

PETITION TO
UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

Chair-Rapporteur: Ms. Priya Gopalan (Malaysia)
Vice-Chair: Mr. Mathew Gillett (New Zealand)
Vice-Chair: Dr. Ganna Yudkivska (Ukraine)
Dr. Miriam Estrada-Castillo (Ecuador)
Mr. Mumba Malila (Zambia)

HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of
ALEKSANDR BIALIATSKI
Citizen of Belarus

v.

Government of Belarus

Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16, 24/7,
33/30, 42/22, and 51/8¹

Submitted by
Jared Genser and Brian Tronic

Perseus Strategies, LLC
1802 Vernon St. NW #1046
Washington, D.C. 20009
+1.202.466.3069
jgenser@perseus-strategies.com

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¹ Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the U.N. Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. The Human Rights Council, which “assume[d] . . . all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights” pursuant to U.N. General Assembly Resolution 60/251, G.A. Res. 60/251, at ¶ 6 (Mar. 15, 2006), has further extended the Working Group’s mandate through Resolutions 6/4, 15/18, 20/16, 24/7, 33/30, 42/22, and 51/8.

INTRODUCTION

As set forth in this petition, the Government of Belarus is arbitrarily depriving Aleksandr Bialiatski of his liberty. Bialiatski is a globally recognized human rights defender who has fought tirelessly for human rights, democracy, and the protection of civic space in Belarus since the 1980s. Among his other notable achievements, he founded the Viasna Human Rights Center, which has grown into the country's leading human-rights organization. Ironically, Viasna may be most well-known for its comprehensive and up-to-date list of political prisoners in Belarus – a list that now includes Bialiatski himself. For his activism, Bialiatski has endured harassment, intimidation, numerous arrests, and repeated attempts by the regime to destroy Viasna and stop his work. Yet he has bravely continued his advocacy.

Bialiatski was arrested on July 14, 2021, “a day of massive, unprecedented raids and detentions against the Belarus human rights community.” At least 12 activists and journalists were detained that day, including at least eight other Viasna staff/members, and dozens of raids were conducted at the offices of civil-society organizations and the homes of human-rights defenders across the country. Bialiatski and two other Viasna leaders were detained on allegations of tax evasion – a charge that the regime had previously used to imprison him for nearly three years (the Working Group found this prior detention to be arbitrary and unlawful in 2012). In September 2022, after Bialiatski had spent over 14 months in pretrial detention, the tax evasion charge was suddenly dropped and two new charges were issued under Criminal Code Articles 228(4) (smuggling) and 342(2) (financing group activities that grossly breach public order).

His trial began in January 2023, and on March 3, 2023, in a decision that was universally condemned by UN experts, national governments, and human-rights organizations throughout the world, Bialiatski and his co-defendants were convicted by Judge Maryna Zapasnik in the Lieninski District Court of Minsk. Notably, at that time, Judge Zapasnik had already been sanctioned by the European Union for “numerous politically motivated rulings against peaceful protesters,” and the prosecutor in the case, Aliaksandr Karol, would later be sanctioned by the European Union for “numerous politically-motivated criminal cases against Belarusian human rights defenders,” including Bialiatski specifically. Judge Zapasnik sentenced Bialiatski to 10 years' imprisonment.

It is widely recognized that the charges against Bialiatski are simply the regime's latest retaliation for his work as a human rights defender. In fact, the allegedly illegal actions specified in the second charge (under Article 342(2)) consisted merely of routine human rights activities – e.g., election observation, paying fines for protestors, paying for meals for detainees, paying lawyers' fees, and publishing information about illegal law enforcement action. Moreover, both of the charges arise directly out of the regime's 2003 liquidation of Viasna, which was found to be unlawful by both the UN Human Rights Committee and the Working Group itself. The Working Group even stated in 2012 that “criminal liability cannot be based on [the] prior government action to deregister and dissolve . . . Viasna,” a warning the regime has clearly failed to heed.

The proceedings against Bialiatski were also marred by egregious due process violations. For example, although Bialiatski was arrested in July 2021, he was not actually brought before a court until his trial started in January 2023. His pretrial detention was imposed and extended by the prosecutor, rather than a court, and was based solely on gravity of charges against him, which is clearly impermissible under international law. Bialiatski was repeatedly denied access to his family and counsel, and he was given only one month to review the entire case file, which consisted of approximately 85,000 pages – none of which was in his native language (Belarusian). Moreover, Judge Zapasnik excused nearly all of the prosecution's witnesses from appearing at trial, and instead simply read out the statements the witnesses had given during the investigation. This made it impossible for Bialiatski or his counsel to conduct any sort of cross-examination. Finally, before the verdict had been issued, both President Lukashenko himself and the state-controlled media made statements suggesting that Bialiatski was guilty.

Bialiatski's arbitrary detention is just one example of the Lukashenko regime's ongoing efforts to suppress and silence all dissent and opposition in the country. Accordingly, it is hereby requested that the attached Petition be considered a formal request for an opinion of the Working Group on Arbitrary Detention pursuant to Resolution 1997/50 of the UN Commission on Human Rights, as reconfirmed by Resolutions 2000/36 and 2003/31, and UN Human Rights Council Resolutions 6/4, 15/18, 20/16, 24/7, 33/30, 42/22, and 51/8.

QUESTIONNAIRE FOR ALEKSANDR (“ALES”) BIALIATSKI²

I. IDENTITY

1. **Family name:** Bialiatski
2. **First name:** Aleksandr (“Ales”)
3. **Sex:** Male
4. **Birthdate:** September 25, 1962
5. **Nationalities:** Belarus
6. **Identity Document:** Belarus. Passport, No. MP4253918
 - A. **Issued by:** Government of Belarus
 - B. **On:** October 4, 2018
7. **Profession and/or activity (if believed to be relevant to the arrest/detention):** Bialiatski is a globally renowned, award-winning human-rights defender and the founder and chairperson of Viasna, Belarus’ premier human-rights organization. He has been an outspoken government critic for many decades, including with respect to the detention of political prisoners. His activism, advocacy for democracy in Belarus, and criticism of the regime are believed to be the reasons behind his detention.
8. **Address of usual residence:** Minsk, Independence Avenue, Building 78A, Apartment 48

II. ARREST

1. **Date of arrest:** July 14, 2021
2. **Place of arrest:** Bialiatski was arrested at his country house (*dacha*) in the town of Rakov, outside of Minsk
3. **Forces who carried out the arrest:** Officers of the Financial Investigations Department of Belarus³
4. **Did they show a warrant or other decision by a public authority?** Unknown
5. **Authority who issued the warrant or decision:** Unknown
6. **Imputed reasons for the arrest:** Unknown
7. **Legal basis for the arrest including relevant legislation applied (if known):** Public reporting indicates that he was arrested as a suspect under Criminal Code Article 243 (tax evasion)

III. DETENTION

1. **Date of detention:** July 14, 2021
2. **Duration of detention:** Ongoing
3. **Forces holding the detainee under custody:** As explained in Section III(4) below (“Place of Detention”), Bialiatski was initially detained at the Okrestina pre-trial detention facility in Minsk, transferred to Sizo No. 1 in Minsk, imprisoned at Penal Colony #9 in Gorki (aka Horki), and finally transferred to a separate prison within Penal Colony #9. All of these fall under the Ministry of Internal Affairs.⁴
4. **Place of detention:** Bialiatski was initially held in the notorious Okrestina pre-trial detention facility (Minsk). On July 17, without notice to his family, he was transferred to the Sizo No. 1 facility (Minsk).⁵ In early May 2023, he was transferred to Penal Colony #9 in Gorki, and in October 2023, he was placed in a separate prison that is within Penal Colony #9.
5. **Authorities that ordered the detention:** It is unknown if there was a warrant for Bialiatski’s arrest, and if so, what body, agency, or individual authorized or issued it. Bialiatski’s pretrial detention was extended at least eight times by the prosecution (and these extensions were upheld by a court on

² Based upon MODEL QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION, U.N. WORKING GROUP ON ARBITRARY DETENTION, accessed Sept. 2, 2022, available at <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

³ *Belarus: New Charges Against the Leadership of the Human Rights Center “Viasna,”* FIDH, July 10, 2022, available at <https://www.fidh.org/en/issues/human-rights-defenders/belarus-new-charges-against-the-leadership-of-the-human-rights-center>.

⁴ *See Contacts of the Penal System,* MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF BELARUS, accessed Oct. 2, 2023, available at <https://www.mvd.gov.by/en/page/departament-ispolneniya-nakazaniy/kontakty-ugolovno-ispolnitel-noj-sistemy> [in Russian].

⁵ *Belarus: Free Writer and Human Rights Defender Ales Bialiatski,* PEN INT’L, accessed Oct. 17, 2023, available at <https://www.pen-international.org/news/belarus-free-writer-and-human-rights-defender-ales-bialiatski>.

appeal). Finally, since he was sentenced on March 3, 2023, he has been detained pursuant to his conviction by Judge Marina (Maryna) Zapasnik of the Lieninski District Court of Minsk.

6. Reasons for the detention imputed by the authorities: Bialiatski was arrested for suspected tax evasion. It appears his pretrial detention was extended based solely on the gravity of the charges against him.⁶ Since he was sentenced on March 3, 2023, he has been detained pursuant to his criminal conviction for allegedly committing offenses under Criminal Code Articles 228(4) (smuggling) and 342(2) (financing group activities that grossly breach public order).

7. Relevant legislation applied (if known):

Bialiatski was convicted for allegedly committing offenses under Criminal Code Articles 228(4) (smuggling) and 342(2) (financing group activities that grossly breach public order). Due to Bialiatski's limited contact with the outside world and the non-disclosure obligation imposed on his counsel, the precise legal provisions relied on by the Government to justify his pretrial detention are not known. However, the following may be relevant: Article 108(3) of the Criminal Procedure Code allows a person to be detained for up to 72 hours on suspicion of committing a crime; Article 126(1) allows pretrial detention to be imposed based solely on the seriousness of the offence (at least for "grave" crimes);⁷ and Article 126(4) vests authority to impose pretrial detention with the prosecutor rather than a court.⁸

IV. CIRCUMSTANCES SURROUNDING THE ARREST AND DETENTION OF ALES BIALIATSKI

A. Statement of Facts

1. Background on Repression in Belarus

The arrest and detention of Ales Bialiatski must be understood in the context the regime's longstanding "use of criminal persecution and instrumentalisation of the justice system . . . to quash all scrutiny and dissent to its repressive policies."⁹ For decades, Alexander Lukashenko, Belarus's strongman dictator, has waged a violent campaign against all regime 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.¹⁰

The situation in Belarus took a turn for the worse in the lead up to the 2020 presidential election in August 2020. As the UN High Commissioner for Human Rights has detailed, "[m]ore than 1,000 people were arrested during the pre-electoral period" and "[j]ournalists and human rights defenders were regularly harassed and detained while exercising their legitimate functions."¹¹ Police repeatedly dispersed pickets

⁶ INJUSTICE UNVEILED: THE TRIAL AGAINST VIASNA ACTIVISTS IN BELARUS: THE CASE OF ALES BIALIATSKI, VALIANTSIN STEFANOVIC, ULADZIMIR LABKOVICH, THE OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS, June 2023, at 15, *available at* https://www.fidh.org/IMG/pdf/injustice_unveiled_the_trial_against_viasna_activists_in_belarus_the_case_of_ales_bialiatski_valiantsin_stefanovic_uladimir_labkovich.pdf.

⁷ See INTERNATIONAL FACT-FINDING MISSION: CONDITIONS OF DETENTION IN THE REPUBLIC OF BELARUS, FIDH & VIASNA, June 2008, at 14–15, *available at* <https://www.osce.org/files/f/documents/7/d/33759.pdf> ("Graveness of the charges can be the only reason for placing an accused or a suspect in custody (Article 126 of the CCP).").

⁸ Criminal Procedure Code of the Republic of Belarus, No. 295-Z, July 16, 1999, at Art. 126(4), *available at* <https://etalonline.by/document/?regnum=hk9900295> [in Russian].

⁹ Press Release, *Belarus: Verdict Against Nobel Laureate Ales Bialiatski an Effort to Quash Scrutiny and Dissent Say UN Experts*, OHCHR, Mar. 3, 2023, *available at* <https://www.ohchr.org/en/press-releases/2023/03/belarus-verdict-against-nobel-laureate-ales-bialiatski-effort-quash-scrutiny>.

¹⁰ See, e.g., Press Release, *Belarus Must End Systematic Repression, Release Detainees, UN Human Rights Chief Says*, OHCHR, Mar. 17, 2023, *available at* <https://www.ohchr.org/en/press-releases/2023/03/belarus-must-end-systematic-repression-release-detainees-un-human-rights> (quoting UN High Commissioner for Human Rights Volker Türk: "The appalling practice of pursuing and punishing people for carrying out legitimate human rights work continues.") and *Belarus*, in WORLD REPORT 2023: EVENTS OF 2022, HUMAN RIGHTS WATCH, Mar. 21, 2023, *available at* <https://www.hrw.org/world-report/2023/country-chapters/belarus> ("Belarusian authorities continued to purge independent voices, including through bogus prosecutions and harassment of human rights defenders, journalists, lawyers, opposition politicians, and activists.").

¹¹ Michelle Bachelet, SITUATION OF HUMAN RIGHTS IN BELARUS IN THE CONTEXT OF THE 2020 PRESIDENTIAL ELECTION: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, U.N. Doc. A/HRC/46/4, Feb. 15, 2021, at ¶¶ 19–20.

collecting signatures and peaceful gatherings in support of opposition candidates.¹² Following Lukashenko's victory in the August 9, 2020 election, which was widely denounced as neither free nor fair,¹³ mass protests broke out across Belarus. Although these protests were “overwhelmingly peaceful, they were systematically and in many cases violently dispersed by security forces.”¹⁴ Within days of the election, at least 6,700 people had been arrested in connection with the protests,¹⁵ and by the year's end, there had been, by some counts, “more than 33,000 politically motivated arrests.”¹⁶ Hundreds were subjected to torture or ill-treatment “in an attempt to stifle the protests.”¹⁷ In February 2021, the UN High Commissioner for Human Rights described these events as “a human rights crisis of a magnitude unprecedented in Belarus.”¹⁸

Unfortunately, rather than abating, the regime's repression has only increased since then.¹⁹ The number of political prisoners, for example, has skyrocketed – while Belarus had only a handful of documented political prisoners each year from 2016 to 2019,²⁰ there were 169 at the end of 2020,²¹ 954 at end of 2021,²² and 1,455 at the end of 2022.²³ As of October 18, 2023, there were 1,485²⁴ – almost all of whom were detained since May 2020²⁵ (i.e., the leadup to the 2020 election). Nearly 2,000 others have been convicted of politically-motivated crimes.²⁶ As UN experts noted in July 2023, the regime continues to “purg[e] civic space of its last dissenting elements.”²⁷ In 2022 alone, 215 print media outlets were shut down, and more than 1,000 NGOs have been dissolved since 2020.²⁸ More than 500 lawyers have had their law licenses revoked, left the profession, or fled the country.²⁹ And as of July 2023, there were at least 36 jailed journalists.³⁰ All of these individuals are at risk of torture – the OHCHR has “documented continuing widespread and systematic practices of torture and ill-treatment [in Belarus] directed against individuals for

¹² *Id.*, at ¶ 19.

¹³ See, e.g., *EU Foreign Minister: Belarus Elections Were 'Neither Free nor Fair,'* EURONEWS, Aug. 11, 2020, available at <https://www.euronews.com/2020/08/11/eu-foreign-minister-belarus-elections-were-neither-free-nor-fair>.

¹⁴ SITUATION OF HUMAN RIGHTS IN BELARUS, *supra* note 11, at ¶ 22.

¹⁵ Fred Pleitgen and Mary Ilyushina, *Women in White Become Faces of Belarus Protests as Thousands Are Arrested After Disputed Election*, CNN, Aug. 13, 2020, available at <https://www.cnn.com/2020/08/13/europe/belarus-protest-arrests-intl-hnk/index.html>.

¹⁶ #FactsOfRepression: Data Shows Extent of State Repression in Belarus, LIBERECO, Feb. 17, 2021, available at <https://www.libereco.org/en/belarus-facts-of-repression/>.

¹⁷ *Belarus*, in WORLD REPORT 2021: EVENTS OF 2020, HUMAN RIGHTS WATCH, 2021, available at <https://www.hrw.org/world-report/2021/country-chapters/belarus>.

<https://www.hrw.org/world-report/2021/country-chapters/belarus>.

¹⁸ SITUATION OF HUMAN RIGHTS IN BELARUS, *supra* note 11, at ¶ 74.

¹⁹ See, e.g., Press Release, *Belarus Must Release All Detainees Held on Political Grounds and Protect Their Rights: UN Experts*, OHCHR, May 30, 2023, available at <https://www.ohchr.org/en/press-releases/2023/05/belarus-must-release-all-detainees-held-political-grounds-and-protect-their> (noting “[t]he unprecedented level of repression” in Belarus) and Anaïs Marin, REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN BELARUS, U.N. Doc. A/HRC/53/53, May 3, 2023, at ¶ 3 (“[T]he precarious human rights situation in Belarus has deteriorated further.”).

²⁰ #FactsOfRepression, *supra* note 16 (“[F]rom 2016 to 2019, only one or two political prisoners were counted each year.”).

²¹ *Political Prisoners in Belarus*, VIASNA HUMAN RIGHTS CENTER, available at <https://web.archive.org/web/20201229144342/https://prisoners.spring96.org/en> (as of Dec. 29, 2020).

²² *Political Prisoners in Belarus*, VIASNA HUMAN RIGHTS CENTER, available at <https://web.archive.org/web/20211227180640/https://prisoners.spring96.org/en> (as of Dec. 27, 2021).

²³ *Political Prisoners in Belarus*, VIASNA HUMAN RIGHTS CENTER, available at <https://web.archive.org/web/20221231033932/https://prisoners.spring96.org/en> (as of Dec. 31, 2022).

²⁴ *Political Prisoners in Belarus*, VIASNA HUMAN RIGHTS CENTER, accessed Oct. 18, 2023, available at <https://prisoners.spring96.org/en>. An archived version of the website as of Oct. 18, 2023 is available at <https://web.archive.org/web/20231018145704/https://prisoners.spring96.org/en>.

²⁵ A list of all the current political prisoners, which includes their date of detention, is available at <https://prisoners.spring96.org/en/table>. Clicking on the arrows to the right of “Date of Detention” will sort the list by date of detention – from earliest to most recent.

²⁶ Valerie Hopkins, *In Belarus, the Protests Were Three Years Ago. The Crackdown Is Never-Ending.*, NEW YORK TIMES, July 22, 2023, available at <https://www.nytimes.com/2023/07/22/world/europe/belarus-lukashenko-repression.html>.

²⁷ Press Release, *Belarus: Human Rights Situation Still Catastrophic, UN Expert Says*, OHCHR, July 5, 2023, available at <https://www.ohchr.org/en/press-releases/2023/07/belarus-human-rights-situation-still-catastrophic-un-expert-says>; see also REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN BELARUS, *supra* note 19, at ¶ 7 (noting that “[t]he targeted large-scale crackdown on civic space continued for the third consecutive year”).

²⁸ *Political Prisoners in Belarus: UK Statement to the OSCE*, GOV.UK, Jan. 27, 2023, available at <https://www.gov.uk/government/speeches/political-prisoners-in-belarus-uk-statement-to-the-osce>.

²⁹ *In Belarus, the Protests Were Three Years Ago*, *supra* note 26.

³⁰ *Id.*

their real or perceived opposition either to the Government or to the officially declared [2020] election results” and noted that such torture could constitute a crime against humanity.³¹

2. Biography of Ales Bialiatki

Ales Bialiatki “has been a pillar of the human rights movement in Eastern Europe since the late 1980s,”³² and he is globally recognized for his work on human rights and democracy in Belarus. Among other recognition, he has received the U.S. State Department’s Human Rights Defender Award (2011) for “bravely advocat[ing] on behalf of victims of political oppression and their families despite harassment by the Government of Belarus;”³³ the European Parliament’s Sakharov Prize (2020); the Council of Europe’s first-ever Václav Havel Prize (2013); Civil Rights Defender of the Year (2014); the Right Livelihood Award (2020); and the Clooney Foundation for Justice’s Albie Award (2022, awarded to Viasna). He was nominated for the Nobel Peace Prize on five prior occasions and won the award in 2022. He also served as the Vice President of the International Federation for Human Rights (FIDH) from 2007 to 2016.

Bialiatki began his career in the early 1980s as a student activist.³⁴ While attending Gomel State University, he became an outspoken regime critic and a strong advocate for democracy and independence from the Soviet Union, with an “unbridled desire to influence other people, popularize the Belarusian language, and raise the national consciousness.”³⁵ In pursuit of these aims, he founded *Tuteishyia Association of Young Writers*, an association dedicated to the advancement of Belarusian literature, and co-founded *Martyrology of Belarus*, an organization which documented Soviet crimes against Belarusians between the 1930s and 1950s.³⁶

From 1989–1998, Bialiatki worked served as the Director of the Maksim Bahdanovich Literature Museum. During his tenure, the Museum strived to create civic space under repression, assisting independent news organizations and hosting meetings of the pro-independence Belarusian Popular Front and gatherings for Belarusian Catholics.³⁷ Since the 1990s, his human rights work has focused on political prisoners. In the spring of 1996, a series of large protests in Belarus led to brutal repression and mass arrests, with more than 200 people arrested on April 26 alone.³⁸ Bialiatki recognized an urgent need to support these political prisoners, coordinating with fellow human rights activists to provide funding, supplies, and support to the imprisoned protesters and their families.³⁹ This became the Viasna-96 human rights initiative, which was later transformed into the Viasna Human Rights Center.⁴⁰ Over time, Viasna grew into the leading human rights organization in Belarus.⁴¹ Although the Supreme Court of Belarus cancelled Viasna’s registration in

³¹ *Human Rights Council Hears That Some of the Human Rights Violations Documented in Belarus Could Amount to Crimes Against Humanity, and That There Were Reasonable Grounds to Believe That Crimes Against Humanity, Including Torture, Were Committed in Venezuela*, OHCHR, Mar. 22, 2023, available at <https://www.ohchr.org/en/news/2023/03/human-rights-council-hears-some-human-rights-violations-documented-belarus-could>.

³² Andrew Higgins, *The Belarusian Laureate Is a Longtime Pillar of Eastern Europe’s Human Rights Movement.*, NEW YORK TIMES, Oct. 7, 2022, available at <https://www.nytimes.com/2022/10/07/world/europe/nobel-peace-prize-ales-bialiatki-belarus.html>.

³³ *Ales Bialiatki Awarded U.S. Department of State’s 2011 Human Rights Defenders Prize*, VIASNA, Sept. 26, 2012, available at <https://spring96.org/en/news/57993>.

³⁴ *Who is Belarusian Nobel Laureate Ales Bialiatki?*, REUTERS, Mar. 3, 2023, available at <https://www.reuters.com/world/europe/who-is-belarusian-nobel-laureate-ales-bialiatki-2023-03-03/>.

³⁵ *Free Ales Bialiatki*, FREEALES.ORG, accessed Oct. 18, 2023, available at <https://freeales.org/en>.

³⁶ *Ales Bialiatki: “The Time Threw Us a Challenge. We Accepted It.”* VIASNA, Oct. 13, 2011, available at <https://spring96.org/en/news/46504> and *Ales Bialiatki’s Biography*, VIASNA, Aug. 14, 2011, available at <https://spring96.org/en/news/46707>.

³⁷ *Free Ales Bialiatki*, *supra* note 35 (scroll down and click on “Working at museum” on the left side menu).

³⁸ *Ales Bialiatki: “The Time Threw Us a Challenge. We Accepted It.”* *supra* note 36 and *US Concerned About Belarus Human Rights*, RADIO FREE EUROPE / RADIO LIBERTY, May 9, 1996, available at <https://www.rferl.org/a/1080489.html>.

³⁹ *Ales Bialiatki: “The Time Threw Us a Challenge. We Accepted It.”* *supra* note 36.

⁴⁰ *About Viasna*, VIASNA, June 24, 2002, available at <https://spring96.org/en/about> and *Free Ales Bialiatki*, *supra* note 35 (scroll down and click on “Human rights activities in Viasna” on the left side menu).

⁴¹ *See, e.g., Human Rights Center Viasna*, OMCT, accessed May 18, 2023, available at <https://www.omct.org/en/network-members/human-rights-center-viasna> (calling Viasna “the leading human rights organisation in Belarus”) and *Joint Statement on Belarus: End Attacks Against the Viasna Human Rights Group*, HUMAN RIGHTS WATCH, Sept. 17, 2021, available at <https://www.hrw.org/news/2021/09/17/joint-statement-belarus-end-attacks-against-viasna-human-rights-group> (“Viasna is a leading human rights group in Belarus . . .”).

2003 (in retaliation for its work monitoring the 2001 presidential election), the organization continues to promote democracy and respect for human rights in Belarus, document abuses by the regime, and lend support to the country's political prisoners.⁴²

Ales is married to Natallia Pinchuk and has one son.

3. History of Persecution of Ales Bialiatski

As a result of his advocacy and human rights work, Bialiatski has repeatedly been targeted by the Government of Belarus. The full details of each specific incident of harassment, intimidation, and retaliation are too lengthy to recount in this petition – he has, for example, been arrested over 25 times.⁴³ However, two specific campaigns against him are worth highlighting.

First, the Government has, for many years, attempted to shut down Viasna's activities. In October 2003, at the request of the Ministry of Justice, the Supreme Court of Belarus liquidated Viasna for allegedly violating the country's election laws during its election monitoring work in 2001.⁴⁴ After the UN Human Rights Committee found that the liquidation violated the right to freedom of association of Viasna's members,⁴⁵ they applied for re-registration several times; each application was denied.⁴⁶ In 2014, the Human Rights Committee found that these denials constituted additional violations of the right to freedom of association.⁴⁷ Despite the Human Rights Committee's unequivocal decisions, Viasna remains unregistered to this day, which means that anyone associated with it could be arrested and imprisoned at any time – Criminal Code Article 193-1 (which was in force from 2005 to 2019, and then reintroduced in January 2022) criminalizes participation in the activities of an unregistered organization and makes such offenses punishable by up to two years' imprisonment.⁴⁸ The Government has also harassed, interrogated, arrested, and prosecuted numerous Viasna members,⁴⁹ and repeatedly raided/searched its offices.⁵⁰ As far back as 2012, the Working Group itself took note of the "continuous harassment against the work of Mr. Bialiatski and his colleagues at Viasna."⁵¹

Second, the Government has prosecuted and imprisoned Bialiatski himself on baseless charges. On August 4, 2011, Bialiatski was arrested for alleged tax evasion – the Government claimed he had failed to pay income tax on money held in two bank accounts held abroad (one in Poland, the other in Lithuania).⁵² But, in fact, these accounts were never used for personal expenses or personal income; rather, they were used by Viasna to receive donations from foreign partners (such as Norwegian Helsinki Committee) to fund its

⁴² *About Viasna*, *supra* note 40.

⁴³ *Nobel Peace Prize Awarded to Russian, Ukrainian Human Rights Activists*, BIG THINK, Oct. 8, 2022, available at <https://bigthink.com/the-present/nobel-peace-prize-russia-ukraine/>.

⁴⁴ INJUSTICE UNVEILED, *supra* note 6, at 5.

⁴⁵ *Aleksandr Belyatsky v. Belarus*, Communication No. 1296/2004, U.N. Doc. CCPR/C/90/D/1296/2004, U.N. HUMAN RIGHTS COMMITTEE, adopted July 24, 2007.

⁴⁶ *Natalya Pinchuk v. Belarus*, Communication No. 2165/2012, U.N. Doc. CCPR/C/112/D/2165/2012, U.N. HUMAN RIGHTS COMMITTEE, adopted Oct. 24, 2014, at ¶¶ 2.2–2.6.

⁴⁷ *Id.*, at ¶ 8.5.

⁴⁸ *Belarus: New Amendment to the Criminal Code Leaves No Room for Legal Human Rights Activities*, OMCT, Jan. 31, 2022, available at <https://www.omct.org/en/resources/statements/belarus-new-amendment-to-the-criminal-code-leaves-no-room-for-legal-human-rights-activities>.

⁴⁹ See, e.g., the following communications from the U.N. Special Procedures: AL BLR 1/2023, AL BLR 8/2021, AL BLR 2/2019, AL BLR 1/2019, AL BLR 1/2013, AL BLR 3/2012, AL BLR 2/2012, UA BLR 9/2011, AL BLR 7/2011, UA BLR 2/2011, and UA BLR 1/2010.

⁵⁰ See, e.g., *Belarus: Unprecedented Raids on Human Rights Defenders*, HUMAN RIGHTS WATCH, July 15, 2021, available at <https://www.hrw.org/news/2021/07/15/belarus-unprecedented-raids-human-rights-defenders>; *Belarus: Many Human Rights Defenders Have Disappeared After Police Raid*, OMCT, Feb. 16, 2021, available at <https://www.omct.org/en/resources/news/belarus-many-human-rights-defenders-have-disappeared-after-police-raid>; *Belarus: HRC "Viasna" Office Unlawfully Raided, Dozens Arrested*, FIDH, Mar. 25, 2017, available at <https://www.fidh.org/en/issues/human-rights-defenders/belarus-hrc-viasna-office-unlawfully-raided-dozens-arrested>; and Joint Allegation Letter from U.N. Special Procedures to Government of Belarus, JAL BLR 7/2011, June 1, 2011, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=14217>.

⁵¹ *Aleksandr Viktorovich Bialatski v. Belarus*, Opinion No. 39/2012, U.N. Doc. A/HRC/WGAD/2012/39, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Aug. 31, 2012, at ¶ 46.

⁵² *Natalya Pinchuk v. Belarus*, *supra* note 46, at ¶ 2.8.

human rights work.⁵³ Viasna was forced to use accounts in other countries because, as an unregistered organization, it could not open a bank account in Belarus.⁵⁴ Nevertheless, in November 2011, after a trial marred by numerous irregularities and due process violations,⁵⁵ the District Court found him guilty and sentenced him to 4.5 years in prison.⁵⁶ The court’s judgment simply ignored his claim that the funds were not personal income; it did not address the issue at all.⁵⁷ In June 2014, Bialiatiski’s was granted amnesty and released after serving nearly three years.⁵⁸ The Working Group later found that the use of the foreign bank accounts to fundraise for Viasna so that it could continue its activities was protected by Article 22 of the ICCPR (freedom of association) and that his detention based on that behavior was arbitrary and unlawful.⁵⁹ The Working Group further “emphasize[d] that criminal liability cannot be based on [the] prior government action to deregister and dissolve . . . Viasna,” as that action violated international law.⁶⁰

4. Arrest and Detention

On July 14, 2021 – the day after the UN Human Rights Council adopted a resolution on the human rights situation in Belarus⁶¹ – Viasna leaders Ales Bialiatiski, Valiantsin Stefanovic, and Uladzimir Labkovich were arrested by officers from the Financial Investigations Department for suspected tax evasion.⁶² This was part of a larger crackdown on human rights defenders and civil society that day⁶³ (including other members of Viasna – at least six other Viasna members were detained that same day⁶⁴).

The three men were initially detained in the notorious Okrestina pre-trial detention facility in Minsk, which had been sanctioned by the U.S. just weeks earlier for “human rights abuses related to political repression in Belarus.”⁶⁵ No one from the Government informed Bialiatiski’s family or attorney that he had been detained; rather, his local lawyer made an educated guess that he would be at Okrestina and was able to visit him that day. However, during the three days that Bialiatiski was detained in Okrestina, his family could not contact or visit him.

On July 17, Bialiatiski was transferred to the Sizo No. 1 facility,⁶⁶ though the family was not informed of this change. On July 29, Bialiatiski’s wife Natallia received the first letter from him. However, it had the number three written at the top, indicating that prison officials had failed to send Bialiatiski’s first two letters.⁶⁷ Bialiatiski was not allowed to make phone calls from Sizo No. 1. Bialiatiski’s pretrial detention was extended at least eight times, and always by the prosecution (rather than a court).⁶⁸ His lawyers appealed each of these decisions, but each time, the court upheld the extension by simply referring to the gravity of the

⁵³ *Id.*, at ¶ 2.9.

⁵⁴ *Id.*; see also *Belarus: Drop Charges Against Activist*, HUMAN RIGHTS WATCH, Nov. 1, 2011, available at <https://www.hrw.org/news/2011/11/01/belarus-drop-charges-against-activist> (“[U]nregistered groups like Viasna cannot open a bank account in the organization’s name in Belarus . . .”).

⁵⁵ *Belarus: Conviction of Rights Defender a Blow for Rule of Law*, HUMAN RIGHTS WATCH, Nov. 24, 2011, available at <https://www.hrw.org/news/2011/11/24/belarus-conviction-rights-defender-blow-rule-law>.

⁵⁶ *Natalya Pinchuk v. Belarus*, *supra* note 46, at ¶ 2.9.

⁵⁷ *Aleksandr Viktorovich Bialatski v. Belarus*, *supra* note 51, at ¶ 47.

⁵⁸ *Free Ales Bialiatiski*, *supra* note 35 (scroll down and click on “First criminal prosecution” on the left side menu).

⁵⁹ *Aleksandr Viktorovich Bialatski v. Belarus*, *supra* note 51, at ¶¶ 50–51.

⁶⁰ *Id.*, at ¶ 47.

⁶¹ *Situation of Human Rights in Belarus*, Res. 47/19, U.N. Doc. A/HRC/RES/47/19, U.N. HUMAN RIGHTS COUNCIL, adopted July 13, 2021.

⁶² *Belarus: A Year After the Arbitrary Arrest of the President and Vice President of Viasna, No Justice Is in Sight*, FIDH, July 13, 2022, available at <https://www.fidh.org/en/region/europe-central-asia/belarus/belarus-a-year-after-the-arbitrary-arrest-of-the-president-and-vice>.

⁶³ *Belarus: Coordinated Searches and Detentions of Journalists and Human Rights Defenders*, FIDH, July 14, 2021, available at <https://www.fidh.org/en/issues/human-rights-defenders/belarus-coordinated-searches-and-detentions-of-journalists-and-human>.

⁶⁴ *Belarus: Unprecedented Raids on Human Rights Defenders*, HUMAN RIGHTS WATCH, July 15, 2017, available at <https://www.hrw.org/news/2017/07/15/belarus-unprecedented-raids-human-rights-defenders>.

⁶⁵ Press Release, *Treasury and International Partners Condemn Ongoing Human Rights Abuses and Erosion of Democracy in Belarus*, U.S. DEP’T OF THE TREASURY, June 21, 2021, available at <https://home.treasury.gov/news/press-releases/jy0237>.

⁶⁶ INJUSTICE UNVEILED, *supra* note 6, at 9 and *Urgent Action: Human Rights Defenders Remain in Detention*, AMNESTY INT’L Aug. 3, 2021, available at <https://www.amnestyusa.org/wp-content/uploads/2021/08/uaa08521.pdf>.

⁶⁷ *Urgent Action: Human Rights Defenders Remain in Detention*, *supra* note 66.

⁶⁸ INJUSTICE UNVEILED, *supra* note 6, at 9, 15.

charges.⁶⁹ Bialiatski was not brought to any of these court hearings – while Article 144 of the Criminal Procedure Code allows a court to summon an accused or a suspect for such hearings, it does not require the court to do so⁷⁰ (and, in practice, courts decline to do so in the “overwhelming majority of cases”⁷¹). Moreover, the court’s decisions upholding the extensions were identical for each of the three co-defendants, thus clearly lacking any consideration of their individual circumstances.⁷² During the time that Bialiatski was detained in Sizo No. 1, from July 17, 2021 to April 21, 2023, he only had one visit from family – his wife, on November 10, 2022.

5. Legal Proceedings

On September 26, 2022, over 14 months after he was arrested, the tax evasion charge against Bialiatski and the others was dropped and two new charges were brought – smuggling (Criminal Code Article 228(4)) and financing group actions grossly violating public order (Article 342(2)).⁷³ Under the smuggling charge, they were accused of receiving money from 2016 to 2021 in a Lithuanian bank account held in the name of Pavasaris (a Lithuanian NGO), transferring it to Belarus in small installments to avoid declaration, and using that money to finance the “illegal” activities of Viasna.⁷⁴ But, in fact, most of this money was used for salaries over the course of several years in amounts that did not require reporting;⁷⁵ there was no deliberate structuring of payments to avoid reporting requirements.

For the latter charge, they were accused of preparing and assisting persons, including through financial support, to engage in protests from May 2020 and July 2021 (i.e., in the lead up and aftermath of the 2020 election).⁷⁶ The activities alleged to be illegal included standard functions of a human rights organization: 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, publishing information about illegal actions by law enforcement, and, more generally, continuing Viasna’s activities after its liquidation.⁷⁷

The trial on these new charges started on January 5, 2023 in the Lieninski District Court of Minsk, with Judge Maryna Zapasnik presiding over the proceeding and Aliaksandr Karol serving as the prosecutor. At that time, Judge Zapasnik had already been sanctioned by the European Union for “numerous politically motivated rulings against peaceful protesters,”⁷⁸ and Prosecutor Karol would later be sanctioned by the European Union for “numerous politically-motivated criminal cases against Belarusian human rights defenders,” and “[i]n particular . . . the politically motivated prosecution of representatives from the Belarusian human rights organization Viasna, including Viasna chairperson Ales Bialiatski.”⁷⁹ On March 3, 2023, Judge Zapasnik found the defendants guilty and sentenced Bialiatski to 10 years in a medium-security

⁶⁹ *Id.*, at 15.

⁷⁰ Criminal Procedure Code, *supra* note 8, at Art. 144(2)–(3).

⁷¹ Evgeny Pylchenko, *Protection of the Right to Liberty in Criminal Proceedings: International Standards and National Detention Practice*, DEFENDERSBELARUS.ORG, July 19, 2022, available at <https://www.defendersbelarus.org/protection-of-the-right-to-liberty>.

⁷² INJUSTICE UNVEILED, *supra* note 6, at 15.

⁷³ INJUSTICE UNVEILED, *supra* note 6, at 9.

⁷⁴ *Id.*, at 9 and *Viasna Members Go On Trial*, VIASNA, Jan. 5, 2023, available at <https://spring96.org/en/news/110335>.

⁷⁵ “*The Case Is Unprecedented. What Is That if Not Politics?*” *Human Rights Defenders Interrogated in the Viasna Case*, VIASNA, Feb. 7, 2023, available at <https://spring96.org/en/news/110688> and INJUSTICE UNVEILED, *supra* note 6, at 11 (“The specified amounts were under 10,000 USD and did not require declaration under the Belarus customs law.”).

⁷⁶ INJUSTICE UNVEILED, *supra* note 6, at 12 (“By ‘gross violations of the public order’ the prosecution meant the peaceful protests that took place in Belarus after the rigged elections of August 2020.”) and *Viasna Members Go On Trial*, *supra* note 74.

⁷⁷ INJUSTICE UNVEILED, *supra* note 6, at 12; *Viasna Members Go On Trial*, *supra* note 74; and *Bialiatski: “Criminalizing Aid to Victims of Political Repression Is Immoral and Inhumane,”* VIASNA, Jan. 30, 2023, available at <https://spring96.org/en/news/110583>.

⁷⁸ Council Implementing Regulation (EU) 2021/997 Implementing Article 8a(1) of Regulation (EC) No 765/2006 Concerning Restrictive Measures in Respect of Belarus, COUNCIL OF THE EUROPEAN UNION, June 21, 2021, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ%3AL%3A2021%3A219I%3AFULL> (Marina Sviataslavauna Zapasnik is listed in Row 102 of the Annex).

⁷⁹ 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, COUNCIL OF THE EUROPEAN UNION, Aug. 3, 2023, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023D1592> (Aliaksandr Uladzimiravich Karol is listed in Row 198 of the Annex).

penal colony.⁸⁰ The defendants appealed but, on April 21, Judge Sviatlana Bandarenka on the Minsk City Court rejected their appeals and upheld their sentences.⁸¹

During both the pretrial period and during the trial itself, there were numerous irregularities. For example, the defendants were given only one month to review the case materials, which consisted of 283 volumes of approximately 300 pages each⁸² – a total of approximately 85,000 pages. In order to finish in the time allotted, they would have had to read more than 2,700 pages each day. Moreover, all the documents were in Russian, while Bialiatski’s native language is Belarusian.⁸³ As a result, he was able to review only 70 of the 283 volumes before the trial started.⁸⁴ On the first day of trial, Bialiatski expressly stated “that he did not have enough time to get acquainted with all of the case files” – however, the judge replied that one month was enough time and that there were no grounds for giving additional time.⁸⁵

The Government also repeatedly interfered with Bialiatski’s counsel. Vital Brahinets, who represented several political prisoners, including Bialiatski, was arrested in May 2022, disbarred in August 2022, and sentenced to eight years in prison on February 2, 2023 on a variety of baseless charges.⁸⁶ One of his other lawyers was also disbarred, leaving only one other to complete the trial.⁸⁷ In addition, Bialiatski lawyers were subjected to a non-disclosure order preventing them from sharing any information, even with Bialiatski’s family.⁸⁸

At trial, the defendants were kept in handcuffs and forced to sit in a cage behind metal bars, rather than sitting at a table with their counsel.⁸⁹ They made numerous requests for the handcuffs to be removed, but all were denied. Bialiatski also repeatedly requested for the trial to be conducted in Belarusian – his native language and the one he uses in his daily life (and also one of the country’s official languages) – rather than Russian; these requests were also denied.⁹⁰ Judge Zapasnik further refused to provide an interpreter.⁹¹ The defendants were also given very limited materials – at one point, Bialiatski had only a ball point refill to write with.⁹²

Although the trial was not officially closed, several independent observers were either prevented from attending or kicked out of the trial proceedings. On January 5, 2023, for example, Aida Bayzhumanova, Executive Director of Bir Duino Kyrgyzstan (a FIDH member organization) was expelled for allegedly taking photos in the courtroom.⁹³ That same day, Yekaterina Yanshina, a Russian journalist, was arrested while leaving the courtroom, allegedly for taking pictures and broadcasting the proceedings online.⁹⁴ She was sentenced to 15 days of administrative arrest for “petty hooliganism.”⁹⁵ And on March 3, 2023, Artak Kirakosyan, Director of the Civil Society Institute (a FIDH member organization in Armenia), was denied

⁸⁰ *Viasna Leadership Receives From 7 to 10 Years in Jail*, VIASNA, Mar. 3, 2023, available at <https://spring96.org/en/news/110949>.

⁸¹ *Ales Bialiatski*, VIASNA, accessed Oct. 18, 2023, available at <https://prisoners.spring96.org/en/person/ales-bjaljackiy>.

⁸² *Belarus: The Lies Behind Accusations Against Nobel Laureate Ales Bialiatski and His Viasna Colleagues*, FIDH, Feb. 27, 2023, available at <https://www.fidh.org/en/region/europe-central-asia/belarus/lies-accusations-viasna>.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Trial Against Viasna Leadership: Day 1*, VIASNA, Jan. 5, 2023, available at <https://spring96.org/en/news/110339>.

⁸⁶ *Vital Brahinets*, VIASNA, accessed Oct. 18, 2023, available at <https://prisoners.spring96.org/en/person/vital-brahinec> and *Lawyer Vital Brahinets, Who Defended Ales Bialiatski, Tried Under Four Articles*, CHARTER 97, Feb. 2, 2023, available at <https://charter97.org/en/news/2023/2/2/534684/>.

⁸⁷ INJUSTICE UNVEILED, *supra* note 6, at 16.

⁸⁸ *Viasna Chairman Ales Bialiatski Remains Behind the Bars*, VIASNA, Jan. 28, 2023, available at <https://spring96.org/en/news/106559>.

⁸⁹ INJUSTICE UNVEILED, *supra* note 6, at 17.

⁹⁰ *Join PEN International and PEN Belarus Statement in Solidarity With Ales Bialiatski*, PEN Belarus, Mar. 3, 2023, available at <https://penbelarus.org/en/2023/03/03/belarus-nobel-peace-prize-winner-and-pen-member-ales-bialiatski-sentenced-to-prison.html> (“Throughout the trial, Bialiatski repeatedly asked that the prosecutor and the court conduct the trial in Belarusian, to no avail.”) and *UN Special Rapporteurs Informed About Violations of the Rights and Freedoms of Viasna Members During the Trial*, Viasna, Feb. 10, 2023, available at <https://spring96.org/en/news/110739> (“In their daily life and in communication with government agencies, the defendants use only the Belarusian language.”).

⁹¹ *UN Special Rapporteurs Informed About Violations*, *supra* note 90.

⁹² *Trial Against Viasna Leadership: Day 3*, VIASNA, Jan. 10, 2023, available at <https://spring96.org/en/news/110391>.

⁹³ INJUSTICE UNVEILED, *supra* note 6, at 17.

⁹⁴ *Belarus: Russian Journalist Arrested*, HUMAN RIGHTS WATCH, Jan. 6, 2023, available at <https://www.hrw.org/news/2023/01/06/belarus-russian-journalist-arrested>.

⁹⁵ *Id.*

entry without explanation.⁹⁶ In addition, officers with the Ministry of Internal Affairs filled up many of the available seats in the courtroom, preventing family and other supporters from attending.

In addition, although about 100 witnesses were questioned during the case investigation, only a handful were actually summoned to the trial to provide testimony – the rest had asked to be excused from testifying in person due to, e.g., a lack of funds for travel and poor health.⁹⁷ The court found their reasons to be valid even though most of these witnesses lived in Belarus (and were therefore able to travel cheaply) and none had provided documentation of their health problems.⁹⁸ As a result, the court read out the testimony each had provided during the investigation and relied on it as evidence, which left the defense unable to conduct any sort of cross-examination.⁹⁹ It was later revealed that the court itself had sent the witnesses a partially filled out form that they could submit back to the court to request to be excused from appearing at the trial in-person.¹⁰⁰ And there were other evidentiary issues – for example, some of the evidence presented at trial consisted of unauthenticated photocopies for which no originals were produced.¹⁰¹

Finally, before the verdict was rendered, Government officials and state-controlled media repeatedly commented publicly on the defendants' guilt.¹⁰² For example, on July 30, 2021, President Lukashenko himself, referring to 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."¹⁰³ Foreshadowing the charges that Bialiatski and his co-defendants would be convicted of, Lukashenko further added that these organizations trained people to engage in protests relating to the August 2020 elections and that some received funding from abroad.¹⁰⁴ In addition, the state-funded¹⁰⁵ and state-controlled¹⁰⁶ newspaper Belarus Today repeatedly suggested, prior to the verdict, that Bialiatski and his co-defendants were guilty. For example, on October 7, 2022, the newspaper called Bialiatski "a repeat offender with a criminal record."¹⁰⁷ A January 19, 2023 article argued that "[i]t's not for nothing that the accused are in handcuffs With each meeting it becomes more and more obvious that the pedestal on which Byalyatsky was erected by his supporters is shaky and will soon completely collapse."¹⁰⁸ On January 27, another article noted "there are . . . quite enough [charges] for Bialiatski, Stefanovich and Labkovich to receive deserved sentences for the crimes they committed."¹⁰⁹ On February 4, the newspaper explained that

⁹⁶ INJUSTICE UNVEILED, *supra* note 6, at 17.

⁹⁷ *Hasty Trial Against Viasna Continues: Court Reads Case Files at Record Speed*, VIASNA, Jan. 20, 2023, available at <https://spring96.org/en/news/110496>.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* and INJUSTICE UNVEILED, *supra* note 6, at 16.

¹⁰¹ INJUSTICE UNVEILED, *supra* note 6, at 12.

¹⁰² *See, e.g., id.*, at 17 ("Prior to the Court's verdict on March 3, 2023, the Belarusian investigation and prosecution authorities made several public statements that accused the Viasna leaders of involvement 'in the illegal transfer of significant financial resources, primarily coming from abroad, tax evasion and the financing of various kinds of protest activity in Belarus'.") and *What Bialiatski, Stefanovich, and Labkovich Said in Their Last Word in Court: Full Translation of Their Speeches*, VIASNA, Feb. 15, 2023, available at <https://spring96.org/en/news/110790> ("[D]uring the investigation state media – various TV channels and the Belarus Today newspaper, funded by the Presidential Administration – presented their extremely negative value judgment of the Viasna human rights defenders. Thus, as early as last September, they claimed that human rights defenders had been distributing extremist materials and financing protests.").

¹⁰³ *Lukashenko: NGOs, Under the Guise of Charity, Fulfill Someone Else's Political Order*, BELARUS TODAY, July 30, 2021, available at <https://www.sb.by/articles/lukashenko-nko-pod-vidom-blagotvoritelnosti-otrabytvayut-chuzhoy-politicheskiy-zakaz.html> [in Russian].

¹⁰⁴ *Id.*

¹⁰⁵ Testimony of Mr. Siarhei "Serge" Kharytonau, Media Expert at International Strategic Action Network for Security, to Helsinki Commission, Sept. 21, 2022, at 9, available at <https://www.csce.gov/sites/helsinkicommission.house.gov/files/III.%20A.%20Kharytonau%20Testimony.pdf> (describing Belarus Today as "the newspaper of the Presidential Administration entirely funded through public taxes").

¹⁰⁶ Joanna Plucinska et al., *Insight: Belarus Tightens Grip on Lawyers*, REUTERS, Aug. 24, 2021, available at <https://www.reuters.com/world/europe/belarus-tightens-grip-lawyers-2021-08-23/> (discussing "the state-controlled Belarus Today news outlet").

¹⁰⁷ *Is There Anything in the West That Is Not Tainted by Liberalism? The Nobel Peace Prize Is Already Covered Up to Its Ears*, BELARUS TODAY, Oct. 7, 2022, available at <https://www.sb.by/articles/pyat-minut-pozora.html> [in Russian].

¹⁰⁸ *Labkovich Leaked All the "Logins and Passwords," and It Seems He's Not the Only One. The Minsk Court Is Considering the "Viasna Case,"* BELARUS TODAY, Jan. 19, 2023, available at <https://www.sb.by/articles/vesna-v-poiskakh-agentov.html> [in Russian].

¹⁰⁹ *"Aren't You Interested in What They Say at the UN?": Byalyatsky Is the Only One of the Defendants Who Continues to Clownery in Court*, BELARUS TODAY, Jan. 27, 2023, available at <https://www.sb.by/articles/teatr-odnogo-aktera-sud.html> [in Russian].

“[t]he investigation has reliably established that . . . the accused Belyatsky, Stefanovich, Labkovich and Solovyov illegally moved funds . . . across the customs border of the Eurasian Union.”¹¹⁰ There are many similar examples.¹¹¹ The state-controlled¹¹² tv station Belarus 1 also ran an expose on Viasna claiming that Viasna’s leaders “have forgotten about . . . compliance with the law of the country.”¹¹³

5. Current Status

In early May 2023, Bialiatski was transferred to Penal Colony #9 in Gorki,¹¹⁴ and in October, he was placed in a separate prison within Penal Colony #9. Since the transfer to Penal Colony #9 in May 2023, he 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 wife Natallia, but he is not receiving all her replies (she knows this because he will continue asking about things she responded to or answered in a prior letter). Bialiatski is allowed to receive phone calls, but only from Belarusian numbers, and since Natallia no longer resides in Belarus, she has not been able to speak with him. Bialiatski’s attorneys twice tried to visit him in person, but they were turned away both times – the first time, they were told they had failed to make a written request in advance, and the second time, they were told the written request they had made was too old. In his letters, Bialiatski has complained about chronic health issues, including swollen legs. He is no longer able to receive food packages from the outside.

V. LEGAL ANALYSIS

For the reasons set forth below, Ales Bialiatski’s detention constitutes an arbitrary deprivation of his liberty under Categories I, II, III, and V of the Working Group’s Revised Methods of Work. The Government of Belarus ratified the International Covenant on Civil and Political Rights (“ICCPR”) on November 12, 1973. The Working Group may also look to other standards in determining whether a deprivation of liberty is arbitrary, such as the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (“Body of Principles”), the United Nations Standard Minimum Rules for the Treatment of Prisoners (“Nelson Mandela Rules”), and the Declaration on Human Rights Defenders.¹¹⁵

Both the ICCPR and the Universal Declaration of Human Rights (“UDHR”) prohibit arbitrary arrest

¹¹⁰ *The Verdict Is Getting Closer. The Case of “Spring” Is Coming to an End*, BELARUS TODAY, Feb. 4, 2023, available at <https://www.sb.by/articles/prigovor-vse-blizhe.html> [in Russian].

¹¹¹ See, e.g., *Alternative Human Rights Defenders*, BELARUS TODAY, Feb. 24, 2023, available at <https://www.sb.by/articles/podayte-pytok-dlya-ocherednogo-otcheta.html> [in Russian] (“Right now the former leadership of ‘Viasna’ – Byalyatsky, Stefanovich and Labkovich – are being tried, and it is already obvious that after the verdict, their own people will completely forget about them.”); *Old Songs. The Court Interrogated the Accused Bialiatski, Stefanovich and Labkovich*, BELARUS TODAY, Feb. 2, 2023, available at <https://www.sb.by/articles/starje-pesni-sud-doprosil-obvinyaemykh-belyatskogo-stefanovicha-i-labkovicha.html> [in Russian] (“[F]or every word in the accusation there are a dozen documents confirming its validity, [but] Bialiatsky and his accomplices will claim that they are not guilty. And on the other hand, what else can they do if there is nothing to answer to well-founded accusations?”); and *A Clown in the Arena Among the “Owls on a Stump.” Byalyatsky Adds Color to the Court Hearing in the “Vesna Case,”* BELARUS TODAY, Jan. 23, 2023, available at <https://www.sb.by/articles/kloun-na-arene-sredi-sov-na-pne-belyatskiy-dobavlyayet-krasok-v-sudebnoe-zasedanie-po-delu-vesny.html> [in Russian] (discussing “the amounts that he, Bialiatsky, not only smuggled into Belarus, but also kept for himself abroad. Millions of dollars and euros disappeared in an endless series of projects that gullible donors generously paid for.”).

¹¹² *British Diplomats Harassed by Belarusian State-Controlled TV*, EU VS DISINFO, Nov. 16, 2020, available at <https://euvsdisinfo.eu/british-diplomats-harassed-by-belarusian-state-controlled-tv/> (citing Belarus 1 as an example of “Belarusian state-controlled media”).

¹¹³ *It Became Known How the Human Rights Center “Viasna” Received Western Funding*, BELARUS TODAY, Sept. 14, 2021, available at <https://www.sb.by/articles/stalo-izvestno-kak-pravozashchitnyy-tsentr-vesna-poluchal-zapadnoe-finansirovanie.html> [in Russian] (quoting Belarus 1 journalist Ksenia Lebedeva).

¹¹⁴ *Ales Bialiatski*, *supra* note 81.

¹¹⁵ METHODS OF WORK OF THE WORKING GROUP ON ARBITRARY DETENTION, U.N. HUMAN RIGHTS COUNCIL, 36th Sess., U.N. Doc. A/HRC/36/38, July 13, 2017, at ¶ 7(e)–(f) [hereinafter “REVISED METHODS OF WORK”] and *Nguyen Tuong Thuy v. Vietnam*, Opinion No. 16/2023, U.N. Doc. A/HRC/WGAD/2023/16, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Mar. 29, 2023, at ¶ 76 (citing the Declaration on Human Rights Defenders).

or detention.¹¹⁶ The Working Group has held that this prohibition is a peremptory norm of international law and cannot be derogated from even during states of emergency.¹¹⁷ Importantly, Belarus' Constitution states that "[t]he Republic of Belarus shall recognize the supremacy of the generally recognised principles of international law and shall ensure the compliance of laws therewith" and "shall guarantee the rights and freedoms of citizens of Belarus . . . specified by the State's international obligations."¹¹⁸

Furthermore, the Working Group "subjects interventions against individuals who may qualify as human rights defenders to particularly intense review,"¹¹⁹ and "[t]his 'heightened standard of review' . . . is especially appropriate where there is a 'pattern of harassment' by national authorities targeting such individuals."¹²⁰ Bialiatski clearly qualifies as a human rights defender, and the Working Group has applied this heightened standard to Bialiatski in the past.¹²¹ In fact, in doing so in its prior opinion, the Working Group specifically noted the "continuous harassment against the work of Mr. Bialatski."¹²² Therefore, the Working Group should review this case, and the numerous violations contained within it, using this heightened level of scrutiny.

Finally, it is important to note that the legal analysis presented below is necessarily incomplete – the Government has made it impossible to identify a full list of the violations perpetrated against Bialiatski by severely limiting his contact with the outside world, monitoring the few communications he is able to have, and imposing a non-disclosure obligation on his attorneys (all of which are discussed below).

A. Category I: No Legal Basis for Detention

A detention is arbitrary under Category I when "it is clearly impossible to invoke any legal basis justifying the deprivation of liberty."¹²³ 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."¹²⁴

Bialiatski was convicted under Criminal Code Article 342(2) for financing "group actions that grossly violate public order." Article 342 is notoriously vague,¹²⁵ and as the Council of Europe's Venice Commission has highlighted, it criminalizes activity that "is firmly protected by human rights standards."¹²⁶

¹¹⁶ International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316, at 52 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at Art. 9(1) [hereinafter "ICCPR"] and Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, *adopted* 1948, at Art. 9 [hereinafter "UDHR"].

¹¹⁷ *Liu Xia v. China*, Opinion No. 16/2011, U.N. Doc. A/HRC/WGAD/2011/16, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 5, 2011, at ¶ 12 and *Santhathevan Ganesharatnam v. Sri Lanka*, Opinion No. 9/2013, U.N. Doc. A/HRC/WGAD/2013/9, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 2, 2013 (finding that detention was arbitrary despite the state's proclamation of emergency and the legality of detention under the state's domestic laws).

¹¹⁸ Constitution of the Republic of Belarus, Mar. 15, 1994, at Arts. 8, 21.

¹¹⁹ *Eskinder Nega v. Ethiopia*, Opinion No. No. 62/2012, U.N. Doc. A/HRC/WGAD/2012/62, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 21, 2012, at ¶ 39.

¹²⁰ *Nguyen Tuong Thuy v. Vietnam*, Opinion No. 16/2023, U.N. Doc. A/HRC/WGAD/2023/16, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Mar. 29, 2023, at ¶ 76 (Advance Edited Version).

¹²¹ *Aleksandr Viktorovich Bialatski v. Belarus*, *supra* note 51, ¶¶ 45–46.

¹²² *Id.*, at ¶ 46.

¹²³ REVISED METHODS OF WORK, *supra* note 115, at ¶ 8(a).

¹²⁴ *Hassan Zafar Arif v. Pakistan*, Opinion No. 8/2017, U.N. Doc. A/HRC/WGAD/2017/8, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Apr. 19, 2017, at ¶¶ 36, 38; *see also General Comment No. 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶ 22 ("Any substantive grounds for arrest or detention must be prescribed by law and should be defined with sufficient precision to avoid overly broad or arbitrary interpretation or application. Deprivation of liberty without such legal authorization is unlawful.").

¹²⁵ *See, e.g., HRC44: States Must Act on Repression in Belarus*, ARTICLE 19, July 10, 2020, *available at* <https://www.article19.org/resources/hrc44-states-must-act-on-repression-in-belarus/> (discussing "Article 342 of the Criminal Code which vaguely penalises 'organisation and preparation of actions that grossly violate public order'" and Amicus Brief in Support of Ms. Ekaterina Bakhvalova and Ms. Daria Chultsova, CLOONEY FOUNDATION FOR JUSTICE, Apr. 20, 2021, at ¶ 55, *available at* <https://cfj.org/wp-content/uploads/2021/04/Ekaterina-Andreeva-Amicus-Brief-CFJ-Draft-of-April-19-2021-Signed.pdf> (noting the "sweeping language" of Article 342 and that "group actions that grossly violate public order" is not defined).

¹²⁶ Belarus: Opinion on the Compatibility With European Standards of Certain Criminal Law Provisions Used to Prosecute Peaceful Demonstrators and Members of the "Coordination Council," EUROPEAN COMM'N FOR DEMOCRACY THROUGH LAW, Opinion No.

Not surprisingly, Article 342 is one of the most commonly used charges against political prisoners in Belarus.¹²⁷ In May 2023, the Working Group, along with eight other special procedure mandate holders, wrote to the Government of Belarus 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.”¹²⁸ Furthermore, the Human Rights Committee found that a similar provision in Belarus’s Criminal Code – Article 293(1), which criminalizes organizing “mass disorder” – was “too vague and broad to be able to foresee the legal consequences of one’s actions,” especially since there was “no definition of what constitutes ‘mass disorder’ in domestic law.”¹²⁹ Article 342 is similarly too vague and broad, and there is no definition of “group actions that grossly violate public order.”¹³⁰ The Working Group should therefore find that Article 342 lacks the requisite degree of legal certainty and leads to deprivation of liberty that is both unreasonable and unnecessary – as it clearly has in this case.

Thus, Bialiatski’s detention is arbitrary under Category I.

B. Category II: Detention Based on the Exercise of Fundamental Rights and Freedoms

A detention is arbitrary under Category II when it results from the exercise of fundamental rights or freedoms protected under the UDHR and the ICCPR.¹³¹ Bialiatski’s detention is arbitrary because it is a direct result of his exercise of his rights to freedom of association (UDHR Article 20 and ICCPR Article 22) and freedom of expression (UDHR Article 19 and ICCPR Article 19(2)). These rights are also protected under Belarus’ Constitution.¹³²

As explained above, the smuggling charge alleged that Bialiatski and others received money in a foreign bank account, transferred it to Belarus, and used that money to finance the activities of Viasna. The charge for financing group actions grossly violating public order asserted that they provided assistance, including financial assistance, to persons to engage in protests in the lead up and aftermath of the 2020 election – but the allegedly criminal assistance consisted merely of, e.g., election observation, paying fines for protestors, paying for meals for detainees, paying lawyers’ fees, publishing information about illegal law enforcement action, and continuing Viasna’s activities after its dissolution.

All of these activities fall under the rights to freedom of association and freedom of expression. The Declaration on Human Rights Defenders and its Commentary make clear that freedom of association includes “the right to receive funding from different sources, including foreign funding.”¹³³ In fact, the Working Group previously found that Bialiatski’s use of foreign bank accounts to fund Viasna’s activities

1016/2020, Mar. 22, 2021, at ¶ 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).

¹²⁷ *Human Rights Situation in Belarus: October 2022*, VIASNA, Nov. 2, 2022, available at <https://spring96.org/en/news/109643> (“The most widespread charges [against political prisoners] are Article 342 . . . , Article 369 . . . and Article 130 of the Criminal Code.”).

¹²⁸ Urgent Appeal to Government of Belarus, UA BLR 4/2023, WORKING GROUP ON ARBITRARY DETENTION ET AL., May 25, 2023, at 8–9, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28090>.

¹²⁹ *Andrei Sannikov v. Belarus*, Communication No. 2212/2012, U.N. Doc. CCPR/C/122/D/2212/2012, U.N. HUMAN RIGHTS COMMITTEE, adopted Apr. 6, 2018, at ¶ 6.12.

¹³⁰ Amicus Brief in Support of Ms. Ekaterina Bakhvalova and Ms. Daria Chultsova, *supra* note 125, at ¶ 55.

¹³¹ Specifically, detention is arbitrary under Category II “When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13–14 and 18–21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18–19, 21–22 and 25–27 of the International Covenant on Civil and Political Rights.” REVISED METHODS OF WORK, *supra* note 115, at ¶ 8(b).

¹³² Constitution of the Republic of Belarus, *supra* note 118, at Arts. 33 (“Everyone is guaranteed . . . free expression.”), 36 (“Everyone shall be entitled to freedom of association.”).

¹³³ Margaret Sekaggya, COMMENTARY ON THE DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, July 2011, at 96, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>; see also *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, G.A. Res. 53/144, U.N. Doc. A/RES/53/144, adopted Dec. 9, 1998, at Art. 13 [hereinafter *Declaration on Human Rights Defenders*] (“Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights.”).

was protected by ICCPR Article 22 and UDHR Article 20 (the right to freedom of association).¹³⁴ The Declaration on Human Rights Defenders further protects, as part of the right to freedom of expression, “the monitoring and advocacy functions of defenders” and “their right to obtain and disseminate information relevant to the enjoyment of human rights”;¹³⁵ the right to seek, obtain, receive, and hold information about human rights;¹³⁶ the right to publish, impart, or disseminate views, information, and knowledge on human rights;¹³⁷ and the right to draw public attention to the observance (or lack thereof) of human rights.¹³⁸ The Declaration on Human Rights protects the right to “provide . . . legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms” under the right to an effective remedy,¹³⁹ though the Human Rights Committee has recognized that making legal submissions, gathering and analyzing information on the human rights situation, and publishing human rights-related reports also fall under the right to freedom of expression.¹⁴⁰

Moreover, the charges underlying Bialiatski’s detention are directly related to the Government’s liquidation 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 continuing Viasna’s activities after its dissolution. Therefore, Bialiatski’s prosecution and conviction are invalid – as the Working group emphasized in its prior decision concerning Bialiatski, “criminal liability cannot be based on prior government action to deregister and dissolve the non-governmental organization Viasna, in violation of . . . article 22 of the International Covenant on Civil and Political Rights [the right to freedom of association].”¹⁴¹

The context of Bialiatski’s arrest further makes clear that he is being detained as punishment for his human rights work. Bialiatski was arrested on July 14, 2021, which has been described as “a day of massive, unprecedented raids and detentions against the Belarus human rights community.”¹⁴² Approximately 30 searches were conducted that day “at the offices of civil society organisations as well as at the homes of human rights defenders across Belarus,”¹⁴³ and additional searches were conducted the following day.¹⁴⁴

Thus, Bialiatski’s detention is arbitrary under Category II.

C. *Category III: Violation of Due Process Rights*

Detention is considered arbitrary under Category III “[w]hen 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

¹³⁴ *Aleksandr Viktorovich Bialatski v. Belarus*, *supra* note 51, at ¶ 50 (“[T]he fundraising undertaken by Mr. Bialatski for the purposes of allowing the very existence of Viasna, and continuation of its activities, is in conformity with the rights contained in article 20, paragraph 1, of the Universal Declaration on Human Rights and article 22 of the International Covenant on Civil and Political Rights.”).

¹³⁵ COMMENTARY TO THE DECLARATION, *supra* note 133, at 58.

¹³⁶ *Declaration on Human Rights Defenders*, *supra* note 133, at Art. 6(a) and COMMENTARY TO THE DECLARATION, *supra* note 133, at 57–58.

¹³⁷ *Declaration on Human Rights Defenders*, *supra* note 133, at Art. 6(b) and COMMENTARY TO THE DECLARATION, *supra* note 133, at 57–58.

¹³⁸ *Declaration on Human Rights Defenders*, *supra* note 133, at Art. 6(c) and COMMENTARY TO THE DECLARATION, *supra* note 133, at 57–58.

¹³⁹ *Declaration on Human Rights Defenders*, *supra* note 133, at Art. 9(3)(c) and COMMENTARY TO THE DECLARATION, *supra* note 133, at 88–89.

¹⁴⁰ *General Comment No. 34 on Article 19: Freedoms of Opinion and Expression*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/34, Sept. 12, 2011, at ¶ 12, 23.

¹⁴¹ *Aleksandr Viktorovich Bialatski v. Belarus*, *supra* note 51, at ¶ 47.

¹⁴² *Belarus: Unprecedented Raids on Human Rights Defenders*, HUMAN RIGHTS WATCH, July 15, 2021, available at <https://www.hrw.org/news/2021/07/15/belarus-unprecedented-raids-human-rights-defenders>.

¹⁴³ *Belarus: Coordinated Searches and Detentions of Journalists and Human Rights Defenders*, FIDH, July 14, 2021, available at <https://www.fidh.org/en/issues/human-rights-defenders/belarus-coordinated-searches-and-detentions-of-journalists-and-human>.

¹⁴⁴ *Belarus: New Wave of Searches and Arrests of Human Rights Defenders and Journalists*, OMCT, July 16, 2021, available at <https://www.omct.org/en/resources/urgent-interventions/new-wave-of-searches-and-arrests-of-human-rights-defenders-and-journalists> (“[B]etween July 14 and 15, 2021, more than 45 searches were conducted at the homes of human rights defenders as well as at the offices of civil society organisations across Belarus.”).

give the deprivation of liberty an arbitrary character.”¹⁴⁵ In this case, Bialiatski was subjected to numerous serious violations of due process rights, and his detention is therefore arbitrary under Category III.

1. Bialiatski was not brought promptly before a court

Article 9(3) of the ICCPR provides that “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power.”¹⁴⁶ This “requirement applies even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity.”¹⁴⁷ The Human Rights Committee has explained that “48 hours is ordinarily sufficient” and “any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.”¹⁴⁸ It appears that Belarus has no comparable provision in domestic law requiring that a detainee be brought promptly before a judge.¹⁴⁹ ICCPR Article 9(4) further provides that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention,” and as the Human Rights Committee has clarified, “any substantial waiting period before a detainee can bring a first challenge to detention is impermissible.”¹⁵⁰

Bialiatski was arrested on July 14, 2021. It is believed that he was not brought before a court until his trial began in January 2023 – over 17.5 months later. While his lawyers did appear in court during this period to appeal the prosecutor’s extensions of pretrial detention, Bialiatski was not allowed to attend or participate. This is a flagrant violation of ICCPR Articles 9(3) and 9(4), as the Working Group recently found in a remarkably similar case. In Opinion No. 23/2021, the Working Group noted that a detainee in Belarus was placed in pretrial detention in late May or early June 2020 but he “did not appear in person before a court until his trial started in June 2021, as he was not allowed to be present during the various challenges to his detention presented by his lawyer.”¹⁵¹ As a result, the Working Group found a violation of ICCPR Articles 9(3) and 9(4),¹⁵² as it should in this case.

2. Bialiatski was denied the presumption of bail

Article 9(3) of the ICCPR contains a presumption against pretrial detention. As the Human Rights Committee has explained, 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.”¹⁵³ Pretrial detention “should not be mandatory for all defendants charged with a particular crime,” nor should it be based solely on the potential sentence a defendant is facing.¹⁵⁴ Before imposing pretrial detention, a court “must examine whether alternatives to pretrial detention, such as bail, electronic bracelets or other conditions, would render detention unnecessary in the particular case.”¹⁵⁵ The Working Group has

¹⁴⁵ REVISED METHODS OF WORK, *supra* note 115, at ¶ 8(c).

¹⁴⁶ See also *Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment*, G.A. Res. 47/173, U.N. Doc. A/43/49, adopted 1988, at Principle 37 [hereinafter *Body of Principles*], available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention> (“A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest.”).

¹⁴⁷ *General Comment No. 35*, *supra* note 124, at ¶ 32.

¹⁴⁸ *Id.*, at ¶ 33.

¹⁴⁹ See *Olga Pichugina v. Belarus*, Communication No. 1592/2007, U.N. Doc. CCPR/C/108/D/1592/2007, U.N. HUMAN RIGHTS COMMITTEE, adopted July 17, 2013, at ¶ 2.3, (noting the author’s allegation that “the Chief of the Committee’s Directorate pointed out that the legislation in force at the time did not prescribe that anyone arrested or detained on a criminal charge be brought promptly before a judge”) and *Protection of the Right to Liberty in Criminal Proceedings: International Standards and National Detention Practice*, *supra* note 71 (discussing ICCPR Article 9(3) and asserting that “the detention procedure provided for by the Belarusian legislation directly contradicts the requirements of the Covenant”).

¹⁵⁰ *General Comment No. 35*, *supra* note 124, at ¶ 42.

¹⁵¹ *Sergey Tihanovski v. Belarus*, Opinion No. 23/2021, U.N. Doc. A/HRC/WGAD/2021/23, U.N. WORKING ON ARBITRARY DETENTION, adopted Sept. 6, 2021, at ¶ 72.

¹⁵² *Id.*, at ¶¶ 73–75.

¹⁵³ *General Comment No. 35*, *supra* note 124, at ¶ 38.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

similarly emphasized that pretrial detention “should be justified in each individual case and assessed *by a competent, independent judge*.”¹⁵⁶ Although Article 9(3) applies only after a criminal defendant has been charged, the Human Rights Committee has explained that “a similar requirement prior to charging results from the prohibition of arbitrary detention in [ICCPR Article 9(1)].”¹⁵⁷ In contrast with these standards, Article 126(1) of Belarus’ Criminal Procedure Code allows pretrial detention to be imposed solely on the basis of the gravity of the offense charged (as least for “grave” crimes) and Article 126(4) vests authority to impose pretrial detention with the prosecutor rather than a court.

As explained above, Bialiatski’s pretrial detention was imposed and repeatedly extended by the prosecution, rather than a judge. And although his lawyers appealed these extensions to a court, the court upheld the prosecutor’s decision simply by citing the gravity of the charges – there was no consideration of whether detention was reasonable and necessary for a limited set of purposes (e.g., to prevent flight, interference with evidence, or the recurrence of crime), nor of potential alternatives to pretrial detention. Moreover, underscoring the lack of an individualized determination, the court decisions upholding the extensions were identical for each of the three co-defendants – Bialiatski, Stefanovic, and Labkovich. These actions violate ICCPR Article 9. In fact, in 2014, the Human Rights Committee found that Belarus had violated Bialiatski’s rights under Article 9 for these exact same reasons – i.e., “his remand in custody had been taken by a prosecutor rather than by a judge,” the court decisions upholding detention “did not contain any reasoning as to the necessity, reasonableness and proportionality of the custodial measure,” and “article 126.1 of the Criminal Procedure Code allows custodial placement solely on the basis of the seriousness of the offence.”¹⁵⁸

3. Bialiatski’s was denied access to his family

The Body of Principles 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.”¹⁵⁹ It further provides: “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world.”¹⁶⁰ The Nelson Mandela Rules similarly assert: “Prisoners shall be allowed . . . to communicate with their family and friends at regular intervals,” including “[b]y receiving visits.”¹⁶¹ Furthermore, Principle 16 of the Body of Principles states that a detained person “shall be entitled” to “promptly” notify family members (or others of his choosing) of his arrest/detention, his location, and any transfer from one place of detention to another.¹⁶² Absent exceptional circumstances, this notification must be done or allowed to be done “without delay.”¹⁶³ Article 115(1) of Belarus’ Criminal Procedure Code similarly requires the Government to “notify any of the adult members of [the detainee’s] family or close relatives within 12 hours from the moment of actual detention, or provide the opportunity for such notification to the detainee himself.”¹⁶⁴

Mr. Bialiatski has been repeatedly denied his right to communicate with his family. No one was informed of his arrest on July 14, 2021, nor which detention facility he was being held at – rather, his location was confirmed after one of his attorneys simply guessed he might be at Okrestina and went there in person to check. And during the three days that Bialiatski was detained there, he had no communication with or visits from family. Moreover, although Bialiatski was transferred to Sizo No. 1 on July 17, 2021, his wife Natallia did not learn about this until a week later through unofficial channels (i.e., not from the Government, nor from Bialiatski himself). During the time that Bialiatski was held at Sizo No. 1 (July 17, 2021 to April

¹⁵⁶ *Teymur Akhmedov v. Kazakhstan*, Opinion No. 62/2017, U.N. Doc. A/HRC/WGAD/2017/62, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Aug. 25, 2017, at ¶ 41 (emphasis added).

¹⁵⁷ *General Comment No. 35*, *supra* note 124, at ¶ 38.

¹⁵⁸ *Natalya Pinchuk v. Belarus*, *supra* note 46, at ¶ 8.2.

¹⁵⁹ *Body of Principles*, *supra* note 146, at Principle 15.

¹⁶⁰ *Id.*, at Principle 19.

¹⁶¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, *adopted* Dec. 17, 2015, at Rule 58(1).

¹⁶² *Body of Principles*, *supra* note 146, at 16(1).

¹⁶³ *Id.*, at Principle 16(4).

¹⁶⁴ Criminal Procedure Code, *supra* note 8, at Art. 115(1).

21, 2023), he was allowed only one visit from family – his wife, on November 10, 2022. Bialiatski was not allowed to make phone calls from Sizo No. 1, and though he was able to write letters, some were clearly confiscated – on July 29, 2021, Natallia received the first letter from him, but it had the number three written at the top, indicating that prison officials had failed to send the first two.

In addition, no one informed Bialiatski’s family about his transfer to Penal Colony #9 in Gorki – his wife Natallia learned of this through public internet sources. Since Bialiatski was transferred there in early May 2023, he has not been able to receive any visitors. Nor has he able to speak to his wife – he is allowed to receive phone calls in theory, but only from Belarusian numbers, and Natallia no longer resides in Belarus. And while he is able to receive letters, it is again clear that some are being confiscated – in writing to Natallia, Bialiatski has repeatedly asked about things she responded to or answered in a prior letter, indicating that some of her letters were not given to him. Moreover, Natallia cannot even get information about Bialiatski indirectly through his attorneys, as the Government has placed them under a strict non-disclosure obligation.

4. Bialiatski was denied access to counsel

Article 14(3)(b) and (d) of the ICCPR provides that, “[i]n the determination of any criminal charge against him,” everyone has the right “to communicate with counsel of his own choosing” and “defend himself . . . through legal assistance of his own choosing.” This means that an accused must be given “prompt access to counsel” and counsel must be allowed “to communicate with the accused in conditions that fully respect the confidentiality of their communications.”¹⁶⁵ Lawyers must also be allowed to represent their clients “without restrictions, influence, pressure or undue interference from any quarter.”¹⁶⁶

Bialiatski’s attorneys have faced a campaign of intimidation and reprisals for their representation of Bialiatski. As mentioned above, Vital Brahinets was arrested in May 2022, disbarred in August 2022, and sentenced to eight years in prison in February 2023 on a variety of baseless charges. His detention has been linked directly to his legal work – the European Parliament, for example, has noted that “Vital Brahinets was sentenced to eight years of imprisonment for his defence of several political prisoners including Ales Bialiatski.”¹⁶⁷ Another of Bialiatski’s attorneys was also disbarred. This clearly constitutes improper “restrictions, influence, pressure or undue interference” on his counsel.

The Government also imposed a strict non-disclosure obligation on all of Bialiatski’s attorneys – a common practice in politically-motivated cases.¹⁶⁸ In Opinion No. 50/2021, the Working Group noted “its discomfort” over this practice in Belarus and expressed “concern[] that such covenants have a serious adverse impact on the ability of the lawyer to represent the client properly, and amount to a . . . violation of [a detainee’s] right to a lawyer of his own choosing as provided under article 14 (3) (b)” of the ICCPR.¹⁶⁹

Moreover, Bialiatski’s attorneys have not been able to see him since he was transferred to the prison colony in Gorki in early May 2023. They have twice attempted to visit him but were turned away both times (once because they allegedly failed to submit a written request, and once because the written request they had submitted was “too old”).

¹⁶⁵ *General Comment No. 32 on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, at ¶ 34.

¹⁶⁶ *Id.*

¹⁶⁷ *Resolution on Further Repression Against the People of Belarus, in Particular the Cases of Andrzej Poczobut and Ales Bialiatski*, EUROPEAN PARLIAMENT, No. 2023/2573(RSP), Mar. 15, 2023, available at https://www.europarl.europa.eu/doceo/document/TA-9-2023-0075_EN.html; see also Letter from Panagiotis Perakis, President of the Council of Bars and Law Societies of Europe, to Belarus President Alexander Lukashenko, Feb. 22, 2023, available at https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Belarus_-_Bielorussie/2023/EN_HRL_20230222_Belarus_Conviction-of-lawyer-Vitaly-Brahinets-to-8-years-of-prison.pdf (“We remain deeply concerned that the recent conviction and ongoing detention of Mr. Brahinets is connected to, and only serves to unlawfully curb his legitimate activities as a lawyer.”).

¹⁶⁸ *Belarus: Human Rights Defenders Held in Pretrial Detention*, AMNESTY INT’L UK, accessed Oct. 17, 2023, available at <https://www.amnesty.org.uk/urgent-actions/human-rights-defenders-held-pretrial-detention> (“In common with most other criminal cases against civil society activists in Belarus the lawyers [for Bialiatski] have been required to sign non-disclosure agreements”).

¹⁶⁹ *Raman Pratasevich v. Belarus*, Opinion No. 50/2021, U.N. Doc. A/HRC/WGAD/2021/50, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Nov. 15, 2011, at ¶ 89.

In addition, during court proceedings, Bialiatski was kept behind a cage with metal bars. This prevented him from interacting with and assisting his attorneys in real-time.

Finally, there have also been allegations that Bialiatski's meetings with his attorneys were recorded,¹⁷⁰ which would clearly violate the confidentiality of their communications.

5. Bialiatski was denied adequate time and facilities to prepare a defense

Article 14(3)(b) of the ICCPR provides an accused the right “[t]o have adequate time and facilities for the preparation of his defence.” This “is an important element of the guarantee of a fair trial and an application of the principle of equality of arms.”¹⁷¹ “Adequate facilities” includes “access to documents and other evidence,” including “all materials that the prosecution plans to offer in court against the accused.”¹⁷² As for “adequate time,” this “depends on the circumstances of each case” but “[t]here is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed.”¹⁷³

Bialiatski was originally arrested for and charged with suspected tax evasion. However, on September 26, 2022 – over 14 months into his detention, and just three months before trial – the tax evasion charge was dropped and new charges were brought under Criminal Code Articles 228(4) (smuggling) and 342(2) (financing group actions grossly violating public order). This left Bialiatski with very limited time to prepare his defense, as trial started on January 5, 2023. But 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 283 volumes of approximately 300 pages each – a total of approximately 85,000 pages. In order to review the case file in one month, he would have had to read more than 2,700 pages each day – an impossible task. This was made even more difficult because all the documents were in Russian, while Bialiatski's native language is Belarusian. In the end, Bialiatski was able to review only 70 of the 283 volumes before trial.¹⁷⁴ On the first day of trial, Bialiatski expressly stated that he did not have enough time to get acquainted with all of the case files, but the judge replied that one month was enough time and that there were no grounds for giving additional time.¹⁷⁵ An adjournment was clearly reasonable and necessary, particularly since Bialiatski and his co-defendants were facing serious criminal charges (e.g., Bialiatski was sentenced to 10 years' imprisonment).

6. Bialiatski was denied the right to cross-examine witnesses

Article 14(3)(e) of the ICCPR guarantees the right “[t]o examine . . . the witnesses against him.” This is “an application of the principle of equality of arms” and is “important for ensuring an effective defence.”¹⁷⁶ An accused must be given “the same legal powers of compelling the attendance of witnesses and of examining or cross-examining any witnesses as are available to the prosecution.”¹⁷⁷

In this case, Bialiatski was prevented from cross-examining nearly all of the witnesses against him because the court excused most of them from appearing at trial. In doing so, the court simply ignored the fact that some witnesses had claimed they lacked funds for travel but lived in Belarus and could therefore travel cheaply. And others claimed poor health but failed provide the court any documentation of their health problems. It was later revealed that the court itself had sent the witnesses in the case a partially filled out form that they could submit back to the court to request to be excused from appearing at the trial in-person. Since these witnesses were not present to testify in court, the court read out the testimony they had provided

¹⁷⁰ Pip Cook, *Belarus Sentences Nobel Laureate Ahead of Human Rights Council Debate*, GENEVA SOLUTIONS, Mar. 7, 2023, available at <https://genevasolutions.news/human-rights/belarus-sentences-nobel-laureate-ahead-of-human-rights-council-debate>.

¹⁷¹ *General Comment No. 32*, *supra* note 165, at ¶ 32.

¹⁷² *Id.*, at ¶ 33.

¹⁷³ *Id.*, at ¶ 32.

¹⁷⁴ *Belarus: The Lies Behind Accusations Against Nobel Laureate Ales Bialiatski and His Viasna Colleagues*, *supra* note 82 (“Ales Bialiatski . . . did not have time to read over 70 volumes.”).

¹⁷⁵ *Trial Against Viasna Leadership: Day 1*, *supra* note 85.

¹⁷⁶ *General Comment No. 32*, *supra* note 165, at ¶ 39.

¹⁷⁷ *Id.*

during the investigation, which meant that the defense had no opportunity to conduct cross-examination to point out bias, inconsistencies, or otherwise challenge their testimony.

7. Bialiatiski was not tried by an independent and impartial tribunal

Article 14(1) of the ICCPR and Article 10 of the UDHR provide that everyone is entitled to a fair and public hearing by an independent and impartial tribunal. The Human Rights Committee has emphasized that “the right to be tried by an independent and impartial tribunal is an absolute right that may suffer no exception”¹⁷⁸ and that states must ensure “the actual independence of the judiciary from political interference by the executive branch” and “protect[] judges from any form of political influence in their decision-making.”¹⁷⁹

In Opinion 45/2023, adopted on August 30, 2023, the Working Group noted that “[t]he independence of judges has been systemically restricted in Belarus” and that “[i]n 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.”¹⁸⁰ The Special Rapporteur on the Human Rights Situation in Belarus has similarly stated that, “[i]n Belarus, the judiciary and the court system are subject to the excessive control of the executive branch.”¹⁸¹ Freedom House has provided a more blunt assessment, noting that “[t]he judiciary in Belarus is instrumentalized as a punitive tool against dissenters.”¹⁸²

In Bialiatiski’s case specifically, it is clear that Judge Maryna Zapasnik was neither independent nor impartial. In fact, at the time she presided over Bialiatiski’s trial, she had already been sanctioned by the European Union for “for numerous politically motivated rulings against peaceful protesters” and “for the repression of civil society and democratic opposition.”¹⁸³ During Bialiatiski’s trial, she consistently denied reasonable defense requests and made egregious rulings that violated Bialiatiski’s rights, which indicates she was acting as an agent of the executive rather than an independent judge. For example, she refused to grant the defense more time to review the voluminous case file; denied requests to remove the defendants’ handcuffs; denied Bialiatiski’s request for the trial to be conducted in Belarusian and his request for an interpreter; allowed Bialiatiski to be given only a ballpoint pen refill to write with; and excused nearly all of the prosecution’s witnesses from appearing at trial, thereby denying Bialiatiski the ability to cross-examine them.

7. Bialiatiski was denied the presumption of innocence

Article 14(2) of the ICCPR and article 11(1) of the UDHR provide that everyone charged with a criminal offense has “the right to be presumed innocent until proved guilty according to law.” This right imposes “a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused.”¹⁸⁴ In addition, “[d]efendants should normally not be shackled or kept in cages during trials” and “[t]he media should avoid news coverage undermining the presumption of innocence.”¹⁸⁵

During court proceedings, Bialiatiski and his co-defendants were kept handcuffed in a cage with metal bars. Furthermore, President Lukashenko himself, referring to Bialiatiski and Viasna by name, commented that NGOs and “human rights organizations” were “fulfilling someone else’s political order”

¹⁷⁸ *González del Río v. Peru*, Communication No. 263/1987, U.N. Doc. CCPR/C/46/D/263/1987, U.N. HUMAN RIGHTS COMMITTEE, adopted Oct. 28, 1992, at ¶ 5.2.

¹⁷⁹ *General Comment No. 32*, *supra* note 165, at ¶ 19.

¹⁸⁰ *Igor Alyksandravich Losik v. Belarus*, Opinion No. 45/2023, U.N. Doc. A/HRC/WGAD/2023/45, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Aug. 30, 2023, at ¶ 67.

¹⁸¹ *Belarus: Establishing Independent Judicial System Should Top the Agenda for Future Reforms, Says UN Expert*, OHCHR, Oct. 26, 2020, available at <https://www.ohchr.org/en/press-releases/2020/10/belarus-establishing-independent-judicial-system-should-top-agenda-future>.

¹⁸² *Belarus*, in NATIONS IN TRANSIT 2023, FREEDOM HOUSE, May 24, 2023, available at <https://freedomhouse.org/country/belarus/nations-transit/2023>.

¹⁸³ Council Implementing Regulation (EU) 2021/997, *supra* note 78.

¹⁸⁴ *General Comment No. 32*, *supra* note 165, at ¶ 30.

¹⁸⁵ *Id.*

“under the guise of charity and socially significant projects.” Foreshadowing the charges that Bialiatiski and his co-defendants would be convicted of, Lukashenko further added that these organizations trained people to engage in protests relating to the August 2020 elections and that some received funding from abroad. In addition, the state-funded and state-controlled newspaper Belarus Today repeatedly suggested, prior to the verdict, that Bialiatiski and his co-defendants were guilty. To reiterate one example, one article noted “there are . . . quite enough [charges] for Bialiatiski, Stefanovich and Labkovich to receive deserved sentences for the crimes they committed.”¹⁸⁶ Furthermore, the state-controlled tv station Belarus 1 ran an expose on Viasna claiming that Viasna’s leaders “have forgotten about . . . compliance with the law of the country.”¹⁸⁷

Notably, the Human Rights Committee previously found that Belarus violated Bialiatiski’s right to presumption of innocence for similar reasons – i.e., because (1) “State-owned newspapers and television channels disseminated reports proclaiming his guilt before his verdict had been confirmed on appeal,” (2) “the President . . . made a public statement, clearly indicating his position regarding [Bialiatiski’s] guilt,” and (3) “throughout the court proceedings [Bialiatiski] was brought to court and taken back to the detention facility in handcuffs and was kept in a cage in the courtroom.”¹⁸⁸

D. Category V: Discrimination Based on a Protected Class

A detention is arbitrary under Category V when it “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.”¹⁸⁹ The Working Group has clarified that this includes discrimination based on “a person’s status as a human rights defender,” and in particular, “discrimination in the exercise of rights elaborated under declaratory instruments such as the Declaration on Human Rights Defenders.”¹⁹⁰

Bialiatiski is being targeted, prosecuted, and imprisoned for engaging in his work as a human rights defender. In fact, numerous reputable organizations and experts have directly connected his detention with his human rights work. For example, a joint statement by leading civil society organizations – including Human Rights Watch, Amnesty International, FIDH, the Norwegian Helsinki Committee, and the World Organisation Against Torture – emphasized that “Bialiatiski, Stefanovic and Labkovich are prosecuted in reprisal for carrying out legitimate human rights work.”¹⁹¹ Referring to the prison sentences imposed on Bialiatiski and his co-defendants, High Commissioner for Human Rights Volker Türk noted that “[t]he appalling practice of pursuing and punishing people for carrying out legitimate human rights work continues.”¹⁹² And six of the UN special procedure mandate holders called Bialiatiski’s sentence “the result of targeted use of criminal persecution and instrumentalisation of the justice system by Belarusian authorities to quash all scrutiny and dissent to its repressive policies.”¹⁹³

VI. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN

Bialiatiski and his co-defendants appealed their convictions, but on April 21, Judge Sviatlana Bandarenka on the Minsk City Court rejected the appeals and upheld their sentences.

¹⁸⁶ “Aren’t You Interested in What They Say at the UN?,” *supra* note 109.

¹⁸⁷ *It Became Known How the Human Rights Center “Viasna” Received Western Funding*, *supra* note 113.

¹⁸⁸ *Natalya Pinchuk v. Belarus*, *supra* note 46, at ¶ 8.3.

¹⁸⁹ REVISED METHODS OF WORK, *supra* note 115, at ¶ 8(e).

¹⁹⁰ *Ny Sokha v. Cambodia*, Opinion No. 45/2016, U.N. Doc. A/HRC/WGAD/2016/45, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Nov. 21, 2016, at ¶¶ 44–45.

¹⁹¹ *Joint Statement in the Run-up to the Verdict in the Viasna Case*, VIASNA, Mar. 2, 2023, available at <https://spring96.org/en/news/110933>.

¹⁹² *UN Rights Chief Urges Belarus to Promptly Release Political Detainees*, U.N. NEWS, Mar. 17, 2023, available at <https://news.un.org/en/story/2023/03/1134702>.

¹⁹³ *Belarus: Verdict Against Nobel Laureate Ales Bialiatiski an Effort to Quash Scrutiny and Dissent Say UN Experts*, OHCHR, Mar. 3, 2023, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-verdict-against-nobel-laureate-ales-bialiatiski-effort-quash-scrutiny>.