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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 102nd session, 1–10 April 2025

Opinion No. 4/2025 concerning Dzyanis Ivashyn (Belarus)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,[1] on 10 January 2025 the Working Group transmitted to the Government of Belarus a communication concerning Dzyanis Ivashyn. The Government submitted a late response on 17 March 2025. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States Parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

[1] A/HRC/36/38.

1. Submissions

(a) Communication from the source

4. Dzyanis Ivashyn was born in 1979, and is a national of Belarus. He is a journalist and ordinarily resides in Grodno Oblast, Belarus.

5. The source reports that the re-election in 2020 of the current President of Belarus, Alexander Lukashenko, sparked widespread protests, leading to the detention of tens of thousands of individuals, including hundreds of journalists.

6. Although the right to freedom of expression is constitutionally recognized and Belarus is party to the Covenant, the source states that the Government has labelled independent media as "extremist" and shut down most news organizations and nearly all independent non-governmental and civil society organizations, forcing some of them to operate in exile.

7. The source further explains that retribution against critics of the Government has become commonplace, notably through the imprisonment of prominent human rights defenders and journalists. Lawyers defending journalists are reportedly coerced into signing non-disclosure agreements, and the judiciary is subject to political pressure.

8. The Government has purportedly shut down Internet access and now requires Internet service providers to log users' online activities and retain their browsing histories for at least a year. Telecommunications providers must also install surveillance equipment on all devices with Internet access.

9. The source reports that, at the time of his arrest, Mr. Ivashyn was a freelance reporter for an independent Belarusian newspaper and a volunteer editor of the Belarusian-language version of the investigative news site InformNapalm. The source states that while Mr. Ivashyn has been involved in political activism in the past, since 2017 he has only attended protests for the purpose of covering them as a journalist.

10. The source states that Mr. Ivashyn was previously targeted by the authorities for his reporting, which concerned topics considered controversial by the authorities of Belarus and of the Russian Federation. He was investigated by the State Security Committee of the Republic of Belarus for his coverage of the Euromaidan protests of 2014. In 2017, he was arrested and detained for five days by the Belarusian police for "violating the procedure for organizing or holding mass events", at a Freedom Day gathering, even though he was performing his professional duties as a journalist at the protest. He has also reportedly been a target of misinformation and disinformation campaigns, which have included fake photos and materials portraying him as a foreign agent.

11. According to the source, in 2021 Mr. Ivashyn published an investigation alleging that former members of a disbanded Ukrainian special forces unit (known as the Berkut), who fled Ukraine and went to serve the Government of Belarus, were participating in the crackdown on protests in Belarus following the 2020 election.

12. In a television interview on 11 March 2021, Mr. Ivashyn alleged that the Government of Belarus had granted citizenship to many of these former Berkut members and had hired them as State security officers to crack down on protests. The information underpinning his investigation had reportedly been obtained from public sources and following official requests for information made to government agencies.

(i) Arrest and charges

13. The source states that on 12 March 2021, the State Security Committee searched Mr. Ivashyn's residence in Grodno, seizing computers, telephones, SIM cards, bank cards, books, notebooks and other items, and took him into custody. The homes of his family members were also searched shortly thereafter. Books seized from his house, covering topics such as Belarusian nationalist and democratic movements, anti-Bolshevik uprisings in Belarus and the armed conflict in Ukraine, were later reportedly destroyed on court order.

14. The source states that it is unclear whether the authorities informed Mr. Ivashyn of the reasons for his arrest at the time of arrest. On 20 March 2021, however, it became known that he had been charged under article 365 of the Criminal Code for allegedly disclosing

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classified information to influence a police officer with the aim of changing the nature of that police officer's lawful activities.

15. In September 2021, that charge was changed to high treason under article 356 (1) of the Criminal Code. Mr. Ivashyn's family was only notified of the change to the charges in October 2021, by which point Mr. Ivashyn appeared also to be aware of the change.

16. The source explains that, due to the judicial proceedings being secret, it has been unable to review the charge sheet, or the case file more generally. Moreover, there has been limited contact between Mr. Ivashyn and the outside world, and his lawyer was required to sign a non-disclosure agreement as a condition for representing Mr. Ivashyn, or face disbarment. As a result of this, the exact date on which Mr. Ivashyn was notified of the new charge is unknown. For the same reasons, the source is unable to ascertain whether Mr. Ivashyn was informed of the reason why he was arrested on 12 March 2021.

17. On 22 March 2022, Belarusian media reported that, according to the State Security Committee and national security experts, Mr. Ivashyn was a foreign intelligence agent working for the Ukrainian intelligence services, and the Ukrainian platform of InformNapalm was operating under the Main Department of Intelligence of the Ministry of Defence of Ukraine.

(ii) Detention

18. While awaiting trial, Mr. Ivashyn was reportedly held in the pretrial detention facilities (SIZO) of the Correctional Institution, Prison No. 1, in Grodno. During this period, he was placed in solitary confinement on multiple occasions, for a total duration estimated to be of up to 70 days. He suffered what may have been a heart attack, despite not having a history of heart problems.

19. According to the source, the authorities purposely worsened Mr. Ivashyn's prison conditions to coerce him into pleading guilty. They also allegedly threatened to extradite him to the Russian Federation for prosecution and to open criminal investigations into his family. The source also reports that Mr. Ivashyn was questioned by agents of the State Security Committee at least twice without his lawyer.

20. Moreover, the source states that prison security staff refused to deliver letters from Mr. Ivashyn's family, despite normally delivering money and care packages to detainees. Prison guards also reportedly refused to answer questions from his family.

21. According to the source, it became known on 7 May 2022 that Mr. Ivashyn's pretrial investigation was over, and on 10 June 2022 that his case would go to trial.

22. The source considers that the Government held Mr. Ivashyn beyond the pretrial investigation limit of six months established by the Code of Criminal Procedure. He was detained continuously from March 2021 and not tried until August 2022 – nearly 18 months later.

(iii) Trial and conviction

23. The source reports that Mr. Ivashyn's trial began on 15 August 2022 at Grodno Regional Court. During the trial, Mr. Ivashyn was reportedly often separated from his lawyer and subjected to "talks" with security forces.

24. On 14 September 2022, Grodno Regional Court convicted Mr. Ivashyn and sentenced him to 13 years in prison. He was also ordered to pay a fine of 4,800 Belarusian roubles ($1,900) and compensation of 2,000 roubles ($800) to each of the nine unnamed riot police officers he allegedly defamed in his investigation.

25. Little is known about the trial, since it was held in camera because it allegedly concerned information considered a State secret. Moreover, the source recalls that Mr. Ivashyn's lawyer was reportedly required to sign a non-disclosure agreement as a condition for representing his client. The public notice about the conviction sent to Mr. Ivashyn's family only specifies that Mr. Ivashyn was convicted of high treason under article 356 (1), and illegal collection or dissemination of private information without consent under article 179 (1), of the Criminal Code.

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26. The source reports that an appeal against Mr. Ivashyn's conviction was dismissed on 20 December 2022. Again, however, the grounds for the rejection of the appeal are unknown because both the appeal hearings and the appellate decision were not public.

27. On 17 January 2023, Mr. Ivashyn was transferred to Prison Colony No. 15, in Mogilev, to serve his sentence.

28. Before his transfer, he was reported to have a fever, a dry cough and breathing problems. As his health did not improve following his transfer, he was taken to hospital, and released back to the prison colony in February 2023. The source states that an online news outlet claimed that Mr. Ivashyn was so unwell prior to his hospital visit that he was physically unable to reply to its correspondence.

29. According to the source, Mr. Ivashyn has seemingly been transferred between prisons multiple times while serving his sentence. He was at one point placed in Grodno Prison No. 1, before being transferred back to the prison colony in Mogilev, where he was allegedly beaten and placed in solitary confinement. At one point it was reported that Mr. Ivashyn had been seen again in Grodno Regional Court in March 2023.

30. In June 2023, Mr. Ivashyn was allegedly transferred to the stricter Prison No. 8, in Zhodzina, Minsk Oblast, which is reportedly notorious for being home to hundreds of political prisoners, and is described as being overcrowded, and without running hot water, and where prisoners are denied medical care and are subjected to constant beatings. The prison rules restrict family visits to once a year and allow for only one small package to be received annually. Mr. Ivashyn's family reportedly often has difficulty communicating with him. Although he is entitled to a monthly 15-minute call with them, this is not always possible. For instance, he did not call them in December 2024.

(iv) Legal analysis

31. The source submits that Mr. Ivashyn's detention constitutes an arbitrary deprivation of his liberty under categories I, II, III and V of the Working Group's methods of work.

a. Category I

32. The source argues that Mr. Ivashyn's detention is arbitrary under this category as the Government of Belarus did not provide any legal basis to justify his arrest for eight days. It also claims that the Government fabricated charges against him, as there was no evidence otherwise of wrongdoing on his part.

33. The source further asserts that the Government targeted Mr. Ivashyn because he exposed misconduct within the State security force. It points to the fact that he was arrested only days after releasing his investigation about the Berkut operating in Belarus. The Government therefore attempted to legitimize his arrest by invoking national security concerns, and falsely claiming that he was a foreign agent for Ukrainian intelligence working against the Belarusian State.

34. According to the source, the Government's post hoc justifications for arresting Mr. Ivashyn do not stand up to scrutiny. It underlines that, for his investigation, Mr. Ivashyn used information from government sources accessible to any citizen who requested it. The Government therefore arrested and detained Mr. Ivashyn on false charges to suppress any further research that might discredit it.

35. On this basis, the source considers that the Government's actions violated Mr. Ivashyn's freedoms under the Constitution of Belarus, the Universal Declaration of Human Rights and the Covenant, making him a prisoner of conscience whose case falls under category I of the Working's Group's methods of work.

b. Category II

36. The source recalls that under category II, a deprivation of liberty is arbitrary when it results from the exercise of the rights or freedoms set forth in certain provisions of the Universal Declaration of Human Rights and the Covenant. The source specifically argues that, in Mr. Ivashyn's case, Belarus violated article 19 of the Universal Declaration of Human

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Rights and article 19 of the Covenant, which protect the right to freedom of opinion and expression.

37. The source points out that while the Constitution guarantees freedom of opinion, belief and expression, rights in Belarus have been increasingly curtailed. Multiple laws now make it illegal to film or photograph at protest events and increase the Government's power to shut down media outlets. Likewise, the Government has prosecuted individuals who have criticized public officials, the Government and "matters of public interest".

38. The source submits that the Government arrested, detained and imprisoned Mr. Ivashyn because of the content of his speech. It recalls that in March 2021, Mr. Ivashyn published his investigation about the Berkut, which was critical of the Government of Belarus. On 11 March 2021, Mr. Ivashyn gave a televised interview about his investigation; the next day, he was detained. When security forces raided Mr. Ivashyn's residence, they specifically confiscated Mr. Ivashyn's means of communication (phones, laptops, books and business cards) and anything that contained speech viewed as critical of the Government (such as books about Ukraine or written in Ukrainian). According to the source, the Government not only interfered with Mr. Ivashyn's freedom of expression by confiscating these materials, but also prevented him from further imparting ideas and information by arresting and detaining him.

39. Although the source acknowledges that the right to freedom of expression is not absolute, it stresses that none of the permissible limitations carved out in article 19 of the Covenant apply in Mr. Ivashyn's case. It stresses that, under international law, the right to freedom of expression may only be restricted in limited circumstances, namely when the restriction is provided for by law and necessary to protect either the rights of others, national security, public order, or public health or morals. It points out that the Human Rights Committee has emphasized that governments' use of restrictions must not jeopardize the right itself.[2] Moreover, it is not sufficient for a government to merely invoke one of the exceptions from article 19 of the Covenant; it must also specify the precise nature of the threat posed by the protected activity, establish a direct and immediate connection between the expression and the threat, and demonstrate why the limitation was necessary.[3]

40. Mr. Ivashyn's detention, according to the source, does not fall within the scope of permissible limitations on expression. It considers the Government to have had no legitimate basis to arrest and detain him, and to have done so in violation of the Constitution and international treaties. The source argues, moreover, that the Government's claim that Mr. Ivashyn's work threatened national security is highly doubtful, since, according to the source, Mr. Ivashyn only used publicly available and government-sponsored sources for his investigation.

41. As a result of these violations of Mr. Ivashyn's rights, the source submits that his detention falls within the scope of category II.

c. Category III

42. The source submits that at nearly every stage of Mr. Ivashyn's arrest, detention and imprisonment, the Belarusian authorities violated his due process rights, as set out in article 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant, making his detention arbitrary under category III of the Working Group's methods of work.

43. The source prefaces its arguments in this regard by arguing that, domestically, the due process rights set forth in the country's Criminal Procedure Code conflict with international norms, for instance by allowing closed trials to protect State secrets,[4] in addition to being vague when defining the circumstances under which a home search is justified,[5] the time

[2] See the Committee's general comment No. 34 (2011), para. 21.
[3] *Sohn v. Republic of Korea* (CCPR/C/54/D/518/1992), para. 10.4; and Human Rights Committee, general comment No. 34 (2011), paras. 33–35.
[4] Criminal Procedure Code of Belarus, art. 23.
[5] Ibid., art. 14.

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limits on detention, and when an individual should be informed of the charges against him or her.

Right to be informed of charges

44. The source recalls that the State Security Committee did not notify Mr. Ivashyn of the reasons for his arrest until eight days later. It considers this a violation of article 9 (2) of the Covenant, which requires prompt disclosure of the charges alleged. Furthermore, the source argues that while the Constitution does not require the issuance of an arrest warrant as a condition for a lawful arrest, the length of time that passed between Mr. Ivashyn's arrest on unknown grounds and when he was informed of the charge against him violates international law.

Trial without undue delay

45. According to the source, Mr. Ivashyn's detention violates the country's domestic legislation, as Mr. Ivashyn was held past the legal pretrial investigation limit of six months from the time of his arrest.[6] Mr. Ivashyn was detained on 12 March 2021, and the first hearings in his trial did not begin until August 2022, which is a span of 17 months and greatly exceeds the six-month limit. Thus, the source considers that Mr. Ivashyn's excessive detention likely violated domestic law.

46. The source relies on article 9 (3) of the Covenant to point out that anyone arrested or detained on a criminal charge must be brought promptly before a judicial authority, and is entitled to trial within a reasonable time or to release, and furthermore that detention in custody for persons awaiting trial should not be the general rule, though release may be subject to guarantees to appear for trial. It argues that the Government's investigation of Mr. Ivashyn lasted longer than the country's own maximum time frame, and was therefore contrary to the promptness and reasonableness standards enshrined in the Covenant. Furthermore, the Government never considered allowing Mr. Ivashyn to be released subject to an appearance in court at a later date, which the Covenant allows. As a result, the source considers that these violations, taken together, violate both domestic and international law and violated Mr. Ivashyn's right to a fair trial.

Right to a public trial

47. The source submits that Mr. Ivashyn was also stripped of his due process rights because the Government blocked the release of information about his trial, in violation of both domestic and international law. Contrary to article 114 of the Constitution, article 23 (1) of the Criminal Procedure Code and article 14 (1) of the Covenant, Mr. Ivashyn's trial was not open to the public, on the basis that it allegedly concerned State secrets. For the same reason, Mr. Ivashyn's lawyer was required to sign a non-disclosure agreement about the trial or face disbarment, as a condition for representing Mr. Ivashyn.

48. The source explains that court records of Mr. Ivashyn's trial are considered secret, and are therefore sequestered in the files of the regional office of the State Security Committee rather than being held in public court archives. The source therefore claims that no information is known about the trial, no court documents have been released about it, and Mr. Ivashyn's family remains unaware of what happened during the proceedings.

49. Although the source notes that article 14 (1) of the Covenant, as well as the Constitution and Criminal Procedure Code, permit exceptions to public trials for reasons of national security, it argues that Mr. Ivashyn's use of publicly accessible, government-provided information contradicts the national security justification for a closed trial. Since this information was available to all citizens, and therefore inherently not a risk to national security, the source considers the Government's post hoc rationale unjustified.

[6] Ibid., art. 127 (2) and (3).

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Right to counsel

50. The source maintains that during both Mr. Ivashyn's pretrial detention and his trial, authorities repeatedly interrogated him without his lawyer being present and interfered with his legal defence, in violation of article 14 (3) (d) and (g) of the Covenant.

51. The source recalls that article 14 (3) (d) of the Covenant provides that all individuals charged with a crime have the right to be tried in their own presence and to defend themselves through legal assistance of their own choosing. By holding what the source considers to be illegitimate "talks" with Mr. Ivashyn without his counsel being present, the Government violated article 14 (3) (d) of the Covenant.

52. The source further refers to article 14 (3) (g) of the Covenant, which provides that individuals must not be compelled to testify against themselves or confess guilt. According to the source, the covert "talks" between officials and Mr. Ivashyn were likely of a threatening nature, and were an attempt to pressure him into pleading guilty, both of which would violate article 14 (3) (g). In addition, government pressure on Mr. Ivashyn's lawyer may also be in violation of the right of defence enshrined in article 17 (1) of the Criminal Procedure Code.

d. Category V

53. The source recalls that a deprivation of liberty is considered arbitrary under category V when it constitutes a violation of international law on the grounds of discrimination based on political or other opinion that aims towards or can result in ignoring the equality of human beings. Category V therefore aligns with articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 and 26 of the Covenant, which prohibit a State from discriminating against an individual because of their political opinions and from subsequently not applying the full protection of the law equally to that individual because of their opinions.

54. The source submits that the Government violated these provisions by arresting, detaining and later imprisoning Mr. Ivashyn because of his political beliefs. Specifically, the Government viewed Mr. Ivashyn's investigation concerning Belarusian security forces, his coverage of events in Ukraine and his involvement with Ukrainian news sites as critical of State power. The source maintains that the charge of treason, based on allegations that Mr. Ivashyn worked with Ukrainian intelligence, is wholly unsubstantiated.

55. Moreover, the source argues that because of the geopolitical proximity of Belarus to the Russian Federation, any actions taken by citizens of Belarus which could be viewed as supporting Ukraine in its armed conflict with the Russian Federation are amplified to justify imprisonment for national security reasons.

56. The source concludes, on this basis, that the Government violated both domestic and international law to purposely target Mr. Ivashyn and silence him as a critic of the Government. It failed to provide him with the full protection of the law because of his political beliefs, in violation of the Constitution, which protects freedom of speech, and of the Criminal Procedure Code, which guarantees freedom from government intrusion in one's home, a time limit on detainment without trial, and a prohibition on cruel treatment while awaiting trial.

(b) Response from the Government

57. On 10 January 2025, the Working Group transmitted the allegations from the source to the Government of Belarus under its regular communications procedure. The Working Group requested the Government to provide it, by 11 March 2025, with detailed information about Mr. Ivashyn's situation, and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Belarus under international human rights law, and in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government of Belarus to ensure Mr. Ivashyn's physical and mental integrity.

58. The Government submitted its response on 17 March 2025, after the deadline. The Government did not request an extension of the time limit for its reply, as is provided for in the Working Group's methods of work. Consequently, the Working Group cannot accept the reply as if it had been presented within the time limit.

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2. Discussion

59. The Working Group regrets that it did not receive a timely response from the Government to the communication. In the absence of such a response from the Government, and on the basis of all the information the Working Group has received, the Working Group has decided to render the present opinion in conformity with paragraph 16 of its methods of work.

60. In determining whether Mr. Ivashyn's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.[7] In the present case, the Government has chosen not to challenge in a timely fashion the prima facie credible allegations made by the source.

61. The source has argued that the detention of Mr. Ivashyn is arbitrary and falls under categories I, II, III and V. The Working Group will proceed to examine these in turn.

(a) Category I

62. The Working Group notes firstly that the source claims that Mr. Ivashyn was not informed of the reasons for his arrest at the time of arrest, and that he was only informed of the charges against him eight days later. The Government did not refute these allegations in its late reply.

63. The Working Group recalls that article 9 (2) of the Covenant provides that anyone who is arrested should be informed, at the time of arrest, of the reasons for the arrest and should be promptly informed of any charges. In order for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law which may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.[8] This is typically done through an arrest warrant or arrest order (or equivalent document).[9] The right to be presented with an arrest warrant is inherent in the right to liberty and security of person and in the prohibition of arbitrary detention, under articles 3 and 9 of the Universal Declaration of Human Rights as well as principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.[10] Therefore, the Working Group finds that Mr. Ivashyn's rights under article 9 (2) of the Covenant were violated.

64. According to article 9 (3) of the Covenant, "anyone arrested or detained on a criminal charge shall be brought promptly before a judge". The Human Rights Committee has observed that 48 hours is ordinarily sufficient to satisfy this obligation, and any longer delay must remain absolutely exceptional and be justified under the circumstances.[11] According to the source's submissions, Mr. Ivashyn was not brought promptly before a judge after his arrest. He was detained on 12 March 2021 and his trial did not begin until 15 August 2022, over 17 months later. The Government does not address this allegation in its late reply.

65. Furthermore, the Working Group notes the source's submissions that Mr. Ivashyn's pretrial detention was extended repeatedly, exceeding the six-month limit established by Belarusian law. According to article 9 (3) of the Covenant, it is not to be the general rule that

[7] A/HRC/19/57, para. 68.

[8] Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

[9] Human Rights Committee, general comment No. 35 (2014), para. 23; see also opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will typically not be available.

[10] The Working Group has maintained from its early years that the practice of arresting persons without a warrant renders their detention arbitrary. See opinions No. 1/1993, paras. 6 and 7; No. 3/1993, paras. 6 and 7; No. 4/1993, para. 6; No. 5/1993, paras. 6, 8 and 9; No. 27/1993, para. 6; No. 30/1993, paras. 14 and 17 (a); No. 36/1993, para. 8; No. 43/1993, para. 6; and No. 44/1993, paras. 6 and 7. For more recent jurisprudence, see opinions No. 66/2019, para. 61; No. 6/2020, para. 40; No. 11/2020, para. 38; No. 13/2020, para. 47; No. 14/2020, para. 50; No. 89/2020; No. 59/2024, footnote 21; No. 19/2024, footnote 7; No. 18/2024, footnote 10; and No. 55/2023, paras. 91 and 92.

[11] Human Rights Committee, general comment No. 35 (2014), para. 33.

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persons awaiting trial are detained in custody. Pretrial detention should be an exception and as short as possible.[12] In the present case, Mr. Ivashyn was held in pretrial detention for approximately 17 months without an individualized assessment of the necessity of continued detention and without consideration of alternative measures to detention. In the absence of any information to the contrary from the Government, the Working Group finds his detention to be in violation of article 9 (3) of the Covenant.

66. The Working Group therefore finds that Mr. Ivashyn's detention lacks a legal basis and is arbitrary under category I.

(b) Category II

67. The source argues that Mr. Ivashyn was arrested, detained and subsequently imprisoned because of the exercise of his right to freedom of expression as a journalist. The source notes that Mr. Ivashyn was arrested just one day after he gave a television interview about his investigation into former members of the Ukrainian Berkut unit working for Belarusian security forces, and that the materials confiscated during the raid on his residence specifically targeted his means of communication and materials containing content critical of the Government.

68. The Working Group recalls that the right to freedom of opinion and expression is protected by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. While this right may be subject to certain restrictions, these must be provided by law and be necessary for the protection of national security, public order, public health or morals, or the rights and freedoms of others.

69. The Government had the opportunity to explain how Mr. Ivashyn's journalistic work posed a genuine threat to national security that would justify restrictions on his freedom of expression, but it has chosen not to do so. Instead, it has limited itself in its late reply to stating that he was held criminally liable in strict accordance with the legislation of Belarus for committing serious crimes, without however providing any further details as to what those serious crimes might be, nor any explanation regarding an alleged threat to national security. As a result, the Working Group considers that the source has established that Mr. Ivashyn used information from publicly available sources for his investigation.

70. The Working Group has noted in its previous opinions concerning Belarus a pattern of detention of journalists and human rights defenders who express views critical of the Government.[13] Given the timing of Mr. Ivashyn's arrest, immediately following his public statements about his investigation, the nature of the charges against him and the confiscation of materials related to his journalistic work, the Working Group concludes that his detention resulted from the peaceful exercise of his right to freedom of expression.

71. Accordingly, the Working Group considers that Mr. Ivashyn's detention is arbitrary under category II.

(c) Category III

72. Given its finding that the deprivation of liberty of Mr. Ivashyn is arbitrary under category II, the Working Group emphasizes that no trial should have taken place. Nevertheless, as the trial took place and he was convicted and sentenced to a long prison term, the Working Group will examine whether the proceedings against Mr. Ivashyn were consistent with international norms on the right to a fair trial.

73. The Working Group recalls that the right to a public hearing is a fundamental safeguard of the fairness and independence of the judicial process protected under article 14 (1) of the Covenant. As the Human Rights Committee has explained in its general

[12] Opinions No. 28/2014, para. 43; No. 49/2014, para. 23; No. 57/2014, para. 26; No. 1/2020, para. 53; No. 8/2020, para. 54; No. 1/2020, para. 53; No. 57/2014, para. 26; No. 49/2014, para. 23; and No. 28/2014, para. 43. See also Human Rights Committee, general comment No. 35 (2014), para. 38; and A/HRC/19/57, paras. 48–58.

[13] See, for example, opinions No. 76/2023, No. 64/2023, No. 52/2023, No. 45/2023, No. 50/2021, No. 23/2021 and No. 39/2012.

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comment No. 32 (2007), the publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interests of the individual and of society at large.[14] Although the right to a public hearing is not absolute, it may only be restricted for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice. In the absence of such exceptional circumstances, a hearing must be open to the general public, including members of the media, without access being limited to a select group of people.[15]

74. In the present case, the Government has not provided any explanation as to why a closed trial was necessary. In its reply, it states only that Mr. Ivashyn was held criminally liable in strict accordance with the legislation of Belarus for committing serious crimes, and that all the charges against him were fully confirmed by evidence collected during the investigation of criminal cases, including witness testimony. In the absence of any information to the contrary, the Working Group is therefore satisfied that the investigation published by Mr. Ivashyn was based on publicly available information, thereby undermining the national security justification for a closed trial. As a result, the Working Group finds that the hearing of Mr. Ivashyn's case behind closed doors violated his rights under article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.

75. Moreover, the Working Group notes with concern the unrefuted allegations that Mr. Ivashyn was isolated from his lawyer during the trial and subjected to "talks" with security forces, and that his lawyer was obliged to sign a non-disclosure agreement, the latter allegation having previously been observed as a broader pattern by the Special Rapporteur on the situation of human rights in Belarus.[16] In this respect, the Human Rights Committee has stressed that lawyers should be able to advise persons charged with a criminal offence without restrictions, influence, pressure or undue interference from any quarter. [17] Additionally, according to principle 8 of the Basic Principles on the Role of Lawyers, all arrested, detained or imprisoned persons are to be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. As the Working Group has stated previously, confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings.[18] Furthermore, the admission into evidence of a statement allegedly obtained under duress renders the entire proceedings unfair, regardless of whether other evidence was available to support the verdict.[19] The burden is on the Government to prove that statements were given freely, which it has not done in the present case.

76. The Working Group accordingly finds that Mr. Ivashyn's right to a fair trial under article 10 of the Universal Declaration of Human Rights, and more specifically, the right not to be compelled to confess guilt under article 14 (3) (g), his right to legal assistance guaranteed by article 14 (3) (d) and his right to prepare his defence without constraints under article 14 (3) (b), of the Covenant, were violated.

77. The Working Group concludes that the violations of Mr. Ivashyn's right to a fair trial are of such gravity as to give his deprivation of liberty an arbitrary character, falling under category III.

(d) Category V

78. The source has submitted that Mr. Ivashyn was targeted because of his political opinions and his work as a journalist critical of the Government. It asserts that the Government viewed Mr. Ivashyn's investigation concerning Belarusian security forces, his

[14] See para. 28.
[15] See para. 29.
[16] A/HRC/47/49, para. 54.
[17] See the Committee's general comment No. 32 (2007), para. 34.
[18] A/HRC/45/16, para. 53. See also opinions No. 73/2019, para. 91; No. 59/2019, para. 70; No. 14/2019, para. 71; and No. 1/2014, para. 22. See also E/CN.4/2003/68, para. 26 (e).
[19] Opinions No. 73/2019, para. 91; No. 59/2019, para. 70; No. 32/2019, para. 43; No. 52/2018, para. 79 (i); No. 34/2015, para. 28; and No. 43/2012, para. 51.

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coverage of events in Ukraine and his involvement with Ukrainian news sites as critical of State power. The Government has chosen not to address these allegations, limiting itself to the brief generalities already set out above. When a detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination based on political or other views. Accordingly, the Working Group will examine the allegations under category V.

79. The Working Group has found in multiple previous opinions concerning Belarus that there is a pattern of targeting individuals who express critical views of the Government or who participate in peaceful protests.[20] This pattern has been documented by United Nations human rights mechanisms, including the United Nations High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Belarus.[21]

80. In the present case, the Working Group observes that Mr. Ivashyn's arrest and detention occurred in the context of a broader crackdown on independent media and civil society in Belarus following the 2020 presidential election. The timing of his arrest, immediately after his public statements about his investigation, the nature of the charges against him and the treatment he has received in detention all suggest that he has been targeted because of his political opinions and his work as a journalist.

81. The Working Group therefore concludes that Mr. Ivashyn's detention constitutes a violation of international law on the grounds of discrimination based on political opinion, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, and is arbitrary under category V.

3. Disposition

82. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Dzyanis Ivashyn, being in contravention of articles 2, 3, 7, 9, 10 and 19 of the Universal Declaration of Human Rights and articles 2 (1), 9, 10, 14, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

83. The Working Group requests the Government of Belarus to take the steps necessary to remedy the situation of Mr. Ivashyn without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

84. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Ivashyn immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

85. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Ivashyn and to take appropriate measures against those responsible for the violation of his rights.

86. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

87. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Ivashyn has been released and, if so, on what date;

[20] Opinions No. 23/2021, para. 102; No. 50/2021, para. 102; No. 24/2022, para. 109; No. 64/2023, para. 94; No. 3/2024, para. 112; No. 5/2024, para. 92; and No. 54/2024, para. 101.

[21] See, for example, A/HRC/58/68; A/HRC/49/71; and A/HRC/47/49, paras. 58–77.

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(b) Whether compensation or other reparations have been made to Mr. Ivashyn;

(c) Whether an investigation has been conducted into the violation of Mr. Ivashyn's rights and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Belarus with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

88. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

89. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

90. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[22]

[*Adopted on 1 April 2025*]

[22] Human Rights Council resolution 51/8, paras. 6 and 9.

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