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Dr. Alice Edwards
UN Special Rapporteur on Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment
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REQUEST FOR URGENT APPEAL: Ongoing Torture and Cruel, Inhuman or Degrading Treatment or Punishment – Ales Bialiatski, 2022 Nobel Peace Prize Laureate, Detained in Belarus

Dear Dr. Edwards,

I am writing to request urgent action on behalf of our client, Nobel Peace Prize Laureate Aleksander “Ales” Bialiatski, who has been detained in Belarus since July 14, 2021. Mr. Bialiatski is a globally renowned, award-winning human rights defender and the founder and chairperson of Viasna, Belarus’s premier human rights organization. He was arrested in retaliation for peaceful mass demonstrations against Alexander Lukashenko, the country’s strongman dictator. The UN Office of the High Commissioner for Human Rights (“OHCHR”) has already condemned Mr. Bialiatski’s arrest and detention as arbitrary and politically motivated.

I believe Mr. Bialiatski has been and continues to be tortured and subjected to cruel, inhuman or degrading treatment. Since his arrest, Mr. Bialiatski has been held in horrific conditions. He was first detained at the notorious Okrestina pre-trial detention facility, where the Lukashenko regime has systematically tortured its real and perceived opponents, arresting some 30,000 protesters between August and November 2020. These protesters were beaten and forced to sign confessions. Mr. Bialiatski was transferred to Sizo No. 1 on Volodarskogo Street (“Sizo No. 1”) one week later, where he was kept in a “semi-basement” cell with “no fresh air, no sunlight, poor food, little or no healthcare,” and “overcrowded cells housing as many as 20 people.”

Further, Mr. Bialiatski has been denied effective safeguards to prevent torture, such as access to legal assistance and contact with his family. Each time he retains a new lawyer, that individual becomes a regime target. One of his local lawyers was arrested, and another had his license revoked. Moreover, Mr. Bialiatski was unable to see his wife until November 10, 2022, when they had their first permitted visit – over one year after his arrest. Following his

conviction, Mr. Bialiatski was transferred from Sizo No. 1 to the remote Horki penal colony at the end of April 2023, where his conditions of confinement remain unknown.

Mr. Bialiatski has long been a regime target for his outspoken criticism of Lukashenko and his human rights work with Viasna. He was previously imprisoned from 2011 to 2014 on baseless tax evasion charges. These charges were never proven, and both the UN Working Group on Arbitrary Detention and the Human Rights Committee found his deprivation of liberty to be arbitrary and in violation of international law and ordered his immediate release. During his detention, he was forbidden to speak to anyone, and other prisoners were forbidden from speaking to him. He was also repeatedly denied medical care and food parcels.

Given these serious human rights violations and the Lukashenko regime's targeting of Mr. Bialiatski, he remains at immediate and grave risk of continuous torture and cruel, inhuman or degrading treatment. We respectfully request that, in accordance with your Methods of Work and urgent appeal procedure, you investigate the situation and immediately contact the Lukashenko regime, urging it to protect Mr. Bialiatski's right to physical and mental integrity, as guaranteed by the Convention Against Torture ("CAT") and the International Covenant on Civil and Political Rights ("ICCPR"), both of which Belarus has ratified.

I. IMPRISONMENT AND TORTURE OF REGIME OPPONENTS IN BELARUS

Mr. Bialiatski's arrest and detention must be contextualized within a broader pattern of the regime's "instrumentalisation of the justice system . . . to quash all scrutiny and dissent to its repressive policies."¹ For decades, Alexander Lukashenko, Belarus's strongman dictator, has waged a violent campaign against all regime critics and political opponents – arresting them on fraudulent charges, depriving them of their due process rights, and subjecting them to ill-treatment and torture in custody.

Following the disputed August 9, 2020, presidential election, mass peaceful protests broke out across Belarus. In response, the regime arrested approximately 30,000 protesters, journalists, human rights defenders, civil society leaders, and opposition candidates.² Over 1,500

¹ Press Release, *Belarus: Verdict Against Nobel Laureate Ales Bialiatski an Effort to Quash Scrutiny and Dissent says UN Experts*, OHCHR, Mar. 3, 2023, at ¶ 2, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-verdict-against-nobel-laureate-ales-bialiatski-effort-quash-scrutiny> (UN Special Procedures call Ales Bialiatski's arrest "the result of targeted use of criminal persecution . . . to quash all scrutiny"); Press Release, *Belarus Must End Systematic Repression, Release Detainees, UN Human Rights Chief Says*, OHCHR, Mar. 17, 2023, at ¶ 12, available at <https://www.ohchr.org/en/press-releases/2023/03/belarus-must-end-systematic-repression-release-detainees-un-human-rights> ("The appalling practice of pursuing and punishing people for carrying out legitimate human rights work continues" in reference to, *inter alia*, Ales Bialiatski's arrest); *Belarus*, in WORLD REPORT 2023, at 73 [hereinafter *HRW World Report*, available at <https://www.hrw.org/world-report/2023>] ("Belarusian authorities . . . purge independent voices, including through bogus prosecutions and harassment of human rights defenders, journalists, lawyers, opposition politicians, and activists.")

² SITUATION OF HUMAN RIGHTS IN BELARUS IN THE CONTEXT OF THE 2020 PRESIDENTIAL ELECTION, OHCHR, U.N. Doc. A/HRC/46/4, Feb. 15, 2021, at ¶ 37 [hereinafter *2021 OHCHR Report*], available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/032/81/PDF/G2103281.pdf?OpenElement>.

individuals remain imprisoned on politically motivated charges.³ Between August and November 2020, regime forces used “police batons, tear gas, kinetic impact projectiles, stun grenades, and water cannons, against peaceful protesters,”⁴ killing at least five individuals.⁵ Reports of enforced disappearances also emerged during this period, including of Maria Kolesnikova, a civil society leader, who disappeared on September 7, 2020, before reappearing in police custody.⁶ Police officers have not faced criminal prosecution for torture – instead, 300 officers received presidential awards for “excellent service.”⁷

The UN has repeatedly expressed alarm at the regime’s mistreatment and torture of political prisoners.⁸ Regime critics are often held in inhuman conditions and subjected to psychological, physical, and sexual violence while in custody.⁹ Reports indicate authorities regularly subject prisoners to stress positions, humiliation, beatings, torture by electric shock,

³ Press Release, *Comment by UN Human Rights Spokesperson Ravina Shamdasani on Sentencing of Human Rights Defenders in Belarus*, OHCHR, Mar. 3, 2023, at ¶ 1 [hereinafter *Comment by Ravina Shamdasani*], available at <https://www.ohchr.org/en/statements/2023/03/comment-un-human-rights-spokesperson-ravina-shamdasani-sentencing-human-rights> (calls Mr. Bialiatiski’s arrest “deeply troubling and indicative of the ongoing repression in the country”).

⁴ SITUATION OF HUMAN RIGHTS IN BELARUS IN THE RUN-UP TO THE 2020 PRESIDENTIAL ELECTION AND IN ITS AFTERMATH, OHCHR U.N. Doc. A/HRC/52/68, Feb. 3, 2023, at ¶ 10 [hereinafter *2023 OHCHR Report*], available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/008/97/PDF/G2300897.pdf?OpenElement>.

⁵ *Id.*, at ¶ 12.

⁶ *Id.*, at ¶ 51.

⁷ Olga Loginova and Ottavia Spaggiari, ‘Walking Reminders of Atrocities:’ *Survivors of State Brutality in Belarus Share Their Stories*, ALJAZEERA JOURNALISM REVIEW, available at <https://institute.aljazeera.net/en/ajr/article/1858>.

⁸ Miklós Haraszti, REPORT OF THE SPECIAL RAPPOREUR ON THE SITUATION OF HUMAN RIGHTS IN BELARUS, U.N. Doc. A/HRC/23/52, Apr. 18, 2013, at ¶ 57 (noting with concern the widespread ill-treatment and torture of Belarusian prisoners) [hereinafter *Special Rapporteur Report*], available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-52_en.pdf; *2023 OHCHR Report*, *supra* note 4, at ¶ 66(b) (calling for Belarus to investigate and address widespread mistreatment and torture of prisoners); *Concluding Observations on the Fifth Periodic Report of Belarus*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/BLR/CO/5, June 7, 2018, at ¶ 21, available at <https://www.ohchr.org/en/documents/concluding-observations/catchblco5-committee-against-torture-concluding-observations> (“the Committee remains deeply concerned at the continuing reports of the deplorable conditions of places of deprivation of liberty . . . alleged acts of torture and ill-treatment committed by law enforcement officers and prison personnel”).

⁹ *2023 OHCHR Report*, *supra* note 4, at ¶ 15 (“widespread and systematic practice of torture and ill-treatment, that was largely punitive in nature, directed against individuals for their real or perceived opposition to the Government”); *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2212/2012*, U.N. Doc. CCPR/C/112/D/2212/2012, U.N. HUMAN RIGHTS COMM., adopted May 14, 2018, at ¶ 6.2 (ruled that Belarusian authorities had tortured Andrei Sannikov following his report that he had been, inter alia, deprived of sleep, denied access to toilet facilities, beaten with sticks, subject daily strip searches); *Belarus*, AMNESTY INT’L, accessed May 18, 2023, at ¶ 18 (“individuals convicted under politically motivated charged often faced harsher treatment and worse conditions of detentions . . . solitary confinement or denied the right to make phone calls, see family members, receive food parcels, or exercise outside”), available at <https://www.amnesty.org/en/location/europe-and-central-asia/belarus/report-belarus/>; *Belarus*, in 2022 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, U.S. DEP’T OF STATE, at 8 (“Political prisoners appeared to face worse prison conditions than those of the general prison population, including more reports of torture and severe abuses”), [hereinafter *2022 State Dep’t Report*], available at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/belarus/>.

and rape.¹⁰ For instance, Nasta Loika reported during her trial that authorities had subjected her to electrocution and left her outdoors in cold temperatures without outerwear for eight hours.¹¹ When she became ill, she was denied medical treatment.¹² Pavel Rezanovich, a former government official,¹³ reported being coerced into confessing to “acts of terrorism” and “conspiracy to seize state power” after hearing authorities beat his mother who had also been arrested.¹⁴ Halina Dzerbysh, an independent election observer,¹⁵ reported that her cancer and heart-failure medications had been withheld by prison personnel until she “lost consciousness.”¹⁶

The UN Special Procedures have further noted that the “long prison sentences handed down to human rights defenders are emblematic of the abuse of the justice system and the impunity with which Belarusian authorities act.”¹⁷ In March 2023, the OHCHR asserted that “systematic practices of torture and ill-treatment directed against individuals for their real or perceived opposition either to the Government or to the official declared election results” following the 2020 elections could further amount to crimes against humanity [...].”¹⁸

II. BIOGRAPHY OF ALES BIALIATSKI

Ales Bialiatski is a “pillar of the human rights movement in Eastern Europe,” globally recognized for his work on human rights and democracy in Belarus.¹⁹ He has received, among others, the following recognitions: the U.S. Department of State’s Human Rights Defender Award (2011) for “bravely advocating on behalf of victims of political oppression and their families despite harassment by the Government of Belarus;”²⁰ the European Parliament’s Sakharov Prize (2012); the Council of Europe’s first-ever Václav Havel Prize (2013); Civil

¹⁰ 2021 OHCHR Report, *supra* note 2, at ¶¶ 53-55; Press Release, *Commissioner: Human rights violations in Belarus must stop immediately*, COUNCIL OF EUROPE, Sept. 21, 2020, available at <https://www.coe.int/en/web/portal/-/commissioner-human-rights-violations-in-belarus-must-stop-immediately>.

¹¹ *Belarus: Further information: Human rights defender faces criminal charges: Nasta Loika*, AMNESTY INT’L, accessed May 16, 2023, [hereinafter *Amnesty Int’l on Nasta Loika*], available at <https://www.amnesty.org/en/documents/eur49/6483/2023/en>.

¹² *Id.*

¹³ Pavel Rezanovich, VIASNA, accessed May 18, 2023, available at <https://prisoners.spring96.org/en/person/paviel-rezanovich>.

¹⁴ 2022 State Dep’t Report, *supra* note 9, at 16.

¹⁵ Halina Dzerbysh, VIASNA, accessed May 18, 2023, available at <https://prisoners.spring96.org/en/person/halina-dzierbysh>.

¹⁶ 2022 State Dep’t Report, *supra* note 9, at 16.

¹⁷ Press Release, *UN experts call for immediate release of jailed Nobel winner and other rights defenders in Belarus*, OHCHR, Oct. 10, 2022, at ¶ 7 available at <https://www.ohchr.org/en/press-releases/2022/10/un-experts-call-immediate-release-jailed-nobel-winner-and-other-rights>.

¹⁸ Press Release, *Human Rights Council Hears that Some of the Human Rights Violations Documented in Belarus Could Amount to Crimes Against Humanity, and that There Were Reasonable Grounds to Believe that Crimes Against Humanity, Including Torture, Were Committed in Venezuela*, OHCHR, Mar. 22, 2023, available at <https://www.ohchr.org/en/news/2023/03/human-rights-council-hears-some-human-rights-violations-documented-belarus-could>.

¹⁹ *Nobel Prize Is No Defense Against Jail for a Winner in Belarus*, NEW YORK TIMES, Mar. 3, 2023, at ¶2, available at <https://www.nytimes.com/2023/03/03/world/europe/ales-bialiatski-belarus-nobel-peace-prize.html?searchResultPosition=4>.

²⁰ *Ales Bialiatski Awarded U.S. Department of State’s 2011 Human Rights Defenders Prize*, VIASNA, Sept. 26, 2012, available at <https://spring96.org/en/news/57993>.

Rights Defender of the Year (2014); Vice Presidency of the International Federation for Human Rights (2007-2016); the Right Livelihood Award (2020); and the Clooney Foundation for Justice's Albie Award (2022).²¹ He was nominated for the Nobel Peace Prize on five prior occasions and won the award in 2022.²²

Mr. Bialiatiski began his career in the early 1980s as a student activist.²³ While attending Gomel State University, he became an outspoken regime critic and a strong advocate for democracy and independence from the Soviet Union, with an "unbridled desire to influence other people, popularize the Belarusian language, and raise the national consciousness."²⁴ In pursuit of these aims, he founded *Tuteishyia Association of Young Writers*, an association dedicated to the advancement of Belarusian literature, and co-founded *Martyrology of Belarus*, an organization which documented Soviet crimes against Belarusians between the 1930s and 1950s.²⁵

Mr. Bialiatiski has faced extreme retaliation for his work. He was first arrested for organizing the 1988 *Dziady* march, a peaceful demonstration in memory of victims of Communist repression and for the independence of Belarus which drew thousands of protesters.²⁶ Since then, he has been arrested over 25 times.²⁷ Nevertheless, he relentlessly persevered in his advocacy. From 1989-1998, Mr. Bialiatiski became the Director of the Maksim Bahdanovich Literature Museum. During his tenure, the Museum strived to create civic space under repression, assisting independent news organizations, and hosting both meetings of the pro-independence Belarusian Popular Front and celebrations for Belarusian Catholics facing persecution.²⁸

Since the 1990s, Mr. Bialiatiski's work as a human rights defender has focused on political prisoners. In November 1996, regime authorities arrested over 200 participants in non-violent mass demonstrations against Lukashenko's ever-tightening grip on power.²⁹ Mr.

²¹ *Who is Ales Bialiatiski?*, FREE ALES, accessed May 18, 2023, available at <https://freeales.org/en/>; *Ales Bialiatiski / Viasna*, RIGHT LIVELIHOOD, accessed May 16, 2023, available at <https://rightlivelihood.org/the-change-makers/find-a-laureate/ales-bialiatiski-viasna/>; *Homo Homini Award*, PEOPLE IN NEED, accessed May 16, 2023, available at <https://www.peopleinneed.net/homo-homini-4167gp>; *Ales Bialiatiski*, FRONT LINE DEFENDERS, accessed May 16, 2023, available at <https://www.frontlinedefenders.org/en/profile/ales-bialiatiski>.

²² *Ales Bialiatiski Facts*, THE NOBEL PRIZE, accessed May 16, 2023, available at <https://www.nobelprize.org/prizes/peace/2022/bialiatiski/facts/>; *Ales Bialiatiski reelected FIDH Vice-President*, FIDH, accessed May 16, 2023, available at <https://www.fidh.org/en/region/europe-central-asia/belarus/ales-bialiatiski-reelected-fidh-vice-president-13315>.

²³ *Factbox: Who is Belarusian Nobel Laureate Ales Bialiatiski?*, REUTERS, Mar. 3, 2023, available at <https://www.reuters.com/world/europe/who-is-belarusian-nobel-laureate-ales-bialiatiski-2023-03-03/>.

²⁴ *Who is Ales Bialiatiski?*, FREE ALES, *supra* note 21.

²⁵ *Ales Bialiatiski: "The time threw us a challenge. We accepted it,"* VIASNA, accessed May 18, 2023, available at <https://spring96.org/en/news/46504>; *Ales Bialiatiski's Biography*, VIASNA, accessed May 18, 2023, available at <https://spring96.org/en/news/46707>.

²⁶ *Who is Ales Bialiatiski?*, FREE ALES, *supra* note 21.

²⁷ *Aliaksandr (Ales) Bialiatiski, Vice-president, President of the Viasna Centre for Human Rights*, FIDH, accessed May 18, 2023, available at https://www.fidh.org/IMG/pdf/bio-ales_bialiatiski-en.pdf.

²⁸ *Who is Ales Bialiatiski?*, FREE ALES, *supra* note 21.

²⁹ *Chronology-Belarus' Lukashenko 12 years in power*, REUTERS, Feb. 6, 2007, available at <https://www.reuters.com/article/us-belarus-lukashenko-chrono/chronology-belarus-lukashenko-12-years-in-power-idUSL0654217820070206>.

Bialiatski recognized an urgent need to support these political prisoners, coordinating with fellow human rights activists to provide funding, supplies, and support to the imprisoned protesters and their families.³⁰ To formalize this network, he founded the Human Rights Center “Viasna” in 1996.³¹ Viasna grew into the leading human rights organization in Belarus.³² Although the Belarusian Supreme Court cancelled Viasna’s registration in 2003 (in retaliation for its work monitoring the 2001 presidential elections), the organization continues to promote democracy and respect for human rights in Belarus, document abuses by the regime, and lend support to the country’s political prisoners.³³

Mr. Bialiatski is married to Natallia Pinchuk and has one son.³⁴

III. HISTORY OF PERSECUTION OF ALES BIALIATSKI

Mr. Bialiatski’s decades long career as a human rights defender and chairman of the award-winning Viasna has made him a repeated regime target.³⁵ In particular, the regime has attempted to silence him through both criminalizing Viasna’s activities and arbitrary arrest and detention on politically motivated charges.

First, the Lukashenko regime criminalized Viasna’s activities in 2003. It amended Belarus’s Criminal Code to punish participants in unregistered Non-Governmental Organizations (“NGOs”).³⁶ The Supreme Court, under complete regime control,³⁷ then revoked Viasna’s NGO registration in retaliation for its 2001 election monitoring work.³⁸ Viasna’s multiple applications

³⁰ Ales Bialiatski: “The time threw us a challenge. We accepted it,” *supra* note 25.

³¹ *About Viasna*, VIASNA, accessed May 16, 2023, available at <https://spring96.org/en/about>; *President of Belarus Wins Referendum on Expanding His Power*, NEW YORK TIMES, Nov. 26, 1996, available at: <https://www.nytimes.com/1996/11/26/world/president-of-belarus-wins-referendum-on-expanding-his-power.html>.

³² *Human Rights Center Viasna*, OMCT, accessed May 18, 2023, at ¶ 1, available at <https://www.omct.org/en/network-members/human-rights-center-viasna>; Press Release, *Joint Statement on Belarus: End Attacks Against the Viasna Human Rights Group*, HUMAN RIGHTS WATCH, Sept. 17, 2021, at ¶ 20, available at <https://www.hrw.org/news/2021/09/17/joint-statement-belarus-end-attacks-against-viasna-human-rights-group>; Press Release, *Belarus: Jailing of three human rights defenders is ‘blatant retaliation’ for their work*, AMNESTY INT’L UK, Mar. 3, 2023, at ¶ 1, available at <https://www.amnesty.org.uk/press-releases/belarus-jailing-three-human-rights-defenders-blatant-retaliation-their-work>.

³³ *About Viasna*, VIASNA, *supra* note 31.

³⁴ *Ales Bialiatski’s Biography*, *supra* note 25.

³⁵ Press Release, *Viasna Human Rights Center Wins Human Rights Tulip 2022*, GOVERNMENT OF THE NETHERLANDS, Dec. 8, 2022, available at <https://www.government.nl/latest/news/2022/12/08/viasna-human-rights-center-wins-human-rights-tulip-2022>; “This Award is a Great Support to Us in Our Mission.” *Viasna Awarded The Albie Awards 2022*, VIASNA, accessed May 17, 2023, available at <https://spring96.org/en/news/109246>.

³⁶ Press Release, *Belarus: New Amendment to the Criminal Code Leaves No Room for Legal Human Rights Activities*, OMCT, Jan. 31, 2022, available at <https://www.omct.org/en/resources/statements/belarus-new-amendment-to-the-criminal-code-leaves-no-room-for-legal-human-rights-activities> (explaining the Criminal Code amendment, Article 193-1, was in force from 2003-2019, and was reinstated in January 2022).

³⁷ *2022 State Dep’t Report*, *supra* note 9, at 1, 12, 19, 27-28.

³⁸ *Belarus: The Lies Behind Accusations Against Nobel Laureate Ales Bialiatski and His Viasna Colleagues*, FIDH, accessed May 15, 2023, available at <https://www.fidh.org/en/region/europe-central-asia/belarus/lies-accusations-viasna>.

to re-register were all denied.³⁹ OHCHR blasted the Criminal Code amendment as “aimed at intimidating civil society.”⁴⁰ Indeed, the regime similarly cancelled the registrations and denied re-applications for 757 other Belarusian public organizations critical of Lukashenko – virtually no human rights organizations remain in legal operation in Belarus today.⁴¹

Second, the regime arbitrarily arrested Mr. Bialiatiski on politically motivated charges to halt his human rights work. After Viasna’s registration was revoked, he and his colleagues sustained the organization’s legitimate human rights activities through bank accounts in Poland and Lithuania, since its unregistered status barred it from receiving funds in Belarus.⁴² On August 4, 2011, the regime arrested Mr. Bialiatiski on baseless tax evasion charges, seeking to limit foreign funding to Viasna.⁴³ He was convicted in a trial marred by severe due process violations, including the court’s failure to presume him innocent and reliance on fabricated evidence.⁴⁴ Even though the charges against him were never proven, Mr. Bialiatiski was sentenced to four and a half years in a high security penal colony and the confiscation of his personal assets.⁴⁵

Accordingly, in 2012, the UN Working Group on Arbitrary Detention found his arrest to be arbitrary and in violation of international law.⁴⁶ The UN Human Rights Committee concurred in 2014, holding further that repeated and arbitrary denials of Viasna’s NGO registration violated Mr. Bialiatiski’s right to freedom of association.⁴⁷ Other UN entities have decried his longtime persecution. OHCHR denounced the “continuous harassment against the work of Mr. Bialiatiski” resulting from “the exercise of his universally recognized human rights that are criminalized by the legislation of Belarus.”⁴⁸ And the former UN Special Rapporteur on the Situation of Human Rights in Belarus, Miklós Haraszti, called the regime’s targeting of Mr. Bialiatiski “a symbol of the repression against human rights defenders”.⁴⁹

³⁹ Press Release, *UN Recognizes that Belarus Violated the Rights of Ales Bialiatiski*, FIDH, Nov. 17, 2014, available at <https://www.fidh.org/en/region/europe-central-asia/belarus/16475-un-recognizes-that-belarus-violated-the-rights-of-ales-bialiatiski>.

⁴⁰ 2023 OHCHR Report, *supra* note 4, at ¶ 37.

⁴¹ *Id.*

⁴² *Belarus: Conviction of Rights Defender a Blow for Rule of Law*, HUMAN RIGHTS WATCH, accessed May 15, 2023 [hereinafter *HRW Condemnation*], available at <https://www.hrw.org/news/2011/11/24/belarus-conviction-rights-defender-blow-rule-law>.

⁴³ *Natalya Pinchuk v. Belarus*, Communication No. 2165/2012, U.N. Doc. CCPR/C/112/D/2165/2012, U.N. HUMAN RIGHTS COMM., adopted Oct. 24, 2014, at ¶ 8.6.

⁴⁴ *Id.* at ¶ 8.3; *HRW Condemnation*, *supra* note 42, at ¶¶ 9-14.

⁴⁵ *Ales Bialiatiski Freed After Almost Three Years Behind Bars*, OMCT, accessed May 15, 2023, available at <https://www.omct.org/en/resources/urgent-interventions/ales-bialiatiski-freed-after-almost-three-years-behind-bars>.

⁴⁶ *Aleksandr Viktorovich Bialiatiski v. Belarus*, Opinion No. 39/2012, U.N. Doc. A/HRC/WGAD/2012/39, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Nov. 23, 2012, at ¶¶ 38, 46.

⁴⁷ *Id.*, at ¶ 51; *Natalya Pinchuk v. Belarus*, *supra* note 43, at ¶ 8.2.

⁴⁸ Press Release, *Belarus Must End Systematic Repression, Release Detainees, UN Human Rights Chief Says*, *supra* note 1, at ¶ 12; *Belarus: Verdict Against Nobel Laureate Ales Bialiatiski an Effort to Quash Scrutiny and Dissent says UN Experts*, *supra* note 1, at ¶ 2.

⁴⁹ Press Release, *Belarus: UN Expert Urges Government to Release Ales Bialiatiski and Stop Persecution of Rights Defenders*, OHCHR, Aug. 2, 2013, available at <https://www.ohchr.org/en/press-releases/2013/08/belarus-un-expert-urges-government-release-ales-bialiatiski-and-stop>.

Numerous independent and impartial human rights organizations also condemned Mr. Bialiatski's arbitrary arrest. Amnesty International labeled him a "prisoner of conscience,"⁵⁰ and, alongside Front Line Defenders and Freedom House, asserted "the trial against Ales Bialiatski . . . is a blatant act of injustice wherein the state is clearly seeking to enact revenge for [his] activism."⁵¹ These organizations lambasted his deplorable prison conditions. During his imprisonment at Bobruiskaya Correction Facility #2 from 2011 to 2014, Mr. Bialiatski was repeatedly accused of arbitrary violations of prison regulations, resulting in denials of access to his family and counsel and restrictions on both his mealtimes and food options, and his ability to receive packages.⁵² His fellow prisoners were threatened with disciplinary measures for speaking with him, resulting in solitary conditions throughout his sentence.⁵³ He was released on amnesty on June 21, 2014, after 1,052 days of detention.⁵⁴

On July 14, 2021, Mr. Bialiatski was arrested following the regime's retaliation for mass demonstrations against the fraudulent 2020 presidential elections, on vague charges of "smuggling" and "tax evasion."⁵⁵ He has been detained ever since "in tortuous conditions" and was convicted in March 2023 alongside two of his Viasna colleagues⁵⁶ in a "blatant attack against justice and an attempt to silence independent critical voices and punish them for their legitimate human rights work."⁵⁷ OHCHR called the charges "simply politically motivated" and asserted that Mr. Bialiatski is being arbitrarily detained for his "legitimate human rights work."⁵⁸ While imprisoned, Mr. Bialiatski was awarded the 2022 Nobel Peace Prize in acknowledgement of his tireless dedication to the fight for human rights in Belarus.⁵⁹

IV. CURRENT CONDITIONS OF DETENTION

⁵⁰ *Vaclav Havel Human Rights Award Goes to Belarusian Prisoner of Conscience*, AMNESTY INT'L, accessed May 20, 2023, available at <https://www.amnesty.org/en/latest/news/2013/09/vaclav-havel-human-rights-award-goes-belarusian-prisoner-conscience/>.

⁵¹ *Belarus: Trial Against Nobel Peace Prize Laureate Ales Bialiatski a 'Shameful Pretense' of Justice*, AMNESTY INT'L, accessed May 17, 2023, at ¶ 2, available at <https://www.amnesty.org/en/latest/news/2023/01/belarus-trial-against-nobel-peace-prize-laureate-ales-bialiatski-a-shameful-pretense-of-justice/>; *Case History: Ales Bialiatski*, FRONT LINE DEFENDERS, accessed May 16, 2023, available at <https://www.frontlinedefenders.org/en/case/case-history-ales-bialiatski> (calling Mr. Bialiatski's arrest part of a "targeted campaign because of his human rights work"); Press Release, *Belarus: Imminent verdict in the trial against Viasna's leaders*, FREEDOM HOUSE, Mar. 2, 2023, at ¶ 7, available at <https://freedomhouse.org/article/belarus-imminent-verdict-trial-against-viasnas-leaders> (joint statement by 21 human rights organizations condemning the criminal prosecution of Mr. Bialiatski and colleagues as "judicial harassment against . . . human rights defenders").

⁵² *Special Rapporteur Report*, *supra* note 8, at ¶ 57.

⁵³ *Ales Bialiatski Freed After Almost Three Years Behind Bars*, *supra* note 45.

⁵⁴ *Case History: Ales Bialiatski*, *supra* note 51.

⁵⁵ *Belarus: Verdict Expected in Trial of Human Rights Defenders*, HUMAN RIGHTS WATCH, Mar. 2, 2023, available at <https://www.hrw.org/news/2023/03/02/belarus-verdict-expected-trial-rights-defenders>.

⁵⁶ *Ales Bialiatski: Nobel Prize-Winning Activist Sentenced to 10 Years in Jail*, BBC, Mar. 3, 2023, available at <https://www.bbc.com/news/world-europe-64833756>.

⁵⁷ Press Release, *Belarus: Today's Conviction of Nobel Laureate Bialiatski and Other Human Rights Defenders is a Blatant Attack Against Justice*, COUNCIL OF EUROPE, Mar. 3, 2023, at ¶ 1, available at <https://www.coe.int/fi/web/commissioner/-/belarus-today-s-conviction-of-nobel-laureate-bialiatski-and-other-human-rights-defenders-is-a-blatant-attack-against-justice>.

⁵⁸ Press Release, *Belarus: Trial of Nobel Laureate Ales Bialiatski 'Politically Motivated'*, U.N. NEWS, Jan. 6, 2023, available at <https://news.un.org/en/story/2023/01/1132217>.

⁵⁹ *Ales Bialiatski Facts*, *supra* note 22.

Mr. Bialiatski has been and continues to be tortured or subjected to other cruel, inhuman or degrading treatment. Immediately following his July 14, 2021, arbitrary arrest, he was detained in the notorious Okrestina pre-trial detention facility and was transferred one week later, without notice to his family, to the Sizo No. 1 facility. He remained in pretrial detention for about eight months, until his verdict went into effect on April 21, 2023. Then, he was transferred to Horki penal colony.⁶⁰ The conditions he faced in both facilities were abhorrent, and the conditions of his current penal colony are unknown (however, as discussed in the previous section, Mr. Bialiatski was detained in a penal colony from 2011 to 2014, where he endured solitary conditions and was denied access to his wife and food parcels).

The Okrestina pre-trial detention facility in Minsk (colloquially named for its location on Okrestina Street) has multiple complexes and is infamous for both its poor conditions and rampant torture of political prisoners. Following the mass demonstrations between 2020 and 2021, thousands of arbitrarily arrested protesters and regime critics were taken to Okrestina, where many were promptly beaten and forced to sign confessions that they did not understand.⁶¹ As far back as 2003, an international mission concluded that Okrestina's conditions "do not meet the accepted standards,"⁶² describing how cells have "no beds" and "are poorly heated" and overcrowded, lacking light and outfitted with metal sheets that block the windows.⁶³ Additionally, former detainees recount facing beatings, denials of food and water,⁶⁴ forced confessions,⁶⁵ denials of medical care, forced strip searches, rape and sexual abuse, and threats of rape and murder.⁶⁶

Mr. Bialiatski was arrested and taken to Okrestina on July 14, 2021, where he remained for one week. His lawyer and family did not initially know his whereabouts and could not reach him, and the police did not notify them that he was alive. His local lawyer, Vitaly Braginets, made an educated guess that Mr. Bialiatski would be at Okrestina with the rest of the detained protesters. Mr. Braginets visited Mr. Bialiatski later that day and was arrested on May 23, 2022.⁶⁷ Further, while Mr. Bialiatski was confined in Okrestina, his family could not contact him or visit. His wife received her first letter from her husband on July 29, 2021, two weeks after his

⁶⁰ Ales Bialiatski, *Chairperson of Viasna, Nobel Peace Prize Laureate, Sentenced to 10 Years in Prison*, VIASNA, accessed May 20, 2023, available at <https://prisoners.spring96.org/en/person/ales-bjaljackiy>.

⁶¹ *Belarus Jails: Stories of Fear and Violence*, BBC, May 27, 2021, available at <https://www.bbc.com/news/world-europe-57238628>.

⁶² INTERNATIONAL FACT-FINDING MISSION: CONDITIONS OF DETENTION IN BELARUS, FIDH & VIASNA, June 2008, at 17, available at <https://www.legal-tools.org/doc/744772/pdf/> [hereinafter "FIDH & VIASNA"].

⁶³ *Id.*

⁶⁴ 'Like Hell on Earth: ' Torture and Dehumanization in Belarusian Jails Now Threatens to End the Lukashenko Regime. Here are Some of the Stories Changing How the Public Sees the State, MEDUZA, Aug. 14, 2020, available at <https://meduza.io/en/feature/2020/08/15/like-hell-on-earth>.

⁶⁵ Pavel Kutsevol and Volya Vysotskaia, *How Alexander Lukashenko Targets the Women of Belarus*, HUMAN RIGHTS FOUNDATION, Apr. 28, 2023, available at <https://hrf.org/how-alexander-lukashenko-targets-the-women-of-belarus/>.

⁶⁶ FIDH & VIASNA, *supra* note 62, at 17-21.

⁶⁷ Joint Letter on Detention of Vitaly Braginets and Criminal Case Brought Against Andrey Machala, LAWYERS FOR LAWYERS, June 8, 2022, available at <https://lawyersforlawyers.org/en/letter-on-detention-of-vitaly-braginets-and-andrey-machalau-and-criminal-case-brought-against-andrey-machala/>.

arrest. The letter had the number three written at the top, indicating that prison officials failed to send Mr. Bialiatiski's first two letters.⁶⁸

One week after his arrest, Mr. Bialiatiski was transferred to Sizo No. 1. His family was not notified of his transfer. Initially, he was placed inside an overcrowded cell. However, in the spring of 2022, he was transferred to a semi-basement cell with limited light and heat.⁶⁹ Because his previous local lawyer was arrested, a new local lawyer, Viktor Matskevich, was retained. However, the new lawyer's license to practice law was revoked in December 2022, shortly after he began representing Mr. Bialiatiski.

Mr. Bialiatiski was still denied access to his family in Sizo No. 1. His wife was not able to inform him that he had won the Nobel Peace Prize in October 2022 – she sent him a telegram but never received a response.⁷⁰ She first informed him in person that he won the prestigious award on November 10, 2022, during her only permitted visit, over a year after his arrest.⁷¹ His wife remains unable to receive any official information regarding her husband's case, condition, or whereabouts, as his attorney was forced to sign a non-disclosure agreement preventing her from sharing any details regarding Mr. Bialiatiski with anyone, including his family.⁷²

Mr. Bialiatiski's trial took place from January 3 to March 5, 2023, and was marred by severe violations of his due process and fair trial rights. During proceedings, he, and his co-defendants, two of his Viasna colleagues, were handcuffed and held in a cage.⁷³ Moreover, the case materials and proceedings were in Russian, even though Mr. Bialiatiski's first language is Belarusian.⁷⁴ He was summarily convicted and sentenced to 10 years in prison.⁷⁵ His sentence was immediately condemned by OHCHR and the German Foreign Ministry, among others.⁷⁶

Shortly thereafter, a court ordered Mr. Bialiatiski's transfer from Sizo No. 1 to Horki penal colony. Under domestic law, once a detained individual is transferred to a penal colony, they can

⁶⁸ *Belarus: Further Information: Human Rights Defenders Remain in Detention: Ales Bialiatiski, Valyantsin Stefanovich and Uladzimir Labkovich*, AMNESTY INT'L, accessed May 22, 2023, available at <https://www.amnesty.org/en/documents/eur49/4549/2021/en/> [hereinafter *Amnesty International Urgent Action*].

⁶⁹ *Ales Bialiatiski Held in Dark Basement Cell by Belarus, We Warn the Human Rights Council*, RIGHT LIVELIHOOD, Sept. 9, 2022, available at <https://rightlivelihood.org/news/ales-bialiatiski-held-in-dark-basement-cell-by-belarus-we-warn-un-human-rights-council/>.

⁷⁰ Andrew Higgins, *The Belarusian Laureate is a Longtime Pillar of Eastern Europe's Human Rights Movement*, NEW YORK TIMES, Oct. 7, 2022, available at <https://www.nytimes.com/2022/10/07/world/europe/nobel-peace-prize-ales-bialiatiski-belarus.html>.

⁷¹ *Polish Leaders Meet Wife of Jailed Nobel Laureate Bialiatiski*, AP NEWS, Mar. 21, 2023, at ¶ 5, available at <https://apnews.com/article/poland-belarus-bialiatiski-nobel-peace-6d823ccc0c817bbb5150dc997265648d>.

⁷² *Ales Bialiatiski: From Student Movement to Nobel Peace Prize, Imprisonment*, FREEALES.ORG, accessed May 22, 2023, available at <https://freeales.org/en>.

⁷³ *Belarus: Verdict Expected in Trial of Human Rights Defenders*, *supra* note 55.

⁷⁴ *Id.*

⁷⁵ Sharon Braithwaite and Nadine Schmidt, *Nobel Laureate Ales Bialiatiski Sentenced to 10 Years in Prison by Belarusian Court*, CNN, Mar. 3, 2023, available at <https://www.cnn.com/2023/03/03/europe/ales-bialiatiski-sentenced-intl/index.html> [hereinafter "CNN"].

⁷⁶ *Id.*

no longer access their lawyer without a written request.⁷⁷ When Mr. Bialiatski was arrested, only one of his attorneys, Vitaly Braginets, was present in Belarus. Mr. Braginets was arrested in May 2022, and sentenced to eight years in prison. Afterwards, Mr. Bialiatski retained attorney Viktor Matskevich, whose law license was revoked by regime authorities in December 2022, for representing political dissidents, including Mr. Bialiatski. Although Mr. Bialiatski has one other lawyer, he has not seen her since his conviction. Based upon the experience of other political prisoners, he is unable to apply to see his lawyer without a written request. Finally, it should also be noted that Mr. Bialiatski suffers from several chronic medical conditions which, if left untreated, cause him physical and mental and emotional pain. His eyesight has also deteriorated while in detention, likely due to lack of light.

V. INTERNATIONAL LEGAL ANALYSIS

The Lukashenko regime has committed numerous flagrant violations of Mr. Bialiatski's rights under international law that place him at risk of torture, in contravention of its obligations under both the CAT and ICCPR.⁷⁸ It is highly likely that he has already been tortured. In particular, he has been held in deplorable prison conditions, and he has been denied crucial safeguards against torture, such as access to counsel, an unbiased interpreter, and his family.

The prohibition against torture and other ill-treatment is absolute and non-derogable.⁷⁹ Thus, there is no set of circumstances that can make torture or ill-treatment legal.⁸⁰ Article 7 of the ICCPR prohibits torture and ill-treatment,⁸¹ and the Universal Declaration of Human Rights ("Universal Declaration") similarly states that "[n]o one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment."⁸² Even Belarus's Constitution prohibits torture.⁸³

Torture occurs when a person is subjected to:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official

⁷⁷ See Penal Code of the Republic of Belarus, Jan. 11, 2000, at Art. 83 ("In order to receive legal assistance, convicts, upon their application, are granted visits with lawyers [...]").

⁷⁸ Belarus ratified the ICCPR in 1973 and the CAT in 1987.

⁷⁹ *General Comment No. 2: Implementation of Article 2 by States Parties*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/GC/2, at ¶¶ 1, 6 (stating that the prohibition against torture is a jus cogens norm of international law and that no derogation is permitted from the prohibitions on torture and ill-treatment).

⁸⁰ *Id.*

⁸¹ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at art. 7.

⁸² Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, *adopted* 1948, at art. 5.

⁸³ CONSTITUTION OF BELARUS (2004), at art. 25.

or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.⁸⁴

Since Mr. Bialiatski has been arbitrarily detained, none of the abuse he has endured at the hands of the Lukashenko regime can be said to have arisen from or be inherent in or incidental to lawful sanctions.⁸⁵

A. *The Lukashenko Regime Likely Tortured Mr. Bialiatski at Okrestina*

Article 7 of the ICCPR prohibits overt acts of violence against detainees, such as the use of corporal punishment, as well as less explicit acts of physical and psychological torture such as the denial of medical care and prolonged solitary confinement.⁸⁶ The Human Rights Committee has held that prolonged solitary confinement can amount to torture.⁸⁷ And, under the UN Standard Minimum Rules for the Treatment of Prisoners (“Nelson Mandela Rules”), detainees must be provided with specific conditions, including adequate nutrition throughout their incarceration.⁸⁸

The Lukashenko regime has never adhered to these obligations. Although its restrictions on Mr. Bialiatski’s communication with the outside world make it difficult to ascertain whether he has been tortured, the regime has been widely criticized for its “widespread and systematic practice of torture and inhuman treatment,” of political prisoners, “including denial of medical care.”⁸⁹ Documented physical abuse against regime opponents has included corporal punishment, stress positions, torture by electric shock, forced strip searches, rape and sexual abuse, threats of rape and murder, and denials of medical care, food, and water.⁹⁰ The regime has failed to hold anyone accountable for this egregious abuse – instead rewarding many perpetrators for their “excellent service.”⁹¹

⁸⁴ Convention Against Torture, 1465 U.N.T.S. 85, adopted Dec. 10, 1984, at art. 1.

⁸⁵ OHCHR has already asserted that Mr. Bialiatski’s July 14, 2021, arrest and ongoing detention are arbitrary. *Belarus: Trial of Nobel Laureate Ales Bialiatski ‘Politically Motivated,’* *supra* note 58. A formal petition to the UN Working Group on Arbitrary Detention is forthcoming.

⁸⁶ See *Raul Sendic Antonaccio v. Uruguay*, Communication No. R.14/63, U.N. Doc. A/37/40 (Supp.), U.N. HUMAN RIGHTS COMMITTEE, adopted Oct. 28, 1981, at ¶ 20; *General Comment No. 20 on Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. HRI/GEN/1/Rev.9, Mar. 10, 1992, at ¶ 6, available at <https://ccprcentre.org/ccpr-general-comments> [hereinafter *General Comment No. 20*].

⁸⁷ *General Comment No. 20*, *supra* note 86, at ¶ 6.

⁸⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, adopted Dec. 17, 2015, available at <https://undocs.org/A/RES/70/175>.

⁸⁹ 2023 OHCHR Report, *supra* note 4, at ¶ 37 (“systematic practice of torture and ill-treatment, that was largely punitive in nature, directed against individuals for their real or perceived opposition to the government”).

⁹⁰ 2021 OHCHR Report, *supra* note 2, at ¶¶ 53-55; *Amnesty Int’l on Nasta Loika*, *supra* note 11; *Pavel Rezanovich*, *supra* note 13; 2022 State Dep’t Report, *supra* note 9 (“abuses in police custody, including severe beatings; use of electric shocks; psychological humiliation, such as forcing detainees to undress to humiliate them . . . and other efforts to exhaust detainees mentally and physically”).

⁹¹ Olga Loginova and Ottavia Spaggiari, ‘Walking Reminders of Atrocities:’ *Survivors of State Brutality in Belarus Share Their Stories*, *supra* note 7.

In particular, the Okrestina pre-trial detention facility, where Mr. Bialiatski was held before his transfers to Sizo No. 1 and Horki penal colony, is notorious for torture and ill-treatment of regime critics.⁹² Lukashenko himself admitted in a November 2021 interview that detainees were beaten in Okrestina.⁹³ Between August and November 2020, thousands of arbitrarily arrested protesters and regime critics were detained in Okrestina, where many were promptly beaten and forced to sign confessions that they did not understand as their relatives were beaten and audibly screaming.⁹⁴ Given these trends and circumstances, it is highly likely that Mr. Bialiatski has already been tortured.

Additionally, the regime previously tortured Mr. Bialiatski during his 2011-2014 detention. While detained, Mr. Bialiatski was subjected to solitary conditions in which other prisoners were prohibited from speaking with him under threat of punishment.⁹⁵ His meals were also restricted as punishment for alleged violations of prison rules.⁹⁶ Today, it is unknown whether Mr. Bialiatski is being held in solitary confinement or facing restrictions on his food and package delivery, but his history of mistreatment by the Lukashenko regime indicates he is at risk for torture and other restrictions on his basic necessities.

B. Mr. Bialiatski's Conditions of Detention Amount to Torture and Ill-Treatment

Article 10 of the ICCPR requires States to treat detainees “with humanity and with respect for their inherent dignity of the human person.”⁹⁷ The Nelson Mandela Rules elaborate on this requirement, setting forth minimum standards for conditions of detention and requiring that detainees be provided access to adequate nutrition and regular meals, medical care, fresh air, and natural light.⁹⁸

Reports emerged in September 2022, that Mr. Bialiatski was being kept in horrific conditions. While detained at Sizo No. 1, it was reported that he was kept in the “special corridor,” a “semi-basement” cell⁹⁹ with “no fresh air,” limited light, limited heating, “poor food, [and] little or no healthcare,”¹⁰⁰ he was kept in “overcrowded cells housing as many as 20 people.”¹⁰¹ While he was detained at Okrestina, authorities outfitted the windows with metal

⁹² Sergei Kuznetsov, *Prisoners Tell Horror Stories of Their Detention in Belarus*, POLITICO, May 5, 2021, available at <https://www.politico.eu/article/belarus-prisons-violence-alexander-lukashenko/> (“Okrestina jail in Minsk, which became notorious after multiple incidents of torture and humiliation of protesters”).

⁹³ Steve Rosenberg, *Belarus's Lukashenko Tells BBC: We May Have Helped Migrants into EU*, BBC, Nov. 19, 2021, available at <https://www.bbc.com/news/world-europe-59343815>.

⁹⁴ *Belarus Jails: Stories of Fear and Violence*, *supra* note 61.

⁹⁵ *Ales Bialiatski Freed After Almost Three Years Behind Bars*, *supra* note 45.

⁹⁶ *Special Rapporteur Report*, *supra* note 8, at ¶ 57.

⁹⁷ ICCPR, *supra* note 81, at art. 10(1).

⁹⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), *supra* note 88, at Rules 14, 22, 24.

⁹⁹ *Ales Bialiatski Held in Dark Basement Cell by Belarus, We Warn the Human Rights Council*, *supra* note 69.

¹⁰⁰ Oliver Slow, *Ales Bialiatski: Nobel Prize-Winning Activist Sentenced to 10 Years in Jail*, BBC, Mar. 3, 2022, available at <https://www.bbc.com/news/world-europe-64833756>.

¹⁰¹ *Belarus Sentences Nobel Laureate Ahead of Human Rights Council Debate*, GENEVA SOLUTIONS, Mar. 7, 2022, available at <https://genevasolutions.news/human-rights/belarus-sentences-nobel-laureate-ahead-of-human-rights-council-debate>.

sheets that blocked all light.¹⁰² These conditions clearly fail to meet the minimum standards of humane treatment of detainees set out in the Nelson Mandela Rules.¹⁰³ Mr. Bialiatiski's wife described the appalling conditions as so harsh "they could be compared to torture."¹⁰⁴

Mr. Bialiatiski has also faced severe health issues throughout his detention. He already suffered from cardiovascular disease, and the poor conditions of detention have exacerbated his pain.¹⁰⁵ His access to medical care has been restricted.¹⁰⁶ Denial of adequate medical care is not only "incompatible with right to be treated with humanity and with respect for inherent dignity of human person to which all persons are entitled"¹⁰⁷ under Article 10 of the ICCPR, it may also violate the prohibition of torture and cruel, inhuman and degrading treatment under Article 7.¹⁰⁸

C. Denial of Critical Preventive Safeguards Places Mr. Bialiatiski at Risk of Continuous Torture and Ill-Treatment

The CAT requires States to take "effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."¹⁰⁹ Such measures are considered "safeguards" to prevent torture, and include, among others, the ability to promptly receive legal assistance and to contact relatives.¹¹⁰ To comply with the CAT's requirements, these safeguards must not only be accessible; they must also be effective at preventing torture.

First, the regime has repeatedly blocked Mr. Bialiatiski's ability to promptly receive legal assistance. On the day that he was arrested, he was taken to Okrestina without anyone having notified his lawyer. In fact, his then-lawyer, Mr. Braginets, had to make an educated guess that Mr. Bialiatiski was detained there based upon trends in where political prisoners were normally taken. Mr. Braginets was later arrested on May 23, 2022. When Mr. Bialiatiski retained a new lawyer, Mr. Matskevich, his law license was revoked by the regime in retaliation for representing Mr. Bialiatiski and other political dissidents. Today, based upon the experiences of other political prisoners, it is likely Mr. Bialiatiski cannot access his lawyer without a written request. The regime's continued targeting of Mr. Bialiatiski's lawyers renders legal assistance ineffective to prevent torture. Moreover, his most recent lawyer was forced to sign a non-disclosure agreement

¹⁰² FIDH & VIASNA, *supra* note 62.

¹⁰³ Nelson Mandela Rules, *supra* note 98.

¹⁰⁴ *Jailed Nobel Laureate Bialiatiski Barred From Sending Speech*, ASSOCIATED PRESS, Dec. 8, 2022, available at <https://www.usnews.com/news/world/articles/2022-12-08/jailed-nobel-laureate-bialiatiski-barred-from-sending-speech>.

¹⁰⁵ *Belarus: Six Months in Jail. What is Known About Three Detained Viasna Members*, EUROPEAN PLATFORM FOR DEMOCRATIC ELECTIONS, Jan. 18, 2022, available at <https://www.epde.org/en/news/details/Six-months-in-jail-What-is-known-about-three-detained-Viasna-members.html>.

¹⁰⁶ *Belarus sentences Nobel laureate ahead of Human Rights Council debate*, *supra* note 105.

¹⁰⁷ *Consideration of Reports Submitted By States Parties Under Article 40 of the Covenant, Third Periodic Reports of State Parties due in 1997: Argentina*, UN HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/ARG/98/3, May 7, 1999, at ¶ 11, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FARG%2F98%2F3&Lang=en.

¹⁰⁸ See *Raul Sendic Antonaccio v. Uruguay*, *supra* note 86 (finding a violation of Article 7 where a detainee was "denied the medical treatment his condition requires").

¹⁰⁹ Convention Against Torture, *supra* note 84, at art. 2(1).

¹¹⁰ *General Comment No. 2: Implementation of Article 2 by States Parties*, *supra* note 79, at ¶¶ 13, 19.

that prohibits her from speaking to anyone, including Mr. Bialiatski's family, about his case. Thus, if Mr. Bialiatski was being tortured, his family would not know about it.

Second, the regime has repeatedly blocked Mr. Bialiatski's ability to contact his family. While confined in Okrestina pre-trial detention facility, his family could not visit or contact him. They were never notified that he had been detained. His wife received her first letter from her husband on July 29, 2021, two weeks after his arrest. The letter had the number three written at the top, indicating that prison officials failed to send Mr. Bialiatski's first two letters.¹¹¹ Mr. Bialiatski continued to be denied access to his family when he was transferred to Sizo No. 1. His wife was permitted only one visit with him, on November 10, 2022, over one year after his July 14, 2021, arrest. His wife remains unable to receive any official information regarding her husband's case, condition, or whereabouts.

The lack of effective safeguards to prevent torture in Mr. Bialiatski's case places him at imminent risk of torture and ill-treatment, compounded by the lack of communication he has with the outside world, the location of his relatives and family outside of Belarus, and his recent transfer to the remote Horki penal colony.

VI. CONCLUSION

Given reports about the torture and ill-treatment that Mr. Bialiatski has been subjected to during his detention since July 2021, the torture and ill-treatment he suffered during his prior detention from 2011-2014, and the long-standing persecution he has faced as a human rights defender and open critic of Alexander Lukashenko, Mr. Bialiatski clearly remains at imminent risk of torture and ill-treatment. We respectfully reiterate our request that, in accordance with your Methods of Work and urgent appeal procedure, that you immediately contact the Lukashenko regime, urging it to protect Mr. Bialiatski's right to physical and mental integrity.

Sincerely,*

[SIGNATURE ON FILE]

Jared Genser
International Counsel to Ales Bialiatski

¹¹¹ *Amnesty International Urgent Action*, *supra* note 68.

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