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|  |  | CCPR/C/137/D/2693/2015, CCPR/C/137/D/2898/2016  CCPR/C/137/D/3002/2017, CCPR/C/137/D/3084/2017 | |
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**Human Rights Committee**

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communications Nos. 2693/2015, 2898/2016, 3002/2017, 3084/2017[[1]](#footnote-2)\*’[[2]](#footnote-3)\*\*

*Communication submitted by:* Aleksandra Vasilevich, Vladimir Katsora (not represented), Valery Repnin, Anatoly Lebedko (represented by counsel, Leonid Sudalenko)

*Alleged victim:* The authors

*State party:* Belarus

*Date of communications:* 21 August 2015 (communication No. 2693/2015); 17 June 2016 (communication No. 2898/2016); 27 April 2017 (communication No. 3002/2017); 13 June 2017 (communication No. 3084/2017) (initial submissions)

*Document references:* Decision taken pursuant to rule 92 of the Committee’s rules of procedure, transmitted to the State party on 1 December 2015 (communication No. 2693/2015); 12 December 2016 (communication No. 2898/2016); 6 July 2017 (communication No. 3002/2017) and 22 December 2017 (communication No. 3084/2017)

*Date of adoption of Views:* 14 March 2023

*Subject matter:* Imposition of a fine for participating in unsanctioned peaceful meeting; freedom of expression

*Procedural issue:* Exhaustion of domestic remedies

*Substantive issues:* Freedom of assembly; freedom of expression

*Articles of the Covenant:* 2 (2), (3), 19 and 21

*Articles of the Optional Protocol:* 2 and 5 (2) (b)

1.1 The authors of the communications are Aleksandra Vasilevich (communication No. 2693/2015), Anatoly Lebedko (communication No. 2898/2016), Vladimir Katsora (communication No. 3002/2017) and Valery Repnin (communication No. 3084/2017). The authors are nationals of Belarus born in 1987, 1961, 1957 and 1961, respectively. They claim that the State party has violated their rights under articles 2 (2), (3), 19 and 21 of the International Covenant on Civil and Political Rights. The Optional Protocol entered into force for Belarus on 30 December 1992. The authors in communications Nos. 2898/2016 and 3084/2017 are represented by counsel. The authors in communications Nos. 2693/2015 and 3002/2017 are not represented.

1.2 On 14 March 2023, pursuant to rule 97 (3) of the Committee’s rules of procedure, the Committee decided to join communications 2693/2015, 2898/2016, 3002/2017 and 3084/2017 submitted by four different authors, for a joint decision, in view of substantial factual and legal similarity.

The facts as submitted by the authors

2.1 The authors in all four communications submit that they were brought before the court, charged with significant administrative fines for participating in peaceful rallies and convicted for violating the provisions of the Law on Mass Events concerning the organization of a meeting, thereby committing an administrative offence under article 23.34 of the Code of Administrative Offences.

Communication No. 2693/2015, Aleksandra Vasilevich v. Belarus

2.2 On 26 October 2014, the author took part in the funeral procession of a civil activist V. Desyatik in Svisloch City in the Grodno Region. After the funeral, the author participated with others in a commemoration of the Belarusian uprising of 1863 in Grodno. In this context, together with other participants, the author moved between different locations, walking from the memorial of the national hero of the uprising K. Kalinovskiy, towards the burial place of R. Traugutt. The participants then visited the village of Yakushovka where K. Kalinovskiy used to reside. During the event, participants made several speeches about the history of the uprising, the Belarus culture and the country’s current situation, holding red and white flags, symbols of the upraising and the national flag of Belarus.[[3]](#footnote-4) The author claims that during the whole event he could see the representatives of the Minister of Internal Affairs, who were video recording the procession.

2.3 On 16 December 2014, the Svisloch District Court of Grodno Region found that on 26 October 2014, from 12h00 to 14h00, the author, together with other persons, moved between different locations, including the memorials of Kalinovskiy, Traugutt, as well as the village of Yakushovka, holding the red and white flags, thus participating in an unauthorized protest in violation of the provisions of the Law on Mass Events concerning the organization of meetings. The Court ruled that the author committed an administrative offence under article 23.34 of the Code of Administrative Offences and ordered the author to pay a fine of 3 750 000 roubles.[[4]](#footnote-5)

2.4 On an unspecified date, the author filed a cassation appeal against the decision of the Svisloch District Court with the Grodno Regional Court, which was rejected on 20 January 2015. The author further appealed under the supervisory review procedure to the Chairman of the Grodno Regional Court and the Chairman of the Supreme Court, both of which were rejected on 15 April and 5 August 2015, respectively. The Supreme Court noted that the author missed the submission deadline for appeal.

2.5 The author submits that she has exhausted domestic remedies, since in line with the Committee’s jurisprudence, an appeal under the supervisory review procedure before the Prosecutor’s Office does not constitute an effective remedy.[[5]](#footnote-6)

Communication No. 2898/2016, Anatoly Lebedko v. Belarus

2.6 The author is the Chairman of the United Civil Party of Belarus (UCPB), an opposition political party, who actively participates in social and political life of the country. In 2016, he was brought before the courts and convicted for violating the provisions of the Law on Mass Events concerning the organization of a meeting in relation to two separate incidents.

2.7 The first incident he was convicted for happened on 3 March 2016. On that date, the author was distributing leaflets inviting people to a meeting on 25 March 2016 in Minsk.[[6]](#footnote-7)

2.8 On 2 May 2016, the Sovietskiy District Court in Minsk established that on 3 March 2016, at 12h00, inside the “Siluet” Shopping Mall, located on 1 Viery Charužaj Street of Minsk, the author, together with two other persons, was distributing leaflets, inviting people to a meeting to take place on 25 March 2016. The Court concluded that the author’s actions violated the provisions of the Law on Mass Events concerning the organization of a meeting, thereby committing an administrative offence under article 23.34 of the Code of Administrative Offences and fined him to 8 400 000 roubles.[[7]](#footnote-8)

2.9 On 2 May 2016, the author appealed the decision to the Minsk City Court. His appeal was dismissed on 7 June 2016.

2.10 The second event he was convicted for happened on 25 March 2016. On that day, the author participated in a peaceful meeting on 4 Kupala Street of Minsk, held without prior authorization by the competent authorities. Later, the police charged the author with participating in an unauthorized mass event, in violation of article 23.34 of the Code of Administrative Offences.

2.11 On 12 April 2016, the Central District Court in Minsk found the author guilty of violating the provisions of the Law on Mass Events and article 23.34 of the Code of Administrative Offences and fined him 10 500 000 roubles.[[8]](#footnote-9) According to the Court’s decision, on 25 March 2016, at around 17h00 the author actively participated in an unauthorized gathering that took place on Kupala Square devoted to the “Freedom Day” and shouted slogans such as “long live Belarus!”.

2.12 On 20 April 2016, the author appealed the District Court decision to the Minsk City Court, noting that he participated in a peaceful meeting and freely expressed his views as guaranteed by the national legislation. On 20 May 2016, the City Court dismissed his appeal.

2.13 The author submits that he has exhausted domestic remedies, since in line with the Committee’s jurisprudence, supervisory review procedures against court decisions which have entered into force do not constitute a remedy, which has to be exhausted for the purpose of article 5, paragraph 2 (b), of the Optional Protocol.[[9]](#footnote-10)

Communication No. 3002/2017, Vladimir Katsora v. Belarus

2.14 On 19 February 2017, the author participated in a street rally and a demonstration, held from 12h00 to 13h10 in the Uprising Square of Gomel City without prior authorisation by the competent authorities, to protest against the presidential decree “On prevention of social dependency”. This peaceful event was attended by around 3000 participants and conducted without any incident. However, the author was subsequently summoned to the Department of Internal Affairs of Gomel, where a police record was filed against him for violating article 23.34 of the Code of Administrative Offences.

2.15 On 17 March 2017, the Central District Court of Gomel established that the author had violated the provisions of the Law on Mass Events by participating in an unauthorized meeting, thereby committing an administrative offence under article 23.34 (1) of the Code of Administrative Offences. Consequently, the Central District Court sentenced the author to twelve days of administrative detention, which he served from 17 to 27 March 2017.

2.16 On 20 March 2017, the author appealed this decision to the Gomel Regional Court, noting that by sentencing him to an administrative arrest, the lower instance Court had restricted his constitutional right to freedom of expression and peaceful assembly. The appeal was dismissed on 29 March 2017.

2.17 The author submits that he has exhausted domestic remedies, noting that according to the Committee’s jurisprudence, supervisory review procedures against court decisions which have entered into force do not constitute a remedy, which has to be exhausted for the purpose of article 5, paragraph 2 (b), of the Optional Protocol.[[10]](#footnote-11)

Communication No. 3084/2017, Valery Repnin v. Belarus

2.18 On 25 March 2017, the author participated in a peaceful street rally on Sovietskiy Street of Gomel City to protest against the presidential decree “On prevention of social dependency”. Later, the author was summoned to the Department of Internal Affairs of Gomel, where a police record was filed against him for violating article 23.34 of the Code of Administrative Offences.

2.19 On 27 March 2017, the Soviet District Court of Gomel found that on 25 March, from 12h00 to 12h40, the author participated in an unauthorized rally, walking on Sovietskiy Street from Uprising Square towards Yubileinaya Street of Gomel while holding a red and white flag, in violation of the provisions of the Law on Mass Events concerning the organization of meetings. The Court ruled that the author committed an administrative offence under article 23.34 of the Code of Administrative Offences and sentenced the author to five days of administrative detention, which he served from 27 March to 2 April 2017.

2.20 On 4 April 2017, the author submitted a cassation appeal to the Gomel Regional Court, which was rejected on 28 April 2017.

2.21 The author submits that he has exhausted domestic remedies and refers to the Committee’s jurisprudence, stating that supervisory review procedures against court decisions which have entered into force do not constitute a remedy, which has to be exhausted for the purpose of article 5, paragraph 2 (b), of the Optional Protocol.[[11]](#footnote-12)

The complaint

3.1 The authors claim a violation of their rights under articles 19 and 21, in conjunction with articles 2(2) and (3) of the Covenant on the ground that the authorities failed to explain why the restrictions imposed on their rights for holding a peaceful protest were necessary in the interests of national security or public safety, public order, the protection of public health, morals or the rights and freedoms of others. The authors therefore consider that by sentencing them to administrative detention (communications Nos. 3002/2017, 3084/2017) and to pay a significant fine (communications Nos. 2693/2015, 2898/2016) for holding pickets and expressing their views, the State party acted in violation of the Covenant.

3.2 The authors of the four communications ask the Committee to find their complaints admissible, consider them on the merits and find a violation of their rights under articles 19 and 21 of the Covenant, read in conjunction with article 2 (2) and (3). The authors of communications Nos. 2693/2015 and 2898/2016 further ask the Committee to recommend to the State party to bring its national legislation in conformity with the provisions of the Covenant.

State party’s observations on admissibility and the merits

4.1 By notes verbales of 4 February 2016 [[12]](#footnote-13), 10 February[[13]](#footnote-14) and 23 August 2017,[[14]](#footnote-15) 22 February 2018[[15]](#footnote-16) and 7 February 2019[[16]](#footnote-17), the State party submitted its observations on admissibility and merits of the communications. In its observations in respect of admissibility of all four communications, the State party submits that the authors failed to exhaust all available domestic remedies, as the possibilities for lodging further supervisory review appeals in their respective cases were not fully exhausted. Thus, it was open for the authors to submit further appeals in the framework of the supervisory review procedure before the Chair or Deputy Chair of the Supreme Court[[17]](#footnote-18) and the competent prosecutor, in particular, the Prosecutor General or Deputy Prosecutor General.

4.2 Referring to the merits of the communications, the State party argues that the authors’ claims of a violation of articles 19 and 21, in conjunction with articles 2 (2) and 2(3) are unsubstantiated, noting in this respect that the courts’ decisions in the authors’ cases were taken in accordance with the relevant provisions of the domestic legislation, in particular, the Law on Mass Events concerning the organization of meetings. The State party observes that the national legislation that provides for the right to peaceful assembly and freedom of expression is coherent with the provisions of the Constitution of the Republic of Belarus and does not contradict the international norms that allow each State to introduce restrictions to the rights and freedoms of a person that are necessary in a democratic society and in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others as foreseen under article 19 and 21 of the Covenant.

4.3 The State party further observes that the provisions of the Law on Mass Events, along with regulating the organization and conduct of meetings, rallies, street processions or demonstrations, pickets and other mass events in Belarus are aimed at creating conditions for the realization of the constitutional rights of citizens and their freedoms.

Authors’ comments on the State party’s observations on admissibility and the merits

5.1 On 6 March 2016[[18]](#footnote-19), 17 March[[19]](#footnote-20) and 9 October 2017[[20]](#footnote-21), 4 May 2018[[21]](#footnote-22) and 10 August 2022,[[22]](#footnote-23) the authors submitted their comments on the State party’s observations. Addressing the State party’s arguments as to the inadmissibility of the communications for failure to exhaust domestic remedies, the authors noted that the supervisory review procedure does not constitute an effective domestic remedy, as it does not entail a fresh examination of the case and its outcome depends on the sole discretion of the relevant prosecutor or judge. They additionally note that the current domestic legislation does not provide for the possibility to directly lodge a complaint before the Constitutional Court. They concluded that all available and effective domestic remedies have been exhausted in their cases.

5.2 The authors contend that the current domestic legislation on mass events and the practice of its application by the authorities of the State party resulted in a violation of their rights under articles 19 and 21 of the Covenant. They further submit that the State party has failed to implement the views adopted by the Committee in a number of similar cases[[23]](#footnote-24) and to comply with recommendations on amending the national legislation set out in the joint opinion of 16-17 March 2012 of the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights “On the Law on Mass Events of the Republic of Belarus”.[[24]](#footnote-25)

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

6.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes the State party’s argument that the authors have failed to seek a supervisory review of the impugned decisions in their cases by the Prosecutor’s Office or by the Chair or Deputy Chair of the Supreme Court of Belarus. The Committee notes the author’s arguments in communication No. 2693/2015 that she indeed appealed, unsuccessfully, the decisions in her cases under the supervisory review procedure before the president of a court (see para. 2.4 above). In this context, the Committee recalls its jurisprudence, according to which a petition for supervisory review submitted to a president of a court, directed against court decisions that have entered into force and depend on the discretionary power of a judge constitutes an extraordinary remedy and that the State party must show that there is a reasonable prospect that such requests would provide an effective remedy in the circumstances of the case. The Committee further recalls its jurisprudence, according to which a petition for supervisory review submitted to a prosecutor’s office, dependent on the discretionary power of the prosecutor, requesting a review of court decisions that have taken effect constitutes an extraordinary remedy, and thus does not constitute a remedy that must be exhausted for the purposes of article 5 (2) (b) of the Optional Protocol.[[25]](#footnote-26) The Committee notes that in the present cases, the authors have exhausted all available domestic remedies and that one of them (communication 2693/2015) has additionally attempted a supervisory review procedure, although unsuccessfully. Therefore, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

6.4 The Committee takes note of the authors’ claims that the State party violated their rights under articles 19 and 21, read in conjunction with article 2 (2) of the Covenant. The Committee reiterates that the provisions of article 2 cannot be invoked in a claim in a communication under the Optional Protocol in conjunction with other provisions of the Covenant, except when the failure by the State party to observe its obligations under article 2 is the proximate cause of a distinct violation of the Covenant directly affecting the individual claiming to be a victim. [[26]](#footnote-27) The Committee notes, however, that the authors have already alleged a violation of their rights under articles 19 and 21 of the Covenant, resulting from the interpretation and application of the existing laws of the State party, and the Committee does not consider the examination of whether the State party has also violated its general obligations under article 2 (2), read in conjunction with articles 19 and 21, to be distinct from examination of the violation of the authors’ rights under articles 19 and 21 of the Covenant. The Committee therefore considers that the authors’ claims in that regard are incompatible with article 2 of the Covenant and thus inadmissible under article 3 of the Optional Protocol.

6.5 The Committee further notes the authors’ claims under articles 19 and 21 of the Covenant, read in conjunction with article 2 (3). In the absence however of any further pertinent information on file, the Committee considers that the authors have failed to sufficiently substantiate these claims for the purposes of admissibility. Accordingly, it declares this part of the communication inadmissible under article 2 of the Optional Protocol.

6.6 The Committee finally notes that the facts, as submitted by the authors in their respective communications, raise issues under articles 19(2) and 21 of the Covenant, taken separately. The Committee, therefore, consider the claims under articles 19(2) and 21 in the four communications, sufficiently substantiated for the purposes of admissibility, and proceeds with their consideration of the merits.

Considerations of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties, as provided under article 5 (1) of the Optional Protocol.

7.2 The Committee notes the authors’ claims that their rights to freedom of expression and assembly have been restricted in violation of both article 19 (2) and article 21 of the Covenant, as they were sentenced to administrative detention (communications Nos. 3002/2017, 3084/2017) or to pay significant fines (communications Nos. 2693/2015, 2898/2016) for inviting to and participating in peaceful rallies and expressing their views, the detailed information on which is specified in paras. 2.3, 2.8, 2.11, 2.15 and 2.19 above. It also notes the authors’ argument that the authorities failed to explain why the restrictions imposed on their rights were necessary in the interests of national security or public safety, public order, the protection of public health, morals or the rights and freedoms of others, as required, respectively, by article 19 (3) and the second sentence of article 21 of the Covenant.

7.3 Considering the authors’ claim that their right of peaceful assembly was unreasonably restricted by the State party on account of imposing administrative detentions and significant fines for holding peaceful public events, the Committee notes that the issue before it is to determine whether the restrictions imposed were justified under article 21 of the Covenant.

7.4 In its general comment No. 37 (2020), the Committee stated that peaceful assemblies may in principle be conducted in all spaces to which the public has access or should have access, such as public squares and streets.[[27]](#footnote-28) Peaceful assemblies should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed or of the general public. As a general rule, there can be no blanket ban on all assemblies in the capital city, in all public places except one specific location within a city or outside the city centre, or on all the streets in a city.

7.5 The Committee further recalls that the right of peaceful assembly, as guaranteed under article 21 of the Covenant, is a fundamental human right, essential for public expression of an individual’s views and opinions and indispensable in a democratic society. Given that peaceful assemblies often have expressive functions, and that political speech enjoys particular protection as a form of expression, assemblies with a political message should enjoy a heightened level of accommodation and protection.[[28]](#footnote-29) Article 21 of the Covenant protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs. They are protected under article 21 whether they are stationary, such as pickets, or mobile, such as processions or marches.[[29]](#footnote-30) The organizers of an assembly generally have the right to choose a location within sight and sound of their target audience,[[30]](#footnote-31) and no restriction to this right is permissible, unless it (a) is imposed in conformity with the law; and (b) is necessary in a democratic society, in the interests of national security or public safety, public order (*ordre public*), protection of public health or morals or protection of the rights and freedoms of others. When a State party imposes restrictions with the aim of reconciling an individual’s right to assembly and the aforementioned interests of general concern, it should be guided by the objective of facilitating the right, rather than seeking unnecessary or disproportionate limitations to it.[[31]](#footnote-32) The State party is thus under an obligation to justify the limitation of the right protected by article 21 of the Covenant.[[32]](#footnote-33)

7.6 In the present case, the Committee must consider whether the restrictions imposed on the authors’ right of peaceful assembly are justified under any of the criteria set out in the second sentence of article 21 of the Covenant. In light of the information available on file, the authors were sentenced by the domestic Courts to administrative detentions (communications Nos. 3002/2017, 3084/2017) or significant administrative fines (communications Nos. 2693/2015, 2898/2016) for participating in peaceful rallies in violation of the provisions of the Law on Mass Events. In this context, however, the Committee notes that the domestic courts did not provide any justification or explanation as to how, in practice, the authors’ participation in such peaceful rallies have violated the interests of national security or public safety, public order *(ordre public)*, the protection of public health or morals or the protection of the rights and freedoms of others, as set out in article 21 of the Covenant. In this respect, the State party just refers to the fact that the provisions of the Law on Mass Events, along with regulating the organization and conduct of meetings in Belarus are aimed at creating conditions for the realization of the constitutional rights of citizens and their freedoms (para 4.3), but does not explain why, in the present cases, such constitutional rights of citizens or their freedoms were violated by the peaceful rallies in which the authors participated.

7.7 In the absence of any further explanations from the State party regarding the matter, the Committee concludes that the State party has violated the authors’ rights under article 21 of the Covenant.[[33]](#footnote-34)

7.8 The Committee further notes the authors’ claims that their right to freedom of expression has been restricted in violation of article 19 (2) of the Covenant, because they were found guilty of an administrative offence and sentenced to administrative detention or to pay significant administrative fines for participating in peaceful rallies and publicly expressing their opinion on matters of public concern. The issue before the Committee is therefore to determine whether the restrictions imposed on the authors’ freedom of expression can be justified under any of the criteria set out in article 19 (3) of the Covenant.

7.9 The Committee recalls its general comment No. 34 (2011) on freedoms of opinion and expression, in which it stated, inter alia, that the freedom of expression is essential for any society and constitutes a foundation stone for every free and democratic society.[[34]](#footnote-35) It notes that article 19 (3) of the Covenant allows for certain restrictions on the freedom of expression, including the freedom to impart information and ideas, only to the extent that those restrictions are provided for by law and only if they are necessary (a) for respect of the rights or reputation of others; or (b) for the protection of national security or public order (*ordre public*), or of public health or morals. Finally, any restriction on freedom of expression must not be overbroad in nature – that is, it must be the least intrusive among the measures that might achieve the relevant protective function and proportionate to the interest being protected.[[35]](#footnote-36) The Committee recalls that the onus is on the State party to demonstrate that the restrictions on the author’s rights under article 19 of the Covenant were necessary and proportionate.[[36]](#footnote-37)

7.10 The Committee observes that sentencing the authors to administrative detention or imposing heavy administrative fines for participating in a peaceful albeit unauthorized meeting with an expressive purpose, raises serious doubts as to the necessity and proportionality of the restrictions on the authors’ rights under article 19 of the Covenant. The Committee observes in this regard that the State party has failed to invoke and justify any specific grounds to support the necessity of such restrictions as required under article 19 (3) of the Covenant.[[37]](#footnote-38) Nor did the State party demonstrate that the measures selected were the least intrusive in nature or proportionate to the interest that it sought to protect. The Committee considers that, in the circumstances of the cases before it, the restrictions imposed on the authors and the imposed sanctions, although based on domestic law, were not justified pursuant to the conditions set out in article 19 (3) of the Covenant. It therefore concludes that the authors’ rights under article 19 of the Covenant have been violated.[[38]](#footnote-39)

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State party of the authors’ rights under articles 19 and 21 of the Covenant.

9. Pursuant to article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the authors with an effective remedy. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, inter alia, to provide the authors with adequate compensation, including to reimburse the fines and any legal costs incurred by them. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future. In that connection, the Committee notes that it has dealt with similar cases in respect of the same laws and practices of the State party in a number of earlier communications, and thus requires the State party to revise its normative framework on public events, consistent with its obligation under article 2 (2), with a view to ensuring that the rights under articles 19 and 21 of the Covenant may be fully enjoyed in the State party.

10. On becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant. The present communication was submitted for consideration before the State party’s denunciation of the Optional Protocol became effective on 8 February 2023. In accordance with article 12 (2) of the Optional Protocol and the Committee’s previous case law, the State party continues to be subject to the application of the Optional Protocol as regards the present communication.[[39]](#footnote-40) Since pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee’s Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.

1. \* Adopted by the Committee at its 137th session (6-24 March 2023).

   \*\* The following members of the Committee participated in the examination of the communication: [Tania María Abdo Rocholl,](https://www.ohchr.org/Documents/HRBodies/CCPR/Membership/CV_ABDO_ROCHOLL.docx) Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonee Donders, Mahjoub El Haiba, Laurence R. Helfer, Carlos Gomez Martinez, Bacre Waly Ndiaye, Marcia V.J. Kran, Hernan Quezada Cabrera, José Manuel Santos Pais, Chongrok Soh, Tijana Surlan, Kobaujah Tchamdja Kpatcha, Koji Teraya,and Imeru Tamerat Yigezu. [↑](#footnote-ref-2)
2. [↑](#footnote-ref-3)
3. The flag was used before 1996 and is largely considered a symbol of the opposition and its use is forbidden in public. [↑](#footnote-ref-4)
4. At the time of the administrative hearing, this was equal to about approximately $376. [↑](#footnote-ref-5)
5. The reference is made to *Olechkevitch v Belarus,* CCPR/C/107/D/1785/2008, para 7.3 [↑](#footnote-ref-6)
6. The author does not specify the aim of the meeting. [↑](#footnote-ref-7)
7. At the time of the administrative hearing, this was equal to about approximately $840. [↑](#footnote-ref-8)
8. At the time of the administrative hearing, this was equal to about approximately $1050. The author submits that the amount of this fine equals two average monthly salaries in the State party. [↑](#footnote-ref-9)
9. The reference is made to *Tulzhenkova v Belarus*, CCPR/C/103/D/1838/2008, para 8.3. [↑](#footnote-ref-10)
10. The reference is made to *Shumilin v Belarus*, CCPR/C/105/D/1784/2008, para 8.3. [↑](#footnote-ref-11)
11. The reference is made to *Shumilin v Belarus*, CCPR/C/105/D/1784/2008, para 8.3. [↑](#footnote-ref-12)
12. In relation to communication no. 2693/2015. [↑](#footnote-ref-13)
13. In relation to communication no. 2898/2016. [↑](#footnote-ref-14)
14. In relation to communication no. 3002/2017. [↑](#footnote-ref-15)
15. In relation to communication no. 3084/2017. [↑](#footnote-ref-16)
16. The State party submitted the same observation in relation to communication no. 2693/2015 as on 4 February 2016. [↑](#footnote-ref-17)
17. In communication no. 2693/2015, the State Party noted author’s failure to appeal only to the Prosecutor General. [↑](#footnote-ref-18)
18. Comments in relation to the SP’s observations in communication no. 2693/2015. [↑](#footnote-ref-19)
19. Comments in relation to the SP’s observations in communication no. 2898/2016. [↑](#footnote-ref-20)
20. Comments in relation to the SP’s observations in communication no. 3002/2017. [↑](#footnote-ref-21)
21. Comments in relation to the SP’s observations in communication no. 3002/2017. [↑](#footnote-ref-22)
22. Comments in relation to the SP’s observations in communication no. 2693/2015. [↑](#footnote-ref-23)
23. Reference is made to *Kirsanov v. Belarus* (CCPR/C/110/D/1864/2009); *Kuznetsov et al. v. Belarus* (CCPR/C/111/D/1976/2010); *Evrezov v. Belarus* (CCPR/C/114/D/1988/2010); *Sudalenko v. Belarus* (CCPR/C/113/D/1992/2010); *Evrezov et al. v. Belarus* (CCPR/C/112/D/1999/2010); and *Poliakov v. Belarus* (CCPR/C/111/D/2030/2011). [↑](#footnote-ref-24)
24. The authors refer to the European Commission’s for Democracy through Law (Venice Commission) and the OSCE Office’s for Democratic Institutions and Human Rights joint opinion “On the Law on Mass Events of the Republic of Belarus”, adopted by the Venice Commission at its 90th Plenary Session (Venice, 16-17 March 2012). [↑](#footnote-ref-25)
25. *Grygory Gryk v. Belarus* (CCPR/C/136/D/2961/2017), para. 6.3; *Andrei Tolchin v. Belarus* (CCPR/C/135/D/3241/2018), para. 6.3; *Natalya Shchukina v. Belarus* (CCPR/C/134/D/3242/2018), para. 6.3. [↑](#footnote-ref-26)
26. *Poliakov v. Belarus* (CCPR/C/111/D/2030/2011), para. 7.4.; *Zhukovsky v. Belarus* (CCPR/C/127/D/2724/2016), para. 6.4. [↑](#footnote-ref-27)
27. General comment No. 37 (2020) on the right of peaceful assembly (article 21), para. 55. [↑](#footnote-ref-28)
28. Ibid, para. 32; see General comment No. 34 (2011) on the freedoms of opinion and expression, paras. 34, 37–38 and 42–43. [↑](#footnote-ref-29)
29. General comment No. 37 (2020) on the right of peaceful assembly (article 21),, para 6. [↑](#footnote-ref-30)
30. Ibid., para. 22. [↑](#footnote-ref-31)
31. Ibid., para 36. [↑](#footnote-ref-32)
32. See *Poplavny v*. *Belarus* (CCPR/C/115/D/2019/2010), para. 8.4. [↑](#footnote-ref-33)
33. See, e.g., *Vladimir Malei v. Belarus* (CCPR/C/129/D/2404/2014), para 9.7; *Tolchina v Belarus* (CCPR/C/132/D/2857/2016), para 7.6; *Zavadskaya et al v. Belarus* (CCPR/C/132/D/2865/2016), para 7.6; *Popova v Russian Federation* (CCPR/C/122/D/2217/2012), para. 7.6; and *Sadykov v Kazakhstan* (CCPR/C/129/D/2456/2014), para.. 7.7. [↑](#footnote-ref-34)
34. General comment No. 34 (2011) on the freedoms of opinion and expression, para. 2. [↑](#footnote-ref-35)
35. *Ibid*., para. 34. [↑](#footnote-ref-36)
36. See, e.g., *Androsenko v. Belarus* (CCPR/C/116/D/2092/2011), para. 7.3. [↑](#footnote-ref-37)
37. See, e.g., *Zalesskaya v. Belarus* (CCPR/C/101/D/1604/2007), para. 10.5. [↑](#footnote-ref-38)
38. See, e.g., *Toregozhina v Kazakhstan* (CCPR/C/112/D/2137/2012), para. 7.5; and *Zhagiparov v. Kazakhstan* (CCPR/C/124/D/2441/2014), para. 13.4; *and*  *Shchetko and Shchetko v. Belarus* (CCPR/C/87/D/1009/2001), para. 7.5. [↑](#footnote-ref-39)
39. See e.g. *Sextus v. Trinidad and Tobago* (CCPR/C/72/D/818/1998), para. 10; *Lobban v. Jamaica* (CCPR/C/80/D/797/1998), para. 11 [↑](#footnote-ref-40)