



REFERENCE:GH/fup-137

29 March 2023

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 12, 28 and 53 of the concluding observations on the report submitted by Belarus ([CCPR/C/BLR/CO/5](#)), adopted by the Committee at its 124th session in October 2018.

On 12 July 2021, the Committee received the reply of the State party. At its 137th session (27 February to 24 March 2023), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 1 (see [CCPR/C/137/2/Add.1](#)) to the Report on follow-up to concluding observations (see [CCPR/C/137/2](#)). I hereby include a copy of the Addendum 1 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure (LOIPR), the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the sixth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Imeru YIGEZU

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Belarus

Concluding observations (124th session): [CCPR/C/BLR/CO/5](#), 25 October 2018

Follow-up paragraphs: 12, 28 and 53

Information received from State party: [CCPR/C/BLR/FCO/5](#), 12 July 2021

Information received from stakeholders: [International Committee for the Investigation of Torture in Belarus](#), 5 December 2022; [Coalition of Belarusian human rights organizations](#), 9 December 2022; [Human Rights Watch](#), 14 December 2022

Committee's evaluation: 12 [E], 28 [E][C] and 53 [E]

Paragraph 12: Views under the Optional Protocol and interim measures of protection¹

Summary of the information received from the State party

The State party reiterates its position, set out in its fifth periodic report, that it fully meets its obligations under the Optional Protocol and that it considers the Committee's decisions on communications to be of a recommendatory nature. All the Committee's decisions are brought to the attention of the competent public authorities and must also be communicated to the Supreme Court and the Office of the Procurator General.

National legislation provides for an effective mechanism to appeal judicial decisions involving administrative offences and criminal and civil cases. Statistics demonstrate the effectiveness and efficiency of the procedures for the appeal of final judicial decisions provided for in national legislation.

Moreover, discussions are under way regarding the need to improve the provisions of criminal procedure law relating to the review of final judgments, rulings and decisions.

Summary of the information received from stakeholders

Coalition of Belarusian human rights organizations

The State party does not take action to remedy the violations of the rights specified by the Committee in its Views or follow the Committee's recommendations on publication of the Views and their wide distribution in the official languages.

Since 2018, the State party has not complied with the Committee's requests for interim measures, including with regard to the implementation of the death sentences. That was so in the cases of Victor Pavlov, Aleksandr Zhilnikov, Aleksei Mikhalenya, Semyon Berezhnoi and Igor Gershankov, despite the Committee's requests for interim measure to suspend the executions pending the consideration of their cases.

* Adopted by the Committee at its 137th session (27 February–24 March 2023).

¹ The paragraphs containing the Committee's recommendations are not reproduced in the present document owing to the word limit specified in General Assembly resolution [68/268](#), para. 15.

The State party adopted a law on 27 October 2022 (No. 217-3) on the withdrawal of Belarus from the Optional Protocol to the International Covenant on Civil and Political Rights. That is contrary to the principles and underlying norms of the Constitution and the Covenant.

Committee's evaluation

[E]

The Committee takes note of the information on the national legislation providing for a mechanism to appeal against judicial decisions. Nevertheless, it regrets that the State party reportedly continues to refuse to fully cooperate in good faith in the consideration and examination of communications under the Optional Protocol, especially by failing to comply with the Committee's requests for interim measures and to implement the Views adopted by the Committee. It deeply regrets the recent decision of the State party to denounce the Optional Protocol and urges the State party to reconsider. The Committee reiterates its recommendation and requests specific information on action taken to comply with its requests for interim measures of protection and to implement all the Views it has adopted.

Paragraph 28: Death penalty

Summary of the information received from the State party

National legislation is not contrary to international law. Article 24 of the Constitution provides that everyone has the right to life, which is safeguarded against unlawful infringements of any kind.

Pending its abolition, the death penalty may be used as an exceptional punishment for especially serious offences involving intentional deprivation of life in aggravating circumstances, and only pursuant to a court judgment. It is not imposed for the planning and attempted commission of an offence.

The death sentence must not be imposed for crimes committed by persons below 18 years of age or over 65 years of age at the time of sentencing, on pregnant women or on persons who committed a socially dangerous act while in a state of mental incompetence.

Five persons in 2017, two in 2018, two in 2019 and three in 2020 received death sentences as exceptional punishments for especially serious offences. Clemency was granted to I.N. Kostev and S.N. Kostev; their death sentences were commuted to life imprisonment.

A bill is currently being prepared on an appeals procedure to review first-instance judgments and decisions of the Supreme Court.

Summary of the information received from stakeholders

Coalition of Belarusian human rights organizations and Human Rights Watch

(a) In May 2022, a set of amendments to the Criminal Code entered into force, introducing the death penalty for: (a) terrorist attacks not resulting in death; (b) attempting to carry out a terrorist attack; and (c) assassinating or attempting to assassinate a foreign official. In December 2022, the lower chamber of the parliament adopted in first reading new amendments to the Criminal Code, further extending the sphere of the application of the death penalty to other crimes such as treason. Executions were carried out despite the Committee's requests for interim measures to suspend capital punishment during its consideration of the cases, as in the case of Victor Pavlov, who was executed in 2021.

(b) In many cases, the authorities deliberately took months to inform families of the execution of a person sentenced to capital punishment and refused to disclose the place of burial. The authorities have also failed to hand over executed persons' bodies to their relatives.

(c) No information is provided.

Committee's evaluation

[E]: (a) and (b)

While taking note of the information regarding the preparation of a bill on an appeals procedure to review first-instance judgments and decisions of the Supreme Court, the Committee regrets the reported amendment of legislation in 2022 resulting in the extended application of capital punishment. It also particularly regrets that the death penalty is reportedly being imposed in violation of the Covenant and that executions are being carried out despite the fact that the victims have complaints pending before the Committee, as in the case of Victor Pavlov. The Committee reiterates its recommendations.

While taking note of the information shared with it, the Committee regrets the lack of relevant information provided by the State party regarding action taken to amend article 175 of the Penalties Enforcement Code with a view to bringing it into line with the State party's obligations under article 7 of the Covenant. The Committee particularly regrets the reportedly persistent and allegedly deliberate practice of not notifying individuals on death row and their relatives about the time of execution, not returning the bodies of the executed individuals to their relatives and not disclosing the burial site. It reiterates its recommendation.

[C]: (c)

While taking note of the information provided by the State party, the Committee regrets the lack of information on action taken to comply promptly and fully with the Views adopted by the Committee in the cases of Vasily Yuzepchuk, Pavel Selyun, Oleg Grishkovtsov, Andrei Burdyko, Vladislav Kovalev, Andrei Zhuk and Aleksandr Grunov. It reiterates its recommendation.

Paragraph 53: Freedom of peaceful assembly

Summary of the information received from the State party

The Mass Events Act has been amended 13 times since it entered into force, and their constitutionality has been examined by the Constitutional Court. The restrictive measures on individual rights and freedoms provided for in the Act are not contrary to international standards and serve only as a legal remedy for the protection of public order and security, public health and morals, and the rights and freedoms of others. Legislation provides that individuals who have violated the established procedures for organizing or conducting mass events will be held liable, including for repeated violations and public calls to organize or conduct illegal meetings, rallies, marches, demonstrations or pickets and for recruiting participants for such events. Prosecution for the commission of these unlawful acts cannot be considered persecution, punishment or harassment within the meaning of articles 19 (3) and 21 of the Covenant.

National legislation prohibits government agencies, political parties, trade unions, other organizations and individuals from interfering with or obstructing the holding of mass events conducted in accordance with the legal requirements. Citizens and organizations whose rights and legitimate interests have been infringed by the actions or omissions of internal affairs officials are entitled to complain to a higher-level government agency or official, procurator or court.

Attesting to the lack of credibility of the facts relied upon by the Committee to include his case in its concluding observations, in October 2016, Dzmitry Paliyenka was found guilty of advertising a pornographic video over the Internet and of using violence to obstruct the legitimate activities of an internal affairs official. He was sentenced to two years' imprisonment. Mr. Paliyenka's appeals were considered and rejected owing to a lack of grounds for the lodging of a protest and Mr. Paliyenka was proved guilty. The courts examined the facts of the case comprehensively, fully and impartially and the evidence gathered was weighed appropriately. Mr. Paliyenka's right under article 14 of the Covenant was fully upheld.



Summary of the information received from stakeholders

International Committee for the Investigation of Torture in Belarus, Coalition of Belarusian human rights organizations and Human Rights Watch

Since 2018, the authorities have introduced further legislative restrictions on the right to assembly and have also viciously cracked down on their perceived opponents' attempts to exercise their right to peaceful assembly, resorting to harassment, intimidation, arbitrary detentions, administrative and criminal prosecutions, use of excessive force, ill-treatment and torture, media and Internet shutdowns and liquidation of non-governmental organizations. The Code of Administrative Offences and the Procedural Executive Code of Administrative Offences were amended in 2021, significantly increasing fines for assembly violations and the length of administrative arrest. The Mass Events Act was also amended in 2021, replacing a selective notification procedure with a blanket authorization procedure requiring permission from the local authorities for all mass events, allowing for a de facto ban. Journalists are now banned from live coverage of unauthorized protests, and sharing information about rallies before they have been approved is also now prohibited.

Between 1 April 2020 and 31 March 2021, more than 35,000 people were arbitrarily detained for exercising assembly rights, most during largely peaceful protests. Close to 900 protestors were either imprisoned, sentenced to a limitation of personal freedom outside a penitentiary institution or subject to mandatory labour. Prior to the August 2020 presidential elections, the authorities arbitrarily detained hundreds of peaceful protesters. Some individuals received multiple, subsequent short-term arrest sentences, allegedly with a view to preventing their political participation. Following the elections, mass protests erupted and over four days, more than 7,000 protesters and bystanders, including journalists, medical workers, observers and human rights defenders, were detained and held in inhuman and degrading conditions. Compelling evidence reveals a systematic practice of torture and ill-treatment of individuals suspected of participating in protests. Tear gas, stun grenades, rubber bullets and stun guns were used against peaceful demonstrators, killing at least four protesters, including Aliaksandr Tarajkouski who was shot and killed by a gunshot to the heart, supposedly with a rubber bullet. Firearm usage was also recorded, as in the case of Hienadz Shutau, who was shot and killed during a peaceful gathering.

Detainees reported that riot police officers threatened them with rape, that they were beaten and humiliated, kept for hours in stress positions and in overcrowded, suffocating cells and buses, denied medical assistance and essential medication, food, water, sanitary napkins, toilet paper and access to a toilet. Some suffered serious injuries receiving no medical attention, and sexual violence against women occurred almost everywhere. The authorities failed to conduct effective investigations 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 faced threats of groundless criminal charges.

Independent journalists covering protests were also targeted, being detained even when clearly identified as members of the press. Excessive force was also used against journalists, causing serious injuries. They were threatened, brutally beaten, denied medical assistance and held in poor detention conditions. Some reported that their professional equipment was destroyed during detention. In an effort to silence independent media reporting on human rights violations during peaceful protests, the authorities also subjected journalists to fines, revoked their media credentials, raided their homes and offices and blocked and shut down their outlets. As at December 2022, some 32 journalists and media workers were imprisoned on bogus criminal charges ranging from "insulting the President" to "treason" and "conspiracy to seize State power".

Committee's evaluation

[E]

While taking note of the information provided in relation to the legislation in force, the Committee regrets the lack of action taken by the State party to revise its laws, regulations



and practices, including the Mass Events Act, with a view to guaranteeing the full enjoyment of the right to freedom of assembly. It also regrets that legislative actions have been taken which further restrict assemblies and gatherings. Furthermore, the Committee remains concerned by the lack of information on investigation into cases of excessive use of force by law enforcement officials. It deeply regrets the reportedly disproportionate use of force during mass protests in 2020 and 2021, which resulted in the death of at least four persons, and the numerous alleged counts of arbitrary detention and the reported systematic practice of torture and ill-treatment of individuals suspected of participating in protests across the country. The Committee reiterates its recommendation and requests statistical information on investigations into cases of excessive use of force by law enforcement officers, including their results, and on the number of arbitrary arrests and detentions of peaceful protestors during the reporting period.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
