



**HUMAN RIGHTS HOUSE
FOUNDATION**

Geneva, Oslo, 15 March 2017

Central District Court
Pushkina street 10, Gomel
Republic of Belarus

Leonid Sudalenka's arrest and trial

Mr Chairperson,

1. The Human Rights House Foundation (HRHF) has the honour to hereby submit information on the case against Leonid Sudalenka.
2. Leonid Sudalenka is a prominent human rights lawyer, who actively works on protecting victims of human rights violations, including by helping them to submit individual complaints to the United Nations Human Rights Committee. He has submitted a great number of complaints to the Committee. Leonid Sudalenka is also an active participant in the campaign "Human Rights Defenders against Death Penalty." He is one of the alumni of the programme International Law In Advocacy. His knowledge and commitments are of great importance for the national legal system and for individuals who are seeking justice, as he contributes to the effective implementation of international obligations by the Republic Belarus.
3. HRHF closely observes the development of the case of Leonid Sudalenka as he is a close partner and colleague to our organization. We extend our appeal to your Court to anybody with similar charges as those brought against Leonid Sudalenka.
4. Since February 2017, hundreds of people have been protesting peacefully in the streets of different cities of Belarus against the Presidential Decree Nr 3 "On preventing social dependency", which imposes a 250 dollars tax on those who work less than half a year and do not register at the country's labour offices.¹ Leonid Sudalenka has taken part in these peaceful protests. As of 14 March, more than 100 people have been detained in connection with these demonstrations, especially opposition activists, human rights defenders, and journalists.² On 15 March more than 40 people participating in peaceful gatherings in several cities including Minsk were brutally beaten and arrested.
5. The United Nations Special Rapporteur on the situation of human rights in Belarus, Miklos Haraszti, described the decree as "an arbitrary and cruel measure", estimated to affect more

¹ Hundreds Protest In Belarus City Against Tax On Jobless, RFE/RL's Belarus Service, 11 March 2017, available at <http://www.rferl.org/a/belarus-protests-parasite-law-pinsk/28363781.html>

² Belarus detains dozens amid "social parasite" protests, 15 March 2017, available at <http://humanrightshouse.org/Articles/22309.html>

than 470,000 Belarusians.³ In September 2016, he stressed the “persistence of a system of short-term arrests and detentions, on highly disputable grounds, of political opponents and activists as a method of harassment and intimidation.”⁴

6. Protesters and activists are therefore legitimately exercising their freedom to peacefully assemble to denounce the Presidential Decree. Journalists and human rights defenders are playing key roles in such events, including through their organisation and mobilisation of others, by documenting, reporting on and demanding accountability for violations of the rights of protesters.⁵
7. States are increasingly limiting the right to freedom of assembly using justifications such as “unauthorized assemblies” or “unlawful assemblies” with consequent measures such as administrative and criminal sanctions.⁶ Belarusian legislation *de facto* bans the right to freedom of peaceful assembly without prior authorisation from the authorities. In addition to criminalizing peaceful protests, Belarusian authorities have systematically refused to authorize peaceful assemblies to be held in city centres, if they were critical towards the government’s policies. Thereby, Belarus is in breach of its own constitutional provision guaranteeing the right to peaceful assembly and international human rights law.
8. International law indeed protects the right to freedom of peaceful assembly as the right to gather publicly or privately and collectively express, promote, pursue and defend common interests. As highlighted by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, it includes the right to participate in peaceful assemblies, meetings, protests, strikes, sit-ins, demonstrations and other temporary gatherings for a specific purpose.⁷ Belarus is a member of the United Nations and a party to the International Covenant on Civil and Political Rights. As foreseen by the Human Rights Council, “everyone must be able to express their grievances or aspirations in a peaceful manner, including through public protests, without fear of reprisals or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested and detained, tortured, killed or subjected to enforced disappearance”.⁸
9. Leonid Sudalenka, as with many other Belarusian citizens, has now been brought to court due to his participation in the above-mentioned protests, due to monitoring and reporting of the demonstrations. The charges brought against peaceful participants to protests or

³ UN Special Rapporteur concerned about recurring violence against demonstrators in Belarus, 14 March 2017, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21375&LangID=E#sthash.j12zUkII.dpuf>

⁴ UN Report on the situation of human rights in Belarus A/71/394, 21 September 2016, §85

⁵ The right to protest: principles on protection of human rights in protests, Policy brief, Article 19, 2015, available at <https://right-to-protest.org/wp-content/uploads/2015/06/right-to-protest-for-web.pdf>

⁶ These practices are described in the reports of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to the United Nations Human Rights Council and the United Nations General Assembly, see in particular Report to the Human Rights Council, 16 June 2015, UN Doc Nr A/HRC/29/25/Add.2, paras 55-60 and paras 70-71; Report to the Human Rights Council, 27 April 2015, UN Doc Nr A/HRC/29/25/Add.1, paras 18-28; Report to the Human Rights Council, 14 April 2014, UN Doc Nr A/HRC/26/29/Add.1, paras 14-31; Report to the Human Rights Council, 30 May 2013, UN Doc Nr A/HRC/23/39/Add.2, para 14, see also para 44.

⁷ “What are the rights to freedom of peaceful assembly and of association?”, available at <http://freeassembly.net/about/freedoms/>

⁸ Resolution of the UN Human Rights Council on the promotion and protection of human rights in the context of peaceful protests, 11 April 2014, UN Doc Nr A/HRC/RES/25/38

monitors of the protests, such as against Leonid Sudalenka, are the result of Belarus' legislation that is in breach of international human rights law.

10. The arrest and trial of Leonid Sudalenka is emblematic of the harassment and intimidation faced by lawyers and human rights defenders in Belarus, in the context of these protests.
11. Furthermore, Leonid Sudalenka has been continuously targeted by the authorities, facing prosecution and threats against him and his family.⁹ This repeated harassment is a signal in our view that he is now charged again not in relation to illegal acts, but as retaliation for his work, based on flawed laws.
12. Given the above-mentioned elements, in line with Leonid Sudalenka's right under international human rights law to participate and monitor peaceful protests, we have the honour to inform your Court about the international obligations to which the Republic of Belarus is committed. We also inform your Court that any criminal or administrative sanctions would be seen as disproportionate and in violation of the international human rights standards. We therefore believe there is a great role of the Court in granting justice to Leonid Sudalenka as well as any other participants to peaceful protests with similar charges, by dropping all charges in relation to his participation and monitoring of the above-mentioned protests.

Sincerely,



Maria Dahle
Executive Director

Human Rights House Foundation

⁹ Belarusian authorities must stop persecution of human rights defender Leonid Sudalenka, 22 April 2015, available at <http://humanrightshouse.org/Articles/20905.html>.