



General Assembly

Distr.: General
10 July 2025

Original: English

Human Rights Council Working Group on Arbitrary Detention

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

Opinion No. 33/2025 concerning Aliaksandr Kapshul (Belarus and Russian Federation)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,¹ on 14 January 2025, the Working Group transmitted to the Governments of Belarus and of the Russian Federation communications concerning Aliaksandr Kapshul. On 17 March 2025, the Government of Belarus submitted a response. The Government of the Russian Federation submitted a late response on 10 April 2025. Both States are parties to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States Parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability

* In accordance with paragraph 5 of the Working Group's methods of work, Ganna Yudkivska could not participate in the discussion of the case.

¹ [A/HRC/36/38](#).



or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

1. Submissions

(a) Communication from the source

4. Aliaksandr Kapshul, born on 24 September 1978, is a national of Belarus. He worked as a legal adviser at the State-owned OJSC Naftan oil refinery. He is a member of the Belarusian Independent Trade Union and an activist with the Rabochy Ruch initiative.

(i) Context

5. On 9 August 2020, the presidential election was held in Belarus. The pre-election campaign and the period following the announcement of the results had been marked by widespread protests against alleged electoral fraud, acts of violence against protesters and the detention of the main presidential candidates.

6. Reportedly, more than 30,000 people were detained in 2020, the majority for participation in an unauthorized mass event. The source submits that peaceful protesters were subjected to unjustified and unlawful violence both before and after their detention. Between 9 August and 23 November 2020, over 2,600 people were injured and at least 4 people were killed.²

7. The source submits that the repression continued thereafter. At the end of November 2023, there were 1,447 political prisoners in Belarus.

8. A distinct category of persecuted persons included members and activists of independent trade unions and Rabochy Ruch, an association formed by leaders of and activists involved in the 2020 nationwide strike aimed at uniting Belarusian workers in defence of their civil, political and labour rights and freedoms.

9. After the 2020 elections, independent trade unions and their members participated in peaceful assemblies and strikes, expressing opposition to alleged election fraud and widespread human rights abuses. Because the independent trade unions and Rabochy Ruch had supported the opposition in 2020, the authorities targeted and persecuted their members. That persecution, initially aimed at individuals exercising their rights, escalated in July 2022, when the Supreme Court allegedly dissolved all independent trade unions following lawsuits brought by the Prosecutor General.³

10. With reference to that context, the United Nations High Commissioner for Human Rights has indicated that some of the human rights violations committed by the Belarusian authorities since 2020 may constitute crimes against humanity.⁴

11. Before his detention, Mr. Kapshul was a legal adviser at the State-owned plant Polymir, part of the OJSC Naftan oil refinery. Following the allegedly rigged 2020 presidential election, he joined the Belarusian Independent Trade Union and, later, Rabochy Ruch. He provided legal advice to independent trade unions, represented them in court in cases regarding labour rights violations and supported individuals dismissed from State-owned enterprises for exercising their freedoms of peaceful assembly, association and expression.

12. Reportedly, he participated in peaceful workers' assemblies on 14 and 17 August 2020 at Polymir and OJSC Naftan and rallies held in Novopolotsk in the summer and autumn of 2020. From December 2020, Mr. Kapshul also participated in the nationwide strike initiated by the political opposition, during which employees of major State-owned enterprises called for the President's resignation and an end to human rights violations.

13. Mr. Kapshul also took part in several public videos alongside other OJSC Naftan oil refinery employees condemning the allegedly rigged presidential election and ongoing

² [A/HRC/46/4](#), paras. 27 and 41.

³ See <https://news.zerkalo.io/life/18164.html> (in Russian).

⁴ [A/HRC/52/68](#), paras. 53 and 54.

human rights violations. He was sentenced to 15 days of administrative detention in March 2021 for participating in one of the videos.

14. In February 2021, he was dismissed from the Polymir plant, with his participation in the nationwide strike cited as the official reason. Afterwards, he continued his involvement with the Belarusian Independent Trade Union and Rabochy Ruch, providing legal assistance to dismissed employees both nationally and internationally.

15. On 30 June 2021, the Labour Code was amended to allow the termination of employment contracts before their expiration and without notification to a trade union for the following reasons:

- (a) If the employee had been absent from work due to serving an administrative arrest;
- (b) In the case of calling for and participating in a strike;
- (c) In the case of leaking information about the employer's illegal actions.

16. Allegedly, the amendments had two aims: to further increase the dependence of employees on the will of their employer and to suppress protest activity. It is submitted that the amendments were a form of State repression and a reaction to the mass protests against the authorities.⁵

17. On 21 September 2021, the State Security Committee designated Rabochy Ruch as an "extremist formation". The designation made anyone who communicated with or assisted Rabochy Ruch subject to administrative and criminal liability, although the exact number of affected individuals remains unspecified.

18. On 22 September 2021, mass detentions were reportedly conducted against Rabochy Ruch activists across Belarus. In response, Mr. Kapshul fled to the Russian Federation with the intention of applying for asylum abroad.

19. That same day, while Mr. Kapshul was on the Voronezh-Moscow train, officers from the Federal Security Service of the Russian Federation checked his documents. Realizing that he would likely be detained upon his arrival in Moscow, Mr. Kapshul jumped from the moving train. He broke his leg and dislocated his arm but managed to reach the border between the Russian Federation and a third country, where he decided to cross through a regular border checkpoint.

20. On 23 September 2021, the President of Belarus commented on the Rabochy Ruch case, stating:

I have information that there are still a few scoundrels left in some places, and they set themselves the goal of informing the collective West about how ... [we] are attempting to circumvent sanctions. They actually spy and hand over information there ... We have identified several of them. They will be jailed, and for a long time. I say this directly ... and these are not just people who express their civic position. These are people who deliberately harm our economy, as well as our State, for the money of the special services of the West.⁶

(ii) *Arrest and detention*

21. On 24 September 2021, Mr. Kapshul was detained by the Federal Security Service of the Russian Federation while attempting to cross the Troebortnoye border checkpoint. He was held at the checkpoint for several hours and denied access to a lawyer.

⁵ See [A/HRC/53/53](#). See also https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4122634.

⁶ See <https://belta.by/president/view/lukashenko-potreboval-ne-dopustit-padeniya-v-promyshlennosti-i-predupredil-rabotajuschih-na-zapad-461139-2021> (in Russian).

22. The source notes that it is unknown whether the Federal Security Service provided Mr. Kapshul with the reasons or the legal basis for his arrest. He spent a maximum of 48 hours in the custody of the Russian authorities.

23. The Russian authorities then handed Mr. Kapshul over to officers from the State Security Committee of Belarus, who took him to Belarus. The State Security Committee then arrested him and placed him in custody at its pretrial detention facility in Minsk, under suspicion of committing crimes outlined in articles 356 (1) (high treason) and 361-1 (creation of an extremist formation or participation in such a formation) of the Criminal Code.

24. Prior to his arrest, Mr. Kapshul's country house had been searched. Subsequently, an additional charge was added to his case, related to article 295 of the Criminal Code.

25. Reportedly, Mr. Kapshul was not shown an arrest warrant or other decision by a public authority upon his arrest. Instead, a warrant, allegedly issued on 23 September 2021, was found in his criminal case file at a later stage.

26. On 26 September 2021, the State-controlled television channel ONT published a news piece dedicated to Rabochy Ruch.⁷ In the voiceover, it was stated that representatives of the initiative had prepared strikes and acts of sabotage and engaged in industrial espionage supervised by the intelligence services of two other countries.

27. On 28 September 2021, Mr. Kapshul and nine other Rabochy Ruch activists were recognized by Belarusian human rights defenders as political prisoners.

28. Around October 2021, Mr. Kapshul was transferred to Pretrial Detention Centre No. 3 in Gomel, where he remained until the end of August 2023. According to the source, it was only after his transfer to that facility that access to a lawyer was granted. He communicated with his lawyer in a room under surveillance, with a guard present outside of the room at all times.

29. On 9 November 2022, the Gomel Regional Court began the trial of 10 Rabochy Ruch activists, including Mr. Kapshul. On the second day of the trial, Mr. Kapshul pleaded not guilty to the charges. The trial was conducted in an open session.

30. The source reports that, on 31 December 2022, Mr. Kapshul went on a hunger strike to protest his conditions of detention at Pretrial Detention Centre No. 3 in Gomel, which lasted until 20 February 2023.

31. On 17 February 2023, the panel of the Gomel Regional Court, consisting of two civilians and the President-Judge, sentenced all 10 Rabochy Ruch activists, including Mr. Kapshul, to up to 15 years of imprisonment. Mr. Kapshul was sentenced under three articles of the Criminal Code as follows:

(a) Under article 295 (2) (unlawful actions with firearms, ammunition and explosives), he was sentenced to three months of imprisonment for allegedly purchasing and transporting two bullets and storing them at his country house;

(b) Under article 356 (1), he was sentenced to 13 years of imprisonment and a fine of 200 Belarusian roubles for allegedly collecting and analysing data, including information for internal use and for the transfer of that information to third parties located abroad. The Court had deemed that one of the ultimate beneficiaries of the collected data was associated with foreign intelligence services and State bodies responsible for sanctions;

(c) Under article 361-1, he was sentenced to six years of imprisonment for being a member of Rabochy Ruch, namely, for participation in the initiative's internal meetings held on the Zoom platform, campaigning to increase the membership of the initiative and calling for a nationwide strike to strengthen sanctions and to change the Government unconstitutionally.

⁷ See <https://www.youtube.com/watch?v=t31idFo3I6w> and <https://www.youtube.com/watch?v=t31idFo3I6w> (in Russian).

32. Mr. Kapshul was sentenced to a total of 15 years of imprisonment and a fine of 200 Belarusian roubles.

33. The defendants in the Rabochy Ruch case appealed the verdict. On 2 August 2023, the Supreme Court dismissed all the appeals and upheld the judgment of the court of first instance. The Supreme Court's judgment was final, meaning that Mr. Kapshul had no further appeal options. Furthermore, the State-owned media reported that information.⁸

34. At the end of August 2023, Mr. Kapshul was transferred to Penal Colony No. 15 in Mahiliou.

35. In the beginning of 2024, Mr. Kapshul was transferred to Penal Colony No. 2 in Babruysk. There, a new court hearing was held on the issue of changing his detention conditions. On 10 April 2024, the court ruled to transfer Mr. Kapshul to a prison regime. Subsequently, he was transferred to Prison No. 4 in Mahiliou, where he is currently being held. Reportedly, a prison regime is tougher than that of a penal colony.

36. Mr. Kapshul is currently serving his sentence of 15 years' imprisonment. He is not allowed visits by his family members and he is rarely allowed to speak with his younger family member over the phone.

37. The source submits that Mr. Kapshul's family member was also persecuted and sentenced, for violating the legislation on foreign gratuitous aid, under article 25.15 (2) of the Code of Administrative Offences.

(iii) *Legal analysis*

38. The source argues that the arrest and subsequent detention of Mr. Kapshul were arbitrary under categories I, II, III and V of the Working Group.

a. *Category I*

39. The source submits that Mr. Kapshul's pretrial detention from 24 September 2021 to 17 February 2023 was in violation of article 9 (1) and (3) of the Covenant.

40. Pretrial detention is applied under article 126 (1) of the Criminal Procedure Code. Mr. Kapshul was remanded in custody on the basis of that article until the guilty verdict entered into force. Reportedly, that article provides for the detention of persons accused of committing crimes for which the law provides a penalty in the form of imprisonment for a term of more than two years, provided that the goals of criminal prosecution cannot be achieved by applying a milder measure of restraint.

41. The source argues that Mr. Kapshul's pretrial detention was arbitrary because he was suspected of actions that effectively were the exercise of the freedoms of expression and association, in violation of article 9 (1) of the Covenant.

42. Moreover, the arrest warrant and the pretrial detention order did not indicate that Mr. Kapshul posed a present, direct and imperative threat,⁹ and an alternative to detention was not considered by the authorities, as neither the arrest warrant nor the pretrial detention order mentioned it.

43. The source asserts that Mr. Kapshul was not brought before a judge promptly and that his pretrial detention was not authorized by a judge.

44. The source asserts that Mr. Kapshul did not appear before a judge or other officer authorized by law to exercise judicial power within 48 hours.¹⁰ Allegedly, that happened because the national criminal law does not provide for the immediate delivery of a detainee to a judge. Mr. Kapshul was detained by the Federal Security Service of the Russian Federation on 24 September 2021 and, within hours, was handed over to the State Security

⁸ See <https://belta.by/special/society/view/prigovor-uchastnikam-ekstremistskogo-formirovaniya-rabochy-ruh-vstupil-v-silu-ot-11-do-15-let-kolonii-579927-2023> (in Russian).

⁹ Human Rights Committee, general comment No. 35 (2014), para. 15.

¹⁰ Ibid., para. 33.

Committee of Belarus. The first time that he appeared before a judge, however, was more than a year later, on 9 November 2022, when the trial on criminal charges started.

45. The criminal case against Mr. Kapshul was investigated by the State Security Committee. Reportedly, the State Security Committee's request for Mr. Kapshul's pretrial detention was initially authorized by the Prosecutor General. Subsequently, the State Security Committee's requests for the extension of his pretrial detention were authorized by various prosecutors. None of those individuals, however, was a judge or a body with judicial authority, in violation of article 9 (3) of the Covenant.¹¹

b. Category II

46. The source submits that, according to the verdict, Mr. Kapshul's conviction under article 356 (1) of the Criminal Code was linked to his activities monitoring the circumvention of international sanctions imposed on Belarusian State-owned enterprises.

47. The source argues that the actions imputed to Mr. Kapshul under article 356 (1) of the Criminal Code fall within the ambit of article 19 (2) of the Covenant.¹²

48. Reportedly, in the context of the 2020 elections, the authorities had committed serious human rights violations, some amounting to crimes against humanity, that remained unaddressed. In that context, calls for international sanctions against the authorities and State-owned enterprises were seen as one of the few non-violent ways to pressure them to stop their violent actions.

49. The source argues that, even if Mr. Kapshul had called for such sanctions or shared information with third parties that could impose them, his actions would have been protected under article 19 of the Covenant. As a result, Mr. Kapshul's continued detention is arbitrary under category II.

50. Reportedly, Mr. Kapshul was convicted under article 361-1 of the Criminal Code for being a member of Rabochy Ruch, designated by the State Security Committee as an extremist formation. The source argues that his conviction under that article amounted to a restriction of his freedom of association with others, as guaranteed by article 22 of the Covenant.

51. The source argues that article 361-1 lacks the necessary legal clarity required under article 9 (1) of the Covenant. It defines extremism by reference to Act No. 203-Z of 2007 on countering extremism, whose article 1 (1) reportedly provides an overly broad and imprecise definition of the term, listing 18 types of acts, including those relating to attacks on independence, sovereignty and public safety.

52. It further argues that the national anti-extremism laws lack precision and give the authorities broad discretion to restrict freedom of expression and other rights. Following the post-election legislative amendments in Belarus, such laws have reportedly been used increasingly to label dissenting opinions as extremist, indicating an intent to use them arbitrarily for political repression and human rights violations.

53. According to the source, acts that constitute the exercise of freedom of expression, peaceful assembly or association can be interpreted as attacks on such abstract concepts as independence or public safety and thus be classified as extremist, leading to criminal liability.

54. It notes that, under Act No. 203-Z, any sphere of human activity can be construed as extremist. Due to the broad definitions and the State's virtually unlimited authority, all forms of freedom of expression, peaceful assembly and association and civil society activities may fall under that definition. As at 27 September 2023, the Ministry of the Interior reportedly recognized 151 informal groups as extremist formations,¹³ all of which were reported to be

¹¹ *Likhovid v. Belarus* (CCPR/C/135/D/2703/2015), para. 7.3; and *Adamovich v. Belarus* (CCPR/C/133/D/2619/2015), para. 7.5.

¹² *Pietraroia v. Uruguay*, communication No. 44/1979, paras. 15 and 17; and *Park v. Republic of Korea* (CCPR/C/64/D/628/1995), paras. 2.2 and 10.3.

¹³ See <https://mvd.gov.by/ru/news/8642> (in Russian).

Belarusian civil society organizations, media outlets or subscribers to opposition social media accounts.

55. The source asserts that anyone sentenced under article 361-1 of the Criminal Code is detained without any legal basis within the meaning of article 9 (1) of the Covenant.

56. Furthermore, it submits that restricting Mr. Kapshul's right to freedom of association was unnecessary in a democratic society. As a member of Rabochy Ruch, Mr. Kapshul neither engaged in nor promoted violence but, rather, defended workers' rights and supported the human rights-based demands put forward by Rabochy Ruch.

57. Even if Mr. Kapshul had called for international sanctions or shared information with third parties that could use it to impose sanctions, those actions would have been a legitimate response to the alleged grave human rights violations. Several sanctions packages were introduced in reaction to the authorities' actions following the August 2020 elections,¹⁴ not specifically due to Mr. Kapshul's alleged calls for sanctions.

58. The source argues that the restriction was not proportionate to its legitimate aim, as the court's verdict did not show that Rabochy Ruch's actions had specifically harmed the country's economy or the authorities. It further contends that sentencing Mr. Kapshul to six years' imprisonment for alleged non-violent conduct was disproportionate, rendering his detention under article 361-1 of the Criminal Code arbitrary under category II.

59. The source submits that Mr. Kapshul was sentenced to three months' imprisonment under article 295 (2) of the Criminal Code for allegedly purchasing, transporting and storing two bullets. He had denied those charges and the court had convicted him without establishing the source or timing of the alleged purchase or presenting direct evidence linking him to the bullets.

60. Furthermore, even if he had possessed the bullets, he would already have served the three-month sentence by the time the trial started. Therefore, the alleged violation of article 295 (2) of the Criminal Code does not justify his continued detention for exercising his rights and freedoms under the Covenant.

c. Category III

61. The source submits that no judges in Belarus, including the judge in the court of first instance in Mr. Kapshul's case, are independent and impartial within the meaning of article 14 of the Covenant.¹⁵ It argues that there are no sufficient guarantees of the independence of judges at the legislative level in the country.

62. The source notes that, under Belarusian law, judges are appointed by the President for five years, with the possibility of indefinite reappointment. It recalls the Human Rights Committee's concern that such short-term appointments undermine the judicial security of tenure required by the Covenant.¹⁶

63. Moreover, the source argues that article 81 (3) of the Code on the Judiciary and the Status of Judges does not set out clear and objective criteria for the reappointment of judges and for determining the length of their subsequent terms in office.

64. The source submits that, under article 99 of the Code on the Judiciary and the Status of Judges, disciplinary sanctions may be imposed by the court president or the President of Belarus, who can do so without initiating disciplinary proceedings. In addition, the Code does not provide a mechanism to appeal the President's decisions.

65. The source recalls that the Covenant requires clear procedures and objective criteria for judges' remuneration.¹⁷ In Belarus, however, judges' salaries are reportedly set by

¹⁴ See <https://www.consilium.europa.eu/en/policies/sanctions-against-belarus/#Restrictive%20measures%20following%20the%202020%20Belarus%20presidential%20elections>.

¹⁵ Human Rights Committee, general comment No. 32 (2007), para. 19.

¹⁶ CCPR/C/BLR/CO/5, para. 39.

¹⁷ Human Rights Committee, general comment No. 32 (2007), para. 19.

presidential decree rather than by law, a practice that has raised concerns from the Human Rights Committee.¹⁸

66. The source submits that the role of the President of Belarus in judicial appointments has been criticized repeatedly by United Nations experts.¹⁹

67. The source argues that the combination of the above factors demonstrates the judges' lack of independence.

68. The source asserts that the judge in Mr. Kapshul's trial had a record of presiding over politically motivated cases and, due to dependence on the President, failed to act impartially. It argues that that violated article 14 of the Covenant and disregarded international human rights standards on freedom of expression and association.

69. The source submits that Mr. Kapshul was convicted under article 361-1 of the Criminal Code for participating in the creation of or being a member of an extremist formation.

70. It asserts that criminal liability for participation in an extremist formation was introduced only on 5 June 2021.²⁰ Therefore, Mr. Kapshul's involvement with Rabochy Ruch before that date was not punishable under article 361-1 of the Criminal Code. The court of first instance, however, used his activities prior to 5 June 2021 as evidence of membership, thereby applying the article retroactively.

71. The source argues that the authorities violated the prohibition on the retroactive application of criminal law by convicting Mr. Kapshul for membership in an extremist formation when Rabochy Ruch had not yet been designated as such. The State Security Committee had designated it as an extremist formation on 21 September 2021 but that decision had entered into force only on 18 October 2021. Since Mr. Kapshul was arrested on 24 September 2021, before the decision took effect, he could not have participated in the activities of Rabochy Ruch under its new status. Thus, the source asserts that he was wrongly convicted of membership in an extremist formation that did not have such status at the time of his arrest.

72. The source asserts that the court of first instance's judgment, which held that a formation's activity could be considered extremist even before it was officially designated as such, violated the principle of legal certainty. The interpretation by the court of first instance allowed it to apply article 361-1 of the Criminal Code retroactively, in violation of the principle of legal certainty.

73. The source submits that, on 21 September 2021, the State Security Committee designated Rabochy Ruch as an extremist formation, with the decision entering into force on 18 October 2021.

74. It argues that the authorities considered Mr. Kapshul to be a member of the initiative, which he did not deny during trial. State officials and the media had made affirmative statements about his guilt before the trial began on 9 November 2022.²¹ As a result, the principle of innocence was violated.

75. One day before Mr. Kapshul's arrest, the President of Belarus had reportedly commented on the Rabochy Ruch case, stating, "they [i.e. the defendants in the case, including Mr. Kapshul] will be jailed, and for a long time."²² Given the alleged dependence of judges on the President, it was highly unlikely that the court would rule against the President's instructions.

¹⁸ CCPR/C/BLR/CO/5, para. 39.

¹⁹ Ibid., paras. 39 and 40; E/CN.4/2001/65/Add.1, p. 5; A/HRC/50/58, para. 82; and A/HRC/52/68, para. 26. See also Office of the United Nations High Commissioner for Human Rights, "Belarus: Establishing independent judicial system should top the agenda for future reforms, says UN expert", press release, 26 October 2020.

²⁰ Human Rights Committee, general comment No. 32 (2007), para. 21.

²¹ See <https://www.youtube.com/watch?v=t31idFo3I6w> (in Russian).

²² See <https://belta.by/president/view/lukashenko-potreboval-ne-dopustit-padeniya-v-promyshlennosti-i-predupredil-rabotajuschih-na-zapad-461139-2021> (in Russian).

76. The source submits that Mr. Kapshul did not appear before the court of first instance as an innocent person. Instead, he was held in a glass cage during the whole trial.²³ Because of that, he was able to communicate with his lawyer only during breaks, while remaining in the cage and in the presence of a guard, who heard their communication.

d. Category V

77. The source submits that there are substantial reasons to believe that Mr. Kapshul is being detained for his affiliation with the Belarusian Independent Trade Union and Rabochy Ruch.

78. Since 2020, the authorities have reportedly carried out the targeted and systematic persecution of members of independent trade unions and of Rabochy Ruch. According to the source, that State policy of persecution has been confirmed by the President.²⁴

79. The source argues that, given the circumstances and Mr. Kapshul's peaceful exercise of his rights as guaranteed under the Covenant, his detention constitutes discrimination based on his political opinion and his role as an active member of an independent trade union, violating article 26 of the Covenant.

(b) Response from the Government

80. On 14 January 2025, the Working Group sent communications on the case to the Governments of Belarus and of the Russian Federation, in accordance with its regular communications procedure. In those communications, the Working Group requested the Governments to provide it with detailed information about the situation of Mr. Kapshul and to clarify the legal provisions justifying his continued detention and its compatibility with the obligations of the States involved under international human rights law and, in particular, under the treaties ratified by those States.

81. In a letter dated 17 March 2025, the Government of Belarus conveyed its response to the Working Group. In its response, the Government argued that the detention of Mr. Kapshul had been carried out in strict compliance with the domestic legislation on serious crimes. It argued that all the charges against him had been fully confirmed by evidence collected during the investigation into the criminal cases, including witness testimony. It further objected to the Working Group's consideration of the source's communication on the basis that it was politically motivated, claiming that that was clear from the communication's reference to an electoral context that the Government claimed had nothing to do with the charges brought against the convicted individual.

82. The Government of the Russian Federation submitted its response on 10 April 2025, long after the deadline. The Working Group could not accept that response as if it had been provided within the time limit. In accordance with paragraph 16 of its methods of work, the Working Group will render its opinion on the basis of all the information that it has obtained.

2. Discussion

83. In determining whether Mr. Kapshul's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.²⁵

²³ See <https://euroradio.fm/ru/politzaklyuchenny-aleksandr-kapshul-prekratil-golodovku-kotoruyu-derzhal-51-den> (in Russian).

²⁴ See <https://belta.by/president/view/lukashenko-o-nezavisimyh-profsojuzah-i-smi-nikogo-ne-bojus-nonikommu-ne-pozvolju-razrushit-stranu-499976-2022>; and <https://belta.by/president/view/lukashenko-potreboval-ne-dopustit-padenija-v-promyshlennosti-i-predupredil-rabotajuschih-na-zapad-461139-2021> (in Russian).

²⁵ A/HRC/19/57, para. 68.

(a) Category I**(i) Allegations against the Russian Federation**

84. In relation to the Russian Federation, the Working Group will consider whether there have been violations under category I, which concerns deprivation of liberty without a legal basis.

85. The source submits that Mr. Kapshul was detained by the Russian authorities without a proper legal basis. Specifically, the source alleges that he sought to flee Belarus on 22 September 2021, after mass detentions were reportedly conducted throughout Belarus against members of an organization (Rabochy Ruch), of which he was a member. Mr. Kapshul fled to the Russian Federation, as he intended to apply for asylum abroad. On 24 September 2021, he was detained in the Russian Federation by the Federal Security Service. He was reportedly not shown an arrest warrant and it is not clear that he was provided with the reasons for his arrest. In addition, the source submits that it is not clear whether Mr. Kapshul had access to a lawyer during his detention by the Russian Authorities. In its late reply, the Government of the Russian Federation chose not to dispute that allegation in any specific manner, other than to state that, on 24 September 2021, Mr. Kapshul had attempted to leave the territory of the Russian Federation through the Troebortnoye checkpoint in order to enter the territory of Ukraine and that he had been included in the list of persons whose entry into the Russian Federation was not permitted. It stated that Mr. Kapshul had been accompanied by a Russian lawyer during legal proceedings.

86. The Working Group notes that persons who are detained have the right to be promptly informed of the charges against them. That is inherent in article 9 of the Universal Declaration of Human Rights, article 9 (2) of the Covenant and principles 2 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group has previously stated that, for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke the legal basis and apply it to the circumstances of the case.²⁶ That is typically done through an arrest warrant or arrest order (or equivalent document).²⁷

87. Noting the lack of any detailed explanation from the Russian authorities as to whether Mr. Kapshul was provided with any arrest documentation or otherwise notified of the reasons for his arrest, the Working Group concludes that the source has established that allegation. On that basis, the Working Group considers that Mr. Kapshul's arrest and detention by the Russian authorities lacked a proper legal basis, in violation of article 9 of the Universal Declaration of Human Rights and article 9 (2) of the Covenant, and were arbitrary under category I.

(ii) Allegations against Belarus

88. The Working Group notes the source's submission that Mr. Kapshul's pretrial detention, which lasted from 24 September 2021 to 17 February 2023, was based solely on the gravity of the charges against him and that alternatives to pretrial detention were not considered in any assessments of his ongoing pretrial detention. That was not specifically refuted by the Government in its response.

89. In that respect, the Working Group recalls that it is a well-established norm of international law that pretrial detention is to be the exception and not the rule and that it should be ordered for as short a time as possible.²⁸ Article 9 (3) of the Covenant provides that it is not to be the general rule that persons awaiting trial be detained but that release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings. It follows that liberty is recognized as a principle and detention as an exception in the interests

²⁶ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

²⁷ Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will typically not be available.

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

of justice. Moreover, although the severity of the sentence faced is a relevant element in the assessment of the risk of absconding or reoffending, the need to continue the deprivation of liberty cannot be assessed from that purely abstract point of view, taking into consideration only the gravity of the offence and using a stereotypic formula without addressing specific facts or considering alternative preventive measures. The Working Group recalls the Human Rights Committee's view that pretrial detention should be an exception and as short as possible and must be based on an individualized determination that it is reasonable and necessary. Courts must examine whether alternatives to pretrial detention would render detention unnecessary in the particular case.²⁹

90. Noting the lack of engagement by Belarus on the specific allegation, the Working Group considers that, by failing to address specific facts or consider alternative preventive measures and by relying essentially on the gravity of the charges, the authorities have failed to properly justify Mr. Kapshul's pretrial detention, which lasted approximately 17 months. The Working Group finds his detention to have been in violation of article 9 (3) of the Covenant and article 9 of the Universal Declaration of Human Rights.

91. The source submits that Mr. Kapshul was not brought before a judge until around a year after his detention began. Belarus does not provide any specific response on that point.

92. Article 9 (3) of the Covenant requires that anyone arrested on a criminal charge be brought promptly before a judge. The Human Rights Committee states that 48 hours is ordinarily sufficient to meet that requirement and that any delay beyond that must be exceptional and justified under the circumstances.³⁰

93. In the present case, Mr. Kapshul was arrested on 24 September 2021 but was not brought before a judge until 9 November 2022. No explanation has been provided for that extended period without a judicial hearing. The Working Group considers that such a delay is contrary to article 9 (3) of the Covenant.

94. The Working Group concludes that the detention of Mr. Kapshul by Belarus was arbitrary, falling under category I.

(b) Category II

95. The source submits that Mr. Kapshul's conviction under article 356 (1) of the Criminal Code was linked to his activities monitoring the circumvention of international sanctions imposed on Belarusian State-owned enterprises, which qualifies under category II. The Government of Belarus does not specifically address those allegations.

96. The source submits that Mr. Kapshul's arrest for high treason was linked to his calls for sanctions against certain Belarusian authorities in response to serious human rights violations, some of which were believed to amount to crimes against humanity. It argues that calls for sanctions have become one of the few non-violent ways to pressure the authorities to stop their violent actions and that there have been calls for international sanctions against the authorities and State-owned enterprises to end the alleged widespread human rights violations.

97. The source further argues that, even if Mr. Kapshul had called for such sanctions or shared information with third parties that could impose them, his actions would have been protected under article 19 of the Covenant.

98. The source contends that he was convicted under article 361-1 of the Criminal Code for being a member of Rabochy Ruch, a trade union that was later designated by the State Security Committee as an extremist formation. The source argues that Mr. Kapshul's conviction under that article amounted to a restriction of his freedom of association as guaranteed under article 22 of the Covenant.

99. The source further takes issue with the broad categorization of extremist activities under article 361-1 of the Criminal Code. It contends that Act No. 203-Z of 2007 on countering extremism, to which the Criminal Code refers for the definition of extremism, is

²⁹ Human Rights Committee, general comment No. 35 (2014), para. 38.

³⁰ *Ibid.*, paras. 32 and 33.

too broad. It notes that article 1 (1) of that Act establishes an extremely broad definition of the term “extremism (extremist activity)”, which lacks sufficient precision and includes 18 possible types of acts, including planning, organizing, preparing and committing attacks on the independence of the country, territorial integrity, sovereignty, the foundations of the constitutional system and public safety. The source argues that such a broad definition categorizes virtually any sphere of human activity as an extremist one.

100. The source further argues that the broad definitions in Belarusian legislation allow the State to label all forms of freedom of expression, assembly and association and civil society activities as extremist. It cites statistics from the Ministry of the Interior showing that, by 27 September 2023, 151 informal groups, including civil society organizations, media outlets and opposition social media followers, had been classified as extremist formations.³¹

101. It also argues that calling for sanctions against Belarusian authorities because of their alleged brutal crackdown on protesters was a legitimate response to the alleged violations of rights by the Government.

102. For its part, even though the Government of Belarus authored a response, it elected not to challenge those allegations in detail in the response. It contended only that the allegations were politically motivated and therefore should not be considered by the Working Group and that the alleged arbitrary detention under category III was legitimate as it was in line with domestic laws. The Government therefore chose not to demonstrate the compatibility of those domestic laws with international human rights standards.

103. Regarding the treason charge, the Working Group notes that the charge was based on a call by Mr. Kapshul for sanctions against public authorities suspected of committing post-election rights violations in Belarus. The Government did not challenge that allegation.

104. The Working Group notes that freedom of opinion and freedom of expression, as outlined in article 19 of the Covenant, are indispensable for the full development of the person and the foundation of any free and democratic society. That freedom includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, including political opinions. Permissible restrictions on that right may be made, however, to protect the rights or reputations of others, national security, public order or public health and morals. The Human Rights Committee has clarified that such restrictions must only be applied for the specified purposes and must directly relate to the need for those restrictions.³² In addition, article 21 of the Covenant permits restrictions on the right of assembly on the same grounds.

105. Equally, the Working Group recalls the principle enunciated in paragraph 5 (p) (i) of Human Rights Council resolution 12/16 in which it called upon States to refrain from imposing restrictions that were not consistent with article 19 (3) of the Covenant. That included restrictions on discussing government policies, engaging in political debate, reporting on human rights, participating in peaceful demonstrations or political activities, including for peace or democracy, and expressing opinion and dissent, religion or belief.

106. The Government, in its abbreviated late response, has not invoked any of the permitted restrictions. Even if the domestic law on treason could be said to have justified detention in the interest of national security, the Working Group notes that no response has been provided to demonstrate that its application in the present case was consistent with international human rights standards.

107. While freedom of expression and freedom of assembly are not absolute rights, when a State Party imposes restrictions on the exercise of freedom of expression, those may not put in jeopardy the right itself. Moreover, article 19 (3) may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.³³ In the present case, Mr. Kapshul was given a custodial sentence for simply exercising his freedom of expression by calling for sanctions against public

³¹ See <https://mvd.gov.by/ru/news/8642> (in Russian).

³² Human Rights Committee, general comment No. 34 (2011), paras. 2, 11 and 22.

³³ *Ibid.*, paras. 21 and 23.

authorities whom he deemed responsible for gross violations of human rights. The detention is therefore unjustifiable because it muzzled advocacy for human rights.

108. The Working Group recalls paragraph 2 of Human Rights Council resolution 24/5, in which the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others. The Working Group further recalls its opinion concerning Sergey Tihanovski (Belarus),³⁴ where the detainee was a leader of an initiative that nominated a candidate to challenge the incumbent President of Belarus in the 2020 general elections.

109. Considering the uncontested allegations in the present case, the Working Group can draw parallels between the public pronouncements by the President in the Tihanovski case and the President's pronouncements against the organization that Mr. Kapshul used to belong to, as set out above, in which the President expressed the Government's intent to imprison him.

110. Turning specifically to the nature of the legislation designating trade unions and protest movements as extremist organizations and defining what amounts to extremism, the Working Group recalls its opinion concerning Raman Pratasevich (Belarus),³⁵ in which it noted that the Special Rapporteur on the situation of human rights in Belarus had raised concerns about the legislation on extremism in Belarus. In particular, the Special Rapporteur had expressed concern that the legislation on countering extremism contained unclear definitions and imprecise procedures for determining what was considered to be extremist, thus raising concerns about the inhibiting effect of the use of such legislation on freedom of expression and freedom of the media.³⁶

111. The Working Group further recalls that the Human Rights Committee has clarified that protection under article 21 of the Covenant extends to participating in an assembly by organizing or taking part in a gathering of persons for a purpose such as expressing oneself, conveying a position on a particular issue or exchanging ideas.³⁷ It also notes the source's argument in relation to Mr. Kapshul's conviction for possessing bullets that, even if he had possessed the bullets, he would have served the three-month prison term by the time the trial started.

112. In the absence of any arguments from the Government in that regard, the Working Group finds that Mr. Kapshul's detention was, indeed, based solely on his trade unionist activities and his exercising of the freedoms of expression and assembly, following the pattern identified by the Special Rapporteur on the situation of human rights in Belarus, as noted in the Pratasevich case.

113. The Working Group finds that Mr. Kapshul's arrest and detention resulted from the exercise of his rights as protected by articles 19 (2), 21 and 22 (1) of the Covenant and articles 19, 20 and 20 (1) of the Universal Declaration of Human Rights and fall under category II.

114. The Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

(c) Category III

115. Given its finding that Mr. Kapshul's deprivation of liberty is arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. Nevertheless, as the trial did take place and Mr. Kapshul was convicted, the Working Group will proceed with the examination of the source's submissions concerning the denial of his fair trial rights.

³⁴ Opinion No. 23/2021, para. 85.

³⁵ Opinion No. 50/2021, para. 80.

³⁶ A/74/196, para. 54.

³⁷ Human Rights Committee, general comment No. 37 (2020), para. 12.

116. The source alleges that Mr. Kapshul was denied access to a lawyer until he was transferred to Pretrial Detention Centre No. 3 in approximately October 2021. The Government of Belarus has not addressed that allegation.

117. Article 14 (3) (b) of the Covenant guarantees the right to persons charged with a criminal offence to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. Principle 18 (3) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 61 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) stipulate that defendants must have access to legal counsel without delay.

118. Furthermore, the Working Group is concerned that, when Mr. Kapshul was provided access to legal representation, no confidentiality was guaranteed during his communication with his lawyer. The Working Group reiterates that respect for lawyer-client confidentiality is an important aspect of defence rights. The right to confidential communication between a defendant and legal counsel is a fundamental element of a fair trial.³⁸ Without private consultations, legal assistance loses its effectiveness. The Human Rights Committee has affirmed that counsel should be able to meet with clients in full confidentiality and without interference.³⁹ Similarly, under principle 8 of the Basic Principles on the Role of Lawyers, all arrested, detained or imprisoned persons are to be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality.

119. In the absence of any explanation to the contrary by the Government, the Working Group concludes that Mr. Kapshul was deprived of effective legal representation, contrary to article 14 (3) (b) of the Covenant.

120. The Working Group considers legal representation to be a core facet of the right to a fair trial. Legal assistance should be available at all stages of criminal proceedings, namely during the pretrial, trial and appellate stages, to ensure compliance with fair trial guarantees. Any denial of access to lawyers substantially undermines and compromises accused individuals' capacity to defend themselves in any judicial proceedings. The Working Group thus finds that Mr. Kapshul was denied the right to a lawyer immediately after his arrest, in violation of article 14 (3) (b) of the Covenant and of his right to a fair trial under article 11 of the Universal Declaration of Human Rights.

121. The source submits that Mr. Kapshul was not tried by an independent and impartial tribunal and that he did not have a public hearing. In its reply, the Government merely asserts that the court concerned examined Mr. Kapshul's case objectively.

122. The Working Group recalls that an independent and impartial tribunal is essential for the right to a fair hearing, as enshrined in article 10 of the Universal Declaration of Human Rights and article 14 of the Covenant. The separation of powers between the political organs of the Government and the judiciary and the safeguarding of the independence of the judiciary have assumed growing importance in Belarus. The Working Group refers to the report of the Special Rapporteur on the situation of human rights in Belarus,⁴⁰ pointing to the systemic restrictions on judicial independence. Judges in Belarus are reportedly expected to implement the requests of the Prosecutor General, in alignment with the executive's repressive policy. Judges reportedly often conduct prosecution trials, denying defendants their right to the presumption of innocence or to present witnesses in their defence. In the context of arrests and deprivation of liberty, consistent testimonies about delays in obtaining access to a lawyer and to other legal and procedural safeguards increase concerns.⁴¹

123. In view of the above findings and of its related earlier jurisprudence⁴² and the lack of a response specifically addressing the issue of an independent and impartial tribunal, the

³⁸ A/HRC/54/51, para. 50.

³⁹ Human Rights Committee, general comment No. 32 (2007), para. 34.

⁴⁰ A/HRC/47/49.

⁴¹ Ibid., para. 54.

⁴² See opinions No. 64/2023 and No. 5/2024.

Working Group concludes that Mr. Kapshul was not tried by such a tribunal, contrary to article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.

124. The Working Group notes the source's submission, unrefuted by the Government of Belarus, that one day before the arrest of Mr. Kapshul, the President, when referring to the Rabochy Ruch case, had stated that the defendants would be jailed, and for a long time. The Working Group wishes to emphasize that the presumption of innocence is one of the fundamental principles of a fair trial, and thus non-derogable,⁴³ and guarantees that no guilt can be presumed until the charge has been proved beyond a reasonable doubt. The Human Rights Committee has stated that public authorities should generally refrain from prejudging the outcome of a trial. Similarly, defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they could be dangerous criminals.⁴⁴ In the present case, the Working Group, in the absence of any explanation to the contrary by the Government, considers that Mr. Kapshul's right to the presumption of innocence under article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant was violated by accusatory statements made by the highest officials. Furthermore, the display of Mr. Kapshul in a cage during his trial may have projected a detrimental image to the judges tasked with determining his criminal responsibility, portraying him as so dangerous that he warranted such stringent physical confinement and amounting to a violation of the presumption of his innocence.

125. The source argues that the prosecution of Mr. Kapshul for being a member of a proscribed organization violated the rule against retroactivity, as the Court referred to periods prior to the organization's proscription and because the listing did not come into effect until after the period related to his conviction.

126. The Working Group recalls that, under article 15 (1) of the Covenant, no one should be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence, under national or international law, at the time that it was committed.

127. The Court's reference to Mr. Kapshul's activities in relation to Rabochy Ruch prior to the listing's coming into effect as evidence of his membership does not, per se, violate the rule against non-retroactivity. The rule against being convicted for conduct preceding the entry into law of the relevant provision does not prevent the use of evidence arising from activities predating that period to prove the accused's participation during the period in which the law was in effect. Noting the lack of a response on that specific point from the authorities, however, the Working Group considers that the finding that Mr. Kapshul was guilty of membership in an extremist formation during the period in which Rabochy Ruch did not have such status was a violation of the rule against retroactivity. The Working Group has previously held that the principle of legality, in general, ensures that no defendant may be punished retroactively and that no one should be convicted under a penal law that is passed retroactively to criminalize a previous act or omission.⁴⁵ In that way, Belarus violated article 15 of the Covenant and article 11 (2) of the Universal Declaration of Human Rights.

128. In view of the above, the Working Group considers that the violations of Mr. Kapshul's right to a fair trial were of such gravity as to give his deprivation of liberty an arbitrary character, falling under category III.

(d) Category V

129. The source alleges that Mr. Kapshul's arrest and detention were based solely on his political opinions. It further notes that Mr. Kapshul's family member was also persecuted on the same basis and sentenced under the Code of Administrative Offences. The Government of Belarus has not disputed that claim other than by broadly stating that the detention was in compliance with the domestic law of Belarus.

⁴³ Human Rights Committee, general comment No. 32 (2007), para. 6.

⁴⁴ Ibid., para. 30.

⁴⁵ Opinions No. 20/2017, para. 49; No. 51/2017, para. 55; No. 56/2017, para. 70; No. 57/2017, para. 64; and No. 88/2017, para. 47.

130. The Working Group recalls the observations of the High Commissioner in her report on the situation of human rights in Belarus in the context of the 2020 presidential election,⁴⁶ in which she noted that criminal charges were increasingly being brought in the context of protests. She also noted that, according to official sources, between 9 August and 30 November 2020, more than 1,000 criminal cases had been opened against peaceful protesters, opposition members and supporters, journalists, human rights defenders, lawyers, peaceful protesters and persons critical of the Government.⁴⁷

131. The Working Group also notes the failure of the Government to respond to the source's allegation regarding the comments made by the President in the context of Mr. Kapshul's arrest. Mindful of those observations, of those cited above and of its own findings under category II, the Working Group finds that Mr. Kapshul's arrest and detention were based on discrimination on the grounds of his political opinions, in violation of article 26 of the Covenant and article 7 of the Universal Declaration of Human Rights. His detention is therefore arbitrary under category V.

132. The Working Group refers the present case to the Special Rapporteur on the situation of human rights in Belarus.

(e) Concluding remarks

133. The Working Group is concerned to hear of Mr. Kapshul's hunger strikes in protest at the conditions of his detention and the proceedings against him. The Government of Belarus is reminded of its obligations under article 10 of the Covenant, which provides that all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person.

3. Disposition

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

Regarding the Russian Federation:

The deprivation of liberty of Aliaksandr Kapshul, being in contravention of article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, is arbitrary and falls within category I.

Regarding Belarus:

The deprivation of liberty of Aliaksandr Kapshul, being in contravention of articles 9, 10, 11, 19, 20 and 21 of the Universal Declaration of Human Rights and of articles 7, 9, 14, 15, 19, 22 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

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

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

137. The Working Group urges the Governments to ensure full and independent investigations of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Kapshul and to take appropriate measures against those responsible for the violation of his rights.

138. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights in Belarus, the

⁴⁶ See [A/HRC/46/4](#).

⁴⁷ Ibid., para. 43.

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

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

4. Follow-up procedure

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

- (a) Whether Mr. Kapshul has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Kapshul;
- (c) Whether an investigation has been conducted into the violation of Mr. Kapshul's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Belarus and of the Russian Federation with their international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

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

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

143. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.⁴⁸

[Adopted on 10 April 2025]

⁴⁸ Human Rights Council resolution 51/8, paras. 6 and 9.