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Statement on behalf of Penal Reform International NGO briefing on Belarus to the Committee Against Torture

Geneva, 10 November 2011

Ahead of the Committee's examination, on 11 November 2011, of Belarus' fourth periodic report on measures taken to implement the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Penal Reform International would like to use this opportunity to raise the following concerns relating to the death penalty in Belarus.

In July 2011, Andrei Burdyko, 28, and Oleg Grishkovets, 29, were executed in Belarus despite their cases pending with the UN Human Rights Committee. Burdyko and Grishkovets alleged that they had been subjected to torture at the pre-trial investigation stage and had not received a fair trial. The UN Human Rights Committee had explicitly requested, under rule 92 of the Committee's Rules of Procedure, that Belarus take preliminary measures to not carry out executions until the results of their review had been submitted.

Burdyko and Grishkovets had been sentenced to death on 14 May 2010 by the Grodno Regional Court for the murder of three people; their sentence was upheld by the Supreme Court on 17 September 2010. A request for clemency was refused. The exact date of the execution remains unknown, but it is presumed they took place between 13 and 19 July 2011.

This is the second time in less than two years that individuals whose cases were pending before the UN Human Rights Committee have been executed. Andrei Zhuk and Vasilii Yuzepchuk had also been executed in March 2010 **despite the Committee's request for interim measures** for protection. In June-July 2009, the judicial panels of Brest and Minsk oblast courts sentenced Vasilii Yuzepchuk and Andrei Zhuk to death. According to their testimonies and as evidenced by medical records, they had been repeatedly subjected to torture. Vasilii Yuzepchuk stated that he was beaten, starved, given unknown pills and forced to take alcohol, as a consequence he lost the ability to adequately evaluate what was happening to him. There had been no

proper investigation into these allegations. These cases demonstrate an unwillingness by Belarus to fulfill fundamental principles of human rights, or to respect decisions of the UN Human Rights Committee.

Human rights organisations such as Amnesty International have documented that the use of the death penalty is compounded by a **flawed criminal justice system** and there is credible evidence that **torture and ill-treatment** are used to extract “confessions”, which are then used as a basis for conviction.¹ This appears to be a particular risk for suspects of particularly grave crimes.

Death row inmates are held at the pre-trial detention center No 1 in Minsk. Reports indicate that death row inmates are being **held in solitary confinement**, with limited access to fresh air or exercise. According to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment the social isolation and sensory deprivation that is imposed by solitary confinement does, in some circumstances, amount to cruel, inhuman and degrading treatment and even torture.² In addition, the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged.³

According to consistent reports of human rights organisations⁴ and information submitted to the Human Rights Council in the context of individual complaints, those on death row are given **no prior notification** that they are about to be executed and their body is not handed to the family.⁵

Furthermore, Penal Reform International is concerned at the **secrecy surrounding the procedures** relating to the application of the death penalty at all stages⁶. The Belarusian government provides no statistical information of those sentenced to death or executed; families of persons on death row are not informed of the date of execution, and the place of burial is not disclosed to them.⁷

¹ Amnesty International, *End the Death Penalty*, 3 October 2011, AI-Dok. ACT 51/002/2011 <http://www.amnesty.org/en/library/asset/ACT51/002/2011/en/abf74d8e-689b-495a-b4bc-bcf9350a1d97/act510022011en.pdf>

² A/66/268, para. 20.

³ *Ibid.*, para. 80.

⁴ For example Amnesty International, *Belarus: Six months after the Presidential elections clampdown on dissenting voices continues unabated*, Public Statement, 17 June 2011, AI Index: EUR 49/015/2011; Amnesty International, *Belarus: Amnesty International urges abolition of the death penalty, an end to torture and ill-treatment to force confessions and allow NGOs to operate freely*, Public Statement, 30 September 2010, AI Index: EUR 49/008/2010

⁵ A/HRC/13/39/Add.1, para. 14; see also CCPR jurisprudences, 887/1999, *Mariya Staselovich on her own behalf, and on behalf of her deceased son, Igor Lyashkevich, v. Belarus*; 886/1999, *Natalia Schedko, on her own behalf, and on behalf of her deceased son, Anton Bondarenko, v. Belarus*.

⁶ CCPR/C/79/Add.86, para. 8.

⁷ A/HRC/13/39/Add.1, para. 14; see also CCPR jurisprudences, 887/1999, *Mariya Staselovich on her own behalf, and on behalf of her deceased son, Igor Lyashkevich, v. Belarus*; 886/1999, *Natalia Schedko, on her own behalf, and on behalf of her deceased son, Anton Bondarenko, v. Belarus*.

In 2003, the UN Human Rights Committee considered that refusal by the authorities to tell the mother of her son's execution and latter refusal to let her know the burial place, to be inhuman treatment and in violation of article 7 of the Covenant⁸.

However, this practice continues to date in Belarus. In March 2010, Andrei Zhuk and Vasilii Yuzepchuk were executed and their relatives were not informed about the date of execution, their bodies were not given to them for burying and they received **no information about their burial places**. The mother of Andrei Zhuk appealed to court with a complaint against the denial to hand over the body of her executed son and against the decision of not informing her about the burial place, but her demands were rejected claiming that a civil suit was not in the competence of the court. Following the executions of Burdyko and Grishkovets in July of this year, their families also were not informed of the date of execution or place of burial.

Finally, 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.

Penal Reform International calls on Belarus to continue moving towards a moratorium, and to review their policies and practices in relation to those convicted of the worst crimes and to bring them into compliance with international standards and norms, including informing the families of the place of burial of those executed and the date of execution, ending the use of solitary confinement, and upholding the strongest principles of transparency in the death penalty process.

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⁸ <http://www.unhchr.ch/tbs/doc.nsf/0/399cc6c62d92bbcec1256d33004d5600?OpenDocument>