

*Translated from Russian*

## **Information about** [REDACTED]

*Reference:* UA BLR 9/2023 (Reply from Belarus)

[REDACTED], born on [REDACTED] 1973, a native of [REDACTED] Hrodna Province, and citizen of Belarus, was convicted on 8 February 2023 by the Hrodna Provincial Court under articles 361 (3), 130 (3), 72 (2) and 75, (1) (2) of the Criminal Code of Belarus.

In accordance with article 72 (2) of the Code, [REDACTED] was convicted of multiple offences and given a partially cumulative sentence of 8 years' imprisonment, to be served in a strengthened-regime correctional colony.

For reference: The procedure for appealing a court judgment that has not yet become final is set out in articles 370–375 of the Code of Criminal Procedure of Belarus.

Under article 370 (1) of the Code, the accused, his or her defence counsel or legal representative, the representative of a deceased accused person, and also the victim, the civil claimant or their representatives have the right to appeal against a judgment of a court of first instance that has not yet become final.

In accordance with article 371 (1) (2) of the Code, judgments passed by the provincial and Minsk city courts that have not yet become final may be appealed to the Supreme Court of Belarus.

The Supreme Court has reviewed the legality, validity and fairness of the judgment of the Hrodna Provincial Court of 8 February 2023, which had not yet become final, on appeal by [REDACTED] and his lawyers, [REDACTED] and [REDACTED].

On 26 May 2023, the judgment of 8 February 2023 was upheld on appeal by the Supreme Court and the appeals of A.S. Poczobut and his lawyers were dismissed.

The judgment of 8 February 2023 of the Hrodna Provincial Court became final on 26 May 2023. Accordingly, the sentence began on 26 May 2023 and will end on 22 February 2028.

The convicted person, [REDACTED], arrived at Correctional Colony No. 1, a facility of the Penalties Enforcement Department of the Ministry of Internal Affairs of Belarus for Viciebsk Province, on 21 June 2023 from Prison No. 1, a correctional institution of the Department for Hrodna Province.

While serving his sentence, the convicted person displayed bad behaviour and has an unspent conviction that has not been expunged.

In accordance with the current penalties enforcement legislation of Belarus, in order to maintain social ties with relatives while serving the sentence, and taking into account the conditions of detention, [REDACTED] has the right to receive visits (short and long) in the number specified under the colony regime. The convicted person also has the right, in accordance with the established procedure, to have telephone conversations, including with the use of video link systems, with close relatives, to

receive parcels, deliveries, printed matter and small packages, and to send and receive an unlimited number of letters.

In addition, in order to obtain legal assistance, [REDACTED] has the right to use the services of lawyers or other persons entitled to provide legal assistance, in accordance with the procedure provided for in article 83 (6) of the Penalties Enforcement Code of Belarus and paragraph 181 of the internal regulations of correctional facilities, approved by Ministry of Internal Affairs Decision No. 174 of 20 October 2000.

For reference: The supervisory procedure for the review of judgments that have become final is regulated by chapter 42 of the Code of Criminal Procedure.

Under article 417 (1) of the Code, convicted persons, acquitted persons, their defence counsel and legal representatives, the representative of a deceased accused person, the defence counsel and legal representative of a person to whom compulsory safety measures and medical treatment have been applied, and the victims and the civil claimants or their representatives have the right to appeal under the supervisory review procedure against a court judgment, ruling or decision that has become final.

Appeals or protests against judgments, rulings and decisions of the provincial and Minsk city courts that have been subject to review on appeal to the Supreme Court are lodged with the Presidium of the Supreme Court (Code, art. 417 (4) (2)).

[REDACTED] could have exercised his right to appeal against the court decisions under the supervisory procedure to the Supreme Court, but did not do so.

The allegations in the communication of a violation of articles 9 (right to liberty and security of person) and 14 (right to a fair trial) of the International Covenant on Civil and Political Rights are untenable.

Under article 25 (1) of the Constitution, the State guarantees the freedom, inviolability and dignity of the individual, in accordance with article 9 (1) of the Covenant. Any restriction or deprivation of personal freedom is possible only in the instances and under the procedure specified by law.

Under article 126 (1) of the Code, remand in custody as a preventive measure is applied only to persons suspected or accused of offences punishable by more than 2 years' imprisonment, except for less serious economic offences (exceptions are made for smuggling, illegal export or transfer for the purpose of export of items subject to export control or money laundering of proceeds resulting from criminal activities), provided that the objectives of criminal prosecution cannot be achieved by the use of a lighter preventive measure.

Under article 127 (13) of the Code, in criminal cases referred to the court by the procurator, the extension of the period of remand in custody of an accused person is carried out by the court hearing the case. The decision on extending the term of detention of the accused is taken by the court considering the case within a period not exceeding 10 days before the end of each month of the period of remand in custody of the accused person. By a ruling or a decision, the court extends the period of remand in custody or cancels or changes the preventive measure.

The period of remand in custody of [REDACTED] was extended by the rulings of the Hrodna Provincial Court of 21 September, 11 October, 11 November and 12 December 2022, and 12 January 2023.

With regard to the violation of article 14 of the Covenant, we note the following.

The circumstances covered under article 89 of the Code of Criminal Procedure that are subject to proof have been established by the evidence gathered in the court proceedings. In assessing the evidence, the court was guided by the law and its inner conviction, based on a comprehensive, complete and objective examination of all the circumstances of the criminal case in their totality.

The court's findings that [REDACTED] is guilty of committing offences under article 130 (3) and 361 (3) of the Criminal Code correspond to the factual circumstances of the case and are confirmed by the evidence cited in the judgment. The evidence collected has been comprehensively, fully and objectively verified in accordance with the provisions of article 105 of the Code of Criminal Procedure.

The legal assessment of compliance by the Hrodna Provincial Court with the above-mentioned provisions of national legislation was given by the Supreme Court when considering the appeals of [REDACTED] and his lawyers against the judgment of the Hrodna Provincial Court of 8 February 2023, which had not yet become final.

Regarding the proceedings in closed court, we wish to provide you with the following information.

Under article 114 of the Constitution, the proceedings in all courts are public. Closed hearings are allowed only in cases prescribed by law and in accordance with the rules of legal proceedings.

Criminal proceedings in closed court are in accordance with the provisions of the Covenant (art. 14 (1)) and are permitted only in the interests of protecting State secrets and other secrets protected by law, as well as in cases involving crimes committed by persons under 16 years of age, sexual offences and other cases, in order to prevent the disclosure of information about the intimate aspects of the lives of the persons involved or information degrading to their dignity, and when required in the interests of security of the victim, witnesses or other participants in criminal proceedings and also members of their families or close relatives or other persons whom they reasonably consider to be close. In cases heard in closed court, only the operative part of the judgment, ruling or decision of the court is announced publicly (Code of Criminal Procedure, art. 23 (2) and (4)).

Under article 287 (2) of the Code of Criminal Procedure, a closed court hearing is permitted on a reasoned ruling or decision of the court only on the grounds provided for in article 23 of the Code.

On 16 January 2023, the Hrodna Provincial Court granted the public prosecutor's request to hold the trial in a closed court hearing.

When the case was heard in closed court, the court, in accordance with article 18 (2) and article 24 (5) of the Code, provided the prosecution and the defence with the necessary conditions for exercising their rights and fulfilling their procedural obligations.

Thus, there were no violations of the rights of [REDACTED], as guaranteed by article 14 of the Covenant. The applicant was fully afforded the right to a fair hearing by a competent, independent and impartial tribunal established by law, the right to have the case reviewed by a higher tribunal according to law and the right to a defence. The interests of [REDACTED] during the trial were looked after by professional defence lawyers, [REDACTED] and [REDACTED].

Medical care for prisoners sentenced to imprisonment is provided in accordance with the requirements of the Instruction on Medical Care for Persons Held in Institutions of the Penal System of the Ministry of Internal Affairs, approved by Ministry of Internal Affairs and Ministry of Health Decision No. 202/39 of 27 August 2003.

At present, [REDACTED] state of health is assessed as satisfactory; he does not need emergency and inpatient medical care.

---