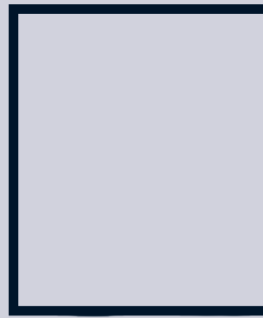




THE FOURTH CYCLE OF THE
UNIVERSAL PERIODIC REVIEW
REPUBLIC OF BELARUS

**REPRESSIVE BELARUSIAN
DRUG POLICY**



JOINT REPORT

of the civil movement **Legalize Belarus**
and the **Belarusian Youth Bloc** foundation



Executive summary

The report has been prepared in relation to the participation of the Republic of Belarus in the fourth cycle of the universal periodic review in the United Nations Human Rights Council. The document contains information on the fulfillment by the state of its universal human rights obligations in the field of regulation of psychoactive substances.

Organizations prepared the report:

- **Legalize Belarus**

A civil movement established in Belarus in 2017. Legalize Belarus advocates for the humanisation of drug policy in Belarus and decriminalization of personal use of psychoactive substances.

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1. Fulfillment of general requirements for public policy in the area of psychoactive substance use regulation

1. In response to the challenges of regulating psychoactive substances, the international community is seeking new ways to reform the prosecution of drug offenses. UN documents and the Committee on Economic, Social and Cultural Rights (CESCR) emphasize the importance of joint action between states to support alternatives to conviction. This includes decriminalizing possession of psychoactive substances for personal use, promoting the principle of proportionality of punishment, expanding harm reduction programmes, and developing effective mechanisms to prevent criminalisation. This approach aims to mitigate the social and economic impact of current policies, reduce prison overcrowding and improve public health.

2. *Second regular session of the United Nations System Chief Executives Board, CEB/2018/2, 18.01.2019, c. 14:*

[...] We, therefore, commit to stepping up our joint efforts and supporting each other, inter alia:

- To promote alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use, and to promote the principle of proportionality, to address prison overcrowding and overincarceration by people accused of drug crimes

[...]

3. *Final recommendations of CESCR, E/C.12/BLR/CO/7, 04.03.2022, n. 38:*

The Committee recommends that the State party develops an effective mechanism to prevent criminalization of personal drug use. The Committee also encourages the State party to consider decriminalizing possession of drugs for personal use and to expand harm reduction programmes, such as opioid substitution therapy, including in places of temporary detention, pre-trial detention and prisons.

1.1. Decriminalization of personal use

4. Personal use of controlled substances is criminalized under article 328-2 of the Criminal Code of the Republic of Belarus (CC), which imposes liability for use in public places.

5. Personal use of controlled substances is also criminalized indirectly, through prosecution for possession under Article 328, Part 1, of the CC and for joint use with transfer under Parts 2-5 of the Article 328 of the CC.

6. In practice, criminal liability for possession of controlled substances in a number of cases is actually imposed for their presence in the possession of the accused at the time of use. For example, on October 13, 2021, the court of Chechersky district passed a guilty verdict under Article 328, part 1 of the CC. The actions of collecting wild cannabis and mixing it with tobacco for consumption were qualified as illegal acquisition, production and possession of a controlled substance.¹

¹ Verdict of the court of Chechersk district of October 13, 2021. Bank of court rulings of the National Legal Internet Portal of the Republic of Belarus. <https://pravo.by/pravovaya-informatsiya/bank-sudebnykh-resheniy/document/5742>.

7. Statistical data of the Supreme Court of the Republic of Belarus² for 2020-2023 show that more than 50% of sentences under "narcotic" articles of the Criminal Code relate to possession without the purpose of sale (Articles 327-332 of the CC, which include such actions as theft, illegal trafficking, including possession, illegal transportation across the border, use, cultivation, etc.).
8. For example, on November 29, 2021, the court of the Central district of Minsk passed a guilty verdict under Part 2 of Article 328 of the CC on charges of selling a controlled substance for joint use:

*"Upon his request, T. gave him marijuana to smoke, the latter took a puff, then took back the joint and after finishing it — threw it away."*³

9. Neither the law nor the practice takes into account the context in which the transfer, joint consumption or commercial sale takes place.⁴ Thus, the Supreme Court of the Republic of Belarus understands commercial sale to mean any action to transfer controlled substances, including donation, sharing, or exchange in any form.

10. *Resolution of the Plenum of the Supreme Court of the Republic of Belarus, №1, 26.03.2003, p. 7:*

"To clarify to the courts that illegal sale of narcotic drugs, psychotropic substances, their precursors and analogues, especially dangerous narcotic drugs or psychotropic substances, potent and poisonous substances is understood to mean both compensated and gratuitous transfer thereof to other persons, which may be carried out by sale, gift, exchange, payment of debt, lending or otherwise."

11. In practice, liability for sale under Part 2 of Article 328 of the CC is incurred regardless of the size and nature of the sale.

1.2. Review of decriminalization of possession and cultivation for personal use

12. Article 328, Part 1, of the CC criminalizes possession of any quantity of controlled substances without intent to sell. Parts 2-5 of Article 328 of the CC refer to actions with any quantity of controlled substances if law enforcement authorities prove intent to sell.
13. Article 329 of the CC criminalizes the cultivation of plants containing psychoactive substances (both for personal use and for commercial sale). The severity of the criminal act is similarly not differentiated by purpose, but depends on whether it was carried out by an individual (Article 329, Part 1, of the CC), by an individual repeatedly or by a group of persons (Article 329, Part 2, of the CC), or by an organized group (Article 329, Part 3, of the CC).

² Statistics of the judicial system of the Republic of Belarus. Supreme Court of the Republic of Belarus, 2024. https://court.gov.by/ru/justice_rb/statistics/.

³ Verdict of the Central District Court of Minsk of November 29, 2021. Bank of court rulings of the National Legal Internet Portal of the Republic of Belarus. <https://pravo.by/pravovaya-informatsiya/bank-sudebnykh-resheniy/document/124733>.

⁴ United Nations in Belarus. Assessment of the National Drug Policy in Belarus. United Nations, 2023. <https://belarus.un.org/en/198925-assessment-national-drug-policy-belarus>.

14. During the previous reporting period, civic activists repeatedly attempted to initiate review of decriminalization of cannabis for personal use⁵ and differentiation of liability issues.⁶ High-profile advocacy actions forced representatives of the authorities to engage in situational dialog with civil society.⁷ However, the relevant amendments to the criminal legislation were not adopted,⁸ only a slight reduction in the amount of punishment followed.⁹
15. In 2020 - 2024, excessive criminal penalties continue to be recognized by the State as the main way of countering controlled substances illicit trafficking and prevention of the offenses committed in this domain.¹⁰
16. In 2020, the House of Representatives (the lower chamber of parliament) received requests from civic activists to consider a draft law on decriminalization¹¹, but the deputies never started working on the issue. Thus, in his response, Oleg Belokonev, a deputy of the House of Representatives and chairman of the Standing Committee on National Security, noted:

«... effective anti-drug legislation was developed in the Republic of Belarus, its regulations are adequate to the current situation and do not require amendments.

[...]

*Assessing current trends, internal and external risks and threats, one can assume that the legislative changes proposed in the appeal will contribute to the complication of the criminogenic situation in the country related to drug trafficking».*¹²

17. In December 2021, the Council of the Republic of the National Assembly of the Republic of Belarus held a round table on the subject: «Formation and implementation of State policy to counter illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogs in the context of ensuring and protecting the interests of society and the state». The possibility of decriminalizing the possession and cultivation of controlled substances for personal use was not discussed.¹³

⁵ Online petition to legalize the personal use of marijuana. July 5, 2017 «Зручны Горад» web-platform, 2017. <https://petitions.by/petitions/790>.

⁶ The civic movement "Mothers 328" announced an indefinite hunger strike. Radio Free Europe/ Radio Liberty, 2018. <https://www.svaboda.org/a/29185149.html>.

⁷ Government sent the anti-drug law amendments to the Parliament. Sputnik, 2018. <https://sputnik.by/20180511/pravitelstvo-napravilo-v-parlament-popravki-v-antinarkoticheskij-zakon-1035369266.html>.

⁸ Deputies postponed review of leniency on "narcotic" article. Nasha Niva, 2018 <https://nashaniva.com/ru/222428>.

⁹ Deputies adopted amendments to Article 328 of the CC in the second reading. BELTA, 2019. <https://www.belta.by/society/view/deputaty-prinjali-vo-vtorom-chtenii-popravki-v-st328-uk-350911-2019>.

¹⁰ Assessment of the national drug policy in Belarus. United Nations, 2022. <https://belarus.un.org/en/198925-assessment-national-drug-policy-belarus>.

¹¹ Every deputy was sent a decriminalization bill proposal. Legalize Belarus, 2020 <https://legalizebelarus.org/presa/decriminalize-parliament>.

¹² Oleg Belokonev responded to proposals for amendments to anti-drug legislation. Legalize Belarus, 2020. <https://legalizebelarus.org/presa/olieg-bielokoniev-otvietil-na-priedlozhenija-izmenenij-v-antinarkoticzjeskoje-zakonodatelstvo/>.

¹³ Kochanova: aggressive preventive work is needed in the fight against drug addiction. Belarus Today, 2021. <https://www.sb.by/articles/kochanova-v-borbe-s-narkomaniej-neobkhodima-agressivnaya-profilakticheskaya-rabota.html>. Pinevich: there are five areas that will help minimize the consequences of the drug threat. Belarus Today, 2021. <https://www.sb.by/articles/pinevich-est-5-napravleniy-kotorye-pomogut-minimizirovat-posledstviya-narkougrozy.html>.

18. In the first half of 2022, the number of those convicted under Art. 327-332 of the CC increased by 41.4% in relation to the same period of 2021.¹⁴ Based on these data, representatives of the authorities again spoke about the ineffectiveness of the criminal punishment liberalization policy. In its turn, this was reflected in the provisions of the Amnesty Law of 2022: it was not applied to persons who committed crimes under Art. 328 of the CC (except for persons who committed crimes at the age of under 18 years).¹⁵
19. In 2023, an online petition was initiated to the Department of Health and the Interior Affairs Ministry calling for the legalization of cannabis and the abolition of penalties for its use and cultivation for personal needs.¹⁶ Both entities responded that they do not see any reason to change the existing legislation.
20. The Ministry of Health rejected the petition, referring to the classification of cannabis as a dangerous narcotic substance and its possible negative effects on juveniles:

*«According to the schedule, marijuana is considered to be a dangerous narcotic substance with no medical use. UN experts emphasize that the debate on medical use may contribute to increased consumption among the adolescent population and negative health and social consequences. The Ministry of Health does not support the exclusion of marijuana from the schedule».*¹⁷

21. The Interior Affairs Ministry rejected the petition, citing the negative effects of cannabis legalization:

*«Despite the legalization of marijuana in Western countries and the USA, opioid and designer drugs continue to circulate on black markets. Legalization does not solve the problem of drug abuse, but exacerbates it. The mentioned statistical data and arguments do not support the need for amendments to the legislation of the Republic of Belarus.»*¹⁸

22. No discussion of bills to decriminalize the possession and cultivation of controlled substances for personal use has taken place in Parliament in 2020-2024.

1.3. Introduction of alternatives to imprisonment for personal use

23. Personal use of controlled substances is directly criminalized by Article 328-2 of the CC, which imposes liability for use in public places. The sanction is a fine, arrest or restriction of freedom.
24. Personal use is similarly criminalized indirectly, through prosecution of acquisition and possession for personal use (article 328, paragraph 1, of the CC) and for joint use with the

¹⁴ Data for the 1st half of 2022 on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. Supreme Court of the Republic of Belarus, Courts of general jurisdiction of the Republic of Belarus internet portal. Minsk, 2022. <https://www.court.gov.by/ru/statistika/a991ce8c9f3d48b9.html>.

¹⁵ Law of the Republic of Belarus dated December 7, 2022 "On Amnesty in Relation to the Day of National Unity", Article 8. National Center of Legal Information of the Republic of Belarus, 2022. <https://pravo.by/document/?guid=12551&p0=H12200220&p1=1&p5=0>.

¹⁶ Legalization of medical marijuana. «Zruchny Gorad» web-platform, 2023. <https://e-petitions.by/petitions/5684>.

¹⁷ Ministry of Health response dated September 29, 2023. «Zruchny Gorad» web-platform, 2023. <https://petitions.pro/upload/respdocs/5684/c41f32a80a6f4ea54eac1cb9259d5ad8.pdf>.

¹⁸ Ministry of Internal Affairs response dated October 4, 2023. «Zruchny Gorad» web-platform, 2023. <https://petitions.pro/upload/respdocs/5684/e795c766cfc6d29f0baefabe85f383f0.pdf>.

transfer of controlled substances (article 328, paragraphs 2-5, of the CC). The sanction under part 1 is restriction of freedom or imprisonment. The sanction for Parts 2-5 imposes imprisonment for varying lengths of sentences.

25. Thus, apart from restriction of freedom and probation, criminal legislation does not provide for alternative non-custodial measures of punishment. This contradicts the UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules).
26. At the same time, more than 99% of those convicted under Parts 2 - 5 of Article 328 of the CC are sentenced to imprisonment.¹⁹
27. In 2015, the Criminal Code was amended to increase the maximum sentence for controlled substance offenses: up to 25 years of imprisonment. This exacerbated the situation even further.²⁰ Despite repressive measures, the number of convictions for this category of crime continues to grow, including among juveniles. In 2021 (compared to 2020), their number had doubled.²¹
28. In the previous reporting period, the lower limit of punishment was reduced from five to three years of imprisonment under Part 2 of Article 328 of the CC and from eight to six years of imprisonment under Part 3 of Article 328 of the CC.²² Aliaksandr Lukashenka and the House of the Representatives deputy Natallia Guivik recognized the adopted amendments to the law as sufficient.²³

¹⁹ Assessment of the national drug policy in Belarus. United Nations, 2022. <https://belarus.un.org/en/198925-assessment-national-drug-policy-belarus>.

²⁰ Criminal Code as amended by Law No. 245-Z dated October 29, 2015. <https://www.belta.by/society/view/deputaty-prinjali-vo-vtorom-chtenii-popravki-v-st328-uk-350911-2019/>.

²¹ Operation Statistics of the Courts of General Jurisdiction of the Republic of Belarus. Supreme Court of the Republic of Belarus, 2022. <https://www.court.gov.by/ru/statistika/f31f5a8a9d0843fd.html>.

²² Deputies adopted amendments to Article 328 of the Criminal Code in the second reading. BELTA, 2019. <https://www.belta.by/society/view/deputaty-prinjali-vo-vtorom-chtenii-popravki-v-st328-uk-350911-2019/>.

²³ Lukashenko: the Mothers of 328 should have taken care of their children in time. Reform.news, 2019. <https://reform.news/lukashenko-materjam-328-nado-bylo-vovremja-zanimatsja-svoimi-detmi>.

Deputy of the House of Representatives on Article 328, reduction of the penalty and legalization of soft drugs in Belarus. CTV, 2019. <https://ctv.by/deputat-palaty-predstaviteley-o-state-328-snizhenii-nakazaniya-i-legalizacii-lyogkih-narkotikov-v>.

1.4. Expansion of harm reduction programmes

29. There are 73,800-87,000 people in Belarus who inject controlled substances²⁴ They frequently purchase them from online stores,²⁵ which increases the risk of criminal prosecution and limits access to health and social services due to law enforcement pressure and legislative obstacles.²⁶
30. The only example of the introduction of new methods of addiction treatment is the launch of the methadone opioid substitution therapy (OST) program in the Republic of Belarus. It started in 2007 as a pilot project of a grant from the Global Fund to Fight AIDS, Tuberculosis and Malaria.
31. The need to be placed on dispensary supervision to participate in OST programs creates barriers due to fear of stigma, freedom restrictions and violation of confidentiality, discouraging people from treatment. Mandatory drug testing also destroys the trusting relationship between the narcologist and the patient.²⁷
32. In a survey of satisfaction with opioid substitution therapy program services in the Republic of Belarus, supported by the Eurasian Network of People Who Use Drugs, more than 90% of respondents expressed support for the continuation of substitution therapy in prison, because opioid withdrawal is one of the most distressing conditions among psychoactive substances.²⁸
33. In 2021-2022, the number of street methadone overdoses increased. Public activists proposed to establish a mechanism of over-the-counter dispensing of the drug "Naloxone" at prevention points and to provide social workers with this drug. However, an appeal to the Ministry of Health to remove Naloxone from the list of prescription drugs was addressed with the response that over-the-counter dispensing could contribute to an increase in the number of users of controlled substances.²⁹
34. Imbalanced legislation on the controlled substances trafficking is an obstacle to the development of harm reduction services. The Republic of Belarus officially supports opioid substitution therapy, however, service coverage remains at an extremely low level — 2 - 3%.³⁰ There are mobile prevention points based on the "Positive Movement" civic association.³¹ But they do not cover the whole territory of the country: there are points in

²⁴ Study of HIV propagation features among vulnerable groups (PWID, FSWs and MSM) and estimation of their number in the context of the regions of the Republic of Belarus. E. Kechina. Republican Center of Hygiene, Epidemiology and Public Health, 2020.

²⁵ DrugStat. Study of the darknet market of drug trafficking in the Republic of Belarus. Minsk, 2020. https://vk.com/doc14539778_538723491?hash=kqD9tbzxE13qHQnNaoCXqRJRdUtfBlg7CcaRzy8eu9L.

²⁶ Belarus NPS Research. Harm Reduction Eurasia, 2019. https://harmreductioneurasia.org/wp-content/uploads/2019/12/Belarus-NPS-Research_ENG_to-publish.pdf.

²⁷ The right of every human to the highest attainable standard of physical and mental health. UN General Assembly, 2012 (UN Doc. A/65/255). <https://documents.un.org/doc/undoc/gen/n10/477/93/pdf/n1047793.pdf?token=PZFzf5TNfYbyz7uSjD&fe=true>.

²⁸ A survey of baseline patient satisfaction with the opioid substitution program. Your chance, 2022. <https://yourchance.by/issledovanie-bazovogo-urovnnya-udovletvorennosti-patsientov-programmoj-opioidnoj-zamestitelnoj-terapii/>.

²⁹ Drug Policy in Belarus: Current State and the Prospects of Reforms. Youth bloc, Legalize Belarus, 2023. https://legalizebelarus.org/wp-content/uploads/2023/09/belarus_drug_policy.pdf.

³⁰ Potential interest of LUINs in OST. E. K. Artemenko. "Your Chance" ROOO, Positive Movement, 2018. <https://yourchance.by/wp-content/uploads/2018/01/Potentsialnyi-interes-LUIN-k-ZTM.pdf>.

³¹ Service points. Positive movement. <https://pmplus.by/paragraphs-services/>.

only three of the six regions and in the city of Minsk (which has a status equivalent to a region). Coverage within the region is also small: 7 points in the capital and up to 3 points in large cities.

RECOMMENDATIONS:

- a) Amend criminal law to distinguish between liability for personal use of controlled substances and their commercial sale.
- b) Decriminalize small quantities of controlled substances possession for personal use while expanding health and social services to reduce the risks associated with their use.
- c) Differentiate criminal liability in the domain of controlled substances trafficking, based on the quantity and type, as well as the harm caused and the benefit obtained. Introduce the concepts of insignificant, significant, large and extremely large size into criminal legislation.
- d) Develop and implement alternative sanctions, including voluntary treatment, rehabilitation and social integration programs, to make law enforcement more humane and proportionate. Take into account international human rights standards.
- e) Develop harm reduction services and ensure wide access to them throughout the country. Support initiatives and organizations that help people with substance use disorders.
- f) Expand the opioid substitution therapy (OST) program. Include penitentiary institutions in this program (given the high level of support for this measure among substance users). Reduce barriers to participation in OST programs by eliminating the need for mandatory supervision. This will help to reduce stigmatization and to increase the number of people seeking help.

2. Implementation of international human rights standards

2.1. The right to a fair trial

35. In the majority of cases under Article 328 of the CC, the right to a fair trial is violated. During detention and initial interrogation, detainees are not provided with the right to counsel. As a result, under pressure, they give testimony that forms the basis of the charges. During the trial, the accused are kept in cages, which violates the presumption of innocence. In cases under "anti-drug" articles, evidence is not thoroughly verified and convictions are often based on the court's assumptions and testimony of one witness who cooperated with investigators.
36. There are cases when police officers (taking advantage of the vulnerable position of detainees) force them to provoke other users to commit crimes, which formally can be qualified as distribution and impute a heavier part of Article 328 of the CC. This helps to improve the statistics on "dangerous" crime solving. For example, Yulia Belskaya,

convicted under Article 328 of the CC, was provoked to commit a crime by her friend, who at the time of its commission cooperated with the internal affairs authorities.³²

37. It is a common practice to provide the court with operational and investigative materials as the main evidence in cases involving illicit trafficking of controlled substances. The court is obliged to check these materials for compliance with the criminal procedure law and the law on operational and investigative materials.³³ It bears a particular responsibility for assessing the admissibility of these materials as evidence, since the defense counsel and the accused do not have access to the operational-investigation file and have to rely on the court's certificate on the legality of the conducted operational and investigative processes. Practice shows that courts often neglect to check the quality of the materials of the investigation, which leads to the passing of unlawful court verdicts.
38. In cases under Part 4 of Article 328 of the CC on trafficking of controlled substances as part of an organized group (including the activities of Internet stores), the charge is often vaguely worded: "as part of an organized group consisting of unidentified individuals, using an unidentified mode of transport, etc.". The roles of the participants are defined arbitrarily, and the description of the organized criminal group consists of general phrases. Evidence proving the existence of an organized group³⁴ and the intent of the accused to participate in it³⁵ could not be collected during the preliminary investigation. Criminal cases are forwarded to the court without sufficient substantiation of the charges, which calls into question their justness and lawfulness. Despite the instructions of the Supreme Court on strict compliance,³⁶ courts often unreasonably recognize the commission of crimes as part of an organized group, instead of reclassifying them under Part 3 of Article 328 of the CC (commitment of a crime by a group of persons).
39. For example, on December 8, 2022 the court of Pruzhany district passed a guilty verdict against the defendant under part 1 of Article 328 of the CC. The ruling stated that neither the time nor the circumstances of the offense were reliably established:

*«[...] at an unspecified time, under reliably unspecified circumstances, illegally, without the purpose of sale, for the purpose of personal consumption, acquired the substance [...]».*³⁷

³² One cannot survive in the colony without support. The story of a 16-year-old Belarusian woman sentenced to eight years in prison for drugs. Current time, 2020. <https://www.currenttime.tv/a/belarus-narkotiki/30422416.html>.

³³ Criminal Procedure Code of the Republic of Belarus of July 16, 1999, No. 295-Z. Article 101. The National Legal Information Center of the Republic of Belarus. <https://etalonline.by/document/?regnum=hk9900295>.

³⁴ Criminal Code of the Republic of Belarus No. 275-Z of July 9, 1999. Part 1 of Article 18 of the Criminal Code. <https://etalonline.by/document/?regnum=hk9900275>.

³⁵ Plenum of the Supreme Court of the Republic of Belarus Ruling No. 9 dated September 25, 2003. National Legal Information Center of the Republic of Belarus. <https://etalonline.by/document/?regnum=s20300009>.

³⁶ Current issues of proceedings by courts of criminal cases on crimes related to illicit trafficking of narcotic drugs, psychotropic substances, their precursors and analogues. Official edition of the Supreme Court of the Republic of Belarus "Sudovy Vesnik" No. 4, 2018: 45-51 https://www.court.gov.by/files/2023_BC/SV_4_2018.pdf.

³⁷ Verdict of Pruzhany District Court, case No. 19U22127 (22122190237). Bank of court decisions of the National Legal Internet Portal of the Republic of Belarus, 2022. <https://pravo.by/pravovaya-informatsiya/bank-sudebnykh-resheniy/document/950185>.

2.2. The right to humane treatment in detention

Third UPR Cycle Recommendation:

138.111 Treat all detainees in line with international human rights law, including persons sentenced to the death penalty (Poland);

Source of Position: A/HRC/46/5/Add.1

40. Numerous defendants in cases of illegal trafficking of controlled substances are subjected to beatings and other inhuman treatment by police officers and investigators — the latter torture in order to obtain confessions, phone passwords, or other information to formalize the crime or reclassify it to a more punitive article. This was repeatedly stated by the accused during visits, in letters to their relatives and in court.³⁸ There are two publicly known cases of Article 328 defendants committing suicide — in 2015 and 2019.³⁹

41. The practice of inhumane, cruel and degrading treatment is also widespread in penitentiary institutions. Thus, in 2014, Alexander Lukashenko made a statement about the need to impose stricter detention conditions for convicts in cases involving controlled substances:

*«It is necessary to create unbearable conditions for them in places where they are serving these terms. [...] To put it bluntly, let's set such a treatment for them so that they, staying in this prison, would ask for death».*⁴⁰

42. Based on the statement of Aliaksandr Lukashenka, intentionally harsh conditions were created for those convicted under Article 328 of the CC. For this purpose, Correctional Colony No. 22 with a cruel treatment regime and additional restrictions for prisoners was tacitly appointed.⁴¹ In 2021, amid a large-scale criminal prosecution of peaceful protesters against the authorities, political prisoners were also sent to the colony. At the same time, it is reported that the conditions of detention have become more stringent.⁴²

³⁸ Tortures in Belarus - broken lives. "Human Rights Defenders Against Torture" initiative.

<https://protivpytok.org/problema-pytok-v-belarusi-slomannye-zhizni.html>.

³⁹ Two cases of suicides of Article 328 convicts. They were abused. Legalize Belarus, 2019.

<https://legalizebelarus.org/presa/dva-sluczaja-samoubijstv-osuzhdiennykh-po-statje-328-nad-nimi-izdievalis/>.

⁴⁰ Belarus will adopt a decree with strict penalties for drug distribution and use. BELTA, 2014.

<https://www.belta.by/president/view/v-belarusi-primut-dekret-s-zhestkimi-merami-otvetstvennosti-zaraspromeranie-i-upotreblenie-narkotikov-60576-2014/>.

⁴¹ Correctional Colony No. 22 "Wolf Dens". How prisoners live and work. Part 3. "Human Rights Defenders Against Torture" initiative. <https://protivpytok.org/ik-22-volchi-nory-kak-zhivut-i-rabotayut-zaklyuchennyye-chast-3.html>.

⁴² The correctional colony "Wolf Den" is being prepared for "political". BELSAT, 2021.

<https://belsat.eu/ru/news/30-01-2021-ispravitelnuyu-koloniyu-volchi-nory-gotovyat-dlya-politicheskikh>.

How the most brutal colony "Wolf's Den" switched from drug to political prisoners. BELSAT, 2022.

<https://belsat.eu/ru/news/27-05-2022-kak-samaya-zhestkaya-v-strane-koloniya-volchi-nory-pereprofilirovalas-s-narkoticheskikh-na-politicheskikh-zaklyuchennykh>.

2.3. Freedom of expression and freedom of association

Third UPR Cycle Recommendations:

138.148 Ensure that everybody can peacefully exercise the rights to freedom of expression and of assembly in conformity with its obligations under the International Covenant on Civil and Political Rights (Poland);

Source of Position: A/HRC/46/5/Add.1

138.162 Abide by the obligation under international law to respect the rights of journalists, human rights defenders and other individuals to exercise their freedom of expression, peaceful assembly and association (Finland);

Source of Position: A/HRC/46/5/Add.1

138.171 Cease repressive tactics against the media, including harassment and imprisonment of journalists, revocation of accreditation, and the blocking of independent media, opposition websites and Internet access (New Zealand);

Source of Position: A/HRC/46/5/Add.1

43. Civil society organizations advocating for the decriminalization of personal use of controlled substances and the overall humanization of drug policy have been subjected to pressure from the authorities as well as arbitrary bans on their functioning.
44. Education on controlled substances is considered to be "drug propaganda" by the authorities and is prohibited. Thus, in 2018, the website of the Legalize Belarus educational initiative was blocked by the decision of the Ministry of Information.⁴³
45. Since 2020, against the backdrop of intensified repressions and extensive forced abolition of civic society organizations,⁴⁴ advocacy and awareness-raising activities are becoming dangerous.
46. Tatsiana Kanevskaya⁴⁵ and Maryna Kiselevich⁴⁶ activists of the public movement Mothers 328, were sentenced to imprisonment under politically motivated charges for participating in peaceful assemblies and expressing their opinions.
47. On July 22, 2021, at the very height of the campaign to abolish civic society organizations in Belarus,⁴⁷ the decision to disband the association "BelNet Anti AIDS", which united 16

⁴³ Order of the Ministry of Information of May 17, 2018, No. 150. Republic of Belarus, 2018.

https://drive.google.com/file/d/1GWxcp0q_rCu-xzKF-6DfBD21r038ft1I/edit.

⁴⁴ A/HRC/RES/46/20: Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath: Resolution. <https://undocs.org/A/HRC/RES/46/20>. A/HRC/49/71 (4 March 2022): Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath: Report of the United Nations High Commissioner for Human Rights: <https://undocs.org/A/HRC/49/71>. A/HRC/52/68 (3 February 2023): Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath : report of the United Nations High Commissioner for Human Rights <https://undocs.org/A/HRC/52/68>.

⁴⁵ We demand the immediate release of political prisoners detained in the criminal case of mass riots. Viasna, 2020. <https://spring96.org/ru/news/99281>.

⁴⁶ Statement of human rights defenders of Belarus on the recognition of 18 political prisoners. Viasna, 2022. <https://spring96.org/ru/news/107351>.

⁴⁷ There is a complete "cleanse" of NGOs in Belarus. Chronicle of persecution July 23. Viasna, 2021. <https://spring96.org/ru/news/104417>.

Belarusian organizations engaged in the fight against HIV and other socially significant diseases, was published.⁴⁸

48. When it came to light in July 2023 that the activists of the public movement Mothers 328 had been to the Prosecutor General's office, the pro-government media SB.BY published an article in which the activists were called "relatives of drug pushers" and accused of connections with the opposition and "extremist resources".⁴⁹ The theses of the article were published in the Telegram channel of a high-ranking military official Aliaksandr Volfovich, which may indicate that the article was initiated by law enforcement.⁵⁰
49. In December 2023, the court recognized the channel, the chat room and the bot of Legalize Belarus in Telegram as extremist materials.⁵¹ This decision implies that activists face administrative responsibility for the dissemination of information (Article 19.11 of the Code of Administrative Offences, maximum sanction - detention for 15 days), while readers for subscription to the organization's social networks, reposting or forwarding publications in private messages.

2.4. Equality of all under the law, prohibition of discrimination

Third UPR Cycle Recommendations:

138.71 Take further targeted measures to prevent discrimination in all its forms (Iraq); Source of Position: A/HRC/46/5/Add.1

138.72 Pursue government activities to improve the national system of social protection to promote the rights of vulnerable groups , especially persons with disabilities (Lebanon); Source of Position: A/HRC/46/5/Add.1

50. The general policy of the penitentiary system is to create deliberately cruel and discriminatory conditions of detention for those convicted under Article 328 of the CC.
51. The instruction to create inhumane conditions for prisoners under Article 328 of the CC was given by Alexander Lukashenko in 2014:

*«It is necessary to create unbearable conditions for them in places where they are serving these terms. [...] To put it bluntly, let's set such a treatment for them so that they, staying in this prison, would ask for death».*⁵²

⁴⁸ The Association of NGOs on counteracting HIV/AIDS epidemic "BelNet Anti-AIDS" was abolished in Belarus. Regional expert group on migrants' health, 2021. <https://migrationhealth.group/belarus-liquidation/>.

⁴⁹ On the tight connection of the "Mothers 328 Movement" with the opposition and extremist resources. Belarus Today, 2023. <https://www.sb.by/articles/po-privychnomu-marshrutu.html>.

⁵⁰ Did the enforcers decide to take revenge on the "Mothers 328"? UDF.BY, 2023. <https://udf.name/news/sobytie/259029-siloviki-reshili-otomstit-materjam-328.html>.

⁵¹ Ruling of the Central District Court of Minsk dated December 11, 2023. The Republican List of Extremist Materials. Ministry of Information of the Republic of Belarus, 2023. <http://mininform.gov.by/documents/respublikanskiy-spisok-ekstremistskikh-materialov/>.

⁵² Belarus will adopt a decree with strict penalties for drug distribution and use. BELTA, 2014. <https://www.belta.by/president/view/v-belarusi-primut-dekret-s-zhestkimi-merami-otvetstvennosti-za-rasprostranenie-i-upotreblenie-narkotikov-60576-2014/>.

52. Following this statement, throughout 2015, court rulings on parole or commutation of sentences for those convicted of offenses related to trafficking in controlled substances were revoked en masse. As a result, people who had previously been recognized as on the path to correction or who had proven their correction were sent back to correctional colonies to serve their sentences.⁵³
53. For convicts under Article 328 of the CC, a separate penitentiary institution - Correctional Colony No. 22 - has been tacitly assigned. Until 2021, mainly those convicted under the given article were sent there.
54. Those convicted under Article 328 of the CC are held in segregated units. Until 2019, they were obliged to wear green tags (patches containing name, surname and sentence)⁵⁴, while other prisoners had white tags, regardless of the type of crime they committed.
55. Inmates are subject to disciplinary action and transferred to a confinement regime for refusing to wear such tags.⁵⁵
56. Those who have served their sentences testify that conditions for those convicted under Articles 327-332 of the CC are worse than for other inmates. They are more often subjected to disciplinary penalties, deprived of visits and calls,⁵⁶ are assigned the hardest labor, such as cleaning tyre cords.⁵⁷
57. There are a number of cases when charges under Articles 327-332 of the CC were used as a means of additional pressure and extension of sentences for defendants in politically motivated criminal cases. At least 28 political prisoners received additional charges under Article 328 of the CC. Law enforcement agencies use hate speech and stigmatize detainees in political cases if they are known to have used controlled substances.⁵⁸
58. Despite the fact that decriminalization of psychoactive substance use and work to address the stigmatization of substance users is recognized as good practice,⁵⁹ in Belarus marginalization and discrimination are supported both by the authorities and in part by society. The content of articles 327-332 of the CC, propaganda in the state media, educational institutions and social advertising on street billboards encourages society to treat psychoactive substance users with disdain. Discriminatory and derogatory practices

⁵³ The creation of a separate colony with unbearable conditions of imprisonment is in contravention of the basic principles of international and national law. Viasna, 2016. <https://spring96.org/ru/news/82318>.

⁵⁴ Eight years for powder and a green tag of a drug trafficker. How are tried and sentenced under "drug" articles in Belarus. Current Time, 2019. <https://www.currenttime.tv/a/drugs-crimes-belarus/30049935.html>.

⁵⁵ «I saw real dealers only 2 - 3 times in the colony». A talk with a person, who did 7,5 years "for drugs". Radio Liberty, 2018. <https://www.svaboda.org/a/29246732.html>.

⁵⁶ "You're under decree — suffer!" Mogilevian man on sentence conditions convicted drug offenders. Radio Liberty, 2018. <https://www.svaboda.org/a/29281648.html>.

⁵⁷ "They're offloading clinks now. Apparently, for the political ones". Botanic Project lead singer, convicted in a drug case, talks about 5 years in prison. <https://mediazonaby.com/article/2021/03/22/klimbotanic>.

⁵⁸ He wanted to burn law enforcers and got burned himself. Book of GU "BAZA", 2023. <https://t.me/guBAZA/1668>. A participant in the 2020 Belarus protests is charged under Article 328. Legalize Belarus, 2022. <https://legalizebelarus.org/drugs/uczastnika-bielaruskich-protiestov-2020-goda-obviniajut-po-328-statje/>.

⁵⁹ Human rights and drug policy: a paradigm shift: note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly. Amnesty International, 2019. <https://www.amnesty.org/en/documents/pol30/1130/2019/en/>.

include mobile youth courts⁶⁰ and raids on university dormitories.⁶¹ Representatives of such an unprotected social group as minors with experience of orphanhood find themselves in a particularly vulnerable situation.⁶²

2.5. The right to health

Third UPR Cycle Recommendations:

138.72 Pursue government activities to improve the national system of social protection to promote the rights of vulnerable groups , especially persons with disabilities (Lebanon);

Source of Position: A/HRC/46/5/Add.1

138.228 Improve access to and the quality of health care, including psychiatric care , for prisoners, and increase the number of professional medical staff in all detention facilities (Holy See);

Source of Position: A/HRC/46/5/Add.1

138.226 Continue to adopt measures to further improve health services in order to ensure greater accessibility, especially in rural areas (Algeria);

Source of Position: A/HRC/46/5/Add.1

138.227 Continue to strengthen essential health services, particularly for older persons and other vulnerable groups, and especially in the context of the COVID -19 pandemic or other public health emergencies (Cuba);

Source of Position: A/HRC/46/5/Add.1

59. People who have been administratively prosecuted three or more times during the year for offenses while under the influence of drugs may be sent for treatment to therapeutic labor preventoria (LTP) by court decision. This contradicts international standards that require voluntary and informed consent for addiction treatment.⁶³ Back in 2012, UN experts stated the need for the immediate closure of compulsory treatment facilities,⁶⁴ yet the list of grounds for sending people to LTPs was expanded.⁶⁵
60. There are widespread violations of the rights of opioid substitution therapy (OST) patients, HIV+ people and other members of vulnerable groups who use controlled

⁶⁰ What is "shock prevention". They hold demo trials over their peers for Belarusian teenagers, and over driving school students. Mediazona Belarus, 2021. <https://mediazonaby.com/article/2021/11/26/schock-prof>.

⁶¹ Drugs and "extremists": the dormitory of a vocational school in Kobrin was raided. Malanka Media, 2022. <https://malanka.media/news/13919>.

⁶² Orphans-328: getting to prisons from orphanages, but get released indebted.. Euroradio, 2021. <https://euroradio.fm/siroty-328-z-dzicyachyh-damou-traplyayuc-u-kalonii-vyhodzyac-u-daugah>.

⁶³ International standards for the treatment of drug use disorders: revised edition incorporating results of fieldtesting. Geneva: World Health Organization and United Nations Office on Drugs and Crime, 2020. <https://iris.who.int/handle/10665/331635>.

⁶⁴ Joint statement on compulsory drug detention and rehabilitation centres. Office of the High Commissioner for Human Rights, 2012. <https://www.ohchr.org/en/statements/2012/03/joint-statement-compulsory-drug-detention-and-rehabilitation-centres-ilo-ohchr>.

⁶⁵ Law "On the procedure and conditions of sending citizens to therapeutic labor preventoria and terms of staying in them" in the edition of the Law of July 21, 2023 № 301-3. National Legal Information Center of the Republic of Belarus, 2013. <https://pravo.by/document/?guid=12551&p0=H12300301>.

substances. They are discriminated against, closely monitored, subjected to pressure from law enforcement officials, and denied employment. According to members of the organization "Your Chance", law enforcement officers have been known to force OST patients to take the blame for petty theft and other crimes under the threat of not having access to medication. People have been fired from their jobs because of their participation in the OST programme, and their medical details have been disclosed to drug control officials. Unfortunately, these cases are not publicly reported, as the victims refuse to make public statements due to the risk of further stigmatization and pressure.

61. Repressive government policies create an atmosphere of fear and mistrust towards law enforcement and health care institutions, which discourages users of controlled substances from seeking help because of fear of criminal prosecution.⁶⁶

2.6. Children's rights

Third UPR Cycle Recommendation:

138.255 Continue its measures on social services, especially in supporting low-income families and families in difficult circumstances, and the benefit system for children (Myanmar);

Source of Position: A/HRC/46/5/Add.1

62. Parts 2-5 of article 328 of the CC, which concern trafficking in controlled substances, are included in the list of offenses that can be prosecuted starting from the age of 14.
63. The repressive policies of the authorities have resulted in systematic violations of minors' rights, which is contrary to the Convention on the Rights of the Child. State authorities should put the interests of children first in any action, including criminal justice, in which arrest or imprisonment should be a measure of last resort and for the shortest possible period of time. However, actual judicial practice shows the opposite trend: minors are sentenced for long terms on a par with adults, without taking into account their age and psychological state.
64. A court in Zhlobin district sentenced two teenagers to 11 years of imprisonment for distributing controlled substances as an organized group in April 2021.⁶⁷ Several underage girls were sentenced under Article 328 to terms ranging from 10 to 14 years for working as "couriers" in online stores.⁶⁸ There are many similar sentences against minors in judicial practice, which takes absolutely no account of their special legal, psychological state and age.

⁶⁶ Right of everyone to the enjoyment of the highest attainable standard of physical and mental health - Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. UN General Assembly, 2012 (UN Doc. A/65/255). <https://documents.un.org/doc/undoc/gen/n10/477/93/pdf/n1047793.pdf?token=PZFzf5TNfYbyz7uSjD&fe=true>.

⁶⁷ The trial of minors, who were distributing drugs, was held in Zhlobin. Gomelskie Vedomosti, 2022. https://www.newsgomel.by/archive_news/incidents/v-zhlobine-proshel-sud-nad-nesovershennoletnimi-kotorye-rasprostranyali-narkotiki_72908.html.

⁶⁸ Girls convicted under Article 328: torture, huge sentences and a salary of 10 dollars a month. International Center for Civic Initiatives "Our Home", 2021. <https://nash-dom.info/68151>.

65. This trend shows that the current approach to dealing with controlled substances is ineffective. Policies need to be changed to take into account the special needs and rights of minors and to utilize alternatives to criminal sentencing.

RECOMMENDATIONS:

- a) Conduct investigations and trials in cases involving trafficking in controlled substances in accordance with international standards. This includes ensuring the presumption of innocence, the right to counsel and access to a fair and impartial trial.
- b) Take measures to treat charged and convicted individuals in cases involving trafficking in controlled substances in a humane manner. This includes the prohibition of torture and ill-treatment, as well as the provision of imprisonment conditions consistent with international standards.
- c) Stop the practice of creating discriminatory conditions of imprisonment and ensure equality before the law for all, in accordance with international human rights standards. Eliminate any form of discrimination and stigmatization of psychoactive substance users.
- d) Guarantee abidance by freedom of expression and freedom of association for civic organizations advocating for the decriminalization of personal use of controlled substances and the humanization of drug policies. Stop pressuring and restricting their activities and abusing anti-extremism legislation.
- e) Take measures to ensure the right to health, including the elimination of compulsory treatment for addiction. Ensure adherence to the principle of voluntary and informed consent to treatment, and end discrimination and harassment of people who use psychoactive substances. Particularly, OST program participants and HIV+ people, to reduce barriers to accessing medical care and other social support.
- f) Reconsider the approach to criminal liability of minors. Ensure that their rights and interests are prioritized in accordance with the Convention on the Rights of the Child. Consider alternatives to criminal sentencing, taking into account the specifics of age and psychological state.