

**Follow-up report**  
**by the National Human Rights Coalition**  
on Implementation by the Republic of Belarus  
of the Recommendations Issued by the Human Rights  
Committee and Outlined in Paragraphs 12 (Views under  
the Optional Protocol and Interim Measures of  
Protection), 28 (Death Penalty) and 53 (Freedom of  
Peaceful Assembly) Contained in the Concluding  
Observations to the Fifth Periodic Report of Belarus

December 2022

## Introduction

This Report has been prepared by a coalition of Belarus' human rights organisations,<sup>1</sup> which took part in submitting an Alternative Report to the Human Rights Committee within the framework of considering the Fifth Periodic Report of Belarus on the implementation of the International Covenant on Civil and Political Rights.

It is with regret that we have to state that since the consideration of the Fifth Periodic Report of the Republic of Belarus (in November 2018) the country has seen some catastrophic, as to their scale and nature, violations of the civil and political rights. Thousands of the Belarusian citizens who had participated in the peaceful assemblies following the presidential elections of 2020 or expressed their opinion as to the socio-political situation were subjected to arbitrary detentions, torture or cruel treatment. Dozens of thousands were forced to leave the country in fear of an illegitimate criminal persecution. About a thousand of the civil society organisations have been closed, many of the NGOs had to relocate across the country's borders, while the country has introduced a criminal responsibility for the organisation of, and participation in, an unregistered/liquidated entity. As this Report is being drafted, several representatives of the *Viasna* (Spring) Human Rights Centre are kept in custody pending a consideration of a fabricated criminal charge. As of the 9<sup>th</sup> of December, 1,438 persons had been recognized as political prisoners.<sup>2</sup>

The large-scale violations of the civil and political rights in Belarus should become a subject for a focused scrutiny by the Human Rights Committee as it considers another periodic report of the Republic of Belarus on the implementation of the International Covenant on Civil and Political Rights. As far as this Report is concerned, its objective is to provide the Committee with information on the implementation by the Republic of Belarus of the recommendations specified in Paragraph 59 of the Concluding Observations.<sup>3</sup>

---

<sup>1</sup> The Belarusian Helsinki Committee, the *Viasna* (Spring) Human Rights Centre, the Belarusian Association of Journalists, the Human Constanta, the Belarusian B. Zvozskaŭ Human Rights House, the Legal Initiative, *et al.* General coordination by the Belarusian Helsinki Committee.

<sup>2</sup> <https://prisoners.spring96.org/en>

<sup>3</sup> CCPR/C/BLR/CO/5

## **Information on Implementation of the Recommendations Specified in Paragraph 12 (Views under the Optional Protocol and Interim Measures of Protection)**

1. The Republic of Belarus has ratified the International Covenant on Civil and Political Rights (hereinafter referred to as “the ICCPR” or “the Covenant”) and, when doing so, has agreed with the other state-parties of the Covenant on setting up the Human Rights Committee (hereinafter referred to as “the HRC” or “the Committee”).<sup>4</sup> When ratifying the Optional Protocol to the ICCPR (hereinafter referred to as “the Optional Protocol” or “the Protocol”) in 1992, Belarus acknowledged the Committee’s competence to accept and to consider any individual communications on the alleged violations by Belarus of the rights set forth in the Covenant.<sup>5</sup>

2. According to our information, by the 1<sup>st</sup> of September 2022 the Human Rights Committee had registered 481 individual communications in respect of Belarus, out of which 210 were considered, in 174 violations of the Covenant were stated, under 13 proceedings were discontinued due to a loss of communication with their authors and it was in just 2 cases that no Covenant violations were found.

### **Implementation of the Committee’s Views**

3. The Republic of Belarus keeps on ignoring at the national level the Committee’s views on individual communications declaring violations of the ICCPR by the state. Belarus does not take action, either, to remedy the violations of the rights specified by the Committee in its views, nor does it follow the Committee’s recommendations on publication of the views and their wide distribution in the official languages.<sup>6</sup>

4. The year of 2019 saw the completion of the 2016-2019 Inter-Departmental Plan for the Implementation of the Recommendations Accepted by the Republic of Belarus Following the Results of Cycle 2 of the Universal Periodic Review at the United Nations Human Rights Council, and the Recommendations Addressed to the Republic of Belarus by the Human Rights Treaty Bodies (hereinafter referred to as “the Inter-Departmental Plan”). The actions outlined in the Inter-Departmental Plan included, *inter alia*, “an analysis into the claims most frequently addressed to the Committee by the Belarusian citizens and into the views adopted by the Committee,” but exclusively for the purpose of their “possible taking into account when improving the legislation and the law-enforcement practices.” The wording of the event planned gives evidence that an analysis into the communications and into the views adopted by the Committee to provide individuals whose rights have been violated with effective legal remedies, including a compensation in full, is not included on the state’s agenda at all.

5. The reporting<sup>7</sup> on the implementation of the Inter-Departmental Plan is of a formal nature and is reduced to a statistical tally of the communication numbers and shares depending on a category of allegedly violated rights, grounds for communications or legal acts in need of their correction, in the opinion of the communication authors, and fails to indicate any measures undertaken by the state to implement the Committee’s conclusions outlined in its views.

6. In particular, we are aware that the Republic of Belarus has failed to comply with the Committee’s views<sup>8</sup> on the communication by Maya Abromchik and related to the bodily harm

---

<sup>4</sup> Article 28 of the ICCPR

<sup>5</sup> Art. 1 of the Optional Protocol

<sup>6</sup> [https://belhelcom.org/sites/default/files/en\\_by\\_upr\\_coalition\\_report\\_1.pdf](https://belhelcom.org/sites/default/files/en_by_upr_coalition_report_1.pdf), item 8

<sup>7</sup> [https://mfa.gov.by/kcfinder/upload/files/GUMDI/national\\_plan\\_HR.pdf](https://mfa.gov.by/kcfinder/upload/files/GUMDI/national_plan_HR.pdf)

<sup>8</sup> Maya Abromchik versus Belarus (CCPR/C/122/D/2228/2012)

inflicted on her by a police officer detaining her after a peaceful gathering in 2010. Belarus responded to the views forwarded by the Committee in 2018 as late as in 2022 by a notification from the Investigation Committee on a reopening and termination of a preliminary investigation on the same day, because the statute of limitation has expired.<sup>9</sup>

### **Interim Measures of Protection**

7. Belarus ignores requests on the application of interim measures of protection to avoid causing an irreversible damage to a victim of an alleged violation, which are forwarded by the Committee in compliance with Rule 94 of the Committee Rules of Procedure.

8. Out of 56 views adopted since 2018 and considered within the framework of this Report's preparation, in 3 the Committee mentioned failure to comply with a request on interim measures of protection and execution of death sentence before the Committee completed consideration of a communication.

9. Cases of a failure by Belarus to comply with the requests from the Committee on interim measures since 2018 are as the following:

Extradition under a ruling passed by the Supreme Court of the Republic of Belarus of Turkish citizen Hicri Mamas to Turkey, where he faces charges of an "attempted crime against the state's unity and territorial integrity," despite the interim measures request issued by the Committee due to Hicri's risk to be subjected to tortures.<sup>10</sup>

Execution by Belarus of the death sentences in respect of Viktor Pavlov,<sup>11</sup> Alexander Zhilnikov,<sup>12</sup> Alexei Mikhalyenya,<sup>13</sup> Semyon Berezhnoi<sup>14</sup> and Igor Gershankov,<sup>15</sup> despite the requests from the Committee to suspend the execution pending the completion of communication consideration.

### **Withdrawal by the Republic of Belarus from the ICCPR Optional Protocol**

10. A recent event, which drastically changes the vector of interaction between the Republic of Belarus and the Committee, is the adoption of Law of the 27<sup>th</sup> of October 2022 No. 217-3 *On Withdrawal by the Republic of Belarus from the Optional Protocol to the International Covenant on Civil and Political Rights*.<sup>16</sup>

11. Yury Ambrazevich, Deputy Minister of Foreign Affairs of the Republic of Belarus, when presenting at the 10<sup>th</sup> Session of the Council of the Republic of the National Assembly a draft law on withdrawal from the Optional Protocol to the ICCPR, stated a position on the HRC decisions lacking a legally binding nature in accordance with the Covenant and the Optional Protocol.<sup>17</sup>

---

<sup>9</sup> <https://spring96.org/ru/news/107349>

<sup>10</sup> <https://ihahr-nis.org/belarus-ne-dala-zashchitu-tureckomu-kurdu-i-otpravlyaet-ego-na-pytki>

<sup>11</sup> <https://news.un.org/ru/story/2022/03/1419612>

<sup>12</sup> <https://news.un.org/ru/story/2022/03/1419612>

<sup>13</sup> [https://belhelcom.org/sites/default/files/en\\_by\\_upr\\_coalition\\_report\\_1.pdf](https://belhelcom.org/sites/default/files/en_by_upr_coalition_report_1.pdf)

<sup>14</sup> *ibid.*

<sup>15</sup> *ibid.*

<sup>16</sup> <https://pravo.by/document/?guid=12551&p0=H12200217&p1=1&p5=0>

<sup>17</sup> [https://www.belta.by/society/view/ambrazevich-komitet-po-pravam-cheloveka-oon-provodit-politiku-vmeshatelstva-vo-vnutrennie-dela-530227-2022/?utm\\_source=belta&utm\\_medium=news&utm\\_campaign=accent](https://www.belta.by/society/view/ambrazevich-komitet-po-pravam-cheloveka-oon-provodit-politiku-vmeshatelstva-vo-vnutrennie-dela-530227-2022/?utm_source=belta&utm_medium=news&utm_campaign=accent)

12. The Deputy Minister of Foreign Affairs has quoted the following as grounds for the decision:<sup>18</sup>

*“Interpretation by the Committee of the Covenant and Optional Protocol provisions without requesting an opinion from the member-states and, by extending its powers, formulation in this way of its own understanding of the Covenant and Optional Protocol provisions, and their use in its activities as a source of law.”*

*“Assuming by the Committee of supervisory powers and positioning itself as an international body for the protection of specific communications’ authors.”*

13. Meanwhile, the Republic of Belarus, by becoming a participant to the Optional Protocol, has voluntarily acknowledged the competence of the Committee to apply the Covenant provisions, when reviewing communications from the individuals who assert that they are victims of their rights’ violations by Belarus. In conformity with the authorities conferred upon the Committee by the Covenant and the Optional Protocol, the Committee plays a key role in monitoring compliance by the states-parties with the rights recognised in the Covenant. The Committee’s special role in the interpretation of the rights is also explained by the fact that its composition includes persons who have high competences in the area of human rights,<sup>19</sup> represent various parts of the world<sup>20</sup> and represent their personal position, rather than that of the states, which nominate them.<sup>21</sup>

14. Apart from the inadequacy of the official grounds for a withdrawal from the Optional Protocol, this act of the state may be also characterised as non-compliant with the spirit of the individual provisions of the Covenant itself and the Constitution of the Republic of Belarus. For example, Art. 61 of the Constitution grants to all individuals the right to appeal to the international organisations to protect their rights and freedoms, provided all available domestic legal remedies have been exhausted.<sup>22</sup> These provisions direct the state politics vector in the area of interaction with the international human rights mechanisms towards a collaboration with them and towards an extension of the tools available to the Belarusian citizens, rather than towards an abolition of the existing ones. Paragraph 2 of Article 2 of the Covenant contains a commitment undertaken by the Treaty’s state parties: to take the necessary steps in accordance with the provisions of the present Covenant, to adopt (...) such measures as may be necessary to give effect to the rights recognised in the present Covenant.

15. Following the denunciation of the Optional Protocol, the individuals who allege to be victims of their rights’ violations by the Republic of Belarus will be deprived of a number of opportunities guaranteed to them within the framework of the complaint procedure to the Committee and which are not provided by any other international mechanisms available to any persons under Belarus’ jurisdiction. Notably, the Committee is entitled to review individual communications, to decide on the need to provide an effective legal remedy or to recommend such a remedy, or to apply interim protection measures. The number of communications registered by the Committee give evidence of a rapid growth in the quantities of communications with regard to Belarus (21 registered communications in 2017 and 64 in 2021), which confirms a growing need for the mechanism. The right to address the Committee

---

<sup>18</sup> <https://www.belta.by/society/view/ambrazevich-dalnejshee-uchastie-belarusi-v-fakultativnom-protokole-pakta-o-grazhdanskih-i-528789-2022/>

<sup>19</sup> Para. 2 Art. 28 of the ICCPR

<sup>20</sup> Para. 2 Art. 29 of the ICCPR

<sup>21</sup> Para 3 Art. 28 of the ICCPR

<sup>22</sup> Art. 81 of the Constitution of the Republic of Belarus

has, in regard of Belarus, a particular significance due to the lack in Belarus of its national mechanisms capable of ensuring a proper protection for the purpose of enjoying human rights. The totality of the abovementioned facts leads to the conclusion that the act of denouncement is contrary to the idea underlying norms of the Constitution and the Covenant.

### **Information on the Implementation of the Recommendations Outlined in Paragraph 28 (Death Penalty)**

16. In our opinion, Belarus displays a regress in the area of implementing Recommendation 28 of the 2018 Concluding Observations by the HRC.

17. Firstly, Belarus has failed to take any action to change the public opinion, which advocates a further use of capital punishment. Moreover, the rhetoric by the *de facto* head of state A. Lukashenko, by the representatives of the executive and legislative branches and by the state-controlled mass media is conducive to conveying reasoning on the need to preserve death penalty and to extend its application spheres.<sup>23</sup> Moreover, some specific legislative actions have been taken in this direction.

18. Thus, for instance, in 2022 the legislation was altered to provide for a punishment in the form of a death penalty for an attempted crime. In accordance with Law of the Republic of Belarus of the 13<sup>th</sup> of May 2022 No. 165-3, the Criminal Code has been amended in a way that a death penalty can be given not just for committing some gravest crime linked to a premeditated deprivation of human life under aggravating circumstances, but also for committing some other forms of crime, which may not have as their consequence a death of a person, and notably, those specified in Part 2 of Art. 124 of the Criminal Code (CC) (murder of a representative of a foreign state or an international organisation), Part 2 of Art. 126 of the CC (an act of international terrorism), Part 3 of Art. 289 of the CC (a terrorist act), Part 2 of Art. 359 of the CC (a terrorist act against a state official or a public figure). Besides, Art. 67 of the CC has been amended with a provision that a death penalty may be imposed for an attempted crime specified above (as provided for in Part 2 of Art. 124, Part 3 of Art. 126, Part 3 of Art. 289 and Part 2 of Art. 359 of the CC).

19. On the 7<sup>th</sup> of December 2022, a draft Law *On Amendments to the Codes as to Criminal Responsibility* was approved at its first reading. *Inter alia*, the draft law provides for a further extension of capital punishment application by way of including this form of punishment among the sanctions specified in Article 356 *High Treason*. As contented in an official communique of the Press Office of the National Assembly's Chamber of

---

<sup>23</sup> For more details, see:

<https://www.belta.by/president/view/lukashenko-rasskazali-anekdot-o-gitlere-a-on-privel-parallel-so-smertnoj-kaznjju-521562-2022/>;

<https://www.belta.by/society/view/gajdukevich-otvetstvennost-za-pokushenie-na-sovershenie-aktov-terrorizma-dolzha-byt-uzhestochena-499173-2022/>;

<https://www.belta.by/society/view/marzaljuk-terroristy-dolzhen-byt-nakazany-po-zakonu-v-sootvetstvii-s-tjazhestjju-sodejannogo-498643-2022/>;

<https://www.belta.by/society/view/petrovskij-posle-ubijstva-sotrudnika-kgb-ischezajut-samyje-rjjanye-argumenty-za-otmenu-smertnoj-kazni-462033-2021/>;

<https://www.belta.by/society/view/ananich-terrorizm-strashnejshee-prestuplenie-trebujushee-spravedlivogo-vozmezdija-498636-2022/>

Representatives, the draft law is being adopted “for the purpose of its restraining effect against the destructive elements, as well as to demonstrate perseverance to counter high treason.”<sup>24</sup>

20. This being said, during the course of 2022 the Belarusian authorities have consistently expanded the sphere of capital punishment application.

21. These practices run directly counter the obligations of the Republic of Belarus under the Covenant, notably, against Paragraph 2 of Article 6 of the Covenant, which specifies that the sentence of death may be imposed only for the most serious crimes. The Human Rights Committee explained in para 35 of the General Comments No. 36 that the grounds for imposition of a death penalty may not be provided by any crime, which does not lead directly and intentionally to causing death, such as an attempted murder. The Committee also emphasised that since the capital punishment is not compatible with a full respect of the right to life, the states should seek its absolute abolition *de facto* and *de jure*. However, taking any action by the member states, which *de facto* lead to an increase in the number and scale of capital punishment application or to a reduction in the number of cases when pardons are provided, or sentences mitigated contradicts the object and purpose of Article 6 of the Covenant.

22. Secondly, the Republic of Belarus has ignored the recommendation from the Committee to guarantee that in case of a death penalty it should never be imposed in violation of the Covenant provisions, including due process of law, as well as to guarantee a real right to appeal against the death sentences.

23. Thus, for instance, in 2020 Viktor Pavlov who had been sentenced to death filed a complaint to the Human Rights Committee, where he claimed to be subjected to torture during a preliminary investigation, as well as being refused access to legal assistance and an unfair process of law. In 2021, as stated above, he was executed by a firing squad before the Committee reviewed his individual communication on violation by the Republic of Belarus of his rights as provided for under the Covenant.

24. The authorities keep on ignoring the Committee’s request on suspension of a death sentence execution pending the case consideration by the Human Rights Committee,<sup>25</sup> which gives evidence that Paragraph 6 in the Concluding Observations under the Fifth Periodic Report of Belarus<sup>26</sup> is not adhered to.

25. The Republic of Belarus has likewise failed to implement a recommendation of the Committee on harmonising Part 5 of Article 175 of the Penitentiary Code with Article 7 of the Covenant. The practice of non-providing information to relatives on the circumstances of death of a person convicted to capital punishment persists, like a failure to inform on the time of a death penalty execution, or a failure to hand over an executed person’s body to the relatives, or a refusal to inform on the person’s burial place.<sup>27</sup> These actions contradict the obligations under Article 7 of the Covenant, since they leave an executed person’s family members in the state of uncertainty and cause a profound moral suffering to them.

### **Information on the Implementation of the Recommendations Outlined in Paragraph 53 (Peaceful Assembly)**

---

<sup>24</sup> <http://house.gov.by/ru/news-ru/view/7-dekabrja-nojabrja-goda-sostojalos-ocherednoe-zasedanie-palaty-predstavitelej-natsionalnogo-sobranija-64810-2022>

<sup>25</sup> <https://news.un.org/ru/story/2019/07/1358522>

<sup>26</sup> CCPR/C/BLR/CO/5

<sup>27</sup> <https://news.un.org/ru/story/2022/03/1419612>

26. Law of the Republic of Belarus of the 17<sup>th</sup> of July 2018 No. 125-3 *On Altering and Amending the Law of the Republic of Belarus “On Mass Events in the Republic of Belarus”* took effect on the 26<sup>th</sup> of January 2019. Notably, a notification procedure was introduced for staging any mass events in dedicated places (prior to any such amendments, all mass events could only be held upon issuance of a permit by local authorities).

27. Nonetheless, these modifications, far from promoting implementation of freedom of assembly in Belarus, *vice versa*, have brought about its further limitations, because the Council of Ministers (i.e. the Government) adopted on the 24<sup>th</sup> of January 2019 its Resolution No. 49 which provides for a payment for the public order protection services rendered by the internal affairs bodies, and expenses related to healthcare services or area cleaning services after a mass event, as well as sets the amounts of the expenses payable by the peaceful assembly organisers. It is noteworthy that the amounts of money set under Resolution No. 49 for a peaceful assembly are disproportionately high and, in fact, provide a barrier on the way to the enjoyment of the right to peaceful assembly. The Resolution has had a drastic restraining effect on the implementation of freedom of assembly in Belarus.<sup>28</sup> Thus, for instance, organisers of a number of traditional mass events in Belarus gave them up in 2019 exactly because of a substantial financial burden on their organisers.

28. Taking into account Resolution No. 49, both the notification and authorisation-based procedures in respect of any rallies have proved to be inaccessible in case of a peaceful assembly in Belarus.

29. In 2021 the Law *On Mass Events*<sup>29</sup> was amended in a way to abolish the notification procedure related to mass events. Thus, the notification procedure in respect of some of the mass events declared by the authorities in the course of the Committee’s review of the Fifth Periodic Report of the Republic of Belarus as a step towards an improvement of the situation around the implementation of right to peaceful assembly has survived somewhat more than two years.

30. Besides, the above-mentioned modifications have specified a list of places, where no mass-scale events may be held, such as near the underground transportation system stations, what, in practical terms, excludes a rally in the centre of Minsk; as well as near the state institution buildings, what deprives the peaceful gatherings of their sense. It was likewise banned to provide a public coverage in mass media and on the Internet of the events, which were not agreed upon by the local authorities. The said law revisions have also reduced the scope of persons who may act as mass-scale event organisers.

31. In 2021, the Code of the Republic of Belarus of Administrative Offences (the CoAO) and the Procedural Executive Code of Administrative Offences (the PECoAO) were amended. The alterations ratcheted up punishment for violations in the mass event organisation procedure: the amounts of fines went up along with the length of an administrative arrest, and compulsory community service was added up as a form of punishment.

32. Thus, for instance, the fine amount for the mass event participants was increased (since the 1<sup>st</sup> of March 2021 the fine amount equals up to 100 basic units<sup>30</sup> (referred to hereinafter as “BUs”), while previously it used to equal up to 30 BUs). For a repeated violation by a mass event participant (within a year since the penalty levy date for the same offense) the

---

<sup>28</sup> For more details, see: Monitoring of the Right to Freedom of Assembly 2019, the European Centre for Non-Commercial Law, the *Viasna* (Spring), the Belarusian Helsinki Committee and the Human Constanta: <https://ecnl.org/sites/default/files/files/Monitoring-the-Right-to-Free-Assembly-Belarus-report.pdf>, pp. 7-10

<sup>29</sup> Law of 24 May 2021 No. 108 *On Altering the Law of the Republic of Belarus “On Mass-Scale Events in the Republic of Belarus”* <https://pravo.by/document/?guid=12551&p0=H12100108&p1=1>

<sup>30</sup> One basic unit amounted in Belarus at the time when this Report was drafted to BYN 32 or to about USD 12



maximum fine was raised to 200 BUs, while the administrative arrest period now ranges between 15 and 30 days (between 1 and 15 days previously).

33. Besides, the maximum fine amount has been raised for the mass event organisers to reach 20 to 150 BUs for an individual and to reach 20 to 200 BUs for a legal entity; whereas previously the amounts in question ranged between 20 and 40 BUs for physical persons and between 20 and 100 BUs for organisations). For a repeated violation by a mass event organiser, the maximum fine amount went up to 200 BUs (it used to be earlier up to 50 BUs for a physical person), while the administrative arrest duration now ranges between 15 and 30 days (previously between 1 and 15 days).

34. Responsibility has been introduced for involving an under-age person to participate in a meeting, rally, street march, demonstration, picketing or any other mass event held in violation of the procedures in place. Such acts, in accordance with Art. 19.4 of the new CoAO, are punishable with a fine ranging between 5 and 30 BUs.

35. Some new administrative offenses have appeared, which might be characterised as the authorities' response to the 2020 events:

An intentional blockage of transport communications by a person who drives a vehicle at the place of a mass event or which leads to a traffic accident situation. Such actions, in compliance with Part 2 of Art. 18.1 of the new CoAO, are punishable with a fine ranging between 6 and 50 BUs; and

Violation by a person who drives a vehicle of the rules related to sound signals at a place of a mass event. Such actions, under Part 4 of Art. 18.13 of the new CoAO, are punishable with a fine of up to 10 BUs;

36. Broadly construed, the authorities in Belarus do not assist in holding gatherings, limiting the possibilities for the implementation of the right to peaceful assembly both at the legislative and at the practical levels. Initiators must still obtain a special permit from the local authorities to arrange a meeting, a demonstration or a march and to apply for it not later than within 15 days before the event's planned beginning. No spontaneous meetings or counter-demonstrations are still provided for in the legislation.<sup>31</sup> The procedure of preliminary permissions to be granted to mass events remains a mandatory one in Belarus and allows the authorities *de facto* to arbitrarily ban gatherings. Moreover, as prior to filing a request for an event permit the applicants, under the laws in effect, are obliged to enter into an agreement with the police "on event protection," the very process of the applicants submitting their request in full form becomes in practice a baffling one, since the police refuse entering into such agreements provided for under law. These requirements have become an obstacle in the way to peaceful assembly, and even rendered it inconceivable because of the police's refusal to cooperate. An overbroad interpretation of the notion "mass event" is used to forbid, to interrupt or to disperse a peaceful assembly both outdoors and indoors. In April 2021 a prohibition was introduced on collection, reception or use of funds or any other property, and also on performance of work or provision of services for the purpose of compensation of the expenses arising due to a person being held accountable for violation of the procedure for organizing or holding mass events, which provides an obstacle for receiving legal assistance under such court cases.

---

<sup>31</sup> For more details about these and other deviations from the international standards of freedom of association in the Belarusian law-enforcement practices see a review by CSO Meter - Belarus 2021: country report <https://csometer.info/sites/default/files/2022-11/CSO%20Meter%20Belarus%20Country%20Report%20ENG%200-2.pdf>, pp. 39-47

37. Alterations to the Criminal Code, which supplement and aggravate liability, *inter alia*, for holding mass events, were adopted in spring 2021 and took effect on the 19<sup>th</sup> of June 2021.

38. Thus, for instance, the Criminal Code of the Republic of Belarus now has a separate Article 342-2, which provides for a criminal liability for repeated violations of the mass event organisation procedure. In accordance with the article, treated as crime will be a violation of the procedure in place related to the organisation or holding of a meeting, rally, street march, demonstration, picketing or other mass event, if the procedure for their organisation or holding was infringed upon (a violation of the mass event organisation procedure), if the act has been committed on more than one occasion.<sup>32</sup> The maximum sanction provided for committing the crime is deprivation of liberty for the period of up to 3 years, which allows to use detention as a measure of restraint.

39. Apart from the introduction of a separate offence of repeated violation of the mass event legislation, Article 369-3 of the Criminal Code has been altered so as to provide for an increased maximum punishment for a violation of the mass event organisation or holding procedure, raised from 3 to 5 years of imprisonment.

40. At the same time, the application of the existing Article 342 of the Criminal Code (organisation and preparation of any actions grossly violating the public order, or an active participation therein) against the participants of the peaceful 2020 and 2021 gatherings has a massive scale. Currently, we are aware of 892 persons having been held accountable under the article, out of whom more than 350 persons were imprisoned, and about 270 persons have been sentenced to a limitation of personal freedom outside of a penitentiary institution (the so-called “open-type domestic imprisonment,” when a convicted person is subject to a number of restrictions), and about 250 have been sentenced to a limitation of freedom at an open-type penitentiary institutions subject to a mandatory labour.

41. At present, we are witnessing a practice that liability under Article 342 of the Criminal Code is imposed for the very fact that a person was situated on a roadway, when the peaceful 2020 and 2021 gatherings were held. Such actions are qualified by the investigation and judicial authorities as organisation of, or participation in, any group activities, which grossly violate the public order and lead to the disruption in operation of transportation, enterprises or organisations. These practices, evidently, contradict the approaches of the Committee. Thus, for instance, in its General Comment No. 37 the Committee noted that the peaceful assemblies may prevent, for example, the motor vehicle or pedestrian traffic or economic activities. Such consequences, whether intended or unintended ones, do not provide grounds to deprive these gatherings of the protection they should enjoy.<sup>33</sup>

42. It should also be mentioned that the accusations related to a violation of the mass event organisation or holding procedure are presented on an evidence-free basis, which goes far beyond the limitations specified in the Covenant.

43. The reported period has witnessed episodes when legal cases, including the criminal ones, were brought up against the journalists for discharging their professional duties related to covering the peaceful assembly. Notably, on the 18<sup>th</sup> of February 2021 the Minsk Frunzensky District Court sentenced for two years of liberty deprivation under Part 1 of Article 342 of the PC Katsiaryna Bakhvalava and Darja Chultsova, journalists of the Belsat, a non-state run TV

---

<sup>32</sup> Under a footnote to Article 342-2, any action shall be deemed performed more than once, if a person twice during a year faced an administrative punishment for an administrative offence under Article 24.23 of the Code of the Republic of Belarus on Administrative Offences, and if, within a year since imposing the second administrative punishment for such actions, again violated the procedure related to organizing such mass-scale events.

<sup>33</sup> CCPR/C/GC/37

channel, who provided on the 15<sup>th</sup> of November 2020 an online broadcast of the peaceful gathering in Minsk in the crossing area of Charviakova, Kakhouskaja and Smarhouski Trakt streets (“Square of Changes”).

44. A new version of the Law *On Countering Extremism* took effect on the 16<sup>th</sup> of June 2021. The notion of extremism/extremist activities has been substantially broadened to include such methods as public appeals to organising or holding illegal meetings, rallies, street marches, demonstrations or picketing in violation of the procedures in place regulating their organisation or holding, or else involvement of any persons in participation in any such mass events by way of violence, threats of violence, deception or payment of a remuneration, or any other organisation or holding of such mass events, if their holding has led by negligence to human deaths, grave bodily harm to one or several persons, or else to a large-scale damage. In order for the above actions to be qualified as extremist activities, they must be carried out with an objective of an encroachment upon the independence, territorial integrity, sovereignty, foundations of the constitutional order or public safety and security.

45. The broad, inaccurate and unspecific wordings, which are intrinsic to the Belarusian anti-extremist legislation, allow their arbitrary application by the law-enforcement authorities. The latter is conducive to a rather negative impact on the enjoyment of such human rights, beside the freedom of assembly, as freedom of thought, conscience, religion or convictions, freedom of expression or freedom of association. Thus, for instance, the Ministry of Internal Affairs has introduced and maintains a List of the Republic of Belarus Nationals, and Foreign Nationals or Stateless Persons Involved in Extremist Activities. The List includes individuals with an effective judicial sentence related to committing crime of an extremist nature, including violations of the mass event legislation. The individuals entered on the List are prohibited, before the conviction expungement and during five years after the conviction expungement, from engaging in the activities pertinent, *inter alia*, to pedagogics or publishing, as well as from occupying any state positions, or from a military service.

46. Currently the List includes 2,117 individuals, out of whom 798 persons have been entered on it because of being charged with a criminal offence under of Art. 342 of the CC (organisation and preparation of any actions, which grossly violate the public order, or an active participation therein<sup>34</sup>), 627 for insulting representatives of the authorities, 286 for insulting A. Lukashenko, 43 for slandering A. Lukashenko, 61 for appeals for imposition of restraining measures against those guilty of violating the civil and political rights, and 100 for desecration of the state symbols.

47. The Law *On Alterations in the Laws Related to Guaranteeing National Security of the Republic of Belarus*, which provides for a possible use by the interior authorities, “when suppressing riotous disturbances,” arms, physical force and military or special gear, took effect on the 19<sup>th</sup> of June 2021.

48. It should also be mentioned in this respect, that Belarus since 2020 has resumed the practice of dispersing peaceful gatherings and detaining their participants or mass media representatives who covered them, using a disproportionate force. Moreover, for the first time ever in modern Belarus, tear gas and other special means, such as rubber bullets, electric shockers or flash-bang grenades were used against peaceful demonstrators. As demonstrated by the events of the 9<sup>th</sup> of August 2020 and subsequent months, the special forces took to using weapons, while dispersing peaceful gatherings, such as flash-bang grenades or rubber bullets, under the conditions of a high concentration of human beings, which has led to numerous injuries of both the individuals who took a direct part in the peaceful assemblies and those who

---

<sup>34</sup> As said above (see 40-43), the Article has its effect against, in practical terms, any persons who were situated during the peaceful gatherings in 2020 and 2021 on a carriageway.

did not take part in them and only found themselves in the nearby area.<sup>35</sup> Dozens of people suffered from an indiscriminate use of rubber bullets and flash-bang grenades. One of the peaceful assembly participants, Aliaksandr Tarajkouski, was shot and killed by a targeted gunshot in his heart area, supposedly, with a rubber bullet.

49. Some cases of fire arms usage have also been recorded. Thus, for instance, in August 2020 a peaceful gathering participant in Brest, Hienadz Shutau, died of a fire arm shot. During the consideration of a criminal case of the late Hienadz Shutau and his friend Aliaksandr Kurdziukou at the Brest Region Court, it was identified that a lethal injury was inflicted to H. Shutau by a serviceman of the Special Operations Force of the Armed Forces of the Republic of Belarus, who was engaged, along with other servicemen, in dispersal of the peaceful gatherings in Brest.

50. The Republic of Belarus has ignored a recommendation from the Committee to investigate all cases of application of force during the detentions in course of the peaceful gatherings. Moreover, the reported period has seen a continuation of such practices by the authorities. The authorities have failed to take action related to investigation of all the alleged uses of an excessive and disproportionate force vis-à-vis any persons detained at peaceful assemblies following the 2020 presidential elections.

51. According to the official data, the units of the Investigation Committee of the Republic of Belarus have received since the 9<sup>th</sup> of August 2020 almost 5,000 applications and communications on the cases of violence applied by the police against the protestors, as well as against random pedestrians during and after the dispersal of peaceful gatherings, out of which more than 3,600<sup>36</sup> in Minsk alone.

52. By the 1<sup>st</sup> of December 2022, no information had been available on opening of criminal investigations into the fact of torture during or after the detention of the peaceful assembly participants between the 9<sup>th</sup> and 13<sup>th</sup> of August 2020, nor on any criminal investigations following human deaths as a result of dispersing the peaceful protest actions held in Belarus following the 2020 presidential elections. On the 26<sup>th</sup> of August 2021 the Investigation Committee adopted a resolution refusing to open criminal investigation under 680 applications on torture at the Offender Isolation Centre (the OIC) and at the Temporary Detention Facility (the TDF) of the Chief Interior Directorate (the CID) with the Minsk City Executive Committee, where the persons detained during the peaceful gatherings between the 9<sup>th</sup> and 13<sup>th</sup> of August 2020 were kept. The applicants were denied access to the resolution on refusal to open criminal investigation or to the probative materials, since they contained the “information comprising the secrets of state.”

53. The checks conducted under the applications on torture do not meet the standards of an effective investigation, such as rapidity, thoroughness, independence, victims’ access to the investigation and publicity. Torture, violence and inhuman or degrading treatment keep on being applied against the persons who took part in the peaceful 2020 protests. The authorities intentionally create inhumane conditions at the detention places for the persons detained or arrested under the politically motivated cases linked to participation in peaceful gatherings.<sup>37</sup>

---

<sup>35</sup> For more details, see the Report of the Belarusian Human Rights Organizations on the Human Rights Situation at the Post-Election Period *Belarus after the Elections*:  
[https://belhelcom.org/sites/default/files/belarus\\_after\\_election\\_report\\_2020\\_en.pdf](https://belhelcom.org/sites/default/files/belarus_after_election_report_2020_en.pdf) (pp. 7-11)

<sup>36</sup> <https://sk.gov.by/ru/news-ru/view/pochti-5-tysjach-chelovek-jakoby-postradavshix-ot-militsii-letomosenjju-2020-go-pochemu-otkazano-v-10349/>

<sup>37</sup> For more details, see the Report *Mass Torture in Belarus in 2020-2021. Detention Conditions at Non-Free Places from August 2020 till May 2021: The Fourth Intermediate Report*:  
<https://drive.google.com/file/d/1WoeiJKx9l7BT9d10yIqgckomkZNJpw4c/view>

54. Neither the cases of causing death to the peaceful assembly participants specified in para 47 and 48 above have been investigated.

---

The Report was drafted by the International Committee for Investigating Torture in Belarus, a coalition of the Belarusian and international advocacy organisations.