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Note verbale dated 7 February 2022 from the Permanent Mission of Belarus to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

The Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva has the honour to enclose the comments of Belarus on opinion No. 23/2021 of the Working Group on Arbitrary Detention (A/HRC/WGAD/2021/23) (see annex).

The Permanent Mission requests that the present note verbale and the annex thereto be published as a document of the Human Rights Council under agenda item 5, in all official languages of the United Nations.



Annex to the note verbale dated 7 February 2022 from the Permanent Mission of Belarus to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

Comments by Belarus on the opinion of the Working Group on Arbitrary Detention No. 23/2021

The opinion of the Working Group No. 23/2021 concerning Sergey Tihanovski (document A/HRC/WGAD/2021/23) is noted with concern. An analysis of this opinion shows that, unfortunately, the members of the Working Group approached the case in a biased manner. The position of Belarus, as the country concerned, was not taken into account and the allegations of the unknown source, replete with statements of a political nature, which had no relevance to the legal aspects of the detention and prosecution of Mr. Tihanovski, were not subjected to a critical and objective scrutiny by the Working Group.

This approach is an indication that the Working Group appears to be influenced by the political forces that supported the former presidential candidate, Mr. Tikhanovski's wife, in the August 2020 elections in Belarus.

Under these circumstances, it is very likely that the opinion of the Working Group should contribute to a broader political campaign by Western countries against Belarus to justify and release those involved in unlawful actions supported from abroad, which were aimed at undermining the statehood and overthrowing the incumbent government. This constitutes clear interference in the internal affairs of Belarus, which is unacceptable and incompatible with the mandate of independent experts acting on behalf of the special procedure of the Human Rights Council.

In this context, Belarus has to draw the attention of the Working Group to the need for strict compliance with the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council and, in particular to its Article 3 "General principles of conduct", which states in paragraphs d) and f) that mandate-holders shall:

"Focus exclusively on the implementation of their mandate, constantly keeping in mind the fundamental obligations of truthfulness, loyalty and independence pertaining to their mandate;

Neither seek nor accept instructions from any Government, individual, governmental or non-governmental organization or pressure group whatsoever".

It should also be stressed that it is unacceptable for a subsidiary body of the Human Rights Council to subjectively interpret decisions of courts of UN Member States and thus interfere with the independence of national judiciaries and try to disavow their competent decisions with far-fetched and politically motivated arguments.

The above observations as well as numerous references by the Working Group in its opinion to the politicised mandate of the Special Rapporteur on Belarus and similar OHCHR reports call into question the ability of the Working Group to render competent and impartial opinions.

Finally, the Working Group's Methods of Work (A/HRC/36/38), developed and adopted without consultations with UN Member States, are a purely internal document that cannot dictate conditions to Governments with rigid frameworks for providing responses, as if they were mandatory. The Working Group should base its relations with UN Member States on dialogue, not Methods of Work of its own invention.

In view of the above, Belarus does not bind itself in any way to the manifestly politically motivated opinion No. 23/2021 of the Working Group regarding the allegedly arbitrary detention of Mr. Tikhanovski.