

# POLITICALLY MOTIVATED ADMINISTRATIVE CASES IN BELARUS: STANDARDS AND REALITY IN 2021-2022



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# INTRODUCTION

This report continues the series of monitoring reports on administrative proceedings in politically motivated cases, covering the period from April 2021 to the end of April 2022.

Earlier, the Human Rights Center *Viasna*, independently or with the support of experts, published the following reports on the issue:

[“Administrative Imprisonment in Belarus in 2020. An Instrument of Violating Human Rights”](#), [“Belarus. August 2020: “Justice” for Protesters”](#), and [“Politically Motivated Administrative Proceedings: Standards and Reality in Contemporary Belarus”](#).

The monitoring was carried out by members and volunteers of the Human Rights Center *Viasna*. Every phase of administrative proceedings was analyzed by the organization’s lawyers and experts.

Data on 528 hearings in administrative cases in 46 courts of Belarus, together with information received from more than 170 detainees in administrative cases from 14 cities, were analyzed and evaluated.

The results obtained were assessed both from the point of view of the standards of a fair trial, which are enshrined in international treaties and other binding UN documents, and in terms of the norms of national legislation.

## **The following abbreviations were used in the report:**

***CJA – Commission on Juvenile Affairs;***

***HRC – United Nations Human Rights Committee;***

***Covenant – International Covenant on Civil and Political Rights (adopted by General Assembly resolution 2200 A (XXI) of December 16, 1966);***

***PIKOAP – Code of Execution Procedure on Administrative Offenses of the Republic of Belarus, 2021;***

*The notion of “administrative proceedings” in this report refers to the proceedings administered by the bodies of internal affairs and court hearings in cases involving violations of the national law that do not pose a public danger, misdemeanors and offenses, responsibility for which is provided for by the Code of Administrative Offenses. Accordingly, this process includes the concepts of “administrative case”, “administrative offense”, “administrative detention” and “administrative imprisonment,” which may not coincide with the corresponding meanings of the concept of “administrative” in other legal systems.*

*The report takes into account an opinion by the HRC, which stated that guarantees in the consideration of a criminal charge may also “extend to acts that are criminal in nature with sanctions that, regardless of their qualification in domestic law, must be regarded as penal because of their purpose, character or severity.” The penal nature of the prosecution in the cases reviewed in the report is evidenced by the use of inherently criminal measures of coercion, including detention for up to 72*

*hours, and criminal penalties, most notably, administrative imprisonment, which constitutes a severe deprivation of liberty for up to 30 days (sometimes continuously more than 120 days), and hefty fines, which are comparable to those provided for by the Criminal Code for the commission of a criminal offense, and are also associated with a subsequent restriction on the rights linked to the convict's status, in particular, by imposing restrictions on admission to public service, employment and engagement in certain types of activities. Therefore, the analysis of the rights and obligations of participants in the legal relations was carried out from the point of view of the provisions of the Covenant and other UN documents that define standards in the field of criminal justice.*

# CONTEXT

The situation during the period under review was a consequence of the events of the summer and autumn of 2020, when the presidential election triggered an unprecedented increase in socio-political activity, which, in turn, resulted in massive street protests and the widespread use of national symbols. By the spring of 2021, the protests were no longer massive or regular. The manifestations of dissent and attempts to exercise the right to peaceful assembly provoked severe repressive reactions.

In January 2021, it was announced that a referendum would be held on February 27 of the same year on amending the Constitution, which, due to the dubious nature of the proposed amendments, in the context of internal instability and the deepest split between the authorities and the public, was subjected to harsh criticism from the opposition. In general, the idea of a referendum was not popular with the voters, despite the obsessive propaganda in the pro-government media advocating the “historical significance” of the event.

On February 24, the Russian Federation committed an act of aggression against Ukraine, invading the country from several directions, including from the territory of Belarus, using the country’s transport and military infrastructure to wage war. These events caused a surge in protest sentiment and became the reason for numerous anti-war comments.

The year was marked by a significant expansion of the so-called anti-extremist legislation, which gives broad powers for the arbitrary prosecution of dissidents.

Administrative persecution has been the most common tool of repression throughout the entire rule of Lukashenka, increasing manifold during the periods of protest activity.

Administrative legislation is systematically used against participants in peaceful assemblies that are held without the obligatory permission of the authorities. Human rights defenders and experts regularly stress that the current legislation on holding assemblies does not comply with a number of international standards in this area, disregards the presumption in favor of peaceful assemblies, and therefore it is extremely difficult to conduct “legal” assemblies in accordance with such legislation.

Often, administrative legislation is applied for the purpose of arbitrary detention – in the absence of both the event itself and the elements of an administrative offense. During the period under review, arbitrary administrative imprisonment served as a means of extending the period of detention.

The numerous deficiencies of both substantive and procedural norms of administrative law, the low level of protection of the rights of individuals, as well as the arbitrary practice of their application have always been the subject of criticism from both Belarusian and international human rights organizations, the HRC, among others.

Administrative arrests and imprisonment continued to be routinely used in the post-election period, which has been described as a profound human rights crisis.

According to *Viasna*, more than four thousand persons were detained during this period. Most of them were subsequently brought to administrative responsibility. The majority were participants in numerous peaceful meetings, as well as persons accused

of holding “one-person pickets” by displaying national symbols on the windows and facades of their private homes.

In 2021, the coronavirus pandemic was another peculiarity of 2020-2021, which had a significant impact on law enforcement practice. In the absence of any significant restrictive measures, even during periods of extreme aggravation of the situation with the spread of COVID-19, the authorities continued to selectively apply a number of restrictions on the rights of participants in administrative proceedings. At the beginning of the pandemic, the consideration of administrative cases through the use of videoconferencing systems was sporadic. Later, however, such administrative proceedings became the rule. At the same time, the norms of the PIKOAP have not yet provided for the possibility of conducting trials in this format. The restrictions also concerned the possibility for lawyers to visit their clients in places of detention, both before and after the trial. This made it virtually impossible to appeal against the court decisions. In addition, the procedure for appeals provided for by the rules of the Code of Administrative Offenses, which stipulates the immediate execution of a court ruling imposing administrative imprisonment, makes the implementation of this procedure extremely difficult.

The year was marked by repeated cases of prolonged isolation exceeding three months after several consecutive rulings ordering terms of administrative imprisonment. In those cases, serving administrative imprisonment was commensurate with the punishments provided for by the Criminal Code.

Against the backdrop of unprecedented crackdowns aimed primarily at preventing the resumption of mass protests, the authorities took steps to tighten legislation. The new Code of Administrative Offenses, which entered into force on March 1, 2021, upgraded administrative liability for participation in unauthorized meetings, significantly increasing the amount of fines (up to 200 basic units) and the maximum term for administrative imprisonment for repeated prosecution (increased from 15 to 30 days). During the period under review, the practice of imposing administrative penalties under the updated legislation has developed.

# LEGISLATIVE AMENDMENTS

***The new Code on Administrative Offenses No. 91-Z of January 6, 2021 entered into force on March 1, 2021.***

The new version significantly changed the procedures for bringing to administrative responsibility in connection with the introduction of a provision on categories of administrative offenses. Depending on the nature and degree of public danger, administrative offenses were subdivided into gross administrative offenses, significant administrative offenses and (regular) administrative offenses. However, the elements of offenses that are used to determine protest activity as criminal and the ones that are arbitrarily imputed to citizens in connection with protest activity, dissent or exercising their rights and freedoms, are treated according to the usual old rules.

“Public danger” is a new concept that was not previously contained in the legislation on administrative offenses. It is an unsuccessful attempt to reconcile the concepts of the absence and presence of a public danger of administrative offenses with an intermediate concept. The Code of Administrative Offenses does not contain a definition of this concept, and “danger” as a consequence of an offense (defined in the Code of Administrative Offenses as harm to life or health, or property or moral damage subject to monetary measurement) is often not an element of an administrative offense.

The Code of Administrative Offenses prescribes taking into account public danger when imposing an administrative penalty or exempting from administrative responsibility; explaining the public danger of the act when applying oral reprimand and educational measures in relation to minors.

When pigeonholing offenses, the legislator did not indicate objective criteria for classifying certain acts into different categories, but made this distinction through the types and amount of administrative penalties to be imposed.

Administrative offenses include violations punishable by a fine not exceeding 10 basic units for an individual; 25 basic units – for an individual entrepreneur; and 50 basic units – for a legal entity.

Significant administrative offenses include violations punishable by confiscation, deportation or a fine in the amount determined as a percentage or a definite proportion of the value of the subject of the administrative offense committed, the amount of damage, revenue, transaction, foreign trade operation or income, the difference between actual proceeds received from the sale of goods (works, services), and the estimated amount of proceeds from the sale of goods (works, services), or in an amount exceeding: for an individual – 10 basic units; for individual entrepreneurs – 25 basic units; for a legal entity – 50 basic units.

Gross administrative offenses are punishable by community service, administrative imprisonment or deprivation of the right to engage in certain activities, and in cases of repeated offenses – entail criminal responsibility.

The law introduced a new institution – “preventive enforcement measures”. Depending on the category of the offense, the provision offers a new regulation of the deadlines, which, when expired, allow the person to be considered as not having been prosecuted



under administrative procedures, and, therefore, subject to application of preventive enforcement measures instead of punishment. Basically, it was this circumstance that allowed the authorities to assert that the new Code of Administrative Offenses significantly liberalized the procedure for bringing to administrative responsibility, in particular, it fixed the possibility of imposing a fine in the amount of less than the lower limit of the penalty provided for the offense committed; limited the maximum amount of the imposed fine to two basic units (four units for offenses committed in the course of entrepreneurial activity) for minors; streamlined the deadlines for imposing an administrative penalty, as a result of which the period for imposing a penalty in some categories of cases was reduced; changed the maximum fine imposed on individuals was: reduced from 50 to 30 basic units.

However, the Code increased to 200 basic units fines imposed for offenses that infringe on the rights and freedoms of a person and a citizen, offenses in the field of finance, stock market and banking, in the field of entrepreneurial activity, in the field of communications and information, against traffic safety and transport operation, as well as against the rules of taxation and the procedures of management. The last object of “infringement” is typical of most protest cases, i.e. violating the procedure for organizing and holding mass events and disobedience to a representative of the authorities. In April 2022, the basic unit was worth 32 Belarusian rubles (about 10 euros).

Separate changes have quite obvious goals: for the commission of offenses under parts 3 and 4 of Article 24.23 of the Code of Administrative Offenses (violation of the procedure for organizing or holding mass events), the new Code establishes a special duration of imprisonment – for a period of 15 to 30 days. It should be recalled that this article covers both the organization and participation in events with at least several participants and one-person pickets or protests that qualify as pickets (displaying protest symbols or insignia perceived by the authorities as protest), together with calls for holding public events.

The Code of Execution Procedure on Administrative Offenses of the Republic of Belarus (PIKAOP) of January 6, 2021, entered into force on March 1, 2021.

Among the changes are the norms on the inadmissibility of disclosing information contained in an administrative case: this information can be made public only with the permission of a judge, an official of the body conducting the administrative case, and if such information affects personal life of the victim – with the permission of the victim and to the extent that they recognize this as possible. Personal data of participants in administrative proceedings may be made public only with the consent of such persons.

This norm directly violates the principle of publicity, restricting the rights and freedoms of individuals without a legitimate goal, and conflicting with the essence of the law itself.

Just as excessive is another rule, which provides that, in order to protect information constituting state secrets or other secrets protected by law, contained in an administrative case files, a judge or an official of the body conducting administrative proceedings, warn the persons participating in the closed consideration of the case, of responsibility for disclosing such information, which should be certified by a signed statement. The concept of “other secrets protected by law” is overly broadly defined

in the law and is even more widely interpreted at the law enforcement level, creating grounds for abuse of the possibilities of restricting the right.

At the same time, the Code provided for the right of those present during an open consideration of a case, as well as when considering an appeal (challenge) against a court ruling, to use audio recording devices and applications. Video recording, taking photographs and filming are allowed with the permission of a judge or an official of the body conducting the administrative proceedings, presiding at a meeting authorized to consider this case, and with the consent of the persons participating in the consideration.

In addition to the usual summonses and SMS notifications, persons can be invited to participate in administrative proceedings via electronic or other communication, including using the Internet.

Parents received the right to be present during the interrogation of minors. Previously, it was possible "if necessary", that is, it remained at the discretion of the body conducting the administrative proceedings.

The list of grounds on which administrative detention for more than three hours cannot be applied has been expanded.

# OBSERVATION CONDITIONS

## **General Comment No. 32**

### **Article 14: Right to equality before courts and tribunals and to a fair trial**

*28. All trials in criminal matters [...] must in principle be conducted orally and publicly. The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large. Courts must make information regarding the time and venue of the oral hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, inter alia, the potential interest in the case and the duration of the oral hearing. [...]*

*29. Article 14, paragraph 1, acknowledges that courts have the power to exclude all or part of the public for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice. Apart from such exceptional circumstances, a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons. Even in cases in which the public is excluded from the trial, the judgment, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children.*

The described period was marked by a steady decline in opportunities of direct judicial observation involving attending court sessions, which is due to a decrease in the number of administrative cases, their absence in the public schedules of court houses and consideration of cases using videoconferencing systems. Therefore, other possibilities were used to obtain objective information about the judicial procedures.

Human rights defenders collected data on 528 administrative trials. 250 of them were held using video communication systems.

Information was also collected from 171 people who were detained on administrative charges.

In some cases, audio recordings of the court sessions have been preserved.

# DETENTION

National legislation defines detention as a measure to ensure administrative proceedings, which, along with other steps, can be used to suppress administrative offenses, identify the individual facing administrative charges, press the administrative charges and ensure timely and correct consideration of the case and execution of court rulings. Administrative detention consists of the actual short-term restriction of the freedom of an individual facing administrative charges, delivering them to a place determined by the body conducting the administrative proceedings, and holding them in this place.

According to the PIKOAP, administrative detention is used for the following purposes:

1. suppression of illegal activities;
2. preparing administrative charges, if it is not possible at the place of detection (commission) of an administrative offense;
3. identification;
4. ensuring participation in the consideration of an administrative case;
5. suppression of concealment or destruction of evidence;
6. ensuring the execution of an administrative penalty in the form of administrative imprisonment or deportation.

Thus, various other grounds for detention, which are characteristic of national practice, are arbitrary. These include: "for clarification", "to determine identity" and "on suspicion of committing an offense". Detention for identification purposes is possible only in relation to the person who committed an offense. In accordance with the Law "On Bodies of Internal Affairs", detainees shall be informed of the reasons for their detention.

## **Article 9 of the Covenant:**

*2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

## **General comment No. 35**

### **Article 9 (Liberty and security of person)**

*25. An important purpose of the requirement to inform the arrested person of the reasons for the arrest is to enable him to seek release if he considers that the reasons given to him are unlawful or unfounded. Such reasons must include not only the general legal grounds for the arrest, but also sufficient factual grounds pointing to the merits of the case, including the wrongful act and the identity of the alleged victim. By "reasons" is meant the official grounds for the arrest, and not the subjective motives that guide the official making the arrest. One major purpose of requiring that all arrested persons be informed of the reasons for the arrest is to enable them to seek release if they believe that the reasons given are invalid or unfounded. The reasons must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim. The "reasons" concern the official basis for the arrest, not the subjective motivations of the arresting officer.*

Many people were detained

— after their homes were searched:

*They came with a search warrant, conducted the search, confiscated the equipment and detained me.*

*Capture of the house by eight armed men.*

*They came home with shields and machine guns.*

*A search warrant, as a result of which a phone was seized. They took me to the AAA police department [and] pressed administrative charges.*

— for using protest insignia:

*Me and my friends were taking pics with a white-red-white flag near AAA in BBB. Police officers approached and asked to follow them.*

*We decorated the trees with white-red-white ribbons, [...] and [the man] called the police.*

*[I was] detained while riding a bicycle for having a white ribbon on my wrist.*

*I laid flowers (white-red-white roses), after which OMON officers asked me to follow them to a car.*

— on trumped-up charges of illegal actions against police officers:

*They came home. At the trial, they said that they arrested me in the city center and resisted arrest.*

*They came home. They said that they were from the Investigative Committee. The apartment and the car were thoroughly searched. A lot of things were taken. They took me to the KGB, where I was interrogated for about seven hours. After that, they took me to the police department and made me sign a pre-prepared report on a fabricated case. Allegedly, I broke into the police station and started a conflict there. I swore and prevented people from working (at that time there was only one employee at the police department). Later they let me go home.*

— for showing curiosity when other persons were being detained, etc:

*I walked from the main entrance to the entrance to the metro station, stopped for a minute as the riot police were carrying a guy past me.*

Many were detained in connection with participation in peaceful assemblies, being in places of mass events or in adjacent territories:

*At the memorial of Raman Bandarenka.*

*Participated in a march, [then there was a] raid.*

*I was detained when girls were gathering for an all-women's march.*

*I passed by, did not participate in the protest.*

Some of the detainees took part in various alternative forms of peaceful assemblies:

*I was having tea with my neighbors in the yard.*

*In the yard, the neighbors were having tea, celebrated a birthday.*

*Summoned to the police department for a conversation about a photo they found [on a relative's device]. The photo was taken in the yard of his house with flags: white-red-white and with Pahonia. It was never posted anywhere on the net.*

For the exercise of voting rights:

*We came to the school to look at the voting lists and tried to stand up for the observers.*

Detention for "identification" and "verification" is still practiced:

*Police officers came up and asked me to follow them to clarify my identity, and after five minutes a white Geely pulled over, they grabbed my phone out of my hands, they took me to a bus, where they handed me over to the OMON officers.*

*The officers suspected me and friends of participating in a mass event.*

*Under the pretext that a crime had been committed in the area and a check was being carried out on all owners of telephones who, according to the communications operator, were in the neighborhood, my phone was confiscated and I was taken to the police department "for clarification". There they started threatening with various charges, until they found a subscription to "extremist" channels on the phone.*

In many cases, the official reason could not be the basis for detention under the law:

*Cars began to honk, I waved my hand. A bus pulled over, they grabbed me, pushed me inside, then they put me in an avtozak.*

*Fireworks at 23:34.*

*I was filming security officials, I didn't chant any slogans, but I was with flowers, I wasn't in the crowd.*

*Arrested for photographing a ballot at a polling station at a school.*

*The bag had yellow and blue ribbons.*

In 105 cases, police officers and soldiers did not identify themselves during the arrest, and in only 34 cases did they show identification documents. In 113 cases, the reason for the detention was mentioned.

Physical violence was used against 77 detainees, 126 reported the use of psychological violence, 58 said that they had witnessed the use of physical force against other persons; police gear was used against 52 people.

Thus, persons detained on politically motivated charges were subjected to high levels of violence, as police officers routinely disregarded legal provisions regulating detention procedures, as well as the rights and obligations of participants in legal relations.

An important drawback of the criminal procedural legislation is the absence in the administrative process of measures similar to criminal procedural measures that ensure the achievement of statutory goals: bail, guarantee, obligation to appear, recognizance not to leave and proper behavior, which unacceptably expands the scope of a long – up to 72 hours – administrative detention pending trial.

The PIKOAP provides for restrictions on the use of detention: adults charged with committing an administrative offense punishable with administrative imprisonment may be detained for a period of more than three hours.

According to the new PIKOAP, from March 1, 2021, pregnant women, disabled people of groups I and II, women and single men who have dependent minor children, persons who have dependent disabled people of group I or who care for the elderly who have reached the age of 80 are not subject to detention for a period of more than three hours (with the exception of some cases specified by law, e.g. being in a state of intoxication, etc.). Earlier, administrative detention could also be applied to those categories of persons who, in accordance with the Code of Administrative Offenses, could not be sentenced to administrative imprisonment. This state of affairs was regularly criticized by human rights defenders, including in complaints submitted to the Constitutional Court, but the authorized bodies, including the Constitutional Court, did not view this as a violation of the rights of such categories of persons. The new PIKOAP eliminated this obvious shortcoming.

A natural person who has been subjected to administrative detention exceeding three hours shall be kept in a place determined by the body conducting the administrative proceedings.

The practice of placing detainees in places not specially adapted for detention was still used, although to a lesser extent than in 2020. This violates the detainees' procedural rights and, in certain cases, the right not to be subjected to prohibited treatment.

In particular, there was information about the detention in the hallways and assembly halls of the district departments of internal affairs, in hangars on the territory of the district departments of those detained at protests against the falsification of the results of the referendum and at anti-war protests at the end of February 2022.

# RIGHT TO A FAIR AND PUBLIC HEARING BY A COMPETENT, INDEPENDENT AND IMPARTIAL TRIBUNAL

## Article 14 of the Covenant

*...In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...*

## General Comment No. 32

### Article 14: Right to equality before courts and tribunals and to a fair trial

*19. The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. States should take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them. A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. [...]*

Within the meaning of Article 14 of the Covenant, a court in Belarus cannot meet the criteria of independence, which, in particular, was pointed out by the HRC in its concluding observations on the fifth periodic report of Belarus (2018):

*"39. While noting the measures taken as part of judicial reform, such as the 2016 amendments to the Code on the Judicial System and the Status of Judges, the Committee remains concerned that the independence of the judiciary continues to be undermined by the President's role in, and control over, the selection, appointment, reappointment, promotion and dismissal of judges and prosecutors and by the lack of security of tenure of judges, who are appointed initially for a term of five years with the possibility of reappointment for a further term or for indefinite terms. It is also concerned that the salaries of judges are determined by presidential decree rather than by law."*

The HRC recommended:

*"40. [...] take all measures necessary to safeguard, in law and in practice, the full independence of the judiciary, including by:*

- a. reviewing the role of the President in the selection, appointment, reappointment, promotion and dismissal of judges;*



- b. *considering establishing an independent body to govern the judicial selection process; and*
- c. *guaranteeing judges' security of tenure."*

The peculiarities of consideration of certain categories of cases, repeated in all courts, statements of officials and analysis of practice in certain categories of cases suggest that the courts and judges are manageable, which is incompatible with their independence.

A detailed analysis of various circumstances in support of these conclusions is contained in the previous report, "Politically Motivated Administrative Proceedings: Standards and Reality in Contemporary Belarus", which is still relevant.

## **General Comment No. 32**

### **Article 14: Right to equality before courts and tribunals and to a fair trial**

*21. The requirement of impartiality has two aspects. First, judges must not allow their judgement to be influenced by personal bias or prejudice, nor harbor preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other. Second, the tribunal must also appear to a reasonable observer to be impartial. For instance, a trial substantially affected by the participation of a judge who, under domestic statutes, should have been disqualified cannot normally be considered to be impartial.*

*26. Article 14 guarantees procedural equality and fairness only and cannot be interpreted as ensuring the absence of error on the part of the competent tribunal. It is generally for the courts of States parties to the Covenant to review facts and evidence, or the application of domestic legislation, in a particular case, unless it can be shown that such evaluation or application was clearly arbitrary or amounted to a manifest error or denial of justice, or that the court otherwise violated its obligation of independence and impartiality. [...]*

The practice of participation in the trials of witnesses with redacted personal information or false identities and concealed faces continued in the period, which made it possible to use police officers as witnesses everywhere and with impunity, who in fact were not such and obviously perjured.

*Video footage was presented in court, which clear showed that I did not have any symbols, that I did not resist, but the verdict was still guilty.*

*I was detained by people about my height (170), and at the trial a witness was declared (N. Belski), who testified that it was he who detained me, while he was much taller, 180-190.*

This practice started in 2020. Out of the 528 cases analyzed, 251 involved witnesses (as a rule, police officers); in 156 cases, measures were taken to conceal their appearance and/or personal data: balaclavas were used in 38 cases; data were redacted in 38 cases; data were redacted and the court exempted them from appearing in 10 cases; the persons standing trial could not see or hear the witnesses in 17 cases; the witnesses wore medical masks along with a headgear in 4 cases; witnesses were exempted by the court from appearing in 29 cases.

The totality of violations of the rights of detainees during the consideration of cases led to arbitrary and unlawful deprivation of liberty. 458 people out of 528 consider their conviction unfair.

*A friend who was present at the trial said that the witness read out the testimony from a piece of paper, I asked how he recognized me, but he could not answer, and I could not hear anything at all. There were inconsistencies in the case (the time of detention), and the accusation of active participation, protesting against the election results and shouting provocative slogans "Long Live Belarus" was made up by the police department officers and copied to all the detainees who were with me (14 people).*

# RIGHT TO STAND TRIAL

## Article 9 of the Covenant

3. *Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.*

4. *Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*

## General comment No. 35

### Article 9 (Liberty and security of person)

12. *An arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of "arbitrariness" is not to be equated with "against the law", but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality. For example, remand in custody on criminal charges must be reasonable and necessary in all the circumstances.*

14. *The Covenant does not provide an enumeration of the permissible reasons for depriving a person of liberty. Article 9 expressly recognizes that individuals may be detained on criminal charges, and article 11 expressly prohibits imprisonment on ground of inability to fulfil a contractual obligation. Other regimes involving deprivation of liberty must also be established by law and must be accompanied by procedures that prevent arbitrary detention. The grounds and procedures prescribed by law must not be destructive of the right to liberty of person. The regime must not amount to an evasion of the limits on the criminal justice system by providing the equivalent of criminal punishment without the applicable protections. [...]*

17. *Arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22), freedom of religion (art. 18) [...]*

32. *Paragraph 3 requires, firstly, that any person arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. That requirement applies in all cases without exception and does not depend on the choice or ability of the detainee to assert it. The requirement applies even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity. The right is intended to bring the detention of a person in a criminal investigation or prosecution under judicial control. [...]*

34. *The individual must be brought to appear physically before the judge or other officer authorized by law to exercise judicial power. The physical presence of detainees at the hearing gives the opportunity for inquiry into the treatment that they received in custody and facilitates immediate transfer to a remand detention center if continued detention is ordered. It thus serves as a safeguard for the right to security of person and the prohibition against torture and cruel, inhuman or degrading treatment. In the hearing that ensues, and in subsequent hearings at which the judge assesses the legality or necessity of the detention, the individual is entitled to legal assistance, which should in principle be by counsel of choice.*

Consideration of administrative cases via videoconferencing has become a tool for the widespread violations of the rights of detainees under administrative proceedings. This method of conducting administrative cases is not provided for by the Code of Administrative Offenses, therefore, it is not equipped with rules for securing the rights and guarantees of persons facing administrative charges.

The new PIKOAP labels as the sources of evidence explanations of the person under administrative proceedings, the victims or the witnesses obtained by using videoconferencing systems. At the same time, the Code does not fix the procedure for exercising procedural rights when considering a case using video communication systems.

As already mentioned, 47.3% of the observed administrative trials were conducted via videoconference.

The problems noted by the observers and the persons facing charges can be subdivided into the following groups:

— poor quality of communication, image and / or sound:

*The judge could be heard with terrible interruptions and loss of sound. Almost half of the speech was unintelligible, constant explanations were required from the employees who were in the room.*

*The judge was wearing a mask. The connection was terrible.*

*I saw the judge. Technical problems arose. I could not hear 30 percent of what he said.*

*I saw the judge's face. The sound was constantly interrupted. One of the witnesses was with me in the same room throughout the trial.*

*I only saw the judge's face, and only his body when he was reading his decision. Bad connection did not allow to hear the words well.*

*I only saw the face of the judge and it was very hard to hear. The connection was interrupted. In the courtroom, I was also hard to hear, according to my family.*

*I saw the judge's face, sometimes I didn't hear the judge! The judge spoke too quickly, at times I did not understand what he was saying.*

— lack of overview of the entire trial and / or its participants as a whole, inability to exercise procedural rights, inability of the public and relatives to see the detainee (this

is the most common situation; cases where the detainee was visible to observers and the public were rather an exception):

*Only the judge could see my husband. The judge hid the witness (turned the monitor away from the lawyer).*

This way of dealing with cases, therefore, deprives the public and observers of the opportunity to see injuries, the state of clothing and other signs of possible torture. At the same time, 148 out of 528 people told the judges about the use of violence or torture:

*I saw a masked judge <...> The judge saw that I was beaten, but did not even ask why. I had a witness, but they didn't listen to him either. However, they listened to a witness for the prosecution, who was confused in his testimony and could not even answer where I was detained.*

# PRESUMPTION OF INNOCENCE

## Article 14 of the Covenant:

*2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.*

## General Comment No. 32

### Article 14: Right to equality before courts and tribunals and to a fair trial

*30. [...] The presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle. It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused. Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals. The media should avoid news coverage undermining the presumption of innocence. Furthermore, the length of pre-trial detention should never be taken as an indication of guilt and its degree. [...]*

In accordance with the PIKOAP, an individual cannot be held administratively liable until their guilt in committing an administrative offense is established in the manner determined by the PIKOAP.

The duty to prove the guilt of a natural person facing administrative charges rests with the official of the body conducting the administrative proceedings, except in cases of an offense against traffic safety and the operation of transport, recorded by automatic road safety cameras and radars. An individual under administrative proceedings is not required to prove their innocence.

The circumstances set forth in the protocol of an administrative offense and the decision to impose an administrative penalty cannot be based on assumptions. Any doubts about the validity of the conclusions about the guilt of the individual should be interpreted in their favor.

It must be emphasized that the process must comply with the requirements of the law, while the practice of considering cases by the courts is marred by widespread violations of these rules and procedures.

There have been cases of administrative detainees being escorted to court in handcuffs, as well as being placed in cages for the duration of the consideration of the case by the judge.

Another violation of the presumption of innocence is the forced recording of a video with "repentance" for what was done, an admission of guilt, etc., which are then broadcast on propaganda information channels.

# RIGHT TO PREPARE FOR TRIAL

## **Article 14 of the Covenant:**

*3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*

*(b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.*

## **General Comment No. 32**

### **Article 14: Right to equality before courts and tribunals and to a fair trial**

*33. "Adequate facilities" must include access to documents and other evidence; this access must include all materials<sup>69</sup> that the prosecution plans to offer in court against the accused or that are exculpatory. Exculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defense (e.g. indications that a confession was not voluntary). In cases of a claim that evidence was obtained in violation of article 7 of the Covenant, information about the circumstances in which such evidence was obtained must be made available to allow an assessment of such a claim.*

Most of the detainees, whose cases were observed, remained in detention until the trial and could not properly prepare their defense: to have copies of the protocols, to be able to view the case files in a comfortable environment, which implies the opportunity to make appropriate notes or receive copies of the material, to file petitions demanding evidence, etc. These rights of detainees are routinely violated by the authorities conducting administrative proceedings, in places of detention, and often in courts.

Although it is worth noting that the numerous carbon-copy arbitrary decisions of judges significantly reduce the interest in active defense, for which preparation for the case is important.

Of the 528 persons brought to administrative responsibility, 219 were not able to fully access the case files; this number includes those who were allowed to have a quick look at the documents immediately before the case was considered.

68 people were not even allowed to view the protocols of administrative offenses.

# RIGHT TO EXAMINE WITNESSES

## Article 14 of the Covenant:

*3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*

*(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.*

## General Comment No. 32

### Article 14: Right to equality before courts and tribunals and to a fair trial

*39. Article 14, paragraph 3 (d) guarantees the right to have legal assistance assigned to accused persons whenever the interests of justice so require, and without payment by them in any such case if they do not have sufficient means to pay for it. The gravity of the offence is important in deciding whether counsel should be assigned "in the interest of justice" as is the existence of some objective chance of success at the appeals stage. In cases involving capital punishment, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings. [...]*

In 193 out of the 528 cases, witnesses were not examined in court. The reasons for the failure to appear were generally not valid enough, and the court made no effort to ensure the presence of such witnesses or to re-summon them, often limiting itself to reading out their reports or interrogation protocols and subsequently issuing rulings in the case. The announcement of written material cannot be a full-fledged substitute for the examination of witnesses. At the same time, only 82 people out of the total number of defendants in the 528 cases pleaded guilty in court, which could be grounds for the court to limit itself to examining only the evidence indicated by the participants in the administrative proceedings, or to conclude the consideration of the case.

Introduced in August 2020, the practice of applying security measures to witnesses representing the police has become a widespread tool of violating the said right. Human rights defenders and practicing lawyers have subjected this practice to serious justified criticism. The Code of Administrative Offenses stipulates that in cases where this is required by the interests of ensuring the safety of participants in the administrative process or their close relatives, the court may conduct a closed hearing of an administrative case. Other measures (redacting personal data, exemption from appearing in court, interrogation with concealed visibility) are not provided for by the Code of Administrative Offenses (contained only in the Code of Criminal Procedure), and therefore cannot be applied to witnesses in administrative cases.

The illegally applied security measures clearly do not serve the declared purposes. There is no reason to believe that the witnesses are in danger in connection with the performance of their civic and official duties, since there was not a single documented case when a police officer was harmed in connection with their participation in court as a witness in politically motivated administrative trials.



*We discussed with our cellmates the appearance of our witnesses, and it turned out that the witness under the surname Belski was at someone's trial under the name Hromau.*

*There was the same witness for many girls who were with me in the cell, although we were detained in different places.*

We still believe that the "security measures" taken are based on completely different considerations: the disclosure of the data of persons who arbitrarily detained persons will make it possible to identify and document their personal data for the subsequent prosecution of those responsible for falsifications, and even more so for torture and other prohibited types of treatment.

All the shortcomings and violations described in this section were a factor excluding the credibility of the court.

*"Witnesses" – biased persons, gave false testimony, none of them saw me, because on the day of detention I was wearing a mask all the time, and in court they claimed that they "saw my face and absolutely remember it." I haven't seen these people before. At the same time, there was a trial of a person I know underway in another room. The same witnesses said the same things. One after the other. They were sitting in a small room, apparently. During a Skype call, I could hear the other one "witnessing" in the case of the person I know, and then they just switched places and repeated each other's words. These are not witnesses.*

# RIGHT TO DEFENSE

## Article 14 of the Covenant:

*3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*

*(b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.*

## General Comment No. 32

### Article 14: Right to equality before courts and tribunals and to a fair trial

*34. The right to communicate with counsel requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter.*

When considering the right to file and a fair resolution of motions as one of the components of the right to defense, it should be noted that in court the process of clarifying rights in many cases was formal, fraught with technical problems when considering cases through videoconferencing systems. As a result, five people said that they were unable to exercise their right to motion. In general, persons subjected to administrative punishment said that in most cases the courts read out their rights to them, but they were not explained or provided.

In particular, the rights were announced, but not explained and not provided (for example, the opportunity to use the help of a lawyer) in 152 cases, not announced and not explained in 52 cases, announced and explained or did not require clarification in 324 cases out of 528.

Of the 528 detainees, 100 had a lawyer; only 48 people had the opportunity to communicate with them in private. 21 out of the 528 detainees were denied the assistance of a lawyer or the lawyer could not access the client.

The exclusion of lawyers from detention facilities was usually justified by measures against the spread of the coronavirus.

Lawyers and experts of the Human Rights Center *Viasna* have repeatedly noted that the previous procedure for ensuring the right to defense did not contribute to the exercise of the right to legal assistance. Despite the modernization of the PIKOAP, the law still lacks a mechanism and guarantees through which the right to defense acquires practical features. In particular, the law does not provide for the possibility of appointing a defense counsel in an administrative case at the expense of the government (with an advance from the budget of a fixed low rate for the participation of a lawyer in the preparation of an administrative case and in a court session, and preparing an appeal against a decision that has not become final).

In addition, the right to defense is greatly compromised in connection with mass repressions against lawyers who defended persons arrested in politically motivated administrative and criminal cases. According to Minister of Justice Siarhei Khamenka, "about 50 lawyers were deprived of their licenses for violating administrative or criminal law." According to Viasna, this number most likely includes dozens of lawyers who were arbitrarily recognized as lacking qualification or expelled from the bar on far-fetched pretexts or for minor violations that did not encroach on the foundations of the legal profession.

There were repeated reports that the courts and the police departments refused to allow close relatives to act as defenders in administrative cases.

# MINORS

## Article 14 of the Covenant

*4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.*

## General Comment No. 32

### Article 14: Right to equality before courts and tribunals and to a fair trial

*42. Article 14, paragraph 4, provides that in the case of juvenile persons, procedures should take account of their age and the desirability of promoting their rehabilitation. Juveniles are to enjoy at least the same guarantees and protection as are accorded to adults under article 14 of the Covenant. In addition, juveniles need special protection. [...]*

*43. States should take measures to establish an appropriate juvenile criminal justice system, in order to ensure that juveniles are treated in a manner commensurate with their age. It is important to establish a minimum age below which children and juveniles shall not be put on trial for criminal offences; that age should take into account their physical and mental immaturity.*

*44. Whenever appropriate, in particular where the rehabilitation of juveniles alleged to have committed acts prohibited under penal law would be fostered, measures other than criminal proceedings, such as mediation between the perpetrator and the victim, conferences with the family of the perpetrator, counselling or community service or educational programs, should be considered, provided they are compatible with the requirements of this Covenant and other relevant human rights standards.*

The preparation of administrative cases in respect of minors is carried out by the bodies conducting administrative proceedings, in accordance with their competence, taking into account some additional rules and guarantees related to the age of the persons involved.

In accordance with the procedure determined by the PIKOAP, the rights of a minor in an administrative case can be exercised along with them or instead of them by their legal representatives.

Protection of the rights, freedoms and legitimate interests of a minor or incapacitated natural person involved in administrative proceedings, or the victim are also carried out by their legal representatives. In the absence of a legal representative, their functions are exercised by a body of guardianship.

There is no mandatory participation of a defense counsel in administrative cases.

In accordance with Article 11.8 of the PIKOAP, when questioning a minor under the age of 14, and at the discretion of the official of the body conducting the administrative proceedings, when questioning a minor between the ages of 14 and 16, the presence of an educator is mandatory. If necessary, a psychologist may be present during the interview. Parents and other legal representatives of a minor have the right to be present at the interrogation. Such rules effectively allow examining a minor over the

age of 16 without the participation of an educator or a legal representative, as the participation of the latter is only their right, rather than a firmly established rule.

Consideration of administrative charges of the category reviewed in the report in cases of minors is administered by the commissions on juvenile affairs (CJAs) of the district (city) executive committees or of the district administration in the city. The participation of a legal representative in the consideration of the case is obligatory, while the participation of a defense counsel is optional.

The regulation on the procedure for the formation and activities of the commissions on juvenile affairs provides that the CJAs of the executive committee (administration) consists of the chairperson, who is ex officio deputy chairperson of the executive committee or head of the district administration in the city, deputy chairperson, secretary of the commission, a social educator and a teacher-psychologist of a socio-pedagogical center, heads of state bodies, institutions and other organizations engaged in the prevention of neglect and juvenile delinquency, or their deputies, as well as representatives of public associations with their consent. In practice, this means participation in the activities of the CJAs of representatives of local executive authorities and their subordinate institutions, including the department of internal affairs, as well as public organizations loyal to the authorities. Thus, this body, which in the process of conducting administrative proceedings has the signs of a court (acting within the framework of the PIKOAP, which does not provide for any elements of mediation, conciliation and other recommended tools for minors), is not competent, impartial or independent of the executive and legislative branches. It is worth recalling that the Belarusian authorities persistently evade the recommendations of international bodies to create specialized juvenile courts. каких-либо элементов медиации, примирения и прочих рекомендуемых для нес.

In accordance with Article 8.14 of the PIKOAP, a minor facing an administrative charge may be removed from the premises in which the case is being considered, if the hearing involves circumstances, the discussion of which may adversely affect them. This violates the minor's right to defense and a number of other rights under article 14 of the Covenant.

In accordance with the Code of Administrative Offenses, the maximum fine imposed on minors is set at two basic units.

In 2022, minors were on the list of detainees in connection with the anti-war protests on February 27-28.

# RIGHT TO APPEAL (REVIEW) THE DECISION

## **Article 14 of the Covenant:**

*5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.*

## **General Comment No. 32**

### **Article 14: Right to equality before courts and tribunals and to a fair trial**

*49. The right to have one's conviction reviewed can only be exercised effectively if the convicted person is entitled to have access to a duly reasoned, written judgement of the trial court, and, at least in the court of first appeal where domestic law provides for several instances of appeal, also to other documents, such as trial transcripts, necessary to enjoy the effective exercise of the right to appeal.*

The effectiveness of appealing against decisions in administrative cases is significantly reduced due to the fact that, in accordance with the PIKOAP, a court ruling imposing a term of administrative imprisonment is immediately executed, instead of being suspended for the period of appeal.

Of the 528 people subjected to punishment, 65 said that the court failed to explain the procedure for appealing, 77 – that the judge explained the rules, but they were not clear, or it was impossible to exercise the right in the conditions of a temporary detention center, and 118 – that the judge explained the rights to appeal.

Among the circumstances preventing appealing are absence of access to court decisions, lack of stationery, inability to contact a lawyer, and the need to pay a court fee when filing an appeal.

# RIGHT TO COMPENSATION

The PIKOAP contains a general rule, according to which, in the event that the actions and decisions of the court or the body conducting administrative proceedings are found illegal, an individual has the right to compensation for harm to life or health, property and moral damage, restoration of violated labor and other personal non-property rights, and a legal entity – to compensation for property damage and restoration of business reputation (Article 15.1).

However, in accordance with Article 15.2 of the PIKOAP, the right to compensation for the harm specified in Article 15.1 is granted to a person whose administrative case was closed on the grounds provided for in paragraphs 1, 2, 5, 6, 10 and 11 of part 1, and paragraphs 1, 2, 7-9 of part 2 of Article 9.6 of the PIKOAP (exonerative grounds).

The Code does not establish liability for other illegal actions of the bodies conducting administrative proceedings, e.g. imposing an excessively harsh penalty or other shortcomings that led to the cancellation of the decision and a retrial, illegal detention, search, etc.

Damage caused to a person by unlawful actions of the court or the body conducting administrative proceedings in cases not regulated by Articles 13.18 and 15.4 of the PIKOAP, including the costs of obtaining legal assistance and other expenses incurred in connection with the conduct of administrative proceedings, shall be compensated in the manner determined by the legislation on civil and economic procedures.

Cancellation of the decision in an administrative case and the termination of proceedings entail the return of sums of money and confiscated items, as well as the abolition of other restrictions associated with the adopted ruling. If it is impossible to return the confiscated item, its cost will be reimbursed.

Moral harm, the consequences of which are subject to elimination in the manner determined by the PIKOAP, is the infliction of moral or physical suffering by actions that violate the personal non-property rights of a person, including humiliation of their honor and dignity, as well as damage to business reputation.

In case of the termination of an administrative case on the above grounds, the body conducting administrative proceedings is obliged to:

- 1) make a formal apology to the person for the harm caused;
- 2) publish in the media a refutation of information discrediting a person, if such information was published in the course of conducting the administrative proceedings;
- 3) send, at the request of an individual or their legal representative (heir), within ten days, a notification about the cancellation of illegal decisions to the place of their work, service, study or place of residence (stay).

# RIGHT NOT TO BE SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Human rights defenders of *Viasna* continued to collect and document reports of ill-treatment of detainees in politically motivated cases during their stay in Belarusian detention facilities. Since the summer of 2020, detainees have been routinely and systematically subjected to inhuman conditions of detention: there are no mattresses and bedding in overcrowded cells, they are not allowed to take a shower and enjoy outdoor time, and they are not provided with medical assistance. According to human rights defenders, at least 616 people were briefly imprisoned for participating in the anti-war protests of February 27 and 28. Several people who were detained after voting in the referendum told *Viasna* about the conditions of detention in the Center for the Confinement of Offenders and the temporary detention centers in Minsk and Žodzina, about the humiliating practices used against political prisoners by the staff of the penitentiary facilities.

**Karina** (name changed for security reasons) was detained at a polling station in Minsk on February 27. According to the woman, the election commission did not like the question “Where can I see the amendments?”. In the police department, the district police officers made it clear that if she refused to sign the protocol, the detainee could face worse conditions. Some girls were even beaten on the legs.

*“To the question “And if I don’t sign the protocol?” the most frequent answer was “Well, you know it yourselves”. And they hinted that it would only get worse. Actually it did. They didn’t lie. The girls who spoke to them and the way they did it was against their rules were beaten on the legs (according to the stories of the girls themselves), they were given more days [of imprisonment] (this is a fact) and two charges each (this is both a prison term and a fine).”*

In the [police] department, the detainees were in the gym all the time. They were allowed to go to the bathroom and they even brought disposable cups, water and cookies. The girl recalls that she heard a guy being beaten outside the door, who refused to tell the officers the password to his phone.

The detainees were transported to the Center for the Confinement of Offenders in cramped avtozaks. There were no mattresses or bedding in the cells, their coats were taken, and on the first night the girls were bitten by bedbugs. Due to stress, many girls had their periods, but the prison staff gave them pads without any problems.

*“They gave us pads. They are very afraid of menstruation! We heard the staff say to one another that “there is a lot of blood loss in the women’s battalion.” There were issues with [toilet] paper, but we persistently begged, and they gave us something. Of course, in terms of volume, this was five times less than necessary. In Žodzina, they had all run out of newspapers. They came and said they were looking for at least something for us. And they found – pages with quotes from a book with phraseological units. We washed ourselves with bottled water. Prior to that, it was heated between the radiators for some time. We had to beg for the bottle too. We begged for everything,*



*all the time. But there was no other choice. In some cells in Akrestsin Street there was hot water, and the girls immediately began to wash their hair in turn."*

In addition, homeless women were put into the cell with the girls, one of whom was the notorious Alla Ilyinichna.

Karina served part of her term in the Žodzina detention center. There were two women's cells nearby: there were 13 people in the four-bed cell, and 30 in the ten-bed cell. Some girls were not fed for four days before being transferred to Žodzina. The beds in the cells were metal, and the floor was tiled. They did not take away their coats, so they could put it under themselves. At night, the staff deliberately made noise and interfered with their sleep.

*"In addition, former prisoners shared a story about how the guards took several men to the shower, locked them up and doused them with pepper gas. But this gas also got into the rest of the cells on the floor through the ventilation pipes. Chlorine was not poured, but the gas from a can reached us through the ventilation. We coughed a lot, together with the whole floor.*

*Employees yelled at night very loudly and on purpose. They drank [alcohol], clinked glasses, sang, watched videos. We heard this song "Sleep, fall asleep in my arms" all night right under the door. Also, they loved opening the doors and looking at us. They could come in after lights out too. We were very afraid of night visits. And just peeping through the peephole is their favorite pastime. They also lost people in prison. Several times, they came to check the cells, because they could not find someone from the list and cursed loudly at each other. They, of course, insulted and yelled at us. They said that we were to blame for the fact that they did not spend the night at home for days."*

There was no medical worker in Žodzina, and the detainees were only given those pills that their families sent them. The girls had to ask for painkillers for five days. But in the end they got them.

*"In Žodzina, the convicts who were distributing food felt sorry for us, they said that they would give us bigger portions. It's like we're claiming them. But thanks for their humanity!"*

**Maksim** (name changed for security reasons) was detained near a polling station on February 27. He was already leaving when a police officer approached him and asked to show his phone. After some time, a minibus pulled over, from which several riot policemen ran out and detained the guy. According to him, there were more than 30 detainees in the [police] department. After facing charges and an inventory of belongings, everyone was taken to the temporary detention center in Akrestsin Street.

A man detained in Minsk was put in a six-bed cell with 16 people. At first, there were mattresses in the cell, but the guards told the detainees to take them out. Considering that the detention took place at lunchtime, their cell was not fed until the next morning. In addition, on the very first night, all the detainees were bitten by bedbugs. The guy was kept in this cell for three days until the trial. On the third day, the court ruled to send Maksim to serve a term of imprisonment.

The man served the entire arrest in the Center for the Confinement of Offenders in Akrestsin Street. The first cell in which he was put was designed for four people, but there were 16 prisoners there.

*“The temperature was around 30 degrees, and there was moisture on the walls. The windows and the food hatch were closed. During the day, we were given only two portions of food for 16 people. They said that the rest were allegedly supposed to leave for Zodzina and they were not allowed to eat.”*

A few days later, the man was first transferred to a cell where there were 32 people for six beds, and later he was sent to an eight-bed cell with 40 prisoners.

*“There was one mean distributor who periodically knocked over plates of food on the floor of the cell on purpose. We were forbidden to make checkers and chess out of bread, arguing that they “prayed for bread”. Then I was transferred to an eight-bed cell. There were about 40 people there. We slept on the floor, on benches, tables, on the bunks and under them. We spread clothes underneath. We called each other by our first names, because it was impossible to remember the last names. Homeless people were placed in all the cells. One day we were taken out for a morning inspection and a bucket of bleach was poured into the cell.”*

*“They gave us porridge: chopped buckwheat, oatmeal, millet and barley. With these, they gave liver, fish and meat chops, in which the bread was saturated with the smell of meat. Sometimes they gave fish. There was tea for breakfast, kissel or compote for lunch. There was nothing to drink for dinner. The tap water stank of chlorine.”*

A week later, the prisoners' coats were taken. Maksim noted that neither he nor his cellmates were beaten at the Center for the Confinement of Offenders. At the time of his arrest, the man had about 30 rubles with him, which were confiscated to pay for food. Despite the fact that the administration ignored anti-COVID measures, the detainees were never provided with the necessary medical assistance.

*“The nurse gave us the medicines that our families had sent, but that's all. There was no hope for help. No masks were issued, and the staff were wearing balaclavas. I myself fell ill two days before my release, but without a fever. I don't know if it was COVID or not.”*

**These and other testimonies are regularly published on [the website](#) of the Human Rights Center *Viasna*.**

# CONCLUSION AND RECOMMENDATIONS

Proceedings in administrative cases, including in courts, are marred by widespread violations of national legal norms, constitutional and internationally recognized standards of a fair trial. Trampling on human rights and ignoring their flagrant violations have fundamentally undermined trust in law enforcement agencies, as well as trust and respect for the justice system.

## **The Belarusian authorities should:**

- **respect and observe the rights and freedoms enshrined in the Covenant and other universal and regional instruments;**
- **abandon repressive legislation that arbitrarily restricts human rights and freedoms;**
- **take all necessary measures to ensure that fundamental human rights are respected in the course of proceedings in administrative cases, including ensuring the right to defense, the right not to be subjected to torture, the presumption of innocence, as well as other rights and guarantees provided for by the Covenant, to all detainees and those brought before the court;**
- **ensure a wide-ranging supervisory review of cases considered in violation of national law and human rights, with a view to rehabilitating all victims and compensating for the harm caused to them;**
- **take measures to restore the constitutional role of the courts in the system of the state.**