Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**312**
Land:	Belarus (Hviderusland)
Kilde:	Human Rights Council
Titel:	Report of the Special Rapporteur on the situation of human rights in Belarus
Udgivet:	3. maj 2023
Optaget på baggrundsmaterialet:	19. december 2023

United Nations A/HRC/53/53

General Assembly

Distr.: General
3 May 2023

Original: English

Human Rights Council
Fifty-third session
19 June–14 July 2023
Agenda item 4
Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin

Summary

In the present report, submitted pursuant to Human Rights Council resolution 50/20, the Special Rapporteur on the situation of human rights in Belarus provides a holistic update on developments in the areas of civil, political, economic, social and cultural rights in Belarus, covering the period from 1 April 2022 to 31 March 2023. On the basis of collected and verified information, the Special Rapporteur concludes that the human rights situation in Belarus has continued to deteriorate. Particular attention is paid in the report to the promotion and protection of the right to freedom of opinion and expression, including media freedoms and academic freedoms and to the interconnected rights of freedom of peaceful assembly and freedom of association. It documents the ongoing crackdown on independent journalists, human rights defenders and trade unions. The report also provides an analysis of the legislative practices and repressive policies that have led to the eradication of civic space in Belarus and forced many Belarusians into exile. The Special Rapporteur makes recommendations to relevant stakeholders for addressing the deplorable human rights situation in Belarus.

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I. Introduction

A. Summary

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established in 2012 by the Human Rights Council in its resolution 20/13. The resolution has been renewed on a yearly basis, reaching its tenth extension, in 2022, at the fiftieth regular session of the Human Rights Council.

2. The present report, submitted to the Human Rights Council pursuant to its resolution 50/20, covers the period from 1 April 2022 to 31 March 2023. In her analysis, the Special Rapporteur relies on international human rights law, including treaties and customary norms.

3. The Special Rapporteur collected and corroborated information showing that the precarious human rights situation in Belarus has deteriorated further. She regrets the lack of engagement of the authorities with the mandate and their continuous disdain for the recommendations emanating from international human rights mechanisms. She further regrets that, in withdrawing from the first Optional Protocol to the International Covenant on Civil and Political Rights, the Government of Belarus has taken a step backwards in the fulfilment of its obligations under binding human rights instruments.

4. The Special Rapporteur reiterates her concern[1] that the repressive climate in the country is forcing large numbers of Belarusians into exile. She is alarmed at the risk of statelessness following the introduction of constitutional and legislative amendments that allow for the stripping of Belarusian citizenship from people in exile on the basis of a court sentencing in absentia on extremism charges. She thus urges Belarus to revise its legislation and ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness as a first step towards mitigating that risk.

5. In addition, Belarus went against the global trend towards the progressive restriction of offences for which the death penalty may be imposed, as a step in the direction of abolishing the death penalty altogether. Instead, Belarus expanded the application of capital punishment with legislative provisions whose vagueness and breadth raise profound concerns regarding their compliance with international human rights law.

6. In 2022, judicial practice was marred by unprecedented levels of repression. After lengthy pretrial detentions, a host of harsh criminal verdicts against members of the political opposition, civic activists, human rights defenders, journalists, members of trade unions and lawyers were handed down. Such punishment for crimes under the country's legislation, which does not comply with the safeguards and standards binding on Belarus under international human rights law, is having a devastating effect on civic space.

7. The targeted large-scale crackdown on civic space continued for the third consecutive year. The massive dissolution of non-governmental organizations forced them to relocate abroad in order to continue their critical work. As a result of the reintroduction of criminal liability for participation in the activities of unregistered organizations, no human rights defender may legally operate in the country.

8. During the reporting period the deterioration of freedom of expression reached a critical level, with the widespread repression of non-government-controlled media and the continuing persecution of journalists, bloggers and media workers, in particular those reporting on human rights violations or highlighting other deficiencies in the legal or policy frameworks and practices of Belarus. The Special Rapporteur is concerned that the authorities of Belarus arbitrarily resort to criminalizing publications, materials, media outlets and individuals critical of their policies as a means of curtailing dissenting voices by labelling them extremists.

9. The report also contains documentation of repressive measures aimed at deterring Belarusians from publicly expressing their concerns regarding the armed attack by the

[1] See A/77/195.

Russian Federation against Ukraine commencing on 24 February 2022 in Ukraine[2] or taking an anti-war stance, including cases of alleged arbitrary arrest and sentencing to administrative or criminal deprivation of liberty of peaceful protesters under the guise of countering extremism, terrorism and hate crimes and protecting national security.

10. The authorities have intensified their systematic attacks on independent trade unions by subjecting their leaders and members to intimidation and criminal persecution. Almost 50 trade union activists and leaders of independent trade unions have been placed behind bars in Belarus. Independent trade unions have been ordered to dissolve and their activities have been outlawed in retaliation for their participation in peaceful protests and lawful strikes in 2020.

11. While concerns about the undermined independence of the judiciary and the prosecutor's office were long-standing, the reporting period witnessed the demise of the bar associations as a critical institution in the fair and efficient administration of justice. As a result of the large-scale disbarment and harassment of lawyers, it has become impossible to ensure legal representation of choice on cases that involve the protection of human rights or so-called sensitive cases.

12. With reference to the report of the United Nations High Commissioner for Human Rights, submitted to the Human Rights Council pursuant to its resolution 49/26,[3] the Special Rapporteur reiterates her view that the human rights situation requires continuous attention and monitoring. She hopes that, on the basis of the consolidated information and findings stemming from the examination by the Office of the United Nations High Commissioner for Human Rights (OHCHR) of the human rights situation in Belarus, notably concerning human rights violations that could amount to crimes against humanity, the international community will step up its efforts to protect victims and facilitate the criminal prosecution of alleged perpetrators on the basis of international law, including universal jurisdiction.

13. The Special Rapporteur emphasizes the importance of fostering a safe environment for human rights defenders and civil society activists, including trade union activists, journalists, academic workers, lawyers and other independent professionals who have relocated abroad to flee persecution and to make arrangements for them to continue their legitimate activities while in exile until they are able to return to Belarus safely.

B. Methodology

14. In its resolution 50/20, the Human Rights Council urged the authorities of Belarus to cooperate with the Special Rapporteur and to grant unhindered access to the country. The Special Rapporteur regrets that her letters to the Government of Belarus, in which she requested access to the country, remained unanswered. The Government has continued its policy of non-recognition and denial of access for visits in situ, thereby depriving itself of the opportunity to cooperate in addressing the identified human rights challenges.

15. Since 2021, Belarus has implemented an "empty chair" policy, boycotting interactive dialogues with the Special Rapporteur at meetings of the Human Rights Council and the General Assembly. The Special Rapporteur reminds the Government that, when taken constructively, engagement in the human rights forums at the United Nations is an opportunity for demonstrating the political will to uphold the State's human rights obligations. The Special Rapporteur regrets the continuing lack of engagement with the mandate and reiterates her earlier calls to the authorities of Belarus to review their position.

16. As in previous reporting cycles, the Government has not provided feedback or factual comments on the report. Therefore, its views could not be reflected in it. The Special Rapporteur analysed the written replies of the Government to communications sent in the period covered by the present report. Special procedure mandate holders issued 11 communications and made additional public statements regarding the situation of human rights in Belarus. The Government replied to only two communications.

[2] General Assembly resolution ES-11/1, para. 10.
[3] A/HRC/52/68.

17. The present report relies upon information collected by the Special Rapporteur or transmitted to her by representatives of civil society, human rights defenders and by victims and witnesses of human rights violations, among others. In accordance with the usual practice, a call for submissions was launched in January 2023, inviting relevant stakeholders to share information, documents, statements or analysis pertaining to the content of the present report. The Special Rapporteur is grateful for the valuable input received.[4]

18. In February 2023, the Special Rapporteur held the annual consultations in Geneva, where, among other stakeholders, she had exchanges with the Human Rights Committee, the United Nations High Commissioner for Human Rights, the International Labour Organization and international human rights organizations.

19. To collect first-hand information, she also met or exchanged with Belarusian human rights defenders and non-governmental organizations in exile. Informed consent was sought from victims or their relatives, where appropriate, to use the collected material. In many instances, the names of victims and sources have been redacted in the present report to secure confidentiality as a measure of protection against retaliation. The substantial risk of reprisal faced by victims of human rights violations, their relatives and those who work to defend them, including by engaging with international human rights mechanisms, remains a serious human rights concern.

20. The Special Rapporteur performs her duties in compliance with the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council,[5] which demands impartiality, independence and non-selectivity. Accordingly, she sought to establish the facts on the basis of objective, reliable information emanating from relevant and duly cross-checked sources.

II. Engagement with the international human rights system

21. While Belarus remains a party to seven of the nine core human rights instruments,[6] in 2022, the Government of Belarus decided to withdraw from the first Optional Protocol to the International Covenant on Civil and Political Rights, to which Belarus had acceded on 30 December 1992. Despite efforts by the Human Rights Committee to engage the authorities in a dialogue with a view to reconsidering that decision, the denunciation was communicated to the Secretary-General on 8 November 2022. On 8 February 2023, the denunciation took effect, closing a crucial avenue for individuals under the jurisdiction of Belarus to address complaints of alleged human rights violations and to seek redress. The Special Rapporteur calls upon Belarusian lawmakers to re-accede to the Optional Protocol without delay.

22. The Special Rapporteur notes with regret that the denunciation decision was made without consultation with human rights organizations and other relevant sectors of society. In addition, Belarusian citizens have used the complaint mechanism established by the Optional Protocol extensively in the 30 years since Belarus became a party to it. A vast number of complaints registered by the Human Rights Committee concerned Belarus.[7] The high accumulation of cases against Belarus is indicative of the impediments to the rule of law and accountability for human rights violations that citizens face at the national level. It also illustrates the legal awareness and commendable resilience of Belarusian civil society and the trust vested in the United Nations human rights mechanisms.

23. The Government maintains its policy of selective engagement with the special procedures of the Human Rights Council. Of the nine thematic special procedure mandate holders invited to visit Belarus,[8] only the Special Rapporteur on the human rights of migrants

[4] See https://www.ohchr.org/en/calls-for-input/2023/call-submissions-2023-reports-special-rapporteur-situation-human-rights.

[5] Human Rights Council resolution 5/2.

[6] Belarus has yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[7] See https://www.ohchr.org/en/treaty-bodies/ccpr/individual-communications.

[8] A/HRC/WG.6/36/BLR/1, para. 22.

was granted access to the country. In July 2022, he travelled to Belarus in the context of his assessment of the situation at the common border with Poland.[9]

24. During his visit, the Special Rapporteur on the human rights of migrants witnessed first-hand the lack of organizations working on the rights of migrants within Belarus[10] and noted that this reflected the larger systemic issue concerning the shrinking of civic space and the curtailing of independent monitoring and reporting on the human rights situation in the country.

25. The Special Rapporteur on the situation of human rights encourages the Government to address the findings and recommendations put forward by the Special Rapporteur on the human rights of migrants following his visit to the country, including the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. She encourages the authorities to extend a standing invitation to and to cooperate with all special procedure mandate holders to improve the human rights situation in Belarus.

26. In 2020, during the third cycle of the universal periodic review, Belarus received 266 recommendations from 92 delegations.[11] In her follow-up letter,[12] the High Commissioner for Human Rights encouraged the Government of Belarus to present a voluntary midterm report reflecting on its progress.[13] The Special Rapporteur reminds the Government that States may request the United Nations representation at the national level to assist them in the implementation of recommendations,[14] including through technical cooperation and expert guidance on advancing the realization of human rights. For this, she encourages the Government to design an updated national human rights action plan, in close consultation with human rights defenders and civil society organizations, based on recommendations received from all international and regional human rights mechanisms.

27. In addition, Belarus has continued its policy of non-engagement with the OHCHR examination team.[15] The Special Rapporteur aligns herself with the findings included in its most recent report and expresses profound concern at the continuing impunity for violations that may also amount to crimes against humanity.[16] She will continue to assist all efforts towards accountability and justice, in accordance with the renewed mandate.[17]

28. The Special Rapporteur also observes that Belarus has withdrawn from an international agreement that safeguards the human right to a clean, healthy and sustainable environment, namely the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Since 2014, Belarus has been under the spotlight for the intimidation and harassment of environmental human rights defenders, who are protected under that instrument.[18]

[9] OHCHR, “UN expert praises generosity towards Ukrainian refugees by Poland and urges Belarus and Poland to end pushbacks”, press release, 28 July 2022.

[10] OHCHR, “Country visits: Special Rapporteur on the human rights of migrants”, statement on visit to Poland and Belarus, 12–25 July 2022. Available at https://www.ohchr.org/en/special-procedures/sr-migrants/country-visits.

[11] See A/HRC/46/5 and https://www.ohchr.org/en/hr-bodies/upr/by-index.

[12] See https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session36/BY/HCLetter-Belarus-EN.pdf.

[13] Human Rights Council resolution 16/21, para. 18.

[14] Human Rights Council resolution 5/1, para. 36.

[15] A/HRC/52/68, para. 7.

[16] Ibid., para. 54.

[17] See Human Rights Council resolution 52/29.

[18] OHCHR, “Belarus: UN experts denounce withdrawal from Aarhus Convention”, press release, 10 August 2022.

III. Legal framework and human rights concerns

A. Right to a nationality and risk of statelessness

29. The erosion of human rights safeguards in Belarus continued through the adoption of legislative provisions that run counter to the country's international human rights obligations. On 5 January 2023, amendments to Law No. 136-Z on citizenship of Belarus were adopted. Its provisions allow for the deprivation of nationality of Belarusians abroad in connection with the existence of a final verdict of the court concerning the participation of the person in extremist activities or causing severe damage to the interests of Belarus, if such a person is outside the country. That legislative move was preceded by a constitutional referendum, held on 27 February 2022, introducing the possibility of termination of citizenship.[19]

30. In a communication addressed to Belarus on 23 December 2022, six special procedure mandate holders raised concerns about the potential risk that the amendments to Law No. 136-Z would generate statelessness, especially given that dual citizenship is prohibited by Belarus.[20] The country has not yet ratified the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. The Special Rapporteur reminds the Government that, during the universal periodic review process, the Government supported a recommendation on the ratification of those two instruments and encourages it to follow up on that commitment without further delay.

31. Decree No. 25 on the consideration of information requested made by Belarusian citizens abroad about offences that they committed, signed on 6 February 2023,[21] establishes a special commission for the return of exiles. The commission, comprising 29 members, includes high-ranking officials heading State institutions allegedly involved in the repression of the peaceful protests in 2020 and the ongoing mass reprisals, including the General Prosecutor, the Minister of the Interior and the Heads of the State Investigative Committee and the Committee for State Security.[22] Belarusian citizens willing to return must provide information about their current location, explain why they left the country, repent and agree to pay fines. Many fear that the procedure will be used by the Government to track down dissidents and activists in exile. Such fears are substantiated by reports of the arrest of at least 58 people upon their return and charges for their participation in protests, comments on social media or donations to victims of the repression in Belarus.[23]

32. Following up on her most recent report to the General Assembly,[24] the Special Rapporteur notes that Belarusians in exile need additional support in the countries in which they have found temporary safety, including regarding the legalization of their status, the renewal of identity and travel documents and the continuation of their professional activities abroad. She appreciates the efforts of host countries, including Lithuania and Poland, and encourages the exchange of existing good practices.

B. Fair trial guarantees and trials in absentia

33. On 21 July 2022, amendments to the Criminal Procedure Code were signed into law allowing for trials in absentia. The amendments introduced the institution of special proceedings in criminal cases in relation to accused who are outside Belarus. The possibility of carrying out special proceedings is envisaged for 34 crimes in the category of threats to national security and the defence of State interests, including the same crimes for which the withdrawal of nationality is envisaged.

[19] See https://president.gov.by/bucket/assets/uploads/documents/konstituciya-na-27-dekabrya.pdf.

[20] See communication BLR 9/2022. All communications mentioned in the present report are available from https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

[21] See https://president.gov.by/bucket/assets/uploads/documents/2023/25uk.pdf (in Russian).

[22] A/HRC/52/68, para. 54 (a).

[23] Voice of Belarus, "At least 58 arrested at border crossings when returning to Belarus", 5 February 2023.

[24] A/77/195.

34. Under international human rights law, trials in absentia are provided for only in exceptional circumstances or where there has been an explicit, unequivocal waiver of one's right to be present. The Special Rapporteur is profoundly concerned that the amendments to the criminal procedure weaken a defendant's right to be present at and to participate in the trial. Moreover, the Special Rapporteur reiterates her concerns about the independence of the judiciary and access to a fair trial in Belarus and allegations of recurring violations of due process guarantees in criminal cases.

35. The first trials in absentia began on 12 December 2022 in the criminal case against the creators and administrators of the Black Book of Belarus.[25] One of the defendants in the case, Volha Vysotskaya, requested remote participation in the trial using videoconferencing. Although online hearings have been used routinely since 2020, the court rejected her request, which raises concerns that her rights were not fully guaranteed.

36. On 26 December 2022, Aliaksandr Opeykin and the Olympic medallist and human rights activist, Aliaksandra Herasimenia, were tried in absentia and sentenced to 12 years of imprisonment each on charges of calling for sanctions and other actions aimed at harming the national security of Belarus. The Belarusian Sport Solidarity Foundation, which they co-founded, has been labelled extremist in Belarus.

37. On 17 January 2023, two of the highest profile opposition figures in exile, Sviatlana Tsikhanouskaya and Pavel Latushka, together with three other opposition figures, were put on trial in absentia. The verdict, issued on 6 March 2023, sentenced them to 15 and 18 years in prison, respectively, on charges that included conspiracy to seize power, high treason and extremism.[26] The trial in absentia against Valery Tsepkalo started on 1 March 2023.

38. The trials in absentia involved a number of violations of international standards relating to the right to a fair trial. Defendants' access to a lawyer was reportedly breached. The appointed State lawyers declined contact with their clients during the trial and left all requests for information about the case files unanswered. The lack of effective, meaningful legal representation during judicial proceedings is inconsistent with international human rights law and international fair trial standards.

39. Individuals sentenced in absentia face heavy fines and risk property confiscation. According to the Chairman of the Investigative Committee of Belarus, one of the main reasons for introducing trials in absentia was the need to establish legal grounds for the confiscation of property.[27] On 17 January 2023, Law No. 240-Z, allowing for the confiscation of property for so-called unfriendly actions against Belarus, came into force.

IV. Right to freedom of opinion and expression

A. Media freedom and safety of journalists

40. Following the contested 2020 presidential election, the practice of free, independent and pluralistic journalism and the right of journalists and bloggers to free expression in Belarus deteriorated dramatically.[28] In 2022, the country was ranked 157 out of 161 countries in the Global Expression Report, which reviews the state of freedom of expression and the right to information around the world.[29]

41. Since May 2020, the authorities have been equating independent journalistic work with extremism. Independent media outlets in Belarus have been added to the list of extremist organizations or extremist formations, the latter qualification assigned by the Ministry of Internal Affairs or the State Security Committee outside of a judicial procedure. On 28

[25] The social media account gathered personal data about law enforcement officers involved in the violent repression of peaceful protests in 2020.

[26] For details about the charges, see https://spring96.org/be/news/110446 (in Belarusian).

[27] See https://sputnik.by/20220512/gora-soobschil-kto-iz-beglykh-politikov-mozhet-byt-privlechen-k-zaochnomu-sudu-1062639198.html (in Russian).

[28] A/HRC/50/29, para. 53.

[29] Article 19, *The Global Expression Report 2022* (June 2022).

February 2023, the Belarusian Association of Journalists was declared an extremist formation,[30] joining a long list that includes such reputable media outlets as Radio Svaboda, *Novy Chas*, Belsat, BelaPAN, *Nasha Niva* and Euroradio, dozens of regional publications and independent journalistic projects, such as Malanka Media.[31] Some of the above-mentioned media outlets regularly produced materials on the human rights situation in Belarus.

42. In addition to wiping out all independent media outlets, judicial harassment against journalists and media workers has been perpetrated as part of deliberate repressive policies pursued by the authorities of Belarus. Since 2020, law enforcement agencies in Belarus have carried out some 200 raids on media offices and the private homes of journalists and media workers, arresting and detaining 625 professionals. On most occasions, phones and computers were seized for investigation purposes, including those of relatives (parents, spouse, children) living in the same household. While equipment is usually returned within a year, the work of journalists and whistle-blowers is effectively hampered in the meantime.

43. As at 31 March 2023, 32 journalists and media workers were serving lengthy prison sentences for exercising their profession.[32] Belarus is among the top five countries globally with the largest number of journalists behind bars and holds the fourth position for the number of imprisoned women journalists.[33] This includes several Belsat journalists, including Katsiaryna Andreyeva. On 13 July 2022, she was sentenced to an additional eight-year prison term under spurious charges for giving away State secrets. Andreyeva was already serving a two-year prison sentence for her live reports on the 2020 protests and should have been released from detention on 5 September 2022.[34]

44. On 6 October 2022, Iryna Zlobina and Andrei Aliaksandrau were sentenced to 9 and 14 years in prison, respectively. After their detention on 12 January 2021, they were initially charged with actions grossly violating public order. Subsequently, charges of high treason were added. Their cases were intertwined with those of the editor-in-chief of the independent news outlet BelaPAN, Iryna Leushyna, and its former director, Dzmitry Navazhylau, who were sentenced retroactively in connection with the establishment of an extremist formation.[35]

45. On 8 February 2023, the journalist and member of the Polish community in Belarus, Andrzej Poczobut, was sentenced to eight years in prison on politically motivated charges. Reportedly, the criminal case against him was motivated by an article about the dispersal of peaceful protests in Belarus in 2020 that he wrote for *Gazeta Wyborcza*.

46. The sentencing of the Tut.by[36] editor-in-chief, Marina Zolotova, and the news platform and Internet portal's general director, Lyudmila Chekina, to 12 years in prison, on 17 March 2023, illustrate a harshening of sentences handed to media workers during the reporting period, most of whose trials were held behind closed doors. Ms. Zolotova and Ms. Chekina were arrested in May 2021 and held in pretrial detention on charges that included tax evasion, inciting hatred and endangering the country's national security. Their colleagues Volha Loika, Alena Talkachova and Katsyaryna Tkachenka were tried in absentia.

47. The Special Rapporteur commends the courage and resilience of the independent media workers who continue to ensure people's right to information in Belarus and beyond

[30] The Belarusian Association of Journalists has operated since 1995 and unites more than 1,300 media workers. It won the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Press Freedom Prize in 2022.

[31] A/77/195, para. 54.

[32] Belarusian Association of Journalists, "Belarusian media workers behind bars: portraits".

[33] Reporters Without Borders, "Belarus". Available at https://rsf.org/en/country/belarus.

[34] Committee to Protect Journalists, "Belarusian journalist Katsiaryna Andreyeva convicted of treason, sentenced to additional 8 years imprisonment", 13 July 2022.

[35] Iryna Leushyna and Dzmitry Navazhylau were detained on 18 August 2021, which was prior to the declaration of BelaPAN as an "extremist formation" by the Belarusian State Security Committee on 1 November 2021.

[36] Prior to 2020, Tut.by was the largest independent news outlet in Belarus. On 14 June 2022, the Supreme Court of Belarus upheld the decision of the Minsk Economic Court to designate Tut.by as an "extremist organization".

the country's borders despite adverse conditions. Nonetheless, she notes that some 400 journalists have left Belarus over the past three years due to persecution. The case of the *Novy Chas* editor-in-chief, Aksana Kolb, is yet another example of criminal prosecution and the arbitrary detention of a Belarusian woman journalist for conducting her work.

48. In addition to cracking down on independent media, Belarusian authorities have restricted the informational space in Belarus to State-controlled media only. State-controlled media workers operate under strict censorship rules, risking dismissal or reprimands for implementing their tasks in a way that is deemed disloyal to the Government's policies.[37]

49. Moreover, in 2022 Belarus worsened its already low rank in the global Freedom on the Net annual ranking.[38] The service providers in Belarus operate under the obligation to disable extremist content, which virtually bans all independent media outlets operating in both traditional and digital formats and results in blocking the circulation of information on social media. To bypass such restrictions on access to information, people use a virtual private network to access web-based channels and sites.

50. Almost 300 Telegram channels were recognized by the authorities as extremist in 2022. The Ministry of Internal Affairs works to identify the administrators and the most active subscribers of such Telegram channels and monitors Internet activity.[39] Accessing information online and redistributing materials from sources labelled extremist carry the risk of criminal prosecution and imprisonment for up to seven years.

B. Academic freedom

1. Institutions of higher education

51. The Special Rapporteur has examined the situation regarding academic freedom in Belarus, focusing on freedom of opinion and expression, which is legally binding on Belarus as a State party to the International Covenant on Civil and Political Rights. The analysis is based on cases brought to the Special Rapporteur's attention. To avoid further retaliation and risks to personal safety, the names of dozens of dissident university lecturers, professors, analysts, publicists, intellectuals and bloggers, targeted by what appears to be a systematic attack on academic freedom, have been redacted.

52. Academic freedom encompasses teaching and pursuing education at all levels, but also study and research in institutions of higher education, as well as analytical work and other engagements that stimulate a wider process of reflection and discussion within society. In the context of academic freedom, members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas through research, teaching, study, discussion, documentation, production, creation or writing.[40] The Recommendation concerning the Status of Higher-Education Teaching Personnel, adopted by UNESCO in 1997, further clarifies that academic freedom should not be constricted by doctrine, censorship or coercion. Moreover, academic freedom extends to expression outside of academic institutions and academics should not be punished by their institutions for exercising their right to freedom of expression, of assembly, association, and religious belief, among others.[41]

53. The Special Rapporteur notes that the situation in Belarus is contrary to the standards enumerated above. Academic freedom has been systemically restricted for several decades through a legal and institutional environment in which the approval of research topics, appointment and dismissal of university professors and lecturers, the attribution of doctoral research grants and access to academic publications are contingent upon political loyalty.

[37] Belarusian Association of Journalists and Reporters Without Borders, "Mass media in Belarus: annual review 2022" (2023).

[38] See https://freedomhouse.org/country/belarus/freedom-net/2022.

[39] Belarus, Ministry of Internal Affairs.

[40] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education (art. 13).

[41] A/75/261, para. 20.

54. The authorities of Belarus have imposed most restrictions on academic freedom in the areas of the humanities and social studies, including history, cultural studies, anthropology, philosophy, foreign languages, sociology, political science and international relations. In addition, since 2020, a new wave of disciplinary sanctions and administrative penalties has been directed towards students, teachers, researchers and rectors for carrying out politically sensitive research in those disciplines. State control has reportedly been expanded to professionals in the natural sciences, including biology, physics and medicine.

55. The censorship, intimidation and ostracization of academics who hold views different from those of the Government make it difficult for independent thinkers to continue their activities. Academics who express views critical of government policies have been routinely discriminated against and prevented from teaching and conducting research in State universities in Belarus. Since 2021, a large contingent of them have systematically been harassed and often labelled extremists. Students, lecturers, researchers and professors, fearing repression, have seized opportunities to study or work abroad, exacerbating a brain drain from the country.

56. University professors have been subjected to disciplinary warnings and administrative penalties for expressing political dissent, criticizing the violent suppression of protests or defending the right of students to freedom of peaceful assembly. University rectors who have refused to dismiss staff or expel students in retaliation for their opinions, expression and peaceful actions have faced threats and harassment. People have been dismissed from their posts and excluded from universities in batches on the basis of lists of names prepared by the special services. The non-renewal of Elena Laevskaya's employment contract with Belarusian State University is an example of such retaliation.

57. Criminal sentences on alleged extremism charges have been handed down against prominent representatives of the Belarusian intellectual elite. These include the renowned philosopher Uladzimir Matskevich, who was detained on 4 August 2021 following a search at his home. His colleague, Tatiana Vadalazhskaya, a sociologist with whom he founded the Flying University educational initiative after being stripped of the right to teach at State universities in 2011, was detained on the same day.

58. Both were charged for their active participation in actions grossly violating the public order. On 7 June 2022, Ms. Vadalazhskaya was sentenced to two and a half years in an open penal facility (*khimiya*). On 23 June 2022, Mr. Matskevich, who was charged under two additional counts, namely the establishment of an extremist formation and insulting the President, was sentenced to five years in prison. Reportedly, Mr. Matskevich was targeted for his views and writings critical of the government authorities. In February 2023, the 66-year-old intellectual was placed in solitary confinement and later transferred to a prison with a stricter regime.

59. The insidious role of the State Security Committee in incriminating politically active intellectuals was of serious concern throughout the reporting period. On 5 September 2022, the philologist, literary critic and political scientist Aliaksandr Fiaduta was sentenced to 10 years in prison for conspiracy to seize power. The five defendants in the case were detained in April 2021. Mr. Fiaduta pleaded not guilty, claiming that the plan was instigated by a State Security Committee officer who infiltrated the group.[42]

60. The sentencing of Valeriya Kostyugova and Tatyana Kuzina is another illustration of the ongoing crackdown on academic freedom in Belarus. Ms. Kostyugova is a veteran political analyst who was head of the policy expertise pool at the Belarusian Institute of Strategic Studies. She is the editor of the *Nashe Mnenie* journal and chief editor of the Belarusian Yearbook analytical digest, founded by Aliaksandr Fiaduta. Ms. Kuzina is the co-founder of the School of Young Managers in Public Administration, which, in the 2010s, was entrusted with providing professional training to Belarusian civil servants. On 17 March 2023, after having spent 21 months in pretrial detention, both women were sentenced to 10 years in prison on charges of conspiracy with the aim of seizing power, participation in an

[42] Viasna, "Philosopher Aliaksandr Fiaduta sentenced to 10 years in jail", 5 September 2022.

extremist formation and incitement of hatred. The Special Rapporteur is gravely concerned about the basis for the charges, which appear to be politically motivated.

61. Belarusian independent researchers and analysts have been forced into exile, which has also entailed the forced relocation of civil society organizations and networks that they had established in Belarus. For example, the researchers with the Centre for European Transformation were forced to flee the country or were imprisoned due to politically motivated persecution due to their professional work. In addition the organization's bank accounts were frozen. Among other important work, the Centre has documented and analysed the phenomenon of prohibitions on professions, looking into changes to legislation and practice concerning hiring and dismissal and the discontinuation of employment contracts on politically motivated grounds in certain highly skilled professions, including academia.

2. Primary and secondary education

62. The Special Rapporteur has received information about the State policy of ideologizing young people in an effort to consolidate control and induce loyalty through secondary and primary education. The education programme was changed to include obligatory classes on patriotism and ideology. Against this backdrop, the Special Rapporteur recalls that education involves not only the acquisition of knowledge but also the free development of ideas, which are essential to the realization of the right to freedom of opinion, in line with international human rights standards on the right to education.[43]

63. The authorities in Belarus have been focusing on forming the "only correct opinion" in the public school system for decades. However, following the events of 2020, the situation regarding freedom of opinion and expression in Belarusian schools has significantly worsened: teachers, school administrations and employees of State institutions are urged to instruct children that minors should not have their own opinions, especially on politics. For holding opinions that contradict the State ideology and for their public expression, children are increasingly subjected to insults and threatened with expulsion from school, while their parents are threatened with dismissal from their place of employment or the outright suspension of their parental rights for not fulfilling their obligation to bring up their children in compliance with the amended Constitution.[44]

64. In 2022, children were repeatedly forced to participate in patriotic events to support the incumbent Government and its policies.[45] Moreover, a militaristic narrative intensified in patriotic education, including involving children in military-oriented events and the establishment of an increasing number of military-patriotic camps for children.

65. Law enforcement agencies took an active part in the dissemination of these messages by delivering speeches targeting pupils and teachers about the responsibilities of citizens in Belarus, with the aim of forming a negative attitude towards peaceful protests and instilling the fear of punishment for the expression of independent opinions by minors.

66. In addition, the Special Rapporteur has received information about the degraded situation regarding the right to education for linguistic minorities, including as a result of the closure of Belarusian, Lithuanian and Polish language schools, the closure of private schools and the de facto prohibition of homeschooling under the responsibility of parents.

C. Challenges to freedom of opinion and expression of private individuals

67. Speaking out against the armed attack by the Russian Federation against Ukraine can be an administrative offence or crime in Belarus. At least 1,575 people have been detained for anti-war actions across the country since 24 February 2022.[46] The wave of detentions began in the last week of February 2022, which coincided with the constitutional referendum. People who gathered to express concerns about the war in Ukraine were arrested and peaceful

[43] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999), para. 39.

[44] A/HRC/50/58, para. 48.

[45] See for example: https://www.belta.by/society/view/informatsionnye-uroki-ko-dnju-edinenija-narodov-belarusi-i-rossii-projdut-v-shkolah-3-7-aprelja-557934-2023/ (in Russian).

[46] Viasna, "Shot in knees and jailed: what Belarusians risk for their anti-war stance", 24 January 2023.

assemblies of even small groups for marches and performances were suppressed by the police. Between 27 and 28 February 2022, at least 1,100 people were arrested[47] for displaying anti-war sentiments.[48]

68. Most cases are prosecuted under administrative charges, including petty hooliganism, calls for or support to extremist activities, unauthorized mass events or disobedience to the police. The repeated arrest and detention of Volha Brytsikava illustrates the harassment of pacifists. In 2022, she was sentenced to three consecutive rounds of administrative detention, including for wearing a "no to war" slogan on her jacket.

69. Often, people with a record of administrative charges are threatened with criminal prosecution. In other instances, criminal responsibility has been invoked for desecration of buildings and property damage or incitement of national enmity. As at 31 March 2023, at least 90 people were in pretrial detention or had already been convicted in criminal cases specifically for anti-war activities. The number could be higher, given that information about criminal procedures in Belarus is difficult to access.

70. Moreover, legal provisions on "facilitating extremism", in particular article 361-4 of the Criminal Code, are widely used to stifle freedom of expression. On 23 December 2022, military analyst Yahor Lebiadok was sentenced to five years in prison for an interview with the independent news outlet Euroradio regarding the war in Ukraine and the role of Belarus. The formal charges included facilitating extremism due to his engagement with Euroradio, which had earlier been labelled an extremist formation.

71. The distribution of photographs or information disclosing the location and movements of military equipment on the territory of Belarus, including posts on social media, can also qualify as a crime. Some 20 young people have been sentenced in Belarusian courts to prison terms of between two and seven years for sharing photographs of such military movements on Belarusian territory in posts on social networks. On 14 July 2022, Belarusian journalist Yury Gantsarevych was sentenced to two and a half years in prison for sending photographs of military aircraft at a Belarusian airbase to Radio Svaboda, the Belarusian service of Radio Free Europe/Radio Liberty.[49]

72. The Special Rapporteur commends the courage and resilience of the Belarusian people and reminds the Government that freedom of opinion is a non-derogable right that enjoys absolute protection under international human rights law, including opinions on war or peace.[50] Freedom of expression encompasses anti-war demonstrations like any other speech, in accordance with the guarantees enshrined in article 19 of the International Covenant on Civil and Political Rights.[51]

73. The Special Rapporteur is also concerned about recent legislative amendments, namely Law No. 256-Z, which introduces criminal prosecution for spreading false information discrediting the Armed Forces of Belarus. The Special Rapporteur fears that the provision will be used to further limit the enjoyment of freedom of expression and the right to seek information in Belarus. She reminds the authorities of Belarus that so-called disinformation cannot be prohibited under international human rights law, unless it amounts to advocacy of hatred that constitutes incitement to hostility, violence or discrimination. The best antidote to disinformation is not legal restrictions but enabling the free flow of diverse and verifiable sources of information, including through independent, free and pluralistic media, trustworthy public information, open societal debates and media and digital literacy.[52]

[47] See https://spring96.org/en/news/110533.
[48] Viasna, "Crackdown on antiwar protests in Belarus cities and small towns", 9 April 2022.
[49] See https://spring96.org/ru/news/108372 (in Russian).
[50] Human Rights Committee, general comment No. 34 (2011).
[51] International Covenant on Civil and Political Rights, art. 19 (3).
[52] A/77/288, para. 38.

V. Civic space

A. Persecution of human rights defenders

74. Information received by the Special Rapporteur indicates that the criminal persecution of human rights defenders continues at a time when monitoring, awareness-raising and advocacy work are most needed to protect and promote human rights in Belarus. In 2022, the authorities reintroduced criminal responsibility for unregistered associations, [53] while maintaining restrictive grounds for registration and the arbitrary practice of denying registration or ordering the forced dissolution of undesirable organizations.

75. An ongoing policy to completely eradicate all independent human rights organizations inside Belarus started in 2021. By the end of February 2023, in the context of the general crackdown on civil society organizations, some 797 public associations, including human rights organizations and media groups, had been dissolved and 432 others, under pressure, were left with no other choice but to discontinue their activities.[54] Under such challenging, unprecedented circumstances, human rights organizations had to reconstitute their work and networks from abroad. While relying on input from human rights defenders still operating in the country, they are wary of the heightened risk of reprisals against victims of human rights violations, sources with whom they come into contact and human rights defenders themselves.

76. The Special Rapporteur is gravely concerned by the criminal persecution of the Viasna Human Rights Centre[55] and the sentencing of its human rights defenders, including the organization's executives, to lengthy imprisonment.[56] On 3 March 2023, Ales Bialiatski, Valyantsin Stefanovich and Uladzimir Labkovich were sentenced to 10, 9 and 7 years of imprisonment, respectively, on charges of smuggling and financing group actions that disrupted public order. Dzmitry Salauyou was tried in absentia and condemned to eight years in prison. The Special Rapporteur is gravely concerned about the politically motivated basis for the charges.

77. The situation of women human rights defenders in detention is particularly appalling. Reportedly, Maria Rabkova's health has suffered irreversible harm due to the lack of access to appropriate medical care in detention.[57] The arbitrary detention of Nasta Loika since 28 October 2022 highlights the risks that carrying out human rights work entails in Belarus. Ms. Loika was first sentenced to administrative detention and allegedly subjected to torture and ill-treatment. On 24 December 2022, she was transferred to pretrial detention and charged with organization of group actions that grossly violate public order and incitement of … social enmity.[58] The Special Rapporteur thanks the Government for its reply to her written communication.[59] However, she takes the view that the criminal charges brought against Ms. Loika, which appear to be politically motivated, are inconsistent with international law and the human rights obligations binding on Belarus.

B. Dismantling of trade unions

78. The year 2022 marked an unsettling deterioration of the right to freedom of association, the flagrant repression of trade union activities and the systematic destruction of

[53] Under article 193-1 of the Criminal Code, the organization of or participation in activities of unregistered associations is punishable by a fine, arrest for up to six months or imprisonment for up to two years.

[54] See https://belhumanrights.house/en/news/lawtrend-situaciya-so-svobodoj-associacij-i-organizaciyami-grazhdanskogo-obshestva-respubliki-belarus-obzor-za-fevral-2023-g- (in Russian).

[55] Human Rights Committee, *Belyatsky et al. v. Belarus* (CCPR/C/90/D/1296/2004).

[56] Human Rights Committee, *Pinchuk v. Belarus* (CCPR/C/112/D/2165/2012).

[57] See International Federation for Human Rights, "Belarus: Upcoming trial and deteriorating health condition while in detention of Marfa Rabkova", 6 April 2022.

[58] See Human Constanta, "What charges are brought against human rights activist Nasta Loika?", 24 February 2023.

[59] See communication BLR 7/2022.

independent trade unions in Belarus.[60] Given the persistent failure of Belarus to observe the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87),[61] the procedure envisaged in article 33 of the Constitution of the International Labour Organization (ILO) has been initiated against Belarus.[62] Such measures of last resort have been applied against only one Member State in the past.[63]

79. Over two months in April and May 2022, the State Security Committee searched the offices of the trade unions and the homes of their leaders and employees, seizing personal documents and other items. They arrested and detained more than 20 leaders and activists, including Alexander Yaroshuk, Siarhei Antusevich, Iryna But-Gusaim, Henadz Fedynich, Vasily Beresnev and Vatslav Oreshko.

80. There was no access to information about the preliminary investigations or the charges brought against them, given the limited avenues for communication as well as the non-disclosure clauses that lawyers are routinely compelled to sign. All requests for monitoring visits to ascertain the conditions of arrest and detention and the well-being of the above-mentioned persons were left unanswered.

81. On 10 November 2022, the Special Rapporteur raised the case in a letter to the Government,[64] calling for the immediate release of all individuals arrested or imprisoned because of their trade union activities, membership or affiliation, guarantees regarding their access to justice and remedies for the human rights violations.

82. Without receiving a response to her communication, the Special Rapporteur has learned that, on 26 December 2022, Yaroshuk was sentenced to four years in prison, while Mr. Antusevich and Ms. But-Gusaim were sentenced to two and one and a half years, respectively, under charges of gross violations of the public order. Mr. Yaroshuk was also sentenced for calling for restrictive measures and other actions aimed at harming the national security of Belarus. On 5 January 2023, Mr. Fedynich and Mr. Beresnev were each sentenced to nine years of imprisonment, while Mr. Oreshko was sentenced to eight years of imprisonment.

83. On 17 February 2023, a court in Belarus handed down lengthy prison sentences against 10 members of the Workers' Movement, which was created in 2020 amid nationwide protests in the aftermath of the presidential election. All defendants had pleaded not guilty. The Special Rapporteur expresses serious concern about the basis for the charges and the instrumentalization of criminal legislation to clamp down on the exercise of legitimate activities.

84. The authorities of Belarus have labelled all independent trade unions enemies of the State. Moreover, between 12 and 18 July 2022, the Supreme Court of Belarus ordered the dissolution of the Independent Trade Union, the Belarusian Trade Union of Radio-Electronic Industry Workers, the Free Trade Union of Belarus, the Free Trade Union of Metalworkers and the Belarusian Congress of Democratic Trade Unions. They have been declared extremist organizations and all their activities have been banned.

85. In addition to criminal persecution, the majority of the leaders of the 2020 strike committees have been dismissed in retaliation for their role and participation in peaceful protests, while hundreds of ordinary union members have been subjected to various forms of harassment and intimidation, including pressure to resign from trade unions; interrogations;

[60] ILO, *Application of International Labour Standards 2022: Report of the Committee of Experts on the Application of Conventions and Recommendations* (2022), pp. 104–115.

[61] See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13101:0::NO::P13101_COMMENT_ID:2271868.

[62] ILO, "Options for measures under article 33 of the ILO Constitution, as well as other measures, to secure compliance by the Government of Belarus with the recommendations of the Commission of Inquiry in respect of Conventions Nos 87 and 98" (GB.347/INS/14).

[63] See: https://guide-supervision.ilo.org/defending/practice-on-the-use-of-article-33-of-the-ilo-constitution/#:~:text=The%20text%20of%20article%2033,the%20recommendations%20of%20a%20COI.

[64] See communication BLR 6/2022.

and the installation of video and listening devices in union offices. Such measures have deterred many employees from public activities, led to an alleged decrease in independent trade union membership and forced dozens of trade union members into exile. The Special Rapporteur notes that the scale and pattern of violations by the authorities of Belarus strongly suggest that the limitations to the freedom of expression and assembly are primarily aimed at suppressing dissent regarding the Government's policies.

C. Right to defence and the persecution of lawyers

86. The Special Rapporteur continued to receive reports concerning attacks on the legal profession, including the intimidation and punishment of independent lawyers, undermining their capacity to practise and resulting in devastating effects on the realization of the rights to defence and due process in Belarus.[65] Some 90 lawyers have been disbarred and prevented from carrying out their professional activities in Belarus since 2020.[66]

87. Only a few lawyers agree to take on cases concerning political figures, media workers, human rights defenders and civil society representatives. Despite their professional dedication and courage, those who do take on such cases systematically become the subjects of harassment in the form of administrative sanctions or disbarment and risk eventually facing administrative or criminal persecution or being forced into exile. This has a negative impact on the right of victims of human rights violations to effective legal counsel and representation and the subsequent infringement of their right to a fair trial and access to justice.

88. The criminal persecution of Alexander Danilevich for the legitimate exercise of his professional functions illustrates the Government's intent to purge the profession of all independent lawyers. The mounting reprisal against Danilevich started with his dismissal from Belarusian State University, where he had taught for 20 years, and the administration of disciplinary sanctions by the Board of the Minsk City Bar Association. He was subsequently arbitrarily arrested on 20 May 2022 and placed in pretrial detention. Danilevich has been charged with supporting sanctions and facilitating extremism for providing legal assistance to athletes and representatives of the strike committees,[67] for which he faces up to 12 years in prison if convicted.[68]

89. On 2 February 2023, Vital Brahinets was sentenced to eight years of imprisonment for incitement of enmity, calls to action against national security, creation of an extremist formation or participation in it and gross violation of public order.[69] He had defended the case of the 2022 Nobel Peace Prize co-laureate Ales Bialiatski.

90. On 22 March 2023, Artsyom Syamyanau, a Belarusian lawyer who defended the jailed blogger Ihar Losik and the Viasna human rights defender Valyantsin Stefanovich, was sentenced to 15 days in administrative detention. A day earlier, Mr. Syamyanau and several other Belarusian lawyers who had defended journalists and opposition politicians in Belarus had been detained in Minsk on unclear grounds.[70]

91. Most trials in politically motivated cases continue to be held behind closed doors, with no access for external observers, raising concerns about the transparency of the judicial process. Lawyers and legal representatives for the defendants and other participants are forced into silence by non-disclosure agreements under the threat of criminal prosecution for revealing any information about the trials. Even in open trials, independent monitors are reportedly excluded from the hearings, which raises concerns about procedural violations.

[65] Center for Constitutionalism and Human Rights and others, *The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense* (2023).

[66] Ibid.

[67] See https://www.defenders.by/chto-ne-tak-s-prigovorom-danilevich (in Russian).

[68] See https://www.defenders.by/tpost/1obn8hn8l1-alexander-danilevich-is-declared-politic.

[69] See https://prisoners.spring96.org/en/person/vital-brahinec.

[70] See https://www.defenders.by/news/tpost/0j9p1hd411-stali-izvestni-imena-zaderzhannih-20-mar (in Russian).

VI. Other human rights concerns

A. Death penalty and right to life

92. Belarus has not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and remains the only country in Europe that applies the death penalty and enforces it regularly. In February 2023, the Special Rapporteur received information about the execution of Viktar Skrundzik, which was carried out on 16 July 2022.

93. In relation to the enforcement of capital punishment, Belarus has violated all the interim measures of the Human Rights Committee, contrary to its obligation to safeguard the right to life and to cooperate in good faith towards that aim. Since 2010, 15 individuals have been executed while their cases were under examination.[71] In Belarus, the death penalty is imposed in circumstances that give rise to allegations of torture and violations of the right to due process and a fair trial.[72]

94. On 28 September 2021, at an expanded meeting of the Constitutional Commission, the issue of abolishing the death penalty was raised by the President, who reportedly envisaged the possibility of a referendum on the issue. However, contrary to the Government's universal periodic review commitment to engage in a national dialogue on a moratorium or abolition of the death penalty, the authorities of Belarus failed to put up the issue for public discussion in the run-up to the latest constitutional reform.

95. The amended Constitution of Belarus maintains the death penalty as an exceptional punishment for particularly serious crimes. However, on 18 May 2022, Belarus expanded the scope of the death penalty[73] to include planning and attempting to carry out acts of terrorism. The law was rushed through parliament and passed by the Council of the Republic five days later, raising concerns about both its content, which is incompatible with human rights standards, and the lack of transparency and consultation during the legislative process.

96. In this connection, several special procedure mandate holders addressed a communication to the Government, drawing its attention to the binding human rights obligations under article 6 of the International Covenant on Civil and Political Rights,[74] the additional clarifications provided by the Human Rights Committee in its general comment No. 6 (1982) and general comment No. 36 (2018), which replaced it, and the safeguards guaranteeing the protection of the rights of those facing the death penalty.

97. While no clear justification was provided,[75] the Special Rapporteur notes with concern that the amendments were adopted in a context in which Belarus did not appear to be a target of international terrorism.[76] This is particularly alarming, given that Belarusian legislation provides a vague and open-ended definition of terrorism, contrary to the international human rights principle of legality, which requires that criminal legislation be sufficiently precise. That principle embodies the recognition that ambiguous and/or overly broad laws are open to arbitrary application and abuse. Yet the authorities of Belarus have been referring to civil society actors and dissidents as terrorists.

98. On 9 March 2023, additional amendments to the Criminal Code of Belarus were signed into law (Law No. 256-Z), introducing capital punishment for high treason among

[71] OHCHR, "Belarus: UN Human Rights Committee condemns execution", press release, 11 March 2022.

[72] See https://www.osce.org/files/f/documents/d/7/535686.pdf (in Russian).

[73] Article 67-2 of the Criminal Code previously stated that "the death penalty for preparation for a crime and attempted crime is not imposed".

[74] See communication BLR 3/2022.

[75] In its post-adoption comment, the House of Representatives of the National Assembly indicated that the purpose of the amendments was to exert a deterrent effect on destructive elements, as well as to demonstrate the State's resolute struggle against terrorist activities. See https://t.me/s/housegovby (in Russian).

[76] According to the Institute for Economics and Peace, Belarus is among the countries not impacted by terrorism. See Global Terrorism Index 2022: Measuring the Impact of Terrorism (March 2022).

officials and military personnel, a crime previously sanctioned with imprisonment. The Special Rapporteur is particularly worried about the broad range of conduct that may be captured under the concept of high treason and the intimidating impact that the legislation could have on freedom of opinion, expression, association, peaceful assembly and political participation. In this regard, she reminds the Government that, among other crimes, victimless crimes, activities of a political nature and certain offences, including treason, espionage or other vaguely defined acts classified as crimes against the State, do not meet the required threshold for the most serious crimes.[77]

B. Torture and other cruel, inhuman and degrading treatment or punishment

99. The Special Rapporteur is alarmed by reports of the continued use of torture and ill-treatment against those in custody, including during administrative and pretrial detention, and the large number of new cases documented by human rights organizations. She is unaware of any credible investigation into these incidents. On the contrary, the complaints of victims who had filed complaints about ill-treatment and torture by the security forces were dismissed[78] and many of those victims have faced threats and reprisals. The Special Rapporteur once again calls upon Belarus in the strongest terms to investigate without delay all alleged instances of torture and ill-treatment through an independent law enforcement and judicial inquiry and to provide detailed information on the outcome.

100. While Belarusian prisons are notorious for their bad conditions, civil society organizations continue to document the systematic discriminatory placement of persons detained on politically motivated grounds under even harsher conditions compared with those of the general prison population. This arbitrary practice appears to have a systemic character.

101. The harsh detention conditions, described by those who have served their prison sentences, have an irreversible negative impact on the physical and mental health of the detainees. Moreover, those detained on politically motivated grounds are denied access to medical examinations and timely medical treatment. The emergency hospitalization of Maria Kalesnikova is an emblematic example,[79] but it is not an isolated case. In particular, such detainees are reportedly denied visits by specialists, even after providing evidence in court that they need medical examination for chronic diseases, gynaecology check-ups or ophthalmology prescriptions. Insufficient access to independent medical personnel is reportedly used for preventing the documentation of allegations of torture and ill-treatment, leading to the loss of important evidence.

102. Detention in solitary confinement and the deprivation of access to written correspondence and news or any other outside information is reportedly used as a widespread form of psychological pressure on people detained in connection with their exercise of freedom of opinion. The authorities specifically limit outside visits paid to people detained on politically motivated charges. The ban on such visits extends to families, which are regularly denied access on the grounds of disciplinary violations. The Special Rapporteur is alarmed by numerous reports of attempted suicide in detention as an indication that torture and ill-treatment are being perpetrated.

103. In Belarus, independent human rights organizations are denied access to prison facilities to monitor the conditions of detention. The State has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides for international and national mechanisms for the prevention of torture in places in which persons are deprived of their liberty. The public monitoring commissions, established under the control of the Ministry of Justice, lack effectiveness in terms of the prevention of abuse by prison authorities.[80] The lack of adequate

[77] E/CN.4/2001/9, para. 83.

[78] A/HRC/52/68, para. 54 (c). Thousands of complaints concerning torture and ill-treatment were submitted by victims to the Investigative Committee of Belarus in 2020 and later dismissed.

[79] See communication BLR 8/2022.

[80] CAT/C/BLR/CO/5, paras. 33 and 34.

safeguards to prevent torture and the failure of the justice system to hold perpetrators accountable, particularly the lack of independent oversight bodies or thorough, independent and impartial investigations, perpetuate impunity.

104. As an increasing number of detainees are being released from prison after serving their sentences for participating in the peaceful protests in 2020, the Special Rapporteur has received numerous reports that they were exposed to grave human rights violations while in detention. Therefore, there is a further need to support their rehabilitation and access to medical treatment, including outside Belarus.

C. Excessive use of force and arbitrary deprivation of life

105. The use of lethal force in the context of the peaceful protests of 2020 and their aftermath illustrates the excessive use of force by law enforcement personnel that was not strictly necessary to protect life or prevent serious injury from an imminent threat. The practices of torture and inhuman treatment, alongside the failure to protect life in detention, were documented by the OHCHR examination team.[81] The Special Rapporteur is dismayed by the lack of prompt, impartial and effective investigation into the four deaths linked to the violent crackdown on protests in 2020.[82] Moreover, the report indicated that the actual death toll during the protests may have been higher than previously reported.[83]

106. Similarly, the authorities have failed to initiate criminal investigation into the circumstances of Vitold Ashurok's death in custody. Instead of bringing potential perpetrators to justice, the Investigative Committee opened a criminal case against his brother and a group of people who attended Mr. Ashurok's last trial, on 18 January 2021. In this context, the Special Rapporteur calls upon the Government to provide unhindered access to the information contained in the case file to Mr. Ashurok's immediate family, in accordance with the definition of victim of crimes contained in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

107. The Special Rapporteur calls upon the international community to continue to support efforts to gather and preserve information on cases that constitute a violation of the right to life and to document other human rights violations, in view of facilitating legal proceedings under universal jurisdiction, especially for the gravest alleged crimes of torture, summary execution, enforced disappearance and deportation. She commends and encourages the efforts by national and international justice systems to adjudicate such cases, in accordance with the right to accountability of the victims and their families and for the prevention of further violations.

VII. Conclusions and recommendations

108. **The Special Rapporteur concludes that, in the period under consideration, the overall situation of human rights in Belarus continued to deteriorate due to further amendments to the already restrictive domestic legislation pertaining to human rights, contrary to the human rights obligations of Belarus; policies aimed at dismantling the country's civic space; and an ever-increasing number of people sentenced on politically motivated charges. The environment of impunity for human rights violations and fear has led the political opposition, civic activists, intellectuals, and many ordinary people into exile.**

109. **The Special Rapporteur takes note of the OHCHR examination of Belarus reflected in the report[84] presented on 22 March 2023 to the Human Rights Council at its fifty-second session pursuant to Council resolution 49/26 and concurs with the**

[81] A/HRC/52/68.
[82] Ibid., para. 12.
[83] Ibid., para. 14.
[84] Ibid.

recommendations of that report. She stands ready to cooperate with the OHCHR examination team in the exercise of its mandated functions.

110. **The Special Rapporteur encourages the international community to continue to support the work of the United Nations human rights mechanisms and to engage in advocacy with the authorities of Belarus to promote human rights-based solutions to the most pressing issues identified in the present report. Acknowledging the critical role of human rights defenders and civil society organizations, especially in an environment hostile to human rights, the Special Rapporteur calls upon the international community to support their vital work in consultation with and on the basis of the needs identified by civil society itself. She encourages the engagement of the international community with all civil society organizations, including those stripped of legal recognition in Belarus.**

111. **She further recommends that the Government of Belarus:**

(a) **Repeal the denunciation of and re-accede to the Optional Protocol to the International Covenant on Civil and Political Rights without delay;**

(b) **Introduce a moratorium on the death penalty without delay and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;**

(c) **Put an end to the policy of systematic repression of civil society organizations and human rights defenders and fully implement 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 and the provisions of General Assembly resolution 68/181 on protecting women human rights defenders;**

(d) **Ensure in law and in practice the right to freedom of opinion and expression, peaceful assembly and association and ensure that any limitation on those rights is in accordance with international law;**

(e) **Revoke all the decisions on the dissolution of independent media and civil society organizations, including those working in the area of economic, social and cultural rights, and bring the legislation regulating the registration of civil society organizations and the media into alignment with international human rights law;**

(f) **Release all prisoners sentenced on politically motivated grounds, starting immediately with the release of persons whose health and life are endangered;**

(g) **Provide unrestricted access for independent monitors to all places of detention;**

(h) **Ensure that international fair trial standards are met, notably by ensuring that all defendants are given unhindered access to legal counsel of their choosing and are presumed innocent until proven otherwise by an independent court decision;**

(i) **Put an immediate end to acts of pressure, intimidation, persecution and other forms of reprisal against lawyers and take effective measures to protect them from human rights violations, in accordance with international standards, including the Basic Principles on the Role of Lawyers;**

(j) **Ensure the prompt, transparent and effective investigation by an independent and impartial body into all cases of death in custody and reports of torture and other ill-treatment and prosecute and hold accountable public officials, including law enforcement officials, found responsible for issuing or carrying out such illegal orders;**

(k) **Take effective measures to ensure self-rule for higher education institutions, trade unions and other professional associations;**

(l) **Review the articles and clauses of the Constitution that may have adverse effects on the enjoyment of human rights and fundamental freedoms, thus ensuring that the changes in the fundamental law of Belarus do not lead to regression from the**

perspective of human rights, but instead guarantee the rights of citizens not to be subjected to State arbitrariness;

(m) **Readmit into public employment and education all staff and students arbitrarily dismissed for political reasons and allow for independent research institutions and non-public education organizations, including those operating in minority languages, to operate freely in Belarus;**

(n) **Establish full and non-selective engagement with all United Nations human rights mechanisms, including constructive communication with the mandate of the Special Rapporteur, and grant the mandate holder access to Belarus;**

(o) **Take comprehensive measures to end repression and fear and reverse the trend of the mass exile of Belarusians from their country.**

112. **The Special Rapporteur addresses the following recommendations to the international community:**

(a) **Continue to demand that Belarus comply with its international human rights obligations; follow up on the recommendations of the universal periodic review accepted by the Government; and ensure the full implementation of all recommendations made by United Nations human rights mechanisms, including those included in the reports of the United Nations High Commissioner for Human Rights;**

(b) **Support the work of accountability mechanisms with a view to ensuring justice for the victims of human rights violations in Belarus;**

(c) **Support individuals forced into exile and civil society organizations that have had to relocate outside of Belarus; continue to expand support for the critical work of journalists, civil society actors and human rights defenders; and encourage Member States to share and learn from best practices for supporting Belarusian students, educators and researchers who have fled Belarus for fear of further repression.**