



Submission by Human Rights Watch
to the United Nations Human Rights Committee
on follow-up to the concluding observations on the fifth periodic report of Belarus
137th Session

December 2022

Human Rights Watch welcomes the opportunity to provide input to the Human Rights Committee (“the Committee”) in the follow-up procedure on the implementation of the Committee’s concluding observations in respect of the fifth periodic report of Belarus.

This submission provides information on implementation of paragraphs 28 and 53 of the Committee’s concluding observations to Belarus (CCPR/C/BLR/CO/5) specifically, Human Rights Watch’s key concerns with respect to the Belarus authorities’ continued failure to take steps towards the abolition of the death penalty and systematic violations of the right to peaceful assembly. We hope it will inform the Committee’s assessment of the Belarus government’s progress with the implementation of the International Covenant on Civil and Political Rights (“ICCPR”).

For additional information, please see Human Rights Watch’s country page on Belarus: <https://www.hrw.org/europe/central-asia/belarus>

Death Penalty (arts. 6, 7)

Despite the Committee’s continuous recommendations to abolish the death penalty, Belarus remains the only country in Europe and Central Asia to impose and carry out the capital punishment.¹

In 2019, Belarusian courts sentenced Aliaksandr Asipovich and Viktor Paulau to death. Asipovich was reportedly executed later that year and Paulau in 2021, according to his sister — despite

¹ Human Rights Watch, *World Report 2019* (New York: Human Rights Watch, 2019), Belarus chapter, <https://www.hrw.org/world-report/2019/country-chapters/belarus>; *World Report 2020* (New York: Human Rights Watch, 2020), Belarus chapter, <https://www.hrw.org/world-report/2020/country-chapters/belarus>; *World Report 2021* (New York: Human Rights Watch, 2021), Belarus chapter, <https://www.hrw.org/world-report/2021/country-chapters/belarus>; *World Report 2022* (New York: Human Rights Watch, 2022), Belarus chapter, <https://www.hrw.org/world-report/2022/country-chapters/belarus>.

the Human Rights Committee's request for interim measures, namely, to suspend his capital punishment for consideration of his case.² In January 2020, a court upheld the verdict of Viktar Syarhel who had been sentenced to death in 2019.³ His fate remains unknown. Following the presidential "act of clemency" in April 2020, the death sentences of two brothers, Stanislau Kostseu and Illia Kostseu, who had been on a death row since January 2020, were replaced with life imprisonment. Viktar Skrundzik's 2020 death sentence was first overturned on appeal but then reinstated in 2021, to become final.⁴ He was reportedly executed.

In many cases, such as Paulau's and Skrundzik's, authorities deliberately took months to inform families of the execution and refused to disclose the place of burial, causing additional suffering.

In May 2022, a set of amendments to articles 59 and 67 of the Criminal Code entered into force, introducing the death penalty for terrorist attacks not resulting in death and attempting a terrorist attack or an assassination of a foreign official (part 2, article 124, part 3, article 126, part 3, article 289, part 2, article 359).⁵ In December 2022, the parliament's lower chamber adopted in first reading new amendments to the Criminal Code, extending the death penalty to treason committed by a state official or a military serviceman.⁶

Belarus thus failed to implement the recommendations of the Committee and abolish the death penalty in practice and in law.

Human Rights Watch Recommendations to Belarus:

- *Adopt a roadmap with the Council of Europe to a moratorium on capital punishment and establish the moratorium on the death penalty with a view to its permanent abolition.*
- *Disclose information on all the executions conducted, including informing the families on the time of execution and place of burial, and continue doing so in a timely manner until the full abolition of death penalty.*

² *World Report 2022*, Belarus chapter, <https://www.hrw.org/world-report/2022/country-chapters/belarus>; OHCHR, *Belarus: UN Human Rights Committee condemns execution*, March 11, 2022, <https://www.ohchr.org/en/press-releases/2022/03/belarus-un-human-rights-committee-condemns-execution> (accessed 8 December 2022).

³ "The Supreme Court considered the appeal in the Luninets child murder case" ("Верховный Суд Республики Беларусь рассмотрел в апелляционном порядке уголовное дело об убийстве ребенка в Лунинце"), Belarus Supreme Court press service, January 31, 2020, https://www.court.gov.by/ru/justice/press_office/39f5b9af0f494973.html (accessed December 9, 2022).

⁴ "The Supreme Court rejected appeal by Viktar Skrundzik sentenced to death penalty" ("Вярхоўны суд не задаволіў апеляцыйную скаргу асуджанага да смяротнага пакарання Віктара Скрундзіка"), *Viasna*, May 4, 2021, <https://dp.spring96.org/be/news/103207> (accessed December 9, 2022).

⁵ Law on Amending the Criminal Code, National legal Internet portal of the Republic of Belarus, No. 165-Z, 2022, https://pravo.by/upload/docs/op/H12200165_1652821200.pdf (accessed December 9, 2022).

⁶ "Andrey Poluda: Authorities still consider death penalty a deterrent" ("Андрей Полуда: Власти по-прежнему считают наличие смертной казни сдерживающим фактором"), *Viasna*, December 7, 2022, <https://dp.spring96.org/ru/news/110075> (accessed December 9, 2022).

Freedom of Assembly (arts. 6, 7, 9, 10, 14, 19, 21)

Since the adoption of Concluding Observations in respect of Belarus in 2018, authorities introduced further legislative restrictions on assembly rights. They also viciously cracked down on their perceived opponents' attempts to exercise peaceful assembly rights, resorting to harassment, intimidation, arbitrary detentions, administrative and criminal prosecutions, use of excessive force, ill-treatment and torture, media and internet shutdowns⁷ and liquidation of non-governmental organizations.

Legislative Amendments undermining Freedom of Assembly

In March 2021, the new Code of Administrative Offences entered into force. Fines for assembly violations increased significantly,⁸ and compulsory labor was introduced as an alternative punishment. In addition, crowdfunding for administrative fines imposed in relation to assemblies became a prosecutable offense.⁹

In April 2021, the parliament also amended the Mass Events Act. A selective notification procedure was replaced by a blanket authorization procedure with "all mass events to be conducted exclusively based on local authorities' permission."¹⁰ Journalists are now banned from live coverage of "unauthorized" protests. Sharing information about rallies before their approval is also prohibited. Additionally, Mass Events Act now requires political parties and civil society groups to denounce calls to unapproved rallies by their leaders.¹¹

Governmental Crackdown on Peaceful Protests

From May through July 2020, in the run-up to the August presidential election, Belarusian authorities arbitrarily detained hundreds of peaceful protesters across the country citing "participation in unsanctioned public gatherings." Courts sentenced many to up to 25 days in

⁷ "Internet Disruption in Belarus," Human Rights dispatch, August 11, 2020, <https://www.hrw.org/news/2020/08/11/internet-disruption-belarus>; "Belarus: Internet Disruptions, Online Censorship," Human Rights Watch news release, August 28, 2020, <https://www.hrw.org/news/2020/08/28/belarus-internet-disruptions-online-censorship>.

⁸ The maximum fine amount for participants increased from 30 base amounts to 100, for organizers from 40 base amounts to 150. For a repeat offense the upper limit increased from 50 to 200 base amounts. One base amount is currently equivalent to about US\$13.

⁹ Code of Administrative Offenses, National Legal Internet Portal of the Republic of Belarus, No. 91-Z, 2021, <https://etalonline.by/document/?regnum=hk2100091>, Art. 24.23; Code of Administrative Offenses, National Legal Internet Portal of the Republic of Belarus, No. 194-Z, 2003, <https://etalonline.by/document/?regnum=hk0300194>, Art. 23.24.

¹⁰ "Law on Mass Events Signed" ("*Подписан Закон о массовых мероприятиях*"), President of the Republic of Belarus, May 24, 2021, <https://president.gov.by/ru/events/podpisan-zakon-o-massovyh-meropriyatiyah> (accessed December 9, 2022).

¹¹ Law on Amending the Law on Mass Events, National Legal Internet Portal of the Republic of Belarus, No. 108-Z, 2021, https://pravo.by/upload/docs/op/H12100108_1621890000.pdf (accessed December 9, 2022).

jail despite the ongoing pandemic and increased risk of virus transmission in confined spaces.¹² Some received multiple, subsequent short term arrest sentences, apparently with the view of preventing them from participation in the election campaigns.¹³

Following the rigged presidential vote, mass protests erupted across Belarus. In response, authorities arbitrarily detained and subjected to cruel and degrading treatment thousands of peaceful protesters. The government refused to publish the data on the number of people prosecuted in relation to alleged violations of the regulations on public assembly fearing this information could be used to “discredit” Belarus authorities, according to a Ministry of Internal Affairs’ reply to a request published on a petitions website.¹⁴ The Special Rapporteur on the situation of human rights in Belarus estimates that from April 1, 2020, to March 31, 2021, more than 35,000 people had been arbitrarily detained for exercising assembly rights, most during the largely peaceful protests.¹⁵

According to the database on political prosecutions maintained by Viasna Human Rights Center, at least 11,320 protocols were filed since August 2020 over “violation of the procedure for organizing or conducting mass events” alone (Code of Administrative Offences, article 24.23). The majority of cases resulted in short term arrests.¹⁶ Authorities have been also frequently using other charges such as “disobeying a police order.”¹⁷

As of December 2022, political prisoners list maintained by Viasna includes 153 people criminally prosecuted for “participation in mass riots” and 772 for “mass disorder” since 2020.¹⁸

Human Rights Watch documented the excessive use of force against protesters in the days following the election, including the use of special equipment such as stun grenades, rubber bullets, and tear gas against the large numbers of people who gathered in Minsk and several other Belarusian cities.¹⁹ Riot police detained almost 7,000 protesters and bystanders over four

¹² “Belarus: Activists, Journalists Jailed as Election Looms,” Human Rights Watch news release, May 22, 2020, <https://www.hrw.org/news/2020/05/22/belarus-activists-journalists-jailed-election-looms>.

¹³ “Belarus: Crackdown on Political Activists, Journalists,” Human Rights Watch news release, July 30, 2020, <https://www.hrw.org/news/2020/07/30/belarus-crackdown-political-activists-journalists>.

¹⁴ “Statistics on violations of Mass Events Law” (“Статистика нарушения Закона «О массовых мероприятиях в Республике Беларусь») petition, *Petitions.by*, <https://petitionsby.site/petitions/5087> (accessed December 9, 2022).

¹⁵ OHCHR, *Over the Past Year, More than 35,000 People Have Been Arbitrarily Detained in Belarus, Special Rapporteur on Belarus Tells Human Rights Council*, July, 5, 2021, <https://www.ohchr.org/en/2021/07/over-past-year-more-35000-people-have-been-arbitrarily-detained-belarus-special-rapporteur> (accessed 9 December, 2022).

¹⁶ “Administrative prosecution” database, *Viasna*, <https://spring96.org/persecution> (accessed December 7, 2022).

¹⁷ “Belarus: Crackdown on Political Activists, Journalists,” Human Rights Watch news release, July 30, 2020, <https://www.hrw.org/news/2020/07/30/belarus-crackdown-political-activists-journalists>.

¹⁸ “Political prisoners list,” *Viasna*, <https://prisoners.spring96.org/ru/table> (accessed December 7, 2022).

¹⁹ “Belarus: Violence, Abuse in Response to Election Protests,” Human Rights Watch news release, August 11, 2020, <https://www.hrw.org/news/2020/08/11/belarus-violence-abuse-response-election-protests>.

days, holding them all in inhuman and degrading conditions, and torturing and otherwise ill-treating hundreds. At least three protesters died in August as a result of police actions.

Former detainees described torture and inhuman and degrading treatment, with an apparent aim of punishing them for their participation in the protests. Seven male and two female detainees interviewed by Human Rights Watch said riot police officers threatened them with rape. Human Rights Watch documented four cases in which police cut or ripped male detainees' clothing in the buttocks' area to reinforce the threat. One of these men said a police officer subsequently raped him. Detainees were beaten and humiliated, kept for hours in stress positions, in overcrowded suffocating cells and buses, denied medical assistance and essential medication, food, water, sanitary napkins, toilet paper and access to the toilet. Some had had serious injuries, including broken bones, cracked teeth, skin wounds, electrical burns, concussions or kidney damage but received no medical attention.²⁰

Law enforcement officers, at times plain-clothed, continued arbitrary arrests, beatings and other ill-treatment of peaceful protesters throughout continuous mass gatherings in September²¹ and November 2020²².

Belarusian authorities also subjected peaceful protesters to other forms of pressure such as threatening parents who took part in peaceful protests with loss of custody over their children,²³ as well as fines and temporary loss of custody if their children participated in the protests. Authorities also threatened students with expulsion from universities.

Authorities failed to conduct effective investigation into well-documented cases of torture and other ill-treatment of peaceful protesters by law enforcement officers in August 2020 following the rigged presidential vote. Moreover, several of those who filed complaints then faced threats of groundless criminal charges.²⁴

Belarusian authorities viciously targeted those protesting or otherwise showing disagreement with Russia's war in Ukraine and Belarus' decision to allow Russia to use its territory to deploy

²⁰ "Belarus: Systematic Beatings, Torture of Protesters," Human Rights Watch news release, September 15, 2020, <https://www.hrw.org/news/2020/09/15/belarus-systematic-beatings-torture-protesters>; Tanya Lokshina (Human Rights Watch), "A carpet of bodies: one woman's ordeal in detention in Belarus," commentary, *openDemocracy*, August 18, 2020, <https://www.hrw.org/news/2020/08/18/carpet-bodies-one-womans-ordeal-detention-belarus>.

²¹ "Police Abuse Continues in Belarus," Human Rights dispatch, September 21, 2020, <https://www.hrw.org/news/2020/09/21/police-abuse-continues-belarus>.

²² "Crackdown on Peaceful Protesters Escalates in Belarus," Human Rights dispatch, November 9, 2020, <https://www.hrw.org/news/2020/11/09/crackdown-peaceful-protesters-escalates-belarus>.

²³ "Belarus Uses Children to Pressure Dissenting Parents," Human Rights dispatch, October 8, 2020, <https://www.hrw.org/news/2020/10/08/belarus-uses-children-pressure-dissenting-parents>.

²⁴ Organization for Security and Co-operation in Europe, "OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus," 5 November 2020, <https://www.osce.org/files/f/documents/2/b/469539.pdf> (accessed December 8, 2022).

forces and launch missile attacks, detaining hundreds of protesters and subjecting them to beatings and other forms of ill-treatment.²⁵

Belarus manifestly failed to implement the Committee's recommendations and bring its legislation and law enforcement practice in line with the requirements of the Covenant.

Human Rights Watch Recommendations to Belarus:

- *Amend the law "On mass gatherings" to comply with international standards, ensuring in particular the removal of sanctions for participation in peaceful protests, that any requirements of notification, as opposed to authorization, do not create undue obstacles to freedom of assembly, and that any sanctions relating to participation or organization of non-peaceful assemblies are proportionate.*
- *Immediately release peaceful protesters jailed in reprisal for their exercise of the right of peaceful assembly.*
- *Conduct effective investigations into allegations of widespread torture and other ill-treatment of peaceful protesters by law enforcement officers and provide victims of police abuse with access to an effective remedy.*

Crackdown on Journalists Covering Peaceful Protests

Belarusian authorities also targeted independent journalists covering grave human rights abuses in response to protests, wrongly equating their reporting on unauthorized demonstrations with participation in them or as helping to organize them.

Law enforcement routinely detained journalists covering peaceful protests, despite them wearing "press" vests and badges. Several journalists told Human Rights Watch that "press" vests felt like a target on their backs rather than a symbol of protection. At times police used excessive force against journalists, causing serious injuries.²⁶ Despite being present at protests solely in their professional capacity, numerous journalists faced prosecution for "participating in an unsanctioned public gathering" and "disobeying police orders."

In February 2021, a court sentenced Katsiaryna Andreyeva and Daria Chultsova, journalists working for a Poland-based broadcaster Belsat, to two years' imprisonment for "organizing activities violating public order."²⁷ Andreyeva and Chultsova live streamed a hundreds strong peaceful gathering in commemoration of Raman Bandarenka, an activist who had been beaten

²⁵ "List of those detained on the main day of the referendum, February 27" ("Спіс затрыманых у асноўны дзень рэферэндума 27 лютага"), *Viasna*, February 27, 2022, <https://spring96.org/be/news/106930> (accessed December 9, 2022).

²⁶ "Belarus: Crackdown on Political Activists, Journalists," Human Rights Watch news release, July 30, 2020, <https://www.hrw.org/news/2020/07/30/belarus-crackdown-political-activists-journalists>; "Belarus: Crackdown on Independent Journalism," Human Rights Watch news release, March 29, 2021, <https://www.hrw.org/news/2021/03/29/belarus-crackdown-independent-journalism>.

²⁷ "Two Journalists in Belarus Jailed in Retaliation for Their Work," Human Rights Dispatch, March 29, 2021, <https://www.hrw.org/news/2021/02/18/two-journalists-belarus-jailed-retaliation-their-work>.

to death, allegedly by plain clothed police officers or their proxies.²⁸ In July 2022, a court also found Andreyeva guilty on new charges of “high treason,” increasing her total imprisonment sentence to eight years and three months.²⁹

Numerous journalists told Human Rights Watch that the authorities ill-treated them during and after detention, apparently in retaliation for their work as independent journalists. They were brutally beaten, denied medical assistance, and held in poor detention conditions.³⁰ Some said their professional equipment was destroyed during detention. The authorities threatened to deprive at least three journalists of custody of their children between August 2020 and March 2021. All three fled Belarus with their families.

In efforts to silence independent media reporting on human rights violations during peaceful, countrywide protests, Belarusian authorities also subjected journalists to fines, bogus criminal charges, revoked their media credentials,³¹ and raided their homes and offices³² as well as blocked and shut down their outlets.

At time of writing (December 2022), 32 journalists and media workers were behind bars on bogus criminal charges ranging from “insulting the president” to “treason” and “conspiracy to seize state power.”³³

Human Rights Watch Recommendations to Belarus:

- *Immediately and unconditionally free independent journalists prosecuted for their reporting on peaceful protests.*
- *Ensure that independent journalists can do their legitimate work without fear of reprisal.*

²⁸ “Belarus: Crackdown Escalates,” Human Rights Watch news release, February 17, 2021, <https://www.hrw.org/news/2021/02/17/belarus-crackdown-escalates>; Joint Statement, “Belarus: End Reprisals Against Human Rights Defenders,” March 18, 2021, <https://www.hrw.org/news/2021/03/18/joint-statement-belarus-end-reprisals-against-human-rights-defenders>; “Belarus: Crackdown on Independent Journalism,” Human Rights Watch news release, March 29, 2021, <https://www.hrw.org/news/2021/03/29/belarus-crackdown-independent-journalism>.

²⁹ “Belarusian Journalist’s Sentencing Indicates New Levels of Repression,” Human Rights Dispatch, July 19, 2022, <https://www.hrw.org/news/2022/07/19/belarusian-journalists-sentencing-indicates-new-levels-repression>.

³⁰ “Belarus: Crackdown on Independent Journalism,” Human Rights Watch news release, March 29, 2021, <https://www.hrw.org/news/2021/03/29/belarus-crackdown-independent-journalism>.

³¹ “Belarus Escalates Crackdown on Independent Journalism,” Human Rights dispatch, December 7, 2020, <https://www.hrw.org/news/2020/12/07/belarus-escalates-crackdown-independent-journalism>.

³² “Belarus: Crackdown on Independent Journalism,” Human Rights Watch news release, March 29, 2021, <https://www.hrw.org/news/2021/03/29/belarus-crackdown-independent-journalism>.

³³ “Repression against journalists in 2022 (table, list of prisoners)” (“Рэпрэсіі супраць журналістаў у 2022 годзе (табліца, спіс зняволеных)”), *Belarusian Association of Journalists*, May 20, 2022, <https://baj.by/be/analytics/represii-suprac-zhurnalistau-u-2022-godze-tablica-spis-znyavolenyh> (accessed December 9, 2022).