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Death penalty in the Republic of Belarus

July 2010 – June 2011

**NGO coalition report
submitted to the Office of the United Nations High Commissioner on Human Rights**

Report submitted by:

- Belarusian Human Rights House in exile, Vilnius
- Human Rights House Foundation, Geneva and Oslo
- Penal Reform International, London
- Human Rights Centre “Viasna”, Belarus

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Changes in law and practice

To date, the Republic of Belarus did not sign the Second Optional Protocol to the International Covenant on Civil and Political Rights of 15 December 1989 and is not party to any international or regional mechanism or treaty banning the death penalty.

Despite the introduction of a discussion on a moratorium including the establishment of a parliamentary working group “on the issue of death penalty as an instrument of punishment” in February 2010, the parliamentary working group stopped its activities following the presidential elections in December 2010, and the discussion on a moratorium seems to have stalled.

On 21 October 1997, the Presidential Decree No. 21 extended the scope of the death penalty defining new crimes punishable by death. In 2006, the government enacted an amendment to the Criminal Code, which indicated the temporary nature of the use of the death penalty in Belarus. However, executions in Belarus continue being carried out in 2012.

Executions are carried out by a gunshot to the back of the head.

Neither the condemned nor relatives are told of the scheduled date of the execution, and the relatives are not informed of where the body is buried.

Enforcement of the death penalty

Execution of Dzmitry Kanavalau and Uladzislau Kavalyou

On 15 March 2012, Dzmitry Kanavalau and Uladzislau Kavalyou were reportedly executed soon after President Alexander Lukashenka refused clemency appeals.¹

Belarus considered the complaint for violation of the right to life² submitted to the Human Rights Committee on 15 December 2011 invalid, arguing that national remedies had not been exhausted.³

Executions of Andrei Burdyka and Aleh Hryshkautsou

Some day between 11 and 19 July 2011, Andrei Burdyka and Aleh Hryshkautsou were executed despite their cases pending at the Human Rights Committee. The Human Rights Committee had explicitly requested, under rule 92 of its Rules of Procedure, that Belarus take preliminary measures to not carry out executions until the results of their review had been submitted.

Andrei Burdyka and Aleh Hryshkautsou alleged that they had been subjected to torture at the pre-trial investigation stage and had not received a fair trial.

¹ Statement by the International Commission against the Death Penalty on Belarus: Execution of Dmitry Konovalov and Vladislav Kovalyov, 19 March 2012 (see: <http://www.icomdp.org/cms/wp-content/uploads/2012/03/ICDP-Statement-on-Belarus-March-2012.pdf>).

² Article 6 of the International Covenant on Civil and Political Rights.

³ The Human Rights Committee shall not consider any communication of an individual who has not exhausted all available domestic remedies, unless these would be unreasonably prolonged (article 5 letter b of the Optional Protocol to the International Covenant on Civil and Political Rights).

Executions of Andrei Zhuk and Vasily Yuzepchuk

Belarus unwillingness to fulfil fundamental principles of human rights or to respect decisions of the Human Rights Committee is not new. In March 2010, Andrei Zhuk and Vasily Yuzepchuk were executed although the Committee had request for interim measures for protection.

According to the testimonies of Andrei Zhuk and Vasily Yuzepchuk and as evidenced by medical records, they had been repeatedly subjected to torture. There has been no proper investigation into these allegations.⁴

Methods of executions

The methods in place of executions are particularly worrying.

Firstly, Belarusian authorities provide **no statistical information** about the use of the death sentence in the country.

Secondly, **inmates on death row are still executed in secrecy**, as denounced by the Human Rights Committee.⁵ Inmates on death row are given no prior notification that they are about to be executed, their body is not handed to the family, and the place of burial is not disclosed to them.

In 2003, after considering the “Banderenko vs. Belarus” case, the Human Rights Committee considered that the refusal by the authorities to tell the mother about her son’s execution and the refusal to let her know the burial place are in violation of article 7 of the Covenant on Civil and Political Rights.⁶

To date, Bandarenko’s family still ignores where their relative is buried. The same is true for the families of all of those executed to death in Belarus; this painful practice is current and generalized.

In 2011, the Committee against Torture asked Belarus to “remedy the secrecy and arbitrariness surrounding executions so that family members do not have added uncertainty and suffering.”⁷

International developments

In its review of Belarus in 1997, the Human Rights Committee expressed its concern over the use of death penalty and recommended a “thorough review of relevant legislation and decrees be restricted to the most serious crimes [...], and that its abolition be considered by the State party at an early date.”⁸ The Committee against Torture renewed this recommendation in its review of Belarus in 2011.

On 12 May 2010, during the Universal Periodic Review of Belarus, 15 States raised the question of the death penalty; 14 recommended ending its practice and 13 to introduce an immediate moratorium on executions. Belarus rejected all of these recommendations.⁹

⁴ Human Rights House Network letter of concern to Alexander Lukashenko, President of the Republic of Belarus, 18 April 2010, (<http://humanrightshouse.org/Articles/13997.html>).

⁵ United Nations Human Rights Committee, Concluding Observations, paragraphs 8 and 11, 19 November 1997 (UN Doc.: CCPR/C/79/Add.86).

⁶ United Nations Human Rights Committee, Communication 886/1999, 3 April 2003 (UN Doc.: CCPR/C/77/D/886/1999).

⁷ United Nations Committee against Torture, Concluding Observations, paragraph 27, 7 December 2011 (UN Doc.: CAT/C/BLR/CO/4).

⁸ United Nations Human Rights Committee, Concluding Observations, *op. cit.*

⁹ Universal Periodic Review of Belarus, 21 June 2010 (UN Doc.: A/HRC/15/16).

Executions despite pending cases at UN judicial bodies

On 21 July 2011, the Human Rights Committee sent a letter to the Belarus Permanent Mission in Geneva, expressing concern over the apparent execution of Aleh Hryshkautsou and Andrei Burdyka, in violation of the Committee's request for interim measures of protection.

The Committee's Chairperson, Ms. Zonke Zanele Majodina, stressed in that occasion to "deplore the fact that, by proceeding to execute these two individuals, Belarus has committed a grave breach of its obligations under the Optional Protocol to the International Covenant on Civil and Political Rights. [...] The imposition of a death sentence after a trial that did not meet the requirements for a fair trial amounts to a violation of articles 14 and 6 of the Covenant."¹⁰

International reactions to use of death penalty

On 17 March 2012, the President of the European Parliament Martin Schulz made a statement on the use of the death penalty and the reported execution of Uladzislau Kavalyou in Belarus in which he declared to be "appalled by the reported execution [and to] deeply regret that the Belarusian authorities did not listen to the repeated calls to halt the execution by the EU institutions and international human rights organisations". Martin Schulz also called on the Belarus authorities "to show some human dignity and return the body to the family".¹¹

On 22 March 2012, the Committee of Ministers of the Council of Europe adopted a declaration deploring the execution of Kanavalau and Kavalyou despite the numerous calls for clemency from the international community, including the Committee of Ministers' own statement of 7 December 2011, and urged Belarus to establish a formal moratorium on executions as a first step towards abolition of the death penalty.¹²

The International Commission against the Death Penalty (ICDP) strongly condemned the executions of Aleh Hryshkautsou and Andrei Burdyka¹³ and Dzmitry Kanavalau and Uladzislau Kavalyou¹⁴. Each time ICDP urged the Belarusian authorities to introduce a moratorium on the use of the death penalty, with a view to its complete abolition.

¹⁰ Press release of the United Nations Human Rights Committee, 27 July 2011 (see: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11268&LangID=E>).

¹¹ Press release of the European Parliament, 17 Mars 2012 (see: http://www.europarl.europa.eu/the-president/de-en/press/press_release_speeches/press_release/2012/2012-march/press_release-2012-march-14.html).

¹² Declaration of the Committee of Ministers following the execution of Dimitry Konovalov and Vladislav Kovalev, 22 March 2012 (see: <https://wcd.coe.int/ViewDoc.jsp?id=1923193&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>).

¹³ Statement by the International Commission against the Death Penalty on the execution of Aleh Hryshkawtsow and Andey Burdyka, 27 July 2011 (see: <http://www.icomdp.org/cms/wp-content/uploads/2011/07/27.07.2011.-Bielorrusia.pdf>).

¹⁴ Statement by the International Commission against the Death Penalty on the execution of Dmitry Konovalov and Vladislav Kovalyov, 19 March 2012 (see: <http://www.icomdp.org/cms/wp-content/uploads/2012/03/ICDP-Statement-on-Belarus-March-2012.pdf>).

NGO initiatives towards the abolition of the death penalty

From 15 November 2010 to 15 December 2011, the Human Rights Centre “Viasna” and the Belarusian Human Rights House in exile in Vilnius (Lithuania) implemented a communication campaign against the death penalty, which included amongst other supports the realization of a video documentary entitled “The cause of death is -----”, presented on 29 June 2011 at Minsk “Ÿ” gallery and subsequently introduced in the “People in Need” film contest in the Czech Republic and to a large public of students in the Belarusian Human Rights House.

The film illustrates illegal procedures and focuses on the grief of the death convicts’ families. Its name reveals the habit in Belarus to left blank the death certificates of executed convicts. 6’000 copies were distributed in the second half of 2011 among journalists, students and other social groups in Belarus and the region.

On January 2012, Penal Reform International (PRI) hosted a national conference on “The development of the criminal justice system in Belarus” to discuss criminal policy, legislation and practice in Belarus, prospects for abolition of the death penalty, including steps towards a moratorium, and life imprisonment as an alternative to death penalty. PRI also hosted a film festival on 27 January in Minsk with the aim to restore public discussion about the death penalty and changing opinion from inside the country. Moreover, PRI remained active in training local journalists on the problems of application of the death penalty in Belarus.

The Human Rights House Foundation, with its programme Bring International Standards Home¹⁵, is training Belarusian lawyers and human rights defenders on the use of international human rights protection mechanisms, especially the complaint procedure to the Human Rights Committee and the Committee against Torture.

Contact persons

- Florian Irminger
Head of International Advocacy and HRHF Geneva Office
Human Rights House Foundation
Office: +4122 33 22 554
Mob.: +4179 751 80 42
florian.irminger@humanrightshouse.org
- Anna Gerasimova
Director
Belarusian Human Rights House
Office: +370 5 212 77 03
director.belarus@humanrightshouse.org
- Jacqueline Macalesher
Death Penalty Project Manager
Penal Reform International
Office: +44 207 247 6515
jmacalesher@penalreform.org

¹⁵ More information: <http://humanrightshouse.org/Projects/ILIA/BISH/index.html>.