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## **International Centre for Trade Union Rights**

*Centro Internacional para los Derechos Sindicales  
Centre International pour les Droits Syndicaux*

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ICTUR was founded to  
defend and extend trade union rights and  
to raise awareness of these rights and their violations  
around the world

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### CC:

Clément Nyaletsossi Voule, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association

**November 2018**

Dear President,

The International Centre for Trade Union Rights is writing to express concerns about the recent convictions of Henadz Fiadynich and Ihar Komlik, respectively the chairperson and chief accountant of the Radio and Electronics Industry Workers Union (REPAM).

ICTUR understands that both Fiadynich and Komlik were convicted in August this year for tax evasion, under Article 243(2) of the Criminal Code, following raids on the offices of REPAM and the Belarusian Independent Trade Union (BNP) in 2017. It is understood that on 9 November 2018 their sentences were upheld and that they are ordered to pay a fine of BYN 47,560 (over US\$23,000), as well as court expenses and administrative fines, and are each subject to a four-year suspended imprisonment and banned from holding senior positions for five years.

ICTUR notes that the charges against them were based on their alleged illegal use of international funds, but appear to be politically motivated. Fiadynich and Komlik believe that they were targeted in retaliation for their trade union activities – in particular their involvement in organising protest actions against the 2017 Presidential Decree No. 3 (“On the Prevention of Social Parasitism”), which introduced a financial penalty on the unemployed and partially employed. According to reports of their trial, some witnesses claimed to have been put under pressure to incriminate the accused.

ICTUR appreciates that trade unionists, like all members of society, are obliged to comply with the law, and that trade unionists do not enjoy immunity from prosecution for tax evasion. We recognise also the concerns expressed by a number of governments concerning the sponsorship by foreign donors of political activities within their borders, particularly where such funding is undeclared. However, international human rights law expressly protects the right of trade unionists and civil society organisations to receive aid, and we urge the authorities to ensure that the protection of the domestic legal order also complies with the requirements of international human rights law.

To this end, ICTUR wishes to again remind the Government of the UN Working Group on Arbitrary Detention's conclusions, that Belarus is in breach of its international obligations by applying these provisions of the Criminal Code against civil society representatives (*Opinion adopted by the Working Group on Arbitrary Detention at its sixty-fourth session, 27–31 August 2012, No. 39/2012, para. 50*). The Working Group examined similar charges brought in 2011 against Ales Bialiatski, Chairman of the Human Rights Centre Viasna, who was sentenced to four and a half years in prison. The Working Group concluded that Mr. Bialiatski's detention was arbitrary, and that the fund-raising he had undertaken was in conformity with Article 20(1) of the Universal Declaration of Human Rights and with Article 22 of the International Covenant on Civil and Political Rights. These conclusions were subsequently confirmed by the UN Human Rights Committee (*Human Rights Committee Communication No. 2165/2012, Views adopted by the Committee at its 112th session, 7–31 October 2014*).

The International Labour Organisation (ILO) has further called on the Belarusian authorities to amend Presidential Decree No. 24 concerning the use of foreign gratuitous aid since it prohibits the use of foreign gratuitous aid for purposes of carrying out public meetings, rallies, street processions, demonstrations, pickets, strikes and the running of seminars and other forms of public events, and thus violates Belarus' obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (See *Observation of the Committee of Experts on the Application of Conventions and Recommendations (Belarus)* – adopted 2016, published 106th ILC session, 2017). The ILO has also urged the government to amend Presidential Decree No. 2, which imposes registration requirements on trade unions. Both these issues have been repeatedly brought to the government's attention since being raised in the recommendations of the ILO Commission of Inquiry in July 2004.

**ICTUR calls on the government to take steps to ensure that the convictions of Ihar Komlik and Henadz Fiadynich are re-examined so as to give due recognition to Belarus' international commitments, or are overturned. We call for the authorities to adhere to the ILO's recommendations, amend the law as necessary to bring it into conformity with the ILO core conventions, and to take undertake any further measures necessary to ensure the fundamental freedoms of workers to join and form unions and to take action in defence of their interests.**

Yours faithfully,



Daniel Blackburn, Director