

PETITION TO:
UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

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Vice-Chair on Communications: Dr. Matthew Gillett (New Zealand)
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HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of
Dzyanis Ivashyn,
Citizen of the Republic of Belarus

v.

Government of the Republic of Belarus

Petition for Opinion

*Pursuant to Human Rights Council Resolutions 1991/42, 1994/32, 1997/50, 2000/36, 2003/31, 2006/102,
6/4, 24/7, 33/30, and 44/22.*

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**QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST
OR DETENTION**

I. IDENTITY

1. *Family Name:* Ivashyn.
2. *First Name:* Dzyanis.¹
3. *Sex:* Male.
4. *Age at the Time of Detention:* 41.²
5. *Nationality:* Belarusian with a Ukrainian foreign card (Ukrainian father).³
6. (a) *Identity document (if any):* Unknown.
(b) *Place of Issue:* N/A.
(c) *On (date):* N/A.
(d) *No.:* N/A.
7. *Profession and/or activity (if believed to be relevant to the arrest/detention):* Journalist associated with independent news organizations and media outlets.
8. *Address of usual residence:*

Unknown
Hrodna (or “Grodno”), Hrodna Oblast, Belarus.⁴

II. ARREST

1. *Date of arrest:* March 12, 2021.⁵
2. *Place of arrest (as detailed as possible):* Near Dzyanis’ place of residence in Hrodna, Hrodna Oblast, Belarus.⁶
3. *Did they show a warrant or other decision by a public authority?* Unknown.
4. *Authority who issued the warrant or decision:* N/A.
5. *Relevant legislation applied (if known):* No legislation was cited at the time of arrest. The Hrodna regional prosecutor later provided Dzyanis’ family with an arrest warrant that cited Republic of

¹ Also spelled “Dzianis.”

² *Dzianis Ivashyn*, Viasna Human Rights Center, <https://prisoners.spring96.org/en/person/dzianis-ivashyn>.

³ *Dzianis Ivashyn, Investigative Journalist*, Press Club Belarus, <https://press-club.pro/underpressure-en/ivashin>.

⁴ *Belarus: Journalist Dzianis Ivashyn is a Political Prisoner*, Ifex, <https://ifex.org/belarus-journalist-dzianis-ivashyn-is-a-political-prisoner/>.

⁵ *Dzianis Ivashyn*, supra note 2.

⁶ *Belarus: Journalist Dzianis Ivashyn is a Political Prisoner*, supra note 4.

Belarus Criminal Code Article 365 (interference in the activity of police or an employee of internal affairs agencies).

III. DETENTION

1. *Date of detention*: Dzyanis' detention started on March 12, 2021, the date of his arrest.
2. *Duration of detention (if not known, probable duration)*: From March 12, 2021 to the time of submission.
3. *Forces holding the detainee under custody*: Government of the Republic of Belarus.
4. *Places of detention (indicate any transfer and present place of detention)*: Dzyanis was held in (SIZO) - Correctional Institution (CI) Prison No. 1, located in Grodno, from March 12, 2021 to January 16, 2023.⁷ He was then moved to Penal Colony No. 15, in Mogilev Oblast, Belarus, but was moved to Prison No. 8 in Zhodzina, Minsk Oblast, Belarus on June 18, 2023 where he is presently detained.⁸
5. *Authorities that ordered the detention*: The Government of the Republic of Belarus, likely in coordination with the State Security Committee of the Republic of Belarus (the "KGB"). The KGB alleged that Dzyanis was working with Ukrainian intelligence.⁹
6. *Reasons for the detention imputed by the authorities*: Authorities detained Dzyanis on the suspicion of his disclosing classified information and interfering with the work of Belarusian officials/security forces.
7. *Relevant legislation applied (if known)*: Dzyanis was originally charged under Article 365 of the Criminal Code, influencing a police officer by disclosing classified information.¹⁰ Dzyanis' charges was later changed to Article 356(1) of the Criminal Code, high treason against the state, and Article 179(1) of the Criminal Code, illegal collection and dissemination about privacy.¹¹

IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

A. Statement of Facts

Part 1 of this Statement of Facts details the current political climate in Belarus and provides an overview of government attempts to severely curtail civil liberties following social instability within the country. Part 2 offers background information on Dzyanis Ivashyn. Part 3 describes the circumstances surrounding Dzyanis' arrest, trial, sentencing, and continued imprisonment.

⁷ Provided by confidential source.

⁸ *Journalist Dzianis Ivashyn Transferred From Hospital to Colony*, Charter 97, <https://charter97.org/en/news/2023/2/11/535889/> (Mogilev is also referred to as Mahilou in some articles); *Denis Ivashin Was Transferred to a Strict Regime*, Reformation, <https://reform.by/denisa-ivashina-pereveli-na-strogij-rezhim> (as translated into English).

⁹ *Belarus: Ukrainian Journalist Dzianis Ivashyn Sentenced to 13 Years and One Month in Prison*, Ifex, <https://ifex.org/belarus-ukrainian-journalist-dzianis-ivashyn-sentenced-to-13-years-and-one-month-in-prison/>.

¹⁰ *Dzianis Ivashyn*, supra note 2.

¹¹ *Id.*

1. Belarus' Political History and Repression of Civil Liberties

Belarus is an authoritarian regime currently under the thirty-year leadership of President Alyaksandr Lukashenka.¹² Lukashenka was elected as Belarus' first president post-dissolution of the Soviet Union in 1994 and has consolidated power across state institutions over time through election interference, constitutional referenda, and arbitrary decrees.¹³

In 2020, Lukashenka was reelected amid widespread protests. From August 9th through 12th, Belarusian security forces detained almost 7,000 protesters and bystanders, with about 20,000 more protesters being detained into the fall.¹⁴ Discontent within the country has notably increased due to multiple factors, including the country's involvement in the war in Ukraine and diminished living standards because of international sanctions, which some believe have prompted the government to escalate its repression of civil rights and independent media.¹⁵

In the months after the 2020 election, the Belarusian government detained 336 journalists.¹⁶ Following the 2020 election, the Belarusian Association of Journalists estimated that at least 400 journalists had fled the country due to repression.¹⁷ The Belarusian Association of Journalists recorded at least seventy cases of harassment against local journalists since the beginning of 2022.¹⁸ Moreover, a year after the 2020 election, the Lukashenka regime detained about 1,000 political prisoners, as designated by human rights groups.¹⁹

The Constitution of Belarus (the "Constitution") recognizes the right to freedom of expression, and additionally, Belarus is party to the International Covenant on Civil and Political Rights (the "ICCPR"), which also recognizes the right to free expression.²⁰ Nevertheless, the Belarusian government has increasingly labeled independent media outlets as "extremist" and forcefully closed most news organizations under a 2021 law that increases the government's power to limit speech.²¹ The government has also shut down internet access during periods of public protest and now requires internet service providers to keep logs of people's everyday online activities.²² All telecommunications operators, under newer laws, are required to install surveillance equipment on all technological devices with internet access.²³ Likewise, internet service providers must retain users' browsing histories for at least one year.²⁴

¹² *2018 Country Reports on Human Rights Practices: Belarus*, U.S. Dep. of State, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/belarus/>.

¹³ *Id.*

¹⁴ *Belarus: Unprecedented Crackdown*, Human Rights Watch, <https://www.hrw.org/news/2021/01/13/belarus-unprecedented-crackdown>.

¹⁵ *Belarus Launches New Crackdown on Activists, Journalists*, AP News, <https://apnews.com/article/russia-ukraine-europe-arrests-journalists-belarus-9b17f590846a1f838821d9118d99321>.

¹⁶ *Belarus: Unprecedented Crackdown*, supra note 16.

¹⁷ *After Two Years of Persecution in Belarus, Endangered Journalists Adapt to Survive*, Reporters Without Borders, <https://rsf.org/en/after-two-years-persecution-belarus-endangered-journalists-adapt-survive>.

¹⁸ *Id.*

¹⁹ *Freedom in the World 2022: Belarus*, Freedom House, <https://freedomhouse.org/country/belarus/freedom-world/2022>.

²⁰ *2022 Country Reports on Human Rights Practices: Belarus*, U.S. Dep. of State, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/belarus/>; *Ratification Status for CCPR – International Covenant on Civil and Political Rights*, United Nations, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en.

²¹ *2022 Country Reports on Human Rights Practices: Belarus*, supra note 20.

²² *Censorship in Belarus: Resisting Oppressive Media Control*, VPN Overview, <https://vpnoverview.com/unblocking/censorship/internet-censorship-belarus/>.

²³ *Freedom on the Net 2022: Belarus*, Freedom House, <https://freedomhouse.org/country/belarus/freedom-net/2022>.

²⁴ *Id.*

The government has shut down almost all independent non-governmental and civil society organizations within the country. In 2021, Lukashenka released a decree that severely limited freedom of association for independent organizations.²⁵ By September 2021, the government had disbanded more than 950 civil society organizations and NGOs through legal deregistration mechanisms.²⁶ Multiple human rights organizations, including Vyasna, the Belarusian Helsinki Committee, and the Belarusian Association of Journalists, all operate in exile due, in part, to the government detaining or imprisoning the leaders of such organizations.²⁷

Retribution against those who have spoken out against Lukashenka's regime and broader government brutality has become commonplace in the country. The most prominent detainment and imprisonment in the country, at present, is that of Ales Bialiatski, winner of the 2022 Nobel Peace Prize and founder of the Vyasna Human Rights Centre.²⁸ Ales is a prominent human rights advocate in Belarus and, in 1996, established Vyasna in the wake of street protests over the government's control of state institutions.²⁹ After participating in the protests following the 2020 elections, authorities detained Ales and a court sentenced him to ten years in prison for allegedly disturbing the public order and smuggling money to opposition groups within Belarus.³⁰ Ales is just one of many examples of Lukashenka's regime repressing free speech and Belarus' judicial system submitting to related political pressure; to date, twenty-one human rights organizations have signed onto a joint statement calling out the Belarusian judiciary for bowing to Lukashenka's influence and demanding the release of Ales and all other human rights defenders.³¹

In July 2021, the chief editor of the independent newspaper *Nasha Niva* and a few editorial members were taken into custody by security forces, suffered injuries while in detention, and sentenced to two and a half years in prison for unrelated and unsubstantiated economic crimes.³² Similarly, journalists associated with Radio Liberty and Belsat TV (a Polish independent news media aimed at providing Belarusian citizens with unbiased information) were charged with leading extremist organizations and sentenced to five and six year imprisonments, respectively, for their associations.³³ In 2023, a Belarusian journalist, Pavel Mazheika, and defense attorney, Yulia Yurhilevich, were sentenced to six years in prison following their investigation and reporting on the government's treatment of political prisoners and suppression of political opposition.³⁴ Like many journalists in Belarus, Mazheika was convicted of espionage despite the information at issue being publicly available, even on government websites.³⁵

In its efforts to prosecute journalists, the government often takes extreme measures to discover alleged evidence. In particular, security forces have often ransacked journalists' homes and the

²⁵ 2022 Country Reports on Human Rights Practices: Belarus, supra note 20.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Ales Bialiatski: Nobel Prize-Winning Activist Sentenced to 10 Years in Jail*, BBC News, <https://www.bbc.com/news/world-europe-64833756>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Joint Statement in the Run-Up to the Verdict in the Viasna Case*, Viasna, <https://spring96.org/en/news/110933>.

³² 2022 Country Reports on Human Rights Practices: Belarus, supra note 23; *Nasha Niva's Editor-in-Chief Gives Interview From Prison*, Voice of Belarus, <https://www.voiceofbelarus.org/belarus-news/nasha-nivas-editor-in-chief-gave-an-interview-from-prison/>.

³³ 2022 Country Reports on Human Rights Practices: Belarus, supra note 20.

³⁴ *Belarusian journalist sentenced to 6 years in prison for reporting on the opposition*, Associated Press, <https://apnews.com/article/belarus-journalist-crackdown-pavel-mazheika-trial-e3f0a5a9ee66219591c958c2abeb0b3b>.

³⁵ *Travesty of Justice Reaches New Low in Belarus: Lawyer and Journalist Charged with "Extremism" for Passing on Publicly Available Information*, Human Rights Watch, <https://www.hrw.org/news/2023/07/11/travesty-justice-reaches-new-low-belarus>.

homes of their families searching for extremist publications or information.³⁶ The government, in many cases, also confiscates materials deemed to be extremist during these raids.³⁷ Similarly, when trials are commenced against detained journalists, it is common for the government to coerce the lawyers representing imprisoned journalists into signing non-disclosure agreements, with the threat of disbarment if they do not sign.³⁸ The government has continued to press charges against countless journalists using unsubstantiated legal charges, such as tax evasion, libel, insulting the president of Belarus, and breaching medical confidentiality.³⁹

2. Background Information on Dzyanis Ivashyn

At the time of his arrest, Dzyanis Ivashyn, an economist and political scientist, was a freelance reporter for *Novy Chas*, an independent Belarusian newspaper, and a volunteer editor of the Belarusian-language version of the investigative news site InformNapalm.⁴⁰ InformNapalm is an online volunteer initiative that publishes news about Russian interference in Ukraine and other Eastern European countries and aims to combat misinformation.⁴¹

Born in Hrodna, Belarus in 1979, Dzyanis has often participated in protests to counter Russian influence over neighboring states.⁴² Dzyanis spent a month in Ukraine covering the EuroMaidan protests of 2014, for which the KGB investigated him.⁴³ Similarly, in 2017, the Belarusian riot police arrested and detained Dzyanis for “violating procedure of organizing or holding mass events” at a Freedom Day gathering even though he was performing his professional duties as a journalist at the protest.⁴⁴ Dzyanis spent five days in jail, under administrative arrest, for this unsubstantiated offense.⁴⁵ InformNapalm claims that Dzyanis has been a target of Belarusian and Russian misinformation campaigns following his participation in the EuroMaidan protests, and the site has alleged that the Russian government fabricated stories about Dzyanis in 2016 and 2017, as well as generated fake photos and disinformation materials alleging that Dzyanis was an “agent of a foreign state.”⁴⁶ Despite these allegations, Dzyanis had never been charged with a crime or convicted of an offence, until his current, wrongful detention.

Dzyanis has covered what the Belarusian or Russian governments may view as controversial topics in his journalism, including developments near Kurapaty, a wooded area near Minsk, Belarus, where Soviet forces massacred thousands of civilians under Stalin’s orders.⁴⁷ Most recently, Dzyanis published

³⁶ *Id.*

³⁷ *Id.* (the Belarusian government has consistently used the “extremist” label to equate political opinions in opposition to Lukashenka’s regime with national security threats).

³⁸ *Belarus: Crackdown on Independent Journalism*, Human Rights Watch, <https://www.hrw.org/news/2021/03/29/belarus-crackdown-independent-journalism>.

³⁹ *Id.*

⁴⁰ *Belarusian Journalist Dzianis Ivashyn Sentenced to 13 Years in Prison*, Safety of Journalists Platform, <https://fom.coe.int/en/alerte/detail/107638747;globalSearch=true>.

⁴¹ *InformNapalm: International Volunteer Community*, InformNapalm, <http://informnapalm.rocks/>.

⁴² *25 Books Confiscated From Journalist Dzianis Ivashyn Ordered Destroyed*, Belarusian Association of Journalists, <https://baj.media/en/25-books-confiscated-journalist-dzianis-ivashyn-ordered-destroyed/>.

⁴³ *KGB Summons Activist for Interrogation in Hrodna*, Viasna, <https://spring96.org/en/news/75810>.

⁴⁴ *Dzianis Ivashin, InformNapalm Journalist, Detained in Minsk on Freedom Day (VIDEO)*, InformNapalm, <https://informnapalm.org/en/dzianis-ivashin-informnapalm-journalist-detained-in-minsk-on-freedom-day-his-whereabouts-unknown-video/>.

⁴⁵ *Id.*

⁴⁶ *New Absurd Charges Brought Against Political Prisoner Dzianis Ivashyn in Belarus*, InformNapalm, <https://informnapalm.org/en/new-absurd-charges-brought-against-political-prisoner-dzianis-ivashyn-in-belarus/>.

⁴⁷ *Dzianis Ivashyn, Investigative Journalist*, supra note 3; *Kurapaty (1937-1941): NKVD Mass Killings in Soviet Belarus*, Sciences Po, <https://www.sciencespo.fr/mass-violence-war-massacre-resistance/fr/document/kurapaty-1937-1941-nkvd-mass-killings-soviet-belarus.html>.

an investigation with *Novy Chas* alleging that a number of former soldiers of the Berkut unit, a disbanded special forces unit of the Ukrainian riot police, who escaped Ukraine and went to serve the regime of Lukashenko in Belarus, were participating in the crackdown of Belarusian protests following the 2020 election.⁴⁸ The Berkut unit had previously been involved in the EuroMaidan protests, in which they notoriously engaged in physical violence and unrelenting arrests.⁴⁹ After the EuroMaidan protests ended, Dzyanis alleged that former Berkut unit members fled to Russia and Belarus, where some of them were spotted repressing speech by their dispersing of peaceful rallies. *Novy Chas* released Dzyanis' report sometime between January and March of 2021.⁵⁰

On March 11, 2021, the TV channel Current Time (a Russian-language channel broadcasted in Belarus by Radio Free Europe) interviewed Dzyanis regarding his investigation.⁵¹ Dzyanis alleged that the Belarusian government provided citizenship to many former Berkut unit members and hired them as state security officers, who then often participated in the crackdown of protests.⁵² Dzyanis, his wife Volha Ivashyna, and his peers at *Novy Chas* all assert that the information used in Dzyanis' investigation came from public sources.⁵³ Further, the sources Dzyanis used were allegedly all government sources, as Dzyanis sent in official requests for information to government agencies for his investigation.⁵⁴

a. Arrest

On March 12, 2021, the KGB searched Dzyanis' residence in Hrodna and took Dzyanis into custody nearby his home.⁵⁵ It is unclear whether the authorities informed Dzyanis at the time he was detained of the charges against him or the reason for his arrest. On the same day, security forces searched Dzyanis' mother's house, and on March 15, searched his grandmother's house.⁵⁶ During the raid on Dzyanis' house, KGB agents allegedly seized computers, telephones, SIM cards, bank cards, books, notebooks, and various objects.⁵⁷ Later, it became known that the court involved with Dzyanis' case ordered the destruction of twenty-five of the books seized from Dzyanis' house, which covered subjects such as Belarusian nationalist and democratic movements, anti-Bolshevik uprisings in Belarus, and the Russian invasion of Ukraine.⁵⁸ Pre-trial, Dzyanis was held in Pre-Trial Detention Center (SIZO) – Correctional Institution (CI), “Prison No. 1,” in Grodno.

On March 20, 2021, it became known that Dzyanis was charged under Article 365 of the Criminal Code of the Republic of Belarus for allegedly “influencing a police officer” in order to “change

⁴⁸ *Political Prisoner Dzyanis Ivashyn's Mother Receives No Letters From Son for Over 4 Months*, Belsat, <https://belsat.eu/en/news/20-01-2022-political-prisoner-dzyanis-ivashyn-mother-receives-no-letters-from-son-for-over-4-months>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Current Time TV*, Current Time, <https://www.currenttime.tv/p/6018.html>; *BAJ Raises Journalist Dzyanis Ivashyn's Case With UN Special Rapporteur on Freedom of Expression*, Ifex, <https://ifex.org/baj-raises-journalist-dzyanis-ivashyns-case-with-un-special-rapporteur-on-freedom-of-expression/>.

⁵² *BAJ Raises Journalist Dzyanis Ivashyn's Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁵³ *Political Prisoner Dzyanis Ivashyn's Mother Receives No Letters From Son for Over 4 Months*, supra note 54 (Dzyanis' wife is sometimes referred to as “Olga” as well as Volha); *The Press Under Pressure: The Story of Dzyanis Ivashyn an Investigative Journalist*, InformNapalm, <https://informnapalm.org/en/the-press-under-pressure-the-story-of-dzyanis-ivashyn-an-investigative-journalist/>.

⁵⁴ *The Press Under Pressure: The Story of Dzyanis Ivashyn an Investigative Journalist*, supra note 53.

⁵⁵ *BAJ Raises Journalist Dzyanis Ivashyn's Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁵⁶ *Dzyanis Ivashyn*, supra note 2.

⁵⁷ *Belarus: EFJ Demands Release of Journalist Denis Ivashin*, European Federation of Journalists, <https://europeanjournalists.org/blog/2021/03/15/belarus-efj-demands-release-of-journalist-denis-ivashin/>.

⁵⁸ *25 Books Confiscated From Journalist Dzyanis Ivashyn Ordered Destroyed*, supra note 42.

the nature of his lawful activities” by disclosing classified information.⁵⁹ An offense under Article 365 is punishable by a fine, arrest, and/or imprisonment of up to three years.⁶⁰

While awaiting trial, Dzyanis was often detained in a punishment cell (otherwise known as solitary confinement) with some human rights groups estimating that he spent about thirty days in punishment cells, but Dzyanis’ family believes it was closer to 70 days.⁶¹ Belarusian laws do not specify the basis for placing someone in solitary confinement, and increasingly, political prisoners are placed in permanent solitary confinement to prevent them from speaking with other prisoners.⁶² While Dzyanis was in a punishment cell from June 19-24, 2021, he suffered a cardiac event that may have been a heart attack.⁶³ According to Dzyanis’ mother, Liudmila Ivashina-Dobina, Dzyanis had no prior history of heart problems before his arrest.⁶⁴

In September 2021, Dzyanis’ charge was changed to Part 1 of Article 356 of the Criminal Code, high treason, for which the punishment, if found guilty, is seven to fifteen years in prison with or without a fine.⁶⁵ The KGB office of the Hrodna region sent a notice about the change in charges to Ivashyn’s wife in October.⁶⁶ On October 25, Dzyanis had, yet again, been held in a punishment cell for over a week.⁶⁷

On February 21, 2022, the court of the Kastychnitski district of Hrodna rejected a complaint by Dzyanis’ attorney calling for a change in Dzyanis’ detainment conditions.⁶⁸ While the appeal allegedly concerned Dzyanis’ detainment conditions, the grounds for rejection of the complaint are unknown.⁶⁹

On March 22, 2022, the KGB claimed that Dzyanis worked for the intelligence services of Ukraine.⁷⁰ The KGB specifically alleged that the Ukrainian project InformNapalm (of which Dzyanis was a volunteer editor and investigator of the Belarusian-language version) operated under the Main Department of Intelligence of the Ministry of Defence of Ukraine.⁷¹ A member of the KGB, when discussing Dzyanis’ detainment, stated:

According to experts in the field of national security, Denis Ivashin, cooperating with Ukrainian organizations (resources), actively participated in imposing a political course on the Republic of Belarus that did not meet its national interests, outside interference in domestic political processes, disorganization of the state administration system, creating obstacles to the functioning of state institutions, destructive information impact on the

⁵⁹ *Id.*

⁶⁰ *BAJ Raises Journalist Dzyanis Ivashyn’s Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁶¹ *The Ivashin Case: Why Were the Authorities Afraid of a Journalist From Grodno?*, Deutsche Welle, <https://www.dw.com/ru/delo-ivashina-pochemu-vlasti-ispugalis-zhurnalista-iz-grodno/a-59866449> (as translated into English).

⁶² *Belarus: Life as a Political Prisoner*, Institute for War & Peace Reporting, <https://iwpr.net/global-voices/belarus-life-political-prisoner>; *Belarus: More Action Needed on Accountability for Grave Crimes*, Human Rights Watch, <https://www.hrw.org/news/2023/07/05/belarus-more-action-needed-accountability-grave-crimes>.

⁶³ *BAJ Raises Journalist Dzyanis Ivashyn’s Case With UN Special Rapporteur on Freedom of Expression*, supra note 51 (sources differ on whether this was a heart attack or a more general cardiac event).

⁶⁴ *Id.*; *New Absurd Charges Brought Against Political Prisoner Dzyanis Ivashyn in Belarus*, supra note 46.

⁶⁵ *BAJ Raises Journalist Dzyanis Ivashyn’s Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁶⁶ *New Treason Charges Against Journalist Dzyanis Ivashyn Confirmed – Belsat*, Belsat, <https://imi.org.ua/en/news/new-treason-charges-against-journalist-dzyanis-ivashyn-confirmed-belsat-i42094>.

⁶⁷ *Id.*

⁶⁸ *BAJ Raises Journalist Dzyanis Ivashyn’s Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁶⁹ *The Court Rejected the Complaint to Change the Preventative Measure for Denis Ivashin*, Reformation, <https://reform.by/298547-sud-otklonil-zhalobu-na-izmenenie-mery-presechenija-denisu-ivashinu> (as translated into English).

⁷⁰ *Id.*

⁷¹ *Id.*

individual, society and state institutions, damaging national interests, weakening integration structures and international organizations in which Belarus takes part, which in accordance with the National Security Concept, it is classified as the main threat to national security.⁷²

The government of Belarus held Dzyanis beyond the standard pre-trial investigation period of six months.⁷³ Indeed, Dzyanis was continuously detained from March 2021 and, as discussed below, was not tried until August 2022—nearly 18 months later. Dzyanis was charged with additional crimes to justify the lengthier jail time. InformNapalm has asserted that the government intentionally worsened prison conditions for Dzyanis to coerce him into pleading guilty, which Dzyanis did not do.⁷⁴ Dzyanis was questioned by KGB agents at least two times without the presence of his lawyer.⁷⁵ KGB agents attempted to coerce Dzyanis into admitting guilt through intimidation and threats, including threatening to extradite Dzyanis to Russia for prosecution or open criminal investigations into Dzyanis' family.⁷⁶

Further, prison security has refused to deliver letters from Dzyanis' family, although prison security does deliver money and care packages.⁷⁷ Dzyanis' mother has also attempted to speak with security guards at the prison, who often ignore her and refuse to answer questions.⁷⁸

b. Trial and Conviction

On May 7, 2022, Volha reported that Dzyanis' pre-trial investigation was over, and on June 10, 2022, she learned that his case would go to trial.⁷⁹

On August 15, 2022 and August 17, 2022, the Hrodna Regional Court held the first hearings on Dzyanis' case.⁸⁰ Judge Valeryi Ramanouski presided over the trial.⁸¹ Little information is known about the trial, as it allegedly involved information “considered as a state secret.”⁸² Dzyanis' lawyer had to sign a non-disclosure agreement as a condition of his representation.⁸³ During the trial, Dzyanis was often separated from his lawyer and subject to “talks” with security forces.⁸⁴

On September 14, 2022, the Hrodna Regional Court convicted Dzyanis of high treason and sentenced him to 13 years in prison.⁸⁵ The court also ordered Dzyanis to pay a 4,800-rubles (\$1,900) fine and compensation of 2,000 rubles (\$800) to each of nine unnamed riot police he allegedly “defamed” in his investigation.⁸⁶ Dzyanis would then be transferred to Mogilev Colony No. 15 to serve his sentence.⁸⁷ Mogilev Colony No. 15 is a penal colony which houses many other convicted political prisoners.⁸⁸

⁷² *The KGB Called the Journalist Denis Ivashin a Foreign Intelligence Agent*, Reformation, <https://reform.by/304371-kgb-nazvalo-zhurnalista-denisa-ivashina-agentom-inostrannoj-razvedki> (as translated into English).

⁷³ *New Absurd Charges Brought Against Political Prisoner Dzyanis Ivashyn in Belarus*, supra note 46.

⁷⁴ *Id.*

⁷⁵ Provided by confidential source.

⁷⁶ *Id.*

⁷⁷ *The Press Under Pressure: The Story of Dzyanis Ivashyn an Investigative Journalist*, supra note 53.

⁷⁸ *Id.*

⁷⁹ *BAJ Raises Journalist Dzyanis Ivashyn's Case With UN Special Rapporteur on Freedom of Expression*, supra note 51.

⁸⁰ *Id.*

⁸¹ *Dzyanis Ivashyn*, supra note 2.

⁸² *Id.*

⁸³ *Dzyanis Ivashyn, Investigative Journalist*, supra note 3.

⁸⁴ *Id.*

⁸⁵ *2022 Country Reports on Human Rights Practices: Belarus*, supra note 20.

⁸⁶ *Id.*

⁸⁷ *Journalist Dzyanis Ivashyn Transferred From Hospital to Colony*, supra note 8.

⁸⁸ *How Prisoners Live “On Taxpayers’ Money”*: *Utility Bills From Mahiliou Colony No. 15*, Viasna,

On December 20, 2022, the Supreme Court of the Republic of Belarus considered an appeal in Dzyanis' case.⁸⁹ While it is unknown what the basis was for the appeal, the only information available on the matter is that Dzyanis' sentence was upheld.⁹⁰

c. Detention

Before authorities transferred him to Mogilev, Dzyanis was reported to have a fever, dry cough, and breathing problems.⁹¹ Shortly after his transfer (which occurred on January 17, 2023), Dzyanis' medical issues persisted and he fell ill with a body temperature of approximately thirty-nine degrees Celsius.⁹² Dzyanis was then taken to a hospital, and released back to the colony in February.⁹³ Dzyanis had previously fallen ill at the colony, and the online news outlet Charter 97 reports that Dzyanis was so unwell (prior to his hospital visit) that he was physically unable to reply to correspondence from the group.⁹⁴

Dzyanis has seemingly been transferred between prisons multiple times while serving his sentence. While it was reported that Dzyanis would serve his sentence in Mogilev Colony No. 15, Dzyanis was at one point placed in Hrodna Prison No. 1.⁹⁵ Hrodna Prison No. 1 is the same facility where prominent Belarusian artist and dissident Ales Pushkin died under "unexplained circumstances" in July 2023.⁹⁶ As reported by his wife, Volha, Dzyanis was allegedly beaten and sent to a punishment cell while at the Mogilev colony.⁹⁷ Similarly, at one point it was reported that Dzyanis was seen back in a Hrodna regional court on unknown grounds in March 2023.⁹⁸

In April, Dzyanis' wife reported that she and Dzyanis' relatives were receiving threats from Belarusian authorities.⁹⁹ These threats aimed to stop Volha and Dzyanis' relatives from continuing to spread information about Dzyanis' imprisonment, and could result in Dzyanis being deprived of all communications with them.¹⁰⁰ Likewise, another potential block could be placed on Dzyanis' meetings with his legal defender.¹⁰¹

On June 24, 2023, sources reported that Dzyanis was transferred to a stricter prison in Zhodzina, Prison No. 8.¹⁰² This prison is notorious for being home to hundreds of political prisoners.¹⁰³ Prisoners who have been released from the prison recount no running hot water in the prison, overcrowded

<https://spring96.org/en/news/68088>.

⁸⁹ *The Supreme Court Upheld the Sentence of Denis Ivashin*, Reformation, <https://reform.by/verhovnyj-sud-ostavil-bez-izmenenij-prigovor-denisu-ivashinu> (as translated into English).

⁹⁰ *Id.*

⁹¹ *Denis Ivashin Was Transferred to the Mogilev Colony*, Reformation, <https://reform.by/denisa-ivashina-jetapirovali-v-mogilevskuju-koloniju> (as translated into English).

⁹² *Id.*; *Journalist Dzyanis Ivashyn Transferred From Hospital to Colony*, supra note 8.

⁹³ *Journalist Dzyanis Ivashyn Transferred From Hospital to Colony*, supra note 8.

⁹⁴ *Id.*

⁹⁵ *Denis Ivashin in Grodno Was Placed in a Punishment Cell*, Reformation, <https://reform.by/denisa-ivashina-v-pomestili-v-shizo> (as translated into English).

⁹⁶ *Belarus: Prominent Lukashenko-critical artist dies in jail*, Deutsche Welle, <https://p.dw.com/p/4TrpY>.

⁹⁷ *Id.*; *Denis Ivashin Was Transferred to a Strict Regime*, supra note 8.

⁹⁸ *Denis Ivashin in Grodno Was Placed in a Punishment Cell*, supra note 95.

⁹⁹ *Relatives of Political Prisoner Ivashin Receive Threats*, Reformation, <https://reform.by/rodnym-politzakljuchennogo-ivashina-postupajut-ugrozy> (as translated into English).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Denis Ivashin Was Transferred to a Strict Regime*, supra note 8.

¹⁰³ *Prison in Zhodzina: Overcrowded Cells and Severe Abuse*, Voice of Belarus, <https://www.voiceofbelarus.org/belarus-news/prison-in-zhodzina-overcrowded-cells-and-severe-abuse/>.

cells, a complete refusal of medical care, and constant beatings.¹⁰⁴ The prison rules restrict family visits to once a year and allow for only one small package to be received annually.

At the time of submission, Dyzanis remains detained in Prison No. 8, where his family often has difficulty communicating with him. Dyzanis missed a call that was scheduled for twenty days ago, and his family have been unable to contact him since. The government has not provided any explanation for the recent absence of communication.

B. Legal Analysis

Dzyanis Ivashyn's arrest, detainment, and imprisonment violate several provisions of the Universal Declaration of Human Rights (the "UDHR") as well as the ICCPR. Specifically, Dzyanis' case falls under Categories I, II, III, and V of the Working Group's Revised Methods of Work for the reasons described below.

1. Arbitrary Deprivation of Liberty Under Category I

A detention is arbitrary under Category I of the Working Group's Revised Methods of Work when it is impossible for the state party to invoke any legal basis justifying the deprivation of liberty.¹⁰⁵ The Working Group has found a lack of a legal basis for the purposes of Category I when a person is arrested and detained without substantive evidence to justify the arrest.¹⁰⁶ In Dzyanis' case, the Belarusian government provided no legal basis for eight days to justify his arrest, detainment, and imprisonment. Moreover, the government fabricated charges against Dzyanis to silence his speech and condone his arrest because no such evidence of any impropriety existed otherwise.

The Belarusian government purposely targeted Dzyanis because he exposed wrongdoing within the state security force, and further, the government attempted to legitimize his arrest by invoking national security concerns. Because of the sensitivity of the government to oppositional news pieces, Dzyanis was arrested only days after he released his investigation about the Ukrainian Berkut unit working in Belarus. To silence Dzyanis, the government falsely claimed that Dzyanis was a foreign agent acting on behalf of Ukrainian intelligence to infiltrate Belarus and work against state interests.¹⁰⁷ On this basis, the KGB arrested Dzyanis, raided his home, and detained him.¹⁰⁸

The Belarusian government's post-hoc justifications for arresting Dzyanis do not stand up to scrutiny. Dzyanis used publicly available information from government sources in his investigation, which were accessible to any citizen who sought out such information.¹⁰⁹ The government thus arrested and detained Dzyanis on false charges to prohibit his further research on the topic, which would continue to cast a negative light on both the government and Belarusian security forces. The government's actions in this instance therefore deprived Dzyanis of the liberties owed to him by the Constitution, UDHR, and ICCPR

¹⁰⁴ *Id.*

¹⁰⁵ *Methods of Work of the Working Group on Arbitrary Detention*, United Nations, <https://www.ohchr.org/en/special-procedures/wg-arbitrary-detention>.

¹⁰⁶ *Gargari v. Mexico*, UN Working Group on Arbitrary Detention, Opinion No. 58/2016, para 21, <https://undocs.org/A/HRC/WGAD/2016/58>.

¹⁰⁷ *The KGB Called the Journalist Denis Ivashin a Foreign Intelligence Agent*, *supra* note 72.

¹⁰⁸ *Belarusian Authorities Detain Reporter Dzyanis Ivashyn; Prosecute Journalists for Protest Coverage*, CPI, <https://cpj.org/2021/03/belarusian-authorities-detain-reporter-dzyanis-ivashyn-prosecute-journalists-for-protest-coverage/>.

¹⁰⁹ *The Press Under Pressure: The Story of Dzyanis Ivashyn an Investigative Journalist*, *supra* note 54.

(as explained further in the following sections), and result in Dzyanis being a prisoner of conscience whose case falls under Category I of the Working’s Group’s Revised Methods of Work.

2. Arbitrary Deprivation of Liberty Under Category II

Under Category II, a violation may occur from the arbitrary deprivation of liberty resulting from the exercise of the rights or freedoms set forth in certain provisions of the UDHR and ICCPR.¹¹⁰ Belarus, at present, has signed and ratified both the UDHR and the ICCPR.¹¹¹ Belarus has violated Article 19 of the UDHR and Articles 19 and 21 of the ICCPR in Dzyanis’ case.

Article 19 of the UDHR sets out that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”¹¹² Article 19 of the ICCPR, while similar, also includes the provision that with respect to freedom of expression, “the exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary... [f]or the protection of national security or of public order (ordre public), or of public health or morals.”¹¹³ In a similar vein, Article 21 of the ICCPR protects the right to peaceful assemblies, including demonstrations, marches, protests, rallies, and other forms of assembly.¹¹⁴

The Belarus Constitution guarantees freedom of opinion, belief, and expression.¹¹⁵ However, free speech rights in Belarus have become increasingly abridged, with multiple laws now in effect that make it illegal to film or photograph at protest events and increase the government’s power to close down media outlets for being “extremist”.¹¹⁶ Likewise, the government has prosecuted individuals who have criticized public officials, the government itself, and “matters of public interest,” which includes certain political opinions.¹¹⁷

In Dzyanis’ case, the government arrested, detained, and imprisoned him because of the content of his speech. In March 2021, Dzyanis published an investigation which criticized the Belarusian government, alleging that the government employed a Ukrainian security force to disrupt peaceful protests.¹¹⁸ On March 11, Dzyanis gave a TV interview about his investigation, and the next day, on March

¹¹⁰ *Methods of Work of the Working Group on Arbitrary Detention*, supra note 105.

¹¹¹ *Signatories for Universal Declaration of Human Rights*, The Danish Institute for Human Rights, <https://sdg.humanrights.dk/en/instrument/signees/2>; *Ratification Status for CCPR – International Covenant on Civil and Political Rights*, supra note 20.

¹¹² *Universal Declaration of Human Rights*, United Nations, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹¹³ *International Covenant on Civil and Political Rights*, United Nations, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

¹¹⁴ *General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, United Nations Human Rights Committee, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>; see also *International Covenant on Civil and Political Rights*, United Nations,

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrdB0H115979OVGGB%2BWPAXj3%2Bho0P51AAHSqSubYW2%2FRxcFiagfuwxyucvi40wJfdPLI9%2FeceDWBX%2Fij2tgqDXgdjx8wTKKbIoySyDPtMO#:~:text=Article%2021%20of%20the%20Covenant,candlelit%20vigils%20and%20flash%20mobs>.

¹¹⁵ *Constitution of the Republic of Belarus*, President of the Republic of Belarus, <https://president.gov.by/ru/gosudarstvo/constitution>.

¹¹⁶ *2022 Country Report on Human Rights Practices: Belarus*, supra note 20.

¹¹⁷ *Id.*

¹¹⁸ *Belarusian Authorities Detain Reporter Dzianis Ivashyn; Prosecute Journalists for Protest Coverage*, supra note 108.

12, he was detained near his home.¹¹⁹ When security forces raided Dzyanis' residence, they specifically confiscated Dzyanis' means of communication (phones, laptops, books, and business cards), and anything that contained speech viewed as critical to the government (such as books about Ukraine or written in Ukrainian).¹²⁰ Following from the guarantees set forth in Article 19 of the UDHR and Article 19 of the ICCPR, the government not only interfered with Dzyanis' speech, but also prevented his further impartment of ideas and information by arresting and detaining him.

Although the right to freedom of expression is not absolute, none of the permissible limitations on the right to freedom of expression apply in Dzyanis' case. Under international law, the right to freedom of expression may only be restricted in limited circumstance, when the restriction is provided for by law and necessary to protect either the rights of others, national security, public order, public health, or morals.¹²¹ The UN Human Rights Committee has emphasized that governments' use of restrictions must not "put in jeopardy the right itself."¹²² It is not sufficient for a government to merely invoke one of the enumerated exceptions, but must "specify the precise nature of the threat" posed by the protected activity,¹²³ establish a "direct and immediate connection between the expression and the threat,"¹²⁴ and demonstrate why the limitation was necessary.¹²⁵

Dzyanis' detention does not fall within the scope of permissible limitations on expression. The Belarusian government, while alleging that Dzyanis' speech was harmful to the country's national security, had no legitimate basis to arrest and detain Dzyanis, and did so in violation of the Constitution and international treaties.¹²⁶ The government's claim that Dzyanis' work threatened national security is highly doubtful considering his colleagues have confirmed that Dzyanis only used publicly available and government-sponsored sources for his investigation.¹²⁷

Both the UDHR and ICCPR protect against state action to limit speech, regardless of its form. Because Dzyanis' arrest and detention amount to a violation of Article 19 of the ICCPR and UDHR, his detention falls within the scope of Category II.

3. Arbitrary Deprivation of Liberty Under Category III

Category III of the Working Group's Revised Methods of Work applies "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."¹²⁸ At several points throughout Dzyanis' arrest, detainment, and imprisonment, the Belarusian government and legal system arbitrarily deprived him of his judicial liberty interests.

¹¹⁹ *BAJ Raises Journalist Dzyanis Ivashyn's Case With UN Special Rapporteur on Freedom of Expression*, supra note 52.

¹²⁰ *Belarusian Authorities Detain Reporter Dzyanis Ivashyn; Prosecute Journalists for Protest Coverage*, supra note 108.

¹²¹ *International Covenant on Civil and Political Rights* supra note 113.

¹²² *General Comment No. 34 on Article 19: Freedoms of Opinion and Expression*, United Nations Human Rights Committee, para. 21, undocs.org/CCPR/C/GC/34.

¹²³ *Sohn v. Republic of Korea*, UN Human Rights Committee, Communication No. 518/1992, UN Doc. CCPR/C/54/518/1992, para. 10.4 (July 19, 1992).

¹²⁴ *General Comment No. 34*, supra note 122.

¹²⁵ *Id.* at para. 33.

¹²⁶ *Id.*

¹²⁷ *The Press Under Pressure: The Story of Dzyanis Ivashyn an Investigative Journalist*, supra note 54.

¹²⁸ *Methods of Work of the Working Group on Arbitrary Detention*, supra note 105.

Category III encompasses Article 11 of the UDHR (“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence”) and Articles 9 and 14 of the ICCPR. Article 9 of the ICCPR provides the most extensive coverage of an individual’s judicial rights, such as prohibiting arbitrary arrest and detention, being promptly notified of the charges alleged, and an entitlement to trial within a reasonable time.¹²⁹ Article 14 of the ICCPR focuses more on the guaranteed rights owed during trial, including the right to a fair and public trial by an impartial tribunal, the freedom to communicate with counsel, and to not be compelled to confess guilt.¹³⁰

At almost all stages of Dzyanis’ arrest, detainment, and imprisonment, the Belarusian government violated the due process rights owed to Dzyanis’ in accordance with international treaties. Domestically, the due process rights set forth in the Code of Penal Procedure for the Republic of Belarus (the “Penal Code”) somewhat conflict with those guaranteed in the UDHR and ICCPR. For instance, while the Code does prohibit physical abuse while in state custody (Article 11) and guarantees independent tribunals (Article 22), the Code also justifies closed trials on the basis of “state secrets” (Article 23) and is vague in defining when a home search is justified (Article 14), setting time limits on detention, and laying out when an individual should be informed of the charges brought against them.¹³¹ Likewise, with laws being passed to further limit civil liberties for Belarusian citizens, and subsequently, the general ambiguity surrounding Belarus’ laws and their meanings, the Belarusian judicial model does not provide much clarity. The government’s application of its nebulous penal codes in Dzyanis’ case reflect a violation of the international norms established by the UDHR and ICCPR and an arbitrary deprivation of liberty under Category III of the Working Group’s Revised Methods of Work.

a. The Right to Be Informed of Charges

The KGB did not notify Dzyanis at the time of his arrest what the reason was for his arrest and whether he was being formally charged with a violation of the law. It was not until over a week after his arrest that the authorities informed Dzyanis of his charges.¹³² Accordingly, this is a violation of Article 9(2) of the ICCPR, which requires a prompt disclosure of the charges alleged.¹³³ While there is nothing contained within the Constitution that mandates an arrest warrant as a condition of a lawful arrest, the amount of time which elapsed from Dzyanis’ arrest on unknown grounds to the time he was informed of the charge against him violates international law and deprived Dzyanis of liberty.¹³⁴

b. Promptness of Trial

Dzyanis’ detention also violated Belarus’s own penal guidelines, as Dzyanis was held past the standard pre-trial investigation period of six months from the time of his arrest.¹³⁵ Dzyanis was detained on March 12, 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 standard.¹³⁶ Thus, Dzyanis’ excessive detainment likely violated domestic law.

¹²⁹ *International Covenant on Civil and Political Rights*, supra note 113.

¹³⁰ *Id.*

¹³¹ *Code of Penal Procedure of the Republic of Belarus*, CIS Legislation, <https://cis-legislation.com/document.fwx?rgn=2002>.

¹³² *Dzianis Ivashyn*, supra note 2.

¹³³ *International Covenant on Civil and Political Rights*, supra note 113.

¹³⁴ *Constitution of the Republic of Belarus*, supra note 115.

¹³⁵ *New Absurd Charges Brought Against Political Prisoner Dzianis Ivashyn in Belarus*, supra note 46.

¹³⁶ *BAJ Raises Journalist Dzianis Ivashyn’s Case With UN Special Rapporteur on Freedom of Expression*, supra note 52.

His detention also violated Article 9(3) of the ICCPR, which provides that “anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release,” and further, that “it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial.”¹³⁷ The government’s investigation of Dzyanis lasted longer than the country’s own maximum timeframe, and likewise, at nearly 18 months, was contrary to the promptness and reasonableness standards of the ICCPR. Further, the government never offered Dzyanis freedom from detainment subject to an appearance in court at a later date, which the ICCPR set out. These violations, taken together, violate both domestic and international law and deprived Dzyanis’ right to a fair trial.

c. The Right to an Open Trial

Dzyanis was likewise stripped of his due process rights during his trial as the Belarusian government placed a block on the release of information about his trial in violation of both domestic and international law. Against the provisions of Article 114 of the Constitution, Article 23(1) of the Penal Code, and Article 14(1) of the ICCPR, Dzyanis’ trial was not open to the public.¹³⁸ Because of alleged “state secrets,” Dzyanis’ trial was not public, and likewise, Dzyanis’ lawyer had to sign a non-disclosure agreement about the trial (or face disbarment) as a condition of his representation.¹³⁹ According to Dzyanis’s wife, court records of Dzyanis’ trial are considered “secret,” and are sequestered in the files of the regional KGB office rather than in public court archives. Thus, no information is known about the trial, no documents have been released about the trial, and Dzyanis’ family remains unaware of what happened at the trial.

While Article 14(1) of the ICCPR does condone closed trials in instances of national security concerns, as does the Constitution and Penal Code, Dzyanis’ use of public information in his reporting undermines the legitimacy of Belarus’ security concerns regarding Dzyanis’ trial. As stated previously, Dzyanis only used publicly accessible, government-provided information in his research, which could not inherently be threatening to national security if available to all citizens freely.¹⁴⁰ Therefore, the Belarusian government’s post-hoc national security justification fails to legitimize its deprivation of Dzyanis’ liberty.

d. The Right to Assistance of Counsel

During both Dzyanis’ pretrial detention and his trial, authorities repeatedly interrogated Dzyanis without his lawyer present.”¹⁴¹ While the exact time period that these “talks” took place is unknown, if the Belarusian government attempted to coerce Dzyanis into pleading guilty (as alleged by InformNapalm), denied him his right to communicate with his attorney and have such attorney present, or otherwise interfered with his legal defense, these would be actionable claims under Article 14(3)(d) and (g) of the ICCPR.¹⁴²

¹³⁷ *Id.*

¹³⁸ *Constitution of the Republic of Belarus*, supra note 115; *Code of Penal Procedure of the Republic of Belarus*, supra note 131; *International Covenant on Civil and Political Rights*, supra note 113.

¹³⁹ *Dzianis Ivashyn*, supra note 2; *The Press Under Pressure: The Story of Dzianis Ivashyn an Investigative Journalist*, supra note 54.

¹⁴⁰ *The Press Under Pressure: The Story of Dzianis Ivashyn an Investigative Journalist*, supra note 54.

¹⁴¹ *Dzianis Ivashyn, Investigative Journalist*, supra note 3.

¹⁴² *International Covenant on Civil and Political Rights*, supra note 113.

Article 14(3)(d) of the ICCPR provides that all individuals charged with a crime have the right to be tried in their own presence and defend themselves through legal assistance of their choosing.¹⁴³ By holding illegitimate “talks” with Dzyanis where his counsel was not present, the government deprived him of this right. Article 14(3)(g) of the ICCPR states that individuals must not be compelled to testify against themselves or confess guilt.¹⁴⁴ As provided by Dzyanis’ mother, the covert “talks” with Dzyanis were likely of a threatening nature. Further, the site InformNapalm has substantiated Dzyanis’ mother’s account and claimed that prison officials attempted to pressure Dzyanis into pleading guilty.¹⁴⁵ Both of these allegations are directly contrary to the guarantee of Article 14(3)(g). Government pressure on Dzyanis’ lawyer may also violate Article 17(1) of the Penal Code, which is the right of defense.¹⁴⁶

In review, at almost all points throughout Dzyanis’ arrest, detainment, and imprisonment, the Belarusian government unjustly denied him of his due process rights relating to the right to a fair trial. The government, in stripping Dzyanis of his due process rights, not only violated international law, but also the country’s own laws governing civil liberties and penal procedures. For these reasons, Dzyanis’ case may also be categorized under Category III of the Working Group’s Revised Methods of Work.

4. Arbitrary Deprivation of Liberty Under Category V

Category V applies “when the deprivation of liberty 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.”¹⁴⁷ Category V thus aligns with Articles 2 and 7 of the UDHR and Articles 2 and 26 of the ICCPR, which prohibit a state party from discriminating against an individual because of their political opinions and subsequently not applying the full protection of the laws equally to said individual because of their opinions.¹⁴⁸

The Belarusian government violated these provisions of the UDHR and ICCPR by arresting, detaining, and later imprisoning Dzyanis because of his political beliefs, which are oppositional to the government. Specifically, the government viewed Dzyanis’ investigation concerning Belarusian security forces, his coverage of events in Ukraine, and his involvement with Ukrainian news sites as critical of state power. While the KGB alleged that Dzyanis worked with Ukrainian intelligence, which resulted in his charge of treason against the state, this claim is wholly unsubstantiated.¹⁴⁹ Because of Belarus’ geopolitical proximity to Russia, any actions taken by Belarusian citizens which could be viewed as supporting Ukraine in the country’s war with Russia are amplified to justify imprisonment on the basis of national security. For these reasons, the government violated both domestic and international laws to purposely target Dzyanis and ensure that his speech was silenced.

Accordingly, the Belarusian government did not provide Dzyanis with the full protection of the laws (both domestic and international) because of his political beliefs, which were critical of the government. The domestic laws violated throughout the course of Dzyanis’ arrest, detainment, and imprisonment include the Constitution, which guarantees Dzyanis’ freedom of speech, and certain provisions of the Penal Code, which guarantee the freedom from government intrusion in one’s home, a time limit on detainment without trial, and a prohibition on cruel treatment while awaiting trial. As provided

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *New Absurd Charges Brought Against Political Prisoner Dzyanis Ivashyn in Belarus*, supra note 46.

¹⁴⁶ *Code of Penal Procedure of the Republic of Belarus*, supra note 131.

¹⁴⁷ *Methods of Work of the Working Group on Arbitrary Detention*, supra note 105.

¹⁴⁸ *Universal Declaration of Human Rights*, supra note 112; *International Covenant on Civil and Political Rights*, supra note 113.

¹⁴⁹ *Belarus: Ukrainian Journalist Dzyanis Ivashyn Sentenced to 13 Years and One Month in Prison*, supra note 9.

herein, various provisions of the UDHR and ICCPR were also violated by the government throughout the course of Dzyanis' arrest, detention, and imprisonment.

The Belarusian government targeted Dzyanis because of his political beliefs and activism, which are protected under the UDHR and ICCPR. The government discriminated against Dzyanis for his oppositional beliefs and deprived him of the full protections of the law, thus resulting in Dzyanis' case falling under the guidelines of Category V of the Working Group's Revised Methods of Work.

V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.

Following his conviction, Dzyanis filed an appeal of his sentence. On December 20, 2022, his appeal was dismissed.

VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE).

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