



**HUMAN RIGHTS HOUSE
FOUNDATION**

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Geneva (Switzerland)
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**Item 3
Clustered Interactive dialogue
with the Working Group on Arbitrary Detention**

Human Rights House Foundation statement

Check against delivery

Thank you Mr. Chairperson,

The Human Rights House Foundation welcomes the report of the Working Group on Arbitrary Detention¹, including the opinion adopted in August 2012² on the case of Ales Bialiatski.

As specified by the Working Group in its report, the notion “arbitrary detention” *lato sensu* can arise from the law itself or from the particular conduct of Government officials. A detention, even if it is authorized by law, may still be considered arbitrary if it is premised upon an arbitrary piece of legislation or is inherently unjust, relying for instance on discriminatory grounds.³²

In August 2011, Ales Bialiatski was arrested and charged with “concealment of profits on an especially large scale” under Article 243, part 2, of the Criminal Code of the Republic of Belarus. On November 24, after almost four months of pre-trial detention, the Minsk Pershamayski District Court sentenced him to four and a half years of imprisonment under strict regime conditions, confiscation of property – including the premises used for his organisation, the Human Rights Centre “Viasna” – and to a fine of 757’526’717 Belarusian Roubles (approximately 70’000 Euros). On 24 January 2012, the Minsk City Court confirmed the sentence on appeal, after all the motions filed by Ales Bialiatski’s lawyers were rejected. On 29 March 2012, the same court issued a new decision, ordering him to pay an extra amount of 140’366’151 Belarusian Roubles (nearly 12’700 Euros) in penalty in addition to the previous fine, which had already been paid in January 2012, due to alleged late payment of arrears.

According to the information received from our partners, Ales Bialiatski’s rights to receive visitors and food parcels have been severely restricted. The consequence of these and other

¹ Report of the Working Group on Arbitrary Detention, 24 December 2012 (UN Doc: A/HRC/22/44).

² Opinions adopted by the Working Group on Arbitrary Detention at its 64th session, No. 39/2012 (Belarus), 27-31 August 2012.

measures taken against him during his imprisonment is a serious deterioration in Ales Bialiatski's health. The authorities of Belarus have the responsibility, in accordance with international law, including articles 6 and 10 of the International Covenant on Civil and Political Rights, to ensure that nobody in custody is subject to deterioration of his or her health. **We hold the authorities of Belarus responsible for the deterioration of the health situation of Ales Bialiatski whilst he is in detention.**

Contrary to what is stated by the Permanent mission of Belarus in its note verbale of 3 December 2012³ the offenses committed by Ales Bialiatski are a direct consequence of the denial of registration of "Viasna", in direct violation of views expressed by the United Nations Human Rights Committee.⁴ "The Working Group also emphasize[d] that criminal liability cannot be based on prior government action to deregister and dissolve the non-governmental organization Viasna, in violation of article 20, paragraph 1, of the Universal Declaration of Human Rights (UDHR) and Article 22 of the International Covenant on Civil and Political Rights (ICCPR).

Arbitrary detention is used in Belarus against political opponents and persons exercising their freedoms of conscience, opinion and expression, with a "revolving door" policy, arresting and detaining some, releasing few others, again and again. The use of arbitrary detention as a tool of systematic repression of critical voices constitutes a serious violation of human rights as the United Nations Working Group on Arbitrary Detention underlines.

The Working Group on Arbitrary Detentions emphasized that the detention of Ales Bialiatski is arbitrary and that "the adequate remedy is to release [him] and accord him an enforceable right to compensation pursuant to article 9, paragraph 5, of the International Covenant on Civil and Political Rights (ICCPR)."

Alias Bialiatski's detention and the refusal to register "Viasna" has already received the attention of the Human Rights Committee⁵, the Special Rapporteur on the Situation of Human Rights Defenders,⁶ as well as of the High Commissioner for Human Rights⁷.

We therefore, once again,⁸ call upon the authorities of Belarus to immediately and unconditionally release Ales Bialiatski, drop all charges against him and fully rehabilitate him. Pending his release Ales Bialiatski should be provided access to all medical support he needs and his prison conditions should not impact on his health.

We also call upon the Belarusian authorities to ensure that Ales Bialiatski has full rights to receive visits and private correspondence, including from his relatives and legal counsel.

We further believe that the Human Rights Council needs to continue to take strong action against the reiterate denial by the Government of the Republic of Belarus to enforce international human rights law and abide by its own international commitments.

³ Note verbale of 3 December 2012 (UN Doc: A/HRCR/22/G/2).

⁴ See *inter alia* the documentation submitted to the Human Rights Committee in June 2009 by the Belarusian Human Rights House and the Human Rights House Foundation:
<http://humanrightshouse.org/Articles/11201.html>.

⁵ Communication of the Human Rights Committee, No. 1296/2004.

⁶ Report of the Special Rapporteur on the Situation of Human Rights Defenders, 20 December 2010 (UN Doc: A/HRC/13/22/Add.1).

⁷ Report of the High Commissioner for Human Rights on the situation of human rights in Belarus, 10 April 2012 (UN Doc: A/HRC/20/8).

⁸ See *inter alia* the Human Rights House Network letter of concern to President Alexander Lukashenko on 2 October 2012: <http://humanrightshouse.org/Articles/18695.html>.