting such stringent physical confinement. In addition to causing Mr. Bialiatski anxiety and distress, this also led to a violation of the presumption of his innocence.

107. Finally, the Working Group stresses that, under international human rights law, all detained and imprisoned individuals have the right to communicate with and be visited by their families. Under principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, this right should only be subject to reasonable conditions and restrictions that are appropriate to a legitimate aim. The right to receive visits applies to all detainees, regardless of the offence of which they are suspected or accused. The Working Group notes that this right was denied to Mr. Bialiatski.

108. Given all the above, the Working Group considers that the violations of Mr. Bialiatski's right to a fair trial are of such gravity as to give his deprivation of liberty an arbitrary character, falling under category III.

(d) Category V

109. Finally, the source has also submitted that Mr. Bialiatski is being prosecuted and imprisoned as a result of his role as a human rights defender, which shows that he has been deprived of his liberty for reasons of discrimination based on his political opinions. The Government has chosen not to address these allegations.

110. In the present case, the Working Group has found under category II that Mr. Bialiatski's detention resulted from his legitimate exercise of freedom of expression and freedom of assembly. When a detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of

⁵⁷ See the Committee's general comment No. 32 (2007), para. 39.

⁵⁸ *Ibid.*, para. 6.

⁵⁹ *Ibid.*, para. 30.

⁶⁰ *Ibid.*, para. 30.

international law on the grounds of discrimination based on political or other views. Accordingly, the Working Group will examine the allegations under category V.

111. The Working Group observes that it has already examined a number of cases in the context of the presidential election in Belarus in 2020 that have been brought to its attention concerning the arrest and detention of those who have been part of the political opposition.⁶¹ It also notes that these opinions reflect the findings of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath⁶² as well as his statement⁶³ referring to the prison sentence imposed on Mr. Bialiatski.

112. The Working Group thus observes a clear pattern of attitude displayed by the authorities towards Mr. Bialiatski on the basis of his political opinion and him acting as a human rights defender. It notes a number of calls issued by United Nations experts concerning his detention and trial.⁶⁴ Noting all of the above and especially its findings under category II, the Working Group finds that the arrest and detention of Mr. Bialiatski was based on discrimination resulting from his political opinion, in violation of article 26 of the Covenant. His detention is therefore arbitrary under category V. The Working Group refers the present case to the Special Rapporteur on the situation of human rights in Belarus, for appropriate action.

3. Disposition

113. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mr. Aleksandr Bialiatski, being in contravention of articles 3, 9, 10, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 14, 19, 22 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

114. The Working Group requests the Government of Belarus to take the steps necessary to remedy the situation of Mr. Bialiatski without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

115. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Bialiatski immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

116. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Bialiatski and to take appropriate measures against those responsible for the violation of his rights.

117. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to 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 Special Rapporteur on the situation of human rights in Belarus, for appropriate action.

118. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

⁶¹ See opinions No. 50/2021, No. 23/2021, No. 24/2022 and No. 43/2023.

⁶² A/HRC/49/71, para. 62.

⁶³ See <https://news.un.org/en/story/2023/03/1134702>.

⁶⁴ For more details, see <https://www.ohchr.org/en/press-releases/2024/03/belarus-year-after-conviction-viasna-chair-and-members-concerns-about>.

4. Follow-up procedure

119. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Bialiatski has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Bialiatski;
- (c) Whether an investigation has been conducted into the violation of Mr. Bialiatski's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Belarus with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

120. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

121. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

122. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.⁶⁵

[Adopted on 18 March 2024]

⁶⁵ Human Rights Council resolution 51/8, paras. 6 and 9.