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BELARUS: STATES SHOULD RENEW THE MANDATE OF THE SPECIAL RAPPORTEUR AT THE 44TH SESSION OF THE HUMAN RIGHTS COUNCIL AND BELARUS SHOULD COMMIT TO FULLY RESPECTING HUMAN RIGHTS

Amnesty International urges states to support the renewal of the Special Rapporteur on Belarus at the 44th Session of the Human Rights Council. This briefing elaborates on the concerns raised in our oral statement delivered on 10 July 2020¹ by further exposing the current human rights context in Belarus – which sees an unprecedented crackdown on the rights to freedom of expression and peaceful assembly, in addition to other persistent and major human rights concerns – that necessitate the continuation of the Special Rapporteur’s mandate and an urgent response in earnest by the Belarusian authorities.

Clampdown in the run-up to residential election

The current crackdown on human rights in the context of the presidential election has continued almost seamlessly from the widespread violations of the rights to freedom of assembly, association and expression that took place at the end of 2019, in the context of the parliamentary elections and protests opposing greater integration with Russia². Then, hundreds of peaceful protestors, opposition parliamentary candidates and members of their campaign teams, as well as journalists and bloggers were arrested and sentenced to periods of “administrative detention” or fined, in accordance with unduly restrictive laws which govern public assemblies in Belarus. The vast majority were sentenced under Article 23.34 of the Code of Administrative Offences of the Republic of Belarus (“violation of the organisation or holding of mass events”).

In contrast to previous presidential elections in Belarus, which saw presidential candidates, their teams, activists, journalists and protestors arrested, detained and imprisoned following the vote³, this time the authorities’ campaign of obstruction, harassment and intimidation of opposition candidates started as soon as the campaign period began in early May, in a country-wide effort to stifle all forms of dissent in the leadup to the election⁴. Presidential hopefuls, Viktor Babaryka and Syarhei Tsikhanouski, were arrested to prevent their participation in the upcoming election on 9 August. Syarhei Tsikhanouski was initially placed in “administrative detention” as a penalty for his participation in a peaceful protest in December 2019 the timing of which appeared to have been strategically enforced to prevent him from fulfilling the procedural requirements to register himself as a candidate. He was later remanded as a criminal suspect, as was Viktor Babaryka, both under separate, unfounded charges. Members of their campaign teams were also arrested and are facing criminal investigation and prosecution. One other potential candidate, Valery Tsapkala,

¹ English version available at <https://www.amnesty.org/en/documents/eur49/2709/2020/en/>

² <https://www.amnesty.org/en/documents/eur49/1773/2020/en/>

³ <https://www.amnesty.org/en/documents/EUR49/003/2011/en/>

⁴ <https://www.amnesty.org/en/latest/news/2020/06/belarus-fullscale-attack-on-human-rights-ahead-of-presidential-election/>, <https://www.amnesty.org/en/latest/news/2020/06/belarus-bloggers-and-activists-arrested-in-purge-ahead-of-the-presidential-election-must-be-released/>

was prevented from advancing his candidacy due to alleged procedural irregularities.

As recorded by local human rights defenders, hundreds of their supporters, opposition politicians, well-known bloggers, journalists, protestors and online activists have been arrested, detained and fined, once again mostly under Article 23.34 of the Code of Administrative Offences⁵. Most arrests took place during peaceful street gatherings and many happened, and are continuing, in the form of abductions of individuals in the street by plain-clothed men, believed to be police or other security officials. Alongside the dispersal of peaceful rallies by police, some protesters have also reported other measures intended to disrupt peaceful assemblies, including the blackout of mobile internet services, such as in central Minsk on 19 June, during a spontaneous and particularly large and peaceful gathering of people protesting against the persecution of presidential candidates and their supporters.

Of those facing criminal charges, the majority have been charged with “organization or preparation for a grave breach of public order” under Article 342 of the Criminal Code of the Republic of Belarus which carries a prison sentence of up to three years. Those remanded and facing unfounded criminal prosecution, and every person serving a period of “administrative detention” for their peaceful street protest or political activism, are prisoners of conscience and Amnesty International calls for their immediate and unconditional release.

The Belarusian authorities must release all those detained for the peaceful exercise of their rights to freedom of assembly, association and expression, and end their current campaign of harassment and crackdown on dissenting voices.

III-treatment of detainees and arbitrary extension of “administrative detention”

There are numerous, credible reports that those currently being detained are kept in conditions that violate international standards, and that the conditions are deliberately made harsher as part of the crackdown on political dissent. A relative of Syarhei Sparish, who was sentenced to 15 days “administrative detention” on 25 June told Amnesty International that his family did not hear from him during the entire time. On the day of his anticipated release, Syarhei Sparish was charged under Article 342 of the Criminal Code and remains in detention.

Dzianis Urbanovich, who served his administrative detention in June, for his participation in a peaceful protest, described to Amnesty International the conditions of detention at the detention centre on Akrestsina Street 36, in Minsk (“Akrestsina”). According to him, there are no mattresses on the metal bunk-beds on which the detainees have to sleep, and no hot running water in the cells. Detainees are denied their daily walks and are prohibited from reading or receiving parcels from outside. Many others have reported similar conditions following their release after periods of “administrative detention”.

The authorities are extensively using administrative proceedings to lock up their political opponents for extended periods of time, including by sentencing them to multiple consecutive terms of “administrative detention” (deprivation of freedom for a maximum of 15 days, under Article 6.7 of the Code of Administrative Offences), and including by extending these arbitrarily in the meantime. Thus, on 8 July, a court in Minsk extended the “administrative detention” of longstanding political opposition figure and prisoner of conscience, Paval Sieviaryniec, by 15 days. He was initially arrested on 7 June and sentenced to 60 days of “administrative detention”, already a multiple consecutive application of the penalty, and is now not due to be released until 21 August. Amnesty International is gravely concerned that Paval Sieviaryniec is being subjected to ill-treatment⁶. He has been denied access to his lawyer and has been held in solitary confinement, in harsh conditions, on more than one occasion. He is made to sleep on a bench without a mattress which is raised up against the wall every day from 6am to 10pm leaving only an iron stool in the cell. There is no running water in his cell and he is deprived of exercise. His personal belongings, hygiene products and warm clothes have been taken away from him.

While the Belarusian authorities must release all individuals deprived of their freedom solely for peacefully exercising their rights, they must also ensure that conditions in detention are in line with international standards and fully compliant with their obligations under international human rights law.

⁵ <http://spring96.org/persecution?JDateFrom=2020-05-01&JDateTo=2020-07-13&page=29>

⁶ <https://www.amnesty.org/en/documents/eur49/2639/2020/en/>

Gender-based harassment and intimidation

While a broad range of individuals are affected by the current clampdown, Amnesty International has learned that women actively engaged in political campaigning and civil activism, or closely connected to those who are, are facing gender-based discrimination. Within the context of a still deeply patriarchal society and bolstered by openly misogynistic remarks from President Lukashenka, the authorities have engaged in smear campaigns and intimidation of politically active women and women closely connected to political activists. The authorities' tactics have taken different forms, ranging from intimidation, to reported open threats of sexual violence, and threats to take children into state custody.

Svyatlana Tsikhanouskaya decided to run as a presidential candidate in lieu of her husband, prisoner of conscience Syarhei Tsikhanouski, after he was arrested and sentenced to 15 days "administrative detention" on 6 May, and later remanded as a criminal suspect under unfounded charges.

At one point during her campaigning activities, Svyatlana Tsikhanouskaya was called by a man she did not know from a foreign number who clearly knew her location at the time of the call. He demanded that she end her activities immediately and said that failure to do so would result in her facing arrest and criminal prosecution, and her children being taken into state custody.

Another opposition activist told Amnesty International that following her detention in Homel, police threatened to rape her, saying 'Well, right now you are not videotaping us and we can all rape you and you won't be able to prove it'.

The authorities in Belarus must immediately stop all reprisals against politically active women and end the practice of gender-based discrimination. All reported instances of threats of violence, and any other cases of violations of the human rights of women – as is the case with any victims of such violations – must be immediately and effectively investigated, and all those responsible must be identified and brought to account in fair trials.

The death penalty

There are currently at least four prisoners on death row in Belarus, which remains the only country in Europe and the former Soviet Union still executing prisoners. Three men are believed to have been executed in 2019 although executions in Belarus remain shrouded in secrecy and the exact number of executions, therefore, are not known.

Already in 2020, three men have been sentenced to death. Viktor Skrundzik was sentenced to death in March for the murder of two pensioners. His two accomplices received prison sentences. In his Supreme Court hearing in June, Viktor Skrundzik claimed that he confessed due to pressure by investigators and also because he feared one of his accomplices who, he said, actually carried out the murders. In a rare and welcome move, the Supreme Court quashed the death sentence and sent the case back to the court of first instance for reinvestigation. While welcoming this positive step, Amnesty International is extremely concerned by the death sentences handed down to two young brothers in January and upheld by the Supreme Court in May⁷. Stanislau and Illia Kostseu, aged only 19 and 21 respectively, are the youngest prisoners on death row in Belarus for over ten years and the first time that two members of one family are facing execution.

While noting Belarus' stated commitment to moving towards abolition, we call on Belarus to commute these two men's death sentences and those of all persons currently on death row. Furthermore, we call on Belarus to impose an immediate moratorium on executions as a first step towards abolition. Belarus must also lift all secrecy surrounding the use of the death penalty and inform the families of those previously executed about the location of their graves, the date of the execution, and offer the families the possibility to receive additional details about the execution, if they so desire.

Juvenile justice and fair trials

Despite mounting concern over the hundreds, and possibly thousands, of young people and children serving lengthy prison sentences for minor, non-violent drug-related offences, Belarus continues to prosecute and sentence children as young as 16 years old to up to 11 years in prison under Article 328 of the Criminal Code of the Republic of Belarus for "illicit trafficking in narcotic and psychotropic substances, their precursors and analogues". The lengthy sentences are reserved for those found guilty of committing this crime as part of a "group" although the authorities typically fail to identify, let alone prosecute, any other members of "the group".

⁷ <https://www.amnesty.org/en/documents/eur49/2533/2020/en/>

There have been consistent allegations of human rights violations suffered by the children concerned, including the use of excessive force by law enforcement officials at the point of arrest or detention, failure to inform their legal guardian and lawyer following their arrest, the use of unsubstantiated or disproportionately harsh charges against suspects, violations of their right to a fair trial, deprivation of liberty and lengthy prison sentences, and discriminatory treatment of children imprisoned on charges under Article 328.

International human rights standards clearly state that the deprivation of a child's liberty, including for drug-related offences, must be considered only as a last resort and for the shortest appropriate period of time. Furthermore, the Committee on the Rights of the Child has recommended states to consider alternatives to criminalization when dealing with children accused of having committed minor, non-violent drug-related offences. We call on Belarus to immediately release all those who were children at the point they were detained solely for their use or possession of drugs for personal use, or for other minor, non-violent drug offences – by quashing, commuting or reducing existing convictions and/or sentences – and to ensure and facilitate their full social reintegration, including by clearing their criminal record.